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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 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 35. GENERAL CONDUCT

[OAR Docket #06-747]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:35-1-5. Trainer responsibility [AMENDED]

SUMMARY:

As part of the recent work of the Commission's Ad Hoc Committee on Drug Testing Rules, an amendment to Rule 325:35-1-5, Trainer Responsibility, was proposed to reflect changes in Chapter 40, Veterinarian Practices, and Chapter 45, Medication and Equine Testing Procedures.

AUTHORITY:

75 O.S., § 303; Title 3A O.S. § 204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, June 19, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, June 19, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, 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 rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on June 19, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by May 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-747; filed 4-25-06]

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 380. DEPARTMENT OF LABOR CHAPTER 20. WELDING RULES

[OAR Docket #06-677]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 20. Welding Rules [AMENDED]
SUBMITTED TO GOVERNOR:
April 14, 2006
SUBMITTED TO HOUSE:
April 17, 2006
SUBMITTED TO SENATE:
April 17, 2006

[OAR Docket #06-677; filed 4-17-06]

TITLE 460. DEPARTMENT OF MINES CHAPTER 1. OKLAHOMA MINING COMMISSION

[OAR Docket #06-633]

RULEMAKING ACTION:
Submission of gubernatorial and legislative review
RULES:
Chapter 1. Oklahoma Mining Commission [AMENDED]
SUBMITTED TO GOVERNOR:
March 27, 2006
SUBMITTED TO HOUSE:
March 27, 2006
SUBMITTED TO SENATE:
March 27, 2006

[OAR Docket #06-633; filed 4-12-06]

TITLE 460. DEPARTMENT OF MINES CHAPTER 10. NON-COAL RULES AND REGULATIONS

[OAR Docket #06-634]

RULEMAKING ACTION:
Submission of gubernatorial and legislative review
RULES:
Chapter 10. Non-Coal Rules And Regulations [AMENDED]
SUBMITTED TO GOVERNOR:
March 27, 2006
SUBMITTED TO HOUSE:
March 27, 2006
SUBMITTED TO SENATE:
March 27, 2006

[OAR Docket #06-634; filed 4-12-06]

TITLE 460. DEPARTMENT OF MINES CHAPTER 20. THE PERMANENT REGULATIONS GOVERNING THE COAL RECLAMATION ACT OF 1979

[OAR Docket #06-635]

RULEMAKING ACTION:
Submission of gubernatorial and legislative review
RULES:
Chapter 20. The Permanent Regulations Governing The Coal Reclamation Act Of 1979 [AMENDED]
SUBMITTED TO GOVERNOR:
March 27, 2006
SUBMITTED TO HOUSE:
March 27, 2006
SUBMITTED TO SENATE:
March 27, 2006

[OAR Docket #06-635; filed 4-12-06]

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

[OAR Docket #06-730]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Organization and Administration
87:1-3-14. Benefit Coordinators [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-730; filed 4-24-06]

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

[OAR Docket #06-731]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 17. Benefit Plan Election
87:10-17-3. Employee election of benefit plans [AMENDED]
Subchapter 19. Benefit Allowance
87:10-19-1. Flexible benefit allowance [AMENDED]
Subchapter 25. Dependent Care Reimbursement Account Option
87:10-25-2. Definitions [AMENDED]
87:10-25-9. Reimbursement or payment of dependent care expenses [AMENDED]
87:10-25-10. Forfeiture of unused benefits [AMENDED]
Subchapter 27. Health Care Reimbursement Account Option
87:10-27-2. Definitions [AMENDED]
87:10-27-4. Amount of benefits available [AMENDED]
87:10-27-9. Reimbursement of health care expenses [AMENDED]
87:10-27-10. Forfeiture of unused benefits [AMENDED]
Subchapter 35. Group Health Plan Disclosure of Protected Health Information to the Plan Administrator [NEW]
87:10-35-1. General Provisions [NEW]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-731; filed 4-24-06]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 20. AUTHORIZED PAYROLL DEDUCTION VENDOR MATERIALS

[OAR Docket #06-732]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
87:20-1-1. Purpose [NEW]
87:20-1-2. Definitions [NEW]
87:20-1-3. General Provisions [NEW]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-732; filed 4-24-06]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 10. CERTIFICATION OF INDUSTRIAL PARKS

[OAR Docket #06-705]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULE:
150:10-1-11. [NEW]
GUBERNATORIAL APPROVAL:
April 4, 2006

[OAR Docket #06-705; filed 4-20-06]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 65. OKLAHOMA QUALITY JOBS PROGRAM

[OAR Docket #06-703]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Quality Jobs Program

150:65-1-2. [AMENDED]
150:65-1-3. [AMENDED]
150:65-1-6. [AMENDED]
Subchapter 6. Small Employer Quality Jobs Program
150:65-6-3. [AMENDED]
150:65-6-4. [AMENDED]
150:65-6-6. [AMENDED]

GUBERNATORIAL APPROVAL:
April 4, 2006

[OAR Docket #06-703; filed 4-20-06]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 115. RX FOR OKLAHOMA PROGRAM

[OAR Docket #06-704]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
150:115-1-1. [NEW]
150:115-1-2. [NEW]
150:115-1-3. [NEW]
150:115-1-4. [NEW]

GUBERNATORIAL APPROVAL:
April 4, 2006

[OAR Docket #06-704; filed 4-20-06]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 120. WORKFORCE INVESTMENT ACT

[OAR Docket #06-684]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions [NEW]
150:120-1-1. [NEW]
150:120-1-2. [NEW]
150:120-1-3. [NEW]
Subchapter 3. Denial or Termination of Eligibility of a Training Provider [NEW]
150:120-3-1. [NEW]
150:120-3-2. [NEW]
150:120-3-3. [NEW]
150:120-3-4. [NEW]
150:120-3-5. [NEW]
150:120-3-6. [NEW]
Subchapter 5. Denial of Request for Designation as a Local Workforce Investment Area [NEW]
150:120-5-1. [NEW]
150:120-5-2. [NEW]
150:120-5-3. [NEW]
150:120-5-4. [NEW]
150:120-5-5. [NEW]
Subchapter 7. Monitoring [NEW]
150:120-7-1. [NEW]
150:120-7-2. [NEW]
150:120-7-3. [NEW]
150:120-7-4. [NEW]
150:120-7-5. [NEW]
150:120-7-6. [NEW]
Subchapter 9. Audits [NEW]
150:120-9-1. [NEW]
150:120-9-2. [NEW]
150:120-9-3. [NEW]
150:120-9-4. [NEW]
150:120-9-5. [NEW]
150:120-9-6. [NEW]
150:120-9-7. [NEW]
150:120-9-8. [NEW]
Subchapter 11. Grievance Procedures [NEW]
Part 1. General Procedures [NEW]
150:120-11-1. [NEW]
Part 3. Grievance Filed Directly with ODOC [NEW]
150:120-11-10. [NEW]
150:120-11-11. [NEW]
150:120-11-12. [NEW]
150:120-11-13. [NEW]
Part 5. Appeals to ODOC from Grievance Decisions of a Local Area [NEW]
150:120-11-20. [NEW]
150:120-11-21. [NEW]
150:120-11-22. [NEW]
Part 7. Informal and Formal Resolutions of Grievances [NEW]
150:120-11-30. [NEW]
150:120-11-31. [NEW]
150:120-11-32. [NEW]
150:120-11-33. [NEW]
150:120-11-34. [NEW]

GUBERNATORIAL APPROVAL:
April 4, 2006

[OAR Docket #06-684; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD

[OAR Docket #06-685A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 3. General Operation And Procedures
158:1-3-2. Office hours [AMENDED]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-685A; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 10. FINE SCHEDULE

[OAR Docket #06-686A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Administrative Fine Schedule
10-3-1. Common requirements under the Electrical License Act, the Mechanical Licensing Act and the Plumbing License Law of 1955 [AMENDED]
10-3-2. Other requirements under the Electrical License Act and/or the Mechanical Licensing Act [AMENDED]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-686A; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

[OAR Docket #06-687A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
158:30-1-2. Definitions [AMENDED]
158:30-1-4. Standard of installation [AMENDED]
Subchapter 9. Examination Procedures, License And Registration Fees And Duration Of Licenses
158:30-9-1 Examination procedures [AMENDED]
Subchapter 13. Procedure Of The Variance And Appeals Boards, Plan Review Applications And Fees, Code Variance Applications And Fee, And Code Interpretation Appeals
158:30-13-2. Procedures of the Variance and Appeals Board [AMENDED]
158:30-13-3. Code variance applications and fee [AMENDED]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-687A; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

[OAR Docket #06-688A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Procedures Of The Committee And The Hearing Board
158:40-3-1. Procedures of the committee [AMENDED]
Subchapter 7. License Classifications
158:40-7-2. Residential electrical license[AMENDED]
Subchapter 13. Procedures Of The Variance And Appeals Board, Plan Review Applications And Filing Fees, Code Variance Applications And Filing Fee And Code Interpretation Appeals
158:40-13-2. Procedures of the variance and appeals board [AMENDED]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-688A; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #06-689A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
158:50-1-2. Definitions [AMENDED]
158:50-1-4. Adopted references and standard of workmanship [AMENDED]
Subchapter 11. License Revocation Or Suspension And Prohibited Acts
158:50-11-1. License retention requirements [AMENDED]
Subchapter 13. Procedures Of The Variance And Appeals Board, Plan Review Applications And Fees, Code Variance Applications And Fee, Code Interpretation Appeals.
158:50-13-2. Procedures of the variance and appeals board [AMENDED]

158:50-13-3. Code variance applications and fee [AMENDED]
158:50-13-4. Code interpretation appeals [AMENDED]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-689A; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 60. INSPECTORS REGULATIONS

[OAR Docket #06-690A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
158:60-1-2. Definitions [AMENDED]
Subchapter 5. Categories And Classifications Of Inspector Licenses, Qualifications For Inspector Licensure, License Requirements For Inspectors, Fee, Certification And Continuing Education For Inspectors, And Continuing Education Courses.
158:60-5-2. Qualifications for inspector licensure [AMENDED]
158:60-5-4. Fees, certification and continuing education for inspectors[AMENDED]
158:60-5-5. Continuing education courses [AMENDED]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-690A; filed 4-18-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 1. OPERATIONS AND PROCEDURES

[OAR Docket #06-678]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Purpose and Definitions [NEW]
300:1-1-1. [NEW]
300:1-1-2. [NEW]
300:1-1-3. [NEW]
Subchapter 3. Administrative Operations [NEW]
300:1-3-1. [NEW]
300:1-3-2. [NEW]
300:1-3-3. [NEW]
Subchapter 5. Rulemaking and Declaratory Rulings [NEW]
300:1-5-1. [NEW]
300:1-5-2. [NEW]
300:1-5-3. [NEW]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-678; filed 4-18-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 15. SURPLUS PROPERTY

[OAR Docket #06-679]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions [NEW]
300:15-1-1. [NEW]
300:15-1-2. [NEW]
300:15-1-3. [NEW]
Subchapter 3. Declaration and Approval of Surplus Property [NEW]
300:15-3-1. [NEW]
300:15-3-2. [NEW]
Subchapter 5. Sale or Disposal of Surplus Property [NEW]
300:15-5-1. [NEW]
300:15-5-2. [NEW]
300:15-5-3. [NEW]
300:15-5-4. [NEW]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-679; filed 4-18-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 20. PURCHASING POLICY

[OAR Docket #06-680]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
300:20-1-1. [AMENDED]
300:20-1-2. [AMENDED]
300:20-1-4. [AMENDED]
300:20-1-8. [AMENDED]
300:20-1-11. [AMENDED]
300:20-1-12. [AMENDED]
300:20-1-15. [NEW]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-680; filed 4-18-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 25. LICENSE TO ENCROACH

[OAR Docket #06-681]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Purpose and Definitions [NEW]
300:25-1-1. [NEW]
300:25-1-2. [NEW]
Subchapter 3. Policy, Issuance, Termination and Transfer [NEW]
300:25-3-1. [NEW]
300:25-3-2. [NEW]
300:25-3-3. [NEW]
300:25-3-4. [NEW]
Subchapter 5. Miscellaneous [NEW]
300:25-5-1. [NEW]
300:25-5-2. [NEW]
300:25-5-3. [NEW]
300:25-5-4. [NEW]
300:25-5-5. [NEW]
300:25-5-6. [NEW]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-681; filed 4-18-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 30. AIRCRAFT TRAVEL USE LOGS

[OAR Docket #06-682]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Purpose [NEW]
300:30-1-1. [NEW]
300:30-1-2. [NEW]
300:30-1-3. [NEW]
300:30-1-4. [NEW]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-682; filed 4-18-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 35. LAKE RULES

[OAR Docket #06-683]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Definitions, Purpose and Application [NEW]
300:35-1-1. through 300:35-1-6. [NEW]
Subchapter 3. General Provisions [NEW]
300:35-3-1. through 300:35-3-13. [NEW]
Subchapter 5. Boating Safety Rules [NEW]
300:35-5-1. through 300:35-5-9. [NEW]
Subchapter 7. Vessels [NEW]
300:35-7-1. through 300:35-7-12. [NEW]
Subchapter 9. Sanctioned Events [NEW]
300:35-9-1. through 300:35-9-3. [NEW]
Subchapter 11. Permits for Wharves, Landings, Buoys, Breakwaters and Docking Facilities [NEW]
300:35-11-1. through 300:35-11-12. [NEW]
Subchapter 13. Permits for Dikes, Excavations, Dredgings Erosion Control Devices, and Shoreline Stabilization [NEW]
300:35-13-1. through 300:35-13-6. [NEW]
Subchapter 15. Commercial Use of the Lakes and Lands of GRDA [NEW]
300:35-15-1. through 300:35-15-7. [NEW]
Subchapter 17. Raw Water Permits [NEW]
300:35-17-1. through 300:35-17-5. [NEW]
Subchapter 19. Rights of Abutting Landowners [NEW]
300:35-19-1. [NEW]
Subchapter 21. Administration of Rules and Hearings [NEW]
300:35-21-1. through 300:35-21-8. [NEW]
Subchapter 23. Four-Wheel Vehicles, Off-Road Vehicles and All Terrain Vehicles [NEW]
300:35-23-1. through 300:35-23-10. [NEW]
Subchapter 25. [RESERVED]
Subchapter 27. Vegetation Management Plan [NEW]
300:35-27-1. through 300:35-27-7. [NEW]
GUBERNATORIAL APPROVAL:
March 29, 2006

[OAR Docket #06-683; filed 4-18-06]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #06-695]

RULEMAKING ACTION:
GUBERNATORIAL approval of permanent rules

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)

GUBERNATORIAL APPROVAL:

March 9, 2006

[OAR Docket #06-695; filed 4-19-06]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 105. AGING SERVICES DIVISION

[OAR Docket #06-696]

RULEMAKING ACTION:
GUBERNATORIAL approval permanent rules
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)
GUBERNATORIAL APPROVAL:
March 9, 2006

[OAR Docket #06-696; filed 4-19-06]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 110. LICENSING SERVICES

[OAR Docket #06-697]

RULEMAKING ACTION:
GUBERNATORIAL approval of permanent rules
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]
340:110-5-12. 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)
GUBERNATORIAL APPROVAL:
March 9, 2006

[OAR Docket #06-697; filed 4-19-06]

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

[OAR Docket #06-709]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
390:1-1-2.1. [NEW]
390:1-1-9. [NEW]
390:1-1-10. [NEW]
390:1-1-11. [NEW]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-709; filed 4-21-06]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 2. ADMINISTRATIVE PROCEDURES

[OAR Docket #06-710]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
390:2-1-8. [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-710; filed 4-21-06]

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

[OAR Docket #06-711]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
390:10-1-2. [AMENDED]
390:10-1-5. [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-711; filed 4-21-06]

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

[OAR Docket #06-712]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Basic Academy Programs
390:15-1-2. [AMENDED]
390:15-1-3. [AMENDED]
390:15-1-9. [AMENDED]
390:15-1-13. [AMENDED]
390:15-1-19. [AMENDED]
Subchapter 3. Collegiate Officer Program
390:15-3-3. [AMENDED]
390:15-3-6. [AMENDED]
390:15-3-7. [AMENDED]
Appendix A. Academy City Agreement Form Agreement [REVOKED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-712; filed 4-21-06]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 25. CONTINUING LAW ENFORCEMENT EDUCATION

[OAR Docket #06-713]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
390:25-1-8. [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-713; filed 4-21-06]

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

[OAR Docket #06-714]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
390:30-1-4. [AMENDED]
390:30-1-6. [AMENDED]
390:30-1-7. [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-714; filed 4-21-06]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 31. BOMB DETECTOR DOG CERTIFICATION

[OAR Docket #06-715]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Chapter 31. Bomb Detector Dog Certification [NEW]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-715; filed 4-21-06]

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

[OAR Docket #06-716]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
390:35-1-4. [AMENDED]
Subchapter 5. License Requirements
390:35-5-2. [AMENDED]
390:35-5-3. [AMENDED]
390:35-5-5. [AMENDED]
Subchapter 7. Application Procedure
390:35-7-1. [AMENDED]
390:35-7-4. [AMENDED]
Subchapter 11. Insurance and Bond Requirements
390:35-11-3. [AMENDED]
Subchapter 13. Use of Firearms
390:35-13-2. [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-716; filed 4-21-06]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 40. OKLAHOMA SELF-DEFENSE ACT

[OAR Docket #06-717]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
390:40-1-4. [AMENDED]
Subchapter 7. Instructor Application Procedure
390:40-7-1. [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-717; filed 4-21-06]

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

[OAR Docket #06-718]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
390:45-1-3. [AMENDED]
390:45-1-4. [AMENDED]
390:45-1-5. [AMENDED]
390:45-1-6. [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-718; filed 4-21-06]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 50. PENALTY ASSESSMENT FEES

[OAR Docket #06-719]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
390:50-1-4. [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-719; filed 4-21-06]

TITLE 429. OKLAHOMA LOTTERY COMMISSION
CHAPTER 1. GENERAL ADMINISTRATION

[OAR Docket #06-706]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions [NEW]
429:1-1-1. [RESERVED]
429:1-1-2. Applicability [NEW]
429:1-1-3. Definitions [NEW]
429:1-1-4. Public Accountability [NEW]
429:1-1-5. Procedures for Retailer Appeal to Board [NEW]
429:1-1-6. Officers [NEW]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-706; filed 4-21-06]

TITLE 429. OKLAHOMA LOTTERY COMMISSION
CHAPTER 10. RETAILER PROVISIONS

[OAR Docket #06-706A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions [NEW]
429:10-1-1. [RESERVED]
429:10-1-2. Definitions [NEW]
429:10-1-3. Retailer Compensation [NEW]
429:10-1-4. Retailer Selection Criteria [NEW]
429:10-1-5. Acceptance and Return of Instant Lottery tickets [NEW]
429:10-1-6. Acceptance of Online Tickets [NEW]
429:10-1-7. Payment of Prizes [NEW]
429:10-1-8. Minimum Sales Requirement [NEW]
429:10-1-9. Merchandising [NEW]
429:10-1-10. Settlement and Retailer Invoicing [NEW]
429:10-1-11. Banking, Deposits and Payment Requirements [NEW]
429:10-1-12. Damage to OLC Provided Equipment [NEW]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-706A; filed 4-21-06]

TITLE 429. OKLAHOMA LOTTERY COMMISSION
CHAPTER 15. INSTANT GAMES

[OAR Docket #06-706B]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions [NEW]
429:15-1-1. [RESERVED]
429:15-1-2. Definitions [NEW]
429:15-1-3. Ticket Responsibility [NEW]
429:15-1-4. Sale of Instant Game Tickets [NEW]
429:15-1-5. Determination of Prize Winner [NEW]
429:15-1-6. Ticket Validation Requirements [NEW]
429:15-1-7. Disputed Ticket [NEW]
429:15-1-8. Game End Date or Game Promotion End Date and Prize Claim Period [NEW]
429:15-1-9. Governing Law [NEW]
429:15-1-10. Required Prize Withholding [NEW]
429:15-1-11. Game Report [NEW]
429:15-1-12. Grand Prize Drawing [NEW]
429:15-1-13. Instant Game Procedures [NEW]
429:15-1-14. Instant Game Promotion Procedures [NEW]
Appendix A. Instant Game Procedures [NEW]
Appendix B. Instant Game Promotion Procedures [NEW]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-706B; filed 4-21-06]

TITLE 429. OKLAHOMA LOTTERY COMMISSION
CHAPTER 20. ONLINE GAMES

[OAR Docket #06-706C]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions [NEW]
429:20-1-1. [RESERVED]

429:20-1-2. Definitions [NEW]
429:20-1-3. Ticket Responsibility [NEW]
429:20-1-4. Sale of Online Game Tickets [NEW]
429:20-1-5. Determination of Prize Winner [NEW]
429:20-1-6. Ticket Validation Requirements [NEW]
429:20-1-7. Disputed Ticket [NEW]
429:20-1-8. Game End Date or Game Promotion End Date and Prize Claim Period [NEW]
429:20-1-9. Draw Procedures [NEW]
429:20-1-10. Governing Law [NEW]
429:20-1-11. Prize Withholdings [NEW]
429:20-1-12. Game Report [NEW]
429:20-1-13. Prize Amounts for Online Games [NEW]
429:20-1-14. Game Sell-Out Prohibited [NEW]
429:20-1-15. Entry of Plays [NEW]
429:20-1-16. Online Game Procedures [NEW]
429:20-1-17. Online Game Promotion Procedures [NEW]
Appendix A. Online Game Procedures [NEW]
Appendix B. Online Game Promotion Procedures [NEW]

GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-706C; filed 4-21-06]

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

[OAR Docket #06-637]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions
490:1-1-1. [AMENDED]
490:1-1-2. [AMENDED]
Subchapter 3. Oklahoma State Board of Examiners for Nursing Home Administrators
490:1-3-1. through 490:1-3-3. [AMENDED]
490:1-3-4. [REVOKED]
490:1-3-6. [AMENDED]
Subchapter 5. ~~Notice and Hearings~~ Complaints/Referrals
490:1-5-1. [REVOKED]
490:1-5-2. through 490:1-5-8. [NEW]
Subchapter 6. Administrator Registry [NEW]
490:1-6-1. [NEW]
Subchapter 7. Fees and Deposits
490:1-7-1. [AMENDED]

GUBERNATORIAL APPROVAL:
March 20, 2006

[OAR Docket #06-637; filed 4-14-06]

TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
CHAPTER 10. LICENSING OF NURSING HOME ADMINISTRATORS

[OAR Docket #06-639]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. Licensing of Nursing Home Administrators
490:10-1-1. [AMENDED]
490:10-1-2. [REVOKED]
490:10-1-3. [AMENDED]
490:10-1-4. [AMENDED]
490:10-1-5. [REVOKED]
490:10-1-6. [AMENDED]
490:10-1-8. [NEW]
Subchapter 3. Application for Licensure
490:10-3-1. [AMENDED]
Subchapter 5. Licensure Expiration, Renewal, Denial, Revocation and Suspension
490:10-5-1. [AMENDED]
490:10-5-2. [AMENDED]
490:10-5-3. [AMENDED]
490:10-5-4. [AMENDED]
Subchapter 8. Administrator-in-Training (AIT)
490:10-8-2. [AMENDED]
490:10-8-4. [AMENDED]
490:10-8-5. [AMENDED]
490:10-8-10. [AMENDED[
490:10-8-16. [AMENDED]
490:10-8-17. [AMENDED]
Subchapter 9. ~~Inactive~~License Status [AMENDED]
490:10-9-1. [AMENDED]
490:10-9-2. [NEW]
Subchapter 10. Fee Schedule
490:10-10-1. [AMENDED]

GUBERNATORIAL APPROVAL:
March 20, 2006

[OAR Docket #06-639; filed 4-14-06]

TITLE 560. POLYGRAPH EXAMINERS BOARD
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #06-707]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
560:1-1-2. [AMENDED]
560:1-1-4. [AMENDED]

560:1-1-7. [AMENDED]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-707; filed 4-21-06]

TITLE 560. POLYGRAPH EXAMINERS BOARD
CHAPTER 10. LICENSURE AND REGULATION OF POLYGRAPH EXAMINERS

[OAR Docket #06-708]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
560:10-1-13.1. [NEW]
GUBERNATORIAL APPROVAL:
April 17, 2006

[OAR Docket #06-708; filed 4-21-06]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #06-641]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
725:1-1-1. Purpose [AMENDED]
Subchapter 3. Organizational Structure
725:1-3-1. Director as Chief Executive Officer [AMENDED]
725:1-3-2. Divisions of the Department [AMENDED]
GUBERNATORIAL APPROVAL:
April 6, 2006

[OAR Docket #06-641; filed 4-14-06]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 15. FISCAL, PERSONNEL AND GENERAL OPERATIONS

[OAR Docket #06-642]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Acceptance of Checks [AMENDED]
Subchapter 9. Uniform Personnel Standards and Practices [AMENDED]
Subchapter 17. Pets on Premises [AMENDED]
Subchapter 19. Oklahoma Tourism and Recreation Product Development, Promotion, and Events Funding Criteria [AMENDED]
Subchapter 27. Promotion of Facilities [AMENDED]
Subchapter 29. Oklahoma Today Magazine [AMENDED]
Subchapter 31. Refunds [AMENDED]
Subchapter 33. Oklahoma Tourism Development Act Tax Credit Program [AMENDED]
Subchapter 35. Revenue Bond and Note Issuance [AMENDED]
Subchapter 37. Pay Incentive Plan [AMENDED]
GUBERNATORIAL APPROVAL:
April 6, 2006

[OAR Docket #06-642; filed 4-14-06]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 20. MARKETING SERVICES OPERATION

[OAR Docket #06-643]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions [AMENDED]
Subchapter 9. Brochure Charges [AMENDED]
Subchapter 11. Promotional Items Fees [AMENDED]
Subchapter 13. Traveler Information Centers [AMENDED]
GUBERNATORIAL APPROVAL:
April 6, 2006

[OAR Docket #06-643; filed 4-14-06]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 20. MARKETING SERVICES OPERATION

[OAR Docket #06-644]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 7. Reimbursement of Matching Funds to Multicounty Organizations
725:20-7-1. Definition of multicounty organization; directors [AMENDED]
725:20-7-2. Definition of matching funds; limitations [AMENDED]

725:20-7-3. Tourism marketing plan; budget work program [AMENDED]
725:20-7-4. Allocation of matching funds among multicounty organizations [AMENDED]
725:20-7-5. Allowable expenditures [AMENDED]
725:20-7-6. Administrative expenditures [AMENDED]
725:20-7-7. Tourism promotion expenditures [AMENDED]
725:20-7-8. Discretionary expenditures [AMENDED]
725:20-7-9. Independent and certified audit [AMENDED]

GUBERNATORIAL APPROVAL:
April 6, 2006

[OAR Docket #06-644; filed 4-14-06]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 25. STATE LODGES OPERATIONS [REVOKED]

[OAR Docket #06-645]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions [REVOKED]
Subchapter 3. Use of Lodge Public Space for Private Groups [REVOKED]
Subchapter 7. Reservations [REVOKED]
Subchapter 9. Fees and Rates for Lodge Guest Rooms, Meeting Rooms, Banquet Rooms, and Commercial Use of Facilities [REVOKED]
Subchapter 11. Prices, Fees and Other Charges for Commodities and Services Provide by Lodges [REVOKED]
Subchapter 15. Resort Credit Policy [REVOKED]
Subchapter 23. Pets on Premises [REVOKED]
Subchapter 25. Swimming Pools [REVOKED]
Subchapter 27. Confidentiality of Guest Records [REVOKED]
Subchapter 29. Smoking [REVOKED]

GUBERNATORIAL APPROVAL:
April 6, 2006

[OAR Docket #06-645; filed 4-14-06]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 30. DIVISION OF STATE PARKS

[OAR Docket #06-646]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 2. General Provisions [AMENDED]
Subchapter 4. Public Use and Recreation [AMENDED]
Subchapter 6. Fees, Discounts and Waivers [AMENDED]
Subchapter 8. Camping and Day Use [AMENDED]
Subchapter 10. Trails [AMENDED]
Subchapter 12. Reservations and Use of Cabins, Group Camps, Shelters, Reserved/Assigned Camping Facilities, Amphitheaters, Community Buildings and Meeting Rooms [AMENDED]
Subchapter 16. Permits [AMENDED]
Subchapter 18. Special Use Areas [AMENDED]
Subchapter 20. Volunteers [AMENDED]
Subchapter 22. Concession Leases [AMENDED]
Subchapter 23. Mineral Leases and Operations [AMENDED]
Subchapter 24. Golf [AMENDED]
Subchapter 26. Vehicle and Traffic Safety [AMENDED]
Subchapter 28. Park Security and Law Enforcement [AMENDED]
Subchapter 29. Operations of State Lodges [NEW]

GUBERNATORIAL APPROVAL:
April 6, 2006

[OAR Docket #06-646; filed 4-14-06]

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 35. THE OKLAHOMA FILM OFFICE

[OAR Docket #06-647]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. Oklahoma Film Enhancement Rebate Program
725:35-1-1. Purpose [AMENDED]
725:35-1-2. Definitions [AMENDED]
725:35-1-3. Program requirements and qualifications [AMENDED]
725:35-1-4. Items not eligible for rebate [AMENDED]
725:35-1-5. Procedures for submission and review of rebate claims [AMENDED]

GUBERNATORIAL APPROVAL:
April 6, 2006

[OAR Docket #06-647; filed 4-14-06]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 10. ADMINISTRATION AND SUPERVISION

[OAR Docket #06-733]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. State Technical Assistance, Supervision, and Services
780:10-3-2. [AMENDED]
Subchapter 5. Finance
780:10-5-2. [AMENDED]
780:10-5-4. [AMENDED]
Subchapter 9. Service Contracts and Equipment Guidelines
780:10-9-1. [AMENDED]
780:10-9-2. [AMENDED]
GUBERNATORIAL APPROVAL:
April 4, 2006

[OAR Docket #06-733; filed 4-25-06]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

[OAR Docket #06-734]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Technology Centers Education
780:15-3-2. [AMENDED]
780:15-3-3. [AMENDED]
780:15-3-6. [AMENDED]
GUBERNATORIAL APPROVAL:
April 4, 2006

[OAR Docket #06-734; filed 4-25-06]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 20. PROGRAMS AND SERVICES

[OAR Docket #06-735]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Secondary, Full-time and Short-Term Adult *Career*Tech Programs
780:20-3-1. [AMENDED]
780:20-3-2. [AMENDED]
780:20-3-3. [AMENDED]
780:20-3-4. [AMENDED]
780:20-3-5. [AMENDED]
GUBERNATORIAL APPROVAL:
April 4, 2006

[OAR Docket #06-735; filed 4-25-06]

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

[OAR Docket #06-743]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:45-1-2. Definitions [AMENDED]
Subchapter 5. Surface Water Quality Standards
Part 3. Beneficial Uses and Criteria to Protect Uses
785:45-5-10. Public and private water supplies [AMENDED]
785:45-5-12. Fish and wildlife propagation [AMENDED]
785:45-5-13. Agriculture: livestock and irrigation [AMENDED]
785:45-5-20. Fish consumption [AMENDED]
Part 5. Special Provisions
785:45-5-29. Delineation of NLW areas [NEW]
Appendix A. Designated Beneficial Uses for Surface Waters [REVOKED]
Appendix A. Designated Beneficial Uses for Surface Waters [NEW]
Appendix C. Suitability of Water for Livestock and Irrigation Uses [REVOKED]
Appendix E. Requirements for Development of Site Specific Criteria for Metals [REVOKED]
Appendix E. Requirements for Development of Site-Specific Criteria for Metals [NEW]
Appendix F. Statistical Values of the Historical Data for Mineral Constituents of Water Quality (Beginning October 1976 Ending September 1983, Except As Indicated) [REVOKED]
Appendix F. Statistical Values of the Historical Data for Mineral Constituents of Water Quality (Beginning October 1976 Ending September 1983, Except As Indicated) [NEW]
Appendix H. Beneficial Use Designations for Certain Limited Areas of Groundwater [NEW]
GUBERNATORIAL APPROVAL:
April 6, 2006

[OAR Docket #06-743; filed 4-25-06]

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

[OAR Docket #06-744]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
785:46-1-2. Definitions [AMENDED]
785:46-1-6. Determination of ~~7Q2 and seasonal 7Q2~~ regulatory low flow [AMENDED]
Subchapter 9. Implementation of Criteria to Protect the Agriculture Beneficial Use
785:46-9-5. Reasonable potential [AMENDED]
Subchapter 15. Use Support Assessment Protocols
785:46-15-3. Data requirements [AMENDED]
Subchapter 19. Implementation of Dissolved Oxygen Criteria to Protect Fish and Wildlife Propagation
785:46-19-2. Regulatory flows [AMENDED]
785:46-19-3. Reasonable potential determination [AMENDED]
GUBERNATORIAL APPROVAL:
April 6, 2006

[OAR Docket #06-744; filed 4-25-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 1. OPERATIONS AND PROCEDURES

[OAR Docket #06-655]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 15. Hunter Education Rules
800:1-15-2. Hunter education certification requirements [AMENDED]
800:1-15-3. Instructors [AMENDED]
800:1-15-4. Administrative requirements [AMENDED]
GUBERNATORIAL APPROVAL:
March 24, 2006

[OAR Docket #06-655; filed 4-17-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 10. SPORT FISHING RULES

[OAR Docket #06-660]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Harvest and Possession Limits
800:10-1-4. Size limits on fish [AMENDED]
800:10-1-5. Bag limits on fish [AMENDED]
GUBERNATORIAL APPROVAL:
March 24, 2006

[OAR Docket #06-660; filed 4-17-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 15. COMMERCIAL HARVEST RULES; AQUATIC SPECIES

[OAR Docket #06-656]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Commercial Shad Harvest
800:15-5-2. Licenses and fee requirements [AMENDED]
Subchapter 7. Commercial Mussel Harvest
800:15-7-3. General; operating provisions [AMENDED]
GUBERNATORIAL APPROVAL:
March 24, 2006

[OAR Docket #06-656; filed 4-17-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 20. RESTRICTION ON AQUATIC SPECIES INTRODUCTION

[OAR Docket #06-657]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Noxious Aquatic Plants
800:20-3-2. List of declared noxious aquatic plant species [AMENDED]
GUBERNATORIAL APPROVAL:
March 24, 2006

[OAR Docket #06-657; filed 4-17-06]

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

[OAR Docket #06-658]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Hunting on Corps of Engineers Lands
800:25-3-1. Purpose [AMENDED]
Subchapter 7. General Hunting Seasons
Part 1. General Provisions
800:25-7-3. General Provisions [AMENDED]
Part 5. Upland Game
800:25-7-17. Wild turkey - Spring; dates, limits and open areas [AMENDED]
800:25-7-17.1. Wild Turkey - Spring Youth Season [NEW]
Part 13. Deer
800:25-7-55. Deer-Youth Gun Season [AMENDED]
Part 15. Furbearer
800:25-7-60. Dates and legal furbearers [AMENDED]
800:25-7-61. Bag limits [AMENDED]
800:25-7-62. Open areas [AMENDED]
800:25-7-63. License requirements and fees [AMENDED]
800:25-7-64. General provisions for furbearers [AMENDED]
Part 19. Seasons on Areas Owned or Managed by the Oklahoma Department of Wildlife Conservation and the U.S. Fish and Wildlife Service
800:25-7-86.1. Camp Gruber Maneuver Training Center (CGMTC) [AMENDED]
800:25-7-87. Candy WMA [REVOKED]
800:25-7-90. Cherokee PHA [AMENDED]
800:25-7-98. Fort Cobb WMA [AMENDED]
800:25-7-105.6. Hackberry Flat WRP [AMENDED]
800:25-7-131.2. Osage WMA - Western Wall ~~Primitive Area~~ Unit [AMENDED]
Subchapter 9. Controlled Hunts
Part 1. Guidelines
800:25-9-3. Applications and instructions [AMENDED]
Part 3. Antelope
800:25-9-10. Controlled antelope hunt application and instructions [REVOKED]
800:25-9-11. Cimarron and Texas County (west of Highway 136) landowner permits [AMENDED]
800:25-9-12. General Antelope Regulation [AMENDED]
Subchapter 13. Commercial Hunt Areas
800:25-13-6. Facility requirements [AMENDED]
800:25-13-9. Tagging requirements [AMENDED]
Subchapter 23. Imports/Export Permits
800:25-23-2. Application and fees [AMENDED]
Subchapter 26. Scientific Collector Permit
800:25-26-3. Use [AMENDED]
GUBERNATORIAL APPROVAL:
March 24, 2006

[OAR Docket #06-658; filed 4-17-06

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

[OAR Docket #06-659]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Use of Department Managed Lands
800:30-1-5. Vehicles [AMENDED]
Subchapter 3. Mineral Exploration and Production
800:30-3-1. Purpose [AMENDED]
800:30-3-2. General provisions [AMENDED]
800:30-3-3. Site development [AMENDED]
800:30-3-4. Site preparation [AMENDED]
800:30-3-5. Regulations for producing wells [AMENDED]
800:30-3-6. Regulations for non-producing wells [AMENDED]
800:30-3-7. Damage and use charges [AMENDED]
800:30-3-8. Disposal wells [AMENDED]
GUBERNATORIAL APPROVAL:
March 24, 2006

[OAR Docket #06-659; filed 4-17-06]

Withdrawn Rules

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

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

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

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 210. BARBERS

[OAR Docket #06-632]

RULEMAKING ACTION:
Withdrawal of PERMANENT rulemaking
WITHDRAWN RULES:
Subchapter 7. General Sanitation
310:210-7-15. [NEW]
DATES:
Adoption:
March 9, 2006
Submitted to Governor:
March 20, 2006
Submitted to House:
March 20, 2006
Submitted to Senate:
March 20, 2006
Withdrawn:
April 12, 2006

[OAR Docket #06-632; filed 4-12-06]

Emergency Adoptions

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

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

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 158. OKLAHOMA CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

[OAR Docket #06-691]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 5. License Types, Bond Requirements, Display of License and Firm Name.
158:30-5-1. License types [AMENDED]
Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
158:30-9-1. Examination procedures [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. § 1000.4
DATES:
Public Hearing:
March 8, 2006
Adoption:
March 8, 2006
Approved by Governor:
March 29, 2006
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 15, 2007, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
"n/a"
INCORPORATIONS BY REFERENCE:
"n/a"
FINDING OF EMERGENCY:
The Construction Industries Board finds that compelling extraordinary circumstances exist due to the need for an immediate qualified labor pool to staff impending statewide company expansions.
ANALYSIS:
The rule change promotes economic development by providing an opportunity for Oklahoma companies to find qualified personnel to staff their expansion projects by providing an alternative verification of experience requirements. The rule change provides for an expanded labor force by allowing the use of employee leasing companies for staffing.
CONTACT PERSON:
Jeanne Britt, C.P.O., Executive Assistant, Construction Industries Board, 2401 N.W. 23,Ste 5, Oklahoma City, OK 73107 telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.state.ok.us

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

SUBCHAPTER 5. LICENSE TYPES, BOND REQUIREMENTS AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:30-5-1. License types

(a) **Apprentice plumber.**

(1) Apprentice plumbers must be under the direct supervision of a licensed plumber when engaged in plumbing.

(2) A maximum of three (3) apprentice plumbers can work under the supervision of a licensed plumber.

(3) Apprenticeship registration is effective upon the posting of the application and evidence of such posting shall be a copy of the executed application form with proof of tender of the proper fee which may serve as evidence of registration for a period not to exceed thirty (30) days.

(b) **Journeyman plumber.**

(1) To engage in the act of plumbing, a journeyman plumber must be employed or supervised by a licensed plumbing contractor.

(2) A journeyman shall not contract or furnish labor and/or labor and materials.

(c) **Plumbing contractor.** Plumbing contractors must notify their surety of any municipalities wherein plumbing work will be performed.

SUBCHAPTER 9. EXAMINATION PROCEDURES, LICENSE AND REGISTRATION FEES AND DURATION OF LICENSES

158:30-9-1. Examination procedures

(a) The plumbing standards for the plumbing examination shall be the International Plumbing Code/2000.

(b) Any previously certified examination may be used to meet an examination requirement.

(c) Examination for a plumber's license shall include, but not be limited to, written questions and drawings and/or charts.

(d) The maximum grade value of each part of the plumbing examination shall be 100 points. An examinee must make 70% or more on each part, above, to pass the examination.
(e) Attendance at an approved technical school with specialization in the plumbing skills may be substituted for experience or employment on an equal time basis. Substitution of education for experience shall be limited to a maximum of one half the experience requirement. Applicants must present to the Administrator for approval records of schools attended, grades and/or certificates of completion if education is to be substituted for experience.
(f) Applicants for the plumbing contractor examination must be capable of reading English without assistance. A person who cannot meet this requirement may request a hearing before the Committee to request reasonable accommodations.
(g) Except as authorized by the Plumbing Examining Committee, no person, other than examinees, shall be permitted in the examination area.
(h) An examinee who is caught cheating during the course of an examination shall be deemed to have failed the examination.
(i) Applicants for the journeyman examination must be eighteen (18) years of age or older and have either
(1) three (3) years experience in the plumbing trade or
(2) a verifiable out-of-state plumbing license that must be:
(A) current, and
(B) in good standing.
(j) Applicants for the contractors examination must be eighteen (18) years of age or older and have four (4) years experience in the plumbing trade.
(k) The fees for both examination and license must be on deposit with the Administrator in advance of the examination.
(l) If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.
(m) Applicants failing to appear for their examination on the date scheduled shall forfeit the examination fee unless notification is received by the Administrator at least 24 hours prior to examination date.

[OAR Docket #06-691; filed 4-18-06]

TITLE 158. OKLAHOMA CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

[OAR Docket #06-692]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 7. License Classifications
158:40-7-6. Refinery electrical license [NEW]
AUTHORITY:
Construction Industries Board; 59 O.S. § 1689
DATES:
Public Hearing:
March 21, 2006
Adoption:
March 21, 2006
Approved by Governor:
March 29, 2006
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 15, 2007, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
"n/a"
INCORPORATIONS BY REFERENCE:
"n/a"
FINDING OF EMERGENCY:
The Construction Industries Board finds that compelling extraordinary circumstances exist due to the need for an immediate qualified labor pool to staff impending statewide refinery expansions.
ANALYSIS:
The new rule promotes economic development by providing an opportunity for Oklahoma refineries to find qualified personnel to staff their turn-arounds and expansion projects by providing a new category of licensing that provides an alternative verification of experience requirements.
CONTACT PERSON:
Jeanne Britt, C.P.O., Executive Assistant, Construction Industries Board, 2401 N.W. 23,Ste 5, Oklahoma City, OK 73107 telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.state.ok.us

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

SUBCHAPTER 7. LICENSE CLASSIFICATIONS

158:40-7-6. Refinery electrical license
(a) Applicants for a refinery electrical journeyman examination must:
(1) be at least eighteen (18) years of age or older;
(2) successfully pass the unlimited electrical journeyman exam; and
(3) have a verifiable license in the unlimited electrical classification issued by a jurisdiction outside of the State of Oklahoma. The license must be:
(A) current, and
(B) in good standing.
(b) Applicants for a refinery electrical license may obtain an unlimited electrical journeyman license only upon providing the required experience designated in 158:40-7-1(b).
(c) Refinery electrical license holders may perform electrical work only in refinery facilities. For purposes of this section, refinery facilities shall mean any facility designed and operated to receive, unload, store, process and refine raw crude oil.

[OAR Docket #06-692; filed 4-18-06]

TITLE 158. OKLAHOMA CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #06-693]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 9. Qualifications For Mechanical Licensure, License And Registration Fees, Duration Of License, Mechanical License Application, And Apprentice Registration
158:50-9-1. Qualifications for mechanical licensure [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. § 1689.
DATES:
Public Hearing:
March 8, 2006
Adoption:
March 8, 2006
Approved by Governor:
March 29, 2006
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 15, 2007, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
"n/a"
INCORPORATIONS BY REFERENCE:
"n/a"
FINDING OF EMERGENCY:
The Construction Industries Board finds that compelling extraordinary circumstances exist due to the need for an immediate qualified labor pool to staff impending statewide refinery expansions.
ANALYSIS:
The rule change promotes economic development by providing an opportunity for Oklahoma refineries to find qualified personnel to staff their turn-arounds and expansion projects by providing an alternative verification of experience requirements.
CONTACT PERSON:
Jeanne Britt, C.P.O., Executive Assistant, Construction Industries Board, 2401 N.W. 23,Ste 5, Oklahoma City, OK 73107 telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.state.ok.us

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

SUBCHAPTER 9. QUALIFICATIONS FOR MECHANICAL LICENSURE, LICENSE AND REGISTRATION FEES, DURATION OF LICENSE, MECHANICAL LICENSE APPLICATION, AND APPRENTICE REGISTRATION

158:50-9-1. Qualifications for mechanical licensure

(a) **Application.** A person desiring to be licensed under this Chapter shall file an application with the application fee, examination fee, and the initial License fee to the Administrator. The fees must be received no less than three (3) working days before the examination date. If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.

(b) **Experience.** All persons applying for a license must provide proof of experience in the mechanical trade.

(1) Applicants for a journeyman license must be at least eighteen (18) years of age and have:

(A) either three (3) years of verifiable experience in the mechanical trade in the category for which he is applying or

(B) have an associates degree or Vo Tech diploma from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and one (1) year of verifiable experience in the mechanical trade., or

(C) have a verifiable out-of-state license in the mechanical classification for which the applicant is applying. The license must be:

(i) current, and

(ii) in good standing.

(2) Applicants for a contractor license must meet the same requirements as a journeyman with an additional one (1) year experience.

(c) **Examination.** A license cannot be issued until the applicant has passed the appropriate examination for the license type and category. Examinations and the passing score for each examination shall be approved by the Committee. Applicants for the Ground Source Piping category shall provide proof of being certified in the proper installation of ground source piping by an organization approved by the Committee.

(1) If the applicant does not pass the exam, the applicant may reapply for the exam and pay an additional retesting fee. However, no person will be allowed to retake an exam within 30 days of the first failed exam nor within 90 days of the second or subsequent failed exam.

(2) Any person suspected of cheating during an examination shall be immediately notified of the suspicion and shall not be allowed to finish the examination. He shall be called before the Committee during the next scheduled meeting for discussion of the incident. If the Committee determines that the person did in fact cheat, the examinee's application for licensure shall be denied and the Committee shall determine when the applicant can next apply for an examination.

(3) No person shall be allowed any assistance in reading the contractor's examination, nor shall any persons other than the examinees or the Committee members be allowed in the examination area. However, an applicant may request that the Committee make reasonable accommodations for any disability.

(d) **Outstanding fines.** A license cannot be issued until the applicant has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

[OAR Docket #06-693; filed 4-18-06]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 80. GAMING LICENSING REQUIREMENTS

[OAR Docket #06-748]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
325:80-1-1. through 325-80-19-5. [NEW]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
Adoption:
March 17, 2005
Approved by Governor:
April 6, 2005
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2006, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATIONS BY REFERENCE:
Not Applicable
FINDING OF EMERGENCY:
Under the authority of 75 O.S. 2001, § 253, the Oklahoma Horse Racing Commission finds that compelling public interests require the adoption of emergency rules for the following reasons:
Whereas, the people of the State of Oklahoma at the General Election held November 2, 2004 approved the State-Tribal Gaming Act proposed in State Question No. 712;
Whereas, the State-Tribal Gaming Act empowered the Oklahoma Horse Racing Commission to regulate, implement and enforce authorized gaming conducted at Commission-licensed racetracks;
Whereas, the Act authorized racetracks, when licensed by the Commission, to use various electronic gaming machines;
Whereas, authorized gaming at Commission-licensed racetracks is new to the State of Oklahoma;
Whereas, the Commission, in order to regulate such activity, had to educate itself regarding gaming industry procedures, practices and technical considerations;
Whereas, the Commission, in educating itself, sought advice and assistance from the racetracks, horsemen's associations, gaming machine manufacturers, and technical experts in the field;
Whereas, the experts, in suggesting draft technical requirements, have edited and redrafted those suggestions;
Whereas, needed information from the industry was not available in sufficient time to adopt permanent rules;
Whereas, it is in the best interest of the horse racing industry that authorized gaming, which results in enhanced purses, begins as soon as practical without waiting another year for the adoption of permanent rules; and
Whereas, it is in the best interest of the State as a whole that State revenues from authorized gaming at the racetracks, which is used to supplement education, begin to accrue as soon as practical without waiting another year for the adoption of permanent rules, **the Commission finds that a compelling public interest requires the adoption of emergency rules implementing the authorized gaming permitted under the State-Tribal Gaming Act.**
ANALYSIS:
With the passage of State Question 712, the State-Tribal Gaming Act, in the General Election held November 2, 2004, the Oklahoma Horse Racing Commission is mandated by the Act to promulgate rules for the regulation, implementation and enforcement of authorized gaming conducted at Commission-licensed racetracks.
CONTACT PERSON:
Bonnie Morris, (405) 943-6472

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

SUBCHAPTER 1. GENERAL PROVISIONS

325:80-1-1. Purpose

The Rules in this chapter establish Standards and requirements for licensure, certification, registration, renewal and other approval under the State-Tribal Gaming Act.

325:80-1-2. Definitions

Unless otherwise defined below, terms used in this rule have the same meanings as set forth in the State-Tribal Gaming Act:

"Act" means the State-Tribal Gaming Act enacted by the people with passage of State Question 712.

"Authorized Games" means Electronic Amusement Games as defined in the State-Tribal Gaming Act, Electronic Bonanza-Style Bingo Games as defined in the State-Tribal Gaming Act, Electronic Instant Bingo Games as defined in the State-Tribal Gaming Act, Compact Electronic Gaming machines or devices as defined in these Rules, and Non-Compact Electronic Games as defined by these Rules.

"Commission" means the Oklahoma Horse Racing Commission.

"Compact Electronic Game Machine or Device" means an electronic game allowed by Oklahoma Law that a Federally recognized Indian Tribe in Oklahoma is authorized to use by virtue of a Compact entered into between Oklahoma and the tribe in accordance with the Indian Gaming Regulatory Act, and which has been approved by the United States Secretary of the Interior, as evidenced by publication of the approval in the *Federal Register*.

"Component" means a part of a gaming machine that is necessary for the proper operation and essential function of the gaming machine, including but not limited to a hopper, coin acceptor, Microprocessor and related circuitry, Program Storage Device, Bill Acceptor, cashless system, progressive system, monitoring system, meter; and any other parts the Commission determines are Components; a Component is necessary for the proper operation and essential function of a gaming machine if it affects, directly or indirectly, the gaming machine's operation, game outcome, security, record-keeping, or communication with the central monitoring system; parts such as light bulbs, buttons, wires, decorative glass, fuses, batteries, handles, springs, brackets, and locks are not Components.

"Control," when used as a noun, means the possession, direct or indirect, of the power to direct or cause the direction of the Management and policies of a Person or to exercise significant influence over Management and policies due to financial investment, assumption of debts or expenses, or other monetary or non-monetary considerations extended to the Applicant or Licensee; when used as a verb, "Control" means to exert, directly or indirectly, such power, or to be in a position to exert such power.

"Distributor" means a non-Manufacturer who leases, sells, distributes or markets any gaming machine, associated equipment, game program or Program Storage Device to a Racetrack Gaming Operator in the State of Oklahoma.

"Distributor Licensee" means a Distributor Licensed by the Commission.

"Enclosure" means all areas of the property of an Organization Licensee to which admission can be obtained only by payment of an admission fee or upon presentation of proper credentials and all parking areas designed to serve the facility which are owned or leased by the Organization Licensee.

"Gaming Agent" means a Commission agent trained in machine gaming, responsible for on-site enforcement of the State-Tribal Gaming Act and Commission Rules and other regulatory responsibilities as assigned by the Commission Executive Director.

"Gaming Employee" means any employee of a Racetrack Gaming Operator who works in any capacity within the confines of the Gaming Facility.

"Gaming Employee License" means a license issued to a Gaming Employee by the Commission.

"Gaming Employee Licensee" means any Gaming Employee who is issued a license by the Commission.

"Gaming Facility" means that area within an Organization Licensee's Racetrack Premises which has been set aside for the use of Authorized Games and related activities which is cordoned off, by means of a physical barrier which is approved by the Commission's Director of Law Enforcement, and access to which is limited to patrons 18 years of age or older, designated by the Commission in the Racetrack Gaming Operator's License as the area in which authorized gaming will be conducted.

"Gaming Machine or Device" means a contrivance designed primarily for gambling purposes which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, or any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet. The fact that the prize is not automatically paid by the device does not affect its character as a gambling device. [O.S., Title 21, Section 981, Subsection 3.]

"Gaming Machine or Device License" means a license issued by the Commission to a Racetrack Gaming Operator for each gaming machine brought into the Racetrack Premises, for any purpose, including but not limited to storage, repair, Modification or play.

"Independent Testing Laboratory" *means a laboratory of national reputation that is demonstrably competent and qualified to scientifically test and evaluate devices for compliance with the Act and to otherwise perform the functions assigned to it in the Act. An Independent Testing Laboratory shall not be owned or Controlled by an* organization *licensee, an Indian tribe, the State, or any Manufacturer, supplier or operator of gaming devices. The use of an Independent Testing Laboratory for any purpose related to the conduct of Electronic Gaming by an Organization Licensee under the Act shall be made from a list of one or more laboratories approved by the Commission*. [Title 3A, §269]

"Key Executive" means an executive of a Racetrack Gaming Operator, a Manufacturer, Distributor, Manufacturer/Distributor, Vendor, or Independent Testing Laboratory who supplies goods and/or services which are used in the actual gaming, gaming monitoring or gaming surveillance, including officers, directors, and other Persons having the power to exercise significant influence over decisions concerning any part of the licensed gaming operations of the licensed employer, which for a Racetrack Gaming Operator, would include but would not be limited to the General Manager, Comptroller, Director of Finance, Director of Security, Director of Electronic Gaming Operations, and Director of Marketing.

"Key Executive Licensee" means any Key Executive who is issued a license by the Commission.

"Majority Interest" means an ownership interest, whether direct or indirect, of more than 50% in the Licensee.

"Manage" means to take charge of, direct, superintend, restrict, regulate, administer, or oversee the operation of a gaming activity or other activity or function.

"Manufacturer" means a Person who manufactures, fabricates, assembles, produces, programs, refurbishes, or makes Modification to any Gaming Machine or Device, electronic game, or associated Program Storage Device for sale, lease, distribution, use or play by a Racetrack Gaming Operator in the State of Oklahoma.

"Manufacturer Licensee" means a Manufacturer licensed by the Commission.

"Manufacturer/Distributor" means a Person who is both a Manufacturer and Distributor as defined in these Rules.

"Manufacturer/Distributor Licensee" means a Manufacturer/ Distributor Licensed by the Commission.

"Modification" means a change or alteration in an approved gaming machine that affects the manner or mode of play (including the percentage paid by the gaming machine), as well as a change in Control or graphics programs; "Modification" does not include a conversion from one approved mode of play to another approved mode of play, replacement of one game for another approved game; replacement of one Component with another pre-approved Component; or the rebuilding of a previously approved gaming machine with pre-approved Components.

"Non-Compact Electronic Game" means any electronic game that a federally recognized Indian Tribe in Oklahoma is lawfully permitted to operate under the Indian Gaming Regulatory Act.

"Occupation Gaming License" means any gaming license issued by the Commission other than a Racetrack Gaming Operator License or a Recipient License.

"Occupation Gaming Licensee" means any Person receiving an Occupation Gaming License issued by the Commission.

"Organization License" means a license issued by the Commission which authorizes the Licensee to conduct a race meeting in Oklahoma and accept pari-mutuel wagers on the outcome of live and simulcast horse racing.

"Organization Licensee" means any Person receiving an Organization License issued by the Commission.

"Participating Tribe" means a tribe which operates a Gaming Facility within a radius of twenty (20) miles from the Enclosure of a Recipient Licensee pursuant to the model Compact authorized in the State-Tribal Gaming Act.

"Person" means any individual, partnership, corporation, or other association or entity.

"Player Terminal" *means electronic Terminals housed in cabinets with input devices and video screens or electromechanical displays on which players play authorized gaming.* [Title 3A, §269]

"Racetrack Premises" means all areas of the property which are owned or leased by the Organization Licensee on which the racetrack is located.

"Racetrack Gaming Operator License" means a license issued by the Commission which authorizes an Organization Licensee to conduct Authorized Games as defined by the State-Tribal Gaming Act under the regulation, implementation and enforcement of the Commission.

"Racetrack Gaming Operator Licensee" means any Organization Licensee which has been issued a Racetrack Gaming Operator License by the Commission.

"Recipient License" means a license issued by the Commission which authorizes the Licensee to receive the funds authorized in the State-Tribal Gaming Act from Participating Tribes.

"Rules" means the Oklahoma Horse Racing Commission's Rules for Racetrack Gaming.

"State" means the State of Oklahoma.

"This Title" means Title 325 of the Oklahoma Administrative Code.

"Vendor" means a Person, other than a licensed Manufacturer, Distributor, or Manufacturer/Distributor, who in selling or leasing goods and/or services to a Racetrack Gaming Operator, conducts operations on-site at a racetrack Gaming Facility provided that attorneys shall be exempt from the licensing requirement herein to be extent that they are providing services covered by their professional licenses.

"Vendor Employee" means a Person employed by a Vendor and licensed by the Commission as a Vendor Employee.

"Vendor Employee License" means a license which authorizes any employee to work for a licensed Vendor and supply goods and/or services on-site at the Gaming Facility.

"Vendor License" means a license issued by the Commission which authorizes a Vendor to sell goods and/or services to a Racetrack Gaming Operator.

"Vendor Licensee" means any Person or entity receiving a Vendor License issued by the Commission.

325:80-1-3. Applicability of Rules - Exceptions

Rules pertaining to licenses and rulings against Licensees shall apply in like force to the spouse and members of the immediate family or household of the licensee if the continuation of participation in gaming by the affected Person circumvents the intent of the Rule or affects the ruling by permitting a Person under the Control or direction of the Licensee to serve in essence as a substitute for a suspended Licensee, or a Person ineligible to participate in a particular activity.

SUBCHAPTER 3. GAMING LICENSE CLASSIFICATIONS

325:80-3-1. Types of Gaming Licenses

(a) The following are types of gaming licenses:

(1) **Organization License,** which authorizes the Licensee to conduct a race meeting in Oklahoma and accept pari-mutuel wagers on the outcome of live and simulcast horse racing.

(2) **Racetrack Gaming Operator License,** which authorizes an Organization Licensee to conduct Authorized Games as defined by the State-Tribal Gaming Act under the regulation, implementation and enforcement of the Commission. The License authorizes the approved Licensee to acquire, own, lease, possess, and operate gaming devices on its licensed premises.

(3) **Recipient Racetrack Gaming License**, which authorizes the approved Licensee to receive the funds authorized in the Act from Participating Tribes.

(4) **Occupation Gaming License**, which means any gaming license issued by the Commission other than a Racetrack Gaming Operator License or a Recipient License.

(5) **Manufacturer License**, which authorizes the approved Licensee to manufacture, fabricate, assemble, produce, program, refurbish, or make Modification to any Gaming Machine or Device, Authorized Game, or associated equipment in accordance with the Act and Commission Rules;

(6) **Distributor License**, which authorizes the approved non-Manufacturer to lease, sell, distribute or market any gaming machine, associated equipment, game program or Program Storage Device in Oklahoma or outside the State in accordance with the Act and Commission Rules; and

(7) **Manufacturer/Distributor License**, which authorizes the approved licensee to manufacture, fabricate, assemble, produce, refurbish, lease, sell, distribute, market or make Modifications to any gaming machine, associated equipment, game program or Program Storage Device in Oklahoma or outside the State in accordance with the Act and Commission Rules;

(8) **Vendor License**, which authorizes a Vendor, not licensed as a Manufacturer, Distributor, or Manufacturer/Distributor, that conducts operations on-site at a racetrack Gaming Facility to sell or lease goods and/or services to Racetrack Gaming Operators.

(9) **Manufacturer's Employee License**, which authorizes the approved Licensee to be an employee of a Manufacturer who supplies gaming-related goods and/or services to the Racetrack Gaming Operator on-site at the Gaming Facility.

(10) **Distributor's Employee License**, which authorizes the approved Licensee to be an employee of a

Distributor who supplies gaming-related goods and/or services to the Racetrack Gaming Operator on-site at the Gaming Facility.

(11) **Manufacturer/Distributor's Employee License**, which authorizes the approved Licensee to be an employee of a Manufacturer/Distributor who supplies gaming-related goods and/or services to the Racetrack Gaming Operator on-site at the Gaming Facility.

(12) **Key Executive License**, which authorizes the recipient to be employed as a Key Executive.

(13) **Vendor Employee License**, which authorizes any employee to work for a licensed Vendor and supply goods and/or services on-site at the Gaming Facility.

(14) **Gaming Employee License**, which authorizes the recipient to be employed as a Gaming Employee.

(15) **Gaming Machine or Device License**, which authorizes the Racetrack Gaming Operator to use or have a Gaming Machine or Device on the Racetrack Premises.

(b) None of these gaming licenses may be transferred, sold, or assigned.

SUBCHAPTER 5. GAMING LICENSES AND APPLICATIONS

325:80-5-1. General provisions

(a) Any license, certification, registration, renewal or other approval issued by the Commission is deemed a revocable privilege. Except as otherwise provided in these Rules, all gaming licenses of whatever type are issued for a calendar year and no matter when issued during a calendar year, the license will expire at midnight, December 31, of the calendar year.

(b) Any application submitted under the provisions of the Act or this Rule constitutes the seeking of a privilege, and the burden of proving qualification is on the Applicant.

(c) Any application for license, certification, registration, renewal or other approval from the Commission will constitute a request to the Commission for a decision on the Applicant's general suitability, character, integrity, and ability to engage in, or be associated with, gaming activity in Oklahoma. By filing an application with the Commission, the Applicant specifically consents to investigation to the extent deemed appropriate by the Commission. Without limiting the foregoing, the investigation may include a background investigation and a credit check of the Applicant and, in the case of Manufacturers, Distributors, Manufacturers/Distributors and Vendors who supply goods and/or services which are used in the actual gaming, gaming monitoring and gaming surveillance, and/or, in the case of gaming machine Manufacturers, Distributors and Manufacturers/Distributors, all Persons or entities having a 10% or more interest in the Applicant.

(d) By applying for and obtaining any license, certification, registration, renewal or other approval from the Commission, the holder agrees to abide by all provisions of the Act and this Rule.

(e) By applying for a license, certification, registration, renewal or other approval from the Commission, the Applicant accepts all risks of adverse public notice, embarrassment, criticism, damages, or financial loss that may result from any disclosure or publication of any material or information contained in or relating to any application to the Commission. The mere fact that a Person or entity labels information submitted to the Commission or its staff as confidential does not make the information provided confidential. Confidentiality privileges are created by law and not by a Person or an entity submitting information to the State or its agents.

325:80-5-2. Time for filing an application for Racetrack Gaming Operator License

An application for a Racetrack Gaming Operator License must be filed no later than June 1 of each year for gaming conducted in the subsequent calendar year. Applications to conduct authorized gaming in Calendar Year 2005 may be filed any time prior to June 1, 2005. At the request of any Applicant, the Commission may extend the deadline for Calendar Year 2005.

325:80-5-3. Application amendment and withdrawal

(a) If there is any change in the information submitted to the Commission in the application, the Applicant must file, within ten (10) business days of becoming aware of the change, a written amendment disclosing all facts necessary to adequately inform the Commission of the change in circumstances before the Commission takes the requested action.

(b) An Applicant may amend the application at any time prior to final action by the Commission.

(c) An amendment to an application filed by the Applicant after the date on which the Commission has taken the action sought under the application, if the amendment is approved by the Commission, will become effective on the date determined by the Commission.

(d) An Applicant may file a written request for withdrawal of the application at any time prior to final action on the application by the Commission.

325:80-5-4. Payment of non-refundable fees and costs required

The Commission may refuse to take final action on any application if all license regulation, investigation and fingerprint fees have not been paid in full. The Commission may deny the application if the Applicant refuses or fails to pay all such fees. Additionally, an Applicant who has refused or failed to pay the required costs will not be eligible to file any other application with the Commission until all such fees are paid in full. Neither the license fee or regulation fees nor any other fee is refundable.

325:80-5-5. Conditions of a Racetrack Gaming Operator License

In addition to conditions imposed in any conditional license issued by the Commission, the original and/or renewal licenses issued by the Commission are subject to the following conditions:

(1) With respect to a Racetrack Gaming Operator, the Licensee will at all times make its Gaming Facility and Racetrack Premises available for inspection by the Commission or the Oklahoma State Auditor and Inspector or their authorized representatives, with or without prior announcement. Additionally, the Licensee understands that a Commission Gaming Agent is authorized to be present anywhere within the Gaming Facility each day any time during operation of the Gaming Facility, and whenever else deemed appropriate by the Commission Director of Law Enforcement.

(2) The Licensee consents to the examination of all accounts, bank accounts, and records of, or under the Control of the Licensee, or any entity in which the Licensee has a direct or indirect Controlling interest. Upon request of the Commission or its authorized representative, the Licensee must authorize all third parties in possession or Control of the requested documents to allow the Commission or the Oklahoma State Auditor and Inspector or their representatives to examine such documents.

(3) The Licensee accepts all risks of adverse public notice, embarrassment, criticism, damages, or financial loss that may result from any disclosure or publication of material or information supplied to the agency in connection with any application to the Commission.

(4) The Licensee will be responsible for all applicable registration, taxation, and licensing imposed by the Act or other State law upon the license, Gaming Machine or Device, or associated equipment.

325:80-5-6. General grounds for refusal to issue license or denial of Gaming License applications

The Commission may refuse to issue a license or deny any license application on any grounds deemed reasonable by the Commission. Without limiting the foregoing, the Commission may deny the application on any of the following grounds:

(1) evidence of an untrue or misleading Statement of material fact, or willful omission of any material fact, in any application, Statement, or notice filed with the Commission, made in connection with any investigation, including the background investigation, or otherwise made to the Commission or its staff;

(2) conviction of any felony in any jurisdiction;

(3) conviction of any gambling offense in any jurisdiction;

(4) entry of any civil or administrative judgment against the Applicant that is based, in whole or in part, on conduct that allegedly constituted a felony crime in the State or other jurisdiction the conduct occurred, or involved a gambling violation(s);

(5) association with Persons or businesses of known criminal background or Persons of disreputable character that may adversely affect the general credibility, security, integrity, honesty, fairness or reputation of the proposed activity;

(6) any aspect of the Applicant's past conduct, character, or behavior that the Commission determines would adversely affect the credibility, security, integrity, honesty, fairness or reputation of the proposed activity;

(7) failure of the Applicant or its employees to demonstrate adequate business ability and experience to establish, operate, and maintain the business for the type of activity for which application is made;

(8) failure to demonstrate adequate financing for the operation proposed in the application;

(9) failure to satisfy any requirement for application or to timely respond to any request by the Commission for additional information;

(10) permanent suspension, revocation, denial or other limiting action on any gaming license issued by any jurisdiction;

(11) approval of the application would otherwise be contrary to Oklahoma law or public policy; or

(12) with respect to a Racetrack Gaming Operator Licensee's or Recipient Racetrack Gaming Licensee's failure to conduct the number of live races required by the Act.

SUBCHAPTER 7. REQUIREMENTS FOR RACETRACK GAMING OPERATOR LICENSE AND RECIPIENT RACETRACK GAMING LICENSE

325:80-7-1. Prerequisite for eligibility for initial license and renewals

(a) To qualify to hold and operate a Racetrack Gaming Operator License or Recipient Racetrack Gaming License, a racetrack must be licensed by the Oklahoma Horse Racing Commission pursuant to provisions of Title 3A of the Oklahoma Statutes to conduct live horse races or simulcast races and must meet the requirements pursuant to Title 3A and provisions of the State-Tribal Gaming Act and these Rules.

(b) After initial issuance of a Racetrack Gaming Operator's License, the license shall be renewed each year upon the following conditions:

(1) the payment of the annual Racetrack Gaming Operator application license fee, the annual Racetrack Gaming Operator regulation fee and the annual Racetrack Gaming Operator's gaming machine license fees;

(2) the Applicant has conducted the required number of live races to be eligible to conduct authorized gaming and furnishing the Commission with any supplementary information required by the Commission or its staff; and

(3) the issuance of an Organization License to that Applicant for the applicable calendar year.

325:80-7-2. General form and requirements for Racetrack Gaming Operator License application

(a) Every application and Statement required to be filed under the Act or these Rules must be submitted on forms supplied

or approved by the Commission Executive Director and must contain such information and documents as required.

(b) The Applicant must file with the application all required supplemental forms.

(c) Upon request of the Commission, the Applicant must further supplement any information provided in the application. The Applicant must provide all requested documents, records, supporting data, and other information within the time period specified in the request. If the Applicant fails to provide the requested information within the required time period as set forth in the request or these Rules, the Commission may deny the application unless good cause is shown.

(d) All information required to be included in an application must be true and complete as of the date of Commission action sought by the Applicant. If there is any change in the information contained in the application, the Applicant must file a written amendment in accordance with these Rules.

(e) The application and any amendments must be sworn to or affirmed by the Applicant before a notary public. If any document is signed by an attorney for the Applicant, the signature must certify that the attorney has read the document and that, to the best of the attorney's knowledge, information and belief, based on diligent inquiry, the contents of the documents supplied are true.

(f) The Applicant must cooperate fully with the Commission and any agent of the Commission with respect to the background investigation of the Applicant, including, upon request, making available any and all of its books and records for inspection. The Commission will examine the background, personal history, financial associations, character, record and reputation of the Applicant to the extent the Commission determines.

(g) The Commission will automatically deny the application of any Applicant that refuses to submit to a background investigation as required pursuant to the Act and these Rules.

(h) Neither the State, the Commission, any agency with which the Commission contracts to conduct background investigations, nor the employees of any of the foregoing, may be held liable for any inaccurate information obtained through such an investigation.

325:80-7-3. Operations Plan requirement

(a) The Applicant for a Racetrack Gaming Operator License must submit with the application a proposed Operations Plan for the conduct of gaming. The Plan must include the following:

(1) a drawing or drawings to scale of the building(s) in which the Applicant proposes to conduct gaming, with the area(s) designated as the proposed Gaming Facility clearly outlined;

(2) a general description of the type and number of gaming machines proposed for operation;

(3) generic description of the games to be played on the machines and the proposed placement of the machines in the Gaming Facility;

(4) proposed administrative, accounting, and internal Control procedures, including monetary Control operations;

(5) proposed Security Plan;

(6) proposed staffing plan for gaming operations, including identification of Key Executives and employees;

(7) license applications for Key Executives;

(8) method to be used for prize payouts;

(9) details of any proposed progressive systems; and

(10) any other information requested by the Commission.

(b) The Operations Plan must provide for an escrow account or accounts to be established and maintained in accordance with Commission requirements for the purpose of holding in reserve large or progressive prizes to be won by participants and generated by the gaming operation. In the alternative, the Operator could secure the payment of such prizes through other funding mechanisms such as an irrevocable surety bond, irrevocable trust with an independent financial institution, other trust mechanism, or letters of credit. The use of such alternative methods of prize payment must in every instance be preapproved by the Commission. Any purse monies generated by the gaming operation must be maintained in a separate escrow account.

(c) An Applicant for a Racetrack Gaming Operator License is responsible for ensuring that Key Executive applications are filed in accordance with the Act and these Rules. The Commission may delay approval of or deny an application for a Racetrack Gaming Operator License on the grounds that a Key Executive application has not been submitted as required.

(d) A Racetrack Gaming Operator License will not be granted unless the Commission first determines that the Operations Plan submitted is suitable for the type of operation proposed and otherwise complies with the requirements of the Act and these Rules.

325:80-7-4. Security Plan requirement

(a) Racetrack Gaming Operator Licensees must implement and maintain security measures that will ensure safe and honest operation of the gaming establishment.

(b) Security Personnel must be licensed by the Commission and must display a valid Commission license badge at all times while on duty. All armed security Personnel must be Council on Law Enforcement Education and Training (CLEET) certified.

(c) At the same time that the Applicant submits an application for a Racetrack Gaming Operator License, the Applicant must submit a Security Plan for approval by the Commission Director of Law Enforcement. The Security Plan shall provide for a sufficient number of security Personnel who must be on duty and in appropriate areas to ensure that gaming activities are conducted safely, honestly, and in compliance with the law. The Operator's Security Plan must specify how many security officers will be present during operating hours and how many will be armed. If the Commission's Director of Law Enforcement determines that the security measures at a Gaming Facility are inadequate, the Director shall notify the Operator, who may either correct the deficiency within forty-eight (48) hours or a longer period of time established by the Law Enforcement Director, or request a hearing on the issue before the Executive Director who shall resolve the issue. The Executive Director's

decision may be appealed to the Commission. The Security Plan submitted to the Commission shall include a surveillance system which meets the minimum requirements established in these Rules.

325:80-7-5. Requirements for a Recipient Racetrack Gaming License

Applicants for a Recipient Racetrack Gaming License must submit an application to the Commission on a form approved or provided by the Commission Executive Director which demonstrates: 1) the Applicant has been granted an Organization License by the Commission, 2) the Applicant is eligible, under the Act, to be a Recipient Licensee, and 3) there is a Participating Tribe(s) within a radius of twenty miles of the Applicant's racing Enclosure that is operating Authorized Games under a model Compact authorized by the Act. The Applicant must submit the required license fee with the application.

SUBCHAPTER 9. REQUIREMENTS FOR MANUFACTURER, DISTRIBUTOR, OR MANUFACTURER/DISTRIBUTOR, AND THEIR EMPLOYEE LICENSE APPLICANTS

325:80-9-1. Application for Manufacturer, Distributor, or Manufacturer/Distributor License

(a) A Person may act as a Manufacturer, Distributor, or Manufacturer/ Distributor of gaming machines, or gaming machine Components, to Racetrack Gaming Operator Licensees only if that Person has received from the Commission a license specifically authorizing that Person to act as a Manufacturer, Distributor, or Manufacturer/Distributor's License.

(b) Applications for Manufacturer, Distributor, or Manufacturer/Distributor Licenses must be made on a form prescribed by the Commission.

(c) An Applicant for a Manufacturer, Distributor, or Manufacturer/Distributor's License may be required to post, as a condition of issuance of the license, a bond in a manner and in an amount established by the Commission. Any such instrument must be issued by a surety company authorized to transact business in Oklahoma and must be satisfactory to the Commission.

325:80-9-2. Manufacturer's, Distributor's, or Manufacturer/Distributor's Employee License

Any employee, who works for a licensed Manufacturer, Distributor, or Manufacturer/Distributor and will be supplying gaming-related goods and/or services to the Racetrack Gaming Operator Licensee on-site at the Gaming Facility, must have a Manufacturer's Employee License, a Distributor's Employee License, or a Manufacturer/Distributor's Employee License. A Manufacturer, Distributor, or Manufacturer/Distributor License must be issued before an employee can be issued a license to represent that company. An application for Manufacturer's Employee License, Distributor's Employee License, or Manufacturer/Distributor's Employee License must be signed by an authorized representative of the Manufacturer, Distributor, or Manufacturer/Distributor for whom the employee works or will work.

SUBCHAPTER 11. REQUIREMENTS FOR VENDOR LICENSE

325:80-11-1. Approved Vendor list

The Racetrack Gaming Operator shall maintain a list of all Vendors the Racetrack Gaming Operator approves. Before doing business with the Racetrack Gaming Operator, a Vendor must be issued a Vendor License by the Commission.

325:80-11-2. Vendor License

A Vendor's License is required of any Vendor not licensed as a Manufacturer, Distributor, or Manufacturer/Distributor that conducts operations on-site at a racetrack Gaming Facility. An Applicant for a Vendor's License must complete the appropriate Commission application form. That form must be signed by an authorized representative of the Racetrack Gaming Operator(s) for which the Vendor wishes to do business. A letter from the Racetrack Gaming Operator(s) authorizing the Vendor to do business may be used in lieu of a signature on the application form. If, after initial licensing, any other Racetrack Gaming Operator desires to acquire goods and/or services from the licensed Vendor, the Operator must file the letter with the Commission indicating that desire; provided that attorneys shall be exempt from the licensing requirement herein to be extent that they are providing services covered by their professional licenses.

325:80-11-3. Vendor Employee License

Any employee who works for a licensed Vendor and will be supplying goods and/or services on-site at the Gaming Facility must have a Vendor Employee License. A Vendor License must be issued before a Vendor Employee can be issued a license to represent that company. A Vendor Employee License must be signed by an authorized representative of the Vendor for whom the Vendor Employee works or will work.

325:80-11-4. Vendor disclosure requirement

(a) For each Vendor on the Racetrack Gaming Operator's list, the Operator must indicate whether the Racetrack Gaming Operator anticipates purchasing more than $500,000 of goods and/or services from the Vendor in a consecutive 12 month period. Further, for each Vendor which the Racetrack Gaming Operator anticipates expending more than $500,000 in a consecutive 12 month period, the Operator shall also indicate whether any of the Operator's key employees or any Person or

entity having a 3% or more interest in the Applicant Operator owns 3% or more interest in the approved Vendor.

(b) Any Vendor that receives more than $500,000 in a consecutive 12 month period for goods and/or services from a Racetrack Gaming Operator must confirm that fact by notifying in writing both the Operator and the Commission. The Racetrack Gaming Operator must maintain a list of approved Vendors including payments to such Vendors for submission to the Commission on a monthly basis.

SUBCHAPTER 13. REQUIREMENTS FOR KEY EXECUTIVE OR GAMING EMPLOYEE LICENSE AND AMENDMENTS TO ANY EMPLOYEE LICENSE

325:80-13-1. Application required

An Applicant for a Key Executive or Gaming Employee License must submit a complete Application with his or her fingerprints in duplicate on fingerprint cards and his or her photograph in duplicate. The fingerprints will not be accepted unless the fingerprints were taken under the supervision of, and certified by, Commission licensing Personnel, a federal agency, a State police officer, a county sheriff, a municipal chief of police, or sworn city or county peace officer. The photographs must be no smaller than 3" x 2" and must be satisfactory to the Commission. The photographs also must have been taken no earlier than three months before the date the application for license was filed.

325:80-13-2. When Key Executive applications are due

At the time of filing an application for license by a Racetrack Gaming Operator, applications of all known Key Executives must be submitted. Applications for other Key Executives must be filed within thirty (30) business days within employment by the Racetrack Gaming Operator.

325:80-13-3. Employer-specific nature of all Employee Licenses

All licenses issued to key executives, gaming employees, vendor employees and employees of Manufacturers, Distributors, or Manufacturer/Distributors shall be employer-specific, and each license shall identify not only the employee to whom the license is issued, but also specify the full name of the employing Licensee.

325:80-13-4. Amended Employee Licenses

All licenses issued to Key Executives, Gaming Employees, Vendor Employees and employees of Manufacturers, Distributors, Manufacturer/Distributors, and Independent Testing Laboratories may, upon written application of a licensed employer, other than the original employer, be amended to enable the Licensee to begin employment with a different licensed employer. An amended license issued in response to such a request shall contain the name of the employee and the full name of the new licensed employer. No Licensee may begin working for a new employer until the employee has been issued an amended license containing the name of the new employer.

325:80-13-5. License required prior to employment

With the exception of those who apply for a Key Executive or Gaming Employee License during the six month period specified in Rule 325:80-13-8, a Key Executive or Gaming Employee of a Racetrack Gaming Operator may not be employed until such time as his or her application for a license has been completed, and the Commission has issued the Applicant a Key Executive or Gaming Employee License.

325:80-13-6. Employee Licenses - Refusal to issue or denial and license termination upon loss of employment

All employee licenses are the property of the State of Oklahoma. Any employee whose employment is terminated for any reason must surrender his or her license to the Commission within five (5) business days of termination. An application for any type employee license may be denied for any reason that an application for a horse racing Occupation Gaming License may be denied. It may also be denied if an Applicant has had a gaming or horse racing license revoked or suspended in any other jurisdiction or has been found guilty or pled guilty or no contest to any felony, or any crime involving gaming or horse racing. The grounds listed above in this Rule may also be used as a basis for refusal to issue a license.

325:80-13-7. Additional grounds for denial of Key Executive License application

In addition to the general grounds for denying any type of employee license, an application for a Key Executive License may be denied if the Commission Director of Law Enforcement finds that the Applicant 1) has knowingly had a business or social relationship with a convicted felon, 2) has or has had a substance abuse problem, 3) has an employment, military, or financial history which may affect the Applicant's ability to properly perform his or her duties or reflect unfavorably on the integrity of a gaming operation, or 4) has a reputation which may affect the Applicant's ability to properly perform his or her duties or reflect unfavorably on the integrity of a gaming operation.

325:80-13-8. Initial start-up application procedure and limited pre-licensed employment for Key Executives and Gaming Employees

(a) An Applicant for a Key Executive or a Gaming Employee License who has not obtained a written Intent to Employ Statement from a licensed Racetrack Gaming Operator may, nevertheless, apply for a license by providing the required fingerprint cards, application forms and photographs. Such application will be accepted, but will not be fully processed until such time as the Applicant provides a signed Intent to Employ Statement from a licensed Racetrack Gaming Operator.

(b) For a six month period beginning on the day these Rules became effective, Applicants for Key Executive or Gaming Employee License who provide the required fingerprint cards, photographs, completed Application, and Intent to Employ Statement shall be issued a written certification that their applications for Key Executive or Gaming Employee License are presently being processed. Upon the issuance of such certification to an Applicant for a Key Executive or a Gaming Employee License, the Applicant may for a period of no more than 90 days be employed as a Gaming Employee by the licensed Racetrack Gaming Operator whose name appears on the Applicant's Intent to Employ Statement. On application of such a Gaming Employee's employer, that 90 day period may be extended by the Commission Director of Law Enforcement if, and only if, the licensing process has not been completed. No further extensions are allowed.

SUBCHAPTER 15. REQUIREMENTS FOR INDEPENDENT TESTING LABORATORY LICENSE

325:80-15-1. Application required

Testing laboratories that wish to function as a Commission-approved Independent Testing Laboratory must apply to be issued an Independent Testing Laboratory License. The application must be accompanied by the required application fee and an investigation fee in an amount equal to one-half of the license fee.

(1) In addition to other information required on the application, any Applicant must provide the following information for each of the last three years:

(A) address of main office and number of square feet used for testing;

(B) addresses of all satellite offices, if any, and number of square footage;

(C) number of full-time employees;

(D) number of machines tested;

(E) list of States for which the Laboratory has performed tests;

(F) list of countries for which the Laboratory has performed tests;

(G) list of States and countries in which the Laboratory has been licensed or certified.

(2) In addition, the Commission review of consideration of an application for an Independent Testing Laboratory shall include:

(A) For the Testing Laboratory and its parent corporation, if any, a complete corporate financial disclosure and review; a complete disclosure and review of any criminal proceedings, civil litigation or investigations by a regulatory entity; and an evaluation of its corporate good standing in the jurisdiction(s) where it is incorporated and/or does business.

(B) For its principal shareholders (10% or greater) and its officers and directors, a complete individual financial disclosure and review; a complete disclosure and review of any criminal proceedings, civil litigation or investigations by a regulatory entity; and a finding of suitability.

(C) The Testing Laboratory will demonstrate its relevant technical skill and capability by providing evidence of suitable testing previously conducted for State or Tribal regulatory authorities. The Commission's Law Enforcement Division will conduct an on-site review of the Testing Laboratory's facilities as part of its evaluation and will be satisfied that the Testing Laboratory is qualified and competent to perform the testing required before making any recommendation for approval to the Commission.

(D) The Testing Laboratory must have in-house staff Personnel in the following categories:

(i) Mathematicians

(ii) Mechanical, electrical and software engineering staff

(iii) Compliance engineering staff

(iv) Accounting system and communication protocol engineering specialists

(v) High-level engineering staff for new and current technology

(vi) Quality assurance staff

(E) The Testing Laboratory must have the ability to provide twenty-four hour, seven-day a week support for the Commission, including in-house Personnel coverage.

(F) The Testing Laboratory must provide training and support staff for on-site field inspections to assist and/or train Gaming Agents on the security, compliance and accounting/auditing practices that should be used, with expenses paid by the Testing Laboratory.

(G) The Testing Laboratory must provide a quality assurance staff that verifies each test result.

(H) The Testing Laboratory must conduct an annual due diligence investigation on each employee of the Testing Laboratory and maintain such due diligence files on each employee.

(I) The Testing Laboratory must have physical building security in terms of surveillance systems and alarms to protect confidential information.

(J) The Testing Laboratory must demonstrate that it possesses multiple units of the approved signature device(s); that it provides signatures of the approved software with each certification which will assist in the conduct of field audits of the equipment; and that the Laboratory has the ability to provide the specifications on the various software verification methods (i.e., KOBETRON, DataMan and other types of algorithms that allow checking of gaming equipment) to assist the Commission in determining which verification tools will be acceptable.

(K) The Testing Laboratory must have adequate equipment to support the submissions for testing and also, additional units available for on-site inspections when laboratory presence is requested; must provide

the requested signatures by taking those signatures at the Laboratory prior to storage of the storage media independent of the supplier; and a Testing Laboratory shall not rely on supplier-generated signatures.

(L) During the detailed communication protocol tests that are performed on the device side and the system side, the Testing Laboratory must use testing tools and testing techniques that are developed in compliance with the protocol used. The Testing Laboratory must have the ability to develop such tools independently without having to reply on the Manufacturer for the equipment.

(M) The Testing Laboratory must demonstrate that the testing it performs includes complete detailed tests to examine all external and internal functions, such as examinations of memory and communication protocol with all devices, of the gaming equipment being tested.

SUBCHAPTER 17. FEES AND ASSESSMENTS

325:80-17-1. Payment of fees and assessments

Applicants for any license issued by the Commission under the provisions of Chapters 80, 85 and 90 of This Title must pay all fees and assessments prescribed either by law or these Rules in the manner and at the time prescribed by law and/or these Rules. Application fees and applicable assessments for all Racetrack Gaming Operator Licenses and Recipient Licenses must be paid by the Applicant at the time that an application is filed with the Commission.

SUBCHAPTER 19. CONSIDERATION OF LICENSE APPLICATION AND LICENSEE DISCIPLINARY ACTIONS

325:80-19-1. Procedures for consideration of applications for Racetrack Gaming Operator and Independent Testing Laboratory Licenses

Applications for a Racetrack Gaming Operator License and an Independent Testing Laboratory License will be heard and issued by the Commission.

325:80-19-2. Procedures for consideration of applications for Manufacturer, Distributor, Manufacturer/Distributor and Key Executive Licenses

Applications for a Manufacturer, Distributor, Manufacturer/Distributor and Key Executive Licenses will be determined by the Commission's Executive Director after the Commission's Law Enforcement Division completes its background investigation and, based upon that investigation, makes a recommendation to the Executive Director.

(1) If the Law Enforcement Division recommendation is that the license be approved, the Executive Director shall grant the application by issuing a license.

(2) If the recommendation of the Law Enforcement Division is that the license not be issued, the Applicant shall be notified in writing of the recommendation and the reasons therefore. If the Applicant wishes to contest the recommendation, the Applicant shall, within ten (10) days of receipt of the notice, request in writing a hearing before the Executive Director. If a written request for such a hearing is not received in the Commission office by close of business on the tenth day after receipt of notice of adverse recommendation, the recommendation of the Law Enforcement Division shall be approved and no license shall be issued.

(3) If a written request for a hearing is received in a timely manner, the Executive Director shall conduct a hearing in accordance with the Oklahoma Administrative Procedures Act and issue Findings of Fact, Conclusions of Law, and Order. If the Executive Director Rules in favor of the Applicant, the matter may be disposed of by the issuance of a license without the issuance of a formal Order. Decisions adverse to the Applicant are appealable to the District Court under the Oklahoma Administrative Procedures Act.

325:80-19-3. Procedures for consideration of applications for Vendor, Vendor Employee and Gaming Employee Licenses

Applications for a Vendor, Vendor Employee or Gaming Employee License will be determined by the Commission's Board of Stewards after the Commission's Law Enforcement Division completes its background investigation and, based upon that investigation, makes a recommendation to the Board of Stewards.

(1) If the Law Enforcement Division recommendation is that the license be approved, the Board of Stewards shall grant the application by issuing a license.

(2) If the recommendation of the Law Enforcement Division is that the license not be issued, the Applicant shall be notified in writing of the recommendation and the reasons therefore. If the Applicant wishes to contest the recommendation, the Applicant shall, within ten (10) days on receipt of the notice, request in writing a hearing before the Board of Stewards. If a written request for such a hearing is not received in the Commission office by close of business on the tenth day after receipt of notice of adverse recommendation, the recommendation of the Law Enforcement Division shall be approved and no license shall be issued.

(3) If the written request is received in a timely manner, the Board of Stewards shall conduct a hearing in accordance with the Oklahoma Administrative Procedures Act and issue Findings of Fact, Conclusions of Law, and Order. If the Board of Stewards Rules in favor of the Applicant, the matter may be disposed of by issuing a license without the issuance of a formal Order. Decisions adverse

to the Applicant are appealable to the District Court under the Oklahoma Administrative Procedures Act.

325:80-19-4. Disciplinary actions against Racetrack Gaming Operator Licensees and Independent Testing Laboratories

Disciplinary actions against a Racetrack Gaming Operator Licensee and an Independent Testing Laboratory Licensee shall be conducted, after required written notice and hearing before the Commission, in the same manner as conducted in regard to Organization Licensees and in accordance with the Oklahoma Administrative Procedures Act.

325:80-19-5. Disciplinary actions against all other occupation gaming Licensees

Disciplinary actions against all other occupation gaming Licensees shall be conducted by the Board of Stewards using the same procedures for disciplinary action regarding Persons issued racing Occupation Gaming Licenses by the Commission. Any appeals from the Board of Stewards' decisions shall be appealable to the Commission.

[OAR Docket #06-748; filed 4-25-06]

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

[OAR Docket #06-749]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
325:85-1-1. through 325-85-27-1. [NEW]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
Adoption:
March 17, 2005
Approved by Governor:
April 6, 2005
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2006, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATIONS BY REFERENCE:
Not Applicable
FINDING OF EMERGENCY:
Under the authority of 75 O.S. 2001, § 253, the Oklahoma Horse Racing Commission finds that compelling public interests require the adoption of emergency rules for the following reasons:

Whereas, the people of the State of Oklahoma at the General Election held November 2, 2004 approved the State-Tribal Gaming Act proposed in State Question No. 712;

Whereas, the State-Tribal Gaming Act empowered the Oklahoma Horse Racing Commission to regulate, implement and enforce authorized gaming conducted at Commission-licensed racetracks;

Whereas, the Act authorized racetracks, when licensed by the Commission, to use various electronic gaming machines;

Whereas, authorized gaming at Commission-licensed racetracks is new to the State of Oklahoma;

Whereas, the Commission, in order to regulate such activity, had to educate itself regarding gaming industry procedures, practices and technical considerations;

Whereas, the Commission, in educating itself, sought advice and assistance from the racetracks, horsemen's associations, gaming machine manufacturers, and technical experts in the field;

Whereas, the experts, in suggesting draft technical requirements, have edited and redrafted those suggestions;

Whereas, needed information from the industry was not available in sufficient time to adopt permanent rules;

Whereas, it is in the best interest of the horse racing industry that authorized gaming, which results in enhanced purses, begins as soon as practical without waiting another year for the adoption of permanent rules; and

Whereas, it is in the best interest of the State as a whole that State revenues from authorized gaming at the racetracks, which is used to supplement education, begin to accrue as soon as practical without waiting another year for the adoption of permanent rules, **the Commission finds that a compelling public interest requires the adoption of emergency rules implementing the authorized gaming permitted under the State-Tribal Gaming Act.**
ANALYSIS:
With the passage of State Question 712, the State-Tribal Gaming Act, in the General Election held November 2, 2004, the Oklahoma Horse Racing Commission is mandated by the Act to promulgate rules for the regulation, implementation and enforcement of authorized gaming conducted at Commission-licensed racetracks.
CONTACT PERSON:
Bonnie Morris, (405) 943-6472

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

SUBCHAPTER 1. GENERAL PROVISIONS

325:85-1-1. Purpose

The objective of this chapter is to provide for general and specific Gaming Machine or Device specifications and Gaming Machine or Device use and operation requirements. Subchapters also provide for provisions for testing, sale, display, distribution, transportation, installation and disposal of gaming machines.

325:85-1-2. Definitions

Unless defined below, terms used in this chapter have the same meanings as set forth in the State-Tribal Gaming Act.

"Act" means the State-Tribal Gaming Act enacted by the people with passage of State Question 712.

"Authorized Games" means Electronic Amusement Games as defined in the State-Tribal Gaming Act, Electronic Bonanza-Style Bingo Games as defined in the State-Tribal Gaming Act, Electronic Instant Bingo Games as defined in the State-Tribal Gaming Act, Compact Electronic Gaming machines or devices as defined in these Rules, and Non-Compact Electronic Games as defined by these Rules.

"Central **Computer"** *means a computer or computers to which [P]layer [T]erminals may be linked to allow competition in [E]lectronic [B]onanza-[S]tyle [B]ingo [G]ames* [3A:269(2)];

"Commission" means the Oklahoma Horse Racing Commission.

"Compact" means a model tribal-[S]tate [C]ompact between the [S]tate and a tribe entered into pursuant to 3A., O.S., § 280 and 281 [3A:269(3)]*;*

"Compact Electronic Game Machine or Device" means an electronic game allowed by Oklahoma Law that a Federally recognized Indian Tribe in Oklahoma is authorized to use by virtue of a Compact entered into between Oklahoma and the tribe in accordance with the Indian Gaming Regulatory Act, and which has been approved by the United States Secretary of the Interior, as evidenced by publication of the approval in the *Federal Register*.

"Electronic [A]musement [G]ame" means a game that is played in an electronic environment in which a player's performance and opportunity for success can be improved by skill that conforms to the [S]tandards set forth in the [A]ct [3A:269(5)]*;*

"Electronic [B]onanza-[S]tyle [B]ingo [G]ame" means a game played in an electronic environment in which some or all of the numbers or symbols are drawn or electronically determined before the bingo cards for that game are sold that conforms with the [S]tandards set forth in the [A]ct [3A:269(6)]*;*

"Electronic [I]nstant [B]ingo [G]ame" means a game played in an electronic environment in which a player wins if his or her electronic instant bingo card contains a combination of numbers or symbols that was designated in advance of the game as a winning combination. There may be multiple winning combinations in each game and multiple winning cards [3A:269(7)]*;*

"Electronic [G]aming" means the [E]lectronic [A]musement [G]ame, the [E]lectronic [B]onanza-[S]tyle [B]ingo [G]ame and the [E]lectronic [I]nstant [B]ingo [G]ame described in the [A]ct, which are included in the authorized gaming available to be offered by [O]rganization [L]icensees [3A:269(8)]*;*

"Game [P]lay [C]redits" means a method of representing value obtained from the exchange of cash or cash equivalents, or earned as a prize, in connection with [E]lectronic [G]aming. Game [P]lay [C]redits may be redeemed for cash or a cash equivalent [3A:269(9)]*;*

"Gaming Agent" means a Commission agent trained in machine gaming, responsible for on-site enforcement of the State-Tribal Gaming Act and Commission Rules and other regulatory responsibilities as assigned by the Commission Executive Director.

"Gaming Facility" means that area within an Organization Licensee's Racetrack Premises which has been set aside for the use of Authorized Games and related activities which is cordoned off, by means of a physical barrier which is approved by the Commission's Director of Law Enforcement, and access to which is limited to patrons 18 years of age or older, designated by the Commission in the Racetrack Gaming Operator's License as the area in which authorized gaming will be conducted.

"Gaming Machine or Device" means a contrivance designed primarily for gambling purposes which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, or any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet. The fact that the prize is not automatically paid by the device does not affect its character as a gambling device. [O.S., Title 21, Section 981, Subsection 3.]

"Independent [T]esting [L]aboratory" means a laboratory of national reputation that is demonstrably competent and qualified to scientifically test and evaluate devices for compliance with the [A]ct and to otherwise perform the functions assigned to it in the Act. An [I]ndependent [T]esting [L]aboratory shall not be owned or [C]ontrolled by an organization *licensee, an Indian tribe, the [S]tate, or any [M]anufacturer, supplier or operator of gaming devices. The use of an [I]ndependent [T]esting [L]aboratory for any purpose related to the conduct of [E]lectronic [G]aming by an [O]rganization [L]icensee under the [A]ct shall be made from a list of one or more laboratories approved by the Commission* [3A:269(10)]*;*

"Non-Compact Electronic Game" means any electronic game that a federally recognized Indian Tribe in Oklahoma is lawfully permitted to operate under the Indian Gaming Regulatory Act.

"Occupation Gaming License" means any gaming license issued by the Commission other than a Racetrack Gaming Operator License or a Recipient License.

"Occupation Gaming Licensee" means any Person receiving an Occupation Gaming License.

"Person" means any individual, partnership, corporation, or other association or entity.

"Player [T]erminals" means electronic [T]erminals housed in cabinets with input devices and video screens or electromechanical displays on which players play authorized gaming [3A:269(11)].

"Program Storage Device" means an EPROM (Erasable Programmable Read-Only Memory), hard drive, DVD, CD-ROM or other storage medium which is used for storing program instructions in a gaming device, system or other associated equipment.

"Racetrack Gaming Operator License" means a license issued by the Commission which authorizes an Organization Licensee to conduct Authorized Games as defined by the State-Tribal Gaming Act under the regulation, implementation and enforcement of the Commission.

"Racetrack Gaming Operator Licensee" means any Organization Licensee which has been issued a Racetrack Gaming Operator License by the Commission.

"Rules" means the Oklahoma Horse Racing Commission's Rules for Racetrack Gaming.

"Standards" means the descriptions and specifications of electronic games or [C]omponents thereof as set forth in

th[e] [A]ct, including technical specifications for [C]omponent parts, requirements for cashless transaction systems, software tools for security and audit purposes, and procedures for operation of such games [3A:269(12)].

"State" means the State of Oklahoma.

"This Title" means Title 325 of the Oklahoma Administrative Code.

SUBCHAPTER 3. AUTHORIZED GAMES

325:85-3-1. Types of Authorized Games

The types of machine gaming, generally referred as Authorized Games, are:

(1) "Electronic Amusement Game" as defined in the Act.

(2) "Electronic Bonanza-Style Bingo Game" as defined in the Act.

(3) "Electronic Instant Bingo Game" as defined in the Act.

(4) "Compact Electronic Game Machine or Device" as defined in these Rules.

(5) "Non-Compact Electronic Game" as defined in these Rules.

SUBCHAPTER 5. ELECTRONIC AMUSEMENT GAMES SPECIFICATIONS

325:85-5-1. Required specifications

Electronic Amusement Games must meet the following specifications:

(1) *Electronic [A]musement [G]ames shall be played ... which, following the payment of a fee, present games in which the player can win prizes in a format in which a player's performance can be improved by skill.* [3A:270(A)]

(2) *Electronic [A]musement [G]ames are games in which a player's performance can be improved by skill. Each [P]layer [T]erminal employed in an [E]lectronic [A]musement [G]ame shall only offer games that meet the following minimum [S]tandards:*

(A) *Each [E]lectronic [A]musement [G]ame must require decisions or actions by players that could affect the result of the game;*

(B) *No auto-hold, "smart-hold", or similar feature shall be employed which permits the Player Terminal to automatically determine optimum play or make decisions for players;*

(C) *Each [P]layer [T]erminal must prominently display either on the [T]erminal or on a help screen:*

(i) *the [R]ules of the game and instructions and other information regarding the concept of the game so that a novice player can understand how to improve his or her performance, and*

(ii) *possible winning combinations based on the amounts paid to play the game and the other information required in this section. Such information may not be incomplete, confusing or misleading;*

(D) *In [E]lectronic [A]musement [G]ames in which players are competing against others, the players shall be informed about whether and how winning prizes will be shared; and*

(E) *No [E]lectronic [A]musement [G]ame shall base its outcome on the number or ratio of prior wins to prior losses or any other factor relating to the profit or revenues retained by the operator from prior plays of the game.* [3A:271(A)]

(3) *Following any play on a [P]layer [T]erminal, data shall be maintained electronically and shall be viewable either electronically or by printed report. Such data shall provide basic information regarding the amount paid in, the game played, the result, and the prize awarded, if any.*

(4) *A player* must *purchase an opportunity to play an [E]lectronic [A]musement [G]ame at a [P]layer [T]erminal, either through the insertion of coins or currency, cash voucher, or through the use of a cashless transaction system. The available games* must be *displayed on the [P]layer [T]erminal's video screen or otherwise prominently displayed on the [T]erminal. The [R]ules of the game ... also* must be *displayed either prominently on the [T]erminal or on a help screen, and include sufficient information to alert novice players on the concept of the game so that a novice player can understand how to improve his or her performance. Depending on the game selected, the player must physically interact with the screen (through touch screen technology) or by depressing or activating buttons or other input devices, to cause an intended result.* [3A:271(B)]

(5) *Following play on a [P]layer [T]erminal, the result shall be displayed and prizes awarded. Prizes may be dispensed in the form of cash, coin, cash voucher, merchandise or through a cashless transaction system.* [3A:270(C)]

(6) *Every play of the game shall be recorded, monitored and regulated to ensure full accountability and integrity of play, in accordance with the provisions of* [3A:270(D)] the Act and the use and operation requirements contained in these Rules.

(7) *For auditing and security purposes, any [E]lectronic [A]musement [G]ame shall include and have available a secure software tool* that conforms to the Use and Operation Requirements contained in these Rules *to audit the software of each [E]lectronic [A]musement [G]ame. Such tool shall be used only during authorized audits of [E]lectronic [A]musement [G]ames, or in cases of player disputes.* [3A:272]

SUBCHAPTER 7. ELECTRONIC BONANZA-STYLE BINGO GAMES SPECIFICATIONS

325:85-7-1. Required specifications

Electronic Bonanza-Style Bingo Games must meet the following specifications:

(1) *Electronic [*B]*onanza-*Style *[*B]*ingo [*G]*ames authorized by the Act shall only be conducted using a system which* uses *linked [P]layer [T]erminals which allow players to purchase and play electronic bonanza-style bingo cards. Players compete, following the payment of a fee, to be the first player to cover a previously designated bingo pattern using a set of numbers or symbols at least some of which were drawn or electronically determined before the sale of bingo cards began. The first player to cover the game-winning pattern wins the game-winning prize. Interim and consolation prizes also may be awarded.* [3A:273(A)]

(2) *A player* must *purchase an opportunity to play an [*E]*lectronic [*B]*onanza-*Style *[*B]*ingo* Game *at a [P]layer [T]erminal, either through the insertion of coins or currency, cash voucher, or through the use of a cashless transaction system. The available games* must be *displayed on the [P]layer [T]erminal's video screen or otherwise prominently displayed on the [*T]erminal. *The [*R]*ules of the game also* must be *displayed either prominently on the [*T]erminal *or a help screen.* [3A:273(B)]

(3) *After the player purchases a bingo card, the [P]layer [T]erminal must cover any numbers* or symbols *on the player's bingo card that match numbers* or symbols *previously drawn or electronically determined for that game.* [3A:273(C)]

(4) *Although the results of the bingo game may be shown using entertaining video and/or mechanical display's, the player* must *have the option to view the electronic bingo card and current ball draw on the video screen of the [P]layer [T]erminal.* [3A:273(D)]

(5) *Following play on a [P]layer [T]erminal, the result shall be displayed and prizes awarded. Prizes* must *be dispensed in the form of cash, coin, cash voucher, merchandise or through a cashless transaction system.* [3A:273(E)]

SUBCHAPTER 9. ELECTRONIC INSTANT BINGO GAMES SPECIFICATIONS

325:85-9-1. Required specifications

Electronic Instant Bingo Games must meet the following specifications:

(1) *Electronic [*I]*stant [*B]*ingo [*G]*ames authorized by* the Act *shall only* use *[P]layer [T]erminals which allow players to purchase and play electronic instant bingo cards. Players receive, after the payment of a fee, an electronic instant bingo card. A player wins if his or her card contains a combination of numbers* or symbols that *was designated in advance of the game as a winning combination. There may be multiple winning combinations in each game and multiple winning cards.* [3A:274(A)]

(2) *A player* must *purchase an opportunity to play an [*E]*lectronic [*I]*nstant [*B]*ingo [*G]*ame at a Player Terminal, either through the insertion of coins or currency, cash voucher, or through the use of a cashless transaction system. The available games* must be *displayed on the [P]layer [T]erminal's video screen or otherwise prominently displayed on the [T]erminal. The [*R]*ules of the game also* must be *displayed either prominently on the [T]erminal or on a help screen.* [3A:274(B)]

(3) *After the player purchases an electronic instant bingo card, the combination of numbers* or symbols *on that card* must be displayed *to the player.* [3A:274(C)]

(4) *The results of the electronic instant bingo card may be revealed to the player using entertaining video and/or mechanical displays.* [3A:274(D)]

(5) *Following play on a [P]layer [T]erminal, the result* must *be displayed and prizes awarded. Prizes* must *be dispensed in the form of cash, coin, cash voucher, merchandise or through a cashless transaction system.* [3A:274(E)]

SUBCHAPTER 11. REQUIRED CERTIFICATION AND APPROVAL OF ALL TYPES OF AUTHORIZED GAMES, GAMING MACHINES OR DEVICES AND COMPONENTS THEREOF

325:85-11-1. Machine and component certification and Commission approval required

(a) *Before any [*C]*omponent of an electronic game may be placed into operation by* a [R]acetrack [G]aming [O]perator, *the licensee shall first have obtained and submitted to the Oklahoma Horse Racing Commission a written certification from the Manufacturer that upon installation, each such Component:* [3A:278(A)]

(1) *Conforms to the [*S]*tandards of electronic games contained in* the [S]tate-[T]ribal [G]aming [A]ct and the Use and Operation Requirements contained in these [R]ules *as certified by* an [I]*ndependent [*T]*esting [*L]*aboratory;* [3A:278(1)]

(2) *Can be used with [*C]*omponents manufactured by others in accordance with open architectural and communication [*S]*tandards, platform and protocols approved by the Commission that promotes competition among* Manufacturers *and* Vendors *of equipment and [*C]*omponents for such games; and* [3A:278(2)]

(3) *Operates and plays in accordance with the [*S]*tandards contained in* the [S]tate-[T]ribal [G]aming [A]ct and the Use and Operation Requirements contained in these Rules. *Any certification of an electronic game which was obtained from the Commission by another licensee may be relied upon as providing certification compliance under this section. [3A:278(3)]*

(b) Further, before any game, Gaming Machine or Device, or any Component thereof may be placed into operation, Commission approval - after Independent Laboratory certification - is required.

325:85-11-2. All five types of Authorized Games subject to Commission rules

Subject to the limitations on the number of Player Terminals permitted to each Organization Licensee, *an* Organization Licensee *may* use*: [*E]*lectronic [*A]*musement [*G]*ames as defined in the Act,* 2) *[*E]*lectronic [*B]*onanza*-Style *[*B]*ingo [G]ames as defined in the Act,* 3) *[*E]*lectronic [*I]*nstant [*B]*ingo [*G]*ames as defined in the Act,* 4) *any type of gambling device that is specifically allowed by law and that an Indian tribe in this [S]tate is authorized to* use *pursuant to a [C]ompact entered into between the State and the tribe in accordance with the provisions of the [I]ndian [G]aming [R]egulatory [A]ct,* and 5) *and any other machine or device that an Indian tribe in this [S]tate is lawfully permitted to operate pursuant to the [I]ndian [G]aming [R]egulatory [A]ct, referred to collectively as "*Authorized Games*".* A licensed Racetrack Gaming Operator's use of such machines or devices shall be subject to the regulatory Control and supervision of the Commission. [3A:262]

325:85-11-3. List of Commission-Approved Independent Testing Laboratories

(a) An *[*I]*ndependent [*T]*esting [*L]*aboratory* is *a laboratory of national reputation that is demonstrably competent and qualified to scientifically test and evaluate devices for compliance with* the Act *and to otherwise perform the functions assigned to it in* the Act*. An [*I]*ndependent [*T]*esting [*L]*aboratory shall not be owned or controlled by an organization licensee, an Indian tribe, the State, or any [*M]*anufacturer, supplier or operator of gaming devices. The use of an [*I]*ndependent [*T]*esting [*L]*aboratory for any purpose related to the conduct of [*E]*lectronic [*G]*aming by an [*O]*rganization [*L]*icensee under* the Act *shall be made from a list of one or more laboratories approved by the Commission.* [3A:269(10)]

(b) The Commission shall only place on the approved list Laboratories that, in the Commission's judgment, have a national reputation for honesty, independence, competence, timely reporting, and that is demonstrably competent and qualified to scientifically test and evaluate a gambling device for compliance with the State-Tribal Gaming Act and these Rules and the Use and Operation Requirements contained in these Rules. The list of Commission-approved Independent Testing Laboratories shall be maintained by the Commission Executive Director.

325:85-11-4. Certification by Independent Testing Laboratory and Commission approval required

*No electronic game, and no [*C]omponent *thereof, may be offered for play by an [O]rganization [L]icensee unless it has been certified by an [*I]*ndependent [*T]*esting [*L]*aboratory approved by the Oklahoma Horse Racing Commission as conforming to the [*S]*tandards contained in* the [S]tate-[T]ribal [G]aming [A]ct and the use and operation requirements contained in these [R]ules. [3A:268(A)]

325:85-11-5. Submission of Game and Gaming Machine or Device prototype for testing by Independent Testing Laboratory required

(a) *A prototype of any electronic game which a licensee intends to offer for play shall be tested and certified by an [*I]*ndependent [*T]*esting [*L]*aboratory as meeting the [*S]*tandards contained in this* [A]*ct*. [3A:268(C)]

(b) *A licensee shall provide, or require that the* [M]*anufacturer or [*V]*endor provide to the [*I]*ndependent [*T]*esting [*L]*aboratory, a written request as to each electronic game for which certification is sought, any fees required to be deposited by the [*I]*ndependent [*T]*esting [*L]*aboratory, and, on a confidential basis: two (2) copies of the game illustrations, schematics, block diagrams, circuit analyses, technical and enterprise manuals, program object and source codes, hexadecimal dumps (the compiled computer program represented in base 16 format), and any other information requested by the [*I]*ndependent [*T]*esting [*L]*aboratory. The licensee shall send copies of the requests for certification to the Commission when made and shall make all materials submitted to the [*I]*ndependent [*T]*esting [*L]*aboratory available to the Commission upon request. Any materials so submitted which are designated by the [*M]*anufacturer or [*V] *endor as proprietary shall remain confidential and shall not be subject to the disclosure requirements of the Oklahoma Open Records Act.* [3A:268(D)]

(c) *If requested by the* [I]*ndependent [T]esting [*L]*aboratory, the licensee shall require the [*M]*anufacturer or [*V]*endor to transport not more than two (2) working models of the electronic game for which certification is sought to a location designated by the laboratory for testing, examination or analysis. Neither the [S]tate nor the [*I]*ndependent [*T]*esting [*L]*aboratory shall be liable for any costs associated with the transportation, testing, examination, or analysis, including any damage to the [*C]*omponents of the electronic game. If requested by the [*I]*ndependent [*T]*esting [*L]*aboratory, the licensee shall require the [*M]*anufacturer or [*V]*endor to provide specialized equipment or the services of an independent technical expert to assist with the testing, examination and analysis. At the conclusion of each test, the [*I]*ndependent [*T]*esting [*L]*aboratory shall provide to the Commission a report that contains findings, conclusions and a certification that the electronic game conforms or fails to conform to the [*S]*tandards contained in this [A]ct. If the [*I]*ndependent [*T]*esting [*L]*aboratory determines that the device fails to conform to such [*S]*tandards, and if [*M]*odifications can be made which would bring the electronic game into compliance, the report may contain recommendations for such [*M]*odifications. The [*I]*ndependent [*T]*esting [*L]*aboratory shall retest for compliance following such [*M]*odifications. The [*I]*ndependent [*T]*esting [*L]*aboratory shall report all findings and conclusions to the licensee, the [*M]*anufacturer/[*V]*endor and the Commission, provided that at any time prior to issuance of a final report by the laboratory the licensee may instruct it to terminate the process, in which case no report shall be made.* [3A:268(E)]

325:85-11-6. Submitting Games and components to the Independent Testing Laboratory

A prototype submission is a first time submission of a particular piece of hardware or software that has not previously been reviewed by an Independent Testing Laboratory. The following items shall be provided with each prototype's initial submission:

(1) Submission Letter. Each submission shall include a request letter, on company letterhead, dated within one (1) week of the date the submission is received by the Independent Testing Laboratory. The letter should include the following:

(A) The Jurisdiction(s) for which certification is requested;

(B) The items requested for certification. In the case of software, the submitting party shall include ID numbers and revision levels, if applicable. In the case of hardware, the submitting party shall indicate the Manufacturer, supplier, and model number of the associated Components of hardware; and

(C) A contact Person who will serve as the main point of contact for engineering questions raised during evaluation of the submission. This may be either the Person who signed the letter or another specified contact.

(2) When a Random Number Generator (RNG) Submission is Needed. In some cases, the RNG shall be submitted with the Prototype Submission request (for specific RNG Submission details, refer to Rule 325:85-7-31 of these Rules). RNGs shall be submitted for certification where:

(A) The RNG code has changed from a previously certified RNG or the implementation of the random number has changed; or

(B) Where a previously certified RNG is being implemented on a new hardware platform (i.e. change of Microprocessor); or

(C) Where a previously certified RNG is generating numbers that are outside the range of numbers previously tested; or

(D) The RNG has never been certified before under these Standards. In this case, the RNG will be certified as a part of the overall submission.

(3) All accompanying technical documents, manuals and schematics shall be submitted. In addition, the following items shall be provided:

(A) If applicable, all UL, CSA, EC, AS3100, etc. or equivalent certification;

(B) Any other equipment that may be used in the field in conjunction with the Submission;

(C) Accompanying software;

(D) If the submitting party has specialized equipment which is needed by the Independent Testing Laboratory to test the submitted device, then the specialized equipment and all appropriate operation manuals for the equipment shall be included with the submission; and

(E) If requested, extension cables for door photo-optic detectors and any other hardware should be provided, so that the Player Terminal may be tested with doors opened. In addition, where a processor board is oriented in a Player Terminal in such a way that it would be difficult to install a plug and cable from an Emulator, extension cables should be provided to allow the board to be relocated. The use of such extension cables shall not adversely affect the machine's operation.

(4) Two sets of all EPROMs, CD-ROMs, or other storage media which contain identical contents. This includes all video, sound, printer, touchscreen, Bill Acceptor, Protocol Clear, and game software. (On the Program Medium that is submitted, where applicable, and subsequently placed in the field, each program shall be uniquely identified, displaying the Program ID number, Manufacturer, Version number, Type and size of medium (unless located on the medium as purchased unused from the supplier), and Location of installation in Player Terminal, if potentially confusing. For EPROM-based games, the identification label shall be placed over the UV window to avoid erasing or alterations of the program.

(5) Percentage calculation sheets. For each game submitted, the Manufacturer shall supply the calculation sheets that determine the theoretical return to the player including the base game, double-up options, free games, bonus features, etc. (This would also include where different player options (e.g., number of credits bet) vary the paytable, a separate calculation for each option is required or player strategy where a game requires or allows use of a player strategy that can affect the outcome of the game and the continuing actual player return, the Manufacturer shall list the assumed player strategy used in the theoretical calculations of the player return and the source of said strategy. For games with player strategy, if available, actual game return statistics from development laboratories or field trials of the game in other Jurisdictions shall be submitted. If the Manufacturer fails to provide this information, the Independent Testing Laboratory will calculate the outcome prior to approval.);

(6) A written Statement of Verification that a previously certified RNG is used within the submitted software, if previously approved;

(7) A legible, color copy of the Payglass (if applicable);

(8) Source Code, a Link Map and Symbol Table. In addition, if requested, explanation of all non-volatile RAM on the device with the non-volatile RAM locations described; (All Source Code submitted shall be correct, complete and able to be compiled. The result of the compiled object code shall be identical to that in the storage medium submitted for evaluation. All Source Code submitted should be commented in an informative and useful manner. Further, the submitting Person or entity must comply with all of the Independent Testing Laboratory's requests for additional Source Code information;

(9) A manual explaining all diagnostic tests, meters, game configurations, error conditions and how to clear them;
(10) RAM Clear procedures;
(11) A general overview of the system, describing how the software and hardware are integrated, if requested;
(12) Program block diagrams and flow charts for the game program, if requested; and
(13) For all software involved in Control of gaming functions, provide an assembler, linker, formatter, or other computing utilities as is necessary to generate the installed gaming software from the Source Code supplied. This requirement may be waived where program code is written in assembler and the listing file (showing the assembled and link code) is provided. If a non-PC-based platform development system is used, the Manufacturer shall supply the Independent Testing Laboratory with the necessary computer equipment and software necessary to compile and verify the final executable program.

325:85-11-7. RNG submissions

(a) An Independent Testing Laboratory may use PC-based RNG gathering programs to collect data from Player Terminals or other media or a Communications Port. Adherence to the specifications below allows the submitting party to use an Independent Testing Laboratory's PC-based RNG gathering program, where applicable.
(b) Use of this Protocol is NOT required; however, in that case, the submitting party shall supply the software collection interface software for the Independent Testing Laboratory's use, which will be reviewed prior to implementation. The following describes the implementation of the Independent Testing Laboratory's remote Protocol unless otherwise specified by the Independent Testing Laboratory:
(1) The Manufacturer shall supply correct settings to interface to their machine; the object of such test is that random numbers, as the player would receive them, is reviewed:
(A) In electronic Poker, the ten (10) cards (it is recommended, but not required, to send the first five (5) cards dealt; then the five (5) draw cards);
(B) In electronic Blackjack, the top eighteen (18) cards following the shuffle;
(C) For skill-style spinning reel devices, the Player Terminal shall provide three stops/symbols for a 3-reel game, five stops/symbols for a 5-reel game, etc. The game should return the virtual stops/symbols selected for each reel;
(D) For Bingo games, the seventy-five numbers as they are drawn;
(E) For instant Bingo Games, those numbers or symbols that make up the winning combination or the game outcome designation.
(F) For any other type of game or bonus game, please contact the Independent Testing Laboratory for guidance.
(G) The test program RNG shall be identical to the RNG contained in the game software except for the following changes, which may be implemented to speed up the requirements of the test. The Independent Testing Laboratory may not allow any of the following changes where it determines such change might affect the data received from the RNG. It should be noted that production software may have a test mode that contains this imbedded RNG test mode, provided that the Player Terminal indicates clearly that it is in said test mode.
(2) The RNG test program should NOT require credits on the Player Terminal in order to play;
(3) The RNG test program should NOT award credits and NOT lock up for award pays;
(4) The RNG test program does not have to show the game play. The program can just display a message that States RNG test in progress;
(5) The Manufacturer shall supply the Independent Testing Laboratory with detailed instructions on how to setup the Player Terminal for test; and
(6) The Manufacturer shall supply the Independent Testing Laboratory with a detailed description of the RNG Algorithm that includes a detailed description on the RNG implementation in their device, including how the initial SEED is generated. In addition, it shall provide the Algorithm for reseeding or changing of the seed during game play, if applicable.
(7) The Manufacturer shall submit a cable to connect from the Player Terminal to a PC-based computer. This cable will utilize serial-type Communications and easily attach to a standard PC. If any special attachments or converters are necessary, the submitting party shall supply the equipment.
(8) The Independent Testing Laboratory may employ the use of various recognized tests to determine whether or not the random values produced by the RNG pass the desired confidence level of 99%. These tests may include, but are not limited to:
(A) Chi-square test;
(B) Equi-distribution (Frequency) test;
(C) Gap test;
(D) Overlaps test;
(E) Poker test;
(F) Coupon collector's test;
(G) Permutation test;
(H) Kolmogorov-Smirnov test;
(I) Adjacency criterion tests;
(J) Order statistic test;
(K) Runs tests (patterns of occurrences should not be recurrent);
(L) Interplay correlation test;
(M) Serial correlation test potency and degree of serial correlation (outcomes should be independent of the previous game); and
(N) Tests on subsequences.
(9) Mechanical-Based RNG games must meet the following requirements:
(A) The Independent Testing Laboratory will test via PC Communications multiple iterations to gather

enough data to verify the randomness. In addition, the Manufacturer may supply live data to assist in this evaluation;

(B) The mechanical Components that have an impact on the determination of the random outcome must not deteriorate over time;

(C) The properties of physical items used to choose the selection shall not be altered; and

(D) The player shall not have the ability to physically interact or come into physical contact or manipulate the Player Terminal physically with the mechanical portion of the game.

325:85-11-8. Previous submission

Where the Independent Testing Laboratory has been previously supplied with the information on a previous submission, duplicate documentation is NOT required, provided that the submitting party refers to the previous information. Every effort shall be made to reduce the redundancy of submission information.

325:85-11-9. Submitting Modifications to a previously certified item

For any update submission, the following information shall be required to process the submission in addition to the requirements set forth in Rule 325:85-11-6 of these Rules, "Submission Letter." This process is intended to speed up the administrative burden of Modification submissions. All Modifications require re-testing, examination, and re-certification by the Independent Testing Laboratory:

(1) Each hardware submission shall:

(A) Identify the individual items being submitted (including part number);

(B) Supply a complete set of schematics, diagrams, data sheets, etc. describing the Modification along with the reason for the change(s); and

(C) Provide the updated or new device, a description and the method of connection to the original Player Terminal or hardware.

(2) Each software submission shall:

(A) Use the same requirements as in Rule 325:85-11-6 of these Rules, 'Prototype Submission,' except where the documentation has not changed. In this case, a resubmission of identical documentation is not required (such as if the paytable and mathematics of the game are not changed, the submitting party may refer to previous documentation); and

(B) the submission must include a description of the software change(s), modules affected and new Source Code for the entire program. Source Code is required for the entire program to check compile and Source Code integrity.

325:85-11-10. Joint venture submissions

A Player Terminal is considered a joint venture when two or more companies are involved in the manufacturing of one platform. In an effort to alleviate confusion among the suppliers, the regulator and the Independent Testing Laboratory, the following procedures must be met for such submissions:

(1) One company will prepare and submit the entire submission, even if they are using parts from other suppliers, and must identify the part numbers of all Components. This company will be the primary contact for the submission.

(2) The company submitting an approval request should do so on their letterhead. The Independent Testing Laboratory will delegate an internal file number in this company's name and will bill this company for all costs incurred throughout the approval process.

(3) The primary contact will be called when questions arise. However, Test Engineers will work with all parties involved in order to complete the review.

(4) All parties who are part of the submission "group" must be licensed by the Commission.

(5) Upon completion, it is the primary contact company that will receive the Independent Testing Laboratory certification, provided the submission meets the Jurisdictional requirements. The primary contact company may then release copies of the certification to the associated Manufacturer(s).

325:85-11-11. Procedures for Commission approval of Electronic Gaming Machine or Device and components thereof

(a) The Commission Executive Director shall be responsible for issuing Commission approval of Electronic Gaming Machine or Device and Components thereof. The Executive Director shall make a determination regarding each submitted Electronic Gaming Machine or Device and Component within twenty (20) days of receipt of the certification and certification report from a Commission-approved Independent Testing Laboratory. Approval of Modifications shall be determined within ten (10) days of receipt of certification and certification report from a Commission-approved Independent Testing Laboratory.

(b) Certifications submitted by a Commission-approved Independent Testing Laboratory shall be deemed approved by the Commission if the Executive Director does not disapprove a proposed Electronic Gaming Machine or Device or Component thereof within the time specified in this Rule.

(c) If the Executive Director disapproves a proposed Electronic Gaming Machine or Device or Component thereof, the Executive Director will State the reasons for disapproval in writing.

325:85-11-12. Procedures for appeal of decision disapproving Electronic Game, Gaming Machine or Device or components thereof

Appeals for a disapproval by the Executive Director shall be made to the District Court in accordance with the Oklahoma Administrative Procedures Act.

SUBCHAPTER 13. CASHLESS TRANSACTIONS

325:85-13-1. General cashless transaction requirements

(a) *The following* [S] *tandards shall be met in connection with any cashless transaction system:*

(1) *All player account information must be stored on at least two (2) separate nonvolatile media;* [3A:277(1)]

(2) *An audit file must be kept of all financial transactions against the account. This file must be stored in at least two (2) separate nonvolatile media, and be accessible for purposes of audit and disputes resolution to authorized individuals. This file must be available on-line for a minimum of thirty (30) days, after which it must be available off-line for a minimum of one hundred eighty (180) days;* [3A:277(2)]

(3) *Access* [C]*ontrols must be in place to guarantee that unauthorized individuals will not have access to account information or history;* [3A:277(3)]

(4) *Passwords or* [P]*ersonal identification numbers (PINs), if used, must be protected from unauthorized access;* [3A:277(4)]

(5) *All means for communicating information within the system shall conform to the* [S]*tandards set forth in the Act and the Use and Operations Requirements contained in these Rules;* [3A:277(5)]

(6) *Player accounts shall follow accounting procedures which are designed to verify and protect the accurate recording of all player transactions;* [3A:277(6)]

(7) *Any card or other tangible instrument issued to a player for the purpose of using the cashless transaction system shall bear on its face a* [C]*ontrol or inventory number unique to that instrument;* [3A:277(7)]

(8) *Encoded bearer instruments printed or magnetic may include coupons and other items distributed or sold for game play, promotional, advertising or other purposes, but may not include cash. Such instruments must be in electronically readable form in addition to having unique identification information printed on the instrument face. The daily and monthly reporting must include with respect to such instruments:*

(A) *cash converted to* [G]*ame* [P]*lay* [C]*redits,*

(B) *outstanding unredeemed balance,*

(C) [G]*ame* [P]*lay* [C]*redits converted to cash,*

(D) [G]*ame* [P]*lay* [C]*redits used, and*

(E) [G]*ame* [P]*lay* [C]*redits won;* [3A:277(8)]

(9) *All customer accounts or instruments must have a redemption period of at least fourteen (14) days;* [3A:277(9)] *and*

(10) *No ATM card, financial institution debit card or credit card shall be used as part of any cashless transaction system.* [3A:277(10)]

(b) *Any "smart card" system which the licensee intends to implement as part of the cashless transaction system shall be tested by an* [I]*ndependent* [T]*esting* [L]*aboratory approved by the Commission to ensure the integrity of player funds. Any smart card must store on the card or on the system using the card an audit trail of the last ten (10) transactions involving the use of the card. Each transaction record must include, at a minimum, the type of transaction, the amount of the transaction, the date of the transaction, the time of the transaction, and the identification of the* [P]*layer* [T]*erminal or cashier* [T]*erminal or other points of cash exchange where the transaction occurred. The minimum daily and monthly reporting for smart card activity must include:* [3A:277(B)]

(1) *Total of cash transferred to smart cards;* [3A:277(1)]

(2) *Total of smart card amounts transferred to cash;* [3A:277(2)]

(3) *Total of smart card amounts transferred to* [G]*ame* [P]*lay* [C]*redits;* [3A:277(3)]

(4) *Total of* [G]*ame* [P]*lay* [C]*redits transferred to smart card amounts; and* [3A:277(4)]

(5) *Total unredeemed smart card balance.* [3A:277(5)]

(c) Systems shall be permissible that allow player tracking, maintenance tracking, and other gaming Management or marketing functions. These systems shall not interfere with, or in any way affect, the outcome of any game being played or the accuracy of any information or records required to be maintained or reported by the law and these Rules.

325:85-13-2. Error conditions

The following sections outline the Error Conditions that apply to the Cashless System, which must be monitored, and a message must be displayed to the patron at the host Card Reader for the following:

(1) Invalid PIN or Player ID (can prompt for re-entry up to maximum allowed); and

(2) Account Unknown.

325:85-13-3. Transfer of transactions

If a player initiates a cashless transaction and that transaction would exceed game configured limits, then this transaction may only be processed provided that the patron is clearly notified that he has received or deposited less than requested to avoid patron disputes.

325:85-13-4. Security requirements

The Communication process used by the Player Terminal and the host system must be robust and stable enough to secure each cashless transaction such that failure event(s) can be identified and logged for subsequent audit and reconciliation. In addition, Cashless systems must conform to the following Security Requirements:

(1) The number of users that have the requisite permission levels/login to adjust critical parameters are limited.

(2) Only a logged, authorized employee shall have the ability to access player information. Security of this information (including patron PIN codes or equivalent patron identification) must be maintained at all times.

(3) Any adjustment to an account balance would require a supervisor's approval with all changes being logged and/or reported indicating who, what, when, and the item value before and after the change, with the reason.

325:85-13-5. Prevention of unauthorized transactions

The following minimal Controls shall be implemented by the host system to ensure that games are prevented from responding to commands for crediting outside of properly authorized Cashless transactions (hacking):

(1) The Network hubs are secured (either in a locked/monitored room or area) and no access is allowed on any Node without valid login and password;

(2) The number of stations where critical Cashless applications or associated Databases could be accessed is limited; and

(3) Procedures shall be in place on the system to identify and flag suspect player and employee accounts to prevent their unauthorized use to include:

(A) Having a maximum number of incorrect PIN entries before account lockout;

(B) Flagging of "hot" accounts where cards have been stolen;

(C) Invalidating accounts and transferring balances into a new account; and

(D) Establishing limits for maximum Cashless activity in and out as a global or individual variable to preclude money laundering.

325:85-13-6. Diagnostic tests on a Cashless Player Terminal

Controls must be in place for any diagnostic functionality available at the device such that all activity must be reported to the system that would reflect the specific account(s) and the individual(s) tasked to perform these diagnostics. This would allow all Cashless diagnostic activity that affects the Player Terminal's associated electronic meters to be audited by the Commission and those acting on its behalf.

325:85-13-7. Transaction auditing

The system shall have the ability to produce logs and reports in both electronic form and hard copy for all pending and completed Cashless transactions. These logs and reports shall be capable of being filtered by:

(1) Machine number;

(2) Patron account; and

(3) Time/date.

325:85-13-8. Financial and player reports

The system shall have the ability to produce the following financial and player reports, both in electronic form and hard copy:

(1) Patron Account Summary and Detail Reports. These reports shall be immediately available to a patron upon request. These reports shall include beginning and ending account balance, transaction information depicting Player Terminal number, amount, and date/time.

(2) Liability Report. This report is to include previous days starting value of outstanding Cashless liability, aggregate Cashless-in and out totals, and ending Cashless liability.

(3) Cashless Meter Reconciliation Summary and Detail Reports. These reports will reconcile each participating Player Terminal's Cashless meter(s) against the host system's Cashless activity.

(4) Cashier Summary and Detail Reports. These reports will include patron account, buy-ins and cash-out, amount of transaction, date and time of transaction.

325:85-13-9. Account balance

Current account balance information should be available on demand from any participating Player Terminal via the associated Card Reader (or equivalent) after confirmation of patron identity and be presented, in terms of currency, to the patron.

SUBCHAPTER 15. PLAYER TERMINAL GENERAL SPECIFICATIONS AND USE AND OPERATION REQUIREMENTS

325:85-15-1. General Player Terminal specifications

Player [T]erminals means electronic [T]erminals housed in cabinets with input devices and video screens or electromechanical displays on which players play authorized gaming. Player [T]erminals used in connection with electronic games shall conform to the following Standards:

(1) *No* [P]*layer* [T]*erminal shall be capable of being used as a stand-alone unit for the purposes of engaging in any game not permitted by the* [A]*ct;* [3A:275(1)]

(2) *In addition to a video monitor or other electromechanical display, each* [P]*layer* [T]*erminal may have one or more of the following: a printer, graphics and signage;* [3A:275(2)]

(3) *Each* [P]*layer* [T]*erminal may have one or more of the following: electronic buttons, touch screen capability, and a mechanical, electromechanical or electronic means of activating the game and providing player input, including a means for making player selections and choices in games;* [3A:275(3)]

(4) *Each* [P]*layer* [T]*erminal shall have a nonvolatile* [B]*ackup memory or its equivalent, which shall be maintained in a secure compartment on each [P]layer [T]erminal for the purpose of storing and preserving a redundant set of critical data which has been error checked in accordance with* the [A]*ct, and which data shall include, at a minimum, the following* [P]*layer* [T]*erminal information:* [3A:275(4)]

(A) *electronic meters required* [3A:275(4a)] *in the Act and this Rule,*

(B) *recall of all wagers and other information associated with the last ten (10) plays, and* [3A:275(4b)]

(C) *error conditions that may have occurred on the* [P]*layer* [T]*erminal;* [3A:275(4C)]

(5) *An on/off switch that* [C]*ontrols the electrical current that supplies power to the* [P]*layer* [T]*erminal, which must be located in a secure place that is readily accessible within the interior of the* [P]*layer* [T]*erminal;* [3A:275(5)]

(6) *The operation of each* [P]*layer* [T]*erminal must not be adversely compromised or affected by static discharge, liquid spills, or electromagnetic interference;* [3A:275(6)]

(7) *A* [P]*layer* [T]*erminal must have electronic accounting meters which have tally totals to a minimum of seven (7) digits and be capable of rolling over when the maximum value of at least 9,999,999 is reached. The* [P]*layer* [T]*erminal must provide a means for on-demand display of the electronic meters via a key switch or other secure method on the exterior of the machine. Electronic meters on each* [P]*layer* [T]*erminal for each of the following data categories are required:* [3A:275(7)]

(A) *credits, or equivalent monetary units, deposited on a cumulative basis on that [T]erminal,* [3A:275(7a)]

(B) *if a* [P]*layer* [T]*erminal offers more than one* [E]*lectronic [*B]*onanza-*Style *[*B]*ingo [*G]*ame or [*E]*lectronic [*A]*musement [*G]*ame for play, then for each game, the meter shall record the number of credits, or equivalent monetary units, wagered and won for each game,* [3A:275(7b)]

(C) *hand-paid and progressive jackpots paid for that* [T]*erminal, which must include the cumulative amounts paid by an* [A]*ttendant for any such jackpot not otherwise metered pursuant to subparagraph (8)* [3A:275(7c)] *of this* [R]*ule.*

(D) *the number of electronic games played on the* [T]*erminal, and* [3A:275(7d)]

(E) *the number of times the cabinet door is opened or accessed;* [3A:275(7e)]

(8) *Under no circumstances shall the* [P]*layer* [T]*erminal electronic accounting meters be capable of being automatically reset or cleared, whether due to an error in any aspect of its or a game's operation or otherwise. All meter readings must be recorded and dated both before and after an electronic accounting meter is cleared;* [3A:275(8)]

(9) *At a minimum, each* [P]*layer* [T]*erminal shall have the following game information available for display on the video screen and/or displayed on the* [P]*layer* [T]*erminal itself, in a location conspicuous to the player:* [3A:275(9)]

(A) *the* [R]*ules of the game being played,* [3A:275(9a)]

(B) *the maximum and minimum cost of a wager, purchase or play activation and the amount of credits, or cash equivalents, which may be won for each game offered through that* [T]*erminal,* [3A:275(9b)]

(C) *the player's credit balance,* [3A:275(9c)]

(D) *the outcome of the game then being played, and* [3A:275(9d)]

(E) *any prize won on the game then being played;* [3A:275(9e)]

(10) *The video screen or other means for displaying game* [R]*ules, outcomes and other game information shall be kept under a glass or other transparent substance which places a barrier between the player and the actual surface of the display. At no time may stickers or other removable media be placed on the [P]layer [T]erminal's face* (the front of the [T]*erminal, including its video screen) for purposes of displaying [*R]*ules or payouts;* [3A:275(10)]

(11) *No hardware switches may be installed on a* [P]*layer* [T]*erminal or any associated equipment which may affect the outcome or payout of any game for which the* [P]*layer* [T]*erminal is used. Switches may be installed to* [C]*ontrol the ergonomics of the* [P]*layer* [T]*erminal; and* [3A:275(11)]

(12) *Where the electronic game system or* [C]*omponents are linked with one another in a local [*N]*etwork for progressive jackpot, function sharing, aggregate prizes or other purposes, [*C]*ommunication [*P]*rotocols must be used which ensure that erroneous data or signals will not adversely affect the operations of any such system or* [C]*omponents.* [3A:275(12)]

325:85-15-2. Applicability of Player Terminal use and operation requirements

Player Terminals must meet the following Use and Operation Requirements prior to their installation and use by any Racetrack Gaming Operator. All these use requirements shall apply where applicable. For example, if a device does not have a mechanical display, the 'Mechanical Display' requirements are not applicable.

325:85-15-3. General Player Terminal requirements

For Player Terminals connected to a game server, the following Standards shall apply:

(1) The game server shall generate and transmit to the bank of Player Terminals a set of random numbers, color and/or symbols, some of which are drawn prior to the sale of bingo cards. The subsequent game results are determined at the Player Terminal and the resulting information is transmitted to the account server.

(2) The game servers shall be housed in a game server room or secure locked cabinet outside of the Player Terminal.

(3) The following are the Bonanza-Style Bingo Game Server requirements for ball drawing:

(A) The balls shall be drawn via an approved electronic RNG certified for use in the game of Bingo or be drawn by an approved Mechanical RNG (such as a ball blower);

(B) The Racetrack Gaming Operator shall have no discretion over which balls are drawn; and

(C) The Game Server shall have the ability to pre-draw and transmit the drawn balls to the individual Player Terminals prior to the sale of cards for that game, provided that it is understood that no all balls need to be pre-drawn.

325:85-15-4. Terminal security

The Player Terminal must be able to withstand forced entry, unless such entry causes an error condition.

325:85-15-5. Player safety

Electrical and mechanical parts and design principals of the Player Terminal may not subject a player to any physical hazards. The gaming Independent Testing Laboratory shall NOT make any finding with regard to Safety and electromagnetic compatibility (EMC) testing; that is the responsibility of the Manufacturer of the goods or those who purchase the goods.

325:85-15-6. Microprocessor controlled

Amusement Games must be controlled by one or more Microprocessors or the equivalent in such a manner that the game is Controlled by the Microprocessor.

325:85-15-7. Cabinet wiring

The Player Terminal shall be designed so that power and data cables into and out of the Player Terminal can be routed so that they are not accessible to the general public. This is for game integrity. Security-related wires and cables that are routed into a logic area shall not be able to be easily removed.

325:85-15-8. Player Terminal identification

(a) A Player Terminal shall have a not easily removable, without leaving evidence of tampering, identification badge, permanently affixed to the exterior of the cabinet by the Manufacturer, and this badge shall include the following information:

(1) The Manufacturer;
(2) A unique serial number;
(3) The Player Terminal model number; and
(4) The date of manufacture.

(b) The Commission shall also affix to each Player Terminal on the premises a Commission identification tag.

325:85-15-9. Tower light

The Player Terminal shall have a light located conspicuously on top of the Terminal that automatically illuminates when a player has won an amount or is redeeming credits that the Player Terminal cannot automatically pay, or an error condition has occurred (including 'Door Open'), or a 'Call Attendant' condition has been initiated by the player. This requirement may be substituted for an audible alarm at the discretion of the supplier.

325:85-15-10. Power surges

The Player Terminal shall not be adversely affected, other than resets, by surges or dips of ± 20% of the supply voltage. Reset is acceptable only if no damage to the equipment or loss or corruption of data is experienced in the field.

325:85-15-11. Coin Diverter

For games that accept coins or tokens, the Player Terminal must use a coin 'Diverter' that directs coins to the hopper, or to the drop box when the hopper is full. The hopper full detector shall be monitored by the Control program to determine whether a change in Diverter status is required. If the State of the detector changes, the Diverter shall operate as soon as possible, or within ten games, after the State change, without causing a disruption of coin flow, or creating a coin jam. Hopperless Player Terminals shall always divert coins to the drop box.

325:85-15-12. Drop box

If the game is equipped to accept coins or tokens, then the following Rules must be met:

(1) Each Player Terminal equipped to accept coins or tokens shall contain a separate drop bucket or drop box to collect and retain all such coins or tokens that are diverted into the drop box;
(2) A drop bucket shall be housed in a locked compartment separate from any other compartment of the Player Terminal; and
(3) There must be a method to monitor the drop box area, even if manufactured by a different company.

325:85-15-13. External doors/compartments

The following requirements shall apply to the Player Terminal's external doors:

(1) Doors shall be manufactured of materials that are suitable for allowing only legitimate access to the inside of the cabinet. That is, doors and their associated hinges shall be capable of withstanding determined illegal efforts to gain access to the inside of the Player Terminal and shall leave evidence of tampering if an illegal entry is made;
(2) All external doors shall be locked and monitored by door access sensors, which shall detect and report all external door openings, both to the Player Terminal by the way of an error and to an on-line system. The drop box door open does not have to cease game play; however, it must still illuminate the tower light or alarm and notify the on-line system;
(3) It shall not be possible to insert a device into the Player Terminal that will disable a door open sensor when the machine's door is closed, without leaving evidence of tampering; and
(4) The sensor system shall register a door as being open when the door is moved from its fully closed and locked position.

325:85-15-14. Logic compartment

The logic compartment is a locked cabinet area(s) with its own locked door - which houses Critical Electronic Components that have the potential to significantly influence the operation of the Player Terminal. There may be more than one such logic area in a Player Terminal. Electronic Component items that are required to be housed in one or more logic areas are:

(1) CPUs and other electronic Components involved in the operation and calculation or display of game play (e.g., game Controller electronics and Components housing the game or system firmware program storage media); and

(2) Communication Controller electronics, and Components housing the Communication program storage media or, the Communication board for the on-line system may reside outside the Player Terminal.

(3) The logic compartment(s) shall be locked with a separate key, which is needed to open the compartment. That key shall be kept by the Commission Gaming Agent. The Commission Gaming Agent must keep that key securely locked in a safe. A Commission Gaming Agent must be personally present any time a logic compartment is opened, and only the Gaming Agent may insert and use the Commission's key.

325:85-15-15. Coin and Currency compartments

The coin and currency compartments shall be locked separately from the main cabinet area, except that a separate cash compartment shall not be required for coins necessary to pay prizes in a Player Terminal that pays prizes through a drop hopper. Coin and Currency compartments must also meet the following requirements:

(1) Access to currency storage area is to be secured via separate key locks and shall be fitted with sensors that report to the slot accounting system that the door has opened/closed or the Bill Stacker has been removed.

(2) Access to the currency storage area is to be through two levels of locks, the relevant outer door plus one other door or lock, before the receptacle or currency can be removed.

325:85-15-16. Function of a Random Access Memory (RAM) Clear

Following the initiation of a RAM reset procedure (using a certified RAM Clear method), the game program shall execute a routine, which initializes each and every bit in RAM to the default State. For games that allow for partial RAM clears, the methodology in doing so must be accurate and the game must validate the un-cleared portions of RAM. The default reel position or game display after a RAM reset shall not be the top award on any selectable line. The default game display, upon entering game play mode, shall also not be the top award. This applies to the base game only and not any secondary bonus devices.

325:85-15-17. Configuration setting

It shall not be possible to change a Configuration setting that causes an obstruction to the electronic accounting meters without a RAM Clear. Notwithstanding, any such change must be done by a secure means, which includes access to the locked logic area.

325:85-15-18. Critical memory defined

Critical memory storage shall be maintained by a methodology that enables errors to be identified and corrected in most circumstances. This methodology may involve signatures, Checksums, partial Checksums, multiple copies, timestamps and/or effective use of validity codes. Critical memory is used to store all data that is considered vital to the continued operation of the Player Terminal. This includes, but is not limited to:

(1) All electronic meters required in 'Electronic Metering within the Player Terminal,' including last bill data and power up and door open metering;

(2) Current credits;

(3) Player Terminal/game configuration data;

(4) Information pertaining to the last ten plays with the Random Number Generator outcome, including the current game, if incomplete; and

(5) Software State, the last normal State the Player Terminal software was in before interruption.

325:85-15-19. Critical Memory integrity

Comprehensive checks of Critical Memory shall be made during each Player Terminal restart such as power-up cycle. The Player Terminal Control Program shall test for possible corruption of Critical Memory. Test methodology shall detect 99.99 percent of all possible failures. In addition, all Critical Memory (Non-Volatile) shall:

(1) Have the ability to retain data for a minimum of thirty days after power is discontinued from the machine. If the method used is an 'off chip' battery source, it shall re-charge itself to its full potential in a maximum of twenty-four hours. The
shelf life of the battery source shall be at least five years. Random access memory that uses an off-chip back-up power source to retain its contents when the main power is switched off shall have a detection system which will provide a method for software to interpret and Act upon a low battery condition;

(2) Only be cleared by accessing the locked logic area in which it's housed;

(3) Result in a RAM Error if the Control Program detects an unrecoverable memory error; and

(4) The RAM should not be cleared automatically, but shall require a full RAM clear (RAM Reset) performed by an authorized Person.

325:85-15-20. Program Storage Devices

All Program Storage Devices, including EPROMs, DVD, CD-ROM, Compact Flash and any other type of Program Storage Devices, shall:

(1) Be clearly marked with sufficient information to identify the software and revision level of the information stored in the devices and shall only be accessible with access to the locked logic compartment, where applicable.

(2) Be housed within a locked logic compartment.

325:85-15-21. Write Once (Non-Writable) Program Storage

For Program Storage Devices that are written to once (i.e., EPROM, CD), the following requirements shall be met:

(1) CD-ROM specific based Program Storage shall:

(A) Not be a re-writeable disk; and

(B) The "Session" shall be closed to prevent any further writing.

(2) Non-EPROM specific (including CD-ROM) Program Storage shall meet the following requirements:

(A) The Control Program shall authenticate all Critical Files by employing a Hashing Algorithm which produces a 'Message Digest' output of at least 128 bits at minimum, as certified by the Independent Testing Laboratory. The Message Digest(s) shall be stored on a memory device (ROM-based or other medium) within the Player Terminal. Message Digests which reside on any other medium shall be encrypted, using a public/private key Algorithm with a minimum of a 512 bit key.

(B) The Player Terminal shall authenticate all Critical Files against the stored Message Digest(s), as required in (i), above. In the event of a failed authentication after the game has been powered up, the Player Terminal should immediately enter an error condition with the appropriate tower light signal and record the details including time and date of the error in a log. This error shall require operator intervention to clear. The game shall display specific error information and shall not clear until either the file authenticates properly, following the operator intervention, or the medium is replaced or corrected, and the device's memory is cleared, the game is restarted, and all files authenticate correctly.

325:85-15-22. Writable Program Storage

This section applies to Player Terminals where the Control program is capable of being erased and re-programmed without being removed from the Player Terminal, Bill Acceptor or other equipment or related device shall meet the following requirements:

(1) Re-programmable Program Storage shall only write to alterable storage media containing data, files, and programs that are not critical to the basic operation of the game, such as marketing information. Notwithstanding the foregoing, such device may write to media containing critical data, files, and programs provided that:

(A) A log of all information that is added, deleted, and modified be stored on the media;

(B) Verifies the validity of all data, files, and programs which reside on the media using the methods listed in the Non-EPROM Specific requirements;

(C) Contains appropriate security to prevent unauthorized Modifications;

(D) Does not allow game play while the media containing the critical data,

files, and programs is in a modifiable State; and

(2) Downloadable software shall not be used until specifically authorized by Commission Rule.

325:85-15-23. Integrity of the Control program

The Control program shall ensure the integrity of all critical program Components during the execution of said Components and the first time the files are loaded for use, even if only partially loaded. RAM and PSD (Program Storage Device) space that is not critical to machine security (e.g., video or sound ROM) is nevertheless required to be validated. If any of the video or sound files contain payout amounts or other information needed by the player, the files or program storage must have a secure method of verification.

325:85-15-24. Multi-Station Games

A Multi-Station game is a gaming device that incorporates more than one Player Terminal which may be Controlled by a master Terminal. The master Terminal, containing the game's CPU, will house the game display, which is shared among the Player Terminals. Each 'station' must meet the technical Standards outlined throughout these Rules, including Player Terminal identification and metering. There must be a method for each player to know when the next game will begin. All Player Terminals used in multi-station games as well as such games' master Terminal must be located within the Racetrack Gaming Operator's Gaming Facility.

325:85-15-25. Circuit board identification

Requirements for printed circuit board identification include:

(1) Each Printed Circuit Board shall be identifiable by some sort of name (or number) and revision level;

(2) The top assembly revision level of the printed circuit board shall be identifiable. If track cuts and/or patch wires are added to the printed circuit board, then a new revision number or level must be assigned to the assembly; and

(3) Manufacturers shall ensure that Circuit Board assemblies, used in their Player Terminals, conform functionally to the documentation and the certified versions of those printed circuit boards that were evaluated and certified by the Independent Testing Laboratory.

325:85-15-26. Mechanical devices used for displaying Game outcomes

If a game has mechanical or electro-mechanical devices, which are used for displaying game outcomes, the following requirements shall be observed:

(1) Electro-mechanically Controlled display devices, such as reels or wheels, shall have a sufficiently closed loop of Control so as to enable the software to detect a malfunction, or an attempt to interfere with the correct operation of that device. If a reel or wheel is not in the position it is supposed to be in, an error condition must be generated and reported to the slot accounting system;

(2) Where applicable, mechanical assemblies, such as reels or wheels, must have a mechanism that ensures the correct mounting of the assembly's artwork;

(3) Displays shall be constructed in such a way that winning symbol combinations match up with pay lines or other indicators; and

(4) A mechanical assembly shall be so designed that it is not obstructed by any other Components.

325:85-15-27. Video monitors/touchscreens

Touch screens must be accurate. Touch screens that require calibration, once calibrated, shall maintain that accuracy for at least the Manufacturer's recommended maintenance period. Such touch screens must be able to be re-calibrated by venue staff without access to the Player Terminal cabinet other than opening the main door. There shall be no hidden or undocumented buttons/touch points anywhere on a touch screen, except as provided for by the game Rules that affect game play.

325:85-15-28. Coin or token Acceptors

If the Player Terminal uses a Coin Acceptor, the acceptor shall accept or reject a coin on the basis of metal composition, mass, composite makeup, or equivalent security. In addition, it shall meet the following requirements:

(1) Coin Acceptor Security Features/Error Conditions. The Coin Acceptor shall be designed to prevent the use of cheating methods such as slugging (counterfeit coins), stringing (coin pullback), the insertion of foreign objects and other manipulation;

(2) Rapidly Fed Coins. The Player Terminal shall be capable of handling rapidly-fed coins or piggy backed coins so that occurrences of cheating are eliminated;

(3) Direction Detectors. The Player Terminals shall have suitable detectors for determining the direction and the speed of coin travel in the receiver. If a coin traveling at too slow of a speed or improper direction is detected, the Player Terminal shall enter an error condition and display an error condition for at least thirty seconds or be cleared by an Attendant;

(4) Invalid Coins. Coins deemed invalid by the acceptor shall be rejected to the Card Reader and shall not be counted as credits;

(5) Coin Acceptance Conditions. Acceptance of coins for crediting to the credit meter shall only be possible when the Player Terminal is enabled for play. Other States, such as error conditions, including door opens, audit mode and game play, shall cause the disabling of the Coin Acceptor system;

(6) Credit Meter Update on Coin Insertion. Each coin inserted shall register the actual monetary value or a number of credits on the player's credit meter for the current game or bet meter. If registered directly as credits, the conversion rate shall be clearly Stated, or be easily ascertainable from the Player Terminal.

325:85-15-29. Bill Acceptors

All acceptance devices shall be able to detect the entry of valid bills, coupons, Ticket Vouchers, or other approved notes, if applicable, and provide a method to enable the Player Terminal software to interpret and Act appropriately upon a valid or invalid input. The acceptance device(s) shall be electronically-based and be configured to ensure that they only accept valid bills of legal tender. Bill Acceptors may also accept coupons, Ticket Vouchers, or other approved notes and reject all others in a highly accurate manner. The bill input system shall be constructed in a manner that protects against vandalism, abuse, or fraudulent activity. In addition, bill acceptance device(s) shall only register credits when:

(1) The bill or other note has passed the point where it is accepted and stacked; and

(2) The Acceptor has sent the "irrevocably stacked" message to the machine.

325:85-15-30. Communications

All Bill Acceptors shall communicate to the Player Terminal using a bi-directional Protocol.

325:85-15-31. Factory set Bill Acceptors

If Bill Acceptors are designed to be factory set only, it shall not be possible to access or conduct maintenance or adjustments to those Bill Acceptors in the field, other than:

(1) The selection of bills, coupons, Ticket Vouchers, or other approved notes and their limits;

(2) Changing of certified EPROMs;

(3) Adjustment of the tolerance level for accepting bills or notes of varying quality should not be allowed externally to the machine. Adjustments of the tolerance level should only be allowed with adequate levels of security in place. This can be accomplished through lock and key, physical switch settings, or other accepted methods approved on a case-by-case basis;

(4) Maintenance, adjustment, and repair per approved factory procedures; or

(5) Options that set the direction or orientation of acceptance.

325:85-15-32. Tokenization

For games that allow tokenization, the game shall post for the player the entire amount and not store fractional credits, unless the game maintains the credit meter in dollars and cents.

325:85-15-33. Accountability of bills/tickets or other items accepted

A Player Terminal, which contains a Bill Acceptor device, shall maintain sufficient electronic metering to be able to report the following:

(1) Total monetary value of all items accepted;

(2) Total number of all items accepted; and

(3) A breakdown of the bills accepted:

(A) For bills, the game shall report the number of bills accepted for each bill denomination;

(B) For all other notes, the game shall have a separate meter that reports the number of notes accepted, not including bills.

325:85-15-34. Bill Acceptor recall

A Player Terminal that uses a Bill Acceptor shall retain in its memory and display the denomination of the last five items accepted by the Bill Acceptor, including, for example, U.S. currency, Ticket Vouchers and Coupons.

325:85-15-35. Bill Acceptor error conditions

Each Player Terminal and/or Bill Acceptor shall have the capability of detecting and displaying an Error Condition, for the conditions below. It is acceptable for the Bill Acceptor to disable or flash a light or lights to indicate the error has occurred, provided the information is communicated to the Player Terminal and the Bill Acceptor disables:

(1) Bill Stacker Full;

(2) Bill Jams;

(3) Bill Acceptor Door Open - where a Bill Acceptor door is the belly glass door, a door open signal is sufficient; and

(4) Bill Stacker Door Open or Bill Stacker Removed.

325:85-15-36. Bill Acceptor Stacker requirements

Each Bill Acceptor shall have a secure Bill Stacker and items accepted by the Bill Acceptor shall be deposited into the secure stacker. The secure Bill Stacker is to be attached to the Player Terminal in such a manner so that it cannot be easily removed by physical force and shall meet the following requirements:

(1) The Bill Acceptor device shall have a 'stacker full' sensor;

(2) There shall be a separate key to access the Bill Stacker area. This key shall be separate from the main door. In addition, a separate key shall be required to remove the bills from the Bill Stacker; and

(3) A tower light or alarm shall be activated whenever there is access to the bill door or the Stacker has been removed.

325:85-15-37. Credit redemption

Available credits may be collected from the Player Terminal by the player pressing the 'COLLECT' button at any time other than during:

(1) A game being played;

(2) Audit mode;

(3) Any door open;

(4) Test mode;

(5) A Credit Meter or Win Meter incrementation, unless the entire amount is placed on the meters when the collect button is pressed; or

(6) A payout or Memory Error Condition.

325:85-15-38. Cancel credit

If credits are collected, and the total credit value is greater than or equal to a specific limit (such as Hopper Limit for hopper games or Printer Limit for printer games), the game shall lock up until the credits have been paid, and the handpay is cleared by an Attendant.

325:85-15-39. Hoppers & hopper error conditions

(a) For hopper games, there shall not be an abnormal payout when the hopper is exposed to higher levels of electro-static discharge or if power is lost at any time during a payout. The hopper shall be interfaced in such a way as to allow the Player Terminal Control program to monitor the hopper mechanism in all game States, to identify the following events and lock up the game in an Error Condition, requiring Attendant intervention, when the following occur:

(1) Extra coin paid;

(2) Hopper jam or empty.

(b) The hopper shall be resistant to manipulation by the insertion of a light source or any foreign object.

325:85-15-40. Payment by ticket printers

If the Player Terminal has a printer that is used to make payments, the Player Terminal may pay the player by issuing a printed ticket. In addition, payment by ticket printers as a method of credit redemption must meet the following regulations:

(1) The printer shall be located in a locked area of the Player Terminal, which requires opening of the main door to access, but the printer shall not be located in the logic area or the drop box.

(2) The Player Terminal, in which the printer is housed, is linked to a Ticket Validation System, which records the ticket information. Validation approval or information shall come from the Ticket Validation System in order to validate tickets. Tickets may be validated at any location, as long as it meets the Standards within this section.

(3) Each Player Terminal shall be designed so that if Communication is lost, and validation information cannot be sent to the Ticket Validation System, there is an alternate method of payment. The validation system must be able to identify duplicate tickets, to prevent fraud.

(4) The printer shall print on a ticket and must provide the ticket data to a Ticket Validation System that records the following information regarding each payout ticket printed:

(A) Value of credits in local monetary units in numerical form;

(B) Time of day the ticket was printed in twenty-four hour format showing hours and minutes - printing of this information is not required, provided that storage of this information is retained in the Database;

(C) Date, in any recognized format, indicating the day, month, and year;

(D) Player Terminal number or machine number; and

(E) Unique validation number, or barcode.

(5) If the taxation limit is reached on any single play when using a ticket printer, then the ticket must not be able to be redeemed at any place other than through human interaction - not on another machine or at a self-serve kiosk.

(6)The Player Terminal shall either keep a duplicate copy or print only one copy to the player but have the ability to retain the ticket-out information within the Cashless Transaction Log, to resolve player disputes. In addition,

an approved Ticket Validation System shall be used to validate the payout ticket, and the ticket information on the system shall be retained at least as long as the ticket is valid at that location.

(7) A printer shall have mechanisms to allow the Player Terminal to interpret and Act upon the following conditions. Such conditions must disable the game, and produce an Error Condition, requiring Attendant intervention to resume play:

(A) Out of paper/paper low (It is not necessary to lock up a game during a 'Paper Low' condition.);

(B) Printer jam/failure; and

(C) Printer disconnected - it is permissible for the Player Terminal to detect this error condition when the game tries to print.

325:85-15-41. Access to Player Terminal meters

The software meter information shall only be accessible by an authorized Person.

325:85-15-42. Credit meter

The credit meter shall be maintained in credits or cash value. In addition, it must meet the following, where applicable:

(1) Progressives may be added to the credit meter if either:

(A) The credit meter is maintained in the local currency amount; or

(B) The progressive meter is incremented to whole credit amounts; or

(C) The prize in the local currency amount is converted to credits on transfer to the player's credit meter in a manner that does not mislead the player (i.e., make unqualified Statement "wins meter amount" and then rounds down on conversion) or cause accounting imbalances.

(2) Residual Credits. If the current local currency amount is not an even multiple of the tokenization factor for a game or the credit amount has a fractional Component, the won credits displayed for that game may be displayed and played as a truncated amount (i.e., fractional part removed). However, the fractional credit information shall be made available to the player when the truncated credit balance is zero. The fractional amount is also known as 'Residual Credits.' If residual credits exist, the Manufacturer may provide a residual credit removal feature or allow a cancel credit or ticket print to remove the residual credits or return the Player Terminal to normal game play (i.e., leave the residual credits on the player's credit meter for betting). In addition:

(A) Residual credits bet on the residual credit removal play shall be added to the Coins-In (or Cash In) meter;

(B) If the residual credit removal play is won, the value of the win shall either:

(i) Increment the player's credit meter; or

(ii) Be automatically dispensed, and the value of the coin(s) added to the Coins-Out (or Cash Out) meter.

(C) All other appropriate Player Terminal meters (e.g., Hopper Level) shall be appropriately updated;

(D) If the residual credit removal play is lost, all residual credits are to be removed from the credit meter;

(E) If the residual credits are cancelled rather than wagered, the Player Terminal shall update the relevant meters (e.g., cancelled credit) and the last play information;

(F) The residual credit removal play feature shall return at least the minimum payback percentage, if one is set;

(G) The player's current options and/or choices shall be clearly indicated electronically or by video display. These options shall not be misleading;

(H) If the residual credit removal play offers the player a choice to complete the game (e.g., select a hidden card), the player shall also be given the option of exiting the residual credit removal mode and returning to the previous mode;

(I) It shall not be possible to confuse the residual credit removal play with any other game feature (e.g., Double-up or Gamble);

(J) If the residual credit removal play is offered on a multi-game Player Terminal, the play shall (for meter purposes of each individual game) either be considered to be a part of the game from which the play was invoked, or be treated as a separate game; and

(K) The Last Game Recall shall either display the residual credit removal play result or contain sufficient information (e.g., updated meters) to derive the result.

325:85-15-43. Electronic accounting and occurrence meters

Electronic accounting meters shall be at least seven digits in length. If the meter is being used in dollars and cents, at least eight digits must be used for the dollar amount. The meter must roll over to zero upon the next occurrence any time the meter is seven digits or higher and after 9,999,999 has been reached (or any other value that is logical). Occurrence meters shall be at least three digits in length and roll over to zero upon the next occurrence any time the meter is higher than the maximum number of digits for that meter. The required electronic meters are as follows (accounting meters are designated with an asterisk '*'):

(1) The Amounts Wagered* (OR cash in) meter shall cumulatively count the total amounts wagered during game play, except credits that are won during the game that are subsequently risked in a double-up mode.

(2) The Amounts Won* (OR credit out) meter shall cumulatively count all amounts won by the player at the end of the game that were not paid by an Attendant, including

amounts paid by a ticket printer. This meter must not increment for bills inserted and cashed out (used as a change machine).

(3) The drop* meter shall maintain a cumulative count of the number of coins that have been diverted into a drop bucket and credit value of all bills and tickets/coupons inserted into the Bill Acceptor for play. NOTE: It is acceptable to have separate 'drop' meters for coins, bills, tickets, and coupons.

(4) The handpays* meter shall reflect the cumulative amounts paid by an Attendant for progressive and non-progressive wins.

(5) The games-played meter shall display the cumulative number of games played since the last RAM clear.

(6) A cabinet door meter shall display the number of times the front cabinet door was opened since the last RAM clear.

(7) The drop door meter shall display the number of times the drop door and the Bill Acceptor door was opened since the last RAM clear.

(8) The cancelled credit* meter shall reflect the cumulative amounts paid by an Attendant that are in excess of the credit limit and residual credits that are collected. NOTE: Printer games do not require a cancelled credit meter unless a 'printer limit' option exists on the game.

(9) The progressive occurrence meter shall count the number of times each progressive meter is activated.

325:85-15-44. Multi-Game Game specific meters

In addition to the Electronic Accounting Meters required above, each individual game available for play shall have at least "Amount Bet" and "Amount Won" meters in either credits or dollars. Even if a 'doubleup or gamble' game is lost, the initial win amount/credits bet amount shall be recorded in the game specific meters. Alternatively, there can be separate meters that account for the double-up or gamble information. Either way, the method of metering must be understood on the screen.

325:85-15-45. Double-Up or Gamble meters

For each type of Double-up or Gamble offered, there shall be two meters to indicate the amount doubled and the amount won, which should increment every time a Double-up or Gamble occurs. If the Player Terminal does not supply accounting for the Double-Up or Gamble information, the feature must not be enabled for use.

325:85-15-46. Cashless transaction log

All Player Terminals must have the capacity to display a complete transaction history for the most recent transaction with a cashless wagering system (this would include Tickets, Coupons, electronically transferred Promotional and/or Bonusing credits, etc.), and the previous thirty-four transactions prior to the most recent transaction that incremented any of the Accounting Meters.

325:85-15-47. Error conditions

Player Terminals shall be capable of detecting and displaying the following error conditions and illuminate the tower light for each or sound an audible alarm. They shall be cleared either by an Attendant or upon initiation of a new play sequence and be communicated to an on-line monitoring and Control system, if applicable:

(1) Coin-In jam;

(2) Coin-Out jam;

(3) Hopper empty or timed out;

(4) Hopper runaway or extra Coin paid out;

(5) RAM error;

(6) Low RAM battery, for batteries external to the RAM itself or low power source;

(7) Currency-in jam;

(8) Program error or authentication mismatch;

(9) Door open (including Bill Acceptor);

(10) Reverse Coin-In (coin traveling wrong way through Acceptor);

(11) Reel spin errors, including a mis-index condition for rotating reels, that affects the outcome of the game:

(A) The specific reel number shall be identified in the error code;

(B) In the final positioning of the reel, if the position error exceeds one-half of the width of the smallest symbol excluding blanks on the reel strip; and

(C) Microprocessor-Controlled reels shall be monitored to detect malfunctions such as a reel which is jammed, or is not spinning freely, or any attempt to manipulate their final resting position.

(12) Power reset;

(13) Any credits on the Player Terminal that are attempted to be transferred to the host system that result in a Communication failure for which this is the only available payout medium (the patron cannot cashout via hopper or ticket printer) must result in a hand-pay lockup or tilt on the Player Terminal. NOTE: For games that use error codes, a description of Player Terminal error codes and their meanings shall be affixed inside the Player Terminal. This does not apply to video-based games; however, video-based games shall display meaningful text as to the error conditions.

325:85-15-48. Game interruption and resumption

After a program interruption (e.g., power down), the software shall be able to recover to the State it was in immediately prior to the interruption occurring and:

(1) If a Player Terminal is powered down while in an error condition, then upon restoring power, the error message shall be displayed and the Player Terminal shall remain locked-up. This is unless power-down is used as part of the error reset procedure, or if on power-up or door closure, the Player Terminal checks for the error condition and detects that the error is no longer in existence.

(2) Upon program resumption, the following procedures shall be performed as a minimum requirement:

(A) Any Communications to an external device shall not begin until the program resumption routine, including self-tests, is completed successfully;
(B) Player Terminal Control programs shall test themselves for possible corruption due to failure of the program storage media. The authentication may use the Checksum; however, it is preferred that the Cyclic Redundancy Check (CRC) calculations are used as a minimum (at least 16 bit). Other test methodologies shall be of a certified type;
(C) The integrity of all critical memory shall be checked; and
(D) Games utilizing Microprocessor-Controlled mechanical displays (e.g., reels or wheels) shall re-spin automatically to display the last valid game's result when the play mode is re-entered, and the reel positions have been altered.

325:85-15-49. Door open events

When the Player Terminal's main door is opened, the game shall cease play, enter an error condition, display an appropriate error message, disable coin acceptance and bill acceptance, and either sound an alarm or illuminate the tower light or both. When the Player Terminal's main door is closed, the game shall return to its original State and display an appropriate error message, until the next game has ended. The software shall be able to detect any meter access to the following doors or secure areas:
(1) All external doors;
(2) Drop box door;
(3) Bill Acceptor door.

SUBCHAPTER 17. USE REQUIREMENTS FOR ALL AUTHORIZED GAMES

325:85-17-1. Game cycle

A game is considered completed when the final transfer to the player's credit meter takes place (in case of a win), or when all credits wagered or won that have not been transferred to the credit meter, are lost. The following are all considered to be part of a single game:
(1) Games that trigger a free game feature and any subsequent free games;
(2) "Second screen" bonus feature(s);
(3) Games with player choice;
(4) Games where the Rules permit wagering of additional credits; and
(5) Double-up/Gamble features.

325:85-17-2. RNG requirements

Where the authorized game or system uses a RNG to make selections, such RNG and the selections shall:
(1) Be statistically independent;
(2) Conform to the desired random distribution;
(3) Pass various recognized statistical tests;
(4) Be unpredictable;
(5) Be cycled continuously in the background between games and during game play at a speed that cannot be timed by the player.
(6) Randomly determine the first seed by an uncontrolled event. After every game, there shall be a random change in the RNG process (new seed, random timer, delay, etc.). This will verify the RNG does not start at the same value, every time. It is permissible not to use a random seed; however, the Manufacturer must ensure that the games will not synchronize.
(7) If a random number with a range shorter than that provided by the RNG is required for some purpose within the Player Terminal, the method of re-scaling, (i.e., converting the number to the lower range) is to be designed in such a way that all numbers within the lower range are equally probable.
(8) If a particular random number selected is outside the range of equal distribution of rescaling values, it is permissible to discard that random number and select the next in sequence for the purpose of re-scaling.
(9) Unless otherwise denoted on the payglass, where the Player Terminal plays a game that is recognizable such as electronic card games, the same probabilities associated with the live game shall be evident in the simulated game. For example, the odds of drawing a specific card or cards in an electronic card game shall be the same in the live game as if a physical deck of cards were being used. Card games also must meet the following:
(A) Cards once removed from the deck shall not be returned to the deck except as provided by the Rules of the Game depicted; and
(B) As cards are removed from the deck, they shall be immediately used as directed by the Rules of the Game (i.e., the cards are not to be discarded due to adaptive behavior by the Player Terminal); and
(10) Where used, mechanical-based RNG games are games that use the laws of physics to generate the outcome of the game. All mechanical-based RNG games must meet the requirements of these Rules with the exception of the requirement Stated above that dictate the requirements for electronic RNGs.
(11) Each possible permutation or combination of game elements that produces winning or losing game outcomes shall be available for random selection at the initiation of each play, unless otherwise denoted by the game;
(12) A Player Terminal shall use appropriate Communication Protocols to protect the RNG and random selection process from influence by associated equipment, which may be communicating with the Player Terminal.

325:85-17-3. Required notice of Average Theoretical Percentage Payout

(a) Although the specifications for Authorized Games do not specify a minimum percentage payout requirement, the Independent Testing Laboratory, when testing the prototype for each game, shall determine the theoretical payout minimum

during the expected life for each game. The Independent Testing Laboratory report shall inform the Commission and Racetrack Gaming Operator of the theoretical minimum payout of each game tested. Using the theoretical minimum payout provided for each game, the Racetrack Gaming Operator shall determine the average theoretical payout for each game installed at its Gaming Facility. The Operator shall submit all such payout information, including the material assumptions used in the preparation of the payouts, to the Commission where such information shall be made available to the public at the Commission office.

(b) Each game's player return over the cycle of both the bonus and non-bonus part of the game shall conform to the minimum theoretical return to player. In addition, the game must meet the following requirements:

(1) Optimum Play Used for Skill Games. Authorized Games that may be affected by player skill shall meet its theoretical minimum percentage payout requirement when using a method of play that will provide the greatest return to the player over a period of continuous play.

(2) Minimum Theoretical Percentage Payout Requirement Met at All Times. The minimum theoretical percentage payout for each game shall be met at all times. The minimum theoretical percentage payout for each game shall be met when playing at the lowest end of a non-linear paytable (i.e., if a game is continuously played at a minimum bet level for its total game cycle and the theoretical RTP is lower than the minimum percentage, then the game is unacceptable).

(3) Double-up or Gamble. The Double-up or Gamble options shall have a theoretical return to the player of one hundred percent (100%) unless otherwise noted to the player. The Independent Testing Laboratory shall provide the minimum and maximum theoretical payout percentage within the certification report. Additional awards added to a game will require a re-evaluation of the theoretical payout percentage, considering the value of the award and possibly other factors. The Independent Testing Laboratory will re-evaluate a game's theoretical payout percentage when requested.

325:85-17-4. Multiple percentages

For games that offer multiple percentages, please refer to the 'Configuration Setting' requirements of these Rules. For games connected by a Network, security measures will be reviewed on a case-by-case basis.

325:85-17-5. Merchandise prizes in lieu of cash awards

Limitations (annuities - lump sum or the periodic payments) on the prize amount of merchandise shall be clearly explained to the player on the game that is offering such a prize. When merchandise is awarded as a prize, the value attributed to the merchandise by the Operator shall be the true fair market value of the prize.

325:85-17-6. Bonus Games

If the game contains a 'bonus feature' including a game within a game, the following requirements shall be met:

(1) The game shall display clearly to the player which game Rules apply to the current game State;

(2) Each game which offers Free Games during game play (i.e., "fever" mode - a mode which gives the player an opportunity for the following 'X' number of hands to achieve a certain winning combination with the pay-off being some number of bonus credits) should include the number of hands remaining for the Free Game event(s) as each Free Game is played;

(3) The game, other than those that occur randomly, shall display to the player sufficient information to indicate the current status towards the triggering of the next bonus game (i.e., if the game requires obtaining several events/symbols towards a feature, the number of events/symbols needed to trigger the bonus shall be indicated along with the number of events/symbols collected at any point);

(4) The game shall not adjust the likelihood of a bonus occurring, based on the history of prizes obtained in previous games (i.e., games shall not adapt their theoretical return to player based on past payouts);

(5) If a bonus or feature game requires extra credits to be wagered and the game accumulates all winnings (from the trigger and the feature) to a temporary "win" meter (rather than directly to the credit meter), the game shall:

(A) Provide a means where winnings on the temporary meter can be bet (via the credit meter) to allow for instances where the player has an insufficient credit meter balance to complete the feature;

(B) Transfer all credits on the temporary meter to the credit meter upon completion of the feature;

(C) Not exceed the max bet limit, if one is set; and

(D) Provide the player an opportunity NOT to participate.

(6) If a game's bonus is triggered after accruing a certain number of events/symbols or combination of events/symbols of a different kind, the probability of obtaining like events/symbols shall not deteriorate as the game progresses (e.g., for identical events/symbols it is not permitted that the last few events/symbols needed are more difficult to obtain than the previous events/symbols of that kind);

(7) The game shall make it clear to the player that they are in this mode to avoid the possibility of the player walking away from the Player Terminal not knowing the game is in a bonus mode; and

(8) Games that have an award calculated, occurring from game play within the base game's cycle made upon the completion of a series of random occurrences, shall meet the following:

(A) Extended play awards are part of the game cycle with predetermined award values. Extended play award contributions to the program payout percentage are calculated consistent with awards of the regular game cycle. Specifically, if the cycle for extended

play awards is different from the base game cycle, then the extended play awards, occurring within the base game's cycle, will be calculated as part of the game's payout; and

(B) Pursuant to the Rules, the game shall display the Rules of play for the extended play awards, the rewards associated with each extended play award, and the character combinations that will result in specific payouts. For extended play awards achieved by obtaining specific game results, the progress of the award shall be displayed.

325:85-17-7. Multi-Line Games

Each individual line to be played shall be clearly indicated by the Player Terminal so that the player is in no doubt as to which lines are being bet on. In addition, the winning playline(s) shall be clearly discernable to the player. For example, on a video game, it may be accomplished by drawing a line over the symbols on the playline(s) and/or the flashing of winning symbols and line selection box. Where there are wins on multiple lines, each winning playline may be indicated in turn. This would not apply to games that use mechanical reels.

325:85-17-8. Multiple Games offered for play at one Player Terminal

The following requirements apply to Player Terminals that offer more than one (1) game to be played:

(1) The methodology employed by a player to select and discard a particular game for play on a multi-game Player Terminal shall be clearly explained to the player on the Player Terminal, and be easily followed.

(2) The Player Terminal shall be able to clearly inform the player of all games, their Rules and/or the paytables before the player must commit to playing them.

(3) The player shall at all times be made aware of which game has been selected for play and is being played, as applicable.

(4) The player shall not be forced to play a game just by selecting that game. The player shall be able to return to the main menu.

(5) It should not be possible to start a new game before the current play is completed and all relevant meters have been updated (including features, gamble and other options of the game) unless the action to start a new game terminates the current play in an orderly manner.

(6) The set of games offered to the player for selection, or the paytable, can be changed only by a secure certified method which includes turning on and off games available for play through a video screen interface. The requirements outlined in 'Configuration Setting' of these Rules shall govern the RAM Clear Control requirements for these types of selections. However, for games that keep the previous paytable's (the paytable just turned off) data in memory, a RAM clear is not required.

(7) No changes to the set of games offered to the player for selection (or to the paytable) are permitted while there are credits on the player's credit meter or while a game is in progress.

325:85-17-9. Taxation reporting limits

The game shall be capable of entering a lock-up condition if the sum of awards from a single game is equal to the 'Taxation Limit' and which requires an Attendant to clear (currently $1,200 per IRS limits).

325:85-17-10. Test/Diagnostic Mode (Demo Mode)

If in a test mode the game shall clearly indicate that it is in a test mode, not normal play, and:

(1) Any test that incorporates credits entering or leaving the Player Terminal (e.g., a hopper test) shall be completed on resumption of normal operation;

(2) There shall not be any test mode that increments any of the electronic meters (test meters are permissible provided the meter indicates as such);

(3) Any credits on the Player Terminal that were accrued during the test mode shall be cleared before the test mode is exited;

(4) The main cabinet door of the Player Terminal may automatically place the Player Terminal in a service or test-mode or may also be entered, via an appropriate instruction, from an Attendant during an audit mode access; and

(5) When exiting from test mode, the game shall return to the original State it was in when the test mode was entered.

325:85-17-11. Number of last plays required

Information on at least the last ten games is to always be retrievable on the operation of a suitable external key-switch, or another secure method that is not available to the player. Last play information shall provide all information required to fully reconstruct the last ten plays. All values shall be displayed, including the initial credits, credits bet, credits won, and credits paid. If a progressive was awarded, it is sufficient to indicate the progressive was awarded and not display the value. This information should include the final game outcome, including all player choices and bonus features. The results of Double-up or Gamble, if applicable, should also be included. The Last Game Recall shall reflect bonus rounds in their entirety. If a bonus round lasts 'x number of events,' each with separate outcomes, each of the 'x events' shall be displayed with its corresponding outcome if the outcome results in an award. The recall shall also reflect position-dependent events if the outcome results in an award. For games that may have infinite free games, there shall be a minimum of fifty games recallable.

325:85-17-12. Software verification

The device shall have the ability to allow for an independent integrity check of the device's software from an outside source. This must be accomplished by being authenticated by a third-party device, which may be embedded within the game

software or having an interface port for a third-party device to authenticate the media. This integrity check will provide a means for field testing the software to identify and validate the program. The Independent Testing Laboratory, prior to device approval, shall approve the integrity check method. If the authentication program is contained within the game software, the Manufacturer must receive written approval from the Independent Testing Laboratory prior to submission.

SUBCHAPTER 19. PROGRESSIVE USE AND OPERATION REQUIREMENTS

325:85-19-1. Progressive prize management

Systems shall be permissible that allow progressive prize management with the certification of the Independent Testing Laboratory approved by the Commission.

325:85-19-2. Progressive meter/display

(a) A progressive meter/display can be one or more on-site progressive Player Terminal(s) that are linked, directly or indirectly, to a display, which may be mechanical, electrical, or electronic device, including the video display that shows the payoff which increases in increments at a set rate of progression as credits are wagered.

(b) For games that have progressives such as 'Mystery Jackpot', the payoff does not have to be displayed to the player, although there should be an indication as to this type of feature on the game. The following requirements apply to all Progressive Meter displays:

(1) A Progressive Meter shall be visible to all players who are playing a device, which may potentially win the progressive amount if the progressive jackpot combination appears, except for 'mystery jackpots.'

(2) A player shall know that he is playing a progressive game and not have to play the max bet amount to find out. The above are parameters that are verified on-site prior to implementation.

(3) The progressive meter shall display the current total of the progressive jackpot in the monetary value or credits. Because the polling cycle does cause a delay, the jackpot meter need not precisely show the actual monies in the progressive pool at each instance;

(4) The use of odometer and other "paced" updating displays are allowed. The progressive meter shall display the winning value within 30 seconds of the jackpot being recognized by the slot accounting system. In the case of the use of paced updating displays, the system jackpot meter shall display the winning value after the jackpot broadcast is received from the slot accounting system.

(5) If the progressive meter(s) progresses to its maximum display amount, the meter shall freeze and remain at the maximum value until awarded to a player. This can be avoided by setting the jackpot limit in accordance with the digital limitations of the sign.

(6) When multiple items of information are to be displayed on a Player Terminal or progressive meter, it is sufficient to have the information displayed in an alternating fashion.

(7) When a progressive jackpot is recorded on an electronic Player Terminal which is attached to the Progressive Controller, the Progressive Controller shall allow for the following to occur on the device and/or progressive display:

(A) Display of the winning amount;

(B) Display of the electronic Player Terminal identification that caused the progressive meter to activate if more than one electronic Player Terminal is attached to the Controller;

(C) The Progressive Controller shall automatically reset to the reset amount and continue normal play; and

(D) The new progressive values that are current on the link.

(8) Any device that has a feature that doubles or triples, etc. any win shall have a sign that States the progressive award will not be doubled or tripled if won during the feature, if this is the intention.

(9) For progressives offering multiple levels of awards, the player must always be paid the higher progressive amount if a particular combination is won that should trigger the higher paying award. This may occur when a winning combination may be evaluated as more than one of the available paytable combinations. For example, a Straight Flush is a form of a Flush and a Royal Flush is a form of a Straight Flush. Therefore, there may be situations where the progressive levels shall be exchanged to ensure the player is being awarded the highest possible progressive value based on all combinations of the defined outcome.

325:85-19-3. Progressive controllers

The requirements of this Section are intended to apply equally to one progressive Player Terminal linked to an on-site Progressive Controller or is internally controlled, as well as several progressive Player Terminals linked to one Progressive Controller within the Gaming Facility. A Progressive Controller is all of the hardware and software that Controls all Communications among the devices that calculates the values of the progressives and displays the information within a progressive Player Terminal link (if applicable, progressive Player Terminal(s) may be internally Controlled) and the associated progressive meter. This equipment includes but is not limited to PC-based computers, wiring, and collection Nodes, etc. The method by which system jackpot parameter values are modified or entered is to be secure. Progressive Controllers shall:

(1) During the 'Normal Mode' of progressive Player Terminals, the Progressive Controller shall continuously monitor each device on the link for credits bet and shall multiply the same by the rate of progression and denomination in order to determine the correct amounts to apply to the progressive jackpot. This shall be at lease 99.99% accurate.

(2) The Progressive Controller or other approved progressive system Component shall keep the following information in non-volatile memory, which shall be displayed on demand. Additionally, progressive meters shall be 99.99% accurate:

(A) The number of progressive jackpots won on each progressive level if the progressive display has more than one winning amount;

(B) The cumulative amounts paid on each progressive level if the progressive display has more than one winning amount;

(C) The maximum amount of the progressive payout for each level displayed;

(D) The minimum amount of the progressive payout for each level displayed;

(E) The rate of progression for each level displayed.

(3) When a Controller error occurs, it is preferred that it alternates the displays, or equivalent, between the current amount and an appropriate error message that is visible to all players, or can alert the operator to the error condition. If the following events occur, the game that is using the progressive is to be disabled, and an error shall be displayed on the progressive meter, other approved progressive system Component or Player Terminal:

(A) During a Communication failure;

(B) When there have been multiple Communication errors;

(C) When a Controller Checksum or signature has failure;

(D) When a Controller's RAM or PSD (Program Storage Device) mismatch or failure occurs;

(E) When the jackpot configuration is lost or is not set;

(4) The Progressive Controller shall have a secure means of transferring a progressive jackpot and/or prizes to another on-site Progressive Controller or other approved on-site progressive system Component. Transferring of progressive jackpots must meet the Commission's Internal Control procedures.

(5) There shall be a secure, two-way Communication Protocol between the main game processor board and progressive. In addition, the progressive system shall be able to:

(A) Send to the electronic Player Terminal the amount that was won for metering purposes; and

(B) Constantly update the progressive display as play on the link is continued.

(6) Each Progressive Controller used with a progressive Player Terminals shall be housed on-site in a secure environment allowing only authorized accessibility. Access to the Controller must conform to the Commission's Internal Control procedures.

(7) All progressive Player Terminals or any approved progressive system Component shall display, upon request, the following information for each progressive prize offered where applicable:

(A) CURRENT VALUE: current prize amount;

(B) OVERFLOW: amount exceeding limit;

(C) HITS: number of times this progressive was won;

(D) WINS: total value of wins for this progressive or a history of the last 25 progressive hits;

(E) BASE: starting value (the initial amount of a progressive jackpot shall begin at or above an award for that particular Player Terminal that makes the entire meter payout greater than the minimum percentage requirement, if one is set);

(F) LIMIT: jackpot limit value (if the Jackpot is capped at a maximum limit, this standard does not require that the overflow amounts be added to the next starting value);

(G) INCREMENT: percentage increment rate;

(H) SECONDARY INCREMENT: percentage increment rate after limit is reached;

(I) HIDDEN INCREMENT: percentage increment rate for the reserve pool (the next base amount shall be computed or posted to advise the player of this contribution);

(J) RESET VALUE: the amount the progressive resets to after the progressive is won; and

(K) The participating Player Terminals.

325:85-19-4. Linked player terminal odds

Each device on the link shall have the same probability of winning the progressive, adjusted for the denomination played. For instance, the probability shall remain the same for multiple denomination games, based on the monetary value of the wager.

SUBCHAPTER 21. ACCOUNTING SYSTEM REQUIREMENTS

325:85-21-1. Subchapter purpose

This subchapter sets forth the requirements and specifications for on-site, on-line accounting systems and system functions that monitor, record and account for the game play and security of Player Terminals that offer Electronic Amusement Games, Electronic Instant Bingo Games, electronic Bonanza-Style Games, Compact Electronic Game Machine or Device, and Non-Compact Electronic Game as defined in the Act and these Rules.

325:85-21-2. Electronic accounting systems

One or more on-site *electronic accounting systems shall be required to perform reporting and other functions in support of the electronic game activities described in* the [A]ct and the Use and Operation Requirements contained in these Rules*. These systems may communicate with the other computers, [P]layer [T]erminals and other game [*C]*omponents described in* the Act using S*tandards set forth in the Act. The electronic accounting system shall not interfere with the outcome of any electronic game functions.* [3A:276]

325:85-21-3. On-line system

The regulations within this Section are primarily general accounting computer system requirements that apply equally to an On-Line Monitoring System (MCS) itself and related systems that have an effect on critical accounting or security information, such as a Ticket Validation System, unless the system type is specifically noted.

325:85-21-4. Interface elements

The Interface Element is any Component within a system that is external to the operations of the Player Terminal that assists in the collection and processing of data that is sent to a system. All critical Interface Elements shall:

(1) Be installed in a secure area (which may be inside a Player Terminal).

(2) The Interface Element setup/Configuration menu(s) must not be available unless using an authorized access method.

(3) If not directly communicating Player Terminal meters, the Interface Element must maintain separate electronic meters, of sufficient length, to preclude the loss of information from meter rollovers, or a means to identify multiple rollovers, as provided for in the connected Player Terminal. These electronic meters should be capable of being reviewed on demand at the Interface Element level via an authorized access method.

(4) The Interface Element must retain the required information after a power loss for a minimum of thirty (30) days. If this data is stored in volatile RAM, a Battery Backup must be installed within the Interface Element.

(5) If unable to communicate the required information to the MCS, the Interface Element must provide a means to preserve all mandatory meter and significant event information until at such time as it can be communicated to the MCS. Player Terminal operation may continue until critical data is overwritten and lost. There must be a method to check for corruption of the above data storage locations.

(6) The Interface Element must allow for the association of a unique identification number to be used in conjunction with a Player Terminal file on the MCS. This identification number will be used by the MCS to track all mandatory information of the associated Player Terminal. Additionally, the MCS should not allow for a duplicate Player Terminal file entry of this identification number.

(7) A MCS may possess a Front End Processor (FEP) that gathers and relays all data from the connected Data Collectors to the associated database(s). The Data Collectors, in turn, collect all data from connected Player Terminals. Communication between Components must be a defined Communication Protocol(s) approved by the Commission Executive Director as certified by the Independent Testing Laboratory and function as indicated by the Communication Protocol(s). A MCS must provide for the following:

(A) All critical data Communication shall be Protocol based and/or incorporate an error detection and correction scheme to ensure an accuracy of ninety-nine percent (99%) or better of messages received; and

(B) All critical data Communication that may affect revenue and is unsecured either in transmission or implementation shall employ encryption. The encryption Algorithm shall employ variable keys or similar methodology to preserve secure Communication.

325:85-21-5. System server(s)

System Server(s), networked system(s) or distributed system(s) that directs the overall operation and an associated Database(s) that stores all entered and collected system information is considered the 'Server'. In addition, the Server shall:

(1) Maintain an internal clock that reflects the current time (24-hr format - which is understood by the local date/time format) and data that shall be used to provide for the following:

(A) Time stamping of Significant Events;

(B) Reference clock for reporting; and

(C) Time stamping of Configuration changes.

(D) If multiple clocks are supported, the MCS shall have a facility whereby it is able to update those clocks in MCS Components where conflicting information could occur.

(2) Bonanza-Style Bingo Specific. The on-line monitoring and/or Game Server shall be capable of maintaining the following accounting and event data and shall be capable of producing reports on demand, as required by the Commission:

(A) Data required to be maintained for each Bonanza-Style Bingo Game includes:

(i) Date and time of the game start and game end;

(ii) Cards-in-play count by location;

(iii) Identification number of winning card(s);

(iv) Ordered list of balls or numbers drawn;

(v) Prize amounts awarded for each game, for each location/Player Terminal;

(vi) All information for special games that would be required to validate a Bingo such as color, special patterns, special cards, free strips, odd/even numbers, and the like; and

(B) Sales information for each Bingo game shall include:

(i) The name of the Racetrack Gaming Operator;

(ii) Price of card faces;

(iii) Daily sales totals;

(iv) Game-by-game sales and prizes;

(v) Packet Sales. There shall be an easy means to determine the specific cards sold for play, for each game. Daily reports based on the calendar date must provide this information;

(vi) Daily network summary, by game;

(vii) Cash due and cash received reconciliation; and

(viii) Hard/Soft Count Reconciliation which is a log of all accounting changes such as meter adjustments and sales data corrections, including the employee name/ID authorized to make the changes, the date of the change, the time of the change, and the detailed items adjusted that shall be kept on the system.

325:85-21-6. Jackpot/fill functionality

A MCS System must have an application or facility that captures and processes every handpay message from each Player Terminal and meet the following requirements:

(1) Handpay messages must be created for single wins (jackpots), progressive jackpots and accumulated credit cash outs (canceled credits), which result in handpays.

(2) For every single win event that is equal to or greater than the tax reporting threshold (established by the US Internal Revenue Service; currently $1,200), the MCS user must be advised of the need for a W2G or 10425 (required by the US Internal Revenue Service only) which is to be processed, either via the MCS or manually. This option must not be capable of being overridden. The keyed reset ability to return winnings from a taxable event to a Player Terminal should require user intervention to void the original jackpot slip that is generated.

(3) The following information is required for all slips generated with some/all fields to be completed by the MCS:

(A) Type of slip;

(B) Numeric Slip identifier (which increments per event);

(C) Date and Time (Shift if required);

(D) Player Terminal number;

(E) Denomination;

(F) Amount of Fill;

(G) Amounts of Jackpot, Accumulated Credit, and Additional Pay;

(H) W2G indication, if applicable;

(I) Additional Payout, if applicable;

(J) Total before taxes and taxes withheld, if applicable;

(K) Amount to Patron;

(L) Total coins played and game outcome of award;

(M) Soft meter readings; and

(N) Relevant signatures as required.

(4) A Fill (deposit of a predetermined, or otherwise properly authorized, token amount in a Player Terminal's Hopper) is normally initiated from a Hopper empty message while a Credit (removal of excess tokens from a Player Terminal) is normally user-initiated. An allowable exception to fill initiation would be where the system provides preventative or maintenance fill functionality, in which the transaction may be initiated by the system or an authorized user. Once captured, there must be adequate access Controls to allow for authorization, alteration, or deletion of any of the values prior to payment or execution.

325:85-21-7. Required MCS functionality

At a minimum, an MCS shall provide for the following Security and Auditability requirements:

(1) An interrogation program that enables on-line comprehensive searching of the significant event log for the present and for the previous 14 days through Archived data or restoration from Backup where maintaining such data on a live Database is deemed inappropriate. The interrogation program shall have the ability to perform a search based at least on the following:

(A) Date and Time range;

(B) Unique Interface Element/Player Terminal identification number; and

(C) Significant event number/identifier.

(2) A MCS must have a master "Player Terminal" which is a Database of every Player Terminal in operation, including at minimum the following information for each entry. If the MCS retrieves any of these parameters directly from the Player Terminal, sufficient Controls must be in place to ensure accuracy of the information.

(A) Unique Interface Element/location identification number;

(B) Player Terminal identification number as assigned by the casino;

(C) Denomination of the Player Terminal (please note that the denomination may reflect an alternative value, in the case of a multi-denomination game);

(D) Theoretical hold of the game; and

(E) Control program(s) within Player Terminal.

(3) Significant events are generated by a Player Terminal and sent via the Interface Element to the MCS utilizing an approved Communication Protocol. Each event must be stored in a Database(s), which includes the following:

(A) Date and time which the event occurred;

(B) Identity of the Player Terminal that generated the event;

(C) A unique number/code that defines the event; or

(D) A brief text that describes the event in the local language.

(4) The following are the Significant Events that must be collected from the Player Terminal and transmitted to the system for storage:

(A) Power Resets or power failure;

(B) Handpay Conditions (amount needs to be sent to the system):

(i) Player Terminal Jackpot (An award in excess of the single win limit of the Player Terminal);

(ii) Cancelled Credit Diverter; and

(iii) Progressive Jackpot (As per Jackpot above.)

(C) Door Openings (any external door that accesses a critical area on the Player Terminal). Door switches (discrete inputs to the Interface Element) are acceptable if their operation does not result in redundant or confusing messaging.

(D) Coin or Token-In errors ('a' and 'b' should each be sent as a unique message, if supported by the Communication Protocol):
(i) Coin or Token jams; and
(ii) Reverse Coins or tokens-in.
(E) Bill (Item) Acceptor Errors ('1' and '2' should each be sent as a unique message, if supported by the Communication Protocol):
(i) Stacker Full (if supported); and
(ii) Bill (Item) jam.
(F) Player Terminal Low RAM Battery Error;
(G) Reel Spin Errors (if applicable with individual reel number identified);
(H) Coin or Token-Out Errors ('1' and '2' should be sent as a unique message if supported in the Protocol):
(i) Hopper jams;
(ii) Hopper runaways or extra coins paid out; and
(iii) Hopper empties (must be sent as a unique message).
(I)Printer Errors (if printer supported):
(i) Printer Empty/Paper Low; and
(ii) Printer Disconnect/Failure.
(J) The following priority events must be conveyed to the MCS where a mechanism must exist for timely notification:
(i) Loss of Communication with Interface Element;
(ii) Loss of Communication with Player Terminal;
(iii) Memory corruption of the Interface Element, if storing critical information; and
(iv) RAM corruption of the Player Terminal.

325:85-21-8. MCS stored accounting meters

(a) Metering information is generated on a Player Terminal and collected by the Interface Element and sent to the MCS via a Communication Protocol. This information may be either read directly from the Player Terminal or relayed using a delta function. The MCS must collect and store the following meter information from each Player Terminal:
(1) Total In (credits-in);
(2) Total Out (credits-out);
(3) Total Dropped (coins-dropped or total value of all coins, bills and tickets dropped);
(4) Hand Paid (handpays);
(5) Cancelled Credits (if supported on Player Terminal);
(6) Bills In (total monetary value of all bills accepted);
(7) Individual Bill Meters (total number of each bill accepted per denomination);
(8) Games-Played;
(9) Cabinet Door (instance meter which may be based on MCS count of this event);
(10) Drop Door(s) (instance meter which may be based on MCS count of this event);
(11) Tickets In (total monetary value of all tickets accepted); and
(12) Tickets Out (total monetary value of all tickets produced).
(b) The Player Terminal Software Electronic Accounting and Occurrence Metering requirements provide more detailed descriptions of the above meters. While these electronic accounting meters should be communicated directly from the Player Terminal to the MCS, it is acceptable to use secondary MCS calculations where appropriate.

325:85-21-9. MCS required reports

(a) Reports will be generated daily, monthly, yearly period, and life to date reports generated from stored Database information. These reports at minimum will consist of the following:
(1) Net Win/Revenue Report for each Player Terminal;
(2) Drop Comparison Reports for each medium dropped (examples = coins, bills) with dollar and percent variances for each medium and aggregate for each type;
(3) Metered vs. Actual Jackpot Comparison Report with the dollar and percent variances for each and aggregate;
(4) Theoretical Hold vs. Actual Hold comparison with variances;
(5) Significant Event Log for each Player Terminal; and
(6) Other Reports, as required by the Commission Executive Director and the Office of the Oklahoma State Auditor and Inspector.
(b) There are additional revenue reporting requirements when ticket drop Player Terminals are interfaced as set forth in 'Ticket Validation System - Additional Requirements' [Rule 325-85-21-17].

325:85-21-10. Security access control

The MCS must support either a hierarchical role structure whereby user and password define program or individual menu item access or logon program/device security based strictly on user and password or PIN. In addition, the MCS shall not permit the alteration of any significant log information communicated from the Player Terminal. Additionally, there should be a provision for system administrator notification and user lockout or audit trail entry, after a set number of unsuccessful login attempts.

325:85-21-11. Data alteration

The MCS shall not permit the alteration of any accounting or significant event log information that was properly communicated from the Player Terminal without supervised access Controls. In the event financial data are changed, an audit log must be capable of being produced to document:
(1) Data element altered;
(2) Data element value prior to alteration;
(3) Data element value after alteration;
(4) Time and Date of alteration; and
(5) Personnel that performed alteration (user login).

325:85-21-12. System back-up

The System(s) shall have sufficient redundancy and modularity so that if any single Component or part of a Component fails, gaming can continue. There shall be redundant copies of each log file or system Database or both, with open support for Backups and restoration.

325:85-21-13. Recovery requirements

In the event of a catastrophic failure when the System(s) cannot be restarted in any other way, it shall be possible to reload the system from the last viable Backup point and fully recover the contents of that Backup, which must consist of at least the following information:

(1) Significant Events;
(2) Accounting information;
(3) Auditing information; and
(4) Specific site information such as device file, employee file, progressive set-up, etc.

325:85-21-14. Verification of Player Terminal software via the system

If supported, System(s) may provide this redundant functionality to check Player Terminal game software. Although the overhead involved can potentially impede Player Terminal and operation, the following information must be reviewed for validity prior to implementation:

(1) Software signature Algorithm(s); and
(2) Data Communications error check Algorithm(s).

325:85-21-15. Download requirements

If supported and permitted, a MCS may utilize writable program storage technology to update Interface Element software if all of the following requirements are met:

(1) Writable program storage functionality must be, at a minimum, password-protected, and should be at a supervisor level. The MCS can continue to locate and verify versions currently running but it cannot load code that is not currently running on the system without user intervention;
(2) A non-alterable audit log must record the time/date of a writable program storage download and some provision must be made to associate this log with which version(s) of code was downloaded, and the user who initiated the download. A separate Download Audit Log Report would be ideal; and
(3) All Modifications to the download executable or other file(s) must be submitted to the Independent Testing Laboratory for approval. The Laboratory will assign signatures to any relevant executable code and file(s) that should be verified by a Commission Gaming Agent. Additionally, all downloadable files must be available to a regulator to verify the signature.
(4) The system must have the ability to verify the program on demand for regulatory audit purposes. This rule refers to loading of new system executable code only. Other program parameters may be updated as long as the process is securely controlled and subject to audit. The parameters must be reviewed on an individual basis.

325:85-21-16. Remote, on-site access requirements

If supported, System(s) may utilize password Controlled on-site remote access, provided the following requirements are met:

(1) A 'Remote Access User Activity' log is maintained depicting logon name, time/date, duration, and activity while logged in;
(2) No unauthorized remote user administration functionality (adding users, changing permissions, etc.);
(3) No unauthorized access to Database other than information retrieval using existing functions;
(4) No unauthorized access to operating system; and
(5) If remote access is to be on a continuous basis, then a Network filter (firewall) must be installed to protect access.

325:85-21-17. Ticket Validation System - Additional requirements

A Ticket Validation System may be entirely integrated into a MCS or exist as an entirely separate entity. Payment by ticket printer as a method of credit redemption on a Player Terminal is only permissible when the Player Terminal is linked to an approved Ticket Validation System. Validation information shall be communicated from the system to the Player Terminal using a secure Communication Protocol. This section concerns bi-directional Ticket Validation System specific requirements where a Ticket Validation System that is independent of an MCS would also require the Security and Integrity Standards previously outlined within this chapter, would also apply.

325:85-21-18. Ticket information

A ticket shall contain the following printed information at a minimum:

(1) Casino Name/Site Identifier;
(2) Machine Number (or Cashier/Change Booth location number or equivalent context, if ticket creation, outside the Player Terminal, is supported);
(3) Date and Time (24-hour format which is understood by the local date/time format);
(4) Alpha and numeric dollar amount of the ticket;
(5) Ticket sequence number;
(6) Validation number;
(7) Bar code or any machine readable code representing the Validation number;
(8) Type of transaction or other method or differentiating ticket types (assuming multiple ticket types are available); and
(9) Indication of an expiration period from date of issue, or date and time the ticket will expire (24-hour format which is understood by the local date/time format).

325:85-21-19. Ticket types

If Player Terminal ticket generation is to be supported while not connected to the validation system, a ticket system must generate two different types of tickets at minimum. On-line and off-line types are denoted respectively by ticket generation either when the validation system and Player Terminal are properly communicating or the validation system and Player Terminal are not communicating properly. When a patron cashes out of a Player Terminal that has lost Communication with the validation system, the Player Terminal must lock up and, after reset, may print an off-line ticket or handpay receipt. The ticket or handpay receipt must be visually distinct from an on-line ticket either in format or content while still maintaining all information required.

325:85-21-20. Ticket issuance

A ticket can be generated at a Player Terminal through an internal document printer, at a player's request, by redeeming all credits. Tickets that reflect partial credits may be issued automatically from a Player Terminal. Additionally, cashier/change booth issuance is allowed if supported by the validation system.

325:85-21-21. Ticket redemption

Tickets may be inserted in any Player Terminal participating in the validation system providing that no credits are issued to the Player Terminal prior to confirmation of ticket validity. The customer may also redeem a ticket at a validation Terminal (i.e., cashier/change booth, Redemption Terminal or other approved methods). All validation Terminals shall be user and password-Controlled. Where the Validation is to take place at a Cashier/Change Booth, the cashier shall:

(1) Scan the bar code via an optical reader or equivalent; or

(2) Input the ticket validation number manually; and

(3) May print a validation receipt, after the ticket is electronically validated, if applicable. The validation receipt, at a minimum, shall contain the following printed information:

(A) Machine number;

(B) Validation number;

(C) Date and Time paid;

(D) Amount; and

(E) Cashier/Change Booth identifier.

325:85-21-22. Invalid ticket notification

The Ticket Validation System must have the ability to identify invalid tickets and notify the Player Terminal to 'Reject' the ticket or advise the cashier that one of the following conditions exists:

(1) Ticket cannot be found on file (stale date, forgery, etc.);

(2) Ticket has already been paid; or

(3) Amount of ticket differs from amount on file (requirement can be met by display of ticket amount for confirmation by cashier during the redemption process).

325:85-21-23. Offline ticket redemption

If the on-line data system temporarily goes down and validation information cannot be sent to the validation system, an alternate method of payment must be provided either by the validation system possessing unique features (e.g., validity checking of ticket information in conjunction with a local Database storage) to identify duplicate tickets and prevent fraud by reprinting and redeeming a ticket that was previously issued by the Player Terminal; or by use of an approved alternative method as designated by the regulatory Jurisdiction that will accomplish the same.

325:85-21-24. Required reports

The following reports shall be generated at a minimum and reconciled with all validated/redeemed tickets:

(1) Ticket Issuance Report;

(2) Ticket Redemption Report;

(3) Ticket Liability Report;

(4) Ticket Drop Variance Report;

(5) Transaction Detail Report must be available from the validation system that shows all tickets generated by a Player Terminal and all tickets redeemed by the validation Terminal or other Player Terminal; and

(6) Cashier Report, which is to detail individual tickets, the sum of the tickets paid by Cashier/Change Booth or Redemption Terminal.

325:85-21-25. Security of ticket information

Once the validation information is stored in the Database, the data may not be altered in any way. The validation system Database must be encrypted or password-protected and should possess a non-alterable user audit trail to prevent unauthorized access. Further, the normal operation of any device that holds ticket information shall not have any options or methods that may compromise ticket information. Any device that holds ticket information in its memory shall not allow removing of the information unless it has first transferred that information to the Database or other secured Component(s) of the validation system.

SUBCHAPTER 23. REDEMPTION TERMINAL (KIOSK) STANDARDS AND USE REQUIREMENTS

325:85-23-1. General standards

Redemption Kiosks shall meet the Player Terminal Standards and use requirements in these Rules, including the memory and Communication requirements. In addition, Kiosks are required to have an interface to the Validation System. Regardless of the method of interfacing with the system, the Redemption Kiosk must use a Communication Protocol and must not write directly to the system Database. The Redemption Kiosk must only process the payment based on commands from the system.

325:85-23-2. Error conditions

(a) The Redemption Kiosk must be capable of detecting and displaying the following Error Conditions. The Error Condition must illuminate the tower light or sound an audible alarm. This requirement may be substituted for a notification system that alerts casino staff of error conditions. The Redemption Kiosk shall be able to recover to the State it was in immediately prior to the interruption occurring, including during payment. Error Conditions not requiring Attendant intervention are 1, 2, 8, 9, 10, and 11.

(b) Error Conditions requiring attendant intervention are 3, 4, 5, 6, 7, and 12.

(1) Power loss or power reset;

(2) System and kiosk not communicating, which non-communication may be detected upon ticket insertion only;

(3) Coin or currency out error;

(4) Coin Hopper or Cash Dispenser empty or timed out. This condition does not require immediate intervention if alternate method of payment is available.

(5) RAM error (critical memory);

(6) Low RAM battery (if battery external to the RAM itself used);

(7) Ticket voucher-in jam;

(8) Door open (all external doors);

(9) Bill Acceptor stacker full;

(10) Bill Acceptor door open;

(11) Bill Stacker door open or Bill Stacker removed; and

(12) Printer errors (If internal printer is supported).

(c) If the Redemption Kiosk uses error codes instead of a text explanation of the Error Conditions, a description of error codes and their meanings must be affixed on the inside of the Redemption Kiosk. If any of the above Error Conditions occur during the acceptance and/or escrowing of a ticket voucher, the ticket voucher must be returned to the patron without a status change on the Validation System or, once the Error Condition is cleared, proceed to pay the patron and have a status of 'Redeemed' on the system.

325:85-23-3. Maximum redeemable value

The maximum ticket value that can be paid by a kiosk is: $1,199.99.

325:85-23-4. Metering

Metering information is maintained in critical memory at the Redemption Kiosk. The Redemption Kiosk must maintain the following Meters, which can be by denomination:

(1) A "Total In" Meter that accumulates the total value of all bills and ticket vouchers accepted by the device. Separate In meters shall report the value of all tickets redeemed and the value of all bills redeemed; and

(2) A "Total Out" Meter(s) for payments issued by the machine. Separate 'Out Meters' shall report the value of all coins dispensed and the value of all bills dispensed.

325:85-23-5. Clearing Meters

The Redemption Kiosk must not have a mechanism whereby an unauthorized user can cause the loss of stored accounting Meter information.

325:85-23-6. Required logs

Logs must be maintained in critical memory. For a Redemption Kiosk that uses a paper log, the log must be housed within the Redemption Kiosk and must contain the following:

(1) A Voucher In Event Log which must properly log the following information about the voucher redeemed:

(A) Date/Time of redemption;

(B) Amount of voucher; and

(C) At least last 4-digits of validation number.

(2) The Redemption Kiosk must maintain at least 35 events in the "Voucher In" event log.

(3) If the device utilizes a printer to record the information required within this section, the printer must be capable of monitoring any Printer Fault.

325:85-23-7. Ticket acceptance

Tickets may only be accepted when the Kiosk is communicating with the system. Tickets inserted into a Kiosk must be rejected when the system link is down and Payment shall only be made when the ticket is 'Stacked' within the Bill Stacker.

SUBCHAPTER 25. TRANSPORTATION, RECEIPT, INSTALLATION AND DISPOSAL OF GAMING MACHINES OR DEVICES

325:85-25-1. Restriction on sales, display, distribution, transportation and operation of Gaming Machines or Devices

(a) Except as otherwise provided in this Rule, no Person may sell, display, supply, ship, transport, or distribute any Gaming Machine or Device or associated equipment for use or play by a Racetrack Gaming Operator in Oklahoma. Further, no Gaming Machine or Device of a Racetrack Gaming Operator may be sold, shipped, transported or distributed out-of-State other than by the Racetrack Gaming Operator itself, unless the Person shipping, transporting or distributing the Gaming Machine or Device is licensed by the Commission as a Distributor, Manufacturer, or Distributor/Manufacturer.

(b) No Licensee may sell or transfer a Gaming Machine or Device to any Person that could not lawfully own or operate the Gaming Machine or Device.

(c) No purchaser or transferee may operate a Gaming Machine or Device at a Gaming Facility as defined in these Rules without first obtaining a Racetrack Gaming Operator in the manner set forth in this Title.

325:85-25-2. Transportation of Gaming Devices into the state

(a) A Gaming Machine or Device is shipped or transported into the State when the starting point for shipping or transporting begins outside the State and terminates in the State.

(b) A licensed Manufacturer shipping or transporting a Gaming Machine or Device into the State for use at Gaming Facility as defined in these Rules must provide the following information to the Commission, prior to shipment, on forms provided or approved by the Commission:

(1) the full name, address, and license number of the Person making the shipment;

(2) the method of shipment and the name of the carrier, if any;

(3) the full name, address, and license number of the Person to whom the gaming machines or devices are being sent and the destination of the shipment, if different from the address;

(4) the number of gaming machines or devices in the shipment;

(5) the serial number of each Gaming Machine or Device;

(6) the model number and description of each Gaming Machine or Device;

(7) the expected arrival date of the gaming machines or devices at their destination within the State; and

(8) such other information as required by the Commission.

325:85-25-3. Receipt of Gaming Machines or Devices in the state

(a) Any Person in the State that receives a Gaming Machine or Device to be used in a Gaming Facility as defined in these Rules must, upon receipt of the Gaming Machine or Device, provide the Commission with the following information on forms provided or approved by the Commission:

(1) the full name, address, and license number of the Person receiving the Gaming Machine or Device;

(2) the full name, address, and license number of the Person from whom the Gaming Machine or Device was received;

(3) the date of receipt of the Gaming Machine or Device;

(4) the serial number of each Gaming Machine or Device;

(5) the model number and description of each Gaming Machine or Device;

(6) the Manufacturer of the Gaming Machine or Device;

(7) the location where the Gaming Machine or Device will be placed and the license number of the licensed premises;

(8) the expected date and time of installation of the Gaming Machine or Device at the new location; and

(9) such other information as required by the Commission.

(b) If such Gaming Machine or Device will not be placed in operation within five days of its receipt, the Person who received the Gaming Machine or Device must notify the Commission of the address where the Gaming Machine or Device is warehoused. The warehouse location must be approved in advance by the Commission. At the time such Gaming Machine or Device is removed from inventory and transported to another location within the State, the Racetrack Gaming Operator must comply with the requirements of this Rule.

325:85-25-4. Transportation of Gaming Machines or Devices between Commission-licensed Gaming Facilities in the state

(a) Manufacturer Licensees, Distributor Licensees, and, subject to the limitations set forth in this Rule, Racetrack Gaming Operators are authorized to transport gaming machines or devices within the State.

(b) Except as otherwise provided in this Rule, any authorized Person transporting a Gaming Machine or Device from one location to another in the State for use by a Gaming Facility licensed by the Commission must notify the Commission before transporting the Gaming Machine or Device and provide the following information on forms provided or approved by the Commission:

(1) the full name, address, and license number of the Person transporting the Gaming Machine or Device from its current location;

(2) the reason for transporting the Gaming Machine or Device;

(3) the full name, address, and license number of the Person to whom the Gaming Machine or Device is being sent and the destination of the Gaming Machine or Device if different from that address;

(4) the name and address of the carrier and the method of transport;

(5) the model and serial number of the Gaming Machine or Device;

(6) the Gaming Machine or Device License number, if any;

(7) the Manufacturer of the Gaming Machine or Device;

(8) the expected date and time of delivery and/or installation of the gaming machine or machine at the new location;

(9) such other information as the Commission may require.

(c) This section does not apply to the movement of gaming machines or devices within the same Gaming Facility. Such relocation is subject to Commission approval pursuant to these Rules.

(d) A Racetrack Gaming Operator Licensee may sell or transfer a Gaming Machine or Device only to another Racetrack Gaming Operator or to a licensed Distributor, Manufacturer, or licensed Distributor/Manufacturer, or a federally recognized Indian Tribe that is operating under the Model Compact contained in the State-Tribal Gaming Act. The Racetrack Gaming Operator must notify the Commission

in advance by providing the information required by this Section.

325:85-25-5. Approval to distribute Gaming Machines or Devices outside of the state

(a) Manufacturers and Distributors located in the State may not sell, ship, transport, or distribute out of the State a Gaming Machine or Device that has been used or located in a racetrack Gaming Facility without the prior approval of the Commission. Applications for approval to sell, ship, transport, or distribute gaming machines or devices out of the State must be made, processed, and determined in such manner and using such forms as the Commission may provide or approve. Each application must include:

(1) the full name, State of residence, and address of the purchaser;

(2) the full name, State of residence, and address of the Person to whom shipment is being made, if different than the purchaser;

(3) the destination;

(4) the number of gaming machines or devices to be shipped;

(5) the serial number of each Gaming Machine or Device;

(6) the model number of each Gaming Machine or Device and year manufactured;

(7) the denomination of each Gaming Machine or Device, if applicable;

(8) the expected date and time of shipment;

(9) the method of shipment and name and address of the carrier; and

(10) a Statement by the purchaser under penalty of perjury that the gaming machines or devices will be used only for lawful purposes.

(b) Manufacturers and Distributors may not ship gaming machines or devices to any destination where possession of gaming machines or devices is illegal.

(c) If the Commission does not deny the application for approval to distribute gaming machines or devices outside of the State within 10 business days of receipt of a complete application, the application will be deemed approved.

325:85-25-6. On-site testing, installation and placement of Gaming Machines or Devices - including each Player Terminal and each Game

(a) All gaming machines or devices - including each Player Terminal and each game - at a Gaming Facility must be physically located as follows:

(1) in an area that is at all times monitored by the Racetrack Gaming Operator, Manager, or a Gaming Employee to prevent access or play of the gaming machines or devices by Persons under the age of 18;

(2) in an area that ensures that public access to the gaming machines or devices is restricted to Persons legally entitled to play the gaming machines at the licensed premises; and

(3) in the sight and Control of the Racetrack Gaming Operator, Manager, or a Gaming Employee.

(b) The initial installation and placement of each Player Terminal and each game within a Gaming Facility must take place in the presence of a Commission Gaming Agent who will at the time of installation test each Player Terminal and each game to ensure that each Player Terminal and each game is identical to a prototype that has been certified by an Independent Testing Laboratory. If the on-site test indicates that a Player Terminal or game does not conform to the certified prototype, the Racetrack Gaming Operator shall remove the game or Player Terminal from the floor and it may not be placed into operation until such time, if any, as a Commission Gaming Agent finds that it is identical to a prototype certification issued by an Independent Testing Laboratory.

(c) If the on-site test by the Commission Gaming Agent demonstrates that the game or Player Terminal is identical to a prototype certification issued by an Independent Testing Laboratory, the Commission Gaming Agent shall seal the Program Storage Device with a Commission numbered seal.

(d) The Commission Gaming Agent shall also perform a test to ensure that the game and Player Terminal are operating properly, then will conduct a test to determine that they are properly communicating with the Racetrack Gaming Operator's slot accounting system. Only machines and games that are found to be identical to prototypes certified by an Independent Testing Laboratory and that pass both the operation and communication tests conducted by the Commission Gaming Agent may be installed and placed into operation.

(e) Once the Program Storage Device has been sealed by a Commission Gaming Agent, the seal may only be broken or removed in the presence of a Commission Gaming Agent. The seal may be broken or removed for the purposes of repair or Commission-authorized change to the Program Storage Device in the presence of a Commission Gaming Agent, who, after the change or repair, will verify the new software, if applicable, retest the machine and game and reseal it if the tests show the machine and game are in compliance. If, after retesting, they are found not to be in compliance, the machine or game cannot be placed into operation until such time that the Commission Gaming Agent determines that the machine or game complies with the applicable requirements.

(f) Any relocation of a Player Terminal or game within the licensed premises requires prior written approval by the Commission Gaming Agent.

(g) Licensed Manufacturers and Distributors may store and display, and Persons certified pursuant to This Title may repair, gaming machines or devices only at locations approved in advance by the Commission.

325:85-25-7. Disposal of Gaming Machines or Devices

(a) A Gaming Machine or Device used or located at a Gaming Facility may be disposed of only with the Commission's approval and only if the manner of disposition makes the machine or device incapable of use or operation. Any Person seeking to dispose of such Gaming Machine or Device must notify the Commission in writing prior to disposal and provide the following information:

(1) the full name, address, and license number of the Person seeking to dispose of the Gaming Machine or Device;
(2) the serial number of the Gaming Machine or Device;
(3) the model number and description of the Gaming Machine or Device;
(4) the Manufacturer of the Gaming Machine or Device;
(5) the Gaming Machine or Device License number;
(6) the gaming machine's or device's hard meter readings;
(7) the location of the Gaming Machine or Device;
(8) the proposed manner, time, and place of disposal; and
(9) any other information required by the Commission.

(b) Unless the Commission notifies the Person seeking to dispose of the Gaming Machine or Device within 30 days of receipt of the notice required by this Section, the method of disposal will be deemed approved.

(c) If the disposing of a Gaming Machine or Device is not conducted in the presence of a Commission Gaming Agent, the Person seeking to dispose of a Gaming Machine or Device must submit to the Commission, within 10 days of disposal, a sworn affidavit verifying the date, time, place, and manner of disposal and the names of all Persons witnessing the disposal.

SUBCHAPTER 27. REQUIREMENTS FOR AUDITS PERFORMED BY GAMING AGENTS

325:85-27-1. Daily and spot audits

(a) The Commission, through its Gaming Agents or otherwise, is authorized to conduct a daily audit of gaming proceeds, drop count (which can include examination of full reports and records of specific machines as well as reports from the Racetrack Gaming Operator's Central Computer) and may also audit internal Controls, surveillance procedures, audit procedures, compulsive gambling programs, and any other activities at the Gaming Facility. The Commission may further conduct full annual audits of gaming operations. Further, the Commission, through its Gaming Agents or otherwise, will conduct spot audits of games, machines, devices and the Central Computer system.

(b) Such audits shall be in addition to audits performed by the Commission and audits performed by the Office of the State Auditor and Inspector.

[OAR Docket #06-749; filed 4-25-06]

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

[OAR Docket #06-750]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
325:90-1-1. through 325-90-7-1. [NEW]
AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission
DATES:
Adoption:
March 17, 2005
Approved by Governor:
April 6, 2005
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2006, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
Not Applicable
INCORPORATIONS BY REFERENCE:
Not Applicable
FINDING OF EMERGENCY:
Under the authority of 75 O.S. 2001, § 253, the Oklahoma Horse Racing Commission finds that compelling public interests require the adoption of emergency rules for the following reasons:

Whereas, the people of the State of Oklahoma at the General Election held November 2, 2004 approved the State-Tribal Gaming Act proposed in State Question No. 712;

Whereas, the State-Tribal Gaming Act empowered the Oklahoma Horse Racing Commission to regulate, implement and enforce authorized gaming conducted at Commission-licensed racetracks;

Whereas, the Act authorized racetracks, when licensed by the Commission, to use various electronic gaming machines;

Whereas, authorized gaming at Commission-licensed racetracks is new to the State of Oklahoma;

Whereas, the Commission, in order to regulate such activity, had to educate itself regarding gaming industry procedures, practices and technical considerations;

Whereas, the Commission, in educating itself, sought advice and assistance from the racetracks, horsemen's associations, gaming machine manufacturers, and technical experts in the field;

Whereas, the experts, in suggesting draft technical requirements, have edited and redrafted those suggestions;

Whereas, needed information from the industry was not available in sufficient time to adopt permanent rules;

Whereas, it is in the best interest of the horse racing industry that authorized gaming, which results in enhanced purses, begins as soon as practical without waiting another year for the adoption of permanent rules; and

Whereas, it is in the best interest of the State as a whole that State revenues from authorized gaming at the racetracks, which is used to supplement education, begin to accrue as soon as practical without waiting another year for the adoption of permanent rules, **the Commission finds that a compelling public interest requires the adoption of emergency rules implementing the authorized gaming permitted under the State-Tribal Gaming Act.**

ANALYSIS:
With the passage of State Question 712, the State-Tribal Gaming Act, in the General Election held November 2, 2004, the Oklahoma Horse Racing Commission is mandated by the Act to promulgate rules for the regulation, implementation and enforcement of authorized gaming conducted at Commission-licensed racetracks.
CONTACT PERSON:
Bonnie Morris, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE

UPON ARROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

325:90-1-1. Purpose

The Rules in this chapter provide requirements and procedures for unresolved patron disputes and for Compulsive Gambling Assistance Plans which include minimum Standards, employee training and annual reporting regarding Compulsive Gambling Activities.

325:90-1-2. Definitions

Unless otherwise defined below, terms used in this Rule have the same meanings as set forth in the State-Tribal Gaming Act:

"Act" means the State-Tribal Gaming Act enacted by the people with passage of State Question 712.

"Authorized Games" means Electronic Amusement Games as defined in the State-Tribal Gaming Act, Electronic Bonanza-Style Bingo Games as defined in the State-Tribal Gaming Act, Electronic Instant Bingo Games as defined in the State-Tribal Gaming Act, Compact Electronic Gaming machines or devices as defined in these Rules, and Non-Compact Electronic Games as defined by these Rules.

"Commission" means the Oklahoma Horse Racing Commission.

"Enclosure" means all areas of the property of an Organization Licensee to which admission can be obtained only by payment of an admission fee or upon presentation of proper credentials and all parking areas designed to serve the facility which are owned or leased by the Organization Licensee.

"Gaming Agent" means a Commission Gaming Agent trained in machine gaming, responsible for on-site enforcement of the State-Tribal Gaming Act and Commission Rules and other regulatory responsibilities as assigned by the Commission Executive Director.

"Gaming Employee" means any employee of a Racetrack Gaming Operator Licensee who works in any capacity within the confines of the Gaming Facility.

"Gaming Employee License" means a license issued to a Gaming Employee by the Commission.

"Gaming Employee Licensee" means any Gaming Employee who is issued a license by the Commission.

"Gaming Facility" means that area within an Organization Licensee's Racetrack Premises which has been set aside for the use of Authorized Games and related activities which is cordoned off, by means of a physical barrier which is approved by the Commission's Director of Law Enforcement, and access to which is limited to patrons 18 years of age or older, designated by the Commission in the Racetrack Gaming Operator's License as the area in which authorized gaming will be conducted.

"Minor" means any individual under eighteen (18) years of age.

"Organization License" means a license issued by the Commission which authorizes the Licensee to conduct a race meeting in Oklahoma and accept pari-mutuel wagers on the outcome of live and simulcast horse racing.

"Organization Licensee" means any Person receiving an Organization License issued by the Commission.

"Person" means any individual, partnership, corporation, or other association or entity.

"Racetrack Gaming Operator License" means a license issued by the Commission which authorizes an Organization Licensee to conduct Authorized Games as defined by the State-Tribal Gaming Act under the regulation, implementation and enforcement of the Commission.

"Racetrack Gaming Operator Licensee" means any Organization Licensee which has been issued a Racetrack Gaming Operator License by the Commission.

"Racetrack Premises" means all areas of the property which are owned or leased by the Organization Licensee on which the racetrack is located.

"Rules" means the Oklahoma Horse Racing Commission's Rules for Racetrack Gaming.

"State" means the State of Oklahoma.

"This Title" means Title 325 of the Oklahoma Administrative Code.

SUBCHAPTER 3. SECURITY AND SURVEILLANCE MINIMUM REQUIREMENTS

325:90-3-1. Surveillance Systems

(a) Each Racetrack Gaming Operator must install, maintain and continuously operate an on-site Surveillance System at its license Gaming Facility. The purpose of the Surveillance System is to assist the Racetrack Gaming Operator and the State in safeguarding the Licensee's assets, in deterring, detecting and prosecuting criminal acts, and in maintaining public confidence and trust that licensed gaming activity is conducted honestly and free of criminal elements and activity.

(b) The Surveillance System plan must include descriptions of all equipment used by the Surveillance System, a blueprint or diagram that shows all of the areas to be monitored and the placement of surveillance equipment in relation to the activities being observed, a description of the procedures used in the operation of the Surveillance System, and any other information required by the Commission. To ensure the integrity of the Surveillance System, access to the Surveillance System Plan, and any related information, shall be limited to authorized employees or agents of the Operator and the Commission.

(c) The Surveillance System, through the use of fixed and moveable cameras, must possess the ability to monitor and record the Gaming Facility floor and all Player Terminals from multiple angles to ensure the Operator's ability to monitor and record all activities at each Player Terminal. The Surveillance System must provide sufficient clarity to permit identification of players, employees, patrons and spectators. Each camera shall be installed in a manner that prevents it from being readily obstructed, tampered with, or disabled by customers or employees.

(d) Employees of the Licensee, when assigned to monitoring duties in the surveillance room, shall have no other gaming related duties while performing such duties.
(e) The interior of the surveillance room shall not be visible or accessible to the public.
(f) Agents of the Commission's Law Enforcement Division, upon presentation of proper Commission credentials, shall be provided immediate access to the surveillance room and other surveillance areas. In addition, these Agents are to be provided, upon request, copies of recorded videotapes of activities as well as copies of any images produced on a video printer. Agents of the Commission's Law Enforcement Division shall have absolute, unfettered access to the surveillance room at all times.
(g) Except in the event of circumstances beyond the reasonable Control of the Licensee or unless authorized by the Commission, the surveillance room shall be maintained at all times by a sufficient number of approved surveillance operators as reflected in the Security Plan approved by the Commission. The Executive Director of the Commission, after consultation with the Commission's Director of Law Enforcement, may require additional surveillance Personnel should the Commission's Executive Director determine that an inadequacy of surveillance monitoring exists.
(h) Before implementing any material changes to a Surveillance System that affects the approved Security Plan, the Racetrack Gaming Operator Licensee must submit the proposed changes to the Commission's Director of Law Enforcement for approval.
(i) A Racetrack Gaming Operator Licensee must notify a Commission Gaming Agent immediately of any failure of the Surveillance System to continuously monitor the Gaming Facility or to otherwise operate properly. The Commission may require temporary suspension of gaming activities until the Surveillance System is restored.

325:90-3-2. Security and surveillance logs

(a) The Racetrack Gaming Operator shall maintain a surveillance log(s) approved by the Commission's Director of Law Enforcement. The log(s) shall be maintained by surveillance room Personnel in the surveillance room. The Commission's Law Enforcement Division staff and other Commission staff authorized by the Director of Law Enforcement shall have access at all times to the log(s). A log(s) entry shall be made in the surveillance log(s) of each surveillance activity. The following information shall be recorded in the Surveillance Log(s):
(1) the names of all Persons entering or exiting the surveillance room;
(2) a summary, including the date and time each surveillance activity commenced and terminated;
(3) record of any equipment or camera malfunctions;
(4) description of the activity observed or performed; and
(5) any additional information as required by the Commission's Director of Law Enforcement or Commission Gaming Agent.

(b) The Racetrack Gaming Operator shall maintain a security log of any and all unusual occurrences for which the assignment of a security department employee is made. Each incident, without regard to materiality, shall be assigned a sequential number and an entry made in the log(s) containing, at a minimum, the following information:
(1) the assignment number;
(2) the date of the incident;
(3) the time of the incident;
(4) the location of the incident;
(5) the nature of the incident;
(6) the Person(s) involved in the incident; and
(7) the security department employee(s) assigned.

325:90-3-3. Storage and retrieval of surveillance recordings

(a) All surveillance recordings shall be retained for at least seven days, unless these Rules provide otherwise, and shall be listed on a log by surveillance Personnel with the date, times, and identification of the Person monitoring or changing the tape or other recording medium in the recorder. Original surveillance recordings will be released to the Commission's Law Enforcement Division upon demand.
(b) Any surveillance recording of illegal or suspected illegal activity shall, upon completion of the tape or other recording medium, be removed from the recorder and etched or otherwise labeled in a manner as approved by the Commission's Director of Law Enforcement with date, time and identity of surveillance Personnel. The recordings shall be placed in a separate, secure area and notification given to the Commission's Law Enforcement Division.
(c) All surveillance recordings relating to the following shall be retained in a secure area approved by the Commission Director of Law Enforcement for at least 15 days and shall be listed on a log maintained by surveillance Personnel:
(1) all count room areas;
(2) the vault area;
(3) all credit and fill slip confirmation recordings; and
(4) any areas with cashiers or where the patrons go to cash out vouchers.

325:90-3-4. Maintenance and testing

The Racetrack Gaming Operator shall be responsible to ensure that any malfunction of surveillance equipment shall be immediately repaired or replaced with a working unit. If immediate replacement is not possible, alternative live monitoring must be provided by the Racetrack Gaming Operator's security personnel; otherwise, gaming in the unmonitored area(s) of the Gaming Facility must be immediately ceased.

325:90-3-5. Surveillance System compliance

The Racetrack Gaming Operator shall have a continuing duty to review its Surveillance System plan to ensure the Surveillance System plan remains in compliance with provisions of the Act and Commission Rules.

SUBCHAPTER 5. UNRESOLVED PATRON DISPUTES

325:90-5-1. Unresolved Patron Disputes

(a) This Subchapter deals with disputes between the Operator and a patron involving a game outcome, prize, fee paid or other aspect of a player's participation in an electronic game. In the event a dispute arises with a patron and the dispute is not resolved to the patron's satisfaction within two hours, the Racetrack Gaming Operator Licensee must notify the patron that the patron has a right to contact a Commission Gaming Agent regarding the dispute.

(b) A Racetrack Gaming Operator must immediately notify the Commission Gaming Agent if the Licensee refuses to pay alleged winnings to a patron and the Licensee and the patron are unable to resolve the dispute to the patron's satisfaction within two hours. This notice, which must be in writing, shall include the following information:

(1) The name, address and phone number of the patron.

(2) The nature of the dispute.

(3) The amount of money involved in the dispute.

(4) The number of machines involved and the name of the game involved.

(c) Upon receipt of such notice, the Commission Gaming Agent may assist the parties in trying to resolve the dispute. Patron disputes not resolved to the patron's satisfaction within 48 hours of the occurrence of the dispute shall be decided by the Commission in the following manner. The initial determination of unresolved disputes involving $500.00 or less will be made by the Commission Gaming Agent. The Commission Gaming Agent will conduct whatever review he/she deems necessary and will determine whether payment should be made to the patron. The determination shall be based on a review of all available surveillance tapes, gaming machine records, and required written Statements from both the Racetrack Gaming Operator and the patron. The Racetrack Gaming Operator shall make all audio/visual tapes and records available to the Commission Gaming Agent with failure to do so resulting in an automatic decision in favor of the patron.

(d) The Commission Gaming Agent's determination shall be made in writing and State the factual and legal basis for the decision unless both the Racetrack Gaming Operator and the patron waive this requirement and agree to an expedited verbal decision by the Commission Gaming Agent. Expedited, verbal decisions shall be final and unappealable, and the patron shall be advised of this fact before waiving his/her right to a written determination. Written decisions are appealable to the Commission Executive Director, and the Executive Director's decision is appealable to the District Court under the provisions of the Oklahoma Administrative Procedures Act.

(e) Unresolved disputes involving more than $500.00 will be initially decided by the Commission Executive Director. The Executive Director's decision in all instances shall be in writing and shall be based on a review of all available surveillance tapes, gaming machine records, required written Statements from both the Racetrack Gaming Operator and the patron. The Executive Director's decision may be appealed to the Commission and thereafter to the District Court under the provisions of the Oklahoma Administrative Procedures Act.

325:90-5-2. Compulsive Gambling Assistance Plan

(a) An Applicant for a Racetrack Gaming Operator License must submit with the application a plan to address compulsive gambling in accordance with the requirements of these regulations for assisting in the prevention and education of compulsive gambling.

(b) No Racetrack Gaming Operator License application will be approved unless the Commission first approves the Applicant's Compulsive Gambling Assistance Plan.

(c) Failure to implement the Compulsive Gambling Assistance Plan or to satisfactorily maintain and administer a plan once implemented will be grounds for suspension or revocation of the Racetrack Gaming Operator License, assessment of a fine, or both.

(d) A plan must meet or exceed the minimum Standards set forth in these Rules. The development of such a Plan by the Applicant and the approval of a plan by the Commission are conditions of issuance of the original Racetrack Gaming Operator. The maintenance of a plan, as approved by the Commission, is a condition of annual renewal of the license.

325:90-5-3. Minimum standards for Compulsive Gambling Assistance Plan

The Compulsive Gambling Assistance Plan must include all of the following elements unless the Applicant or Racetrack Gaming Operator Licensee obtains a written waiver of any element from the Commission:

(1) Identification of a plan manager or other Person responsible for ensuring that a plan is implemented and administered by the Racetrack Gaming Operator Licensee and monitored to maintain the minimum Standards established by this Rule;

(2) A mission Statement that identifies the goals of the Racetrack Gaming Operator Licensee in administering a plan;

(3) Policies concerning the handling of compulsive gambling problems, commitment to training, intervention, the employee's role and duties, Management's role and duties, and the patron's responsibilities;

(4) Procedures to determine appropriate intervention techniques in a given circumstance, and carrying out the intervention techniques;

(5) Printed materials to educate patrons about compulsive gambling and inform them of local and Statewide resources available to compulsive gamblers and their families. The materials may include signs and posters located inside the licensed premises and brochures discussing compulsive gambling issues and sources of treatment and information. A plan must also specify a source of the printed materials and proposed distribution methods;

(6) Policy and procedures that prohibit facilitating, participating in, or allowing the issuance of any loans or extension of credit to a patron for gaming purposes;

(7) A comprehensive Gaming Employee and on-site Key Executive training program satisfactory to the Commission, including training manuals and other materials necessary to educate employees about compulsive gambling issues; the training plan must include instruction in the psychology of the compulsive gambling, methods of recognizing compulsive gambling behavior, intervention techniques and other subjects as determined by the Commission;
(8) Completion and submission of a form certifying to the Commission's satisfaction that each employee required to obtain the training has done so within the time period specified by these Rules;
(9) Details of a follow-up training program to periodically reinforce employee training;
(10) Estimated costs for implementation and administration;
(11) Timetable and procedures for implementing the Compulsive Gambling Assistance Plan. A plan must be implemented no later than thirty (30) days from the date gaming commences on the licensed premises;
(12) Preventing gaming by Minors; and
(13) Any other policies and procedures designed to encourage responsible gaming that the Applicant or Racetrack Gaming Operator Licensee wishes to include.

325:90-5-4. Employee training regarding Compulsive Gambling Assistance Plan

(a) The Compulsive Gambling Assistance Plan must be designed with employee training and education as fundamental aspects of a plan. The purpose of the training is to develop awareness of compulsive gambling and to provide resources to assist the employee in handling compulsive gambling issues.
(b) The employee training program must include training and materials on the following topics:
(1) characteristics and symptoms of compulsive gambling behavior;
(2) prevalence of compulsive gambling in the general population;
(3) relation of compulsive gambling to other addictions;
(4) social costs of compulsive costs, such as indebtedness, costs for treatment, suicide, criminal behavior, lost jobs, and counseling for family problems;
(5) identification of vulnerable populations, including women, low-income patrons, the elderly and Persons who abuse drugs and alcohol;
(6) intervention techniques to be employed where a compulsive gambling problem is identified or suspected; and
(7) assistance and referral programs, including specific resources and training on how to discuss compulsive gambling with a patron and give advice concerning access to available services.
(c) Training must be conducted within thirty (30) days of the employee's hire date. Certification of such training must be submitted on a form approved by the Commission. Failure to submit the required certification may result in administrative action against the Racetrack Gambling Operator Licensee.

325:90-5-5. Annual report regarding compulsive gambling activities

Each Racetrack Gaming Operator Licensee must submit to the Commission, initially six months following the commencement of gaming activities and thereafter by March 31 annually, a report detailing the Licensee's compulsive gambling activities for the previous calendar twelve month period ending December 31.

SUBCHAPTER 7. SMOKING REGULATIONS

325:90-7-1. Requirements for smoking in Gaming Facility

The gaming areas of the premises of an Organization Licensee and, except for the off-track wagering facilities specified in Section 205.6a of Title 3A of the Oklahoma Statutes, the areas where simulcast wagering is conducted by an Organization Licensee shall not be subject to the provisions of Section 1247 of Title 21 of the Oklahoma Statutes or to the provisions of the Smoking in Public Places and Indoor Workplaces Act (FN1) if the following conditions are met:
(1) Each gaming or simulcast area in which smoking is permitted shall be fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape to nonsmoking areas when a door is opened, and no air from a smoking area is recirculated to nonsmoking areas of the building; and
(2) No exhaust from such gaming or simulcast area shall be located within twenty-five (25) feet of any entrance, exit, or air intake. [3A, §208.12]

[OAR Docket #06-750; filed 4-25-06]

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

[OAR Docket #06-636]

RULEMAKING ACTION:
EMERGENCY adoption
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]
AUTHORITY:
Oklahoma Tax Commission; 68 O.S. §§ 203, 312.1.A. and 322
DATES:
Adoption:
February 21, 2006 (Commission Order No. 2006-02-21-01)
Approved by Governor:
April 7, 2006

Effective:
Immediately upon Governor's approval.
Expiration:
Effective through July 14, 2007, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
A compelling public interest was determined to exist in order to set a policy with respect to cigarette stamp requirements, applicable compact and non-compact tax rates and refund procedures relating to sales of packs of cigarettes to tribally licensed retailers to alleviate increased administrative burdens on wholesalers and the Oklahoma Tax Commission as a result of previous rulemaking while maintaining tax compliance with the requirements of Article 3 of Title 68.
ANALYSIS:
This rule prescribes the framework to be utilized by cigarette wholesalers in this State when selling cigarettes to tribally licensed retailers. Specifically, the rules set forth for cigarette wholesalers, the process and applicable tax rates regarding compact tax stamps and non-compact tax stamps. Additionally this rule describes the procedures to be utilized by retailers licensed by federally recognized Indian tribes or nations that have entered into a compact with the State of Oklahoma to obtain on behalf of the Tribe or Nation a refund of any overpayments of tax.
CONTACT PERSON:
Christy Caesar, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

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

SUBCHAPTER 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

(a) A compact tax stamp or a non-compact tax stamp must be affixed on each pack of cigarettes sold to tribal retailers in the rates and in the manner as set forth herein.

(b) For purposes of this Rule,

(1) "Pack" means a sealed, original package, containing twenty or twenty-five cigarettes, to which the required tax stamp is affixed; and

(2) "Compact tax rate" means the rate of payment in lieu of tax provided by compacts entered into between the State of Oklahoma and a federally recognized Indian tribe or nation at one of the following rates:

(A) $0.8575 for pack of twenty cigarettes or $1.071875 for pack of twenty-five cigarettes;

(B) $0.6075 for pack of twenty cigarettes or $0.759375 for pack of twenty-five cigarettes;

(C) $0.3075 for pack of twenty cigarettes or $0.384375 for pack of twenty-five cigarettes;

(D) $0.2575 for pack of twenty cigarettes or $0.321875 for pack of twenty-five cigarettes; or

(E) $0.0575 for pack of twenty cigarettes or $0.071875 for pack of twenty-five cigarettes.

(3) "Non-compact tax rate" means that tax rate provided by Section 349 of Title 68 at the following rate of $0.7725 for pack of twenty cigarettes or $0.965625 for pack of twenty-five cigarettes.

(4) "Tribal retailer" means a store or place of business which is duly licensed by a federally recognized Indian tribe or nation pursuant to tribal laws or ordinances to conduct business located on Indian country within the territorial jurisdiction of that tribe or nation.

(c) The compact tax stamp provided in Rule 710:70-7-4(1) shall only be sold at the rate of $0.8575 for pack of twenty cigarettes or the rate of $1.071875 for pack of twenty-five cigarettes. The rates shall be applicable for all sales to retailers licensed by a federally recognized Indian tribe or nation that has entered into a compact with the State of Oklahoma.

(d) The non-compact tax stamp provided in Rule 710:70-7-4(2) shall only be sold at the rate of $0.7725 for pack of twenty cigarettes or the rate of $0.965625 for pack of twenty-five cigarettes. The rate shall be applicable for all sales to tribal retailers owned and operated or licensed by a federally recognized Indian tribe or nation that has not entered into a compact with the State of Oklahoma.

(e) A federally recognized Indian tribe or nation that has entered into a compact with the State of Oklahoma may receive a refund for a portion of the rate paid pursuant to paragraph (c) of this rule. The amount of refund shall equal the rate paid less the compact tax rate applicable to the location of the tribal retailer provided in the tribal-state compact.

(f) All tribal retailers of a compacting tribe or nation shall keep the following documentation to claim a refund as provided herein. These records shall be submitted on behalf of the tribe or nation as its claim for refund. Such documentation may be submitted at any time to the Tax Commission in order to substantiate the refund claim for purchases made within one year of the filing of the claim. Such documentation shall include copies of invoices detailing the:

(1) Date of purchase;

(2) Name of the tribal retailer that purchased the packs of cigarettes;

(3) Name of wholesaler from whom the packs of cigarettes were purchased;

(4) Quantity of each denomination purchased; and

(5) The amount of compact tax rate paid by the tribal retailer.

(g) All documentation shall be sent to the Excise Tax Section/Audit Division of the Oklahoma Tax Commission at 2501 Lincoln Blvd, Oklahoma City, OK 73194. Upon review by the Audit Division, a refund will be remitted based on verifiable purchases qualifying for refund.

(h) Refunds shall be paid to the compacting tribe or nation on a monthly basis.

(i) No refund shall be paid for any packs of cigarettes purchased by a tribal retailer in excess of one hundred twenty

percent (120%) of the total amount of packs of cigarettes purchased by the tribal retailer during the calendar year of 2004 unless the tribal retailer provides documentation to the satisfaction of the Audit Division that the amount of packs of cigarettes purchased are or were offered for sale to consumers at the location of the tribal retailer.

[OAR Docket #06-636; filed 4-13-06]

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 30. PLANT INDUSTRY

[OAR Docket #06-746]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 17. Combined Pesticide
Part 11. Standards for Application of Pesticide
35:30-17-24.1. [NEW]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29), 2-18; 3-81 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma
DATES:
Comment period:
February 15, 2006 through March 17, 2006
Public hearing:
March 17, 2006
Adoption:
March 22, 2006
Submitted to Governor:
March 23, 2006
Submitted to House:
March 23, 2006
Submitted to Senate:
March 23, 2006
Gubernatorial approval:
April 21, 2006
Legislative approval:
Approved on April 20, 2006 by HCR 1062, waiving the Legislature's thirty legislative-day review period
Final adoption:
April 21, 2006
Effective:
May 25, 2006
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 17. Combined Pesticide
Part 11. Standards for Application of Pesticide
35:30-17-24.1 [NEW]
Gubernatorial approval:
April 6, 2005
Register publication:
22 Ok Reg 1007
Docket number:
05-697
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed rules make the emergency rule found at 35:30-17-24.1 permanent, as well as providing additional standards to assure cotton producers in specified locations will not suffer any undue economic hardship arising from potential damage occurring from the application of hormone herbicides to adjacent agricultural lands.
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 25, 2006:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 11. STANDARDS FOR APPLICATION OF PESTICIDE

35:30-17-24.1. Restricted use areas

(a) Applications of products containing 2,4-D esters or dicamba as an active ingredient to agricultural lands shall not be made in Greer, Harmon, and Kiowa counties between 12:01 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of each calendar year except in accordance with the provisions of this section.

(b) Applications of products containing 2,4-D, dicamba, picloram, triclopyr, or clopyralid as an active ingredient to agricultural lands shall not be made in Jackson and Tillman counties between 12:01 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of each calendar year except in accordance with the provisions of this section.

(c) Any person intending to apply any of the herbicides listed in subsection (a) or (b) in the counties and during the times prohibited shall adhere to the following procedure:

(1) The person shall notify the Department of the intent to apply herbicides listed in subsection (a) or (b) prior to the application on a form provided by the Department.

(2) The person shall file a report with the Department on a form provided by the Department no later than seven (7) working days after the last application date provided in the original notification of the herbicide use.

(d) Failure to comply with this section shall be considered a use that is not suitable or safe.

(e) All records and notifications required by this section shall be in addition to any records required to be maintained by a commercial applicator pursuant to other rules.

(f) The provisions of this section shall not apply to applications of 2,4-DB.

[OAR Docket #06-746; filed 4-25-06]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 10. CERTIFICATION OF INDUSTRIAL PARKS

[OAR Docket #06-723]

RULEMAKING ACTION:
PERMANENT Final Adoption
RULES:
150:10-1-11. [NEW]
AUTHORITY:
The authority is given to the Oklahoma Department of Commerce pursuant to 62 O.S. Section 88.2(1)(b), and 74 O.S. Section 5017.
DATES:
Comment period:
January 17, 2006 through February 17, 2006
Public hearing:
February 21, 2006
Adoption:
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Submitted to Governor:
February 24, 2006
Submitted to House:
February 24, 2006
Submitted to Senate:
February 24, 2006
Gubernatorial approval:
April 4, 2006
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 21, 2006.
Final adoption:
April 21, 2006
Effective:
May 25, 2006
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The new rule is to provide a systematic method for recertifying industrial parks.
CONTACT PERSON:
Donald R. Hackler, Jr. (405) 815-5359

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 25, 2006:

150:10-1-11. Recertification of industrial parks

When a previously certified industrial park seeks recertification from the Department of Commerce, the process for recertification is as follows:

(1) For those certified industrial parks where there is no change from the original application made to the Department of Commerce, a letter of endorsement is required from each of the two sponsoring organizations that sponsored the original application. Once the letters of endorsement are received, a recertification shall be issued by the Department of Commerce.

(2) For those certified industrial parks where there is a change from the original application made to the Department of Commerce, a representative of the Department of Commerce will make an on-site examination of the certified industrial park, and if the on-site examination is satisfactory, a letter of endorsement is required from each of the two sponsoring organizations that sponsored the original application. Once the letters of endorsement are received a recertification shall be issued by the Department of Commerce.

[OAR Docket #06-723; filed 4-24-06]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 65. OKLAHOMA QUALITY JOBS PROGRAM

[OAR Docket #06-722]

RULEMAKING ACTION:
PERMANENT Final Adoption
RULES:
Subchapter 1. Quality Jobs Program
150:65-1-2. [AMENDED]
150:65-1-3. [AMENDED]
150:65-1-6. [AMENDED]
Subchapter 6. Small Employer Quality Jobs Program
150:65-6-3. [AMENDED]
150:65-6-4. [AMENDED]
150:65-6-6. [AMENDED]
AUTHORITY:
The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Quality Jobs Program 68 O.S. §§ 3601 et seq.
DATES:
Comment period:
January 17, 2006 through February 17, 2006
Public hearing:
February 21, 2006
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Submitted to Governor:
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Submitted to House:
February 24, 2006
Submitted to Senate:
February 24, 2006
Gubernatorial approval:
April 4, 2006
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 21, 2006.
Final adoption:
April 21, 2006
Effective:
May 25, 2006
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
This action is to clarify the existing Oklahoma Quality Jobs Program rules and to incorporate recent legislative changes in the Oklahoma Quality Jobs Program.
CONTACT PERSON:
Donald R. Hackler, Jr. (405) 815-5359

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 25, 2006:

150:65-1-2. Definitions

For purposes of this chapter, the following words and terms shall have the following meaning unless the context clearly indicates otherwise.

"Baseline employment" means an establishment's total number of jobs which existed in this state prior to approval of the establishment's application by the Oklahoma Department of Commerce. A job shall be deemed to exist in this state prior to approval of an establishment's application if the activities and functions for which the particular job exists have been ongoing at anytime within six months prior to approval of the establishment. Upon approval of an application or upon the start date of a project if it is more than sixty days later than the approval date, the Department shall determine an establishment's baseline employment to be its current employment or its average employment over the last four quarters..

"Combination" means an establishment, provided it meets the requirements of 68 O.S. Supp. 1994, Section 3601 et seq. and the requirements set out in 150:65-1-13 of this chapter.

"Commission" means the Oklahoma Tax Commission established pursuant to 68 O.S. Section 102, and any successor agencies thereto.

"Cost-benefit analysis" means the analysis the Oklahoma Department of Commerce is required to perform to determine the estimated direct state benefits and estimated direct state costs.

"Date of determination" means the date assigned by the Department on the Incentive Offer on which a subunit and the entity of which the subunit is a part, must demonstrate a net increase in total employment in accordance with 150:65-1-12 (b) and (c) of this chapter.

"Employment of the remainder of the entity of which the subunit is a part" means total number of jobs of an entity of which the subunit is a part which existed in this state prior to approval of the subunit as an establishment by the Oklahoma Department of Commerce. Such jobs shall be deemed to exist in this state prior to approval of a subunit as an establishment if the activities and functions for which the particular job exists have been ongoing at any time within six months prior to approval of the subunit as an establishment. Upon approval of an application or upon the start date of a project of a subunit as an establishment, if it is more than sixty days later than the approval date, the Department shall determine the employment of the remainder of the entity of which the subunit is a part to be its current employment or its average employment over the last four quarters, whichever is greater.

"Entity of which the subunit is a part" means the business or governmental entity of which a subunit is a separate part as described in 68 O.S. Supp. 1994, Section 3603(8)(a) and 150:65-1-12 of this chapter.

"Estimated direct state benefits" *means the tax revenues projected...to accrue to the state as a result of new direct jobs.*[68:3603(A)(4)] Such revenues shall include:

(A) State income tax receipts from employees holding new direct jobs. The Oklahoma Department of Commerce will determine the estimated direct state benefit from personal income tax receipts by reviewing:

(i) historical data on similar or existing projects;

(ii) information provided by the establishment;

(iii) data from federal agencies such United States Bureau of the Census and the United States Department of Labor;

(iv) the most recent historical data from the Oklahoma Tax Commission on average personal tax rates by income class; and,

(v) private sector financial reports; and

(B) State sales and use tax receipts, excise tax receipts, gasoline tax receipts and other anticipated tax receipts resulting from purchases by employees holding new direct jobs. The Department will determine the estimated direct state benefit from such taxes by reviewing:

(i) information supplied by the establishment;

(ii) data from federal agencies such as the United States Department of Labor;

(iii) Oklahoma Tax Commission sales and use tax reports; and,

(iv) private sector financial reports.

"Estimated direct state costs" means the costs projected to accrue to the state as a result of new direct jobs employing new state residents and/or new state service beneficiaries. Such costs shall include:

(A) The costs of educating new state resident children. The Oklahoma Department of Commerce will determine the estimated direct state costs of such educations by using:

(i) information supplied by the establishment;

(ii) the most recent average student allocation per pupil formula provided by the Oklahoma Department of Education; and,

(iii) United States Department of Labor statistics;

(B) The costs of government services such as public health, public safety and transportation provided to new residents and/or state service beneficiaries. The Department will determine the estimated direct state costs for such government costs by examining the state's per capita cost of providing non-common education services and estimating the amount of the state's excess capacity; and

(C) The costs of any industrial access road paid for with state funds and provided by the Oklahoma Department of Transportation; provided, the road is clearly from the facility to the thoroughfare and is clearly and primarily utilized by the establishment.

"Estimated net direct state benefits" *means the estimated direct state benefits less the estimated direct state costs.* [68:3603(A)(5)]

"Full-time equivalent employment" means employment which has a minimum six-month duration during any twelve-month time period, regardless whether the same employee holds the employment for said time.

"Line of business" means the SIC code that is reflected by the end product or services of a given project resulting in new direct jobs.

~~***"Net benefit rate"*** *means the estimated net direct state benefits computed as a percentage of gross payroll... [T]he net benefit rate may be variable and shall not exceed five percent (5%).* [68:3603(A)(6)]~~

"**Net benefit rate"** is set forth at 68 O.S. § 3603(A)(6).

"New direct jobs" means full-time equivalent employment by a qualified establishment but does not include jobs which constitute an establishment's baseline employment as determined by the Oklahoma Department of Commerce pursuant to the definitions of this section. An establishment must maintain a total number of jobs equal to its baseline employment number before any job of the establishment shall be considered a new direct job.

"Quality jobs representative" means an Oklahoma Department of Commerce professional or economic development professional, trained in the Oklahoma Quality Jobs Program, who is so designated by the Executive Director, and whose responsibilities in the program include direct contact with applicants and clients, analysis of data, initiation of project proposals, preparation of project profiles and preparation of incentive offers.

"Subunit" means an establishment, provided it meets all requirements of 68 O.S. Supp. 1994, Section 3601 et seq. and the requirements set out in 150:65-1-12 of this chapter

150:65-1-3. Eligible entities

Eligible entities which may apply for the Oklahoma Quality Jobs Program are establishments that:

(1) Meet the definition of a "basic industry" as set forth in Section 3603 of Title 68 of the Oklahoma Statutes;

(2) Offer medical benefits to the holders of new direct jobs through a health benefits plan meeting the requirements of the Oklahoma Quality Jobs Program Act and this chapter;

(3) Have an annual gross payroll for new direct jobs projected to equal or exceed Two Million Five Hundred Thousand Dollars ($2,500,000.00) within three (3) years of the date of the first incentive payment. Provided, that for establishments applying as a Central Administrative Office only payroll from those jobs associated with the Central Administrative Office function shall be allowed; and

(4) Have a number of full-time employees working an average of twenty-five (25) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs. Provided, full-time employees provided through lease or contract by a third party employer may be included if they meet the definition of new direct jobs of the applicant.

(5) Industry Group Numbers 3111 through 3119 of the NAICS Manual shall be required to meet the requirements set forth at 68 O.S. § 3604(D).

(6) An establishment which locates its principal business activity on a site containing at least ten (10) acres which, that meets the requirements set forth in 68 O.S. § 3604(E)(1) shall be required to meet the requirements set forth in 68 O.S, § 3604(E)(2) through 68 O.S. § 3604(E)(4).

(7) New direct jobs must be paid an annualized wage which equals or exceeds the thresholds set forth in 68 O.S. § 3604(F)(1) and (2), except for those otherwise qualified establishments that locate in an opportunity zone as set forth in 68 O.S. § 3604(G).

(8) An establishment which meets the requirements set forth at 68 O.S. § 3603(A)(6)(e) may apply under those provisions.

150:65-1-6. Incentive contract

(a) After an incentive contract is recommended by the Department, the office of General Counsel shall prepare an incentive contract for the Director's review and signature. The signed incentive contract shall then be forwarded to the establishment. An incentive contract may be accepted by the establishment within sixty (60) days of the date of signing by the Director.

(b) The incentive contract shall be on a form prescribed by the Department which shall include the following information:

(1) The net benefit rate which will be multiplied by verified gross quarterly payroll to determine the amount of quarterly payments;

(2) The estimated direct state benefits which is the maximum amount of benefit payments available;

(3) The project start date;

(4) The baseline employment;

(5) The projected number of new jobs;

(6) The average annual wage; and

(7) Any other information the Department deems necessary.

(c) Upon execution of the incentive contract, the establishment shall return the incentive contract to the Department. The original incentive contract, signed by the chief executive officer or authorized representative, shall be returned to the Department by certified mail with return receipt requested or by personal delivery or by other means acceptable to the Department.

(d) For all purposes of the Oklahoma Quality Jobs Program Act, the effective date of approval of the incentive contract will be the date the signed and accepted incentive contract is received by the Department. Provided, however, the approved project may have a start date which is ~~different~~ prior to a later date than the effective date of approval.

150:65-6-3. Applications

Eligible entities may obtain applications for acceptance into the Small Employer Incentives Program from the Director of the Department. Upon completion of all information

required by such application, the ~~Department~~ Director will determine whether an applicant is qualified to receive incentives payments under the Small Employer Incentives Program.

150:65-6-4. Approval of Application

(a) ~~If the applicant meets the criteria listed in the Small Employer Incentives Act, the Department will approve the applicant for acceptance into the Small Employer Incentives Program, and will establish a start date and the baseline employment to be used in determining the number of new direct jobs that are created by the applicant.~~ After an incentive contract is recommended by the Department, the office of General Counsel shall prepare an incentive contract for the Director's review and signature. The signed incentive contract shall then be forwarded to the establishment. An incentive contract may be accepted by the establishment within sixty (60) days of the date of signing by the Director.

(b) ~~Thereafter, the Director will develop an incentive offer to the applicant which will set forth the following~~ The incentive contract shall be in a form prescribed by the Department which shall include the following information:

(1) ~~The estimated net direct state benefits which is the maximum amount of incentive payments available~~ The net benefit rate which will be multiplied by verified gross quality payroll to determine the amount of quarterly payments provided the establishment has met the requirements for the average annual wage and creation and maintenance of the threshold of new direct jobs as specified in the incentive contract;

(2) The project start date ~~relating to the incentive offer~~;

(3) The baseline employment;

(4) ~~The maximum total incentives which may be paid to the applicant under the Small Employer Incentive Program~~ The number of new direct jobs threshold and the date by which such jobs must be in place; ~~and~~

(5) The date as specified in the application on which the automatic payments will begin provided all other requirements of the Small Employer Incentives Act have been met; and

(~~5~~6) Any other information the Department deems necessary.

(c) The incentive offer shall then be forwarded to the applicant. Upon acceptance and certification of the incentive offer, the applicant shall return the incentive offer to the Department by certified mail with return receipt requested or by personal delivery or by other means acceptable to the Department. Upon execution of the incentive contract, the establishment shall return the incentive contract to the Department. The original incentive contract, signed by the chief executive officer or authorized representative, shall be returned to the Department by certified mail with return receipt requested or by personal delivery or by other means acceptable to the Department.

(d) For all purposes of the Small Employer Incentives Act, the effective date of approval of the incentive offer will be the date the signed and accepted incentive is received by the Department; provided, however, the approved project may have a start date which is prior to or later than the effective date of approval.

150:65-6-6. Additional Information

(a) To determine an applicant's qualification, the Department may request and consider other information in addition to that information listed in the application, including, without limitation, the following:

(1) SIC or NAICS Code Numbers relating to all activities of an applicant;

(2) Business plans;

(3) Feasibility studies;

(4) Financing proposals;

(5) OESC Form 3 or its electronic equivalent;

(6) Income tax withholding forms; ~~and~~

(7) Marketing plans~~.~~;

(8) Financial statements or sales contracts;

(9) Registration with the Oklahoma Secretary of State;

(10) Registration with the Commission; and

(11) Application for a Manufacturing Sales Tax Exemption, if applicable.

(b) Additional information that the Department may consider in evaluating eligibility may include, without limitation, the following:

(1) Industry trends;

(2) Service contracts in place or anticipated;

(3) Historical data on management in place;

(4) Organization structure of the establishment and any related business and the nature of the relationships, including whether such entities file income tax returns on a consolidated basis;

(5) Likelihood of job shifting between qualifying and non-qualifying activities;

(6) Expansion of existing markets;

(7) Extension of existing product line;

(8) Labor market; and

(9) Other relevant information.

(c) All materials described in subsections (a) and (b) hereof may be kept confidential by the Department, if permitted by the Oklahoma Open Records Act, 51 O.S. Sections 24A.1 through 24A.26.

(d) The Department may also require Qualified Establishments to provide any information necessary in order to administer the program and prepare program reports.

[OAR Docket #06-722; filed 4-24-06]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 115. RX FOR OKLAHOMA PROGRAM

[OAR Docket #06-721]

RULEMAKING ACTION:
PERMANENT Final Adoption

RULES:
150:115 -1-1. [NEW]

150:115-1-2. [NEW]
150:115-1-3. [NEW]
150:115-1-4. [NEW]

AUTHORITY:
The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and Section 2, of Senate Bill 149 of the 1st Session of the 50th Oklahoma Legislature, executed by the Governor on June 9, 2005.

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February 24, 2006
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Failure of the Legislature to disapprove the rules resulted in approval on April 21, 2006.
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May 25, 2006

SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
150:115 -1-1. [NEW]
150:115-1-2. [NEW]
150:115-1-3. [NEW]
150:115-1-4. [NEW]
Gubernatorial approval:
August 31, 2005
Register publication:
23 Ok Reg 106
Docket number:
05-1258

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The new rules provide clarification to applicants to the Oklahoma Quality Investment Act.

CONTACT PERSON:
Donald R. Hackler, Jr. (405) 815-5359

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 25, 2006:

150:115-1-1. Purpose and scope

The purpose of these rules is to implement the Rx for Oklahoma Program at the Oklahoma Department of Commerce as set forth in the Rx for Oklahoma Act.

150:115-1-2. Definitions

In addition to those terms defined elsewhere in this chapter, the following words and terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Department" means the Oklahoma Department of Commerce established pursuant to 74 O.S. §§ 5001 et seq. and any successor agencies thereto.

"Director" means the duly appointed and acting Director of the Department or during any period of time that the position of Director is vacant; such term shall refer to the person serving as the acting director.

"Eligible Applicants" include, but are not limited to county offices of the Department of Human Services; county health departments; community action agencies designated by the Oklahoma Department of Commerce pursuant to Section 5038 of Title 74 of the Oklahoma Statutes; community mental health centers; private nonprofit agencies; and public entities engaged in the delivery of social services.

"Eligibility for the Rx for Oklahoma Act" *shall be residents of Oklahoma who:*

(A) *Are medically indigent; or*

(B) *Are not medically indigent but cannot reasonably afford to pay for prescription medications.*

"Medically indigent" *means a person who meets the criteria established by the drug manufacturer assistance programs for the purchase of prescribed medications; [74 O.S. § 5040.3].*

"Prescription drug" *means a drug which may be dispensed only upon prescription by a health care professional authorized by the appropriate licensing authority and which is approved for safety and effectiveness as a prescription drug under Section 505 or 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 (1938), 21 U.S.C.A., Section 301). [74 O.S. § 5040.3]*

150:115-1-3. Funding

Agencies selected by the Department to provide services pursuant to the Rx for Oklahoma Act shall, at a minimum, demonstrate their ability to:

(1) *Deliver services in a community or geographic area of the state that is not currently receiving services pursuant to the Rx for Oklahoma Act;*

(2) *Maintain a dedicated telephone line and computer with Internet access with appropriate software during normal business hours; and*

(3) *Have staff or volunteers available who can:*

(A) *develop and implement community awareness initiatives about the prescription assistance services offered by the agency,*

(B) *determine whether a pharmaceutical program is offered for the drug or drugs a person needs,*

(C) *determine whether a person is eligible for assistance through a pharmaceutical program,*

(D) *assist a person to make application to and enroll in a pharmaceutical assistance program,*

(E) *keep accurate records of the number of clients served,*

(F) *maintain the confidentiality of all client information including, but not limited to, the client's identity, application information and other records, and*

(G) *estimate the value of prescriptions provided to clients under the program.*[74 O.S. § 5040.4(C).

150:115-1-4. Application process

Based upon funding availability, the Oklahoma Department of Commerce shall issue a Rx for Oklahoma Program Request for Application to Eligible Applicants that will set forth the requirements for making application to the Rx for Oklahoma Program, and being awarded funding.

(1) Eligible uses of funding will be set forth in the Rx for Oklahoma Program Request for Application

(2) Only Eligible Applicants can receive funding under the Rx for Oklahoma Program.

(3) The Director or the Director's designee shall make the funding awards from the Oklahoma Department of Commerce to the Eligible Applicants.

(4) All other terms and conditions of funding shall be set forth in either the Rx for Oklahoma Program Request for Application or the contract between the Oklahoma Department of Commerce and the recipient of funding.

[OAR Docket #06-721; filed 4-24-06]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 120. WORKFORCE INVESTMENT ACT

[OAR Docket #06-720]

RULEMAKING ACTION:
PERMANENT Final Adoption
RULES:
Subchapter 1. General Provisions [NEW]
150:120-1-1. [NEW]
150:120-1-2. [NEW]
150:120-1-3. [NEW]
Subchapter 3. Denial or Termination of Eligibility of a Training Provider [NEW]
150:120-3-1. [NEW]
150:120-3-2. [NEW]
150:120-3-3. [NEW]
150:120-3-4. [NEW]
150:120-3-5. [NEW]
150:120-3-6. [NEW]
Subchapter 5. Denial of Request for Designation as a Local Workforce Investment Area [NEW]
150:120-5-1. [NEW]
150:120-5-2. [NEW]
150:120-5-3. [NEW]
150:120-5-4. [NEW]
150:120-5-5. [NEW]
Subchapter 7. Monitoring [NEW]
150:120-7-1. [NEW]
150:120-7-2. [NEW]
150:120-7-3. [NEW]
150:120-7-4. [NEW]
150:120-7-5. [NEW]
150:120-7-6. [NEW]
Subchapter 9. Audits [NEW]
150:120-9-1. [NEW]
150:120-9-2. [NEW]
150:120-9-3. [NEW]
150:120-9-4. [NEW]
150:120-9-5. [NEW]
150:120-9-6. [NEW]
150:120-9-7. [NEW]
150:120-9-8. [NEW]
Subchapter 11. Grievance Procedures [NEW]
Part 1. General Procedures [NEW]
150:120-11-1. [NEW]
Part 3. Grievance Filed Directly with ODOC [NEW]
150:120-11-10. [NEW]
150:120-11-11. [NEW]
150:120-11-12. [NEW]
150:120-11-13. [NEW]
Part 5. Appeals to ODOC from Grievance Decisions of a Local Area [NEW]
150:120-11-20. [NEW]
150:120-11-21. [NEW]
150:120-11-22. [NEW]
Part 7. Informal and Formal Resolutions of Grievances [NEW]
150:120-11-30. [NEW]
150:120-11-31. [NEW]
150:120-11-32. [NEW]
150:120-11-33. [NEW]
150:120-11-34. [NEW]
AUTHORITY:
The Strategic State Workforce Investment Plan submitted by the Governor to the United States Department of Labor and the legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq.
DATES:
Comment period:
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Failure of the Legislature to disapprove the rules resulted in approval on April 21, 2006.
Final adoption:
April 21, 2006
Effective:
May 25, 2006
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed rules provide a systematic method of administering the Workforce Investment Act funds received and administered by the Oklahoma Department of Commerce.
CONTACT PERSON:
Donald R. Hackler, Jr. (405) 815-5359

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 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

150:120-1-1. Purpose

The Governor of the State of Oklahoma appointed the Governor's Council 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 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 Department of Commerce (ODOC) as the WIA Title I Grant Recipient. The purpose of these rules is to facilitate the implementation of the WIA, U.S. Department of Labor regulations, and State Plan.

150:120-1-2. 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:

"Audit Division" means the ODOC division responsible for conducting audit resolutions.

"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 Deputy Secretary for Workforce Development for the Oklahoma Department of Commerce.

"Executive Director" means the Executive Director of the Oklahoma Department of Commerce.

"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 for Workforce and Economic Development established pursuant to WIA section 111.

150:120-1-3. 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. 201200.

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

(3) **Deputy Secretary for Workforce Development,** Oklahoma Department of Commerce, P.O. Box 52003, Oklahoma City, OK 73126-0980.

(4) **Audit Division,** Oklahoma Department of Commerce, P.O. Box 26980, Oklahoma City, OK 73126-0980.

(5) **Executive Director**, Oklahoma Department of Commerce, P.O. Box 26980, Oklahoma City, OK 73126-0980.

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

150:120-3-1. Reporting - termination

Pursuant to WIA section 122 (i) the Governor designated the Oklahoma Department of Commerce (ODOC) 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 training providers, including their performance information and program cost information as described in WIA section 122 (b) or (c), to the Director if requested. If the Director 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 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, 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 shall terminate the eligibility of the training provider.

150:120-3-2. Notice to the training provider

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

150:120-3-3. Appeal

The training provider has twenty (20) days from the date the decision is mailed to appeal the determination to ODOC's Executive Director. If a timely appeal is not received, the decision shall become final and no further appeal shall be allowed.

150:120-3-4. Hearing

If a timely appeal is received, the Executive Director will conduct a hearing pursuant to its rules at 150:1-11-1 through 150:1-11-17.

150:120-3-5. District court appeal

If the training provider's appeal is denied by the Executive Director, it may file an appeal to district court pursuant to Oklahoma's Administrative Procedures Act, 75 Okla. Stat. section 318.

150:120-3-6. Administrative record

ODOC will provide the administrative record to the district court as provided for in ODOC's rule at 150:1-11-15.

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

150:120-5-1. Appeal

A unit of general local government (including a combination of such units) or a grant recipient that is denied designation as a workforce investment area may file an appeal. The designation process will continue while the appeal is in progress and will be modified should the initial denial of designation be overturned.

150:120-5-2. Appeal time

The appeal must be filed with the State 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.

150:120-5-3. Hearing

Upon receipt of a timely appeal, the State Council will refer the case to the Executive Director for hearing. A hearing will then be conducted by the Executive Director pursuant to its rules at 150:1-11-1 through 150:1-11-17. Within (30) days from the date the appeal is received from the State Council the Executive Director will issue its findings of fact to the Governor, State Council, and Chief Local Elected Official. A copy of the administrative record will be sent to the Governor.

150:120-5-4. Decision

The Governor will issue his decision within thirty (30) days from the date he receives the Executive Director's findings of fact.

150:120-5-5. Appeal of decision

If the Governor denies the designation after the above described appeal process is complete, the entity may file an appeal to the Secretary. The appeal must be filed not later than thirty (30) thirty days after receipt of written notification of the Governor's decision and must comply with the requirements set forth in the WIA statutes and regulations.

SUBCHAPTER 7. MONITORING

150:120-7-1. Monitoring

(a) ODOC will annually monitor each grant recipient pursuant to the requirements set forth in WIA section 184 (a)(4) and 20 CFR section 667.410.

(b) ODOC's grant recipients must monitor their subrecipients or service providers. Monitoring shall be conducted as outlined in the "Governor's Oversight and Monitoring Plan".

150:120-7-2. Monitoring report

(a) A monitoring report will be issued by the Director to the grant recipient after each monitoring review. Copies of this report will be addressed to the Director, and copies sent to the Executive Director, Deputy Director, and the Audit Division Director of ODOC. 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 must be submitted to ODOC on an annual basis and at least sixty (60) days prior to expiration of the service provider or subrecipient's contract with its subrecipient.

150:120-7-3. Monitoring resolution

(a) The Director 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 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. The response must contain all additional information, documents, or arguments the grant recipient wants the Director to consider in making 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 will determine if additional time will be allowed and advise the entity in writing of his or her decision. The Director may request additional information from the entity submitting a response, if clarification is needed. The Director may schedule or the 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 prior to the first thirty (30) day deadline.

(d) The Director shall issue an initial monitoring determination within sixty (60) days from the date the response is received. The 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.

(e) The Director shall issue a final monitoring determination in compliance with 150:120-7-4.

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

(g) The Director 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 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.

150:120-7-4. Final monitoring determination

(a) A final determination on the issues raised in the initial monitoring report will be issued within thirty (30) days from the date the response to the initial monitoring determination is received. This time may be extended an additional thirty (30) days if an informal resolution conference is requested.

(b) If all issues have not been resolved, a final determination shall be sent to the local area by certified mail. A final determination will:

(1) enumerate the efforts that were made to resolve the issues in the initial monitoring report;

(2) list the issues upon which the parties do not agree;

(3) list any changes to the factual findings and conclusions set forth in the monitoring report;

(4) establish a debt, if appropriate;

(5) require corrective action, when needed;

(6) determine liability, method of restitution of funds and sanctions; and

(7) advise recipient of appeal rights.

150:120-7-5. Appeal

(a) If the 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.

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

150:120-7-6. Hearing

(a) The Executive Director will conduct a hearing within thirty (30) days from the receipt of the appeal by the Executive Director unless the parties and the Executive Director agree to waive this requirement in order to allow additional time to resolve the matter. The hearing will be conducted pursuant to the Executive Director's rules at 150:1-11-1 through 150:1-11-17.

(b) The Executive Director will issue a decision within thirty (30) days from the date the hearing record is closed.

(c) The decision of the Executive Director will be final and binding unless an appeal is filed to district court pursuant to Oklahoma's Administrative Procedures Act, 75 Okla. Stat. section 318.

(d) ODOC will provide the administrative record to the district court as provided for in ODOC's rule at 150:1-11-15.

(e) At the hearing, the grant recipient bear the burden of proof to show that the WIA funds granted or paid to the grant recipient were spent in compliance with the statutes, regulations, state policies, uniform administrative requirements, and OMB Circulars that govern these funds and their program. The entities must also prove the WIA costs the entities claim are allowable were determined in accordance with generally accepted accounting principles and adequately documented in compliance with the statutes, regulations, uniform administrative requirements and OMB Circulars that govern these funds and their program.

(f) Any fee charged to the grant recipient for assistance in resolving the monitoring report or to prepare and present an appeal to the Executive Director or District Court cannot be charged to grant or contract funds received from ODOC. This includes fees charged by an accountant, expert witness, attorney, or other representative.

SUBCHAPTER 9. AUDITS

150:120-9-1. 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) 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 ODOC, 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, ODOC may require a limited scope audit in accordance with federal requirements. The ODOC will be responsible for arranging and 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 ODOC Audit Division is charged with the responsibility of audit resolution.

(d) The subrecipient must notify the 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 Audit Division Director 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 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 ODOC Audit Division within thirty (30) days from the receipt of the management letter.

150:120-9-2. Delinquent audit

If the audit has not been received within one (1) year after the end of the grant recipient's fiscal year, the Audit Division Director 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 150:120-5-1. If no response is received within fifteen (15) days, or the response, received is not adequate, the Director will send a certified letter to the subrecipient advising it that its current funding and eligibility for future contracts are suspended.

150:120-9-3. Audit resolution

(a) Resolution of an audit is required when there are disallowed/questioned costs, administrative findings or deficiencies.

(b) All audits must be resolved within six (6) months after receipt of the audit report by the Commission.

(c) The Audit Division shall maintain an audit resolution file documenting the disposition of reported questioned costs and corrective actions taken for all findings.

150:120-9-4. Audit review and request for information

(a) The Audit Division shall review the audit including all financial statements, schedules, notes, disallowed/questioned costs, administrative findings, and management letters and responses thereto. Financial statements shall be verified by the Audit Division.

(b) If there are no disallowed/questioned costs or administrative findings to be resolved, the audit review is closed and the grant recipient shall be notified of the closure in writing.

(c) If the audit review contains findings, disallowed/questioned costs or discrepancies in the financial schedules, a letter requesting additional information and/or a response shall be sent to the subrecipient by certified mail.

(d) Audit resolution information is due within twenty (20) days from the date the written request is made to the subrecipient.

(e) The Audit Division will review the information submitted by the subrecipient and may ask for additional information. An initial determination will be issued if the audit findings have not been resolved to the satisfaction of the Audit Division.

(f) If the disallowed/questioned costs or administrative findings are resolved, the audit review is closed and the subrecipient shall be notified in writing.

150:120-9-5. Initial determination

(a) The Audit Division shall issue an initial determination on the audit findings for those portions of the audit where there are agreement and disagreement with the subrecipient's resolution, including the allowability of questioned costs or activities. Such initial determination will be based on the requirements of the WIA, regulations promulgated thereunder, administrative requirements, applicable cost principles, grants, contracts, or other agreements with subrecipient.

(b) The initial determination shall be issued within sixty (60) days from the receipt of the audit.

(c) The subrecipient shall have thirty (30) days from the date of the determination to submit its response to the Audit Division.

(d) The subrecipient may request an informal resolution conference in order to meet with members of the Audit Division staff to discuss the initial determination and the information subsequently submitted by the recipient. This request must be made in writing when the subrecipient submits its response to the initial determination.

(e) The Audit Division shall issue its final determination within thirty (30) days from the receipt of the subrecipient's response to the initial determination. This time may be extended for up to thirty (30) days if an informal resolution conference is requested.

150:120-9-6. Final determination

If the disallowed/questioned costs, administrative findings or deficiencies are not resolved, the Commission shall provide the subrecipient with a written final determination by certified mail. A final determination under this section shall:

(1) Indicate the efforts to informally resolve matters contained in the initial determination have been unsuccessful;

(2) List those matters upon which parties continue to disagree;

(3) List any modifications to the factual findings and conclusions set forth in the initial determination;

(4) Establish a debt, if appropriate;

(5) Require corrective action, when needed;

(6) Determine liability, method of restitution of funds and sanctions; and

(7) Advise recipient of appeal rights.

150:120-9-7. Appeal

(a) If the subrecipient is not satisfied with the findings issued in the final determination, it has fifteen days from the date of the final determination to file an appeal.

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

(c) The Director will then forward a copy of the appeal to the Executive Director.

150:120-9-8. Hearing

(a) The Executive Director will conduct a hearing within thirty (30) days from the receipt of the appeal by the Executive Director unless the parties and the Executive Director agree to waive this requirement in order to allow additional time to resolve the matter. The hearing will be conducted pursuant to ODOC's rules at 150:1-11-1 through 150:1-11-17.

(b) The Executive Director will issue a decision within thirty (30) days from the date the hearing record is closed.

(c)The decision of the Executive Director will be final and binding unless an appeal is filed to district court pursuant to

Oklahoma's Administrative Procedures Act, 75 Okla. Stat. section 318.
(d) ODOC will provide the administrative record to the district court as provided for in ODOC's rule at 150:1-11-15.
(e) At the hearing, the grant recipient bear the burden of proof to show that the WIA funds granted or paid to the grant recipient were spent in compliance with the statutes, regulations, state policies, uniform administrative requirements, and OMB Circulars that govern these funds and their program. The entities must also prove the WIA costs the entities claim are allowable were determined in accordance with generally accepted accounting principles and adequately documented in compliance with the statutes, regulations, uniform administrative requirements and OMB Circulars that govern these funds and their program.
(f) Any fee charged to the grant recipient for assistance in resolving the monitoring report or to prepare and present an appeal to the Executive Director or District Court cannot be charged to grant or contract funds received from ODOC. This includes fees charged by an accountant, expert witness, attorney, or other representative.

SUBCHAPTER 11. GRIEVANCE PROCEDURE

PART 1. GENERAL PROVISIONS

150:120-11-1. Grievances
(a) A grievance filed with the Oklahoma Department of Commerce (ODOC) 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 ODOC 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 ODOC

150:120-11-10. Filing
A participant or affected party may file a grievance with the Director.

150:120-11-11. Time limit for filing a grievance with ODOC
If an individual elects to file his or her grievance with ODOC, the grievance must be filed within 20 days from the date of the violation(s) which is the basis of the grievance.

150:120-11-12. 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 to determine whether:
(A) The Director 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.

150:120-11-13. Referral of a grievance filed with ODOC
The Director may refer a grievance, originally filed with ODOC, 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 will attempt to resolve the issue informally.

PART 5. APPEALS TO ODOC FROM GRIEVANCE DECISIONS OF A LOCAL AREA

150:120-11-20. Filing grievance with local area
A participant or affected party may file a grievance with the local area. It will be resolved according to the procedures of the local area, established pursuant to 20 C.F.R. 667.600 (c).

150:120-11-21. Appeals with ODOC
An appeal may be filed with the Director 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.

150:120-11-22. Time limit for filing an appeal with ODOC
(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 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 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

150:120-11-30. Informal resolution

The Director 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 will forward the grievance or appeal to the Executive Director.

150:120-11-31. Hearing

The Executive Director will conduct the hearing pursuant to its rules at 150:1-11-1 through 150:1-11-17. The hearing process will be completed within sixty (60) days from the date the grievance was received by the Director.

150:120-11-32. Remedies

The remedies that may be imposed under this grievance procedure are enumerated in WIA section 181(c).

150:120-11-33. Appeal to Secretary or investigation by Secretary

The Secretary will investigate an allegation of a violation as set forth above if:

(1) a decision relating to such violation has not been reached within sixty (60) days after the date of filing of the grievance and either party appeals to the Secretary; or

(2) a decision relating to such violation has been reached within sixty (60) days and the party to which such decision is adverse appeals such decision to the Secretary.

150:120-11-34. Decision of the Secretary

The Secretary will make a final determination relating to an appeal no later than 120 days after receiving such appeal.

[OAR Docket #06-720; filed 4-24-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD

[OAR Docket #06-685]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. General Operation And Procedures
158:1-3-2. Office hours [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. § 1000.4
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May 25, 2006
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The purpose of the proposed rules is to amend the office hours.
CONTACT PERSON:
Jeanne Britt,C.P.O., Executive Assistant, Construction Industries Board, 2401 N.W. 23,Ste. 5 Oklahoma City, OK 73107 telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PERMANENT RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., § 308.1(A) WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 3. GENERAL OPERATION AND PROCEDURES

158:1-3-2. Office hours

Office hours are from 8:00 a.m. to ~~5:00~~ 4:30 p.m., unless otherwise designated by the Administrator, each day except Saturday and Sunday and legal holidays established by statute or by the Governor.

[OAR Docket #06-685; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 10. FINE SCHEDULE

[OAR Docket #06-686]

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PERMANENT final adoption
RULES:
Subchapter 3. Administrative Fine Schedule
158:10-3-1. Common requirements under the Electrical License Act, the Mechanical Licensing Act and the Plumbing License Law of 1955 [AMENDED]
158:10-3-2. Other requirements under the Electrical License Act and/or the Mechanical Licensing Act [AMENDED]
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n/a
ANALYSIS:
The purpose of the proposed rules is to clarify language in the administration of fines.
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 MAY 25, 2006:

SUBCHAPTER 3. ADMINISTRATIVE FINE SCHEDULE

158:10-3-1. Common requirements under the Electrical License Act, the Mechanical Licensing Act and the Plumbing License Law of 1955

(a) The schedule of fines in this Section is based on violation of requirements common to the rules promulgated under authority of the Electrical License Act, the Mechanical Licensing Act and The Plumbing License Law of 1955, or each of the respective licensing laws. Except as provided in Section 158:10-3-3, the fine schedule for citations issued by the Board for violations of the following requirements is:

(1) Contracting without license, which includes offering to perform work:
(A) First - $400;
(B) Second or subsequent - $500.

(2) Inactive contractor or a journeyman engaged in contracting:
(A) First - $450;
(B) Second or subsequent - $500.

~~(3) Contracting with an expired bond:~~
~~(A) First - $200;~~
~~(B) Second or subsequent - $320.~~

(~~4~~3) Contractor working unlicensed or unregistered individual (per person):
(A) First - $190;
(B) Second or subsequent - $400.

(~~5~~4) Contractor working registered apprentice without direct supervision (per apprentice):
(A) First - $100;
(B) Second or subsequent - $250.

(~~6~~5) Unlicensed or unregistered individual ~~working for a contractor~~ performing trade work under the direction of one acting as a contractor:
(A) First - $150;
(B) Second or subsequent - $280.

(~~7~~6) Loaning a license:
(A) First - $500;
(B) Second or subsequent - $500.

(~~8~~7) Forging or altering a license:
(A) First - $400;
(B) Second or subsequent - $500.

(~~9~~8) Code violations per day (after NOV compliance date):
(A) First - $210.

(9) Contracting with an expired bond:
(A) First - $200;
(B) Second or subsequent - $320.

(10) Contracting with expired insurance
(A) First - $200
(B) Second or subsequent - $320

(~~10~~11) Failure to properly display firm name and state license number on vehicles:
(A) First - $70;
(B) Second or subsequent - $190.

(b) Violations of any other provision of the Electrical Industry Regulations, the Mechanical Industry Regulations and the Plumbing Industry Regulations not otherwise provided hereinabove or in 158:10-3-2, shall be subject to a fine of $200.00 for the first offense and $400.00 for each subsequent offense.

158:10-3-2. Other requirements under the Electrical License Act and/or the Mechanical Licensing Act

The schedule of fines in this Section are based on violation of requirements common to the rules promulgated under authority of the Electrical License Act ~~and/or the Mechanical Licensing Act~~, or each of the respective licensing laws. Except as provided in Section 158:10-3-3, the fine schedule for citations issued by the Board for violations of the following requirements is:

~~(1) Contracting with expired insurance (electrical and mechanical trades):~~
~~(A) First - $200~~
~~(B) Second or subsequent - $320~~

Failure to display state contractor license number on advertising, contracts, and bids (electrical trade only):

(1) First - $70

(2) Second or subsequent - $190.

[OAR Docket #06-686; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

[OAR Docket #06-687]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:30-1-2. Definitions [AMENDED]
158:30-1-4. Standard of installation [AMENDED]
Subchapter 9. Examination Procedures, License And Registration Fees And Duration Of Licenses
158:30-9-1. Examination procedures [AMENDED]
Subchapter 13. Procedure Of The Variance And Appeals Boards, Plan Review Applications And Fees, Code Variance Applications And Fee, And Code Interpretation Appeals
158:30-13-2. Procedures of the Variance and Appeals Board [AMENDED]
158:30-13-3. Code variance applications and fee [AMENDED]
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n/a
INCORPORATIONS BY REFERENCE:
Incorporated standards:
2006 International Plumbing Code
2006 International Fuel Gas Code
Plumbing portions of the 2006 International Residential Code
Incorporating rules:
158:30-1-4.
Availability:
8:00 a.m. to 5:00 p.m., Monday through Friday at Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, 73107 telephone:(405) 271-2771; facsimile: (405) 271-5254.
ANALYSIS:
The purpose of these rules is to incorporate the 2006 International Plumbing Code, 2006 International Fuel Gas Code, and the plumbing portions of the 2006 International Residential Code as the minimum standard for the installation of plumbing in Oklahoma where no ordinance or regulation of a governmental subdivision applies in 158:1-3-4 and in 158:30-9-1; to reference the current standard of installation in 158:30-1-2; To change the physical address of the Construction Industries Board in 158:30-13-2; and to reference current code in 158:30-13-3.
CONTACT PERSON:
Jeanne Britt, Rules Liaison, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, 73107 telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

158:30-1-2. Definitions

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

"Act" means the plumbing license law of 1955 as found at 59O.S.§ 1001 et seq.

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1 et seq.

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a plumbing code variance from the current, published edition of the code of plumbing regulations endorsed by the International Code Council (ICC) by the Board under the Act.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds, insurance, and citations under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Committee" means the Committee of Plumbing Examiners.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed plumbing contractor or plumbing journeyman.

"Farm Operations"

(A) For purposes of the Plumbing License Law, "farm" means land devoted primarily to production for sale of livestock or agricultural commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(B) For purposes of the Plumbing License Law, "Farm building" means all homes (i.e., domiciles, residences), or buildings therewith designed and used primarily for and in conjunction with conducting farming operations, provided that said buildings are not connected to a public water and/or sewage system.

A "farm building" shall not include other structures such as stores, service stations, schools, motels, or any other building having public access, whether connected to private or public water or sewer systems.

"Maintenance of state owned or operated facilities" means maintenance of state institutions and school districts and will be construed as all repair and/or upkeep of existing plumbing or plumbing fixtures within existing state owned buildings or local school district owned buildings. This term shall not include the installation of plumbing in a new building or new additions to existing structures or replacement of plumbing systems in existing buildings.

"Plumbing" means and includes:

(A) all piping, fixtures, appurtenances and appliances for, and in connection with, a supply of water within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a water main or other source of supply;

(B) all piping, fixtures, appurtenances and appliances for sanitary drainage or storm drainage facilities, including venting systems for such facilities, within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a public disposal system or other acceptable terminal;

(C) the installation, repair, maintenance and renovation of all piping, fixtures, appurtenances and appliances for a supply of water, or for the disposal of waste water, liquid waste, or sewage within or adjacent to any building, structure, or conveyance, on the premises and to the source of supply of water or point of disposal of wastes;

(D) the original installation of a water softener but not the exchanging of the units whereby only unions are disturbed in the replacement;

(E) the installation of water services and building sewers;

(F) sewer cleaning-house sewer maintenance; and,

G) automatic sprinkler systems which do not comply with Section 1017, paragraph D, of the Oklahoma State Plumbing License Law.

"Plumbing License Unit" means the staff and administrative support unit to the Committee of Plumbing Examiners and the Plumbing Hearing Board.

"Reciprocity agreement" means an agreement whereby a person holding a plumber's license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Variance" means the use of an alternative material or method of construction from that prescribed in the current, published edition of the code of plumbing regulations endorsed by the International Plumbing Code~~/2000~~ for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Plumbing Installation Code Variance and Appeals Board.

158:30-1-4. Standard of installation

The Construction Industries Board hereby incorporates the International Plumbing Code/~~2003~~ 2006, ~~2003~~2006 International Fuel Gas Code, and the plumbing portion of the ~~2003~~ 2006 International Residential Code as the minimum standard for the installation of plumbing in Oklahoma where no ordinance or regulation of a governmental subdivision applies.

SUBCHAPTER 9. EXAMINATION PROCEDURES, LICENSE AND REGISTRATION FEES AND DURATION OF LICENSES

158:30-9-1. Examination procedures

(a) The plumbing standards for the plumbing examination shall be the International Plumbing Code~~/2000~~ as adopted in 158:30-1-4.

(b)Any previously certified examination may be used to meet an examination requirement.

(c) Examination for a plumber's license shall include, but not be limited to, written questions and drawings and/or charts.

(d) The maximum grade value of each part of the plumbing examination shall be 100 points. An examinee must make 70% or more on each part, above, to pass the examination.

(e) Attendance at an approved technical school with specialization in the plumbing skills may be substituted for experience or employment on an equal time basis. Substitution of education for experience shall be limited to a maximum of one half the experience requirement. Applicants must present to the Administrator for approval records of schools attended, grades and/or certificates of completion if education is to be substituted for experience.

(f) Applicants for the plumbing contractor examination must be capable of reading English without assistance. A person who cannot meet this requirement may request a hearing before the Committee to request reasonable accommodations.

(g) Except as authorized by the Plumbing Examining Committee, no person, other than examinees, shall be permitted in the examination area.

(h) An examinee who is caught cheating during the course of an examination shall be deemed to have failed the examination.

(i) Applicants for the journeyman examination must be eighteen (18) years of age or older and have three (3) years experience in the plumbing trade.

(j) Applicants for the contractors examination must be eighteen (18) years of age or older and have four (4) years experience in the plumbing trade.

(k) The fees for both examination and license must be on deposit with the Administrator in advance of the examination.

(l) If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.

(m) Applicants failing to appear for their examination on the date scheduled shall forfeit the examination fee unless notification is received by the Administrator at least 24 hours prior to examination date.

SUBCHAPTER 13. PROCEDURE OF THE VARIANCE AND APPEALS BOARDS, PLAN REVIEW APPLICATIONS AND FEES, CODE VARIANCE APPLICATIONS AND FEE, AND CODE INTERPRETATION APPEALS

158:30-13-2. Procedures of the Variance and Appeals Board

The Administrator shall call a meeting of the Variance and Appeals Board after the Administrator receives proper application for a variance accompanied by the fifty dollar ($50.00) filing fee or receives proper notice of an appeal of the Board's interpretation of the current, published edition of the code of plumbing regulations endorsed by the International Plumbing Code~~/2000~~ as applied to a particular installation. Variance and Appeals Board meetings are held in the ~~Oklahoma State Board of Health Building at 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299~~ principal offices of the Construction Industries Board referenced at 158:1-3-1 or at another location named by the Administrator. The Variance and Appeals Board shall comply with the Oklahoma Open Meetings Act.

158:30-13-3. Code variance applications and fee

(a) Applications for a variance from the current, published edition of the code of plumbing regulations endorsed by the International Code Council (ICC) by an Oklahoma-licensed plumber shall be submitted to the Administrator. An application provided by the Administrator and the fifty-dollar ($50.00) filing fee shall accompany sufficient technical data submitted to support the proposed variance. Applications submitted after the use of materials or methods of construction not in conformance with the current, published edition of the code of plumbing regulations endorsed by the International Plumbing Code~~/2000~~ that are relevant to the application, or submitted where a city or town has adopted a nationally recognized, plumbing installation code by ordinance, shall not be considered by the Variance and Appeals Board.

(b) The applicant and the Administrator may offer testimony to the Variance and Appeals Board which is relevant to the code variance requested. If testimony will be offered to support the application, the applicant shall include in the application the identity of the applicant's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness. If the Administrator contests the application, and will offer testimony to rebut the application, the Administrator will provide the applicant with the identity of the Administrator's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness.

[OAR Docket #06-687; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

[OAR Docket #06-688]

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PERMANENT final adoption
RULES:
Subchapter 3. Procedures Of The Committee And The Hearing Board
158:40-3-1. Procedures of the committee [AMENDED]
Subchapter 7. License Classifications
158:40-7-2. Residential electrical license[AMENDED]
Subchapter 13. Procedures Of The Variance And Appeals Board, Plan Review Applications And Filing Fees, Code Variance Applications And Filing Fee And Code Interpretation Appeals
158:40-13-2. Procedures of the variance and appeals board [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. § 1689
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The rule changes provide a change of the principal office address of the Construction Industries Board. The purpose of this rule is to clarify language and allow two thousand (2000) hours of maintenance and military experience as an option to satisfy the requirements of the residential electrical journeyman's license.
CONTACT PERSON:
Jeanne Britt, C.P.O., Executive Assistant, Construction Industries Board, 2401 N.W. 23,Ste 5, Oklahoma City, OK 73107 telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE AND THE HEARING BOARD

158:40-3-1. Procedures of the committee

(a) Committee meetings are generally, and unless otherwise stated by the Administrator, ~~Oklahoma State Board of Health Building at 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299~~ the principal offices of the Construction Industries Board referenced at 158:1-3-1. The Committee shall meet and conduct examinations, as often as is necessary, but at least once each quarter when applications are pending. Meetings of the Committee will comply with the Oklahoma Open Meeting Act.

(b) The Committee may write and shall administer electrical examinations; shall notify applicants by mail of the dates and time of examinations; shall grade examinations; shall certify qualified applicants; may recommend regulations to the Administrator and to the State Construction Industries Board; and shall act as advisor to the Administrator on electrical matters.

(c) Application for licensure shall be done by filling out an application for examination on a form provided by the Electrical License Unit.

(d) The public may communicate with the Committee in person or by mail through the Oklahoma Construction Industries Board. The Administrator will make available all forms and instructions used by the Committee, rules, and all other written statements of policy or interpretations, all final orders, decisions and opinions. Copies will be provided upon payment of a fee of 25 cents per page.

SUBCHAPTER 7. LICENSE CLASSIFICATIONS

158:40-7-2. Residential electrical license

(a) Residential electrical licenses are limited to wiring buildings as defined in the National Electrical code for one and two family dwellings.

(b) Applicants for residential electrical contractor examination must:

(1) be eighteen (18) years of age or older, ~~have served four thousand (4,000) hours as an apprentice,~~

(2) have passed the residential or unlimited journeyman examination and

(3) have ~~an additional~~ four thousand (4,000) hours as a residential or unlimited journeyman electrician under the employment and supervision of an electrical contractor. One thousand (1,000) hours of the four thousand (4,000) hours as a licensed journeyman may be satisfied by actual classroom hours of formal electrical education.

(c) Applicants for residential electrical journeyman examination must:

(1) be eighteen (18) years of age or older and

(2) verify at least four thousand (4,000) hours (2 years) experience in the electrical construction trade as an apprentice under the direct supervision of a journeyman electrician or electrical contractor.

(A) two thousand (2,000) ~~of such~~ hours may be satisfied by actual classroom hours of formal electrical education~~.~~ or

(B) Two thousand (2,000) hours may be satisfied by verified experience performing electrical maintenance or military electrical installations.

SUBCHAPTER 13. PROCEDURES OF THE VARIANCE AND APPEALS BOARD, PLAN REVIEW APPLICATIONS AND FILING FEES, CODE VARIANCE APPLICATIONS AND FILING FEE AND CODE INTERPRETATION APPEALS

158:40-13-2. Procedures of the variance and appeals board

The Administrator shall call a meeting of the Variance and Appeals Board after the Administrator receives proper application for a variance accompanied by the fifty dollar ($50.00) filing fee or receives proper notice of an appeal of the Board's interpretation of the National Electrical Code as applied to a particular installation. Variance and Appeals Board meetings are held at ~~1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299~~ the principal offices of the Construction Industries Board referenced at 158:1-3-1 or at another location named by the Administrator. The Variance and Appeals Board shall comply with the Oklahoma Open Meetings Act.

[OAR Docket #06-688; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #06-689]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
158:50-1-2. Definitions [AMENDED]
158:50-1-4. Adopted references and standard of workmanship [AMENDED]
Subchapter 11. License Revocation Or Suspension And Prohibited Acts
158:50-11-1. License retention requirements [AMENDED]
Subchapter 13. Procedures Of The Variance And Appeals Board, Plan Review Applications And Fees, Code Variance Applications And Fee, Code Interpretation Appeals.
158:50-13-2. Procedures of the variance and appeals board [AMENDED]
158:50-13-3. Code variance applications and fee [AMENDED]
158:50-13-4. Code interpretation appeals [AMENDED]

AUTHORITY:
Construction Industries Board; 59 O.S. § 1689.

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INCORPORATIONS BY REFERENCE:
Incorporating standards:
2006 International Mechanical Code
2006 International Fuel Gas Code
Chapters 12 through 24 of the International Residential Code.
Incorporating rules:
158:30-1-4.
Availability:
8:00 a.m. to 5:00 p.m., Monday through Friday at Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, 73107 telephone:(405) 271-2771; facsimile: (405) 271-5254.
ANALYSIS:
The rule changes provide a change of the principal office address of the Construction Industries Board, and incorporates the International Mechanical Code/2006, International Fuel Gas Code/2006, and the International Residential Code/2006, (Chapters 12 through 24) as the minimum standard for mechanical work in Oklahoma.
CONTACT PERSON:
Jeanne Britt, Rules Liaison, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, OK 73107; telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

158:50-1-2. Definitions

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

"Act" means Mechanical Licensing Act as found at 59 O.S. § 1850.1 et seq.

"**Administrator"** means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1 et seq.

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a mechanical code variance from the ICC International Mechanical Code~~/2000~~ or the International Fuel Gas Code~~/2000~~ and the International Residential Code~~/2000~~ (Chapters 12 through 24) by the Construction Industries Board under the Act.

"Associated with and responsible for" means the relationship between a mechanical contractor and mechanical firm based on the mechanical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the mechanical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Mechanical Licensing Act and this Chapter.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds, insurance, and citations under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Committee" means the Committee of Mechanical Examiners.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed mechanical contractor or mechanical journeyman.

"Gas piping" means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises up to the connection with a natural gas meter, regulator, or other source of supply.

"Ground source piping" means piping buried below the earth's surface or submerged in a water well, lake or pond and used in conjunction with a heat pump to provide heating, ventilation and/or air conditioning to a structure.

"Humidification", when applied to air conditioning, means and includes an increase or decrease in moisture content of the air being conditioned and supplied to the space for human occupancy by means of that integral part of the entire air conditioning system, equipment, and control devices; when applied to refrigeration, means and includes an increase or decrease in the moisture content of the air or product being conditioned for a food preservation measure or manufacturing process by means of the integral part of the entire refrigeration system, equipment, and control devices.

"HVAC" or "heating, ventilation and air conditioning" means the process of treating air by controlling its temperature, humidity, and cleanliness and of supplying such air to spaces for human occupancy by means of an integrated system of air conditioning and ventilation equipment, accessories and control devices.

"ICC" means the International Code Council.

"Limited residential journeyman" means a type and category of mechanical license that is restricted to new installations in detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this chapter.

"Mechanical License Unit" means the staff and administrative support unit to the Committee of Mechanical Examiners and the Mechanical Hearing Board.

"Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, cooling system, mechanical refrigeration system or ventilation system or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used

to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor, provided that minor maintenance and repairs are excluded.

"Minor repairs and maintenance" means minor repairs or maintenance prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the low voltage manufacturer installed controls, the vent system of fuel burning appliances or any repair or maintenance which would violate the safe operation of the equipment.

"Process" means a series of operations performed in the making or treatment of a product.

"Process piping" means lay out, assembly, installation, and maintenance of pipe systems, pipe supports, and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating and fire sprinklers, not subject to regulation pursuant to the Alarm Industry Act, and industrial production and processing systems.

"Reciprocity" means an agreement whereby a person holding a mechanical license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Refrigeration system" means a system employing fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process.

"Sheet metal" means the ferrous and non-ferrous ductwork and components which house and ventilates air conditioning systems, both assembled and custom fabricated.

"Variance" means the use of an alternative material or method of construction from that prescribed in the ICC International Mechanical Code~~/2000~~ or the International Fuel Gas Code~~/2000~~ or the International Residential Code~~/2000~~(Chapters 12 through 24) for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Mechanical Installation Code Variance and Appeals.

158:50-1-4. Adopted references and standard of workmanship

The Construction Industries Board hereby incorporates the International Mechanical Code/~~2003~~2006, International Fuel Gas Code/~~2003~~2006, and the International Residential Code/~~2003~~2006, Chapters 12 through 24) as the minimum standard for mechanical work in Oklahoma.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:50-11-1. License retention requirements

All mechanical work performed by the licensee shall be minimally in accordance with the ~~ICC International Mechanical Code/2000 and/or the International Fuel Gas Code/2000 and the International Residential Code/2000 (Chapters 12 through 24)~~adopted references in 158:50-1-4. An exception shall be made only if the plans calling for other than the adopted references in 158:50-1-4 or have been approved by the Office of State Fire Marshal.

SUBCHAPTER 13. PROCEDURES OF THE VARIANCE AND APPEALS BOARD, PLAN REVIEW APPLICATIONS AND FEES, CODE VARIANCE APPLICATIONS AND FEE, CODE INTERPRETATION APPEALS

158:50-13-2. Procedures of the Variance and Appeals Board

The Administrator shall call a meeting of the Variance and Appeals Board after the Administrator receives proper application for a variance accompanied by the fifty dollar ($50.00) filing fee or receives proper notice of an appeal of the Department's interpretation of the ICC International Mechanical Code/~~2000~~2006 or the International Fuel Gas Code/~~2000~~2006 and the International Residential Code/~~2000~~2006 (Chapters 12 through 24)as applied to a particular installation. Variance and Appeals Board meetings are held at ~~1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299~~ the principal offices of the Construction Industries Board referenced at 158:1-3-1, or at another location named by the Administrator. The Variance and Appeals Board shall comply with the Oklahoma Open Meetings Act.

158:50-13-3. Code variance applications and fee

(a) Applications for a variance from the ~~ICC International Mechanical Code/2000 or the International Fuel Gas Code/2000 and the International Residential Code/2000 (Chapters 12 through 24)~~ adopted references in 158:50-1-4 by an Oklahoma-licensed, mechanical contractor, or other person as stated in statute, shall be submitted to the Administrator. An application form and the fifty-dollar ($50.00) filing fee shall accompany sufficient technical data submitted to support the proposed variance. Applications submitted after the use of materials or methods of construction not in conformance with the ~~ICC International Mechanical Code/2000 or the International Fuel Gas Code/2000 and the International Residential Code/2000 (Chapters 12 through 24)~~ adopted references in 158:50-1-4, or submitted where a city or town has adopted a nationally recognized, mechanical installation code by ordinance, shall not be considered by the Variance and Appeals Board.

(b) The applicant and the Administrator may offer testimony to the Variance and Appeals Board which is relevant to the code variance requested. If testimony will be offered to support the application, the applicant shall include in the application the identity of the applicant's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness. If the Administrator contests the application, and will offer testimony to rebut the application, the Administrator will provide

the applicant with the identity of the Administrator's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness.

158:50-13-4. Code interpretation appeals

A mechanical contractor, or any party who has an ownership interest in or who is in responsible charge of the design of or work on the mechanical installation, may appeal the Department's interpretation of the ~~adopted ICC International Mechanical Code/2000 or the adopted International Fuel Gas Code/2000 and the adopted International Residential Code/2000 (Chapters 12 through 24)~~ adopted references in 158:50-1-4 as applied during the Administrator's review of mechanical plans and specifications or inspection of a mechanical installation to the Variance and Appeals Board created pursuant to Title 59, O.S. Supp. 1994, § 1850.16. Such appeals shall be made in writing to the Administrator within fourteen days after the Department's code interpretation or receipt of written notice of the alleged code violation by the licensed mechanical contractor, and shall be heard only if based on a claim that:

(1) the true intent of the installation code has been incorrectly interpreted;
(2) the provisions of the code do not fully apply; or
(3) an equal or better form of installation is proposed.

[OAR Docket #06-689; filed 4-18-06]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 60. INSPECTORS REGULATIONS

[OAR Docket #06-690]

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PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:60-1-2. Definitions [AMENDED]
Subchapter 5. Categories And Classifications Of Inspector Licenses, Qualifications For Inspector Licensure, License Requirements For Inspectors, Fee, Certification And Continuing Education For Inspectors, And Continuing Education Courses.
158:60-5-2. Qualifications for inspector licensure [AMENDED]
158:60-5-4. Fees, certification and continuing education for inspectors[AMENDED]
158:60-5-5. Continuing education courses [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. § 1000.4
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ANALYSIS:
The rule eliminates obsolete organizations. The rule change in 158:60-5-5 no longer requires the social security number on sign-in sheets in the continuing education classes.
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 MAY 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

158:60-1-2. Definitions

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

"Act" means the Oklahoma Inspectors Act as found at 59 O.S.§ 1031 et seq.

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1 et seq.

"Board" means the Construction Industries Board.

~~**"BOCA"** means the Building Officials and Code Administrators International, Inc., a nationally recognized code organization that publishes codes as standards for governing building, mechanical and plumbing installations and that certifies inspectors in various categories in the building and construction trades.~~

"Certification" means approval by a certifying entity demonstrating that an applicant has passed an appropriate certification examination.

"C.E.U." means a continuing education unit that is either one (1) clock hour of Committee approved instruction or its equivalent as determined by the Committee.

"Committee" means the Oklahoma Inspector Examiners Committee.

"IAPMO" means the International Association of Plumbing and Mechanical Officials, a nationally recognized code organization that publishes a code for governing plumbing installations and that certifies inspectors in the plumbing trade.

~~**"ICBO"** means the International Conference of Building Officials, a nationally recognized code organization that publishes codes as standards for governing building and mechanical installations and that certifies inspectors in various categories in the building and construction trades.~~

"ICC" means International Code Council, a nationally recognized code organization that publishes codes as standards for governing building and mechanical installations and that certifies inspectors in various categories in the building and construction trades.

"OCIB EXAM" means an examination prepared by the Committee.

"Provisional license" means a license issued for not more than two years to a person who has made proper application but does not meet all licensing requirements.

"Residential" means the classification of inspector license, which authorizes an individual to conduct electrical, mechanical, plumbing or building inspections of only those structures designated as use group R3 or R4 in the most current adopted National Building Code.

~~**"SBCCI"** means the Southern Building Code Congress International, a nationally recognized code organization that publishes codes as standards for governing building, mechanical and plumbing installations and that certifies inspectors in various categories in the building and construction trades.~~

"Unlimited" means the classification of inspector license which authorizes an individual to conduct electrical, mechanical, plumbing or building inspections of all structures or installations.

SUBCHAPTER 5. CATEGORIES AND CLASSIFICATIONS OF INSPECTOR LICENSES, QUALIFICATIONS FOR INSPECTOR LICENSURE, LICENSE REQUIRMENTS FOR INSPECTORS, FEES, CERTIFICTION AND CONTINUING EDUCTION FOR INSPECTORS, AND CONTINUING EDUCATION COURSES

158:60-5-2. Qualifications for inspector licensure

(a) Initial application must be made on the form provided by the Administrator.

(b) The proper fees must accompany any application, including the late fee if application for renewal is made within one year after expiration of the initial license.

(c) The applicant must submit as soon as is practicable after application is made:

(1) proof of certification by a national code organization recognized by the Committee, such as ~~BOCA,~~ ICC, IAPMO~~, ICBO, or SBCCI~~;

(2) proof of certification by the Committee that the person has passed the Oklahoma Inspector Examination; or

(3) proof that the required C.E.U.'s have been completed.

(d) Section 158:60-3-4 sets forth the licensing qualifications for the license categories and classifications provided in 158:60-3-1. However, no person shall be required to meet the continuing education requirements for the licensing year the certification requirements of 158:60-3-2(c)1 or 2 are met.

(e) A provisional license is issued to allow a person to work as an inspector even though all the license qualifications have not been met. This provisional license will provide the licensee with adequate time and motivation to become educated and meet all licensure requirements within two years after being issued the provisional license. No person shall be issued more than one provisional license at a time, nor shall a provisional license be issued twice for the same category. The initial fee for the provisional license shall be $35.00.

(f) The Administrator shall maintain a list of inactive inspectors, said list shall be made available on request to any political subdivision who may need the services of a licensed inspector.

158:60-5-4. Fees, certification and continuing education for inspectors

~~(a)~~ Fees, certification and continuing education requirements for inspectors are as follows:

(1) Building inspectors (both unlimited and residential licenses):

(A) $35.00 Fee for license and renewal;

(B) $70.00 Late fee; and

(C) Certification or exam - ~~BOCA,~~ ICC, ~~ICBO, SBCCI,~~ or Construction Industries Inspector's Exam.

(D) C.E.U. - 5 (effective for license year beginning July 1, 1995).

(2) Electrical inspectors (both unlimited and residential licenses):

(A) $35.00 Fee for license and renewal;

(B) $70.00 Late fees for renewal license; and

(C) Certification or exam - ~~BOCA,~~ ICC, ~~ICBO, SBCCI,~~ or Construction Industries Inspector's Exam.

(D) C.E.U. - 5 (effective for license year beginning July 1, 1995).

(3) Mechanical inspectors (both unlimited and residential licenses):

(A) $35.00 Fee for license and renewal;

(B) $70.00 late fees for renewal license; and

(C) Certification or exam - ~~BOCA,~~ ICC, ~~ICBO, SBCCI,~~ or Construction Industries Inspector's Exam.

(D) C.E.U. - 5 (effective for license year beginning July 1, 1995).

(4) Plumbing inspectors (both unlimited and residential licenses):

(A) $35.00 Fee for license and renewal;

(B) $70.00 late fees for renewal license; and

(C) Certification or exam - ~~BOCA,~~ ICC, ~~ICBO, SBCCI,~~ or Construction Industries Inspector's Exam.

(D) C.E.U. - 5 (effective for license year beginning July 1, 1995).

158:60-5-5. Continuing education courses

(a) **Continuing education course approval.** Any entity which desires to sponsor education to licensees in compliance with the continuing education requirements of OAR 158:60-5-4 shall file an application for approval on the form

prescribed by the Department. The application shall include a list of the course instructors and their qualifications, an agenda detailing the material to be presented, the location of the training, the program objectives, and the number of clock hours of classroom and supervised instruction. Licensees shall not receive continuing education credit for attending classes that are not approved by the Committee. After completion of the course, the entity shall submit sign-in sheets for all sessions. The sign-in sheets shall include the signature and ~~social security number or~~ state inspector license number of each person in attendance. The entity shall verify the total number of continuing education hours completed by each attendee. All programs shall be presented as submitted unless changes have been approved. Changes to the program shall be submitted to the Department within 10 days of the training session for review by the committee. Failure to obtain approval of changes may result in loss of CEU approval.

(b) **Approval requirements for continuing education.** All continuing education providers shall abide by the following requirements:

(1) All material and information presented shall pertain to the discipline in which the person is licensed.

(2) All courses must be of at least two (2) hours in length.

(3) The training location must be outside the regular work place or after hours.

(4) Each attendee shall complete an evaluation on a form provided by the Department. The entity shall return the completed evaluation form to the Department.

[OAR Docket #06-690; filed 4-18-06]

TITLE 195. BOARD OF DENTISTRY CHAPTER 3. COMPLAINTS, INVESTIGATIONS AND HEARINGS

[OAR Docket #06-694]

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RULES:
195:3-1-1.1. [AMENDED]
195:3-1-2. [AMENDED]
195:3-1-3. [REVOKED]
195:3-1-3.1 . [NEW]
195:3-1-4. [AMENDED]
195:3-1-4.1. [AMENDED]
195:3-1-4.2. [AMENDED]
195:3-1-5 . [AMENDED]
195:3-1-5.1 . [AMENDED]
195:3-1-6 . [AMENDED]
195:3-1-7. [AMENDED]
195:3-1-8 . [AMENDED]
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New language amended to provide consistency with 2005 statutes.
CONTACT PERSON:
Linda C. Campbell, Executive Director, (405) 524-9037

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

195:3-1-1.1. Definitions

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

"Act" or **"Dental Act"** means the State Dental Act, Title 59 O.S. §§ 328.1 thru 328.51(a).

"Board" means the Board of Dentistry.

"Complaint" means a written statement of complaint filed with the Board which is investigated or to be investigated by the Board and which may result in a formal Statement of C~~c~~omplaint in an individual proceeding filed pursuant to Article II of the Administrative Procedures Act.

"Hearing" means the trial mechanism employed by the Board in an individual proceeding.

"Individual proceeding" means the formal process by which the Board takes administrative action against a person licensed by the Board.

"License" means a license issued by the Board.

"Parties" means the respondent and the special prosecutor for the Board.

"Principal Administrative Officer" means the Principal Administrative Officer of the Board.

"Respondent" means the person against whom an individual proceeding is initiated.

"Review panel" means two Board members assigned to investigate Complaints against persons licensed by the Board.

"Staff" means the personnel of the Board.

195:3-1-2. Investigations

(a) Any person may file a written and signed complaint with the Board alleging that another person has sought to practice or has illegally practiced dentistry or dental hygiene or has

violated the Act or rules of the Board. ~~Staff may require complainant(s) to reduce oral complaints to writing. The complainant(s) should state all known facts upon which the allegations are based. Staff may inquire of the complainant for any additional information relative to the complaint.~~ The complaint need not be on any particular form but must be in writing and signed before it is presented to the Board representative for filing.

(b) Upon receipt of a complaint, the ~~president~~ President of the Board shall appoint two Board members to act as a review panel during the investigation of the complaint. The review panel members shall not be from the same geographical region as that of the person named in the complaint or have a pecuniary interest in the outcome of the complaint. ~~The review panel members may meet informally with staff to coordinate an investigation. The review panel may also use services of the assigned Board attorney for the investigation to determine legal sufficiency of the complaint. During the investigation, staff and the review panel may use any investigative mechanism authorized in the Act.~~ The review panel shall conduct or cause to be conducted an investigation and may utilize investigators and attorneys to conduct or assist in conducting the investigation. During the investigation, the review panel and investigators and attorneys may use any investigative mechanism authorized in the Act.

195:3-1-3. Initiation of individual proceedings; settlement agreement [REVOKED]

~~(a) If the review panel determines that it is more likely than not that a violation of the Act or rules of the Board has occurred and that the person named in the complaint has more likely than not committed the violation, the review panel may recommend in writing to the Board that the Board initiate an individual proceeding against the person named in the complaint. The written recommendation shall contain the allegations made against the person named in the complaint and shall be presented to the Board.~~

~~(b) The Board shall examine the allegations made in the written recommendation from the review panel and shall make a determination of whether or not to authorize issuance of a formal statement of complaint. The staff shall take appropriate action to issue the Statement of Complaint and serve the person charged in the complaint.~~

~~(c) The review panel may elect not to recommend to the Board that an individual proceeding be initiated against the person named in the complaint. The review panel may elect to secure a settlement agreement with the person named in the complaint. The settlement agreement will contain language that the person named in the Complaint will not violate provisions of the Act or the rules of the Board in the future. The settlement agreement may also contain language indicating the alleged violation of the Act or rules of the Board by the person named in the complaint.~~

~~(d) Any settlement agreement made by a review panel must receive final review and approval by the Board. The settlement agreement shall remain part of the investigative file and may only be used against the person involved if the person violates the settlement agreement. The settlement agreement is subject to the Oklahoma Open Records Act.~~

195:3-1-3.1. Emergency hearing

In the event the review panel determines that an emergency exists for which immediate action on a license is warranted, including but not limited to suspension or revocation, the review panel shall so advise the President of the Board. Upon concurrence of the President of the Board, the President may convene a special or emergency hearing of the Board pursuant to the Administrative Procedures Act of the Oklahoma Statutes to summarily take action on such license. A written statement of the allegations constituting the emergency shall be provided to the Board as soon as practicable before the hearing. Notice of the hearing and the written statement of allegations constituting the emergency shall be provided to the respondent as soon as practicable before an emergency hearing of the Board.

195:3-1-4. Statement of Complaint and notice of hearing; setting of hearing date~~, emergency hearings~~

(a) The Statement of Complaint issued by the Board shall set forth all allegations of violations of the Act, proposed sanctions and requests for costs and attorneys' fees. The Statement of Complaint shall be prepared by the attorney who assisted in the investigation, or if no attorney assisted in the investigation, by the attorney who will prosecute the respondent in a hearing before the Board. ~~The complaint shall be reviewed by the assigned Board attorney prior to service upon the respondent. An individual proceeding shall be initiated by the filing of the Complaint with the Board.~~

(b) ~~The Board shall also cause to be prepared a "Notice of Hearing" which shall specify; the time, place, and nature of the hearing; the legal authority under which it is to be conducted; reference to statutory provisions involved. Service of notice may be in person or by certified mail. Service of notice shall be complete upon personal service, upon receipt by the Board of the card showing receipt of certified mail by the respondent.~~ At the time the Board accepts the recommendation of the review panel that an individual proceeding be commenced, the Board shall set a hearing date, which shall be no less than thirty (30) days after service of the Statement of Complaint on the respondent.

(c) ~~At the time the Board authorizes issuance of a Complaint, or at other appropriate times, the Board shall set a tentative hearing date, which shall be no less than thirty (30) days after issuance of the Complaint.~~ A "Notice of Hearing" shall be prepared by the Principal Administrative Officer and served on the respondent with the Statement of Complaint. The Notice of Hearing shall specify the time, place and nature of the hearing, the legal authority under which it is to be conducted and cite any relevant statutory provisions. Service of the Statement of Complaint and Notice of the Hearing may be in person or by certified mail. Service of the Notice of the Hearing shall be complete upon return to the Board of a card showing receipt of certified mail by the respondent or return to the Board of an affidavit of personal service.

~~(d) In the event the review panel determines that an emergency exists for which the immediate suspension of a license is necessary, the review panel shall so advise the president of the Board. Upon concurrence of the president of the Board, the president may convene a hearing of the Board pursuant to Title 75 Oklahoma Statutes to summarily suspend such license. If the Board finds by clear and convincing evidence that public health, safety or welfare imperatively requires emergency action and incorporates a finding regarding the emergency in its order, summary suspension of a license may be ordered pending final outcome of the proceeding instituted. The Board shall comply with all notice requirements of the Administrative Procedures Act and immediately set the matter for full hearing before the Board in compliance with the Administrative Procedures Act and the Dental Act.~~

195:3-1-4.1. Matters prior to the hearing

(a) At the same time the respondent is served with the Statement of Complaint and notice of the hearing, the respondent ~~may likewise be served with a scheduling order. The scheduling order shall advise the respondent of the closing date for the exchange of witness and exhibit lists, the discovery cut-off, the cut-off date for the filing of dispositive motions, a pre-hearing conference date set no less than fourteen (14) days prior to the hearing date, and other matters necessary to be scheduled.~~ and prosecuting attorney (parties) shall be served with a scheduling order. The scheduling order shall be prepared by the attorney advising the Board and approved by the President of the Board. The scheduling order shall advise the parties of the closing date for the exchange of and filing of witness and exhibit lists, the discovery cut-off date, the cut-off date for the filing of dispositive motions and any other matters determined to be necessary. A prehearing conference date, set no less than fourteen (14) days prior to the hearing shall also be set in the scheduling order. Either party may file a written motion for modification of the scheduling order for good cause. The filing party must indicate whether the other party objects to the modification of the scheduling order.

(b) ~~The respondent or the Board Staff~~ Either party may file a written motion for a change in the hearing date. ~~continuance or extension of time~~. The motion shall state the amount of time desired and the reason or reasons for the request ~~unless good cause is shown~~. The motion shall be filed no less than ~~ten (10) working~~ thirty (30) working days before the date of the action for which the motion is filed.

(c) The ~~president~~ President of the Board may ~~extend the time specified in the scheduling order for good cause shown by one of the parties in writing to the Board.~~decide motions for modification of the scheduling order or for change in the hearing date for good cause shown by one of the parties.

(d) The President of the Board and the Board may utilize the services of an attorney on all matters arising prior to the hearing.

195:3-1-4.2. Response to the complaint

The respondent shall file a written response to the Complaint within twenty (20) days after the service of the Statement of Complaint and notice of hearing. The response shall include either an admission or denial of each material element of the Statement of Complaint.

195:3-1-5. Subpoenas and discovery

(a) The ~~respondent~~ parties may make written requests to the Board for the issuance of Subpoena or Subpoena Duces Tecum to persons desired as witnesses for depositions or for the hearing, and such Subpoenas Duces Tecum for the production of documents for discovery or the hearing. Such subpoenas shall be issued by the President of the Board in the name of the Board ~~for the attendance of the witnesses~~. ~~Respondent~~ The requestor shall furnish the names and addresses of all such witnesses. The Principal Administrative officer is hereby authorized to receive requests for subpoenas and issue the same over the Principal Administrative Officer's signature with the same force and effect as if it were signed and issued by the president of the Board.

(b) ~~All forms of discovery permitted in civil actions in the State of Oklahoma will be permitted~~ Requests for admission, requests for the production of documents, requests for inspection of property and depositions shall be permitted prior to the hearing. Objections to ~~the~~ discovery requests will be permitted as in civil actions in the State of Oklahoma. Any dispute to the discovery requests will be decided by the P~~p~~resident of the Board.

195:3-1-5.1. Prehearing conference

(a) The scheduled prehearing conference may be held by telephone if agreed to by the parties or ordered by the President of the Board. ~~A prehearing conference shall be held in each case scheduled for hearing before the Board, in accordance with rules if requested by one of the parties to this action. Counsel for the Board shall preside at the prehearing conference. The prosecutor for the case and the respondent shall appear in person at the prehearing conference. The respondent may be represented by counsel, if desired.~~

(b) ~~The purpose of the prehearing conference is to assist in the orderly progress of the hearing. The parties may be directed to file a written statement of the case to include:~~

~~(1) Witness list, including a description of the proposed testimony;~~

~~(2) Exhibit list, including a copy of all exhibits to be provided to the opposing party;~~

~~(3) Statement as to additional necessary discovery;~~

~~(4) Statement as to estimated length of the party's evidence at the hearing.~~The attorney advising the Board shall, in the absence of the President of the Board, preside at the prehearing conference.

(c) ~~Counsel for the Board shall schedule a discovery cut-off date and a cut-off date for the filing of dispositive motions.~~The purpose of the prehearing conference is to ensure that all prehearing matters have been addressed, that the issues to be addressed at the hearing have been identified, that all discovery has been completed and that all matters necessary for the conduct of an orderly hearing have been addressed.

(d) ~~The parties shall cooperate fully in all prehearing matters~~ An estimated length of the hearing shall be provided by the parties to the President of the Board.

195:3-1-6. Procedure for hearings

(a) The hearing shall be conducted ~~in an orderly manner~~ under the Administrative Procedures Act of the Oklahoma statutes and shall be presided over by the President of the Board, or the Vice-President in the absence of the President. In the event of the absence of both the president and the Vice-President, the President shall designate a member of the Board to preside at the hearing. The rules of evidence used during the hearing shall be those specified by the Administrative Procedures Act. Witnesses shall be sworn upon oath and are subject to cross-examination. The President of the Board shall rule upon the admissibility of evidence or objections thereto, or upon other motions or objections arising in the hearing. The rulings of the President, in all questions, shall be the rulings of the Board unless reversed or modified by a majority vote of the Board.

(b) The Board may utilize the services and advice of its Attorney (serving as legal advisor) regarding any matter of evidence, law, or procedure in the conduct of the hearing. ~~But~~ All decisions concerning objections or procedure shall be made by the presiding Board member. A Board Attorney shall act as Special Prosecutor for the Board although any Board member may inquire of any witness concerning matters deemed relevant and competent and not otherwise offered into evidence.

(c) The Board shall admit and give probative effect all competent, relevant, and probative evidence, both oral and documentary, which tends to prove or disprove the allegations of the complaint. The board may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. The Board shall, insofar as possible, give effect to the fundamental rules of evidence recognized in courts of law. True copies of documents may be received if the original is unavailable. The Board is possessed of specialized knowledge, and such knowledge will be utilized along with all the evidence in arriving at a decision, when the complaint or investigation involves questions calling for such specialized knowledge. The standard of proof upon the Board in such hearing is by clear and convincing evidence.

(d) Whenever all the evidence has been presented, the respondent shall be afforded an opportunity to be heard in argument relative to the matters in issue.

195:3-1-7. Issuance of final agency order

After all parties involved in the individual proceeding have concluded their presentation, the Board shall deliberate, in executive session if desired. ~~and announce its decision~~ The Board shall vote in open session whether the Act was violated by the respondent. The Board shall make findings of fact and conclusions of law if it determines that the respondent violated the Act. If the Board finds that the Act was violated, the Board shall deliberate, in executive session if desired, to determine what, if any, sanctions shall be imposed upon the respondent. A final agency order will be prepared later in written form and mailed to respondent at his last known office address. The final agency order shall include separately stated Findings of Fact and Conclusions of Law and if respondent is found guilty of violations of the State Dental Act or enters his admissions thereof, the final agency order shall include the sanction or sanctions assessed. Appeals from the decision of the Board may be taken as provided by law.

195:3-1-8. Record of hearing

(a) A record of ~~the~~ all ~~hearing~~ hearings shall ~~will~~ be made ~~of all hearings conducted by the Board and may be by means of tape recording or court reporter, whichever the presiding officer of the Board designates~~. The record may be made by means of electronic, digital or stenographic means whichever the presiding officer designates. A transcript of the proceeding shall not be prepared except upon written application. The party requesting the transcript shall pay for its costs. Parties to any proceeding may have the proceeding transcribed by a court reporter at their own expense.

(b) The record of the hearing and the file containing the pleadings, motions, final agency order and other administrative records will be maintained in a place designated by the Principal Administrative Officer of the Board. The tape recording audio or video or transcript of the proceeding shall be maintained for a period of one year. If the matter is on appeal, these records will be maintained until all appeals have been finally exhausted.

(c) If the respondent desires a stenographic record ~~certified court reporter~~ at the hearing, he or she shall make ~~the Principal Administrative Officer will~~ arrangements for the court reporter to be present at the hearing. ~~Said request should be in writing and received ten (10) days prior to the hearing.~~ If the stenographic record is transcribed, a copy shall be provided to the other party and the Board at the respondent's expense.

on Dental Accreditation of the American Dental Association.

[OAR Docket #06-694; filed 4-19-06]

TITLE 195. BOARD OF DENTISTRY CHAPTER 10. EXAMINATIONS AND LICENSING OF DENTISTS, DENTAL HYGIENISTS, AND DENTAL SPECIALITS

[OAR Docket #06-694A]

RULEMAKING ACTION:
PERMANENT final adoption.

RULES:
Subchapter 9. Recognition of Specialties
195:10-9-2. [AMENDED]
Subchapter 11. Specialty Examinations
195:10-11-5. [AMENDED]
195:10-11-6. [AMENDED]
195:10-11-7. [AMENDED]
195:10-11-9. [AMENDED]
195: 10-11-10. [AMENDED]

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CONTACT PERSON:
Linda C. Campbell, Executive Director, (405) 524-9037

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 9. RECOGNITION OF SPECIALTIES

195:10-9-2. Specialties recognized by the Board and qualifying requirements

The Board will at its discretion, recognize only those specialties as approved by the Commission on Dental Accreditation of the American Dental Association (Title 59 O.S. 328.22). The following specialties are recognized and defined by the Board, and any dentist ~~member of the Registered Dentists of Oklahoma~~, ~~who holds a license to practice Dentistry,~~ must fulfill the listed requirements to be allowed to take the examination.

(1) **Oral and Maxillofacial surgery.**

(A) **Definition:** The diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

(B) **Requirements:** Certificate of satisfactory completion of advanced training program in Oral Surgery approved by the Commission on Dental Accreditation of the American Dental Association and in a hospital approved by the Council on Hospital and Institutional Dental Service of the American Dental Association. This training program shall be for a minimum of three (3) years.

(2) **Orthodontics and Dentofacial Orthopedics.**

(A) **Definition:** The diagnosis, prevention, interception and correction of malocclusion, as well as neuromuscular and skeletal abnormalities of the developing or mature orafacial structures. ~~treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures; the design, application, and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structure.~~

(B) **Requirements:** A minimum of t~~T~~wo academic years of graduate training in a school approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association.

(3) **Pediatric Dentistry.**

(A) **Definition:** ~~The practice and teaching of comprehensive preventive and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical and/or emotional problems.~~Pediatric Dentistry is an age defined specialty that provides both primary and comprehensive preventive and therapeutic oral health care for infants and children through adolescence, including those with special health care needs.

(B) **Requirements:** Two academic years of graduate study in a school approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association.

(4) **Periodontics.**

(A) **Definition:** ~~The science and art dealing with the health and disease of the investing and supporting structures of the teeth and oral mucous membrane and with their treatment.~~ Periodontics is that specialty of dentistry which encompasses the prevention, diagnosis and treatment of diseases of the supporting and surrounding tissues of the teeth or their substitutes and the maintenance of the health, function and esthetics of these structures and tissues.

(B) **Requirements:** Two academic years of graduate training in Periodontics in a school or other institution approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association.

(5) **Prosthodontics.**

(A) **Definition:** ~~Prosthodontics is that branch of dentistry pertaining to the restoration and maintenance of oral functions, comfort, appearance and health of the patient by the restoration of the natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissues with artificial substitutes: —~~Prosthodontics is the dental

specialty pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth and/or oral and maxillofacial tissues using biocompatible substitutes.

~~(i) Removable Prosthodontics - is that branch of prosthodontics concerned with replacement of teeth and contiguous structures for edentulous or partially edentulous patients by artificial substitutes that are removable from the mouth.~~

~~(ii) Fixed Prosthodontics - is that branch of prosthodontics concerned with the replacement and/or restoration of teeth by artificial substitutes that are not removable from the mouth.~~

~~(iii) Maxillofacial Prosthetics - is that branch of prosthodontics concerned with the restoration and/or replacement of stomatognathic and associated facial structures by artificial substitutes that may or may not be removed.~~

(B) **Requirements:** Successful completion of a two (2) year Prosthodontics Specialty Program resulting in a masters degree or certification approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association.

(6) **Endodontics**

(A) **Definition:** ~~The branch of dentistry which is concerned with the etiology, prevention, diagnosis and treatment of the diseases and injuries that affect the pulp and periapical tissues.~~ Endodontics is the branch of dentistry which is concerned with the morphology, physiology and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

(B) **Requirements:** Applicant must be a diplomate of the American Board of Endodontics or be certified as having successfully completed at least an eighteen-month graduate training program in endodontics, which is recognized and accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the American Association of Endodontists.

(7) **Oral and Maxillofacial Pathology.**

(A) **Definition:** ~~The art and science which deals with the nature of oral diseases, through study of its causes, its processes, and its effects, together with the associated alterations of oral structure and function.~~ Oral pathology is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of oral pathology includes research and diagnosis of diseases using clinical, radiographic microscopic biochemical, or other examinations.

(B) **Requirements:** Two years or six quarters of graduate study in a school approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association.

(8) **Oral and Maxillofacial Radiology**

(A) **Definition:** The specialty of dentistry and discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders and conditions of the oral and maxillofacial region.

(B) **Requirements:** Two years of graduate study in a school approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association.

(9) **Dental Public Health**

(A) **Definition:** The science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concern with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

(B) **Requirements:** A two-year dental public health program must encompass a minimum of two academic years in duration or a one-year dental public health program must encompass a minimum of twelve (12) months in duration with the applicant's possession of the degree of M.P.H. or a comparable degree. The advanced study program shall be a school approved or provisionally approved by the Commission on Dental Accreditation of the American Dental Association.

SUBCHAPTER 11. SPECIALTY EXAMINATIONS

195:10-11-5. Recognition of graduate education

The Board will not recognize any graduate education except that which is obtained at a University level. Only advanced dental specialty educational programs accredited by the Commission on Dental Accreditation of the American Dental Association shall be recognized.

195:10-11-6. Reexamination

An applicant who fails to achieve the required grade of 75% will not be issued a license but may take the examination at a subsequent date as announced by the Board. The applicant will be entitled to one additional examination for an additional fee. An applicant failing the examination on a second time may be re-examined, at the discretion of the Board. The fee for any subsequent examination will be the regular fee. After a third

failure, the Board may deny applicant another examination or a specialty license.

195:10-11-7. The application for examination

An applicant who has fulfilled the necessary requirements and desires to take the examination for licensure in a Specialty, must:

(1) Make application to the Board in writing. Forms will be furnished and are available at the Office of the Board.

(2) Return the completed application, with all supporting documents attached thereto, at least thirty (30) days prior to the announced dates for the examination. The application must be accompanied by a certified check or postal money order for the required fee, not to exceed $300. No application will be accepted for processing less than thirty (30) days prior to the announced dates for the examination.

(3) ~~Personally communicate with the Chairman of the Specialty Examining Committee fifteen (15) days prior to the examination for any special instructions pertaining to the examination.~~ Submit a certificate reflecting completion of an accredited advanced training program. If the applicant has not yet graduated, the program chair or department head must send a letter designating the date of completion. No applicant will be allowed to take the specialty examination unless an official letter is confirmed.

195:10-11-9. The Examination Committee

(a) The Specialty Examination Committee will consist of two or more members who are licensed in the Specialty in which the examination is being given, together with one or more Members of the Board. The Chairperson of the Committee will be a Dentist Member of the Board. All members of this Committee are to be appointed by the President of the Board. At the close of the examination, each Member of the Examination Committee will submit to the ~~Secretary of the~~ Board~~, in a sealed envelope~~, a written report as to the passing or failing of the applicant.

(b) If the Board elects to change the majority decision of the Examination Committee as to the passing or failing of the applicant, the Board will request the presence of the Members of the Examination Committee who are not Members of the Board to sit with the Board and discuss the examination. The Board hereby declares that the report of any Examination Committee is advisory only, and that it reserves the right in its discretion to adopt or reject such report. Only the Board ~~will~~ shall designate the time and date or release the results of the examination. Specialty examiners shall not change the date, time, or content of examination.

195:10-11-10. The examination

An applicant for licensure in a Specialty shall satisfactorily pass such examination as the Board may require. The examination will be both theoretical and practical.

(1) **Theoretical examination.** The theoretical examination shall be in writing and will include all the subjects that are pertinent to the Specialty in which the applicant desires to be licensed. Written examinations may be supplemented by oral examinations. The Board shall accept any and all test results from the respective American Board(s) regarding written examinations for all specialties. Written specialty examinations recognized by a regional testing agency may also be accepted as approved by the Board.

(2) **Practical examination.** The practical examination will be designed to test the applicant's knowledge and skill of all phases of diagnosis and treatment in the specialty in which the applicant desires to be licensed. This may consist of case reports, clinical procedures on patients, and laboratory work. The following practical examinations will be required in the respective specialties:

(A) **Oral and Maxillofacial surgery.**

(i) Surgical anatomy of the Head and Neck with both written and oral examination on subjects relating to Oral Surgery.

(ii) Applicant will furnish a list of fifteen (15) (within three (3) years) hospital cases (including case histories), certified by the Hospital Administrator, demonstrating diversities of experience in Oral Surgery.

(B) **Orthodontics.**

(i) Applicants for examination must submit the following pretreatment and post-treatment record materials for two cases treated exclusively by the applicants: Cephalometric radiographs, Cephalometric analysis, study models, extraoral photographs (profile and front view) and general radiographs or panoramic radiographs. ~~Complete history must be given showing length of time devoted to each case.~~ One case must be treated by extraction of first or second premolars. Mutilated cases and surgical cases are not eligible. Applicants enrolled in a residency whose term is more than 24 months (or whose term is more than 30 days past the examination date in June) will be allowed to bring records of one case in progress in lieu of a completed case with case records as described for finished cases, provided that these cases have been treated solely by the applicant and have been in treatment at least 18 months.

(ii) Applicant must be prepared to demonstrate his ability to construct appliances on models or typodont submitted by applicant.

(iii) Applicant will be expected to diagnose and treatment plan cases provided by the Examining Committee.

(C) **Pediatric Dentistry.**

(i) Evaluation of the oral and perioral soft and hard tissues of a child.

(ii) Evaluation of the growth and development of a child and interceptive procedures as indicated.

(iii) Oral disease prevention and control for a child. Operative procedures for a child including amalgam, composite, and stainless steel crowns.

(D) **Periodontics.**

(i) Demonstrate scaling and gingival curettage on one or more patients having a well advanced case of Periodontitis, with abundant deposits of supragingival and subgingival calculus.

(ii) Prepare Periodontal Surgery under anesthesia.

(iii) Be prepared to demonstrate or discuss occlusal adjustment, types of temporary splinting for a Periodontal patient and various methods of oral physiotherapy and adjunctive tooth movement.

(iv) Submit three (3) case reports which should include case histories, study models, before and after full mouth x-rays and photographic slides. These case reports must be of Periodontal cases diagnosed and treated by the applicant. At least two of the three cases should be of advanced Periodontal disease and each case must have at least eighteen teeth. The third case may be of a type such as ulcerative gingivitis or other mouth lesions.

(E) **Prosthodontics.**

(i) All applicants must submit a patient history and treatment record of a patient for whom the required fabrication of at least two partial dentures involving both the maxilla and the mandible has been completed. One of the partial dentures must be fixed, replacing one or more teeth; and one must be removable, incorporating a unilateral or bilateral distal extension base.

(ii) The applicant will successfully complete an oral examination on prosthodontics and the case presentation.

(iii) The applicant will successfully complete a written examination on prosthodontics.

(F) **Endodontics.**

(i) The presentation of ten cases which were treated by the applicant and which have follow-up radiographs.

(ii) An oral and written examination.

(G) **Oral pathology.**

(i) An oral examination with a qualified pathologist as specified, required, and selected by the Board.

(ii) A written microscopic and clinical examination.

[OAR Docket #06-694A; filed 4-19-06]

TITLE 195. BOARD OF DENTISTRY CHAPTER 25. RULES FOR CONTINUING DENTAL EDUCATION

[OAR Docket #06-694B]

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Permanent final adoption.

RULES:
195:25-1-2. [AMENDED]
195:25-1-7. [AMENDED]
195:25-1-8. [AMENDED]
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ANALYSIS:
Establishes rules to ensure both dentists and dental hygienists complete required continuing education in a timely manner. Provides for hour for hour credit for self-study. Provides for flexible reporting on form lists. Creates monetary fines of $1,000.00 for dentists and $500.00 for dental hygienists who fail to secure the required hours during the specified three-year reporting period.

CONTACT PERSON:
Linda C. Campbell, Executive Director, (405) 524-9037

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

195:25-1-2. Continuing education required

(a) Pursuant to Title 59 O.S. ~~328.18~~ 328.15 (11), the Board shall require continuing education as a prerequisite for renewal of registration of dentists and dental hygienists. Any course is acceptable that contributes to updating and maintaining the knowledge and skills of the dentist and dental hygienist in the treatment of the individual dental patient.

(b) Courses directly related to provision of services and patient care shall be considered for credit. Courses dealing substantially with other subjects of professional concern are outside the scope of the continuing dental education program. Such courses or programs would include money management, investments, and professional organizational business meetings. However, the Board may allow exception as specified in Category D.

(c) Proof of CPR course provided by the American Heart Association/Health Care Provider Level or the American Red

Cross/Professional Rescuer shall be required for every licensed dentist and dental hygienist once in each three (3) year reporting cycle. Courses for the Professional Rescuer sponsored by the American Safety and Health Institute and Programs sponsored by the Veterans Administration or Armed Forces shall also be recognized for approval.

195:25-1-7. Categories of continuing education

At least 50% of the continuing education requirement must be from category A and/or B. Not more than 50% of the requirement can be obtained from Category C. Continuing education must come from designated categories. A description of the categories of education programs is outlined below:

(1) **Category A.**

(A) Formalized structured learning situations at colleges or universities at regular undergraduate or college course levels will be allowed one (1) hour credit for each hour in attendance. Regular university or college courses are evaluated at semester hour, i.e.: A dentally related three (3) hour college credit course will be allowed three (3) hours of continuing education credit.

(B) Any university may co-sponsor a program within the State of Oklahoma. They must send a copy of the letter to the Board.

(C) Programs sponsored by the Veterans Administration or Armed Forces, given at a government facility will be granted hour for hour credit without university co-sponsorship.

(2) **Category B.**

(A) Formalized Meetings: Meetings of the following recognized groups will be granted hour for hour credit for the scientific portions of their programs:

(i) National professional organizations and their components

(ii) University sponsored professional Alumni clinical meetings

(iii) Organized Dental or Dental Hygiene Study Club Meetings

(iv) Seminars-sponsored by recognized Dental/Dental Hygiene constituent societies

(B) Advanced Study: Graduate study, internships, residencies, Dentists or hygienists engaged in acceptable full-time programs will fulfill their continuing education requirements for each calendar year in which they are actively participating in such programs by nature of these activities, and will have no additional formal requirements for that year. However, persons so engaged must notify the Board.

(3) **Category C.**

(A) Publishing Papers - Presenting clinics - Lecturing-Teaching: these activities will be granted six (6) hours credit for each hours of the original presentation, and hour for hour credit for additional presentation of the same material. Full or part-time teaching will receive credit for the semester credit hours. One (1) hour credit can be recorded for every 18 hours of clinical instruction.

(B) Self-Instructional Programs - Study Tapes-Correspondence Programs: These programs will be granted ~~one (1) credit for every three (3) hours of self study activities~~ hour for hour credit. Only 50% of the total requirement may be obtained through this category. The dentists or dental hygienists must submit a certificate of registration from the sponsoring institution, organization or study club or have the participation in the course verified by the sponsoring agency in a manner specified by the Board Continuing Education Committee to be considered for approval.

(4) **Category D.** Exceptions: Exceptions will be considered at the discretion of the Board.

(A) No more than six (6) hours of the sixty (60) hour requirement for dentists can be from practice management type courses.

(B) No more than three (3) hours of the thirty (30) hour requirement for dental hygienists can be from practice management type courses.

195:25-1-8. Procedure for reporting continuing education hours

(a) **Form for reporting.** Continuing education credits shall be reported by dentists and dental hygienists on a form specified and furnished by the Board~~, Oklahoma City, Oklahoma~~.

(b) **Time for forwarding form.** Forms must be forwarded to the Board office ~~within three (3) weeks after completion of the continuing education course~~. All continuing education reporting shall occur at the discretion of the licensee either annually or at the end of the three (3) year reporting period.

(c) **Hours beyond requirement.** Continuing education hours acquired beyond the requirement cannot be credited to the next reporting period. Hours acquired in excess of the requirement will not be reported or maintained.

(d) **Requirement for individuals licensed in the midst of a reporting cycle.** Those individuals who are licensed in the midst of a reporting cycle will have a pro-rated requirement, beginning July 1 following the date of licensure. Dentists must accumulate twenty (20) hours per year and dental hygienists ten (10) hours per year until the end of the reporting period. All pro-rated licensees shall submit continuing education forms annually.

(e) Random audits shall be conducted as directed by the Board at the end of the reporting period. An audit shall require documentation to match the information submitted to the Board on the continuing education form.

195:25-1-9. Monetary fine for failing to report continuing education hours

All licensed dentists or dental hygienists who fail to submit the prerequisite number of hours during the reporting period(s) ending on June 30th shall receive a monetary fine. The Board shall send a certified notice to all dentists and dental hygienists who fail to comply with the requirement sixty (60) days after the June 30 ending date of the reporting period. A monetary fine of one thousand dollars **($1000.00) for dentists** and

five hundred dollars **($500.00) for dental hygienists** shall be assessed for failing to submit the required continuing education. All monetary fines shall be paid by certified check or money order to the Board of Dentistry on or before December 1st of the year the continuing education is due. Failure to submit the monetary fine shall result in the failure to secure a renewal certificate pursuant to 59 O.S. Section 328.41.

[OAR Docket #06-694B; filed 4-19-06]

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

[OAR Docket #06-674]

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N/A
ANALYSIS:
The proposed rule change would allow charter schools to appeal Adequate Yearly Progress decisions on their behalf based on statistical or other substantial reasons, directly to the State Department of Education.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-18. Oklahoma School Accountability System

(a) **Adequate Yearly Progress (AYP).** The Oklahoma School Accountability System shall be based on AYP. All public elementary and secondary schools and local educational agencies (LEAs) shall be accountable for student achievement and for making Adequate Yearly Progress (AYP) according to federal law. AYP will be determined by meeting or exceeding statewide performance targets for required student groups in Reading/Language Arts and Mathematics on state tests; administering tests to 95 percent of students in each required student group; and meeting statewide targets for attendance rates and graduation rates where applicable. Alternatively, schools shall make AYP by showing growth in Reading/Language Arts and Mathematics on state tests as required by Safe Harbor regulations as defined in the No Child Left Behind Act of 2001, Public Law 107-110.

(b) **Consequences of Testing Irregularities or Misconduct on Test Scores and AYP.**

(1) If the State Department of Education (SDE) Student Assessment Office receives documentation of a student cheating on a test, the student's score shall be "invalidated." The student's score report for that content area shall read "Invalidated." The "invalidated" score shall have the effect of a zero score when aggregated with scores of other students at the school, district, and state levels.

(2) If a student does not attempt the test (such as refusal to read items or mark answers, finishing in 5 minutes, or randomly marking answers), no special action shall be taken. The student's test shall be scored and the score aggregated with the rest of the scores at the school, district, and state levels according to standard procedure.

(3) If a student becomes ill during testing and is not able to complete the test, the test shall not be scored and not counted in the summary scores. The student shall be counted as absent. If an alternate form of the test is available through the OSTP, the student may be given an opportunity to take the alternate form within the same testing window. In this case, the first test shall not be scored and the alternate test shall be scored in its place. (Note: Alternate test forms of the OSTP shall only be made available through the SDE only if determined practicable by the State Department of Education.)

(4) If any violation of security provisions (Section 210:10-13-4) occurs, such violations shall be reported in writing to the Student Assessment Section of the State Department of Education and may result in a student's, a school site's, and/or a school district's test scores being declared as invalid (Section 210:10-13-4 (18). In the case of invalidation, each invalidated score shall have the effect of a zero score and each zero score shall be aggregated with the remaining student scores at the school, district, and state levels. If the violation is not the fault of the students

involved, and if an alternate form of the test is available through the OSTP, students may be given the alternate form within the same testing window at the district's expense if this is the first year for a security violation within the school and/or district in question. In the case that an alternate form is administered, the individual student score report shall reflect the scores from the alternate test (in place of the previous invalidated scores) and shall be aggregated at the school, district, and state levels. (Note: Alternate test forms of the OSTP shall only be made available through the SDE only if determined practicable by the State Department of Education.)

(5) If extreme changes in test scores or in Academic Performance Index (API) scores occur for a school or district from year to year, an investigation shall be conducted, which may include, but not be limited to, a hand erasure analysis, and results of any apparent testing irregularity or misconduct reported to the State Board of Education for possible further action, which may include but not be limited to, score invalidation.

(6) Erasures shall be identified statewide by electronic scanning of all student answer documents, and the following action shall be taken: Scores for classes whose wrong-to-right erasures exceed the state average by more than four standard deviations shall be identified for further investigation. For each class with excessive erasures, the proportion of wrong-to-right erasures to the total number of erasures will be taken into account. A report shall be made to the State Board of Education of schools where classes have been identified with excessive erasures as defined by the criteria above for possible further action, which may result in score invalidation.

(7) Steps for Dealing with Reported Testing Irregularities or Misconduct

(A) **Step One.** When report of a testing irregularity or misconduct is made to the State Department of Education Student Assessment Section, the school site and/or school district involved shall be required to respond by conducting an investigation and providing in writing to the State Department of Education Student Assessment Section an explanation of how the testing misconduct/irregularity occurred and a description of the measures taken to prevent the misconduct from occurring again.

(B) **Step Two.** The testing irregularity or misconduct shall be categorized into one of three violation categories (minor, major, and critical) according to the severity of the violation and its possible consequences. Possible consequences may include, but not be limited to, invalidation of scores, accreditation with deficiency, accreditation with warning, accreditation with probation.

(C) **Step Three.** At the end of each testing period, a testing violations report shall be prepared by the Student Assessment office for review by the State Superintendent and possible further action.

(c) **Procedures for Schools to Review AYP Data and Appeal Accountability Decisions.**

(1) As required by No Child Left Behind (NCLB) for assuring valid AYP determinations prior to release of the AYP data reports, public schools shall review, upon receipt, the component pieces of the AYP data provided by their district, the testing vendors, and/or the State Department of Education and report any inaccuracies to the entity supplying the data within the applicable timelines. If the district does not respond within the applicable timelines, the SDE shall rely on the data as presented.

(2) Upon receiving their AYP Data Reports from the SDE for use in creating their School and District Report Cards, districts and charter schools shall review the data in the AYP Data Reports and report any discrepancies from the previously approved data pieces to the Student Assessment Section of the SDE within the specified timeline. Appeals of AYP determinations contained in the AYP Data Reports shall be made at this time, as follows: According to federal regulations, if a principal of a school, or a majority of the parents of the students enrolled in a school, believe that any accountability decision contained in the AYP Data Reports is in error for statistical or other substantive reasons, the principal shall provide supporting evidence to the district after review of the data. The district or charter school must consider the evidence and if warranted, present an appeal to the SDE in writing. Charter schools shall examine their data independently and determine if an appeal of their AYP determination is warranted. If the charter school decides to appeal, the appeal may be presented directly to the State Department of Education under the timelines contained in this rule. Beginning with the 2003-04 school year the SDE must receive the appeal within ten working days of the release of the AYP Data Reports.

(3) If a school and/or district has had test scores invalidated because of a testing irregularity or misconduct with the effect of zero scores for aggregation purposes, and such action results in an API score that prevents the school and/or district from making AYP, the district or charter school may appeal this accountability decision on a first time occurrence and request placement on Probationary Status instead of receiving an API score. At the end of the next consecutive year, if the school and/or district do not make AYP, they shall not be allowed to invoke Safe Harbor and shall automatically be identified as being in School Improvement status.

(4) When the SDE receives an appeal of an accountability decision from a district on behalf of a school within the district~~,~~ or from a charter school, a committee comprised of members of the SDE School Improvement Leadership Team or others appointed by the State Superintendent shall review the evidence contained in the appeal and provide a final determination to the district in writing within thirty working days from the release of the AYP data reports.

(5) At the end of the SDE Appeals process, the SDE shall report to the State Board of Education the statewide list of School Improvement schools.

(d) **Sanctions for public elementary and secondary schools that do not make Adequate Yearly Progress (AYP)**

(1) Title I schools that do not make Adequate Yearly Progress (AYP) for two consecutive years shall be identified as being in School Improvement status. Title I schools in the state of Oklahoma shall be subject to the sanctions defined in the No Child Left Behind Act of 2001, Public Law 107-110.

(2) Non-Title I schools that do not make AYP for two consecutive years or more shall be subject to sanctions as determined by the State Board of Education. The State Board of Education may utilize sanction options identified in the No Child Left Behind Act of 2001, Public Law 107-110, as deemed appropriate based upon relevant circumstances of the school's performance. The sanctions shall include but not be limited to the following:

(A) provide school improvement plan,
(B) provide technical assistance,
(C) offer school choice,
(D) provide supplemental services,
(E) take corrective action, or
(F) implement a restructuring plan.

(e) **Rewards for public elementary and secondary schools that make Adequate Yearly Progress (AYP)**

(1) **Academic Achievement Awards - Title I, Part A.** Title I Schools that meet AYP shall be eligible for Academic Achievement Awards. Academic Achievement Awards, under section 1117 (b) of the No Child Left Behind Act of 2001, states that each state receiving a grant under federal funds shall establish a program for making academic achievement awards to recognize schools that significantly close the achievement gap between subgroups of students or exceed their adequate yearly progress. Schools that receive Title I, Part A funds are eligible for Academic Achievement Awards.

(2) **State Academic Performance Award Program.**

(A) All public elementary and secondary schools that make Adequate Yearly Progress, shall be recognized by the state as Distinguished Schools and eligible for state funds, if available, as established by the State Academic Performance Index (API) Program (O.S. § 70-30-152).

(B) Nonmonetary recognition may include, but not be limited to, citations of congratulations from the State Superintendent of Public Instruction as the designee of the State Board of Education, the Governor or designee, the Representative and Senator representing the school district, and a flag for each school achieving Distinguished status.

[OAR Docket #06-674; filed 4-17-06]

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

[OAR Docket #06-673]

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Subchapter 8. Six-Year Comprehensive Local Education Plan [NEW]
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210:15-8-2. [NEW]
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ANALYSIS:
The proposed rule change is to promulgate rules for the Comprehensive Local Education Plan to meet legislative changes from the 2005 session. Senate Bill 966 contains information that changes current law and requires the State Board of Education to adopt rules to facilitate implementation of the law. The proposed rule change establishes the submission date for the Comprehensive Local Education Plan to the State Board of Education for school districts with one or more school sites which are identified for school improvement, to report to the Board the following plans: the Comprehensive Local Education Plan as required in Section 3-104.2; the school improvement plan as required in Section 5-117.4; the professional development plan as required in Section 6-194; the capital improvement plan as required in Section 18-153; and the Reading Sufficiency plan as required in Section 1210.508C.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 8. SIX-YEAR COMPREHENSIVE LOCAL EDUCATION PLAN

210:15-8-1. Purpose

The purpose of this rule is to establish the date for submission of the Six-Year Comprehensive Local Education Plan (CLEP) for schools in School Improvement status.

210:15-8-2. Date for submission of school district's Six-Year Comprehensive Local Education Plan.

No later than three months after being identified as a school in need of school improvement districts shall submit to the State Board of Education the following plans.

(1) Comprehensive Local Education Plan required by 70 O.S. § 3-104.2.

(2) School Improvement Plan required by 70 O.S. § 5-117.4.

(3) Professional Development Plan required by 70 O.S. § 6-194.

(4) Capital Improvement Plan as required in 70 O.S. § 18-153.

(5) Reading Sufficiency Plan required by 70 O.S. § 1210.508C.

[OAR Docket #06-673; filed 4-17-06]

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

[OAR Docket #06-672]

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Subchapter 27. Reading Sufficiency Act
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ANALYSIS:
The proposed rule change update student eligibility for participation in the Reading Sufficiency Act, allowable expenditures, dates for reporting from districts, requirements for evaluation of the program, the claims process, and requirements for content, teaching training, and student eligibility for the new summer academy reading programs. The rules outline components important to implementation of the program.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 27. READING SUFFICIENCY ACT

210:15-27-1. Reading Sufficiency Act

(a) No later than September 30, 1998, each public school district will submit a district reading sufficiency plan that includes a plan for each site to the State Department of Education for approval. The district reading plan will become a part of each district's Comprehensive Local Education Plan and must be updated annually as part of the requirements for receiving accreditation.

~~(b) No later than the first Monday in October, each district will submit the number of students in kindergarten, first, second and third grades on reading assessment plans to the State Department of Education for funding and reporting purposes.~~

~~(c) Contingent on the availability of appropriated funds, the State Department of Education will award up to $150 to public school districts for each enrolled first, second, and third grade student of the current school year who is on a reading assessment plan.~~

~~(d) If sufficient funds remain, the State Department of Education will conduct a second student count for students not previously reported and a second award will be made.~~

~~(e) Reading sufficiency funds must be expended for multiple, ongoing assessments and remediation for students in the first, second and third grades who have been identified by the elementary site as needing a reading assessment plan.~~

~~(f) The State Department of Education shall annually issue a Reading Report Card for each elementary site by August 30, 1999, and each year thereafter per requirements outlined in the Reading Sufficiency Act.~~

~~(g) Districts will report receipt and expenditure of funds per Oklahoma Cost Accounting System requirements. The State~~

~~Department of Education will periodically review expenditure reports.~~

(b) Each school district and each school site shall submit to the State Department of Education the information to be used for the required Reading Sufficiency Act annual Reading Report Card. Submission date to be determined by the School Improvement Division of the State Department of Education.

(c) Each school district will submit to the State Department of Education, the number of students in kindergarten, first, second and third grades found to be in need of remediation in reading based on screening instruments approved by the State Board of Education. Submission date to be determined by the School Improvement Division of the State Department of Education.

(d) Pursuant to the Reading Sufficiency Act, each school district shall submit to the State Department of Education its annual improvement goals necessary to progress from the baseline established September 1, 2005, to achieving the reading goal by July 1, 2008. These improvement goals shall be submitted to the State Board of Education. Submission date to be determined by the School Improvement Division of the State Department of Education.

(e) Contingent on the availability of appropriated funds, the State Department of Education will award up to $150 to public school districts for each currently enrolled first, second, and third grade student who is found to be in need of remediation in reading.

(f) Reading sufficiency funds allocated under this section (e) must be used only for expenses relating to individual and small group tutoring, purchase of and training in the use of screening assessment measures, summer school programs, and Saturday school programs for students in the first, second and third grades who have been identified by the elementary site as in need of a program of reading instruction.

(g) Each school district with one or more school sites identified for School Improvement shall submit its district reading sufficiency plan to the State Board of Education. Submission date to be determined by the School Improvement Division of the State Department of Education.

(h) The district reading sufficiency plan shall be submitted to the State Board if the district has any schools that are not achieving the annual improvement goals as outlined in the Reading Sufficiency Act. Submission date to be determined by the School Improvement Division of the State Department of Education.

(i) Contingent on the availability of appropriated funds, the State Department of Education will award up to $400 to public school districts for each eligible currently enrolled student who is found not to be reading at grade level and who subsequently participates in a summer academy reading program pursuant to the Reading Sufficiency Act.

(j) Each district will submit the number of eligible students who may participate in an approved summer academy reading program based on results from an approved assessment as outlined in the Reading Sufficiency Act. Submission date to be determined by the School Improvement Division of the State Department of Education.

(k) Reading Sufficiency funds allocated from the student count in (j) must be used for expenses relating to approved summer academy reading programs for participating eligible students.

(l) Summer academy reading programs for students shall be courses that:

(1) provide at least four (4) weeks of tutoring a half (1/2) day each day for four days,

(2) incorporate the content of a reading program administered by the Oklahoma Commission for Teacher Preparation or a scientifically based reading program administered by the State Board of Education.

(3) are taught by teachers who have successfully completed a professional development institute in reading administered by the Oklahoma Commission for Teacher Preparation or a scientifically based reading professional development program administered by the State Board of Education.

(4) include only eligible students not reading at grade level based on results from an assessment approved by the State Board of Education.

(m) Superintendents of districts offering summer academy reading programs will sign and submit an assurance statement that their program has met the requirements in (k) prior to receipt of funding.

[OAR Docket #06-672; filed 4-17-06]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #06-676]

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RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 17. Full (Subject Matter) Competencies for Licensure and Certification
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November 3, 2005
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05-1381
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ANALYSIS:
The proposed rule change would bring the physical education competencies for teacher certification and licensure in alignment with the National Learned Society Competencies for Physical Education, the National Association of Sport Physical Education (NASPE), a division of the American Alliance for Health, Physical Education, Recreation, and Dance. Technology skills have been part of university courses in teacher education for K-12 for quite some time, and we need to bring our state competencies in line with the national competencies. In addition, teachers need and these skills for the National Board Certification testing program.
The rule changes would add the reading competencies for elementary teachers to the competencies for special education teachers. Students will benefit academically as a result of having teachers with increased skills in teaching reading. Senate Bill 966 directs the State Board of Education to ensure that the reading competencies for elementary teachers are included in the competencies for special education teachers.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 17. FULL (SUBJECT MATTER) COMPETENCIES FOR LICENSURE AND CERTIFICATION

210:20-9-172. Full (subject matter) competencies for licensure and certification

Full (subject matter) competencies are listed in (1) through (41) by subject/content area.

(1) **Art education.** The candidate for licensure and certification:

(A) Has a sound philosophical understanding of visual art education and is able to support, justify, and implement the visual art curriculum.

(B) Has an understanding of past, current, and future trends and issues in art education as well as art education research.

(C) Has a knowledge of developmentally appropriate visual art content including aesthetics, art criticism, and art history, around a core of art production.

(D) Has a working knowledge of and has had experience in integration of the arts with other fine arts areas as well as other academic disciplines.

(E) Understands and has experience in the application of the elements and principles of art and design.

(F) Understands art history including various styles, periods, ethnic groups, and cultures from around the world.

(G) Has a knowledge of aesthetics (the field of study that relates to beauty in the arts) and art criticism (art review and commentary), along with teaching strategies appropriate for both areas that involve a variety of media and awareness of developmental levels.

(H) Understands and has experience in various methods of art production and creative development including drawing, figure drawing, color and design, painting, printmaking, sculpture, clay, applied design, and technology. Additional experience should involve metal, stone, fiber, papermaking, wood, and mixed media.

(I) Has proficiency in teaching strategies that are developmentally appropriate and inclusive of various student learning styles and is sensitive to the needs of diverse ethnic and cultural groups and those with disabilities.

(J) Develops a portfolio of his/her own artwork.

(K) Understands that contests and competitions have a valuable place in art education; however, they should not drive the development of the local curriculum.

(L) Has a knowledge of a wide variety of arts resources including community resources, materials, equipment, and information about exhibitions and/or major collections.

(M) Recognizes the important role of technology in education and that it may serve as a supportive tool in art education.

(N) Understands the art-related competencies in the Oklahoma core curriculum and knows how to incorporate them into various art classes.

(2) **Business education.** Competencies for business education are fulfilled by meeting competencies for vocational business.

(3) **Driver/safety education.** The candidate for licensure and certification:

(A) Applies, models, and teaches appropriate learning strategies for the safe operation of motor vehicles.

(B) Understands the social and emotional forces that influence the psychological makeup of young drivers and how these forces affect their driving behavior.

(C) Understands basic driving maneuvers including the universal concepts of defensive driving.

(D) Understands the physical laws of nature and the statutory laws that govern the safe operation of motor vehicles.

(E) Has an understanding of the basic mechanical systems that make up a motor vehicle and their influence on its operational limits.

(4) **Early childhood education (pre-kindergarten-third grade).** The competencies related to Early Childhood Education relate more specifically to the processes of learning and/or information processing than presentation of specific subject matter. The candidate for licensure and certification knows, understands, and uses:

(A) Factors that influence the development of young children, the sequence and interdependency of all areas, (i.e., physical, social, emotional, cognitive, and language) and uses that knowledge to meet the needs and characteristics of the group and individual children (birth to eight years of age) while respecting their unique rates of development.

(B) Positive child guidance strategies which help children learn to make responsible decisions regarding their own behavior and contributes to the development of self-control, self-motivation, and self-respect.

(C) The knowledge of how young children think, process information, and develop concepts in content areas including language, literacy, mathematics, science, health, safety, nutrition, social studies, art, music, drama, and movement.

(D) Integrative approaches (e.g., themes, topics, projects) to enable children to see and experience content areas and make meaningful connections to the child's life experience.

(E) Curriculum in regards to the children's needs and interests, as well as, developmentally appropriate skills and concepts.

(F) Developmentally appropriate strategies when planning, implementing, articulating, and evaluating (e.g., play, independent work, small group projects, group discussions, cooperative learning, open-ended questions, inquiry, and problem solving experiences.)

(G) A bias-free learning environment (indoors and outdoors) which is physically and psychologically safe for young children through the use of a balanced schedule, learning centers, and appropriate transitions and routine.

(H) Curriculum strategies, schedules, and the environment to meet the specific needs, interests, and experiences of all children with complex characteristics (i.e., adapting for those with disabilities, developmental delays, diverse cultures, or special abilities).

(I) Collaboration strategies regularly with families and other agencies in the community to enhance and support children's learning and development.

(J) Behaviors that recognize and respect diversity, how it influences learning, and builds connections among children's families, communities, and schools.

(K) Performance assessment (i.e., observation and documentation) and formal assessment to evaluate young children's development and learning for the purpose of planning appropriate and challenging programs, environments, and interactions and adapting for individual differences.

(L) Formative and summative evaluation measures to ensure comprehensive quality of the total program for children in reciprocal partnerships, with families, and the community.

(M) The historical, social, and ethical foundations of early childhood education which enables the teacher to articulate a philosophy and rationale for appropriate principles and practices.

(N) Self evaluation of teaching techniques and outcomes and modifies curriculum, strategies, schedules and environment to maximize the learning environment and enhance psychological safety for children.

(O) Knowledge to advocate for children by articulating to family, community and others the goals and methods used in the early childhood classroom.

(P) Instructional strategies/plans based on the Oklahoma core curriculum.

(Q) Understands and applies the following competencies in reading instruction as appropriate to the abilities of the student.

(i) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.

(ii) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.

(iii) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.

(iv) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made

up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.

(v) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.

(vi) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.

(vii) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development (e.g., singular and plural).

(viii) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.

(ix) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level (e.g., guided reading, literature and research circles).

(x) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections~~,~~ (i.e., semantics, syntax, and graphophonics).

(xi) Knows and applies the instructional strategies which contribute to the development of fluent reading.

(xii) Knows how to promote children's interest and engagement in reading and writing.

(R) Understands and applies the following competencies in mathematics instruction as appropriate to the abilities of the student.

(i) Builds on children's natural interest in mathematics and uses it to make sense of their physical and social worlds.

(ii) Establishes mathematics curriculum based on current knowledge of young children's cognitive, linguistic, physical and social-emotional development that builds on children's varying experiences.

(iii) Uses teaching practices that enhance children's problem-solving and reasoning processes which includes representing, communicating, and connecting mathematical ideas.

(iv) Understands that the curriculum should be coherent and compatible with known relationships and sequences of important mathematical ideas and that provides for children's deep and lasting interaction with key mathematical ideas.

(v) Introduces mathematical concepts, methods, and language through a variety of appropriate experiences and teaching strategies, including integrating mathematics with other activities and allowing ample time, materials and teacher support for children to explore and manipulate mathematical ideas.

(vi) Enhances children's mathematical knowledge, skills and strategies by providing an ongoing process of collecting information from multiple sources to determine a student's strengths and weaknesses in order to plan appropriate educational services.

(S) Understands and applies the following competencies in science instruction as appropriate to the abilities of the student.

(i) Plans an inquiry-based science program that develops a curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students in a framework of yearlong and short-term goals for students.

(ii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.

(iii) Guides and facilities learning through focused interaction with students, recognizes and responds to student diversity, and encourages and models the skills of inquiry in order for all students to participate in science learning.

(iv) Uses ongoing multiple methods and systematically gathers data about students understanding and abilities.

(v) Designs and manages learning environments that provide students with the time, space and resources needed for developing science skills.

(vi) Uses a variety of instructional strategies to implement an integrated/interdisciplinary curriculum and understands the interaction between the sciences and the process skills.

(T) Understands and applies the following competencies in social studies instruction as appropriate to the abilities of the student.

(i) Designs and manages learning environments that provide opportunities for students to exhibit traits of good citizenship in a variety of settings and situations.

(ii) Selects teaching and assessment strategies that support the development of student understanding of their community and culture.

(U) Understands and applies the following competencies in the use of technology as appropriate to the abilities of the student.

(i) Bases the use of technology on the knowledge of how young children think, process information and develop concepts in content areas.

(ii) Enhances children's cognitive and social abilities through the appropriate use of technology.

(iii) Integrates technology into the learning environment and uses it as one of many options to support children's learning.

(iv) Promotes equitable access to technology for all children and their families.

(v) Advocates in collaboration with parents for more appropriate technology applications for all children.

(5) **Elementary education.** The competencies developed in specific subject areas such as mathematics, art, science, etc., have been developed on a prekindergarten through 12th grade continuum. Because of this, it is unnecessary for the elementary education competencies to address anything more than the processes through which the subject matter competencies will be presented in the classroom. The candidate for licensure and certification:

(A) Understands his/her role and the variety of approaches to the organization of elementary schools.

(B) Understands the essential nature and importance of interaction and communication with students, parents, community members and colleagues.

(C) Models the role of the lifelong learner.

(D) Understands the role of the teaching profession in curriculum change and school improvement.

(E) Understands the link between child development, curriculum, and instruction.

(F) Understands and uses a variety of strategies to:

(i) select methods of assessment appropriate to each of the subject matter areas and to the age, development, and characteristics of students,

(ii) interpret and communicate assessment results accurately and ethically, and

(iii) integrate information gained from assessments into instructional plans.

(G) Has a knowledge of current research findings about teaching and learning.

(H) Analyzes his/her teaching practices through a variety of techniques.

(I) Understands appropriate classroom management systems and discipline practices.

(J) Understands the selection and use of materials, resources, and technology appropriate to individual differences.

(K) Creates an environment that facilitates learning experiences which make subject matter meaningful to students.

(L) Understands the subject matter areas common to the elementary curriculum and the integration of those subject matter areas.

(M) Facilitates learning groups as appropriate to the needs and/or interests of students and the goals of the lesson.

(N) Understands and applies the following competencies in reading instruction.

(i) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.

(ii) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.

(iii) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.

(iv) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.

(v) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.

(vi) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.

(vii) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development, e.g., prefixes, suffixes and roots.

(viii) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.

(ix) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level, e.g., guided reading, literature and research circles.

(x) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections, i.e., semantics, syntax, and graphophonics.

(xi) Knows and applies the instructional strategies which contribute to the development of fluent reading.

(xii) Knows how to promote children's interest and engagement in reading and writing.

(O) Understands interdisciplinary teaching and collaboration.

(P) Understands that all students can develop proficiencies in the Oklahoma core curriculum.

(6) **English.** The candidate for licensure and certification:

(A) Maintains current knowledge of content-area concepts of written and oral communication, literature, and language systems (phonetic, semantic, syntactic, pragmatic). For purposes herein, language systems and what they mean or include are:

(i) **"Phonetic"** means the letter/sound system of a particular language.

(ii) **"Pragmatic"** means the use of particular language and its conventions that convey meaning in a cultural context.

(iii) **"Semantic"** means the meaning system of a given language.

(iv) **"Syntactic"** means the structure, order, and organization of a given language.

(B) Applies comprehension, analysis, interpretation, synthesis and evaluation of auditory, written, and visual messages. For purposes herein, these terms have the following meaning and include:

(i) **"Auditory messages"** means spoken language, intonation.

(ii) **"Visual messages"** means visual graphics such as illustrations, pictures, photographs, symbols, and signs, body language, facial expressions.

(iii) **"Written messages"** means connected discourse, text.

(C) Applies appropriate learning strategies for reading, writing, studying, and researching.

(D) Communicates effectively in speaking and writing, using appropriate language conventions. For purposes herein, **"language conventions"** means grammar, figurative language, mechanics, specialized vocabulary, technical terms.

(E) Understands the influences of social and historical contexts and culture on language and literature and adapts instruction accordingly.

(F) Uses the understanding of language acquisition and language learning processes to develop student proficiencies and to modify instruction for second-language learners.

(G) Establishes a reflective and creative learning environment.

(H) Uses a variety of assessment strategies to evaluate student proficiencies in the language arts and to modify instruction appropriately.

(I) Uses technology to accomplish professional goals and to develop student's literacy proficiencies.

(J) Understands and teaches strategies appropriate to a variety of forms (genres), text organizations, and structures, including functional print and informational print. For purposes herein:

(i) **"Functional print"** means environmental print messages (i.e., signs, logos, labels, directions);

(ii) **"Genre"** means a particular type of literature (i.e., short story, novel, poem, essay, drama)

(iii) **"Informational print"** includes reference materials, telephone books, almanacs, dictionaries.

(K) Understands the literacy process (i.e., reading process and writing process), and provides effective instruction in literacy skills and strategies.

(L) Understands, teaches, and implements Oklahoma's core curriculum.

(7) **Family and consumer sciences.** Competencies for family and consumer sciences are fulfilled by meeting competencies for vocational family and consumer sciences.

(8) **Foreign languages.** The candidate for licensure and certification will possess competencies as specified in (A) through (G).

(A) **Listening (K-12).** The candidate for licensure and certification:

(i) Understands main ideas and supporting details of oral presentations and conversations (e.g., prepared speeches, news broadcasts, interviews, short lectures).

(ii) Understands spontaneous speech on a variety of basic topics.

(iii) Comprehends sustained conversation or narrative of general topics (secondary only).

(B) **Speaking (K-12).** The candidate for licensure and certification:

(i) Narrates and describes events, objects, and activities with supporting details.

(ii) Participates in spontaneous, face-to-face conversation involving more complicated skills and social situations, such as elaborating, apologizing, debating.

(iii) Initiates, sustains, and closes a general conversation.

(iv) Displays some ability to support opinions, explain in detail, and make assumptions (secondary only).

(v) Uses varied strategies, such as paraphrasing or restating, to facilitate communication in the language being studied (secondary only).

(C) **Reading (K-12).** The candidate for licensure and certification:

(i) Reads authentic (from the culture of the language studied) materials, such as selected short stories, poetry, and other literary works, articles, personal correspondence, and simple technical material written for the general reader.

(ii) Comprehends facts in authentic (from the culture of the language studied) texts and materials and makes appropriate inferences.

(iii) Comprehends authentic (from the culture of the language studied) communications via various media and technology.

(D) **Writing (K-12).** The candidate for licensure and certification:

(i) Communicates by writing simple facts and ideas.

(ii) Expresses narratives and descriptions of a factual nature.

(iii) Writes professional and social correspondence (secondary only).

(E) **Culture (K-12).** The candidate for licensure and certification:

(i) Is knowledgeable about the products of the culture of the language being taught.

(ii) Is knowledgeable about practices of the culture of the language being taught.

(iii) Is able to compare and contrast local culture and cultures of the language being taught.

(F) **Second language acquisition (K-12).** The candidate for licensure and certification:

(i) Is knowledgeable about first language development and its relation to second language learning.

(ii) Is knowledgeable about varied teaching approaches, methods, and strategies.

(iii) Is knowledgeable about varied second language assessment strategies and techniques that are developmentally appropriate.

(G) **The Oklahoma core curriculum** (K-12). The candidate for licensure and certification:

(i) Understands Oklahoma's core curriculum for languages, and

(ii) Implements the skills and knowledge appropriate to the level(s) taught.

(9) **Journalism.** The candidate for licensure and certification:

(A) Maintains current knowledge of concepts, theories, and practical application of such in the field of journalism, including those associated with print media, news gathering, writing, research, graphic design, photography, technology, law, and ethics.

(B) Applies comprehension, analysis, interpretation, and evaluation of auditory, written, and visual communication. Projects can be created based on this knowledge, i.e., newspapers, yearbooks, magazines, or broadcasts.

(C) Applies appropriate learning strategies for research, writing, organization, editing, and presentation of written and visual messages to different audiences.

(D) Communicates effectively in oral presentation, written communication, and visual design.

(E) Understands the influence of social and historical context of culture on journalism and adapts instruction accordingly.

(F) Understands the impact and importance of cultural diversity on the communication process.

(G) Establishes a reflective and creative learning environment.

(H) Uses a variety of assessment strategies and teaching methods to encourage creativity, to inspire critical thinking to develop problem-solving techniques, and to establish and maintain excellence in all journalism pursuits.

(I) Uses technology to accomplish professional goals and to develop students' journalistic proficiencies in all aspects of the subject, including, but not limited to, desktop publishing, photojournalism, written communication, graphic design, and research.

(J) Understands and can teach strategies appropriate to a variety of journalistic areas, including print media, graphic arts, printing technology, broadcast media, electronic media, advertising, business management practices, public relations, and professional writing.

(K) Is prepared to teach students in the following areas:

(i) desktop publishing;

(ii) writing for print and electronic media;

(iii) editing;

(iv) photography and videography;

(v) graphic design and typography;

(vi) headline, preview, promotion, and caption writing.

(L) Is prepared to teach

(i) research skills;

(ii) interviewing;

(iii) ethics, law, and responsibilities of the press;

(iv) journalism history;

(v) television, video, radio and multimedia production;

(vi) staff management, organization and leadership techniques;

(vii) business management and accounting procedures.

(M) Is knowledgeable of professional resources, including state, regional, and national scholastic press associations, workshops, conferences, contests, and publications.

(N) Understands the importance of effective verbal and visual communication skills.

(O) Understands the role of co-curricular and extracurricular activities in the development of student interests as an extension of classroom instruction.

(P) Understands, teaches, and implements Oklahoma's core curriculum.

(10) **Library-media specialist.** The candidate for licensure and certification:

(A) Defines a program of information literacy and integrates it into the curriculum

(B) Defines a school library media program emphasizing information problem-solving skills and integrates it into the curriculum.

(C) Motivates and guides students and faculty in recognizing literature as an essential base of cultural and practical knowledge and in reading for pleasure as well as for information.

(D) Communicates effectively with students, faculty, staff, administrators, parents, other colleagues, and the general public by the ability to:

(i) exhibit communication skills necessary for collaborative planning with teachers.

(ii) develop and implement an effective public relations program to communicate library media program goals, needs, and accomplishments.

(E) Applies basic principles of evaluating and selecting resources and equipment to support the educational goals of the school by the ability to:

(i) develop selection policies which reflect curricular and instructional objectives, and informational and recreational needs of students and teachers.

(ii) develop criteria for evaluating and selecting specific print and non-print materials and equipment.

(iii) develop a collection of bibliographic aids, tools, and other sources to obtain current reviews and information about materials and equipment.

(iv) develop and implement procedures for preview, evaluation, selection, and acquisition of materials and equipment consistent with the district policy.

(v) reevaluate and maintain materials and equipment.

(F) Uses resources to support the personal, developmental, and curricular needs of students, and the instructional development needs of the faculty by the ability to:

(i) use a variety of ways to access information, including the use of new technologies.

(ii) provide specific information and resources in response to reference requests and recommend resources which support the curriculum.

(iii) conduct programs that include guidance in reading, listening, and viewing experiences.

(iv) assist students and staff in identifying, obtaining, using and/or producing media in appropriate formats for specific learning objectives.

(v) supervise students and staff in media production and equipment operation.

(vi) advocate resource-based learning through work with other faculty to identify appropriate instructional strategies and creative uses of resources.

(G) Recognizes the value of new technologies for information and instruction and assists faculty and students in their use by the ability to:

(i) recognize the importance of technological advancement to the education process.

(ii) demonstrate an understanding of the basic concepts, terminology, and applications of emerging technology.

(iii) recognize curricular implications that result from emerging technology and educational trends.

(iv) provide leadership in incorporating innovations into education.

(v) identify sources of information related to technological advancements.

(vi) provide technical advice and services for educational access to technology.

(H) Implements policies and procedures for effective and efficient acquisition, cataloging, processing, circulating, and maintaining equipment and resources to ensure access by the ability to:

(i) classify and catalog all print and nonprint media according to professionally accepted systems.

(ii) organize and maintain a current catalog and shelf list of all media.

(iii) implement procedures for initial processing, circulation, maintenance, service, and inventory of equipment and materials.

(I) Develops, implements, and evaluates school library media programs, including management of personnel, resources, and facilities by the ability to:

(i) assess the informational and instructional needs of students and faculty.

(ii) establish short- and long-range goals based on identified needs, the goals and objectives of the school district, state and national guidelines, and research findings.

(iii) prepare, justify, and administer a library media program budget.

(iv) prepare plans for new or renovated library media facilities.

(v) develop policies that assure optimum use of materials, equipment, facilities, and staff to support the curriculum.

(vi) train, supervise, and evaluate support staff, volunteers, and student helpers.

(vii) apply federal and state laws pertaining to media including those regarding copyright, privacy, and access to materials.

(viii) prepare statistical records and written reports.

(ix) assess and implement the use of new technologies for library media center management, educational applications, and information retrieval.

(x) evaluate the library media program based on established goals and standards.

(xi) apply effective management principles.

(xii) advocate, initiate, and implement agreements for resource sharing.

(J) Serves as a learning facilitator within schools and as a leader of faculty, administration, and students in the development of effective strategies for teaching and learning with the ability to:

(i) teach traditional and electronic skills in the retrieval, evaluation, and utilization of information to enable students to become independent learners.

(ii) plan and implement professional development programs.

(K) Demonstrates a commitment to professionalism by the ability to:

(i) exhibit comprehension of the roles, interrelationships, and interdependency of all types of libraries and information agencies.

(ii) exhibit an understanding of the role of the school library media program as a central element in the intellectual life of the school.

(iii) demonstrate a commitment to promoting intellectual freedom.

(iv) demonstrate professional integrity through ethical behavior.

(v) apply appropriate research findings and conduct action research to improve the library media program.

(vi) develop selection criteria that reflect relevant theories of learning and instruction.

(vii) apply basic principles of instructional design in producing resources for specified learning goals or objectives.

(11) **Elementary mathematics.**

(A) **Overview.** The goal of teacher preparation programs in mathematics, in partnership with common education, is to prepare future teachers for the twenty-first century. Teacher preparation programs must recognize the changes in society to prepare adaptive teachers who are capable of providing equitable schooling for all students of the twenty-first century. Teacher preparation programs must recognize that learning to teach effectively does not consist solely of acquiring content skills. Theory alone cannot create an effective teacher. Effective teaching also must include the processes or pedagogy of teaching that incorporate actual experiences with students and other teacher candidates within a body or bodies of knowledge. Teacher preparation programs are challenged with providing a rigorous body of content which is not isolated from the strategies of teaching and the application of that content.

(B) **Commitment.** The candidate for licensure and certification recognizes the individuality and worth of each student, believes that all students can learn and apply mathematics, and demonstrates these beliefs in practice.

(C) **Knowledge of students, mathematics and teaching.** The candidate for licensure and certification:

(i) Uses knowledge of child development and knowledge about the effects of this development on the learning of mathematics to guide curricular and instructional decisions. This will include primary, intermediate, and middle level philosophy, structure, organization, and child development.

(ii) Understands students' environment and cultural background, individual learning differences, student attitudes and aspirations, and community expectations and values on the learning of their students.

(iii) Has a broad and deep knowledge of the concepts, principles, techniques, and reasoning methods of mathematics that is used to set curricular goals and shape teaching.

(iv) Understands significant connections among mathematical ideas and the applications of these ideas to problem-solving in mathematics, in other disciplines, and in the world outside of school.

(v) Has experiences with practical applications of mathematical ideas and is able to incorporate these in their curricular and instructional decisions.

(vi) Is proficient in, at least, the mathematics content needed to teach the mathematics skills described in Oklahoma's core curriculum from multiple perspectives. This includes, but is not limited to, a concrete and abstract understanding of number systems and number sense, geometry, measurement, statistics and probability, functions, and algebra necessary to effectively teach the mathematics content skills addressed in the first through eighth grade as well as the mathematics process skills of problem-solving, reasoning, communication, and connections.

(vii) Is proficient in the use of a variety of instructional strategies to include, but not limited to, cooperative learning, use of concrete materials, use of technology (i.e., calculators and computers), and writing strategies to stimulate and facilitate student learning.

(viii) Is proficient in the design of instructional units which incorporate the mathematical processes of problem-solving, reasoning, communication, and connections into the instruction of content skills.

(ix) Has knowledge of how to teach and use this knowledge to make curriculum decisions, design instructional strategies and assessment plans, and choose materials and resources for mathematics instruction.

(x) Stimulates and facilitates student learning by using a wide range of formats, strategies, technologies, and procedures, and assuming a variety of roles to guide students' learning of mathematics.

(xi) Helps students learn mathematics by creating a safe and positive environment in which they take responsibility for learning.

(xii) Develops students' abilities to reason and think mathematically, to investigate and explore patterns, to discover structures and relationships, to formulate and solve problems, and to justify and communicate conclusions.

(xiii) Employs a range of formal and informal assessment methods to evaluate student learning in light of well-defined goals. Results should be used

to guide the teaching process and provide opportunities for students to reflect on the strengths and weaknesses of individual performance.

(D) **Reflection and growth.** The candidate for licensure and certification:

(i) Regularly reflects on what one teaches and how one teaches.

(ii) Keeps informed of changes in mathematics and in the teaching of mathematics, continually seeking to improve his/her knowledge and practice.

(iii) Supports the involvement of families in their children's education, helps the community understand the role of mathematics and mathematics instruction in today's world, and, to the extent possible, involves the community in support of instruction.

(iv) Collaborates with peers and other education professionals to strengthen their school's programs, advance knowledge, and contribute to improving practice within the field.

(12) **Intermediate mathematics.**

(A) **Overview.** The goal of teacher preparation programs in mathematics, in partnership with common education, is to prepare future teachers for the twenty-first century. Teacher preparation programs must recognize the changes in society to prepare adaptive teachers who are capable of providing equitable schooling for all students of the twenty-first century. Teacher preparation programs must recognize that learning to teach effectively does not consist solely of acquiring content skills. Theory alone cannot create an effective teacher. Effective teaching also must include the processes or pedagogy of teaching that incorporate actual experiences with students and other teacher candidates within a body or bodies of knowledge. Teacher preparation programs are challenged with providing a rigorous body of content which is not isolated from the strategies of teaching and the application of that content.

(B) **Commitment.** The candidate for licensure and certification recognizes the individuality and worth of each student, believes that all students can learn and apply mathematics, and incorporates these beliefs into practice.

(C) **Knowledge of students, mathematics and teaching.** The candidate for licensure and certification:

(i) Has an understanding of middle level philosophy, structure, organization, and child development as well as an understanding of secondary level structure and child development.

(ii) Uses knowledge of child development and knowledge about the effects of this development on the learning of mathematics to guide curricular and instructional decisions.

(iii) Understands students' environment and cultural background, individual learning styles, student attitudes and aspirations, and community expectations and values on the learning of students.

(iv) Has a broad and deep knowledge of the concepts, principles, techniques, and reasoning methods of mathematics that is used to set curricular goals and shape teaching.

(v) Understands significant connections among mathematical ideas and the applications of these ideas to problem-solving in mathematics, in other disciplines, and in the world outside of school.

(vi) Has experiences with practical applications of mathematical ideas and is able to incorporate these in curricular and instructional decisions.

(vii) Is proficient in, at least, the mathematics content needed to teach the mathematics skills described in Oklahoma's core curriculum from multiple perspectives. This includes, but is not limited to, a concrete and abstract understanding of number systems and number theory, geometry and measurement, statistics and probability, functions, algebra, discrete mathematics, and calculus necessary to effectively teach the mathematics skills addressed in the sixth through eighth grade as well as the core and extended core skills in the algebra, geometry, functions, statistics, and probability sections of grades 9-12 in Oklahoma's core curriculum. This would also include the process skills and core skills addressed in the trigonometry and calculus sections of grades 9-12 in the Oklahoma core curriculum.

(viii) Is proficient in the use of a variety of instructional strategies to include, but is not limited to, cooperative learning, use of concrete materials, use of technology (i.e., calculators and computers), and writing strategies to stimulate and facilitate student learning.

(ix) Is proficient in the design of instructional units which incorporate the mathematical processes of problem-solving, reasoning, communication, and connections into the instruction of content skills.

(x) Has knowledge of how to teach and uses this knowledge in making curriculum decisions, designing instructional strategies and assessment plans, and choosing materials and resources for mathematics instruction.

(xi) Helps students learn mathematics by creating a safe and positive environment in which they take responsibility for learning.

(xii) Uses content knowledge and pedagogy to develop students' abilities to reason and think mathematically, to investigate and explore patterns, to discover structures and relationships, to formulate and solve problems, and to justify and communicate conclusions.

(xiii) Employs a range of formal and informal assessment methods to evaluate student learning in light of well-defined goals. Results should be used to guide the teaching process and provide opportunities for students to reflect on the strengths and weaknesses of individual performance.

(D) **Reflection and growth.** The candidate for licensure and certification:

(i) Keeps informed of changes in mathematics and in the teaching of mathematics, continually seeking to improve knowledge and practice. He/she regularly reflects on what is taught and how it is taught.

(ii) Supports the involvement of families in their children's education, helps the community understand the role of mathematics and mathematics instruction in today's world, and, to the extent possible, involves the community in support of instruction.

(iii) Collaborates with peers and other education professionals to advance knowledge and contribute to improving practice within the field.

(13) **Advanced/secondary mathematics.**

(A) **Overview.** The goal of teacher preparation programs in mathematics, in partnership with common education, is to prepare future teachers for the twenty-first century. Teacher preparation programs must recognize the changes in society to prepare adaptive teachers who are capable of providing equitable schooling for all students of the twenty-first century. Teacher preparation programs must recognize that learning to teach effectively does not consist solely of acquiring content skills. Theory alone cannot create an effective teacher. Effective teaching also must include the processes or pedagogy of teaching that incorporate actual experiences with students and other teacher candidates within a body or bodies of knowledge. Teacher preparation programs are challenged with providing a rigorous body of content which is not isolated from the strategies of teaching and the application of that content.

(B) **Commitment.** The candidate for licensure and certification recognizes the individuality and worth of each student, believes that all students can learn and apply mathematics, and incorporates these beliefs into practice.

(C) **Knowledge of students, mathematics and teaching.** The candidate for licensure and certification:

(i) Has an understanding of the middle level philosophy, structure, organization, and child development as well as an understanding of the secondary level structure and child development.

(ii) Uses knowledge of child development and knowledge about the effects of this development on the learning of mathematics to guide curricular and instructional decisions.

(iii) Understands students' environment and cultural background, individual learning styles, student attitudes and aspirations, and community expectations and values on the learning of students.

(iv) Has a broad and deep knowledge of the concepts, principles, techniques, and reasoning methods of mathematics that is used to set curricular goals and shape teaching.

(v) Understands significant connections among mathematical ideas and the applications of these ideas to problem solving in mathematics, in other disciplines, and in the world outside of school.

(vi) Has experiences with practical applications of mathematical ideas and is able to incorporate these in curricular and instructional decisions.

(vii) Is proficient in, at least, the mathematics content needed to teach the mathematics skills described in Oklahoma's core curriculum from multiple perspectives. This includes, but is not limited to, a concrete and abstract understanding of number systems and number theory, geometry and measurement, statistics and probability, functions, algebra, discrete mathematics, and calculus necessary to effectively teach the mathematics skills addressed in the sixth through twelfth grade in the Oklahoma core curriculum. (The depth and breadth of knowledge should be much greater than for the Intermediate Mathematics certification.)

(viii) Is proficient in the use of a variety of instructional strategies to include, but is not limited to, cooperative learning, use of concrete materials, use of technology (i.e., calculators and computers), and writing strategies to stimulate and facilitate student learning.

(ix) Is proficient in the design of instructional units which incorporate the mathematical processes of problem-solving, reasoning, communication, and connections into the instruction of content skills.

(x) Has knowledge of how to teach and uses this knowledge in making curriculum decisions, designing instructional strategies and assessment plans, and choosing materials and resources for mathematics instruction.

(xi) Helps students learn mathematics by creating a safe and positive environment in which they take responsibility for learning.

(xii) Uses content knowledge and pedagogy to develop students' abilities to reason and think mathematically, to investigate and explore patterns, to discover structures and relationships, to formulate and solve problems, and to justify and communicate conclusions.

(xiii) Employs a range of formal and informal assessment methods to evaluate student learning in light of well-defined goals. Results should be used

to guide the teaching process and provide opportunities for students to reflect on the strengths and weaknesses of individual performance.

(D) **Reflection and growth.** The candidate for licensure and certification:

(i) Keeps informed of changes in mathematics and in the teaching of mathematics, continually seeking to improve knowledge and practice. He/she regularly reflects on what is taught and how it is taught.

(ii) Supports the involvement of families in their children's education, helps the community understand the role of mathematics and mathematics instruction in today's world, and, to the extent possible, involves the community in support of instruction.

(iii) Collaborates with peers and other education professionals to advance knowledge and contribute to improving practice within the field.

(14) **Middle level personnel.** The competencies developed here focus on middle level philosophy, structure, organization, and student development. Subject matter competencies can be pulled from the K-12 competencies developed by the subject matter committees. The candidate for licensure and certification:

(A) Understands the history, philosophy, principles, structure, and organization of middle level education as it relates to early adolescence.

(B) Uses methods and materials for interdisciplinary instruction at the middle school level.

(C) Demonstrates an understanding of child-centered versus content-centered methodologies to meet the individual needs of middle level students.

(D) Has knowledge and skills pertaining to classroom management, organization, and student discipline at the middle school level.

(E) Understands the unique developmental characteristics and needs of the early adolescent, focusing on cognitive, physical, and social development.

(F) Establishes an environment using active participation to teach problem-solving and communication skills (reading, listening, writing, and speaking) as an integral part of all instruction.

(G) Understands curriculum-based teacher advisory programs, which foster character, responsibility, respect for others, and active community involvement.

(H) Understands the need to work collaboratively with other teachers, staff members, parents, resource persons, and community groups to enhance and support the education of young adolescents.

(I) Uses a variety of instructional strategies that address different learning styles to meet the needs of early adolescents.

(J) Models the role of the lifelong learner.

(K) Insures that all students develop proficiencies in the Oklahoma core curriculum.

(15) **Instrumental/general music.** The candidate for licensure and certification:

(A) Understands the basic philosophy of music education and is able to justify music within the school curriculum.

(B) Understands how music and fine arts experiences enhance student life experience and can promote music and the other arts in the community as well as within the school (including group motivational strategies and group management methods).

(C) Participates in ongoing professional development which includes involvement with professional associations and current experiences in performing endeavors.

(D) Has knowledge of effective methodologies and practices for encouraging self-analysis and musical independence.

(E) Has mastery of a major instrument, including appropriate techniques of breathing, embouchure (mouth position), posture, and hand position.

(F) Has a broad understanding of music history, including various styles and musical contributions of different cultural and ethnic groups.

(G) Has the ability to play an instrument(s) and teach a beginning instrumental music class, using current methods and quality music literature (collection of written music) for band, small ensemble, and solo.

(H) Is able to recognize and evaluate the sequential development of students, including those with disabilities.

(I) Has knowledge of where to locate printed musical resources and professional consultants.

(J) Has a working knowledge of how music integrates with all other academic disciplines, including other fine arts areas.

(K) Has the skill to collaborate and coordinate experiences with teachers of other academic disciplines, including other fine arts areas.

(L) Has competency in conducting techniques.

(M) Is able to teach basic fundamentals of embouchure (mouth position), hand position, technique and other related skills, of all the standard band and orchestra instruments at a basic Grade 6-8 level, including making a characteristic sound.

(N) Is able to sing a diatonic melody at sight, using a consistent sight-singing method, and the skill to teach that method appropriately at each grade level. **"Diatonic"** means relating to a musical scale having eight tones to the octave and using a fixed pattern of intervals without chromatic deviation.

(O) Is able to count rhythms using a consistent rhythm reading system and demonstrates the skill to teach that method appropriately at each grade level.

(P) Has knowledge of music education approaches such as Carl Orff, Zoltar Kodaly and Jaques-Dalcroze and is able to prepare and teach a lesson according to each of these approaches.

(Q) Has basic proficiency in piano, including a knowledge of keyboard harmony and is able to play functional progressions and simple accompaniments.

(R) Has the ability to use technology in the music classroom, such as basic knowledge of MIDI (musical instrument digital interface), sequencing and notational software programs, sound system set-up, and to make successful recordings of music ensembles.

(S) Understands basic laws of copyright pertaining to the correct use of copyrighted printed music and related responsibilities.

(T) Understands the competencies in General Music in Oklahoma's core curriculum and exhibits the skill to incorporate them into various instrumental music classes.

(16) **Vocal/general music.** The candidate for licensure and certification:

(A) Understands the basic philosophy of music education and is able to justify music within the school curriculum.

(B) Understands how music and fine arts experiences enhance student life experience and can promote music and the other arts in the community as well as within the school (including group motivational strategies and group management methods).

(C) Has knowledge of effective methodologies and practices for encouraging self-analysis and musical independence.

(D) Understands proper breathing techniques and tone production techniques.

(E) Has a knowledge of quality literature (collection of written music), both choral and solo, as well as folk songs appropriate for children.

(F) Understands the changing voice, both male and female.

(G) Has knowledge of where to locate professional consultants and printed music resources, such as music stores, music publisher catalogues,and textbook companies.

(H) Has a working knowledge of how to coordinate vocal music with all academic disciplines including other fine arts areas.

(I) Has proficiency in piano, including knowledge of scales, chords and the ability to warm up a choir and play simple accompaniments.

(J) Participates in ongoing professional development which includes involvement with professional associations.

(K) Has the ability to recognize and evaluate sequential musical development for all students, including those with disabilities.

(L) Has competency in conducting, including the ability to show musical nuance (subtle distinction or variation).

(M) Is able to prepare a series of lesson plans appropriate to each teaching level K-12.

(N) Has the ability to sing a diatonic melody at sight, using a consistent sight singing method and the skill to teach that method appropriately at each grade level. **"Diatonic"** means relating to a musical scale having eight tones to the octave and using a fixed pattern of intervals without chromatic deviation.

(O) Has the ability to count rhythms using a consistent rhythmic reading system and the skills to teach that method appropriately at each grade level.

(P) Has knowledge of the music education approaches such as Carl Orff, Zoltar Kodaly and Jaques-Dalcroze and is able to prepare and teach a lesson according to each of these approaches.

(Q) Has broad knowledge and understanding of music history including various styles, periods and cultures.

(R) Has broad knowledge and understanding of a variety of music and musical practices representative of different cultural and ethnic groups.

(S) Has the ability to use technology in the music classroom, such as basic knowledge of MIDI (musical instrument digital interface), sequencing and notational software programs, sound system set-up, and to make successful recordings of music ensembles.

(T) Understands basic laws of copyright pertaining to the correct use of copyrighted printed music and related responsibilities.

(U) Understands the competencies in General Music in Oklahoma's core curriculum and exhibits the skill to incorporate them into various vocal music classes.

(17) **Physical education/health/safety.** Competencies specified in both (A) Physical Education/Safety and (B) Health/Safety are required for licensure and certification:

(A) **Physical education/safety.** The candidate for licensure and certification:

(i) Understands the Oklahoma core curriculum and is able to develop instructional strategies/plans based on the Physical Education Section of the Oklahoma core curriculum.

(ii) Knows the developmental levels of growth and coordination of children (Grades K-12) and provides appropriate learning opportunities that support the physical and intellectual development of all students.

(iii) Understands and uses a variety of both psychomotor and cognitive assessment strategies to evaluate and modify the teaching/learning process.

(iv) Understands and utilizes physical education activities for curriculum integration.

(v) Applies movement concepts and principles to the learning and development of rhythm and motor skills for the following:

(I) locomotor movement

(II) nonlocomotor movement

(III) manipulative skills

(vi) Promotes participation and involvement in age-appropriate physical activities/sports suitable for lifelong participation in the following areas:

(I) lifetime activities/sports (i.e., skiing, camping, hiking, clogging)

(II) individual activities/sports (i.e., golf, tennis, self-defense, spelunking)

(III) nontraditional team activities/sports (i.e., korfball, lacrosse, square dancing)

(IV) traditional team activities/sports (i.e., basketball, volleyball, softball)

(vii) Understands adaptive learning activities for students with special needs.

(viii) Knows and can demonstrate appropriate fitness, wellness, and personal management components including:

(I) Fitness. Fitness includes: flexibility; muscular strength; cardiovascular fitness endurance; contraindicated exercises (traditional exercises which have been proven, through research, to be damaging to the body); nutrition.

(II) Wellness. Wellness encompasses: body composition; stress management; safety and accident prevention; designing and assessing personal fitness program; weight control; consumer education.

(III) Personal management skills: cooperation; sportsmanship; self-discipline; goal setting; following rules.

(ix) Uses information technology to enhance learning and to enhance personal productivity:

(I) Demonstrates knowledge of current technologies and their application in Physical Education.

(II) Designs, develops, and implements student learning activities that integrate information technology.

(III) Uses technologies to communicate, network, locate resources, and enhance continuing professional development.

(B) **Health/safety.** The candidate for licensure and certification:

(i) Communicates the concepts, purposes, and importance of health education; as evidenced by the following indicators:

(I) Describes the discipline of health education within the school setting.

(II) Describes the interdependence of health education and the other components of a coordinated school health program.

(III) Delivers accurate and up-to-date information about the most common comprehensive school health education components; including but not limited to: community and environmental health; consumer health; disease prevention and control; healthy communication; human growth and development; mental and emotional health; nutrition; personal health; safety and injury prevention; substance abuse.

(IV) Provides a rationale for health education, grades 1-12.

(V) Understands the variables that shape decisions about health behaviors.

(VI) Defines the role of the health education teacher within a coordinated school health program.

(VII) Explains the importance of health education.

(VIII) Identifies the kinds of school and community support necessary to implement a coordinated school health education program.

(IX) Understands the importance of ongoing professional development for health education teachers.

(X) Describes the importance of modeling positive, healthful behaviors.

(ii) Assesses the health education needs and interests of students.

(I) Uses information about health needs and interests of students.

(II) Recognizes behaviors that promote or compromise health.

(iii) Plans school health instruction.

(I) Selects realistic program goals and objectives.

(II) Identifies a scope and sequence plan for school health instruction.

(III) Plans health education lessons which reflect the abilities, needs, interests, developmental levels, and cultural backgrounds of students.

(IV) Describes effective ways to promote cooperation with and feedback from administrators, parents, and other community members.

(V) Determines procedures which are compatible with school policy for implementing curricula.

(VI) Develops activities to meet program goals and objectives based on the Health/Safety, and for grades 7-12, HIV/AIDS Prevention Education Sections of Oklahoma's core curriculum and on the National Health Education Standards.

(iv) Implements school health instruction.

(I) Employs a variety of strategies to facilitate implementation of a school health education curriculum; strategies include: provides a core health education curriculum; integrates health and other content areas; uses technology as a strategy to deliver health education; involves parents, guardians, or custodians of students in the teaching/learning process.

(II) Incorporates appropriate resources and materials including: selects valid and appropriate sources of information about health; uses school and community resources within a comprehensive program; refers students to valid and appropriate sources of health information.

(III) Employs appropriate strategies for dealing with health issues.

(IV) Adapts existing health education curricular models to community and student needs and interests.

(v) Evaluates the effectiveness of school health instruction.

(I) Uses appropriate criteria and methods unique to health education for evaluating student achievement.

(II) Interprets and applies student evaluation results to improve health instruction.

(18) **Psychometrist.** The candidate for licensure and certification:

(A) Understands and integrates into practice the philosophical, historical, and legal foundations of special education as applicable to the role of the psychometrist/educational diagnostician, in the following areas, including laws, regulations, and policies/procedures related to special education assessment, placement, and due process.

(B) Demonstrates knowledge, understanding, and application of ethical issues and standards of professional practice within the educational setting, in the following areas:

(i) ethical conduct and legal issues of the profession

(ii) role and function of the psychometrist/educational diagnostician

(iii) confidentiality

(iv) professional issues/standards

(v) training standards for particular instruments and procedures

(vi) continuing professional growth/development

(C) Demonstrates knowledge and skills in assessment, diagnosis, evaluation, and eligibility determination within the multidisciplinary team process for children with disabilities who may require special education services or early childhood intervention services, as follows:

(i) collection of assessment data for infants through school-age children, including the selection, administration, accurate scoring, and reporting of instruments and procedures appropriate to the areas of concern such as basic academic skills, cognitive/intellectual, developmental, perception, language, adaptive behavior, and classroom behavior

(ii) the adequacy, appropriate use, and limitations of assessment and evaluation instruments and procedures to be used by the psychometrist/educational diagnostician for educational purposes and recommendations

(iii) nondiscriminatory assessment strategies for culturally and linguistically diverse children

(D) Has knowledge and skills in effective communication and collaboration within the multidisciplinary team process, in the following areas:

(i) consultation for instructional interventions and problem-solving

(ii) educational recommendations and decision-making

(E) Understands and integrates into practice basic psychological foundations, including:

(i) cultural diversity

(ii) child and adolescent development

(iii) human exceptionalities

(iv) learning/educational psychology

(F) Understands and integrates into practice educational foundations, including:

(i) education of the exceptional learner

(ii) instructional and remedial techniques

(iii) the educational service delivery system

(19) **Reading specialist.** The candidate for licensure and certification shall possess the competencies specified in (A) through (D) of this paragraph:

(A) **Reading philosophy and professional roles.** Competencies are:

(i) Provides reading instructions so as to facilitate the process of reading development in which teacher and learner work together as members of a community of readers.

(ii) Has knowledge of the linguistic, dialectal, and developmental differences in readers that may affect instructional strategies.

(iii) Knows the principles and issues of major theories of language development as they relate to reading instruction.

(iv) Applies flexible approaches to reading instruction that recognize the uniqueness of individual students.

(v) Develops strategies for working with school staff, other reading specialists, and professionals within and beyond the school to foster reading development for individuals and groups.

(vi) Understands reading as a constructive process in which the experience of the reader, the text, and the requirements of the reading event interact in the creation of meaning.

(vii) Identifies appropriate interaction with staff members (e.g., content, special, classroom teachers) to facilitate reading development for all students.

(viii) Recognizes factors and procedures related to the involvement of parents and/or school and community groups at all stages of reader development.

(ix) Identifies and understands procedures involved in determining curriculum needs for reading programs.

(x) Identifies criteria and/or procedures involved in planning reading curriculum.

(xi) Identifies appropriate methods and resources related to the reading process for promoting professional growth for self and school staff.

(B) **Instructional practices.** Competencies are:

(i) Understands emergent literacy development and the types of experiences and concepts that support learning to read.

(ii) Applies knowledge of and provides appropriate instruction of graphophonemic relationships.

(iii) Understands the relationship among word knowledge (i.e., word attack and word recognition), reading fluency, and comprehension.

(iv) Identifies various word attack strategies (i.e., semantic clues, syntactic clues, graphophonemic clues), and various word recognition strategies (i.e., those that promote meaningful vocabulary growth).

(v) Provides appropriate instruction of strategies that promote comprehension at the literal, inferential, and critical/evaluative levels for both narrative and expository texts.

(vi) Understands the importance of adjusting reading strategies for different reading purposes.

(vii) Provides appropriate instruction of various techniques and study strategies (i.e., locating, organizing, and interpreting information).

(viii) Identifies content area reading strategies that activate and/or develop background knowledge.

(ix) Assists students in applying reading-related strategies to new learning situations.

(x) Understands the issues and procedures involved in teacher modeling, teacher-guided application, and independent practice.

(xi) Develops proficiencies in providing instruction associated with a variety of reading instructional approaches, including phonics, language experience, basal (basic) readers, and literature-based.

(xii) Implements cooperative learning strategies during reading instruction.

(xiii) Analyzes the strengths and weaknesses of the use of readability formulas in assessing instructional materials.

(xiv) Identifies appropriate criteria for selecting instructional materials (e.g., textbooks, reference books, computer software).

(xv) Analyzes issues and procedures involved in modifying curriculum to meet the needs of individual students.

(xvi) Recognizes the factors involved in organizing reading instruction to encourage individual student success.

(xvii) Promotes meaningful parent/guardian-child interaction related to reading.

(xviii) Creates a reading environment to increase student's motivation to read widely and independently and to promote reading as a lifelong habit.

(C) **Reading diagnosis.** Competencies are:

(i) Identifies factors that contribute to reading difficulties.

(ii) Understands the nature of reading difficulties (e.g., students' knowledge and strategies, factors embedded in the reading materials, instructional factors).

(iii) Implements, interprets, and uses informal and formal assessment and evaluation procedures for identifying and diagnosing reading difficulties (e.g., observation, criterion-referenced tests, norm-referenced tests, miscue analysis, informal reading inventories, anecdotal records).

(iv) Understands, analyzes, and creates case studies for diagnostic purposes.

(v) Identifies issues, procedures, and limitations involved in using oral diagnostic tests, silent diagnostic tests, visual and auditory screening, and observational diagnostic techniques.

(vi) Identifies activities and/or strategies appropriate for individual or group instruction for students with reading difficulty.

(D) **Evaluation and assessment.** Competencies are:

(i) Identifies characteristics, strengths, and weaknesses of formal and informal tests and instruments (i.e., criterion-referenced, norm-referenced, achievement tests, diagnostic tests, checklists, observations, and anecdotal records.)

(ii) Analyzes issues involved in the use of tests and other evaluation instruments for classification or placement, diagnosis, or other evaluative purposes.

(iii) Selects tests or other instruments appropriate for a given evaluation purpose.

(iv) Understands the principles and/or procedures involved in the interpretation of test results.

(v) Identifies procedures for cooperating with various professionals in assessment, evaluation, and instructional planning for students with special needs.

(vi) Identifies criteria for evaluating reading programs.

(20) **Reserve Officers' Training Corps (ROTC).** Competency for ROTC certification will be verified by a recommendation from the appropriate ROTC Regional Headquarters.

(21) **School counselor.**

(A) The candidate for licensure and certification:

(i) Uses an understanding of human development to provide a comprehensive, developmental guidance and counseling program.

(ii) Understands the impact of environmental influences on students' development and achievement, and helps students develop strategies to

resolve or cope with situations that may hinder learning.

(iii) Demonstrates an appreciation of human diversity by providing equitable guidance and counseling services for all students and by promoting a climate of mutual respect that helps students value themselves and others.

(iv) Uses effective leadership skills to plan, implement, and evaluate a comprehensive, developmental guidance and counseling program to address the needs of all students.

(v) Provides guidance and counseling services to address the needs and concerns of students and to help students develop skills to use in future situations.

(vi) Facilitates the educational and career development of individual students to help all students achieve success.

(vii) Uses formal and informal assessment to provide information about and to students, to monitor student progress, and to recommend changes to the student's educational environment.

(viii) Consults with parents and school personnel, provides professional expertise, and establishes collaborative relationships that foster a support system for students, parents, and the school community.

(ix) Establishes strong and positive ties with the home and the community to promote and support students' growth in school and beyond the school setting.

(x) Has knowledge of professional ethical codes, the importance of professional development, and the need to work with colleagues to advance the profession.

(B) Competency for School Counselor certification may also be verified by the Nationally Certified School Counselor (NCSC) credential.

(22) **School nurse.** Competency for School Nurse certification will be verified by a current registered nurse's license issued by the Oklahoma State Board of Nurse Registration and Nursing Education.

(23) **School psychologist.**

(A) The candidate for licensure and certification:

(i) Understands and integrates into practice the principles of professional school psychology, including:

(I) ethical conduct and legal issues

(II) confidentiality

(III) role and function of the school psychologist

(IV) service delivery models

(V) professional issues/standards

(VI) history and foundations

(VII) continuing professional growth/development

(ii) Demonstrates knowledge and skills in a comprehensive range of assessment, diagnosis, evaluation, and eligibility or intervention determination within the multidisciplinary team process, including:

(I) for children with disabilities who may require special education, early childhood intervention services, or other exceptional needs

(II) assessment for interventions

(III) collection of assessment data for infants through school-age children, including the selection, administration, accurate scoring, reporting, and interpretation of instruments and procedures appropriate to the areas of concern

(IV) the adequacy, appropriate uses, and limitations of assessment and evaluation instruments and procedures to be used by the school psychologist

(V) nondiscriminatory assessment strategies for culturally and linguistically diverse children

(iii) Demonstrates knowledge and skills in prevention, intervention, consultation, and counseling, including:

(I) behavioral and social skills

(II) cognitive/intellectual

(III) child developmental

(IV) academic learning/instructional

(V) mental health needs

(VI) crisis prevention/intervention

(iv) Demonstrates knowledge and skills in effective communication and collaboration, including:

(I) consultation for interventions and problem-solving

(II) recommendations and decision-making concerning educational and mental health needs of children

(III) working with families, children, professionals, and other service systems

(v) Demonstrates knowledge and application of statistics, research methodologies/designs, measurement, and program evaluation.

(vi) Understands and integrates into practice psychological foundations including:

(I) biological bases of behavior (developmental, neuropsychological, physiological, and other biological influences on behavior)

(II) social bases of behavior (social psychology and development)

(III) cultural diversity and cultural bases of behavior

(IV) child and adolescent development

(V) human exceptionalities and individual differences

(VI) human learning

(vii) Understands and integrates into practice educational foundations, including:

(I) education of the exceptional learner

(II) instructional and remediation techniques/intervention methods

(III) organization and operation of the schools

(IV) the educational and alternative service delivery systems

(B) Competency for School Psychologist certification may also be verified by the Nationally Certified School Psychologist (NCSP) credential.

(24) **Elementary science.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one

(i) Develops a framework of yearlong and short-term goals for students.

(ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.

(iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.

(iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one

(i) Focuses and supports inquiries while interacting with students.

(ii) Facilitates discussion among students about scientific ideas.

(iii) Challenges students to accept and share responsibility for their own learning.

(iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.

(v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.

(C) Is able to engage in ongoing assessment of one's own teaching and of student learning. In doing this, one

(i) Uses multiple methods and systematically gathers data about student understanding and ability.

(ii) Analyzes assessment data to guide teaching.

(iii) Guides students in the evaluation of their work.

(iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.

(v) Uses student assessment information and classroom observation to report student achievement to students and parents.

(D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one

(i) Structures the time so that students are able to engage in extended investigations.

(ii) Creates a setting for student work that is flexible and supportive of science inquiry.

(iii) Ensures a safe working environment.

(iv) Makes the available science tools, materials, media, and technological resources accessible to students.

(v) Identifies and uses resources outside the school.

(vi) Engages students in designing the learning environment.

(E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one

(i) Respects the diverse needs, skills, and experiences of all students.

(ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.

(iii) Encourages collaboration among students.

(iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.

(v) Models and emphasizes the skills and value of scientific inquiry.

(F) Is able to use a variety of instructional strategies to implement an integrated/ interdisciplinary curriculum.

(G) Is able to teach with a broad understanding of all content areas and to understand the interaction between the sciences and the process skills. Content areas and concepts within each are listed in subparagraphs (A) through (C) herein:

(i) Physical science content

(I) Properties of objects and materials

(II) Properties and changes of properties in matter

(III) Position and motion of objects

(IV) Motion and force

(V) Light, heat, electricity, and magnetism

(VI) Transfer of energy

(ii) Earth/space content

(I) Properties of earth materials

(II) Objects in the sky

(III) Changes in earth and sky

(IV) Structure of the earth system

(V) Earth's history

(VI) Earth in the solar system

(iii) Life science content

(I) The characteristics of organisms

(II) The life cycle of organisms

(III) Organisms and environment

(IV) Structure and function in living systems
(V) Reproduction and heredity
(VI) Regulation and behavior
(VII) Population and ecosystem
(VIII) Diversity and adaption of organisms

(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades K through 8. Identified science concepts and/or science content areas are:

(i) System, order and organization
(ii) Constancy, change, equilibrium and measurement
(iii) Form and function
(iv) Abilities of technological design
(v) Abilities to distinguish between natural objects and objects made by humans
(vi) Understanding about science and technology
(vii) Science as a human endeavor
(viii) Nature of science
(ix) History of science
(x) Personal health
(xi) Characteristics and changes in populations
(xii) Population, resources, and environment
(xiii) Types of resources
(xiv) Natural hazards
(xv) Changes in environments
(xvi) Science and technology in local challenges
(xvii) Risk and benefits
(xviii) Science and technology in society

(25) **Earth science 6-12.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one

(i) Develops a framework of yearlong and short-term goals for students.
(ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities and experiences of students.
(iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
(iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one:

(i) Focuses and supports inquiries while interacting with students.
(ii) Facilitates discussion among students about scientific ideas.
(iii) Challenges students to accept and share responsibility for their own learning.
(iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
(v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.

(C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one

(i) Uses multiple methods and systematically gathers data about student understanding and ability.
(ii) Analyzes assessment data to guide teaching.
(iii) Guides students in the evaluation of their work.
(iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
(v) Uses student assessment information and classroom observation to report student achievement to students and parents.

(D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one

(i) Structures the time so that students are able to engage in extended investigations.
(ii) Creates a setting for student work that is flexible and supportive of science inquiry.
(iii) Ensures a safe working environment.
(iv) Makes the available science tools, materials, media, and technological resources accessible to students.
(v) Identifies and uses resources outside the school.
(vi) Engages students in designing the learning environment.

(E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one

(i) Respects the diverse needs, skills, and experiences of all students.
(ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
(iii) Encourages collaboration among students.
(iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
(v) Models and emphasizes the skills, attitudes, and value of scientific inquiry.

(F) Is able to use a variety of instructional strategies to implement an integrated interdisciplinary curriculum.

(G) Is able to teach with a broad understanding of all content areas and understand the interaction between the sciences and the process skills. Identified Earth/Space Science content areas are:

(i) Structure of the earth system
(ii) Earth's history
(iii) Earth in the solar system
(iv) Energy in the Earth system
(v) Geochemical cycles
(vi) The universe and Earth's system

(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified science concepts and/or science content areas are:

(i) System, order and organization
(ii) Evidence, models and explanation
(iii) Constancy, change, equilibrium and measurement
(iv) Form and function
(v) Abilities of technological design
(vi) Understanding about science and technology
(vii) Science as a human endeavor
(viii) Nature of science
(ix) Nature of scientific knowledge
(x) History of science
(xi) Historical perspectives
(xii) Personal health
(xiii) Personal and community health
(xiv) Population, resources, and environments
(xv) Population growth
(xvi) Natural hazards
(xvii) Natural resources
(xviii) Risks and benefits
(xix) Environmental quality
(xx) Natural and human induced hazards
(xxi) Science and technology in society
(xxii) Science and technology in local, national, and global challenges

(26) **Biological sciences 6-12.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:

(i) Develops a framework of yearlong and short-term goals for students.
(ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
(iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
(iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one:

(i) Focuses and supports inquiries while interacting with students.
(ii) Facilitates discussion among students about scientific ideas.
(iii) Challenges students to accept and share responsibility for their own learning.
(iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
(v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.

(C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:

(i) Uses multiple methods and systematically gathers data about student understanding and ability.
(ii) Analyzes assessment data to guide teaching.
(iii) Guides students in the evaluation of their work.
(iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
(v) Uses student assessment information and classroom observation to report student achievement to students and parents.

(D) Is able to design and manage learning environments that provide students with the time, space and resources needed for developing science skills. In doing this, one:

(i) Structures the time so that students are able to engage in extended investigations.
(ii) Creates a setting for student work that is flexible and supportive of science inquiry.
(iii) Makes the available science tools, materials, media, and technological resources accessible to students.
(iv) Engages students in designing the learning environment.

(E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:

(i) Respects diverse needs, skills, and experiences of all students.
(ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
(iii) Encourages collaboration among students.
(iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
(v) Models and emphasizes the skills and value of scientific inquiry.

(F) Is able to use a variety of instructional strategies to implement an integrated interdisciplinary curriculum.

(G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Biological Sciences content areas are:

(i) Structure and function in living systems
(ii) Reproduction and heredity
(iii) Regulation and behavior
(iv) Population and ecosystem
(v) Diversity and adaption of organisms
(vi) The cell
(vii) The molecular basis of heredity
(viii) Biological adaptation
(ix) The interdependence of organisms
(x) Matter, energy, organization in living systems
(xi) Behavior of organisms

(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:

(i) System, order, and organization
(ii) Evidence, models, and explanation
(iii) Constancy, change, equilibrium, and measurement
(iv) Form and function
(v) Abilities of technological design
(vi) Understanding about science and technology
(vii) Science as a human endeavor
(viii) Nature of science
(ix) Nature of scientific knowledge
(x) History of science
(xi) Historical perspectives
(xii) Personal health
(xiii) Personal and community health
(xiv) Population, resources, and environments
(xv) Population growth
(xvi) Natural hazards
(xvii) Natural resources
(xviii) Risks and benefits
(xix) Environmental quality
(xx) Natural and human induced hazards
(xxi) Science and technology in society
(xxii) Science and technology in local, national, and global challenges

(27) **Physical sciences 6-12.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:

(i) Develops a framework of yearlong and short-term goals for students.
(ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
(iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
(iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one:

(i) Focuses and supports inquiries while interacting with students.
(ii) Facilitates discussion among students about scientific ideas.
(iii) Challenges students to accept and share responsibility for their own learning.
(iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
(v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.

(C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:

(i) Uses multiple methods and systematically gathers data about student understanding and ability.
(ii) Analyzes assessment data to guide teaching.
(iii) Guides students in the evaluation of their work.
(iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
(v) Uses student assessment information and classroom observation to report student achievement to students and parents.

(D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one:

(i) Structures the time so that students are able to engage in extended investigations.
(ii) Creates a setting for student work that is flexible and supportive of science inquiry.
(iii) Ensures a safe working environment.
(iv) Makes the available science tools, materials, media, and technological resources accessible to students.
(v) Identifies and uses resources outside the school.
(vi) Engages students in designing the learning environment.

(E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:

(i) Respects the diverse needs, skills, and experiences of all students.

(ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.

(iii) Encourages collaboration among students.

(iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.

(v) Models and emphasizes the skills and value of scientific inquiry.

(F) Is able to use a variety of instructional strategies and use integrated and interdisciplinary curriculum.

(G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Physical Science concepts and content areas are:

(i) Properties and changes of properties in matter

(ii) Motions and force

(iii) The structure of atoms

(iv) Structure and properties of matter

(v) Chemical reactions

(vi) Conservation of energy

(vii) Interactions of energy and matter

(viii) The earth system

(ix) The Universe

(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:

(i) System, order, and organization

(ii) Evidence, models, and explanation

(iii) Constancy, change, equilibrium, and measurement

(iv) Form and function

(v) Abilities of technological design

(vi) Understanding about science and technology

(vii) Science as a human endeavor

(viii) Nature of science

(ix) Nature of scientific knowledge

(x) History of science

(xi) Historical perspectives

(xii) Personal health

(xiii) Personal and community health

(xiv) Population, resources, and environments

(xv) Population growth

(xvi) Natural hazards

(xvii) Natural resources

(xviii) Risks and benefits

(xix) Environmental quality

(xx) Natural and human induced hazards

(xxi) Science and technology in society

(xxii) Science and technology in local, national, and global challenges

(28) **Chemistry 6-12.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:

(i) Develops a framework of yearlong and short-term goals for students.

(ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.

(iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.

(iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one:

(i) Focuses and supports inquiries while interacting with students.

(ii) Facilitates discussion among students about scientific ideas.

(iii) Challenges students to accept and share responsibility for their own learning.

(iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.

(v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.

(C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:

(i) Uses multiple methods and systematically gathers data about student understanding and ability.

(ii) Analyzes assessment data to guide teaching.

(iii) Guides students in the evaluation of their work.

(iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.

(v) Uses student assessment information and classroom observation to report student achievement to students and parents.

(D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one:

(i) Structures the time so that students are able to engage in extended investigations.

(ii) Creates a setting for student work that is flexible and supportive of science inquiry.

(iii) Ensures a safe working environment.

(iv) Makes the available science tools, materials, media, and technological resources accessible to students.

(v) Identifies and uses resources outside the school.

(vi) Engages students in designing the learning environment.

(E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:

(i) Respects the diverse needs, skills, and experiences of all students.

(ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.

(iii) Encourages collaboration among students.

(iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.

(v) Models and emphasizes the skills and value of scientific inquiry.

(F) Is able to use a variety of instructional strategies and use integrated and interdisciplinary curriculum.

(G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Chemistry concepts and content areas are:

(i) Structures and properties of matter

(ii) Chemical reactions

(iii) Transfer of energy

(iv) The structure of atoms

(v) Properties and changes of properties in matter

(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:

(i) System, order, and organization

(ii) Evidence, models, and explanation

(iii) Constancy, change, equilibrium, and measurement

(iv) Form and function

(v) Abilities of technological design

(vi) Understanding about science and technology

(vii) Science as a human endeavor

(viii) Nature of science

(ix) Nature of scientific knowledge

(x) History of science

(xi) Historical perspectives

(xii) Personal health

(xiii) Personal and community health

(xiv) Population, resources, and environments

(xv) Population growth

(xvi) Natural hazards

(xvii) Natural resources

(xviii) Risks and benefits

(xix) Environmental quality

(xx) Natural and human induced hazards

(xxi) Science and technology in society

(xxii) Science and technology in local, national, and global challenges

(29) **Physics 6-12.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:

(i) Develops a framework of yearlong and short-term goals for students.

(ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.

(iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.

(iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one:

(i) Focuses and supports inquiries while interacting with students.

(ii) Facilitates discussion among students about scientific ideas.

(iii) Challenges students to accept and share responsibility for their own learning.

(iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.

(v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.

(C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:

(i) Uses multiple methods and systematically gathers data about student understanding and ability.

(ii) Analyzes assessment data to guide teaching.

(iii) Guides students in the evaluation of their work.

(iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.

(v) Uses student assessment information and classroom observation to report student achievement to students and parents.

(D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one:

(i) Structures the time so that students are able to engage in extended investigations.

(ii) Creates a setting for student work that is flexible and supportive of science inquiry.

(iii) Ensures a safe working environment.

(iv) Makes the available science tools, materials, media, and technological resources accessible to students.

(v) Identifies and uses resources outside the school.

(vi) Engages students in designing the learning environment.

(E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:

(i) Respects the diverse needs, skills, and experiences of all students.

(ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.

(iii) Encourages collaboration among students.

(iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.

(v) Models and emphasizes the skills and value of scientific inquiry.

(F) Is able to use a variety of instructional strategies and use integrated and interdisciplinary curriculum.

(G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Physics concepts and content areas are:

(i) Motions and forces

(ii) Conservation of energy

(iii) Transfer of energy

(iv) Interactions of energy and matter

(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:

(i) System, order, and organization

(ii) Evidence, models, and explanation

(iii) Constancy, change, equilibrium, and measurement

(iv) Form and function

(v) Abilities of technological design

(vi) Understanding about science and technology

(vii) Science as a human endeavor

(viii) Nature of science

(ix) Nature of scientific knowledge

(x) History of science

(xi) Historical perspectives

(xii) Personal health

(xiii) Personal and community health

(xiv) Population, resources, and environments

(xv) Population growth

(xvi) Natural hazards

(xvii) Natural resources

(xviii) Risks and benefits

(xix) Environmental quality

(xx) Natural and human induced hazards

(xxi) Science and technology in society

(xxii) Science and technology in local, national, and global challenges

(30) **Social Studies**

(A) **United States History/Oklahoma History/government/economics.** The candidate for licensure and certification:

(i) Knows the major themes of United States history and their interrelatedness.

(ii) Understands how the political growth, major events, and individuals affected the development of the United States.

(iii) Examines and analyzes historical documents which contributed to the establishment and growth of the government of the United States.

(iv) Identifies and describes events, trends, individuals, and movements which shaped the social, economic, and cultural development of the United States.

(v) Analyzes events and identifies individuals who defined and continue to impact the role of the United States in world affairs.

(vi) Knows the roles and function of government and the foundations, structure, and function of American government.

(vii) Identifies and explains the rights and responsibilities of citizens of the United States.

(viii) Describes the characteristics of local and state governments and the national government, and the relationships among the different levels of government.

(ix) Analyzes how the American political process works and the relationship of the process to the individual as a citizen of the state and the nation.

(x) Identifies and analyzes the events which led to Oklahoma's historical, political, economic, and cultural development.

(xi) Identifies important individuals and groups which have had an influence on Oklahoma's heritage.

(xii) Identifies the diverse geographic features and resources found in Oklahoma and describes their influence on Oklahoma's historical development and economy.

(xiii) Understands basic application of economic theories.

(xiv) Interprets economic trends in historical, political, and geographic contexts.

(xv) Analyzes the influence of the past on the present and uses a knowledge of history and government to anticipate and plan for the future, evaluating alternative courses of action.

(xvi) Applies the skills of analysis, interpretation, research, and decision-making to develop an

understanding of history, government, and economic concepts.

(xvii) Knows the content of the Oklahoma core curriculum for United States History, Oklahoma History, government, and economics.

(B) **World History/geography.** The candidate for licensure and certification:

(i) Compares and contrasts differing sets of ideas, personalities, and institutions of world cultures and major historical periods.

(ii) Analyzes the cause and effect of relationships, multiple causation and perspectives, including the importance of the individual on historical events.

(iii) Analyzes the influence of the past on the present and uses a knowledge of history and geography to anticipate and plan for the future, evaluating alternative courses of action.

(iv) Interprets given historical data in order to evaluate information in its context.

(v) Knows the six elements of geographic organization: the world in spatial terms, places and regions, physical systems, human systems, environment and society, and application of geographic data, and applies them to developing an understanding of geography concepts.

(vi) Applies the skills of analysis, interpretation, research, and decision-making to develop an understanding of history and geographic concepts.

(vii) Knows the content of the Oklahoma core curriculum for World History and Geography.

(C) **Psychology/sociology.** The candidate for licensure and certification:

(i) Exhibits a basic intellectual grasp of psychological and sociological theories, vocabulary, history, and recent trends in the fields of psychology and sociology.

(ii) Understands basic concepts relative to social, developmental, abnormal and clinical psychology, learning theory (classical, operant, and cognitive), and other significant areas in the discipline of psychology, such as the scientific method.

(iii) Knows basic brain-based research and theory, and how biology and behavior interact.

(iv) Recognizes the differences among experimental, classical, and conditioning approaches to the study of psychology.

(v) Analyzes and interprets how today's psychologists view behavior in the following areas: the biological, the cognitive, the person-centered, and the psycho-dynamic perspectives.

(vi) Knows the theories and measurement of intelligence testing.

(vii) Knows basic concepts relative to group behavior, ethnicity, social mores, crime, demographics and current social issues.

(viii) Knows and analyzes culture, social structure, social stratification, social institutions, socialization, social movements, and social problems, as sociological concepts.

(ix) Knows and applies the basic sociological research processes, e.g., hypothesis formulations, sampling

(31) **Special Education (birth through twelfth grade).** For purposes of providing special education services and identifying competencies deemed necessary for licensure and certification, four areas of disabilities have been identified within the overall field of special education; these are Blind/Visual Impairment, Deaf/Hard of Hearing, Mild-Moderate Disabilities, and Severe-Profound/Multiple Disabilities. Competencies identified at the early childhood level and deemed common to all areas of disabilities are addressed in (A) and apply to all candidates for licensure and certification in any area of special education. Additional competencies in each of the four areas listed above in this paragraph are addressed in (B) through (E).

(A) **Competencies common to all areas of disabilities.** The candidate for licensure and certification:

(i) Understands the historical, social, and ethical foundations; legal and regulatory; and current trends and issues of early childhood, early childhood special education, and special education.

(ii) Identifies specific/common disabilities in children and the implications for development and learning.

(iii) Plans and implements programming and curricula using current best practices and principles of early childhood education.

(iv) Understands typical and atypical development and the interdependency of all developmental areas, and respects each child's unique characteristics and their implications for learning.

(v) Demonstrates knowledge and skills in selection and administration of developmental screening, assessment, and evaluation instruments and methods which are comprehensive, nondiscriminatory for linguistic and cultural differences, formal and informal, and appropriate for children with early childhood disabilities.

(vi) Participates and collaborates with all team members in conducting the evaluation/assessment within the multidisciplinary team process.

(vii) Understands and demonstrates knowledge of the individualized family service plan (IFSP)/individualized education program (IEP) process by:

(I) using assessment results, in partnership with the family and other team members, to develop the IFSP/IEP

(II) monitoring IFSP/IEP progress

(viii) Understands and implements early childhood curricula by adapting educational strategies, schedules and environments (individual, group,

home settings) to meet the specific needs, interests, and experiences of all children.

(ix) Understands and participates in the transition process across programs and service systems by:

(I) planning for and linking current developmental learning experiences and teaching strategies with those of the next educational setting

(II) communicating options for programs and services at the next level, while assisting the family in planning for transition.

(x) Develops and uses formative and summative program evaluation to ensure comprehensive quality of programs and services for children and their families.

(xi) Collaborates and consults regularly with families, other team members, and agencies to enhance and support children's learning and development by:

(I) assisting families in identifying resources, priorities, and concerns, and in accessing appropriate services

(II) respecting parents' choices and goals for their children

(III) implementing services for children and their families, consistent with laws, regulations, and procedural safeguards

(xii) Uses positive and supportive early childhood guidance, teaching, and behavioral strategies which help all children learn to make responsible decisions regarding their own behavior and contribute to the development of self-control, self-motivation, and self-worth.

(xiii) Demonstrates professionalism and ethical practice, including:

(I) advocacy on behalf of young children and their families to improve quality of programs and services for young children and for early childhood special education

(II) implementation of a professional development plan which incorporates best practices and principles.

(xiv) Understands and applies the following competencies in reading instruction.

(I) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.

(II) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.

(III) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.

(IV) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.

(V) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.

(VI) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.

(VII) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development, e.g., prefixes, suffixes and roots.

(VIII) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.

(IX) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level, e.g., guided reading, literature and research circles.

(X) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections, i.e., semantics, syntax, and graphophonics.

(XI) Knows and applies the instructional strategies which contribute to the development of fluent reading.

(XII) Knows how to promote children's interest and engagement in reading and writing.

(B) **Blind/visual impairment.** The candidate for licensure and certification:

(i) Understands the philosophical, historical, and legal foundations of special education for students with visual impairment including.

(I) trends and issues in special education

(II) special education policies and procedures

(III) laws and regulations regarding special education

(ii) Demonstrates knowledge of characteristics of students with visual impairments.

(iii) Demonstrates knowledge and skills in assessment, diagnosis, evaluation, and eligibility determination within the multidisciplinary team process for students with visual impairments including:

(I) procedures relevant to the impact of specific visual disorders on learning and experience, as well as procedures used for screening, prereferral, referral, and identification of students with visual impairments:

(II) vision screening methods

(III) functional vision assessment

(IV) learning media assessment

(V) orientation and mobility

(VI) independent living skills

(VII) vocational skills

(VIII) assistive technology

(IX) recreation and leisure skills

(X) classroom observation

(iv) Understands and demonstrates knowledge of the individualized education programs (IEP) process by:

(I) using assessment results, in partnership with team members, to develop the IEP

(II) monitoring IEP progress

(v) Demonstrates knowledge and skills to plan and implement appropriate and effective individualized education programs for students with visual impairments, based upon knowledge of subject matter and adaptation of curriculum and materials to meet individual abilities and sensory, conceptual and communication needs, including:

(I) social interaction skills

(II) recreation and leisure skills

(III) use of assistive technology

(IV) prerequisite skills and concepts for orientation and mobility instruction

(V) independent living skills

(VI) career education

(VII) visual efficiency skills

(VIII) literacy skills

(IX) organizational skills

(vi) Plans and manages supportive educational environments relative to the student's specific visual condition, including:

(I) acquisition and use of unique assistive technology (e.g., computers, printers, scanners, screen access, note-taking devices, software, speech output devices, CCTV, etc.)

(II) acquisition and use of specialized equipment and materials (Braille writer, abacus, slate and stylus, paper, Braille/large print/cassette textbooks, tactile maps, charts, graphs, optical, and nonoptical aids, etc.)

(III) modification of the physical environment

(IV) implementation of appropriate instructional strategies

(V) incorporation of basic orientation and mobility skills

(vii) Demonstrates knowledge and applies skills relative to the management of student behavior and social interaction skills unique to students with visual impairments, including:

(I) influences of the disability (ies) and other factors impacting the child's behavior and social skills

(II) instruction in social interaction skills, adaptive behavior, and appropriate behaviors

(III) appropriate behavior management and ethical considerations using a variety of interventions and techniques

(viii) Demonstrates knowledge and skills in communication and collaborative partnerships, including:

(I) communication with families, professionals, ancillary personnel, student peers, and community members to improve the quality of education for students with visual impairments

(II) interrelationships of resource and related service providers

(III) educational activities regarding specific visual conditions through inservice, consultation, etc.

(IV) transition planning

(ix) Demonstrates knowledge and skills to promote successful transitions at all levels of the education process and in various environments, including:

(I) completion of secondary level program/postsecondary planning

(II) transitions across programs and service delivery systems

(x) Demonstrates knowledge and skills in providing an appropriate education for students in the least restrictive environment, including the full continuum of placement alternatives

(xi) Demonstrates management skills pertaining to the various service delivery models representing the full continuum of placement options for students with visual impairments, including:

(I) time management and scheduling

(II) record keeping

(III) prioritizing caseload

(IV) roles and responsibilities

(V) travel issues relevant to service delivery

(VI) site specific climate and culture

(xii) Demonstrates professional and ethical conduct and advocacy for the unique needs of all students with visual impairments regardless of the availability of services.

(C) **Deaf/hard of hearing.** The candidate for licensure and certification:

(i) Understands the philosophical, historical, and legal foundations of special education for students who are deaf or hard of hearing, including:

(I) trends and issues in special education

(II) special education policies and procedures

(III) laws and regulations regarding special education

(ii) Demonstrates knowledge of characteristics and development of students who are deaf or hard of hearing, including:

(I) communication features (visual, spatial, tactile, auditory) necessary to enhance cognitive, emotional, and social development

(II) etiologies (causes) of hearing loss

(III) effects of onset, age of identification, and provision of services

(iii) Demonstrates knowledge and skills in assessment, diagnosis, evaluation, and eligibility determination within the multidisciplinary team process for students who are deaf or hard of hearing, including

(I) use of the natural/native/preferred language or mode of communication of the student

(II) interpretation of results for use in educational programming

(iv) Understands and demonstrates knowledge of the individualized education program (IEP) process by:

(I) using assessment results, in partnership with team members, to develop the IEP

(II) monitoring IEP progress

(v) Demonstrates knowledge and skills to plan and implement appropriate and effective instruction for students who are deaf or hard of hearing based upon knowledge of subject matter, curriculum goals, and students' individual abilities and needs by use of:

(I) multimedia skills

(II) techniques for modifying and adapting curriculum and materials to meet physical, sensory, cognitive, cultural, and communication needs in various learning environments

(vi) Plans and manages supportive teaching and learning environments that maximize opportunities for visually oriented and/or auditory learning and facilitate participation of students who are deaf or hard of hearing using:

(I) knowledge of current devices and assistive technology, including their application and resources (e.g., captioning, computers, augmentative communication devices, etc.)

(II) classroom management techniques

(vii) Demonstrates knowledge and skills in managing student behavior and social interaction skills, including:

(I) appropriate behavioral management and ethical considerations using a variety of interventions and techniques

(II) influences of the disability(ies) and other factors impacting the child's behavior and social interaction skills

(viii) Understands how language develops naturally and that early comprehensible communication influences the development of the whole child.

(ix) Demonstrates proficiency in the languages and modes of communication that are used in the instruction of students who are deaf or hard of hearing.

(x) Understands the social and cultural aspects of the deaf perspective and deaf experience.

(xi) Demonstrates knowledge and skills in communication and forming collaborative partnerships with families, professionals, and community members to improve the quality of education for students who are deaf or hard of hearing.

(xii) Demonstrates knowledge and skills to promote successful transitions at all levels of the education process and in various environments, including:

(I) completion of secondary level program/postsecondary planning

(II) transitions across programs and service delivery systems

(xiii) Demonstrates knowledge and skills in providing an appropriate education for students in the least restrictive environment, including the full continuum of placement alternatives.

(xiv) Demonstrates professional and ethical conduct in matters related to the education of students who are deaf or hard of hearing.

(D) **Mild-moderate disabilities.** The candidate for licensure and certification will demonstrate his/her mastery of these standards through the master of the Council for Exceptional Children's (CEC) Core Knowledge and Skills and through the mastery of the CEC Knowledge and Skill Base for Teachers of Students in Individualized General Curriculums. The candidate:

(i) Understands the philosophical, evidence-based principals and theories, historical and legal foundations of special education, and how these influence professional practices. These would include:

(I) trends and issues in special education;

(II) special education policies and procedures;

(III) laws and regulations regarding special education;

(IV) issues of human diversity and its relevance to special education;

(V) human issues that influence the field of special education; and

(VI) relationships of special education to the organization and functions of schools, school systems, and agencies.

(ii) Understands the similarities and differences in human development, the characteristics of all learners, and how exceptional conditions interact with the domains of human development to respond to varying abilities and behaviors of individuals with disabilities while demonstrating respect for their students.

(iii) Understands the effects that a disability (including aspects of cognition, communication, physical, medical, and social/emotional) can have on learning and how primary language, culture and familial background can interact with the student's disabilities to impact academic, and social abilities, attitudes, values, interests and career options. The understanding of these learning differences and their possible interactions provide the foundation upon which a special educator individualizes instruction to provide meaningful and challenging learning for students with disabilities.

(iv) Possesses a repertoire of evidenced-based instructional strategies to individualize instruction for students with disabilities and emphasizes the development, maintenance, and generalization of knowledge and skills across environments, settings, and the life span. These evidenced-based instructional strategies should:

(I) promote positive learning results in the general curriculum in age-appropriate settings;

(II) promote multiple methods for teaching reading;

(III) modify learning environments;

(IV) enhance critical thinking, problem solving and performance skills;

(V) promote self-determination;

(VI) enhance integration and coordination of related services for educational benefit; and

(VII) promote transition.

(v) Demonstrates knowledge and skills in creating positive and safe learning environments for students with disabilities, and that also foster active engagement of students with disabilities. In addition, special educators foster environments that:

(I) value diversity;

(II) promote independence and productivity;

(III) assist general education colleagues in integrating students with disabilities;

(IV) use direct motivational and instructional interventions;

(V) utilize positive behavior supports and crisis management techniques;

(VI) guide and direct paraprofessionals and others; and

(VII) provide specialized school health practices and techniques for health and safety.

(vi) Understands typical and atypical language development and uses strategies to enhance language development and teach communication skills to students with disabilities. This is accomplished by using:

(I) effective language models;

(II) augmentative, alternative and assistive technologies;

(III) communication strategies and resources to facilitate understanding of subject matter for students with disabilities and those students with disabilities whose primary language is not English; and

(IV) matching communication methods to the student's language proficiency and cultural and linguistic differences.

(vii) Develops long- and short-range instructional plans anchored in both general and special education curricula emphasizing:

(I) effective modeling;

(II) efficient guided practice;

(III) modifications based on ongoing analysis of the individuals learning progress;

(IV) collaboration;

(V) individualized transition plans;

(VI) use of appropriate technologies; and

(VII) positive behavior supports.

(viii) Understands legal policies and ethical principals of multiple types of assessment information related to referral, eligibility, program planning, instruction and placement of students with disabilities including those from culturally and linguistically diverse backgrounds. Special educators use assessment information to identify supports and adaptations required for students with disabilities to access general and special curricula and participate in school, system and statewide assessment programs. Special educators regularly monitor students' progress and use appropriate technologies to support assessments. Special educators must understand:

(I) measurement theory and practices for addressing validity, reliability, norms, bias, and interpretation of assessment results and

(II) appropriate use and limitations of various assessment.

(ix) Demonstrates knowledge and skills regarding legal, professional, and ethical practices including:

(I) sensitivity to the many aspects of diversity;

(II) engaging in professional growth as lifelong learners;

(III) keeping current with evidence-based effective practices; and

(IV) participating in professional activities that benefit individuals with disabilities and their families.

(x) Routinely and effectively collaborates with families, colleagues, related service providers, community agencies and other resources in positive and culturally responsive ways to assure that the needs of students with disabilities are addressed including facilitation of successful transitions of students with disabilities across settings and services.

(E) **Severe-profound/multiple disabilities.** The candidate for licensure and certification will demonstrate his/her mastery of these standards through the mastery of the Council for Exceptional Children's (CEC) Core Knowledge and Skills and through the mastery of the CEC Knowledge and Skill Base for Teachers of Students in Independence Curriculums. The candidate:

(i) Understands the philosophical, evidence-based principals and theories, historical and legal foundations of special education, and how these influence professional practices. These would include:

(I) trends and issues in special education;

(II) special education policies and procedures;

(III) laws and regulations regarding special education;

(IV) issues of human diversity and its relevance to special education;

(V) human issues that influence the field of special education; and

(VI) relationships of special education to the organization and functions of schools, school systems, and agencies.

(ii) Understands the similarities and differences in human development, the characteristics of all learners, and how exceptional conditions interact with the domains of human development to respond to varying abilities and behaviors of individuals with disabilities while demonstrating respect for their students.

(iii) Understands the effects that a disability (including aspects of cognition, communication, physical, medical, and social/emotional) can have on learning and how primary language, culture and familial background can interact with the student's disabilities to impact academic, and social abilities, attitudes, values, interests and career options. The understanding of these learning differences and their possible interactions provide the foundation upon which a special educator individualizes instruction to provide meaningful and challenging learning for students with disabilities.

(iv) Possesses a repertoire of evidenced-based instructional strategies to individualize instruction for students with disabilities and emphasizes the development, maintenance, and generalization of knowledge and skills across environments, settings, and the life span. These evidenced-based instructional strategies should:

(I) promote positive learning results in general and special curricula in age-appropriate settings, especially functional curricula;

(II) modify learning environments;

(III) utilize community-based instruction and vocational instruction;

(IV) enhance communication skills;

(V) enhance critical thinking, problem solving and performance skills;

(VI) promote self-determination;

(VII) enhance integration and coordination of related services for educational benefit; and

(VIII) promote transition.

(v) Demonstrates knowledge and skills in creating positive and safe learning environments for students with disabilities, and that also foster active engagement of students with disabilities. In addition, special educators foster environments that:

(I) value diversity;

(II) promote independence and productivity;

(III) assist general education colleagues in integrating students with disabilities;

(IV) use direct motivational and instructional interventions;

(V) utilize positive behavior supports and crisis management techniques;

(VI) guide and direct paraprofessionals and others; and

(VII) provide specialized school health practices and techniques for health and safety.

(vi) Understands typical and atypical language development and uses strategies to enhance language development and teach communication skills to students with disabilities. This is accomplished by using:

(I) effective language models;

(II) augmentative, alternative and assistive technologies;

(III) communication strategies and resources to facilitate understanding of subject matter for students with disabilities and those students with disabilities whose primary language is not English; and

(IV) matching communication methods to the student's language proficiency and cultural and linguistic differences.

(vii) Develops long- and short-range instructional plans anchored in both general and special education curricula emphasizing:

(I) effective modeling;

(II) efficient guided practice;

(III) modifications based on ongoing analysis of the individuals learning progress;
(IV) collaboration;
(V) individualized transition plans;
(VI) use of appropriate technologies; and
(VII) positive behavior supports.

(viii) Understands legal policies and ethical principals of multiple types of assessment information related to referral, eligibility, program planning, instruction and placement of students with disabilities including those from culturally and linguistically diverse backgrounds. Special educators use assessment information to identify supports and adaptations required for students with disabilities to access general and special curricula and participate in school, system and statewide assessment programs. Special educators regularly monitor students' progress and use appropriate technologies to support assessments. Special educators must understand:
(I) measurement theory and practices for addressing validity, reliability, norms, bias, and interpretation of assessment results and
(II) appropriate use and limitations of various assessments.

(ix) Demonstrates knowledge and skills regarding legal, professional, and ethical practices including:
(I) sensitivity to the many aspects of diversity;
(II) engaging in professional growth as lifelong learners;
(III) keeping current with evidence-based effective practices; and
(IV) participating in professional activities that benefit individuals with disabilities and their families.

(x) Routinely and effectively collaborates with families, colleagues, related service providers, community agencies and other resources in positive and culturally responsive ways to assure that the needs of students with disabilities are addressed including facilitation of successful transitions of students with disabilities across settings and services.

(32) **Speech/drama/debate (Secondary).** The candidate for licensure and certification:
(A) Maintains a current knowledge of concepts of the field of speech communication including: oral interpretation of literature, theater, the electronic media, public speaking, argumentation, and critical thinking skills.
(B) Applies comprehension, analysis, interpretation, synthesis, and evaluation of vocal, verbal and nonverbal messages.
(C) Applies appropriate learning strategies for critical thinking, research, organization, and presentation of messages appropriate to participation in a democratic society.
(D) Communicates effectively in interpersonal, small group, and public communication situations using appropriate language and nonverbal signals.
(E) Understands the influence of social and historical contexts, and culture on public address and literature of the theater.
(F) Understands the impact of cultural diversity upon the communication process.
(G) Establishes a communication climate which encourages reflection, creativity, and critical thinking.
(H) Uses differing assessment strategies to evaluate student competencies in a variety of speaking/listening situations.
(I) Uses technology (i.e., videotaping of presentations, computers to generate visual aids and as a research tool) to enhance instruction.
(J) Understands and uses teaching strategies appropriate for the analysis and presentation of a variety of forms (genres) of public address and literature of the theater, available in electronic media and from printed sources.
(K) Understands the importance of effective communication skills in the personal and professional arenas.
(L) Understands the role of co-curricular and extracurricular activities in the development of student interest as an extension of the classroom instruction.
(M) Understands, teaches, and implements Oklahoma's Core Curriculum.

(33) **Speech-language pathologist.**
(A) The candidate for licensure and certification:
(i) Understands the models, theories and philosophies that provide the basis for the practice of speech/language pathology, in the following knowledge areas:
(I) content areas in speech/language pathology (language, articulation, voice, fluency, augmentative communication)
(II) etiologies which may contribute to communication impairments
(III) a working understanding of other assessments (medical, psychological, audiological, etc.)
(IV) modality (spoken, written, sign)

(ii) Accommodates the individual learning styles and communication/educational needs of the student.
(iii) Demonstrates the ability to screen, evaluate, and diagnose students with suspected communication impairments using a variety of formal and informal procedures.
(iv) Plans and implements intervention strategies and the appropriate service delivery models

for students with communication impairments, including:

(I) determines least restrictive environment

(II) provides ongoing assessment and monitors IEP progress

(III) develops individualized education program (IEP)

(v) Facilitates the development of the student's functional and literate communication skills (i.e., how communication occurs including written language) across environments, including:

(I) developing modifications/adaptations

(II) determining transition service needs

(vi) Recognizes and understands the relationship among behavior, social interaction and communication impairments, and is able to determine realistic expectations for the student's personal and social behavior in various settings.

(vii) Uses collaborative strategies in working with parents, school, and community to address the needs of students with communication impairments.

(viii) Promotes and maintains competence and integrity in the practice of speech/language pathology as follows:

(I) develops a plan for professional development

(II) identifies community agencies and resources

(ix) Implements practices that recognize the multicultural issues and the effect of cultural and linguistic diversity on students' communication skills and learning styles.

(x) Demonstrates knowledge of laws and regulations pertaining to students with communication impairments.

(B) Competency for Speech-language Pathologist certification may also be verified by the Certificate of Clinical Competence (C.C.C.) from the American Speech-Language Hearing Association (ASHA).

(34) **Agricultural education.** The candidate for licensure and certification shall possess the competencies specified in (A) through (F).

(A) **Agricultural business/marketing.** The candidate for licensure and certification understands the fundamental principles of agricultural business/marketing and management including principles of basic recordkeeping and methods for acquiring and managing agricultural finances.

(B) **Animal science.** The candidate for licensure and certification:

(i) Selects and handles livestock, recognizes factors related to the safe handling of animals and animal products which become food for human consumption, and understands the importance of alternative agricultural enterprises.

(ii) Understands concepts and principles of animal reproduction and the importance of livestock health and nutrition.

(C) **Plant and soil science.** The candidate for licensure and certification:

(i) Understands concepts, principles, and laboratory skills related to plant and soil science including the importance of traditional crops and alternative enterprises.

(ii) Knows factors related to the safe handling of plants and plant products which become food for human consumption and identifies causes and characteristics of common plant pests and diseases.

(D) **Agricultural mechanics.** The candidate for licensure and certification practices:

(i) shop safety, including the operation and knowledge of hand/power tools,

(ii) basic principles/concepts of power and machinery, metals and metal processes, and

(iii) basic principles of building construction.

(E) **Natural resources.** The candidate for licensure and certification:

(i) Evaluates the relationship between agriculture and the management of water, land, and air quality, and

(ii) Understands concepts and principles of plant and animal environmental factors including the handling of chemicals.

(F) **Communications/leadership.** The candidate for licensure and certification:

(i) Acknowledges the foundations of agricultural education including its purpose, functions, and the background of Future Farmers of America (FFA).

(ii) Demonstrates an understanding of basic parliamentary procedure, effective oral and written communication skills, and promotes teamwork, motivation, and leadership principles.

(35) **Marketing education.** The candidate for licensure and certification shall possess the competencies specified in (A) through (N).

(A) **Orientation.** The candidate for licensure and certification applies principles of job search and preparation skills relating to resume and portfolio development, proper completion of application forms, interview preparation, career ladder analysis, and computer technology skills relating to word-processing and computerized presentations.

(B) **Marketing.** The candidate for licensure and certification:

(i) Applies principles and concepts related to marketing.

(ii) Interprets the importance of the marketing concept and functions, how marketing affects society, factors to consider in selecting a channel of distribution, and the concept of target marketing.

(C) **Mathematical skills.** The candidate for licensure and certification:

(i) Applies basic mathematical operations used in the marketing profession as it pertains to balancing a cash drawer and the automatic and manual methods of making change.

(ii) Identifies the uses of basic algebra in marketing.

(D) **Human relations.** The candidate for licensure and certification:

(i) Applies principles of communications, decision-making, and crisis management.

(ii) Identifies characteristics of professionalism on the job and the importance of social skills.

(E) **Sales.** The candidate for licensure and certification:

(i) Applies principles relating to sales, product information, customer buying decisions, motives for buying, and sales approaches.

(ii) Demonstrates methods of handling customer/client complaints and objections.

(iii) Explains the concept and use of sales quotas.

(F) **Security precautions.** The candidate for licensure and certification:

(i) Identifies and explains prevention measures for the security problems of shoplifting, internal theft, burglary, robbery, and fraud.

(ii) Identifies common types of fraud.

(iii) Recognizes steps necessary to ensure security in shipping and receiving areas.

(iv) Identifies precautions for safety on the job.

(G) **Economics.** The candidate for licensure and certification:

(i) Applies principles related to the classification of goods and services and the types of economic resources.

(ii) Compares the types of economic systems and their relationship to the economy.

(iii) Identifies the factors which affect economics including economic utility (form, place, time, possession), competition, supply and demand, and the role of government in business.

(iv) Understands the characteristics and importance of a private enterprise system and international trade.

(v) Identifies the measure and importance of the gross domestic product (GDP) to marketing.

(H) **Promotion.** The candidate for licensure and certification:

(i) Applies principles related to the use of promotional activities, including the use of media, design and display arrangements, and the print ad.

(ii) Explains the role of the promotional plan.

(I) **Merchandising.** The candidate for licensure and certification applies principles related to shipping and receiving, inventory control systems, calculation of inventory shrinkage, and industrial purchasing.

(J) **Business ownership/entrepreneurship.** The candidate for licensure and certification:

(i) Identifies the common types of business ownership in a free enterprise system and the advantages/disadvantages of each.

(ii) Discusses the importance of marketing strategies to businesses as they apply the principles of the product mix, product/service planning, marketing decisions for a proposed business, structuring a business, and using four "Ps" of marketing - product, pricing, place, and promotional strategies.

(K) **Applied management.** The candidate for licensure and certification:

(i) Applies principles of selecting store personnel, recruiting applicants for job openings, interviewing job candidates, and reducing labor turnover.

(ii) Recognizes the importance of new-employee orientation.

(iii) Understands knowledge of employee motivational theories.

(L) **Credit.** The candidate for licensure and certification:

(i) Applies principles of extending credit to business and customers and the three Cs of credit: character, capacity to pay, and capital.

(ii) Identifies the reasons for extending credit.

(M) **Business and industry.** The candidate for licensure and certification:

(i) Develops relationships with business and industry through advisory committees, surveys, work-site learning opportunities, curriculum, and program visits.

(ii) Communicates with business and industry regarding student competencies/credentials and job performance.

(N) **Student organizations and activities.** The candidate for licensure and certification:

(i) Understands the role of student organizations in developing student professionalism and assists student organizations by coaching, chaperoning, and supervising activities.

(ii) Encourages student participation through instruction and recognition of student achievements.

(36) **Technology education.** The candidate for licensure and certification shall possess the competencies specified in (A) through (J):

(A) **Fundamentals of technology.** The candidate for licensure and certification:

(i) Understands the fundamentals of technology including important events, developments, components, and current and future trends of technology.

(ii) Defines the terms, systems, characteristics, interrelationships, and economics of technology,

and their utilization in modern business and industry.

(iii) Identifies general laboratory and personal safety practices.

(B) **Problem-solving techniques.** The candidate for licensure and certification:

(i) Identifies problem-solving techniques.

(ii) Understands and applies problem-solving techniques.

(C) **Career opportunities.** The candidate for licensure and certification:

(i) Explores career opportunities based on career clusters and identifies related terms and definitions.

(ii) Identifies activities that develop employability skills.

(iii) Recognizes educational requirements and paths for occupational attainment.

(D) **Communication systems.** The candidate for licensure and certification:

(i) Understands the principles, processes, and functions of communication.

(ii) Identifies types of communication technologies.

(E) **Construction systems.** The candidate for licensure and certification:

(i) Understands and applies the principles of construction technology.

(ii) Identifies construction technologies, their effects on society, basic principles of project planning, and steps in the construction process.

(F) **Manufacturing systems.** The candidate for licensure and certification:

(i) Understands principles of manufacturing and their application.

(ii) Identifies materials, equipment, processes, and strategies utilized in manufacturing technologies.

(iii) Analyzes the role, function, and responsibilities of manufacturing in a contemporary society.

(G) **Energy, power and transportation systems.** The candidate for licensure and certification:

(i) Understands the principles and applications of energy, power, and transportation.

(ii) Identifies forms of energy, their classification, and their characteristics.

(iii) Analyzes power systems and transportation technologies, as well as their characteristics.

(iv) Analyzes environmental and economic effects on society.

(H) **Technology education delivery systems.** The candidate for licensure and certification:

(i) Understands basic principles, terminology, system design, and issues related to technology education delivery systems and telecommunication.

(ii) Identifies terms, features, relationships, and procedures associated with the selection, operation, and maintenance of computer systems and technology education software.

(iii) Analyzes factors affecting the selection of computer hardware and software.

(I) **Business and industry.** The candidate for licensure and certification develops relationships with business and industry through advisory committees, curriculum, and work-site learning opportunities.

(J) **Student organizations and activities.** The candidate for licensure and certification:

(i) Understands the role of student organizations in encouraging student participation and implementing activities that develop leadership traits.

(ii) Integrates student activities in instruction and recognizes student achievements.

(37) **Vocational business.** The candidate for licensure and certification shall possess competencies specified in (A) through (D).

(A) **Business foundations.** The candidate for licensure and certification:

(i) Understands important events, developments and trends in the history of business.

(ii) Understands business organizational structures, organizational design and their implications.

(iii) Understands the basic principles of business law and the types and characteristics of legal instruments.

(iv) Analyzes legal issues related to business.

(v) Understands business communication.

(B) **Business management.** The candidate for licensure and certification:

(i) Understands principles of business management and their applications in the decision-making process

(ii) Applies procedures for managing human resources.

(iii) Analyzes issues related to economic and social responsibilities in business.

(iv) Analyzes factors affecting business marketing decisions.

(C) **Technology systems.** The candidate for licensure and certification:

(i) Understands basic principles and terminology related to computer technology.

(ii) Understands principles of computer system design.

(iii) Applies principles of computer technology to solve problems involving information gathering and analysis.

(iv) Applies principles of computer technology to solve problems related to project and business management.

(v) Understands information processing systems.

(vi) Analyzes data storage, retrieval and transmission systems.

(vii) Understands principles of telecommunications and applications of telecommunications in business.

(viii) Analyzes ethical and security issues involving technology systems.

(D) **Business finance and economics.** The candidate for licensure and certification:

(i) Understands basic principles and applications of accounting.

(ii) Applies procedures for processing accounting data.

(iii) Understands advanced accounting concepts and procedures.

(iv) Understands basic principles and applications of macroeconomics.

(v) Analyzes business situations in terms of microeconomic theory.

(vi) Applies basic principles of consumer economics and finance.

(38) **Vocational family and consumer sciences.** The candidate for licensure and certification shall possess the competencies specified in (A) through (I).

(A) **Child development.** The candidate for licensure and certification:

(i) Applies child development concepts and guidance techniques in the care of infants, toddlers, preschool and school-age children, as well as children in crisis or with special needs.

(ii) Analyzes issues related to children's well-being, parenting, pregnancy, prenatal care, child birth, child care services, and community resources.

(B) **Foods and nutrition.** The candidate for licensure and certification:

(i) Analyzes the relationship between food, nutrients, and the body through the application of food science principles, and healthy food choices.

(ii) Understands proper food storage/handling techniques, recipe use, food product information, serving/dining etiquette, and consumer skills.

(C) **Consumer economics and management.** The candidate for licensure and certification:

(i) Applies principles related to money management, personal financial management, time management, and economics.

(ii) Analyzes advertising influences, factors related to housing selection and maintenance, factors related to motor vehicle selection and maintenance, wills, funerals, and consumer credit.

(iii) Applies consumer protection practices and skills.

(D) **Housing and interior design.** The candidate for licensure and certification:

(i) Plans living space for human needs through the evaluation of housing and financial alternatives.

(ii) Applies elements and principles of interior design including exterior styles, interior spaces, interior treatments, furniture, accessories, and appliances.

(E) **Interpersonal relationships.** The candidate for licensure and certification:

(i) Applies principles of communications, decision making, and crisis management.

(ii) Discusses factors and issues related to parenting, family life, and aging.

(iii) Identifies the importance of self-respect and of practicing socially accepted behavior.

(F) **Clothing and textiles.** The candidate for licensure and certification:

(i) Applies wardrobe planning and grooming skills.

(ii) Applies clothing selection skills, methods of stretching the clothing dollar, care and maintenance practices, construction techniques, and knowledge of types of textiles.

(G) **Careers.** The candidate for licensure and certification:

(i) Investigates careers as they relate to personal and career goals.

(ii) Understands the job application process, factors related to work etiquette, the use of technology in the workplace, and economic principles.

(H) **Business and industry.** The candidate for licensure and certification:

(i) Develops partnerships with business and industry through advisory committees, surveys, work-site learning opportunities, curriculum, and program visits.

(ii) Communicates with business and industry regarding student competencies/credentials and job performance.

(I) **Student organizations and activities.** The candidate for licensure and certification:

(i) Understands the role of student organizations in the recognition of student achievements through curricular activities.

(ii) Encourages student participation and the development of leadership traits.

(39) **Occupational agriculture, occupational family and consumer sciences, trade and industrial education, and vocational health occupations.** Competency for occupational agriculture, occupational family and consumer sciences, trade and industrial education, and vocational health occupations will be verified by passing a state or national licensure examination developed specifically to the occupation and/or occupational testing approved by the Oklahoma Department of Vocational and Technical Education. Non-degreed vocational teachers certified under rules promulgated by the State Board of Education are exempt from the provisions of House Bill 1549, except for those provisions concerning professional development programs.

(40) **Dance education.** The candidate for licensure and certification:

(A) Has a sound philosophical understanding and knowledge of dance education and creative movement and can support, justify and implement the dance education.

(B) Has a thorough knowledge of a sequential dance/creative movement curriculum that is developmentally appropriate for each grade level and inclusive of various student learning styles and those with special needs.

(C) Understands the history of dance and its role in culture and the arts worldwide.

(D) Has a working knowledge of dance integration and values the art-related competencies in Oklahoma's core curriculum.

(E) Recognizes and respects diversity and establishes environments where individuals dance content and learning are held in high regard.

(F) Understands the process of critical thinking and implements problem solving activities, analysis, reflection, decision making and creative exploration in dance.

(G) Understands the elements of dance and technical skills in performing dance including:

(i) time (i.e., fast slow, even, uneven, accent, meters)

(ii) space (i.e., levels , direction, pathways)

(iii) force (i.e., energy, weight, flow)

(iv) locomotor movements (i.e., walk, run, skip, hop, jump, slide, gallop, leap)

(v) nonlocomotor movements (i.e., bend, stretch, twist, swing)

(vi) rhythmic activities and musicality

(vii) proper skeletal alignment

(viii) efficiency and mastery of technical skills in a variety of dance forms.

(H) Understands the principals of choreography (i.e., dance improvisation, composition, and choreography).

(I) Understands the components of healthy living and fitness and the benefits of daily participation in dance activities.

(i) fitness components

(I) flexibility

(II) muscular strength

(III) agility

(IV) motor skills development and coordination

(V) body awareness, control, and balance

(VI) development and mastery of dance skills

(VII) weight control

(ii) wellness components

(I) release of stress and tension through positive dance activity

(II) positive self esteem and self-expression

(III) lifelong well being

(IV) weight control

(J) Has a working knowledge of dance choreography and teaching strategies to help students create, study, interpret and evaluate works of art.

(K) Has knowledge of dance resources including community resources, materials, equipment, and proper facilities, and can adapt a variety of resources and materials that supports students as they learn through and about dance.

(L) Promotes the understanding of dance as an artistic, kinesthetic, educational, social, cultural and theatrical experience.

(M) Provides a safe environment and creates a setting for productive learning.

(N) Collaborates with colleagues, artists and agencies in the community to promote arts education opportunities.

(O) Recognizes the important role of technology in dance education.

(P) Uses a variety of assessment and evaluation methods and can evaluate student learning.

(41) **English as a second language (ESL) PK-12.** The candidate for licensure and certification:

(A) **Language.** The candidate for licensure and certification:

(i) Demonstrates knowledge, understanding, and application of the fundamentals of linguistics as related to the development of listening, speaking, reading, and writing for social and academic purposes.

(ii) Understands and applies knowledge of current theories and practices that facilitate second language acquisition and literacy development in the classroom.

(iii) Understands the role of the primary language in acquiring English as a new language.

(iv) Understands and applies knowledge of how sociocultural variables effect individual learners in facilitating the process of learning English.

(B) **Culture.** The candidate for licensure and certification:

(i) Knows, understands, and uses the major concepts, principles, theories, and research related to the nature and role of culture in language development and academic achievement that support individual student's learning.

(ii) Understands and applies knowledge about home/school communication to enhance ESL teaching and build partnerships with students' families.

(iii) Knows, understands, and uses knowledge of how cultural groups and ESL students' cultural identities affect language learning and school achievement.

(iv) Understands and applies knowledge about world events that have an impact on ESL students' learning.

(v) Knows and uses teaching strategies that are developmentally appropriate and inclusive of various learning styles and is sensitive to the needs of diverse cultural groups.

(C) **Planning, implementation, and managing instruction.** The candidate for licensure and certification:

(i) Knows, understands, and applies concepts, research, and best practices to plan standards-based instruction based on language development and the Oklahoma core curriculum that provides for students of varying educational backgrounds in a supportive and accepting environment.

(ii) Knows, manages, and implements instruction around standards-based subject matter and language learning objectives that incorporates a variety of activities and learning opportunities that integrate listening, speaking, reading, writing, and comprehension for a variety of academic and social purposes.

(iii) Knows and is able to use a variety of resources and instructional strategies to teach ESL students the English language and content areas.

(iv) Understands and applies the following competencies in reading instruction as appropriate to the abilities of the student.

(I) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.

(II) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.

(III) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.

(IV) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.

(V) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.

(VI) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.

(VII) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development (e.g., prefixes, suffixes, roots, singular, and plural).

(VIII) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.

(IX) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level (e.g., guided reading, literature and research circles).

(X) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections~~,~~ (i.e., semantics, syntax, and graphophonics).

(XI) Knows and applies the instructional strategies which contribute to the development of fluent reading.

(XII) Knows how to promote children's interest and engagement in reading and writing.

(D) **Assessment.** The candidate for licensure and certification:

(i) Understands various issues of standardized assessments as they affect ESL students' learning and academic performance.

(ii) Understands different types of assessments and their purposes.

(iii) Understands and is able to use a variety of language proficiency assessment instruments.

(iv) Interprets and integrates assessment information into instructional plans.

(v) Understands the importance of different assessment strategies and uses them in the evaluation and modification of teaching and learning.

(E) **Professionalism.** The candidate for licensure and certification:

(i) Demonstrates knowledge of history, research, and current practices in the field of ESL and applies this knowledge to improve teaching and student achievement.

(ii) Pursues personal professional growth opportunities and serves as a professional resource to colleagues.

(iii) Serves as a resource liaison and advocate for ESL students and builds partnerships with students' families.

(iv) Demonstrate English fluency in listening, speaking, reading, and writing the English language.

[OAR Docket #06-676; filed 4-17-06]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #06-670]

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PERMANENT final adoption
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]
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Subchapter 9. Professional Standards: Teacher Education and Certification
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22 Ok Reg 1681
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N/A
ANALYSIS:
The proposed rule change would bring our state competencies in alignment with national competencies for administrator certification. The changes would also add skills in developing professional learning communities and ethical decision making to administrator certification competencies. This rule will reflect a competency related to collaboration to create professional learning communities and an additional competency related to integrity, fairness, and ethical administrative decision-making. These changes will bring the Competencies for Oklahoma Administrator Certification into alignment with the Standards for Advanced Program in Educational Leadership as presented by the National Policy for Educational Administration.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 19. COMPETENCIES FOR LICENSURE AND CERTIFICATION OF ADMINISTRATIVE PERSONNEL

210:20-9-182. Competency II; leadership knowledge and skills

(a) **Knowledge and skills.** Administrative candidates shall possess leadership knowledge and skills including, but not limited to:

(1) group dynamics and group processes;
(2) information collection;
(3) problem analysis;
(4) judgment/ethics;
(5) organizational oversight;
(6) implementation;
(7) delegation;
(8) district culture; and
(9) collaboration among colleagues and institutions~~.~~ in developing a professional learning community.

(b) **Rationale.** As a result of the expanding duties within the school, today's administrator must possess an array of skills in organization and management, in addition to a knowledge of learning theory and best teaching practices.

(c) **What the principal/superintendent candidate will know.** The candidate for licensure and certification as principal/superintendent has, and can demonstrate, knowledge of:

(1) Socioeconomic and educational trends, innovations, and new paradigms to meet the needs of schools.
(2) Various information sources relevant to school needs.
(3) School finance, budgeting, planning, and managing school resources.
(4) The various roles and responsibilities of all staff members in the school setting.

(d) **What the principal/superintendent candidate will be able to do.** The candidate for licensure and certification as principal/superintendent has, and can demonstrate, the skills to:

(1) Facilitate the development of a written vision for the school/district and a well-developed educational philosophy and be able to market that vision and philosophy.

(2) Facilitate and foster innovation which leads to school improvement including integrating that innovation into the mission of the organization.
(3) Facilitate the preparation of a comprehensive assessment of the school's climate and instructional programs with input from teachers, students, and parents.
(4) Demonstrate creative problem-solving techniques.
(5) Use effective decision-making strategies and recognize how bias affects the decision making process.
(6) Initiate appropriate management strategies to implement long and short term plans, work with faculty, parents, students and other school constituencies to translate a shared vision into a strategic plan.
(7) Demonstrate the ability to prepare a grant proposal and facilitate that process with the staff.
(8) Delegate authority and empower teachers to work as peers.
(9) Work with other schools and districts in areas of in-service curriculum development and school organization when appropriate.
(10) Build self-respect in staff and students.
(11) Promote the value of understanding and celebrating school/community cultures.
(12) Respect and encourage diversity among people and programs.
(13) Manage time effectively.
(14) Facilitate cooperation among groups.

(e) **Implications for administrator preparation programs.** Administrator preparation programs will provide course work relevant to the duties and responsibilities of an administrator.

210:20-9-189. Competency VIII; principles of ethical leadership.

(a) **Knowledge and skills.** The administrator candidate shall have knowledge and skills necessary to be an educational leader who promotes the success of all students by acting with integrity.

(b) **Rationale.** Educational leaders should set the tone for how employees and students interact with one another and with members of the school, district, and larger community. The leader's contacts with students, parents, and employees must reflect concern of others as well as for the organization and the position. Educational leaders must develop the ability to examine personal and professional values that reflect a code of ethics. They must be able to serve as role models, accepting responsibility for using their position ethically and constructively on behalf of the school/district community. Educational leaders must act as advocates for all children.

(c) **What the principal/superintendent candidate will know.** The candidate for principal/ superintendent will:
(1) have a respect for the rights of others with regard to confidentiality and dignity and engage in honest interactions.
(2) know how to combine impartiality, sensitivity to student diversity, and ethical considerations in their interactions with others.
(3) know how to make and explain decisions based upon ethical and legal principles.

(d) **Implications for administrator preparation programs.** Administrator preparation programs shall emphasize the need for administrators to base decisions on ethical and legal principles. Programs shall use a variety of different methods of introducing candidates to ethical decision-making processes.

[OAR Docket #06-670; filed 4-17-06]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #06-675]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 17. Mentor Teacher
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05-1248
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N/A
ANALYSIS:
The proposed rule change is to delete rules not reflected in new law on the selection process for mentor teachers. 70 O. S. § 6-182 changed the selection process for mentor teachers effective July 1, 2005..
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75,

SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 17. MENTOR TEACHER

210:20-17-3. Mentor teachers; qualifications, selection and appointment, duties and responsibilities

(a) It is the intent of the regulations that mentor teachers be selected who possess the requisite knowledge and skills for assisting the beginning teacher. ~~Therefore, those persons responsible for submitting names for mentor teachers should use their best judgment in identifying teachers who possess leadership qualities that can provide the best assistance for a beginning teacher.~~

(b) Beginning school year 1980-81, every beginning teacher (zero years experience as a classroom teacher) employed shall serve under the guidance and assistance of a mentor teacher for a minimum of one (1) school year. However, no beginning teacher shall serve under the guidance and assistance of a mentor teacher for less than 120 days.

(c) Upon employment of a beginning teacher, the superintendent or chief administrative officer shall notify ~~the bargaining unit, where one exists,~~the principal of the areas of certification and the teaching assignment of the beginning teacher.

(d) Within no more than ten (10) teaching days after the beginning teacher enters the classroom, the mentor teacher shall be selected.

(e) It is the responsibility of the school district to ensure that a mechanism be provided whereby the mentor teacher will provide guidance and assistance to the beginning teacher a minimum of seventy-two (72) hours per year in classroom observation and consultation.

~~(f) Submission and selection of mentor teachers shall be in the following rank order. Mentor teacher:~~

~~(1) Holds at least a standard certificate in the same area of the beginning teacher and is currently teaching in the same area as the beginning teacher.~~

~~(2) Holds at least a standard certificate in the same area as the beginning teacher and has had teaching experience in the same field as the beginning teacher.~~

~~(3) Holds at least a standard certificate and is teaching in the same area as the beginning teacher.~~

~~(4) Holds at least a standard certificate and has had teaching experience in the same field as the beginning teacher.~~

~~(5) Holds at least a standard certificate and has approval credentials in the same area as the beginning teacher.~~

~~(6) Holds at least a standard certificate.~~

(~~g~~f) Emergency situations with regard to the selection and appointment of mentor teachers shall require State Board of Education action.

[OAR Docket #06-675; filed 4-17-06]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #06-671]

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RULES:
Subchapter 26. Academic Achievement Award Program [NEW]
210:20-26-1. [NEW]
210:20-26-2. [NEW]
210:20-26-3. [NEW]
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210:20-26-3. [NEW]
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N/A
ANALYSIS:
The purpose of the rule is to provide monetary awards to certified, qualified employees at schools that attain the highest overall student achievement and the highest annual improvement in student achievement as measured by the Academic Performance Index (API) in each of five groups based on average daily membership. These rules are established per House Bill 1992, (2005 legislative session) effective July 1, 2005. The new rules coincide with new legislation in 70 O. S. § 3-152.1.
CONTACT PERSON:
Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 26. ACADEMIC ACHIEVEMENT AWARD PROGRAM

210:20-26-1. Purpose

Establishment of procedures for the implementation of the Academic Achievement Awards (AAA) program.

210:20-26-2. Selection and payment criteria

(a) Subsequent to the annual calculation of the Academic Performance Index (API), the State Department of Education shall determine the amount of funds available for the AAA Program established at 70 O.S. § 3-152.1.

(b) The State Department of Education will review the annual API results to determine which school in each of the following categories achieved the highest annual improvement in student achievement and the school with the highest overall student achievement:

(1) 0 to 135 ADM
(2) 136 to 235 ADM
(3) 236 to 345 ADM
(4) 346 to 505 ADM
(5) 506 or more ADM

210:20-26-3. Qualified employees

(a) Once the school in each group has been identified, the State Department of Education will determine the number of employees qualified by law to receive the award at each school. Verification in writing of each employee's qualifications to receive the award shall be provided by the principal. The amount of funds available for the Academic Achievement Awards will be divided by the total number of qualified employees.

(b) Prior to January 31 of each year, the State Department of Education will forward the monetary award to each school with employees qualified to receive such award.

[OAR Docket #06-671; filed 4-17-06]

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

[OAR Docket #06-724]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Election Personnel
Part 1. ~~The~~ County Election Board Members and Employees [AMENDED]
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]
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230:10-3-8. Salary of the Secretary [AMENDED]
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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]
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23 Ok Reg 75
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n/a
ANALYSIS:

The amendments in Subchapter 3 include new statutory language (from Title 26, Section 2-118 as amended in 2005 by HB1044) concerning the salary of the County Election Board Secretary; correction of certain statutory citations, quotations, and paraphrases; clarification of the County Election Board Secretary's authority to employ special purpose precinct workers; and the statutory increase in compensation for Precinct Officials (Title 26, Section 2-129 as amended by HB1044).

The amendments in Subchapter 7 include correction of certain statutory quotations and paraphrases; the addition of references to certain new forms and removal of references to certain obsolete forms; references to a new subset of voter registration data available from the State Election Board; and a correction concerning mileage reimbursement paid to Precinct Officials.

Although these amendments contain several references to new forms, the new forms are neither created nor required by the rules which contain these references.

CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 3. ELECTION PERSONNEL

PART 1. ~~THE~~ COUNTY ELECTION BOARD MEMBERS AND EMPLOYEES

230:10-3-6. Creation of vacancies

Vacancies on the County Election Board may be created in the following ways:

(1) **Resignation.** A member of the County Election Board who desires to resign must submit a written resignation to the Secretary of the State Election Board. The resignation letter need not be long. However, an oral resignation is not acceptable. If at all possible, a one-month notice should be given. If a Board member plans to resign, he should consider that it takes time to acquaint his successor with his duties, so such a resignation should not be submitted only a few weeks prior to a major election.

(2) **Death.** ~~Should~~ If a member of the County Election Board ~~die~~ dies, the other two members of the Board shall notify the Secretary of the State Election Board, in writing, as soon as possible. The notice shall simply set forth the fact that the member has died.

(3) **Attendance.** ~~Should~~ If a member of the County Election Board ~~fail~~ ~~*to attend five consecutive meetings of the Board,*~~ fails to attend five consecutive meetings, a vacancy occurs. [26:2-111] In that event, the other two members shall notify the Secretary of the State Election Board, in writing, at the conclusion of the fifth meeting. The notice shall set forth the fact that the member has missed attending five consecutive meetings, setting out the dates of the meetings.

(4) **Change of political affiliation.** ~~Should~~ If a County Election Board member or alternate member ~~change~~ changes his or her political affiliation, a vacancy occurs. [26:2-111] In that event, the other two members shall notify the Secretary of the State Election Board, in writing, as soon as possible. The notice shall set forth the fact that the member has changed political affiliation.

(5) **Removal.** The State Election Board may remove a member of the County Election Board. [26:2-114]

230:10-3-8. Salary of the Secretary

(a) The Secretary is paid on a monthly basis from county funds. Each month the State Election Board shall reimburse the county for the salary and fringe benefits paid to the Secretary, not to exceed 135 percent of the salaries specified. [26:2-118] The Secretary's salary is set by law and is based on the number of active registered voters in the county on January 1 of each odd-numbered year. [26:2-118]

(b) The Secretary of the State Election Board shall determine the appropriate salary level for each County Election Board Secretary, and shall notify the County Clerk in each county in January of each odd-numbered year. Any salary change shall take effect at the beginning of the County Election Board Secretary's term on May 1 of each odd-numbered year and shall remain in effect throughout the two-year term.

(c) In the event that a County Election Board is under administrative supervision of the State Election Board, as outlined in 230:10-3-9.1, at the time a salary increase becomes effective, the Secretary of that County Election Board shall not receive the salary increase. [26:2-118] The Secretary shall be entitled to receive the salary increase at the time that the administrative supervision ends. The salary increase shall not be retroactive to the time the salary increase generally became effective.

(d) The salary of a County Election Board Secretary shall not fall below the level of the salary paid in the county on April 30, 2003, regardless of the number of active registered voters in the county. [26:2-118] The salary of a County Election Board Secretary who is reappointed to a new two-year term as Secretary shall not fall below the salary received in the immediately preceding term. [26:2-118] A County Election Board Secretary serving on April 30, 2004, shall not receive a salary increase if said Secretary is paid an amount greater than the amount of the scheduled salary for the county as provided by law. [26:2-118]

PART 3. THE PRECINCT ELECTION BOARD

230:10-3-28.1. Special-purpose precinct workers

(a) The County Election Board Secretary ~~may~~ is authorized to employ special-purpose precinct workers as needed for any county, school district, municipal, or other local election ~~upon approval by the Secretary of the State Election Board~~. [26:2-128.2] The County Election Board Secretary may employ special-purpose precinct workers to assist the Inspector, Judge, and Clerk with specific tasks, but they are not members of the Precinct Election Board and shall not perform any other duties assigned to the Inspector, Judge, or Clerk. Employment of special-purpose precinct workers usually shall be reserved for elections at which a large turnout is anticipated or at which an unusually large number of voters may need to update their voter registrations or vote provisionally. Only one special-purpose precinct worker may be assigned to a precinct, but that person may serve as both a Registration Official and as a Provisional Voting Officer. Special-purpose precinct workers may be employed for the following purposes only.

(1) **Registration Officials.** A Registration Official is a special-purpose precinct worker employed to help voters fill out new Oklahoma Voter Registration Application forms needed to correct certain deficiencies in their voter registration records. The specific duties of a Registration Official are outlined in 230:35-5-60. When a Registration Official is not employed, the duties are performed by the

Judge as part of the regular election duties without additional compensation.

(2) **Provisional Voting Officers.** A Provisional Voting Officer is a special-purpose precinct worker employed to help voters cast provisional ballots~~ in federal elections only~~. The specific duties of the Provisional Voting Officer are outlined in 230:35-5-177. When a Provisional Voting Officer is not employed, the duties are performed by the Inspector as part of the regular election duties without additional compensation.

(b) Special-purpose precinct workers shall be compensated at the same rate as the Judge and Clerk. [26:2-128.2] Compensation for special-purpose precinct workers shall be included on the Pre-Election Expense Claim for the election. The State Election Board shall pay for the compensation of special-purpose precinct workers only when such payment is authorized by the Secretary of the State Election Board in advance of the election. The Secretary of the State Election Board may establish a maximum number of special-purpose precinct workers in each county for which the State Election Board shall pay. The maximum number of state-funded special-purpose precinct workers per county shall be based on a percentage of the number of precincts in each county. The percentage used may change from election to election depending upon the availability of state funds for this purpose. The Secretary of the State Election Board shall notify the County Election Board Secretary of the maximum number of state-funded special-purpose precinct workers authorized for the county prior to the election. The County Election Board Secretary may employ other special-purpose precinct workers in addition to those funded by the State Election Board if sufficient funds are available to cover the expense.

230:10-3-33. Compensation of Inspector

(a) For any state election, the Inspector receives ~~$77~~ $97, plus mileage for two round trips from his home to the County Election Board office to receive and return election supplies and materials. [26:2-129] Of the ~~$77,~~ $97, the State Election Board pays ~~$75,~~ $95 and the county pays $2. [26:2-129] For strictly county, or for city or school elections, the entire ~~$77~~ $97 is paid by the entity for which the election is held. Mileage is reimbursed at the rate currently allowed by the Internal Revenue Service for a business expense deduction.

(b) An Inspector assigned to a polling place located ten miles or more from his or her home shall be reimbursed for mileage for a one-way trip from home to the assigned polling place on election day in addition to the mileage reimbursement described in (a) of this Section. The Secretary of the County Election Board shall determine whether mileage shall be paid as outlined in 230:35-3-31.1.

230:10-3-34. Compensation of Judges and Clerks

(a) For any state election, each Judge and Clerk receives ~~$67.~~ $87. Of the ~~$67,~~ $87, the State Election Board pays ~~$65~~ $85 and the county pays $2. [26:2-129] For strictly county, or for city or school elections, the entire ~~$67~~ $87 is paid by the entity for which the election is held.

(b) A Judge or Clerk assigned to a polling place located ten miles or more from his or her home shall be reimbursed for mileage for a round trip from the ~~Judge~~ Judge's or Clerk's home to the assigned polling place on election day. The Secretary of the County Election Board shall determine whether mileage shall be paid as outlined in 230:35-3-31.1.

230:10-3-35. No double compensation

In no event may compensation for an Inspector exceed ~~$77~~ $97 plus mileage, nor may compensation for a Judge or Clerk exceed ~~$67~~ $87 for any election or elections conducted on a single day. Except, however, a Judge or Clerk assigned to a polling place located ten miles or more from his or her home also may receive mileage as outlined in 230:10-3-34 and 230:35-3-31.1. The foregoing applies to Inspectors, Judges and Clerks who serve both a precinct and a subprecinct.

SUBCHAPTER 7. GENERAL ADMINISTRATION OF THE COUNTY ELECTION BOARD

PART 1. MEETINGS OF THE BOARD

230:10-7-3. Types of meetings; terms defined

The County Election Board may conduct four different types of meetings.

(1) **Regularly scheduled meeting.** A regularly scheduled meeting (or a "regular meeting") shall include all meetings at which the regular business of the Board is conducted. [25:304(3)] That includes meetings to canvass returns of elections, meetings to certify the results of elections, meetings to organize the Board, etc. Secretaries shall schedule regular or special meetings only when there is specific business to be considered.

(2) **Special meeting.** A special meeting shall include any meeting of the Board ~~*other than a regularly scheduled meeting or* an *emergency meeting*.~~ other than a regular or emergency meeting. [25:304(4)] Secretaries shall schedule a special meeting only when there is specific business to be considered that cannot wait until the next regular meeting.

(3) **Emergency meeting.** An emergency meeting may be held in only two situations. The first is if a situation involves injury to a person ~~*or injury and damage to public or personal property*, and the second is if the situation involves *immediate financial loss*~~ or injury or damage to public or personal property. [25:304(5)] In either case, an emergency meeting may be called only ~~*when the time requirements for public notice of a special meeting would make such a procedure impractical and would increase the likelihood of injury, damage or immediate financial loss*~~ when the time requirements for giving public notice of a special meeting would make calling a special meeting impractical and would increase the likelihood of injury, damage, or immediate financial loss. [25:304(5)] In the event an emergency meeting is contemplated, the Secretary shall contact the State Election Board immediately.

(4) **Continued or reconvened meeting.** A continued or reconvened meeting shall include all meetings held ~~*for the purpose of finishing business appearing on an agenda of a previous meeting*~~ to finish business appearing on an agenda of a previous meeting. [25:304(6)]

230:10-7-4. Public notice required

All meetings of the County Election Board must be preceded by the filing of a written notice with the County Clerk. A copy of the written notice shall be retained permanently.

(1) **Regularly scheduled meetings.** No later than December 15 of each year, the Secretary must provide notice in writing to the County Clerk showing the date, time and place of the regularly scheduled meetings of the Board for the following calendar year. [25:311(1)]

(2) **Special meetings.** The Secretary must provide notice to the County Clerk at least 48 hours prior to any special meeting of the Board. [25:311(11)] Such notice must include the date, time and place of the special meeting. Such notice may be made in person or by telephone, but shall be followed as soon as possible by written notice.

(3) **Emergency meetings.** In the event of an emergency meeting, the Secretary shall provide as much notice as possible.

(4) **Continued meetings.** In the event a meeting is to be continued, ~~*public notice of such action, including the date, time and place of the continued meeting, shall be given by announcement at the original meeting*~~ notice of the continuance shall be given by an announcement at the original meeting. [25:311(10)] The announcement shall include the date, time, and place of the continued meeting. [25:311(10)]

230:10-7-14. Method of voting

In all meetings of the County Election Board, ~~*the vote of each member must be publicly cast and recorded*~~ each member's vote shall be publicly cast and recorded. [25:305] In taking the vote on any motion that has been properly seconded, the roll of members of the County Election Board must be called orally, and the vote of each member must be announced orally. The roll call may be conducted by the Secretary or by a member of the County Election Board staff designated by the Secretary.

PART 5. MAINTAINING THE OFFICE

230:10-7-43. Retention of forms and materials documenting voter registration transactions

(a) **Original registration records removed from Central File.** Original voter registration records that have been removed from the Central File due to cancellation of registration or due to change in registration shall be retained for 24 months following removal. These original registration records shall be filed together by month in alphabetical order. See also 230:10-7-40.

(b) **Materials documenting cancellation of registration.** Materials used to document the cancellation of a voter's registration shall be retained for 24 months following the cancellation. These materials include Cancellation of Registration of Deceased Voter by Next of Kin forms; Request to Cancel Registration of Deceased Voter forms; Notification of Nursing Facility Resident's Death forms; Potential Deletion Reports; Potential Duplicate Reports; Judgment of Incapacitation Reports, cancellation requests from voters; notices of felony conviction; Deleted Voters by Reason reports, address confirmation return cards indicating addresses outside the county; and True Duplicates Deleted Reports.

(c) **Rejected voter registration applications.** Rejected voter registration applications shall be retained for 24 months following rejection. Rejected applications shall be filed by month in alphabetical order.

(d) **Rejection notices returned by post office.** Rejection notices that have been returned by the post office undelivered shall be retained for 24 months following return. Returned undelivered rejection notices shall be filed by month in alphabetical order.

(e) **Voter identification cards returned by post office.** Voter identification cards that have been returned by the post office undelivered shall be retained for 24 months following return. Returned undelivered voter identification cards shall be filed by month in alphabetical order.

(f) **Insufficient Information Rejection Notices returned by applicant.** An Insufficient Information Rejection Notice returned to the County Election Board by the applicant with the information required to complete the application shall be filed in the Additional Information Correspondence ~~File~~ file. Material in this file shall be retained as long as the voter remains registered. An Insufficient Information Rejection Notice that is returned by a voter but still does not contain enough information to complete the application shall be filed by month in alphabetical order and retained for 24 months.

(g) **Address confirmation return cards and undelivered address confirmation notices.** All address confirmation return cards received by the County Election Board shall be retained for 24 months, except return cards used to change a voter's address in the county. Address confirmation return cards used to change the voter's address in the county shall be filed in the Additional Information Correspondence file and shall be retained as long as the voter remains registered. Undelivered address confirmation notices shall be retained for 24 months.

230:10-7-45. Retention of Precinct Registries and affidavits

All Precinct Registries and all used Absentee Voter Affidavits~~, Challenged Voter Affidavits, Military Discharge Affidavits, Valid Application Affidavits~~, Voter Assistance Forms and Spoiled Ballot Affidavits shall be retained for 24 months after the date of the election. These items may be stored together in a container bearing the date of the election and the date on which they may be destroyed.

PART 7. PUBLIC RECORDS

230:10-7-66.1. Voter registration records available on electronic media from State Election Board

(a) **Records available.** Certain voter registration records are available on electronic media from the State Election Board. The following records are available.

(1) **Voter registration records.** Voter registration records include the following information: the voter's precinct number, the voter's name, the voter's ID number, political affiliation, status, registration address, date of birth, date of registration and mailing address if it differs from the registration address.

(2) **Voter history records.** Voter history records include the following information: the voter's ID number, the date of the election and the voting method (in person at polling place or absentee ballot).

(3) **Precinct/District information.** Precinct/District information includes the precinct number, Congressional District number, State Senate District number, State House District number, County Commissioner District number and the name of the polling place.

(b) **Format and media type.** All records described in (a) of this Section are written in ASCII format on compact disks (cds).

(c) **Fees for records.** Fees for all three types of records are charged according to the following schedule.

(1) **Statewide.** All voter registration records in the state shall be available at a cost of $150.

(2) **United States Congressional District.** All voter registration records in a United States Congressional District shall be available at a cost of $50.

(3) **State Senate District.** All voter registration records in a State Senate District shall be available at a cost of $35.

(4) **State Representative District.** All voter registration records in a State Representative District shall be available at a cost of $20.

(5) **County.** All voter registration records in a county shall be available at the cost indicated in the following schedule.

(A) Voter registration records for the following counties shall be available at a cost of $75: Oklahoma and Tulsa.

(B) Voter registration records for the following counties shall be available at a cost of $50: Cleveland, Comanche, Payne.

(C) Voter registration records for the following counties shall be available at a cost of $35: Bryan, Caddo, Canadian, Carter, Cherokee, Creek, Custer, Delaware, Garfield, Garvin, Grady, Kay, LeFlore, Lincoln, Logan, McCurtain, Mayes, Muskogee, Okmulgee, Osage, Pittsburg, Pontotoc, Pottawatomie, Rogers, Sequoyah, Stephens, Wagoner, Washington.

(D) Voter registration records for the following counties shall be available at a cost of $20: Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Choctaw, Cimarron, Coal, Cotton, Craig, Dewey, Ellis, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kingfisher, Kiowa, Latimer, Love, McClain, McIntosh, Major, Marshall, Murray, Noble, Nowata, Okfuskee, Ottawa, Pawnee, Pushmataha, Roger Mills, Seminole, Texas, Tillman, Washita, Woods, Woodward.

(6) **Precinct.** Voter registration records for a single precinct shall be available at a cost of $10.

(7) **School District.** Voter registration records for a single school district shall be available at a cost of $35.

(8) **Municipality.** Voter registration records for a single municipality shall be available at a cost of $35.

(d) **Method of payment.** Cashier's checks and certified checks will be accepted. Personal checks will be accepted but must clear before data will be released.

(e) **Time for filling orders.** Orders for voter registration data will be filled as soon as possible. However, orders received within 20 days of a statewide election may not be filled until after the election.

(f) **Limitations of data.** Information contained in individual voter records may include a registration address and/or a mailing address or no address. Some addresses may not be sufficient for mailing. Some informtion may be incomplete or missing. The data provided on electronic media must be manipulated by user's software before it can be sorted by ZIP Code, name or household. Lists and/or labels cannot be produced directly from these media.

(g) **Printouts.** Computer printouts are available only from County Election Boards as outlined in 230:10-7-66.

PART 9. FINANCES

230:10-7-74. Pre-Election Expense Claim

Not less than 35 days prior to an election to be conducted by the County Election Board, the Secretary of the County Election Board shall submit to the entity authorizing the election a Pre-Election Expense Claim which shall consist of an estimate of the amount of compensation for Precinct Officials ~~and~~ , Absentee Voting Board members, and special-purpose precinct workers for the upcoming election. [26:3-105.1(A)] The estimate of compensation shall be accompanied with an estimate of the amount of the Inspector's mileage, the amount of mileage for Precinct Officials who are assigned to polling places ~~outside the precincts in which they reside~~ ten miles or more from their homes if their mileage is known at the time the Pre-Election Expense Claim is prepared, and the amount of mileage for one member of each nursing home Absentee Voting Board. The appropriate Pre-Election Expense Claim report in OEMS shall be used to submit these estimates to the entity authorizing the election. See 230:35-3-29 through 230:35-3-49.

230:10-7-82. Expenses paid through Special Depository Account

For statewide elections, the state's and the county's share of compensation for Precinct Officials ~~and~~ , the Absentee Voting

Boards, and special-purpose precinct workers are paid through the Special Depository Account. Refunds of candidate filing fees also are paid from the Special Depository Account. (See 230:20-3-39.1 and 230:20-3-63) All other expenses are handled by submitting purchase orders to the County Clerk. The purchase orders are paid by the County Clerk with warrants drawn on the County Election Board's budget account. For special county elections, only compensation for Precinct Officials, Absentee Voting Board members, and special-purpose precinct workers ~~is~~ are paid through the Special Depository Account. All other expenses for special county elections are paid by submitting purchase orders to the County Clerk. For school district and municipal elections, all warrants received from the entities are deposited in the Special Depository Account and vouchers are written to pay all expenses incurred in the election.

230:10-7-85. Retention of County Election Board financial records

(a) The Secretary of the County Election Board shall have the responsibility to ensure that financial records are retained as required by law.

(b) Original financial records and/or records for which the County Election Board's copy is the only copy shall be retained for five years. These original records include but are not limited to the following.

(1) **Budget account records.** The following original records of the County Election Board's budget accounts shall be retained for five years.

(A) **OEMS reports.** Records of the budget accounts maintained in OEMS include the Day Ledger.

(B) **Manual records.** Records of the budget accounts maintained manually include the Day Ledger sheets.

(2) **Special Depository Account records.** The following original records of the County Election Board's Special Depository Account shall be retained for five years.

(A) **OEMS reports.** OEMS reports on the Special Depository Account which constitute original records include the Ledger Sheet; Election Balance Sheets; COUNTY ELECTION BOARD Election Expense List; Pre-Election Expense Claims; Pre-Election Expense Claims-Compilation; Records of Expense; Records of Expense-Compilation; Contest Balance Sheets; Contest Records of Expense; Contest Records of Expense-Compilation; Voucher Control Log; Voucher Detail Report and Voucher Registry.

(B) **Manual records.** Records of the Special Depository Account maintained manually which constitute original records include Ledger Sheets, forfeited filing fee records, and records of contest expenses.

(3) **Other records.** Other records which are required to be retained for five years include but shall not be limited to the following items.

(A) County Board Member Claim, gold copy.

(B) ~~State Claim for Absentee Voting Board, blue copy.~~

~~(C)~~ Precinct Expense Claim Envelopes.

(~~D~~C) Duplicate copies of receipts issued by County Election Board.

(~~E~~D) Cancelled vouchers.

(~~F~~E) Voided vouchers.

(~~G~~F) Invoices, statements and other documentation of expenses paid through the Special Depository Account.

(~~H~~G) Receipts for transfers/deposits to County General Fund.

(c) Records for which the County Election Board retains only a copy and for which the original is retained by another county officer for five years shall be retained for two years following the most recent audit by the State Auditor and Inspector. These records include but shall not be limited to the following items.

(1) Copies of purchase orders.

(2) Copies of vouchers.

(3) Copies of deposit tickets.

(4) Copies of the Monthly Report of County Officers.

[OAR Docket #06-724; filed 4-24-06]

TITLE 230. STATE ELECTION BOARD CHAPTER 15. VOTER REGISTRATION

[OAR Docket #06-725]

RULEMAKING ACTION:
PERMANENT final adoption

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]

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One Section in Subchapter 1 is amended to change a reference to the Federal Election Commission to the new United States Election Assistance Commission. In Subchapter 3, one Section is amended to include the information that both the Oklahoma Voter Registration Application and the Federal Voter Registration Application forms are available on the Internet. In Subchapter 5, amendments include references to specific data elements on the voter registration application form that are required by both state and federal law for a valid application (Title 26, Section 4-112 as amended in 2004 by SB1346 which implemented the federal Help America Vote Act requirements). References in several Sections to certain dates are changed to conform to changes enacted in 2004 to the statewide election schedule in even-numbered years. In Subchapter 9, several Sections are amended to conform references to required data elements of a valid voter registration application to current state and federal law. Several Sections are amended to include references to the provisional ballot verification process as it may relate to the processing of voter registration applications received at polling places on election day. One Section is amended to remove references to OEMS software and a form that were anticipated at the time the Section was originally adopted but that in fact were never developed. In Subchapter 11, references to notices of felony conviction from the federal court system are added to a Section concerning cancellation of voter registrations.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

230:15-1-2. Definitions

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

"Activation date" means the date that a valid application becomes a voter registration.

"Active voter registration application services" means that personnel of a motor license agency or of a voter registration agency identified in 230:15-5-122 or 230:15-5-123 take an active, participatory role in offering the opportunity to apply for voter registration as required in 230:15-5-100 or in 230:15-5-125.

"Approved application" means a voter registration application that contains all required information [see 230:15-5-84 and 230:15-9-19] and that does not apparently duplicate an existing voter registration.

"Federal ~~Voter Registration Application~~ voter registration application" means the form prescribed by the ~~Federal Election Commission~~ United States Election Assistance Commission to be used to apply for voter registration or to apply for change of voter registration and to be accepted for these purposes in all states.

"OEMS" means the Oklahoma Election Management System. OEMS is an integrated, unitary, uniform system of computer hardware and software provided by the State Election Board to each County Election Board for use in the ~~adminstration~~ administration of voter registration and elections. [See 230:50-3-31.]

"Oklahoma Voter Registration Application" means the form prescribed by the Secretary of the State Election Board for use in Oklahoma to apply for voter registration or to apply for change of voter registration by mail, at motor license agencies and at all voter registration agencies identified in 230:15-5-122 and 230:15-5-123.

"Passive voter registration application services" means that personnel of a motor license ~~agengy~~ agency or of a voter registration agency identified in 230:15-5-122 or 230:15-5-123 are required to make the Oklahoma Voter Registration Application form available to persons conducting business with the agency and to the general public but are not directly involved in the voter registration application process, and are not required to accept completed applications for transmittal to the State Election Board. [See 230:15-5-108 and 230:15-5-131~~].~~.]

"Valid application" means a voter registration application that results in a new voter registration or in a change to an existing voter registration.

"Voter registration agency" means an office of a governmental agency specified in either 230:15-5-122 or in 230:15-5-123, or a location designated by such agencies, at which either active or passive voter registration application services are available.

SUBCHAPTER 3. VOTER OUTREACH

PART 3. DISTRIBUTION OF VOTER REGISTRATION APPLICATION FORMS

230:15-3-23. Voter registration application forms available to individuals

(a) The Oklahoma Voter Registration Application form generally shall be available to any individual applicant for voter

registration or for change of voter registration in the following locations.

(1) **Motor license agencies.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any motor license agency in Oklahoma. See 230:15-5-100 and 230:15-5-103.

(2) **Voter registration agencies.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any voter registration agency identified in 230:15-5-122 and 230:15-5-123. See 230:15-5-124.

(3) **Public libraries.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application in any public library in Oklahoma. Public library personnel shall have no responsibility either to offer applications to library patrons or to collect completed applications. Applications obtained at a public library shall be mailed to the State Election Board by the applicant.

(4) **United States Post Offices.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any United States Post Office in Oklahoma. United States Postal Service employees shall have no responsibility either to offer applications to post office patrons or to collect completed applications. Applications obtained in a United States Post Office shall be mailed to the State Election Board by the applicant.

(b) The federal voter registration application form shall be available from the State Election Board and from any County Election Board in Oklahoma to any individual applicant for voter registration who specifically requests the federal form.

(c) The Oklahoma Voter Registration Application form is available online at **www.elections.state.ok.us.** The form must be downloaded and printed, then must be filled out, signed, and finally, mailed to the State Election Board. It cannot be either filled out or submitted online. The federal voter registration application form also is available online at **www.eac.gov.** The federal form also must be downloaded and printed. It cannot be either filled out or submitted online.

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

(a) Voter registration application services in motor license agencies and in voter registration agencies listed in 230:15-5-122 and 230:15-5-123 shall be made accessible to elderly and handicapped voters.

(b) If an applicant for voter registration in a motor license agency or in a voter registration agency identified in 230:15-5-122 or 230:15-5-123 requests assistance to complete the Oklahoma Voter Registration Application form, personnel of the motor license agency or of the voter registration agency shall be required to provide ~~*the same degree of assistance with regard to the completion of the registration application form as is provided* for *the completion of its own forms*~~ the same degree of assistance to complete the voter registration application as they provide to complete the motor license agency's own forms. [26:4-109.2(B)(2)]

(c) In the event that an applicant for voter registration is incapable of personally signing or making his or her mark on the voter registration application form, the applicant shall select an assistant to help him or her complete the voter registration application form. [26:4-112] The assistant may be any person the applicant chooses. Personnel of motor license agencies and of voter registration agencies identified in 230:15-5-122 and 230:15-5-123 shall be required to assist such applicants if requested by the applicants to do so. [26:4-112] The assistant shall be required to complete the voter registration application form exactly as instructed by the applicant. The following procedure shall be observed.

(1) The assistant shall read the Oath to the applicant so that the applicant may determine whether he or she is eligible to register to vote in Oklahoma.

(2) The assistant shall read the Important Information printed on the back of the Oklahoma Voter Registration Application form to the applicant.

(3) The assistant shall print the applicant's name on the application form in the spaces provided.

(4) The assistant shall check the appropriate box to indicate the applicant's political affiliation. The assistant shall read the instructions for Section 2 - Political Affiliation to the applicant if necessary.

(5) The assistant shall print the applicant's date of birth, Oklahoma driver's license number, ~~if applicable,~~ the last four digits of the Social Security number, if necessary, the applicant's address of residence ~~and~~ , mailing address, and county of residence in the appropriate spaces on the application form. The assistant shall read the instructions for Section ~~5~~ 6 - ~~Address of Residence~~ Street Address or Directions to Your Home to the applicant if necessary.

(6) The assistant shall ask the applicant if he or she has ever been registered to vote before and shall indicate the applicant's answer by checking the appropriate box in Section ~~8.~~ 9. The assistant shall read the instructions for Section ~~8~~ 9 - ~~Former Registration Information~~ Have You Been Registered Before? to the applicant if necessary. If the applicant has been registered to vote before, the assistant shall record as much information about the former registration as possible in the spaces provided.

(7) If the applicant is incapable of signing the application or of making his or her mark on the application, the assistant shall print the applicant's name in the space provided for Signature or Mark of Applicant. The assistant shall write his or her own initials beside the applicant's

printed name. The assistant shall enter the date in the space provided.

(8) The assistant shall print his or her own name and address in the space provided at the bottom of the form.

(d) If an applicant for voter registration in a motor license agency or in a voter registration agency identified in 230:15-5-122 or 230:15-5-123 requests assistance to complete the Oklahoma Voter Registration Application form from agency personnel, the procedure outlined in (c)(1) through (7) of this Section shall be observed. The assistant then shall print his or her own name and the agency's address in the shaded area marked "~~(~~Office Use Only~~)~~" on the instructions portion of the application form.

PART 19. RECOGNIZED POLITICAL PARTIES AND POLITICAL ORGANIZATIONS

230:15-5-77. Recognized political parties

(a) Recognized political parties include those parties whose candidates appeared on the General Election ballot in 1974 and any other parties formed under state law. [26:1-107] Parties recognized as a result of the appearance of their candidates on the ballot of the 1974 General Election are the Democratic Party and the Republican Party.

(b) A group of persons may form a recognized political party by following the procedure established by law at any time except during the period between ~~July~~ June 1 and November 15 of an even-numbered year. [26:1-108] The group shall obtain a number of signatures of registered voters equal to at least five percent (5%) of the total votes cast in the last General Election for either Governor or for electors for President and Vice President on petitions requesting recognition as a political party and shall file the petitions with the Secretary of the State Election Board. [26:1-108] If the State Election Board determines that there are a sufficient number of valid signatures of registered voters on the petitions, the group becomes a recognized political party under Oklahoma law. [26:1-108]

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

(a) **Entering voter registration application information in OEMS.** All information provided by the applicant on the voter registration application form shall be entered into OEMS. Follow the appropriate OEMS software instructions to enter the voter registration data. Refer to the following rules to resolve questions about individual applications.

(1) **Received date.** The received date is the date stamped or written on a voter registration application form by the agency that first receives it from the applicant.

(A) The received date for an application submitted by mail is the date the State Election Board received and stamped it.

(B) The received date for an application submitted at a motor license agency or at any voter registration agency identified in 230:15-5-122 and 230:15-5-123 is the date stamped or written by agency personnel in the space provided for this purpose on the form.

(C) The received date for a voter registration application bearing no stamped or written date is the application date entered by the applicant beside his or her signature.

(2) **Postmark.** The postmark date from a voter registration application submitted by mail shall be entered in OEMS. If there is no postmark or if the date is missing or illegible, leave the postmark field blank.

(3) **Name.** Enter the voter's name exactly as provided on the application form, even if it appears to be incomplete.

(4) **Political affiliation.** An application for voter registration that is valid in all other respects shall not be rejected because the applicant fails to indicate his or her political affiliation. The political affiliation field on the OEMS screen shall be left blank in the following circumstances with the result that OEMS automatically will record the applicant's affiliation as Independent. See also 230:15-5-84 and 230:15-9-22.

(A) The applicant left the space for political affiliation blank.

(B) The applicant marked more than one political affiliation and his or her intent cannot be determined.

(C) The applicant wrote the name of a political party or a political organization not currently recognized in Oklahoma.

(5) **Date of birth.** An applicant for new voter registration must provide his or her date of birth on the application form. See 230:15-5-84. An application for new registration that does not include the date of birth shall be rejected. See 230:15-9-31. In the event that a registered voter submits an application for change of registration and does not provide his or her date of birth, the application shall be rejected unless both of the following circumstances exist.

(A) The application is valid in all other respects and County Election Board personnel are able to make positive identification of the voter from other information on the application form and from information already recorded in OEMS.

(B) The voter's date of birth already is recorded in OEMS.

(6) **Last four digits of ~~social security~~ Social Security number.** An applicant for voter registration is requested, but not required, to provide the last four digits of his or her ~~social security~~ Social Security number on the application form. However, if an applicant does not have a driver

license or a state identification card, the last four digits of the applicant's Social Security number are required.

(7) **Oklahoma ~~driver's~~ driver license number.** An applicant for voter registration is required to provide his or her Oklahoma ~~driver's~~ driver license number or state identification card number on the application form. If the applicant does not have a driver license or state identification card, the last four digits of the applicant's Social Security number are required.

(8) **Duplicates.** When voter registration application information is entered in OEMS, the system automatically searches for and identifies duplicate or potential duplicate records in the county. The search criteria are first name, last name, and date of birth and/or last four digits of the ~~social security~~ Social Security number and/or ~~driver's~~ driver license number. If an application appears to duplicate either an existing voter registration or another pending application, follow the procedures outlined in 230:15-9-23 and the appropriate software instructions to investigate and resolve the potential duplication.

(9) **Residence address.** An applicant for voter registration is required to provide his or her residence address on the application form. Enter the applicant's residence address in the appropriate fields on the OEMS screen. If the address cannot be assigned in the OEMS Street Guide based on the information entered, see 230:15-9-18.1.

(10) **Mailing address.** If the applicant provided a mailing address different from his or her residence address, enter the mailing address. If the applicant's mailing address is the same as the residence address or if the space for mailing address is blank, leave the mailing address field on the screen blank.

(11) **Rejection codes.** An application for new voter registration that does not contain all the required information listed in 230:15-5-84 shall be rejected. OEMS automatically applies a rejection code for an insufficient name, insufficient address, insufficient date of birth, ~~if the last four digits of the applicant's social security number are missing,~~ if the application duplicates an existing registration or pending application, and if the applicant is under 18 years of age. (If an applicant who is under 18 will become eligible on or before election day, as described in 230:15-5-2, follow the software instructions to override the rejection code.) If the application is unsigned or if the application must be rejected for any other reason, County Election Board personnel flag the appropriate rejection code on the screen. See 230:15-9-31.

(12) **Source codes.** A code to identify the source of an application for statistical purposes shall be entered in OEMS. If the source of an application is a motor license agency, an agency code also shall be entered. After the source code is entered, the instruction section of the application form bearing the source identification shall be detached and destroyed.

(13) **Previous registration information.** If the applicant provided information about previous voter registration in another state or in another county in Oklahoma, enter the previous registration information in the appropriate fields on the screen. Do not enter information about former registration in the same county in these fields.

(14) **Identification provided.** If an applicant who submitted a voter registration application by mail included identification material with the application, enter the appropriate information in OEMS. (Applicants for voter registration are not required to provide identification.) After entering information in OEMS about the voter's identification, destroy the identification by shredding it.

(b) **Filing voter registration applications.** If a voter registration application is determined to be valid and approved, place the application form in the appropriate valid application file until voter identification cards are printed. After the voter identification card is mailed to the voter, file the application form in the Central File. If a voter registration application must be rejected, file the application in the appropriate rejected application file.

230:15-9-20. Processing applications for name change

A registered voter may apply to change his or her name by completing and submitting a voter registration application form. An applicant for name change is instructed to provide his or her former name in the appropriate space in Section 9 of the Oklahoma Voter Registration Application form or in Box A of the federal voter registration application. Process applications for name change according to the following procedure.

(1) Enter the applicant's former name, along with his or her political affiliation, date of birth, ~~the last four digits of the social security number and, if provided, driver's license number,~~ to bring the current voter registration information to the screen.

(2) Change the applicant's name on the screen. Carefully compare the information displayed on screen with the information provided on the application for any other information that may be changed. Enter into OEMS any other changes that may be indicated on the application form.

(3) Follow the procedure contained in steps (3) through ~~(11)~~ (14) of 230:15-9-18 to complete the application information in OEMS.

(4 After the voter identification card has been printed, remove the voter's old registration form from the Central File and retain as outlined in 230:10-7-43.

(5) File the voter's new voter registration application form in alphabetical order in the Central File.

230:15-9-24. Processing transfers executed on election day or during in-person absentee voting

(a) A registered voter who has changed residence within the county but who has not yet changed his or her address of residence for voter registration purposes is entitled to vote at the next ensuing election at the polling place serving the former address and to execute a transfer of address. A registered voter also is entitled to execute a transfer of address during in-person absentee voting in the same manner as a voter at the polling

place on election day. The Oklahoma Voter Registration Application form shall be used to execute a transfer. Transfers shall be processed according to the following procedure.

(1) Transfers executed by in-person absentee voters shall be processed according to the following procedure.

(A) Stamp the received date on the voter registration application form. The received date for these applications is the date the person voted.

(B) Verify that all Applications for In-Person Absentee Ballots have been entered in OEMS. Applications for In-Person Absentee Ballots must be entered in OEMS before the transfers of address are processed.

(C) Enter the voter registration application information in OEMS. Indicate that the application is a transfer and enter the election date.

(D) Override the warning that the voter already has received credit for voting by in-person absentee ballot in the election and complete the transaction.

(2) Transfers executed by voters at the polling place on election day shall be processed ~~on the day after the election~~ according to the following procedure after all provisional ballots have been verified.

(A) Stamp the received date on the voter registration application form. The received date for these applications is the election date.

(B) Enter the voter registration application information in OEMS. Indicate that the application is a transfer and enter the election date. Make note of and investigate any warning that the voter already has received credit for voting.

(C) Process all transfers received at the polling place on election day after all provisional ballots have been verified and before credit for voting is given to all other voters as required by 230:35-3-93.

(3) As soon as all transfers received during in-person absentee voting and at the polling place on election day have been entered in OEMS, request and print voter identification cards and rejection notices and mail them to voters. See 230:15-9-29 and 230:15-9-33.

(b) All voter registration applications received during in-person absentee voting and at the polling place on election day, except those received from voters who ~~sign the Challenged Voter Affidavit and the Military Discharge Affidavit~~ cast provisional ballots, shall be processed as transfers on election day as outlined in (a) of this Section. Voter registration applications from voters who cast provisional ballots shall be entered as outlined in 230:35-3-125.1.

230:15-9-25. Processing applications for restricted records status

(a) Members of the judiciary, district attorneys, assistant district attorneys, law enforcement personnel, corrections officers, and persons covered by victim's protection orders are entitled by law to apply to the Secretary of the County Election Board for restricted records status. [26:4-115.2] The spouse and/or dependent of a voter entitled to apply for restricted records status also may apply for restricted records status. Restricted records status shall apply to the voter registration form in the Central File, to registration information in OEMS, and to materials used to request and cast absentee ballots. Voter registration information for a restricted records voter shall be available only to authorized County Election Board personnel for administrative purposes, with the exception that it may be provided to a candidate or a candidate's representative or other lawful authority in connection with a contest of candidacy, contest of election, or a petition challenge as provided by law. [26:4-115.2]

(b) A voter who is eligible for restricted records status may apply for such status by ~~completing a form in the County Election Board office or by~~ writing a letter to the Secretary of the County Election Board setting forth the following information.

(1) Voter's name as it appears on the voter registration form.

(2) Voter's date of birth.

(3) Last four digits of the voter's ~~social security~~ Social Security number.

(4) Reason for application for restricted records status. (If voter is covered by victim's protection order, include case number, date of issue and the expiration date of the order.)

(5) Voter's signature.

(6) Date.

(c) Upon receipt of an application for restricted records status, the Secretary of the County Election Board shall cause the following action to be taken.

(1) Make a placeholder for the Central File. Write only the voter's name, date of birth, and political affiliation on a blank voter registration application form. Write the words "Restricted Records" in the space for item 6, "Street address or directions to your home."

(2) Remove the voter's original voter registration application form from the Central File and replace it with the placeholder form.

(3) Check the Additional Information file. Remove any documentation of the voter's registration and attach it to the voter registration application form.

(4) Remove the voter's absentee ballot application from the appropriate file and attach it to the voter registration form.

(5) Locate the voter's registration information in OEMS and follow the appropriate software instructions to delete the registration information.

(6) Attach the voter's application for restricted records status to the voter's registration form and other materials and file in the restricted records status file.

(d) The Secretary of the County Election Board shall designate a file cabinet with a lock or any other appropriate container with a lock as the restricted records status file. Access to the restricted records status file shall be restricted to the Secretary, Assistant Secretary or Chief Clerk and other County Election Board employees authorized by the Secretary.

(e) Restricted records status shall be effective immediately upon receipt of an application from a qualified voter, and it shall remain in effect until the voter chooses to end it. The

voter's registration information may be removed from restricted records status only upon receipt of written instruction from the voter.

(f) Any subsequent application for change of voter registration initiated by a restricted records voter shall be processed routinely, with the exception that the voter registration application information shall not be entered in OEMS and the form shall be filed in the restricted records status file instead of the Central File. Any application for absentee ballots from such a voter also shall be processed ~~routinely by following the applicable software instructions to enter the application in OEMS and to create either an absentee mailing label or a rejection letter~~ manually. ~~However, the~~ The application for absentee ballots shall be filed in the restricted records status file.

(g) An ACP Application for Absentee Ballots and ACP Voter History Record form received from the State Election Board shall be filed immediately in the restricted records status file. No entry shall be made in OEMS concerning ACP voters and the name, address, and precinct number of an ACP voter shall not appear on any list or report.

SUBCHAPTER 11. VOTER REGISTRATION LIST MAINTENANCE

PART 1. CANCELLATION OF VOTER REGISTRATION

230:15-11-5. Potential Deletion Report

The State Election Board shall prepare and transmit to each county on a monthly basis a Potential Deletion Report. This report compiles information received by the State Election Board from the State Health Department, from the federal court system, and from other counties in Oklahoma. This report lists persons who have died, persons who have been convicted of felonies in other counties or in federal court, and persons who have registered again in another county in Oklahoma. The voter registrations of persons listed on the Potential Deletion Report may be cancelled upon positive identification of the voter's registration record.

[OAR Docket #06-725; filed 4-24-06]

TITLE 230. STATE ELECTION BOARD CHAPTER 30. ABSENTEE VOTING

[OAR Docket #06-726]

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PERMANENT final adoption
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]
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In Subchapter 1, the definitions Section is amended to include a definition of the term "federal election." In Subchapter 7, several Sections are amended to remove references to obsolete forms; to include references to new forms; and to include references to the provisional voting process. A new Section is added to authorize the members of the in-person Absentee Voting Board to cast in-person absentee ballots by allowing the County Election Board Secretary to witness their signatures. The statute (Title 26, Section 14-115.4) was amended several years ago to permit the Secretary to witness the signature of a member of the in-person absentee voting board, but due to an oversight, this authorization was never included in the rules. Several incorrect references to other Sections in Title 230 are corrected, and an incorrect statement in one Section is removed. In Subchapter 9, language concerning the determination of a voter's assignment to a municipality is added and a reference to a specific form is corrected. In Subchapter 11, a Section is amended to clarify the deadline for receiving absentee ballots by fax; to correct a reference to a part of another form; and to refer correctly to another Section in Title 230.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

230:30-1-2. Definitions

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

"Convalescent hospital" means a nursing facility as defined in Title 62 O.S. 2001, Section 1-1902.

"Federal election" means an election held on the last Tuesday in July; the fourth Tuesday in August; and the first Tuesday after the first Monday in November in even-numbered years; the first Tuesday in February of an even-numbered year in which the President and Vice President of the United States are to be elected; and the date of a special election called at any other time to fill a vacancy in the office of United States Senator or United States Representative.

"Member of the merchant marine" means a person employed as an officer or crew member of a vessel as identified in 42 U.S.C. 1973ff-6.

"Nursing home" means a nursing facility as defined in Title 62 O.S. 2001, Section 1-1902.

"Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard, the merchant marine, the commissioned corps of the Public Health Service, the commissioned corps of the National Oceanic and Atmospheric Administration, and the Oklahoma National Guard.

SUBCHAPTER 7. ABSENTEE VOTING BOARDS

230:30-7-6.1. Training for Absentee Voting Board members

(a) The Secretary of the County Election Board shall train the Absentee Voting Board members in their duties before the Absentee Voting Board makes its first nursing home visit or first provides service to in-person absentee voters. The State Election Board provides the County Election Board Secretary with instructions for conducting training for both nursing home and in-person Absentee Voting Board members.

(1) **Nursing home Absentee Voting Board.** Training for members of a nursing home Absentee Voting Board shall include a review of the blue Instructions for Absentee Voting Board sheet. The Secretary also shall review the types of ballots and the potential combinations of ballots, the contents of the pink absentee voter packet, and the use of the Absentee Voting Board Record, the Spoiled Ballot Affidavit, ~~the School District Research Request form,~~ and the PRECINCT PROBLEM SOLVER.

(2) **In-person Absentee Voting Board.** Training for members of an in-person Absentee Voting Board shall include a review of the green Instructions for Absentee Voting Board for In-Person Absentee Ballots sheet. The Secretary shall provide instructions for using the Central File or an OEMS terminal to verify a voter's registration information and registration status and shall review the types of ballots and potential combinations of ballots. The Secretary also shall review the uses of the Spoiled Ballot Affidavit, the Voter Assistance Form, the Ballot Accounting Forms, ~~the Challenged Voter Affidavit, the School District Research Request form,~~ and the PRECINCT PROBLEM SOLVER. The Secretary also shall provide instructions on the use of the voting device, the procedures for opening and closing the in-person absentee polling place and the disposition of the memory pack, ballots and other items. If the in-person Absentee Voting Board uses an OEMS terminal, the Secretary shall instruct the Board members to obtain updated voter registration information from inactive voters.

(b) Following the initial training for Absentee Voting Board members, the Secretary shall provide a review of the Absentee Voting Board's duties, if necessary, before it serves in any election.

230:30-7-7. Supplies for Absentee Voting Board

(a) **Supplies for nursing home Absentee Voting Board.** The Secretary shall assemble the necessary supplies for the nursing home Absentee Voting Board. Necessary supplies include, but are not limited to, a pink Incapacitated Voter Packet with ballots for each voter; a ballot box; ink pens; ballot markers; the Absentee Voting Board Additional Ballot Accounting Form; the Absentee Voting Board Record; Instructions for Absentee Voting Board; Spoiled Ballot Affidavit; ~~School District Research Request form for school elections;~~ Notification of Nursing Facility Resident's Death forms; a PRECINCT PROBLEM SOLVER; Oklahoma Voter Registration Application forms; Address Information Requested handouts; and an adequate number of extra ballots for each type of ballot to replace ballots that may be spoiled by the voter.

(b) **Supplies for in-person Absentee Voting Board.** The Secretary shall assemble the supplies necessary for the Absentee Voting Board to provide service to in-person absentee voters. These supplies include, but are not limited to, green Applications for In-Person Absentee Ballots forms, copies of Instructions for Voting by In-Person Absentee Ballot; ballots; secrecy folders; a voting device; plastic seals for the ballot box and memory pack door; one voting device key envelope; a padded bag for the memory pack; ~~a black-lettered envelope~~ an Envelope for Totals Printout; ballot transfer boxes; a long white State Election Board seal for each ballot transfer box; ink pens; ballot markers; the In-Person Absentee Ballot Accounting Form; FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet; a quantity of Oklahoma Voter Registration Application forms; Address Information Requested handouts; ~~School District Research Request form for school~~

~~elections;~~ a PRECINCT PROBLEM SOLVER; and a VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS.

230:30-7-11. Procedure for in-person Absentee Voting Board to receive applications and issue ballots

The Absentee Voting Board members shall observe the following procedure when a voter appears and requests an in-person absentee ballot.

(1) Ask the voter to fill out and sign a green Application for In-Person Absentee Ballots form.

(2) Check the voter's registration information and registration status using either the OEMS terminal or the Central File as instructed by the County Election Board Secretary. See 230:30-7-14. If the applicant's voter registration information cannot be located in OEMS, check the Central File, or ask a County Election Board staff member to do so. If the applicant's voter registration cannot be verified in either OEMS or the Central File, issue a provisional ballot to the applicant. See 230:30-7-15.

(3) If the voter tells you that his or her residence address has changed, give the voter an Oklahoma Voter Registration Application and ask the voter to fill it out and sign it.

(4) If the "Voter Status" field indicates the voter is inactive, if the number in the section field is greater than "36," or if the "SD" (school district) or "MU" (municipality) field on the OEMS screen is blank, give the voter a copy of the ~~"~~Address Information Requested~~"~~ handout and an Oklahoma Voter Registration Application form. Ask the voter to use the form to update his or her voter registration information. The voter may either return the voter registration application form to you or mail it at a later time.

(5) Check the "ID Required" field on the Voter Registration Information screen. If the field contains a "Y," ask the voter for identification. Any one of the following forms of identification ~~are~~ is acceptable. If the voter shows identification, proceed to step (6). If the voter does not have identification, the voter still may vote by provisional ballot. See 230:30-7-15.

(A) a currently valid driver license or other photo identification

(B) a voter identification card issued by the County Election Board in this county

(C) a copy of a current utility bill, bank statement, pay check, government check, or any other government document that shows the voter's name and address

(6) Record the date received, the voter's precinct number, and political affiliation in the spaces provided on the ~~application for in-person absentee ballots~~ Application for In-Person Absentee Ballots form.

(A) If this is a school election, also write the voter's school district on the application form. If the school district field on the OEMS screen is blank, see (4) of this Section and follow the steps outlined in 230:35-5-113.2(c) to help the voter determine the correct school district. If the voter tells you that the school district listed on the OEMS screen is not correct, follow the steps outlined in ~~230:35-5-113.2(c).~~230:35-5-113.2(d).

(B) If this is a municipal election, also write the voter's municipality on the application form. If the municipality field is blank, see (4) of this Section and follow the steps outlined in 230:35-5-113.2(c) to help the voter determine the correct municipality. If the voter tells you that the municipality listed on the OEMS screen is incorrect, follow the steps outlined in ~~230:35-5-113.2(c).~~230:35-5-113.2(d).

(7) Record the voter's precinct number and political affiliation on the Absentee Voting Board Record for In-Person Absentee Ballots and ask the voter to sign it.

(8) Issue the ballots indicated by the voter's registration information in OEMS or in the Central File and give the voter a ballot marker. [26:14-115.4]

(9) Offer the voter a secrecy folder. Use a sample ballot to demonstrate a valid marking and use of the secrecy folder, if necessary.

(10) Direct the voter to a voting booth to mark the ballots.

(11) Provide assistance as outlined in the PRECINCT PROBLEM SOLVER to voters who need help reading and/or marking their ballots. Disregard references to the Precinct Registry. Use the Voter Assistance Form.

(12) Follow the procedure outlined in the PRECINCT PROBLEM SOLVER if a voter spoils a ballot. Use the Spoiled Ballot Affidavit.

(13) Tell the voter to insert the voted ballot in the voting device. [26:14-115.4(4)] If more than one voting device is in use, tell the voter which device to use.

(14) Take the ballot marker and the secrecy folder, if used, back from the voter.

(15) If the voting device returns the voter's ballot, ask the voter to wait until the voting device message prints. Follow the appropriate instructions in the VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS. Ask County Election Board personnel for help if necessary.

230:30-7-13. In-person absentee voting procedure for uniformed services voter or overseas voter

If voter registration information for an in-person absentee ballot applicant cannot be found in the Central File or in OEMS and that applicant informs the Absentee Voting Board members that he or she is on leave or has recently been honorably discharged from the uniformed services of the United States or has recently been terminated in service or employment overseas, the applicant may be entitled to vote without being registered. [26:14-121] The spouse or dependent of such a person also is entitled to vote without being registered. [26:14-121] Refer to the ~~"Military Discharge or Military Leave"~~ Uniformed Services or Overseas Voter section of the ~~2002~~ PRECINCT PROBLEM SOLVER (230:35-5-114) and follow those instructions to assist this applicant ~~and to use the Military/Overseas Affidavit, if necessary~~ to cast a provisional

ballot. Ask a County Election Board employee for help to determine the correct absentee ballot to issue to the voter.

230:30-7-14. Verifying voter registration information and status of in-person absentee voters

(a) The Absentee Voting Board members are required to verify the registration information of each voter who applies for an in-person absentee ballot. The County Election Board Secretary shall instruct the Absentee Voting Board members to use an OEMS terminal to verify voter registration information and status.

(b) County Election Board personnel shall place an OEMS terminal at the in-person absentee polling place location and shall prepare the terminal for use. County Election Board personnel shall teach the Absentee Voting Board members to use the terminal to find voter registration information about each applicant for in-person absentee ballots. ~~(~~In the event that a voter's registration information cannot be found in OEMS, the Absentee Voting Board members may refer to the Central File to verify voter registration. The Absentee Voting Board member shall locate the voter's original registration form in the Central File. If an applicant's eligibility is confirmed in the Central File~~ or by any other means than in OEMS~~, ask a County Election Board staff member for assistance to determine the correct ballot style to issue. If the applicant's voter registration cannot be verified either in OEMS~~,~~ or the Central File, ~~or any other means,~~ issue a provisional ballot as outlined in 230:30-7-15 and 230:35-5-177.

230:30-7-16. In-person Absentee Voting Board members may cast ballots

The members of the in-person Absentee Voting Board may cast in-person absentee ballots. The Secretary of the County Election Board and one member of the Absentee Voting Board shall witness the signature of the other member on the Absentee Voting Board Record for In-Person Absentee Ballots. The Secretary shall sign the Absentee Voting Board Record form below the signatures of the two Board members.

SUBCHAPTER 9. PROCESSING APPLICATIONS

230:30-9-3. Processing applications for absentee ballots

Applications from all absentee voters, except uniformed services voters and overseas voters, shall be processed according to the following procedures:

(1) Indicate on the application form the date on which the application is received at the County Election Board office.

(2) Enter the application information into OEMS. When applications from absentee voters, nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons and emergency incapacitated voters are entered into OEMS, the system automatically verifies the applicant's registration. If an applicant is not registered, see 230:30-9-4.

(3) If a voter requests absentee ballots for a school district or municipality other than the one to which he or she is assigned, mark the appropriate field on the OEMS screen. OEMS will generate a notice that tells the voter that he or she is assigned to a different school district or municipality than the one for which ballots were requested and that ballots for the assigned district or municipality will be issued. If a voter is not assigned to a school district, the school district field will be empty. ~~Enter~~ In this situation only, enter the appropriate code for the school district indicated by the voter on the absentee ballot application in the school district field. If a voter does not reside in a municipality, the municipality field will contain the word "None." If, however, a voter's municipal assignment cannot be determined, the municipal field will be blank. In this situation only, enter the code for the municipality indicated by the voter on the absentee ballot application.

(4) If the application must be rejected for any reason, enter the reason for the rejection in the appropriate place on the screen. OEMS will produce a Notice of Rejection of Absentee Ballot Application letter for the voter. However, in the event that an Application for In-Person Absentee Ballot has been rejected, it shall not be entered into OEMS.

(5) Designate the election or elections for which the voter is requesting ballots in the appropriate place on the screen.

(6) Write the applicant's voter identification number and registration status (active or inactive) on the application form. Fill in the information required in the shaded "For Election Board Use Only" box in the lower right corner of the form.

(7) File the application form in the appropriate absentee voting materials file. If the applicant is a restricted records status voter, file the application in the restricted records status file.

(8) If the application is from an in-person absentee voter and ballots were issued by the Absentee Voting Board, enter the date the application was processed by the Absentee Voting Board in the appropriate space on the screen to give the voter credit for voting. See 230:30-7-12. If the application was rejected, no entry shall be made in OEMS. A rejected Application for In-Person Absentee Ballot shall be retained with other rejected applications.

(9) If ballots are available, immediately prepare the appropriate absentee voter packet with the correct ballots for the voter and mail it. See 230:30-9-1 and 230:30-9-2. If the letter "I" appears in the upper-right corner of the absentee mailing label, the voter is either an inactive voter or a voter unassigned to a school district due to insufficient address information. Enclose an Oklahoma Voter Registration Application form and an ~~Instructions for Updating Voter Registration Information~~ Absentee Voter Address Information Requested sheet with the absentee voter packet and ballots.

230:30-9-6. Processing requests from emergency incapacitated voters

(a) **Requirements for requests.** The request for absentee ballots from an emergency incapacitated voter shall be in writing and shall be signed by the voter, *or signed by a witness at the voter's direction, if the voter is unable to sign*. [26:14-115.1] The request *must be accompanied by a sworn statement by a duly licensed physician*. [26:14-115.1] The statement must attest to the fact that the voter is unable to vote in person at his precinct on the day of the election because of a physical disability, which may include confinement for childbirth, and that the voter became incapacitated after 5 p.m. on Tuesday preceding the election. [26:14-115.1]

(b) **Form may be used.** The Request for Emergency Incapacitated Absentee Ballot and Sworn Statement by Physician form may be used to make the request for ballots. However, use of this form is not required.

(c) **Voter's agent.** An emergency incapacitated voter may designate an agent to represent him for purposes of absentee voting. The agent may be anyone of the voter's choosing at least 16 years of age, provided that person is not employed by nor related within the third degree by consanguinity or affinity to any person whose name appears on the ballot. The voter's agent must transmit the request to the Secretary of the County Election Board.

(d) **Person may be agent for only one voter.** No person may be the agent for more than one voter at any election.

(e) **Processing the request.** Upon receipt of the voter's request and accompanying sworn statement, the application information shall be entered into OEMS. See 230:30-9-3. If the voter is an inactive voter, give the voter's agent an Oklahoma Voter Registration Application form and an ~~Instructions for Updating Voter Registration Information~~ Absentee Voter Address Information Requested sheet.

(f) **Issuing ballots and materials.** The Secretary shall indicate on the application form the ballots that shall be issued to the voter. The Secretary then shall issue to the voter's agent the appropriate ballots and a pink incapacitated voter packet.

(g) **Returning ballots.** The voter's agent must return the ballots, sealed in the appropriate envelopes, to the Secretary of the County Election Board no later than 7 p.m. on the day of the election. Upon receipt of the ballots, the Secretary shall record the date in the voter's application information in OEMS. If the voter is inactive, the voter's agent may return the completed Oklahoma Voter Registration Application form with the voted ballots or the voter may mail the form at a later time.

SUBCHAPTER 11. RECEIVING AND PROCESSING ABSENTEE BALLOTS

230:30-11-6.1. Receiving voted absentee ballots by fax from uniformed services and overseas voters

(a) All uniformed services and overseas voters are entitled to fax their voted absentee ballot to the State Election Board or to the County Election Board that issued the ballot if they receive their regular mail absentee ballot 30 days or less before the date of the election. Uniformed services and overseas voters who request a faxed ballot for federal offices as described in ~~230:30-11-6.1~~ 230:30-9-5.1 must return said ballot by fax.

(b) A uniformed services or overseas voter described in (a) of this section may fax a copy of the voted ballot either to the State Election Board or to the County Election Board that issued the ballot in addition to mailing the original ballot to the issuing County Election Board. A fax cover sheet for this purpose may be downloaded and printed from the Federal Voting Assistance Program (FVAP) website: www.fvap.gov. Uniformed services voters may obtain copies of the fax cover sheet from the Voting Service Officers in their units. Overseas voters may obtain the cover sheet at United States embassies, consulates, and military installations. A voter who chooses to fax a voted ballot must sign a Secret Ballot Waiver and transmit it with the ballot. All faxed ballots must be received by the State Election Board or by the County Election Board no later than 7 p.m. (~~Oklahoma time~~United States Central Time Zone) on the date of the election in order for the ballot to be counted. In the event that a voter's regular ballot is received by mail at the County Election Board prior to 7 p.m on election day, only the voter's regular ballot shall be counted. The voter shall follow these instructions to fax a voted ballot to the State Election Board or to the County Election Board.

(1) After marking the ballot, make a photocopy of the ballot, reduced as necessary to fit an 8 $\frac{1}{2}$" by 11" page. Do not alter the original ballot.

(2) Fill out and sign the affidavit envelope included with the mail absentee ballot.

(3) Fill out the fax cover sheet.

(4) Fax the cover sheet, affidavit, and voted ballot to one of the secure numbers provided by the FVAP for ballot transmission.

(5) Immediately mail the voted original ballot to the County Election Board. Follow the instructions included with the ballot.

(c) The Secretary of the State Election Board shall assign one or more employees to receive and process voted ballots faxed by uniformed services and overseas voters. Upon receipt by fax of a voted ballot, the assigned employees shall take the following steps to transmit the ballot and related information to the appropriate County Election Board Secretary.

(1) Verify that each voted ballot is accompanied by a fax cover sheet that includes the following information:

(A) the voter's name

(B) the voter's county of residence in Oklahoma

(C) the voter's signature on the Secret Ballot Waiver

(D) the voter's signed Affidavit if the faxed ballot is a copy of the voter's regular mail absentee ballot

(2) Stamp the fax cover sheet with the date and time it was received and immediately transmit both the cover sheet and the ballot to the appropriate County Election Board Secretary. If the Secretary does not have a fax machine in the office, notify the Secretary that a voted absentee ballot is being transmitted.

(3) In the event that a voted ballot is received without an appropriate identifying cover sheet and/or without the

voter's signature on the ~~Waiver of Right to~~ Secret Ballot Waiver, the ballot shall be set aside in a secure place. If possible, immediately send a notice that the transmission was incomplete and that the ballot cannot be counted. Instruct the voter to send both the cover sheet and the ballot again. Document the receipt of the unidentified ballot and then destroy it.

(4) In the event that an identifying cover sheet is received without the voted ballot, set the cover sheet aside in a secure place. If possible, immediately send notice that the transmission was incomplete and the ballot was not received. Instruct the voter to send both the cover sheet and the ballot again. If the voter does not send the cover sheet and ballot again by 7 p.m. in the United ~~States'~~ States Central ~~time zone~~ Time Zone on election day, document the receipt of the cover sheet without the ballot, and notify the County Election Board Secretary that the voter attempted to return the ballot but the ballot was not received.

(5) Ballots received by fax after 7 p.m. on election day in Oklahoma shall not be counted.

(d) Upon receipt by fax of a voted ballot from the State Election Board, the Secretary of the County Election Board shall take the following steps.

(1) Attach the fax cover sheet to the ballot with a paper clip, fold the sheets in half and place in the locked absentee ballot box. If the ballot is received from the State Election Board on election day after the absentee ballot box has been opened, place the faxed ballot in a secure place until the County Election Board members are ready to count the ballot.

(2) Enter the date received in the voter's absentee application information in OEMS.

(3) After 7 p.m. on election day, the members of the County Election Board shall ~~count by hand any voted ballots returned by fax.~~

~~(4) The results of the hand count shall be recorded in the minutes of the County Election Board meeting and entered manually in OEMS according to the appropriate software instructions.~~mark a substitute ballot and count it as instructed in 230:30-19-6.

(e) Upon receipt by fax of a voted ballot from a uniformed services voter or an overseas voter, the Secretary of the County Election Board shall follow the same steps outlined in (c) of this section.

(f) A voter who faxes a voted ballot to the State Election Board as described in this section must sign a Secret Ballot Waiver. The Secret Ballot Waiver is part of the fax cover sheet provided by the FVAP, and also is part of the fax cover sheet provided by the County Election Board to voters who ask for a federal office ballot to be faxed as outlined in 230:30-9-5.1. However, if neither of these cover sheets is available, the voter must include the following signed statement among the materials faxed with the voted ballot. "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot." This statement must be signed and dated by the voter.

[OAR Docket #06-726; filed 4-24-06]

TITLE 230. STATE ELECTION BOARD
CHAPTER 35. ELECTION CONDUCT

[OAR Docket #06-727]

RULEMAKING ACTION:
PERMANENT final adoption

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]

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In Subchapter 1, a definitions section is added to include a definition of the term "federal election."
In Subchapter 3, several Sections are amended to remove references to obsolete forms and to add references to new forms and materials and to add or to correct references to other Sections in Title 230. At least one Section is amended to reference an increase in compensation for Precinct Officials as required by Title 26, Section 2-129 as it was amended in 2005 by HB1044. Sections are amended to clarify the authority of the County Election Board Secretary to employ special purpose precinct workers. Several Sections concerning the provisional voting process are amended clarify tasks and responsibilities. Several Sections are amended to correct references to the specific time or the specific order that certain tasks must be performed. A Section is amended to clarify the period following an election when ballots must be secured by the Sheriff.
In Subchapter 5, several Sections are amended for the same reasons as Section ins Subchapter 3. In addition, references to "vocational-technical school districts" are changed to the currently correct term "technology center school districts." A Section that permits uniformed services or overseas voters to vote in person at their precinct polling places when they return home too late to register to vote is amended to refer to the provisional voting procedure and to refer correctly to the oath on the Oklahoma Provisional Ballot Affidavit envelope. The provisional voting procedure itself is amended to correct minor problems. The reasons for which a voter may need to cast a provisional ballot are expanded to include voters who dispute the school district or municipality to which they have been assigned. Some Sections have been amended to change the specific time for certain events.
In Subchapter 9, a Section concerning the reasons for voting by provisional ballot is amended to include additional reasons. Another Section is amended to change the time certain actions may be taken.
CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

230:35-1-2. Definitions

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

"Federal election" means an election held on the last Tuesday in July; the fourth Tuesday in August; and the first Tuesday after the first Monday in November in even-numbered years; the first Tuesday in February of an even-numbered year in which the President and Vice President of the United States are to be elected; and the date of a special election called at any other time to fill a vacancy in the office of United States Senator or United States Representative.

SUBCHAPTER 3. COUNTY ELECTION BOARD RESPONSIBILITIES

PART 1. BEFORE THE FILING PERIOD

230:35-3-3. Assembling precinct supplies

(a) Well in advance of any election, the Secretary shall assemble supplies for every precinct and shall pack them in an envelope, a box, a bag, a binder, or another container. The Secretary may use the Supply Envelope and the Supply Box provided by the State Election Board or any other adequate container. Each election supply container shall be labeled for the appropriate precinct. (Some materials cannot be included in the supplies until after ballots are printed.) The Secretary shall prepare and use a Precinct ~~Checklist~~ Check List for each precinct to verify that all necessary supplies are included.

(b) The following items shall be included in the election supplies for each precinct. The quantities listed are recommended minimum quantities.

(1) **Publications.** One each of the following publications shall be included in the election supplies for each precinct.

(A) THE MANUAL FOR PRECINCT ELECTION OFFICIALS

(B) PRECINCT PROBLEM SOLVER

(C) VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS

(2) **Forms and handouts.** The following forms and handouts shall be included in the election supplies for each precinct.

(A) Address Information Requested handouts

(B) Ballot Accounting Form

(C) FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet

(D) Oklahoma Voter Registration Application forms
(E) Procedure for Watchers
(F) ~~School District Research Request form (for precincts with two or more school districts in school elections only)~~
~~(G) Municipal Boundary Assignment Research Request form (for precincts partially within a municipality's boundary)~~
~~(H)~~ Secrecy folders
(~~I~~G) Voting Device Report
(H) List of ballot codes

(3) **Envelopes.** One of each of the following envelopes shall be included in the election supplies for each precinct.
(A) Envelope for Totals Printout
(B) Green envelope for mailing Totals Printout to State Election Board (statewide elections only)
(C) Precinct Expense Claim Envelope
(D) Voting Device Key Envelope (and key chain with keys)

(4) **Signs and Maps.** The following ~~envelopes~~ signs and maps shall be included in the election supplies for each precinct.
(A) One Attention Voter poster for each voting booth in the precinct
(B) One Oklahoma Election Procedures --- Important Voter Information sign (English)
(C) One Oklahoma Election Procedures --- Important Voter Information sign (Spanish)
(D) One Election Law Violations sign
(E) One Vote Here sign
(F) One Voter Eligibility - Municipal Elections
(G) One Voter Eligibility - School Elections
(H) Precinct Map - municipality
(I) Precinct Map - school districts
(J) Precinct Map - other entity

(5) **Other Supplies.** The following additional supplies shall be included in the election supplies for each precinct.
(A) American flag
(B) Twenty ballot marking pens
(C) Twenty ink pens
(D) One long white State Election Board seal for each ballot transfer box required for the precinct
(E) Official Exit Poll stickers, as needed
(F) Two plastic seals for ballot box sides
(G) Paper clips
(H) Magnifier
(I) Memory pack bag
(J) Rubber bands
(K) Scissors
(L) Tape
(M) Thumbtacks

(6) **Provisional voting supplies.** The following provisional voting supplies shall be included in the election supplies for each precinct.
(A) ~~Provisional Voting Forms booklet~~ FORMS FOR USE BY PROVISIONAL VOTING OFFICER booklet
(i) Absentee Voter Affidavit
(ii) Voter Assistance Form
(B) Provisional Voting Information handouts
(C) Identification Required ~~sign~~ information sheet
(D) Provisional Ballot Voucher forms
(E) Oklahoma Provisional Ballot Affidavit ~~Envelopes~~ envelopes
(F) Provisional Ballot Rosters
(G) Orange ~~provisional ballot bag~~ Provisional Ballot Bag
(H) Blue plastic seal for provisional ballot bag

(7) **Precinct Registry, Voting Device, and ballots.** The Precinct Registry, voting device, and ballots are issued to the Inspector along with the election supplies for each precinct. See 230:35-3-6, 230:35-3-7, 230:35-3-57, and 230:35-3-68.1.

PART 5. PRECINCT OFFICIAL PAYROLL

230:35-3-30. Pre-Election Expense Claim

(a) When the state, the county, a school district, a municipality, or any other governmental entity calls an election to be conducted by the County Election Board, the Secretary of the County Election Board shall prepare an estimate of the number of Precinct Officials, Absentee Voting Board members, and any authorized special-purpose precinct workers required for the election, and the amount of compensation for all Precinct Officials ~~and~~ , Absentee Voting Board members, and any special-purpose precinct workers. [26:3-105.1(A)] The estimate also shall include mileage reimbursement for Inspectors to pick up and return election supplies and materials, for Precinct Officials and special-purpose precinct workers assigned to polling places located ten miles or more from their homes, and for one member of each nursing home Absentee Voting Board. The Secretary shall prepare the estimate, which shall be known as a Pre-Election Expense Claim, in OEMS using the appropriate Pre-Election Expense Claim report. The Pre-Election Expense Claim shall be submitted to the entity not less than 35 days prior to the election. [26:3-105.1(A)]

(b) The compensation for Precinct Officials, Absentee Voting Board members, and any authorized special-purpose precinct workers shall be billed as follows.

(1) **Inspector.** The Inspector shall receive a total of ~~$77~~ $97 for an election. The Inspector also shall be reimbursed for mileage for two round trips from his home to the County Election Board office at the rate currently allowed by the Internal Revenue Service for a business expense deduction. An Inspector assigned to a polling place located ten miles or more from his or her home also may be reimbursed for one-way mileage from home to the assigned polling place. See 230:35-3-31.1.

(A) **Statewide elections.** For a statewide election, the State Election Board shall be billed ~~$75~~ $95 per Inspector. The State Election Board also shall be billed for the total amount of mileage reimbursement for the Inspectors. The county shall be billed $2 per Inspector for a statewide election.

(B) **Other elections.** For a county election, a school district election, a municipal election or any other election, the entity authorizing the election shall be billed ~~$77~~ $97 per Inspector, plus the total amount of mileage reimbursement for the Inspectors.

(2) **Judge and Clerk.** The Judge and Clerk each shall receive a total of ~~$67~~ $87 for an election. In addition, a Judge or Clerk assigned to a polling place located ten miles or more from his or her home may be reimbursed for round-trip mileage from home to the assigned polling place. See 230:35-3-31.1.

(A) **Statewide elections.** For a statewide election, the State Election Board shall be billed ~~$65~~ $85 per Judge and ~~$65~~ $85 per Clerk. The county shall be billed $2 per Judge and $2 per Clerk. The State Election Board also shall be billed for any mileage paid to Judges and Clerks.

(B) **Other elections.** For a county election, a school district election, a municipal election or any other election, the entity authorizing the election shall be billed ~~$67~~ $87 per Judge and ~~$67~~ $87 per Clerk. The entity also shall be billed for any mileage paid to Judges and Clerks.

(3) **Absentee Voting Board members.** Absentee Voting Board members each shall receive ~~$67~~ $87 for each day they serve for an election. In addition, one member of each nursing home Absentee Voting Board shall receive mileage reimbursement for the round trip from the County Election Board office to the nursing home or homes.

(A) **Statewide elections.** For a statewide election, the State Election Board shall be billed for the total amount of ~~$67~~ $87 per Absentee Voting Board member plus mileage for one member of each nursing home Absentee Voting Board.

(B) **Other elections.** For a county election, a school election, a municipal election, or any other election, the entity authorizing the election shall be billed ~~$67~~ $87 for each Absentee Voting Board member for each day served plus mileage for one member of each nursing home Absentee Voting Board.

(4) **Special-purpose precinct workers.** Special-purpose precinct workers, such as Provisional Voting Officers or Registration Officials, shall receive ~~$67~~ $87 for an election. In addition, a special-purpose precinct worker assigned to a polling place ten miles or more from his or her home may be reimbursed for round-trip mileage from home to the assigned polling place. ~~(Special-purpose precinct workers may only be employed when authorized by the Secretary of the State Election Board. See 230:10-3-28.1.)~~

(A) **Statewide elections.** For a statewide election, the State Election Board shall be billed ~~$65~~ $85 per special-purpose precinct worker. The county shall be billed $2 per special-purpose precinct worker. The State Election Board also shall be billed for any mileage paid to special-purpose precinct workers.

(B) **Other elections.** For a county election, a school district election, a municipal election or any other election, the entity authorizing the election shall be billed ~~$67~~ $87 per special-purpose precinct worker. The entity also shall be billed for any mileage paid to special-purpose precinct workers.

(5) **Mileage.** Mileage is reimbursed at the rate currently allowed by the Internal Revenue Service for a business expense deduction.

(c) When two or more entities hold elections on the same date and two or more of the entities are involved in the same precinct, the cost of Precinct Official and special-purpose precinct worker compensation and mileage reimbursement shall be divided equally among the entities involved in each precinct and the cost of Absentee Voting Board compensation and mileage reimbursement shall be divided equally among all the entities involved in the election. However, if a school district election is held on the same date as a county election, the county shall assume the school district's share of Precinct Official, special-purpose precinct worker, and Absentee Voting Board compensation and mileage.

230:35-3-40. Substitute vouchers

Within seven days following the election, the Secretary shall prepare substitute vouchers for compensation of substitute Precinct Officials, special-purpose precinct workers, or Absentee Voting Board members who were not paid on election night, cancel the unclaimed vouchers and register the new vouchers with the County Treasurer. The Secretary immediately shall distribute the vouchers to the substitute Precinct Officials, special-purpose precinct workers, or Absentee Voting Board members. No substitute voucher shall be distributed to a Precinct Official ~~or~~, Absentee Voting Board member, or a special purpose precinct worker until the person's signature has been obtained on a Precinct Expense Claim or an Absentee Voting Board Member Claim form.

PART 9. DISTRIBUTING SUPPLIES AND BALLOTS

230:35-3-68. Assembly line distribution of supplies to Inspectors

Before the first Inspector arrives, an assembly line system shall be established for distributing the materials. The Secretary or clerical employees of the Board may be involved in distribution. In distributing the materials, the following procedure shall be observed:

(1) The Inspector shall receive the Precinct Check List and the election supply container. The Inspector shall verify each item in the ~~envelope~~ container, enter check marks in the appropriate column on the Precinct Check List and close and secure the container as instructed by the Secretary.

(2) The Inspector shall receive the Precinct Registry or Registries.

(3) The Inspector shall receive the ballots in ballot transfer boxes. The Inspector shall verify the quantities and numbers of each type of ballot and shall enter check marks in the appropriate columns on the Precinct Check

List. The Inspector shall replace the ballots in the ballot transfer box.

(4) If a Watcher is appointed for the precinct, the Secretary shall provide the Inspector with necessary materials and instructions.

(5) If a Pollster has been authorized to conduct an exit poll in the precinct, the Secretary shall provide the Inspector with all necessary information.

(6) The Secretary shall give the Inspector any specific instructions for the election.

(7) The Inspector shall sign the Precinct Check List in the appropriate space.

(8) Assistance may be provided to the Inspector in transporting supplies and materials to his automobile.

PART 13. AFTER THE POLLS CLOSE

230:35-3-84.1. Determining number of signatures on Provisional Ballot Rosters

The number of signatures on the Provisional Ballot Rosters from each precinct in the county shall be determined by the Secretary of the County Election Board on election night. The total number of signatures on Provisional Ballot Rosters may be made public, but no additional information concerning provisional ballots shall be released prior to 1 p.m. on Friday following the election.

(1) Count the signatures on each page of the Provisional Ballot Roster for a precinct and record the total number of signatures for the precinct on the Provisional Ballot Precinct Log. If there were no provisional ballots cast in a precinct, enter a zero on the Log.

(2) When all precinct returns have been received, determine the total number of provisional ballots cast in the county by adding the precinct totals together. Enter the total in the space provided on the Provisional Ballot Precinct Log.

(3) ~~Fax~~ If this is a state election, fax or e-mail a copy of the Provisional Ballot Precinct Log to the State Election Board.

(4) Make a copy of the Provisional Ballot Precinct Log available for public inspection in the County Election Board office. Copies may be distributed to any interested party.

230:35-3-86. Sheriff to provide security for voted ballots

~~(a)~~ It is the duty of the County Sheriff to provide security for the ballot transfer boxes for all elections ~~involving candidates~~ from election night until the county's final election results are certified or until the ballot transfer boxes are delivered to the District Courtroom for a recount, whichever is later. [26:8-110] The Secretary shall inform the Sheriff when there will be an election ~~involving candidates~~.

~~(b) In the event that a recount is possible in a question election, the County Sheriff shall provide security for the ballot transfer boxes from election night until the county's final election results are certified or until the ballot transfer boxes are delivered to the District Courtroom for a recount, whichever is later.~~

230:35-3-87. Accumulating and producing election results

(a) **Election night.** The Secretary shall assign a County Election Board employee to be responsible for reading the voting device memory packs into the computer to accumulate results on election night. This person also shall be responsible for manual entry of results from affected counties, if applicable. The following procedure shall be observed.

(1) As the memory packs are received from Inspectors as described in 230:35-3-84, the person assigned to accumulate results shall insert the memory packs into the memory pack reader and shall cause them to be read by the computer.

(2) Affected counties involved in the election will report results by telephone or by fax on election night. The results from precincts in affected counties shall be entered manually into the computer.

(3) When the memory pack from every precinct has been read and the results from all affected county precincts have been entered manually, if applicable, the Precinct Report shall be printed. The Precinct Report shall be proofread against the Totals Printout tapes from every precinct and against the handwritten results recorded from the affected county's telephone call to verify the Precinct Report's accuracy. When written results are received from the affected county, the Precinct Report also shall be proofread against the written results.

(4) When proofreading of the Precinct Report is completed, print the Election Summary Report.

(5) Print the appropriate unofficial Certification Report ~~shall be printed~~ as outlined in 230:35-3-91. The unofficial Certification Report also shall be proofread.

(6) Request the Pre-Provisional Results Extract process. This process preserves election night results to allow comparisons after provisional ballot results are added. This process must be completed successfully before provisional ballots are processed.

(7) If this is a state election, request the State Election Results Process.

(~~5~~8) The Corrections Log report and the System Log report also shall be printed on election night after all other tasks have been completed.

(b) **Friday following election.** After all the verified provisional ballots have been counted and the required number of Totals Printouts have been obtained, County Election Board personnel shall follow the steps in (a) of this section to enter the provisional ballot results in OEMS. Under no circumstances shall the results of the provisional ballot count be made public prior to 1 p.m. on Friday following the election. Print and proofread the appropriate Certification Report.

PART 15. CERTIFICATION OF RESULTS

230:35-3-91. Certifying county election results

(a) **Election night activities.** On election night, the County Election Board shall canvass the precinct and absentee results for all candidate elections, for all questions, and for all elections for which the county is an affected county. When all election results have been accumulated as outlined in 230:35-3-87, a copy of the unofficial Certification Report shall be printed. The unofficial Certification Report shall be proofread. The County Election Board shall not certify any election results on election night. The Secretary of the County Election Board shall cause the following tasks to be completed on election night.

(1) Determine the number of signatures on the Provisional Ballot Roster using the Provisional Ballot Precinct Log. See 230:35-3-84.1. Post a copy of the completed Provisional Ballot Precinct Log on the office door and, if this is a state ~~or federal offices are on the ballot~~ election, fax or e-mail a copy of the Log to the State Election Board. If any provisional ballots are cast in an election for which this is an affected county, also fax the Log to the parent county.

(2) If the county is an affected county for a multi-county school district or municipal election, report the unofficial precinct and absentee results and the number of provisional ballots which may have been cast in the election to the parent County Election Board.

(3) On the night of the Runoff Primary Election only, follow the specific instructions received from the State Election Board to determine the number of outstanding absentee ballots from overseas uniformed services voters and overseas voters. Report that number to the State Election Board. See 230:30-19-16.

(b) **Friday following election.** The County Election Board shall meet on Friday following each election at the time set by the Secretary to open and count verified provisional ballots. If the Board meets prior to 5 p.m. to count provisional ballots and finishes the count before 5 p.m., the meeting shall be recessed until after 5 p.m. The Board then shall reconvene after the close of the contest period at 5 p.m. to certify the final election results for all candidate races and questions, providing no contests have been filed. The Secretary shall prepare the following materials to certify the election.

(1) After all verified provisional ballots have been counted and results updated in OEMS, and after final election results from affected counties of multi-county school districts and municipalities have been entered manually into OEMS, print at least two copies of the Official Certification Report. Proofread the Certification Report. Each copy of the Certification Report shall be signed by the members of the County Election Board and by the Secretary. The County Election Board seal shall be affixed to each signed copy of the Certification Report in the area of the signatures. For races and questions that cannot be certified due to a contest, print one copy of the unofficial Certification Report.

(2) The Secretary of an affected County Election Board in a multi-county school district or municipal election shall fax a copy of the ~~final election results~~ signed Official Certification Report to the parent County Election Board as soon as possible after 5 p.m. on Friday.

(3) If this is an election involving state or federal candidates or state questions, request the State Election Results process in OEMS, print the ~~system log and corrections log~~System Log and Corrections Log, and run an election backup.

(c) **5 p. m. Tuesday next following election.** The State Election Board meets at 5 p.m. on Tuesday next following an election involving state or federal candidates or state questions to certify the final election results. The County Election Board, however, shall not be required to meet again on Tuesday next following the election, unless final election results were not certified on Friday evening for a reason other than a contest of election being filed.

(d) **Disposition of Certification Reports.** One copy of each signed, official Certification Report shall be maintained permanently by the County Election Board. Other copies shall be distributed as follows.

(1) In statewide elections, one copy of the signed Official Certification Report for all races and questions that must be certified by the State Election Board shall be mailed to the State Election Board ~~on the day following the election~~ after 5 p.m. on Friday following the election.

(2) In multi-county elections for which the county is an affected county, one signed copy of the Official Certification Report shall be mailed to the parent county ~~on the day following the election~~ after 5 p.m. Friday following the election.

(3) In all other elections, one copy of the signed Certification Report shall be provided to the entity for which the election was conducted. In some instances, an entity may request more than one copy of the Official Certification Report. The Secretary shall provide the number of copies requested by the entity.

(e) **List of nominees.** Following Primary and Runoff Primary Elections, the Board shall authorize the Secretary to certify the nominees of each party by preparing an official list of nominees. The original copy of the list of nominees shall be signed by the Secretary and maintained in the minutes of the County Election Board meeting at which the election results were certified. A copy of the list of nominees shall be posted on the door of the County Election Board office.

(f) **List of successful candidates and Certificates of Election.** Following General Elections, the Secretary shall compile a list of successful candidates and shall issue a Certificate of Election to each successful candidate.

(g) **Runoff Primary Election.** Absentee ballots from overseas absentee voters, including both overseas uniformed services voters and overseas ~~civilian~~ voters, who made timely applications for ballots for the Runoff Primary Election that are received by the Secretary of the County Election Board by 5 p.m. on the fourteenth day following the Runoff Primary Election shall be accepted, counted, and included in the final election results for federal offices only. [26:14-104.1] If no absentee ballots from overseas uniformed services or ~~civilian~~ overseas voters remain outstanding at 5 p.m. on Friday following the Runoff Primary Election, the County Election Board

may certify the final results for federal offices to the State Election Board as outlined in (b) of this Section. However, if any overseas uniformed services or ~~civilian~~ overseas absentee ballots remain outstanding at 5 p.m. on Friday following the Runoff Primary Election, the County Election Board shall only canvass the county's precinct, absentee, and provisional ballot totals for federal offices and shall follow the specific instructions received from the State Election Board to report the results of the provisional ballot count. The County Election Board shall certify the final results for federal offices after 5 p.m. on the fourteenth day following the Runoff Primary Election.

PART 19. VERIFYING AND COUNTING PROVISIONAL BALLOTS

230:35-3-125.1. Entering provisional voter information in OEMS

The Secretary of the County Election Board shall cause information about all provisional voters to be entered in OEMS. If a provisional voter completed an Oklahoma Voter Registration Application form, follow the appropriate software instructions to enter the registration application and then to enter the provisional voting reason code and provisional ballot resolution code. If a provisional voter did not complete an Oklahoma Voter Registration Application form, follow the appropriate software instructions to enter information about the provisional voter, the reason code and the resolution code. Follow the instructions in 230:35-3-126 through 230:35-3-130 to investigate and verify information provided on the provisional ballot affidavit envelope by the voter. A resolution code must be entered in OEMS for every provisional ballot cast.

230:35-3-126. Criteria for verification of provisional ballot affidavit information

(a) **Voter not in Precinct Registry.** A provisional ballot cast by a voter whose name is not in the Precinct Registry shall be considered verified and approved for counting if evidence of the voter's valid and timely voter registration is found and if:

(1) the provisional ballot was cast in the precinct of the voter's residence as indicated in the voter registration record or other evidence found; and

(2) in the case of a partisan primary election, the voter cast a provisional ballot for the same party as that of the voter's political affiliation in the voter registration record or other evidence found.

(b) **Identification Required Voter.** A provisional ballot cast by a first-time voter in a federal election who is unable to provide one of the forms of identification listed in 230:35-9-16 shall be considered verified and approved for counting if the last name, date of birth, Oklahoma driver license number, if known, and the last four digits of the Social Security number, if available, match the information in OEMS.

(c) **Political affiliation dispute.** In the event a voter in the Primary or Runoff Primary Election casts a provisional ballot after disputing the political affiliation indicated in the Precinct Registry, the provisional ballot shall be counted only if evidence of a timely and valid change of political affiliation is found.

(d) **Uniformed services voters.** Uniformed services voters are those identified in 230:30-3-3 and in ~~230:35-3-116.~~ 230:35-5-175. Provisional ballots cast by these voters shall be counted. [26:7-116.1; 26:14-121]

(e) **Overseas voters.** Overseas voters are those voters identified in 230:30-3-3 and ~~230:35-3-116~~ 230:35-5-175. Provisional ballots cast by these voters shall be counted. [26:7-116.1; 26:14-121]

(f) **School district or municipal assignment dispute.** Voters listed in the Precinct Registry who disagree with their assignment to a particular school district or municipality may cast a provisional ballot for their preferred school district or municipality. Provisional ballots cast by these voters shall be counted only if evidence is found that the assignment indicated in the Precinct Registry is incorrect.

230:35-3-130. Provisional ballot verification procedure for voter who disagrees with school district or municipal assignment

When an application for voter registration is entered in OEMS, the Street Guide automatically assigns the residence address to the appropriate precinct, and within the precinct, the appropriate school district and municipality. See 230:15-9-18.1. In the event that a voter disagrees with the school district or municipal assignment indicated in the Precinct Registry, the voter is entitled to cast a provisional ballot in the school district or municipal election in which the voter claims eligibility. Such a provisional ballot may be counted only if evidence is found that confirms that the voter's residence address is in fact located within the appropriate school district or municipal boundary. The following steps shall be observed to investigate a provisional ballot cast as outlined in this section.

(1) Compare the voter's original registration form from the Central File with the voter registration information in OEMS to be certain that the address was entered correctly.

(2) If the voter submitted a new voter registration application form at the polling place, compare the address information on that new application with the information already in OEMS. If the address on the new application contains additional details, such as the quarter-quarter section designation, a 911 address, or a more specific physical description, check the Street Guide to determine if the address is assigned to the voter's preferred school district or municipality. If it is, the ballot shall be counted. Update the voter's registration address information in OEMS with the new address.

(3) Contact school district or municipal officials for any additional information which may be available.

230:35-3-131. Opening provisional ballot affidavit envelopes and counting provisional ballots

(a) The County Election Board members shall meet on Friday next following the election at such time as the Secretary

may prescribe to open the verified provisional ballot affidavit envelopes and to count the provisional ballots. The Board members shall follow these steps to remove the provisional ballots from the envelopes.

(1) The Board members shall receive the verified provisional ballot affidavit envelopes, sorted by precinct, from the Secretary or a designated County Election Board employee.

(2) The Board members shall open the affidavit envelopes and remove the ballot secrecy envelopes. If an affidavit envelope indicates that the voter received two or more ballots, but that not all the ballots enclosed are to be counted, see (c) of this Section.

(A) Set the affidavit envelope aside.

(B) Place the ballot secrecy envelope in an appropriate container.

(3) When all the affidavit envelopes from a single provisional ballot precinct have been opened, the secrecy envelopes shall be mixed together.

(4) The Board members shall open the ballot secrecy envelopes and remove the ballots.

(A) Set the secrecy envelope aside.

(B) Unfold the ballot and place it in the designated container for the precinct.

(b) When all the verified provisional ballot envelopes for a precinct have been opened, the ballots shall be counted. The following procedure shall be observed.

(1) The Secretary shall assign a County Election Board employee to count the provisional ballots. The members of the County Election Board shall observe the counting process.

(2) The employee assigned to count the ballots shall take the following steps.

(A) The memory pack for the precinct shall be inserted in the voting device.

(B) Press the Print Totals key to obtain a Totals Printout. Verify that the totals match exactly the Totals Printout from election night.

(C) The polls shall be reopened so that the memory pack can read additional ballots.

(~~C~~ D) Insert the ballots, one at a time, into the device. If the device returns a ballot, do not remove the ballot. Use the override key to accept the ballot, then continue inserting ballots.

(~~D~~ E) After all the ballots have been counted ~~but under no circumstance prior to 5 p.m.~~, generate at least ~~3~~ three Totals Printouts.

(3) The employee who counted the ballots and the members of the County Election Board each shall sign all the copies of the Totals Printout.

(4) The employee shall remove the counted provisional ballots and place them in a ballot transfer case. One signed copy of the Totals Printout shall also be placed in the ballot transfer case. The ballot transfer case shall be sealed with a long white State Election Board seal signed by the County Election Board members and the employee who counted the ballots. The seal shall be clearly marked to indicate the box contains counted provisional ballots.

(5) The sealed ballot transfer case shall be given to the Sheriff, who shall provide security for the counted ballots until 5 p.m. on Friday following the election or until the ballots are delivered to the district courtroom for a recount. ~~Except, however, for a state or federal election, the Sheriff shall retain custody of the sealed ballot transfer case until 5 p.m. on Tuesday next following the election or until they are delivered to the courtroom.~~

(6) One copy of the provisional ballots Totals Printout shall be made available for inspection in the County Election Board office after ~~5 p.m.~~1 p.m. on Friday following the election.

(c) If a provisional voter was issued two or more ballots and, upon verification of the voter's information, it is determined that one or more of the ballots cannot be counted, the County Election Board members shall follow these steps when opening the affidavit envelope.

(1) Open the affidavit envelope and remove the secrecy envelope.

(2) Write "Count (TYPE BALLOT CODE OF BALLOT) ballot only" on the secrecy envelope in red ink.

(3) Place secrecy envelope in the container with other secrecy envelopes.

(4) When opening the secrecy envelopes, remove from the marked envelopes only the specific ballot or ballots to be counted. Put the ballots that cannot be counted back in the secrecy envelope and set it aside with the other uncounted provisional ballot materials.

230:35-3-132. Obtaining provisional ballot results

After all the provisional ballots have been counted and the required number of Totals Printouts obtained for each precinct, County Election Board personnel shall follow the appropriate software instructions to enter the provisional ballot results in OEMS. Under no circumstances shall the results of the provisional ballot count be made public prior to ~~5 p.m.~~ 1 p.m. on Friday following the election.

SUBCHAPTER 5. INSTRUCTIONS FOR PRECINCT ELECTION OFFICIALS

PART 5. PREPARATIONS ON ELECTION DAY

230:35-5-28. Preparation of polling place

The Inspector, Judge, and Clerk meet at the polling place at 6:30 a.m. on election day and follow these steps to prepare for the election. [26:7-105]

(1) Display the American flag either inside or outside the polling place as instructed by the County Election Board Secretary.

(2) Open the election supplies container and remove the supplies as directed in the following steps.

(3) Display the Oklahoma Election Procedures --- Important Voter Information sign and the Election Law Violations sign outside the polling place so that voters can read the information before entering. Use either thumbtacks or

tape to secure the sign to a door, window, wall, or other surface.

(4) Post the Vote Here sign in a conspicuous place outside the polling place.

(5) Display at least three copies of each sample ballot. Post one set of the sample ballots near the Oklahoma Election Procedures --- Important Voter Information sign and the Election Law Violations sign.

(6) Make sure that all the ink pens work.

(7) Set up the voting booths so that you can tell whether more than one person is in a booth at any given time, but also so that voters may mark their ballots in secrecy.

(8) Post one Attention Voter poster inside each voting booth. This poster may be attached permanently to some voting booths.

(9) Put the FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet on the table. This booklet contains forms that will be used during the day. Do not tear any forms out of the booklet.

(10) Put ~~the~~ THE MANUAL FOR PRECINCT ELECTION OFFICIALS and the PRECINCT PROBLEM SOLVER on the table.

(11) Put some Oklahoma Voter Registration Application forms on the table at both the Inspector's position and the Judge's position. It is also a good idea to put some of the Oklahoma Voter Registration Application forms in a visible location away from the Precinct Officials' table, if possible.

(12) Set aside the remaining supplies. They will be used after the polls close.

230:35-5-31.1. Location and materials for provisional voting

Place the provisional voting supplies and materials on a table separate from the table for the Judge, Clerk, and Inspector. Put these items on the provisional voting table.

(1) ~~Provisional Voting Forms~~ FORMS FOR USE BY PROVISIONAL VOTING OFFICER booklet

(2) ~~Instructions for Provisional Voting Officer~~

~~(3)~~ Provisional Voting Information handouts

(~~4~~3) Oklahoma Provisional Ballot Affidavit ~~Envelopes~~ envelopes and secrecy envelopes

(~~5~~4) Provisional Ballot Rosters

(~~6~~5) Oklahoma Voter Registration Application forms

(~~7~~6) Orange Provisional ~~Ballots bag~~ Ballot Bag

PART 15. AFTER THE POLLS CLOSE

230:35-5-76. Repacking supplies

The Inspector, Judge, and Clerk repack all election supplies into the same container in which they were received. Use the following list while repacking to verify that all supplies and materials are accounted for.

(1) Used signs (Vote Here, Oklahoma Election Procedures --- Important Voter Information, Election Law Violations, and Attention Voter, if applicable) and sample ballots.

(2) FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet.

(3) THE MANUAL FOR PRECINCT ELECTION OFFICIALS.

(4) PRECINCT PROBLEM SOLVER.

(5) VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS.

(6) Used and unused Oklahoma Voter Registration Application forms.

(7) Secrecy folders.

(8) Ink pens.

(9) Remaining paper clips, rubber bands, thumbtacks, and tape.

(10) Scissors.

(11) Broken seals from memory pack door and ballot box sides.

(12) Unused Oklahoma Provisional Ballot Affidavit ~~Envelopes~~envelopes, secrecy envelopes, handouts and other materials and supplies.

(13) All other remaining reusable supplies.

PART 21. VOTERS LISTED IN PRECINCT REGISTRY WHO HAVE PROBLEMS WITH ELIGIBILITY

230:35-5-113.2. Determining voter's school district or municipality

(a) The school district in which a voter is eligible to vote is listed in the column labeled "School Dist" in the Precinct Registry. An asterisk beside the school district indicates that the voter also is entitled to a ballot for the corresponding ~~vocational-technical~~ technology center school district. A list of school districts and corresponding ~~vocational-technical~~ technology center school districts in the precinct is included in the legend on the precinct school district map. The Judge writes the school district and ~~vocational-technical~~ technology center school district ballot codes in the "~~Ballots~~ Ballot Issued" column in the Precinct Registry and tells the Clerk the elections in which the voter is voting.

(b) The municipality in which a voter is eligible to vote is listed in the column labeled "Muni" in the Precinct Registry. If the word "None" appears in the "Muni" column, the voter does not reside within the boundaries of a municipality and is not eligible to receive a municipal ballot. If the municipality nominates and elects its officers by ward, the municipal code in the "Muni" column will include a numeral to indicate the ward number to which the voter's residence is assigned. The Judge writes the municipal code and the appropriate municipal ballot codes in the "~~Ballots~~ Ballot Issued" column in the Precinct Registry and tells the Clerk the elections in which the voter is voting.

(c) The "School Dist" and/or the "Muni" column in the Precinct Registry is blank for some voters. The Judge follows these steps when the voter's school district or municipal code is not indicated.

(1) Show the voter the precinct school district or municipal map.

(2) Ask the voter to find his residence on the map and to determine from the map the school district and/or municipality in which he or she lives.

(3) If a ~~vocational-technical~~ technology center school district also is holding an election in the precinct, determine the corresponding ~~vocational-technical~~ technology center district from the information in the legend on the map.

(4) If the municipality is holding an election in one or more wards, ask the voter also to determine from the municipal map the ward in which he or she lives.

(5) Tell the voter to sign the Precinct Registry over the message in the signature space.

(6) Write the school district, ~~and vocational-technical~~ technology center district, and/or municipal ballot codes in the "~~Ballots~~ Ballot Issued" column.

(7) Tell the Clerk the elections in which the voter is voting.

(8) Return to the routine procedure.

(d) If a voter tells you that the school district or municipality indicated in the Precinct Registry is incorrect, the Judge follows these steps.

(1) Show the voter the precinct school district or municipal map.

(2) Ask the voter to find his residence on the map and to determine from the map the school district or municipality in which he or she lives.

(3) If the voter says that the map is incorrect, the voter is entitled to cast a provisional ballot. Fill out a ~~provisional ballot voucher~~ Provisional Ballot Voucher indicating the school district or municipality in which the voter claims to reside and tell the voter to take it to the Inspector or the Provisional Voting Officer.

PART 34. PROVISIONAL VOTING PROCEDURES

230:35-5-175. Uniformed Services or Overseas Voter

(a) Some persons may be entitled to vote a provisional ballot and to have that ballot counted without being registered if they are eligible to become registered voters, if they are residents of the precinct, and if they also meet one of the following requirements.

(1) The person was honorably discharged from the Uniformed Services of the United States and has returned home 24 days or less before the election.

(2) The person is on officially authorized leave from the Uniformed Services of the United States and has returned home 24 days or less before the election.

(3) The person was terminated or is on leave from his or her service or employment overseas and returned home 24 days or less before the election.

(4) The person is the spouse or dependent of a person described in (1), (2) or (3) of this subsection.

(b) ~~The Inspector/Provisional Voting Officer follows this procedure.~~

~~(1) Ask the voter to fill out and sign the Oklahoma Voter Registration Application form.~~

~~(2) Print the voter's name, address, political affiliation and the ballots to be issued to the voter in the appropriate spaces on the Provisional Ballot Affidavit Envelope.~~

~~(3) Tell the person to read the oath printed on the Provisional Ballot Affidavit Envelope.~~

~~(4) Tell the voter to sign the Provisional Ballot Affidavit Envelope.~~

~~(5) Tell the Clerk the voter's political affiliation, school district, and municipality, as applicable, and obtain the appropriate ballots.~~

~~(6) Fold each ballot in half before giving it to the voter. Give the voter the affidavit envelope, a secrecy envelope, and the ballots.~~

~~(7) Tell the voter to go to the provisional ballot voting booth to mark the ballot. Tell the voter to follow these steps to secure the ballot after marking it.~~

~~(A) Fold the ballot in half.~~

~~(B) Put the folded ballot in the secrecy envelope and seal the envelope.~~

~~(C) Put the sealed secrecy envelope containing the marked ballot inside the affidavit envelope and seal the affidavit envelope.~~

~~(D) Return to the Inspector or the Provisional Voting Officer with the sealed affidavit envelope.~~

~~(8) If necessary, follow the appropriate procedures for a spoiled ballot or for voter assistance using the Precinct Problem Solver.~~

~~(9) When the voter returns the sealed affidavit envelope, put it in the orange provisional ballot bag immediately.~~

~~(10) Make sure the voter takes a copy of the Provisional Voting Information handout.~~ Follow the provisional voting procedure in 230:35-5-177.

(c) Uniformed services and overseas voters who cast a provisional ballot as outlined in (b) of this section are required to swear ~~this oath by signing in the appropriate place on the Provisional Ballot Affidavit Envelope. "Do you swear or affirm that you have been honorably discharged, or that you are on leave from the uniformed services of the United States, or that you have been terminated or are on leave from your overseas service or employment and returned home 24 days or less before the election being conducted today, or that you are the spouse or dependent of such a person? [25:14-121] Do you swear or affirm that you are eligible to vote in this precinct? [26:14-121] Do you swear or affirm that you have not voted by absentee ballot in the election being conducted today?"~~ by signing in the appropriate place on the Oklahoma Provisional Ballot Affidavit envelope that they are eligible to cast the provisional ballot for one of the reasons outlined in (a) of this section.

230:35-5-176. Filling out a Provisional Ballot Voucher

The Judge shall fill out a Provisional Ballot Voucher for every voter who will cast a provisional ballot. Do not send a voter to the Inspector or Provisional Voting Officer without a voucher. Write the following information on the voucher in

the spaces provided: the voter's name; the appropriate ballot codes; the school district code, if the voter is eligible to receive a school district ballot; the municipal code, if the voter is eligible to receive a municipal election ballot; and any other necessary information. If the Precinct Registry indicates that the voter has requested absentee ballots, mark the "Absentee Ballot Requested" box. If the voter disputes the political affiliation, school district, or municipality as indicated in the Precinct Registry, write the voter's preferred political affiliation, school district, or municipality on the voucher.

230:35-5-177. Provisional voting procedure

The Inspector or the Provisional Voting Officer greets the voter and follows these steps to help the voter cast a provisional ballot.

(1) Take the ~~provisional ballot voucher~~ Provisional Ballot Voucher from the voter. If the voter did not receive a ~~provisional ballot voucher~~ Provisional Ballot Voucher from the Judge, make sure the voter has seen the Judge.

(2) Give the voter a copy of the Provisional Voting Information handout.

(3) Tell the voter that if County Election Board personnel cannot verify the voter's registration in this precinct, the provisional ballot will not be counted.

(4) Give the voter an Oklahoma Voter Registration Application form and ask the voter to fill it out and sign it. A voter is not required to complete the registration application to receive a provisional ballot but should be encouraged to do so. If the voter completes the application, set it aside in a secure place.

(5) Fill out ~~a~~ an Oklahoma Provisional Ballot Affidavit ~~Envelope~~ envelope for the voter.

(A) Write the election date, county name, and precinct number in the spaces provided at the top of the affidavit.

(B) Ask the voter for the following information and write it on the affidavit in the appropriate spaces.

(i) name

(ii) residence address

(iii) date of birth

(iv) Oklahoma driver license number, if available

(v) last four digits of Social Security number

(vi) political affiliation

(C) Place a checkmark beside the appropriate statement of the reason the voter is casting a provisional ballot. Note the following special instructions for some of the listed reasons.

(i) **Voter Not in Precinct Registry.** If the voter offers any information about where and when he/she may have registered, last voted, or another name under which he/she may be registered, record the information in the spaces provided. If the voter has a voter identification card, ~~put it inside the affidavit envelope~~ take it and attach it with a paperclip to the voter registration application form.

(ii) **Voter without acceptable form of identification.** Ask the voter to read ~~and sign the Affidavit of Identity~~ the statement on the affidavit envelope and the oath before signing the affidavit.

(iii) **Voter disputes political affiliation indicated in Precinct Registry.** Write the political affiliation claimed by the voter in the space provided.

(iv) **Voter disputes school district or municipal assignment in Precinct Registry.** Write the name of the school district or municipality in which the voter claims to reside.

(v) ~~**Uniformed Services or Overseas Voter.** Ask the voter to read and sign the Uniformed Services and Overseas Voter Oath on the affidavit envelope.~~

~~(vi)~~ **Other.** Record any explanation the voter offers concerning the reason he/she may be eligible to vote.

(D) Record the ballot style or styles indicated on the voter's Provisional Ballot Voucher in the spaces provided on the Affidavit.

(6) Ask the voter to review the information on the affidavit. Tell the voter to read the oath and to sign it. Also ask the voter to write his/her daytime telephone number in the space provided.

(7) Sign the affidavit in the space provided for the Provisional Voting Officer.

(8) Print the voter's name on the Provisional Ballot Roster and record the codes for the ballots issued to the voter in the space provided. Tell the voter to sign the roster.

(9) If the voter's ~~provisional ballot voucher~~ Provisional Ballot Voucher indicates that the voter has requested absentee ballots, have the voter sign the Absentee Voter Affidavit.

(10) Issue the appropriate ~~state ballot and any other~~ ballots indicated on the voucher. Fold each ballot in half before giving it to the voter. Put the voucher inside the affidavit envelope. Give the voter the affidavit envelope, a secrecy envelope, and the ballot.

(11) Tell the voter to go to the provisional ballot voting booth to mark the ballot. Tell the voter to follow these steps to secure the ballot.

(A) Fold the ballot in half.

(B) Put the folded ballot inside the secrecy envelope and seal the envelope.

(C) Put the sealed secrecy envelope inside the affidavit envelope and seal the affidavit envelope.

(D) Return to the table with the sealed affidavit envelope.

(12) If necessary, follow the procedures for spoiled ballots (230:35-5-127) or voter assistance (230:35-5-120.1), using the ~~Precinct Problem Solver~~ PRECINCT PROBLEM SOLVER.

(13) When the voter returns the sealed affidavit envelope, put it in the orange ~~provisional ballot bag~~ Provisional Ballot Bag immediately.

(14) Tell the voter that information concerning disposition of the provisional ballot may be obtained from the County Election Board after 5 p.m. on Friday. Make sure the voter takes a copy of the Provisional Voting Information handout.

SUBCHAPTER 9. HAVA REQUIREMENTS

PART 3. PROVISIONAL VOTING

230:35-9-7. Voters who may cast a provisional ballot

Voters in the circumstances described as follows may cast provisional ballots.

(1) **Persons not listed in the Precinct Registry.** Persons who are not listed in the Precinct Registry for the precinct of their residence but who believe themselves to be registered voters eligible to vote in the election shall be entitled to cast a provisional ballot. [26:7-116.1]

(2) **Voters required to show identification.** Registered voters who are required to show identification when voting for the first time in a federal election and who do not have one of the acceptable forms of identification are entitled to cast a provisional ballot. [26:7-116.1]

(3) **Voters who dispute political affiliation indicated in Precinct Registry.** Registered voters who dispute the political affiliation indicated in the Precinct Registry for a primary election are entitled to cast a provisional ballot for their preferred political party. [26:7-116.1]

(4) **Uniformed services voters.** Uniformed services voters who have been honorably discharged or who are on authorized leave, and the spouses and eligible dependents of such voters, and who returned home too late to register to vote shall be entitled to cast a provisional ballot in the precinct of their residence and to have that ballot counted. [26:7-116.1; 26:14-121]

(5) **Overseas voters.** Overseas voters who have been terminated in their overseas service or employment or who are on leave from their overseas service or employment, and the spouses and eligible dependents of such voters, and who returned home too late to register to vote are entitled to cast a provisional ballot in the precinct of their residence and to have that ballot counted. [26:7-116.1; 26:14-121]

(6) **Voters who dispute school district or municipality indicated in Precinct Registry.** Registered voters who dispute the school district or municipality indicated for them in the Precinct Registry or on the map are entitled to cast a provisional ballot for the school district or municipality in which they claim to reside.

230:35-9-9. Extension of provisional ballot verification period

The Secretary of the State Election Board shall be authorized to extend the provisional ballot verification period beyond ~~5 p.m.~~ 1 p.m. on Friday in the event that any County Election Board Secretary is unable to complete the verification of all provisional ballots by that time. In the event that the Secretary of the State Election Board extends the verification period beyond ~~5 p.m.~~ 1 p.m. on Friday, the period shall be extended statewide and no County Election Board shall release any information concerning provisional ballots until authorized to do so by the Secretary of the State Election Board. The time for contests of election and the time to certify the results of the election also shall be extended by the same number of hours or days, excluding Saturday and Sunday, as the verification period. For example, if the verification period is extended until 5 p.m. on Monday next following the election, the deadline for filing a contest of election shall be extended until 5 p.m. on Monday next following the election. In this example, the final election results would be certified no earlier than 5 p.m. on Monday next following the election.

[OAR Docket #06-727; filed 4-24-06]

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

[OAR Docket #06-728]

RULEMAKING ACTION:
PERMANENT final adoption

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 [AMENDED]
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
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]

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In Subchapter 1, the purpose section is amended to change a reference to a "vocational-technical school district" to the currently correct term "technology center school district."

In Subchapter 3, a Section concerning times for special elections is amended to include new statutory language from Title 26, Section 3-101.

In Subchapter 5, Sections are amended to include new statutory language concerning the scheduling of home rule charter municipal elections (Title 26, Section 13-101,1) and to update language concerning the provision of municipal maps to the County Election Board office. A new Section is added to create for election purposes an effective date for municipal boundary changes. Sections are amended to add references to other Sections in Title 230 and to clarify tasks relating to the certification of multi-county municipal elections.

In Subchapter 7, a new Section is added to provide information about a new statutory requirement for school districts to post certain legal notices at the County Election Board office (Title 26, Section 13A-109 as amended by HB1627). A Section concerning mill levy ballots is amended to include information on levies that have been made permanent as provided by law. Another Section is amended to include statutory language concerning candidates filing for Board of Education (Title 26, Section 13A-105) which due to an oversight has not previously been added to the rules. Several Sections are amended to clarify tasks related to the certification of multi-county school district elections.
CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

230:40-1-1. Purpose

The rules in this Chapter provide information concerning the administration of special state and county elections, regular and special municipal elections and annual and special school district and ~~vocational-technical~~ technology center school district elections. These rules also establish procedures for conducting school union elections.

SUBCHAPTER 3. SPECIAL ELECTIONS

PART 1. CALLING SPECIAL ELECTIONS

230:40-3-1.1. Times for special elections

(a) Special elections may be held by a county, school district, ~~vocational-technical~~ technology center school district, municipality or other entity authorized to call elections only on the following days unless otherwise provided by law. [26: 3-101(B)]

(1) **Odd-numbered years.** In odd-numbered years, special elections may be held on the second Tuesday in January, February, May, June, July, August, September, October, November and December; and on the first Tuesday in March and April. [26:3-101(B)]

(2) **Even-numbered years.** In even-numbered years, special elections may be held on the second Tuesday in January, February, ~~March,~~ May, and December; on the first Tuesday in March and April; on the last Tuesday in July; on the fourth Tuesday in August; and on the first Tuesday after the first Monday in November. [26:3-101(B)] In any year when a Presidential Preferential Primary Election is held in February, the date for special elections shall be the same date as the Presidential Preferential Primary Election. [26:3-101(B)]

(b) *In the event that a regular or special election date occurs on an official state holiday, the election shall be scheduled for the next following Tuesday.* [26:3-101(C)]

SUBCHAPTER 5. MUNICIPAL ELECTIONS

PART 1. CITIES WITH HOME RULE CHARTERS

230:40-5-5. Statutory election dates required for home rule charter cities

Effective July 1, 2005, no County Election Board shall be required to conduct elections for any municipality, including

home rule charter municipalities, on any date other than an election date specified in state election law. [26:13-101.1] In addition to scheduling elections on statutory election dates, all municipalities that hold both primary and general elections shall provide no fewer than ~~45~~ 35 days between the elections. [26:13-101.1] However, a home rule charter city may schedule primary and general elections on the identified election dates in March and April when there are fewer than 35 days between the election dates. [26:13-101.1]

PART 5. STATUTORY MUNICIPALITIES

230:40-5-18. Notice of elections

A statutory municipality shall submit a resolution to the Secretary of the County Election Board conducting the election not fewer than 15 days before the filing period. [26:13-102] In the event of a special election, such a resolution shall be submitted no fewer than 60 days before the election. [26:13-102] The resolution shall contain the following information:

(1) *The dates of the election or elections*; [26:13-102(1)]

(2) *The offices to be filled or the questions to be voted upon at the election or elections;* [26:13-102(2)]

(3) *Qualifications for such offices;* [26:13-102(3)]

(4) *Designation of which offices shall be filled by voting by ward and which offices shall be filled by voting at large;* [26:13-102(4)]

(5) *Indication of whether the election will be partisan or nonpartisan;* [26:13-102(5)]

(6) *For charter cities where the charter is silent, indication of any portion of state law which will apply; and* [26:13-102(6)]

(7) A map showing the current, correct municipal boundaries and the current, correct ward boundaries within the municipality. [26:13-102(7)]

(8) *Any other information necessary for conducting said election or elections.* [26:13-102(7)]

PART 9. PROCEDURES

230:40-5-46. Maps required

~~(a) The governing board of each municipality shall provide information defining the corporate boundaries of the municipality to the Oklahoma Tax Commission as required by state law. The governing board also shall provide notice to the Tax Commission of any changes to said boundaries as required by law and by OAC 710:65-18-10. The governing board of a municipality also shall notify the Secretary of the County Election Board of the boundary change not less than 60 days before a municipal boundary change is to become effective for sales and use tax collection purposes as described in OAC 710:65-18-10.~~

~~(b) A municipal boundary change shall not be in effect for the purpose of conducting an election unless the Secretary of the County Election Board has been notified as outlined in (a) of this section and unless said notice has occurred 60 days or more before the date of the election.~~

~~(c) For the purpose of conducting an election or for resolving any question of the eligibility of an elector to vote in a municipal election, the Secretary of the County Election Board shall use a map showing the municipal boundaries, ward boundaries within the municipality, and precinct boundaries. The map shall be either a map drawn from data in the official taxing jurisdiction boundary database provided and maintained by the Oklahoma Tax Commission, as required by Title 68 OS, Section 1354.32, or a map that has been certified as accurate by the governing board of the municipality. Effective January 1, 2007, only maps drawn from data in the official taxing jurisdiction database provided and maintained by the Oklahoma Tax Commission shall be used for all municipal elections conducted by the County Election Board and to resolve all questions of voter eligibility.~~

(a) The governing board of a municipality shall provide to the County Election Board or Boards of the county or counties wherein the municipality is located, a current, correct map of the municipality. [26:13-107] The map shall define clearly the municipal limits of and the ward boundaries within the municipality. [26:13-107] In the event that changes are made to the municipal limits or ward boundaries of the municipality, the governing board shall provide a complete, revised map. [26:13-107] It is the responsibility of the governing board of a municipality to provide a current and accurate map with a resolution calling a regular or special election.

(b) The governing board of a municipality may fulfill its responsibility for providing maps to the County Election Board by submitting information defining the municipality's corporate boundaries to the Oklahoma Tax Commission as required by state law (Title 11 O.S., Section 21-112) and by administrative rule of the Oklahoma Tax Commission (OAC 710:65-18-10) and by also reporting information about any changes in the municipality's boundaries as they occur. The Oklahoma Tax Commission and the Geo Information Systems Department of the University of Oklahoma maintain a digital mapping system for municipal boundaries. The digital maps are updated as notice of changes are received by the Tax Commission. The digital maps are available on the internet and may be downloaded and printed at no charge from the website www.geo.ou.edu. If the governing board of a municipality fails to provide the County Election Board with a map as outlined in this section, County Election Board personnel are authorized to use maps from the Geo Information Systems website both to prepare for and to conduct elections and to resolve questions of voter eligibility, and to verify provisional ballots.

(c) The governing board of a municipality that nominates by ward and elects at large shall provide the County Election Board with a map showing the current ward boundaries within the municipality prior to a candidate filing period for a regular or special election. (Ward boundary lines are indicated on the digital maps maintained by the Oklahoma Tax Commission and Geo Information Systems only for municipalities that elect by ward.)

230:40-5-46.1. Effective date of municipal boundary changes for election purposes

(a) A municipal boundary change shall be considered to be in effect 30 days after the ordinance making the change is adopted by the governing board of the municipality or at a later effective date specified in the ordinance.

(b) The municipal boundaries in effect 60 days preceding a regular or special election shall be the boundaries in effect for the election for the purposes of the County Election Board's election setup and ballot preparation tasks. The precincts open on election day shall be determined only from the map submitted to the County Election Board along with the resolution calling the election.

(c) Changes to municipal boundaries that become effective fewer than 60 days preceding an election may be considered in resolving questions of voter eligibility and in verification of provisional ballots only if documentation of the boundary change is provided directly to the County Election Board by the governing board of the municipality. Documentation shall include both a dated copy of the annexation ordinance and a map showing the annexed area. In the event that a municipal boundary change becomes effective as described in (a) of this section less than 60 days before an election and that such boundary change includes all or part of a precinct not previously included in the election, registered voters in the affected area may vote in the election according to the following procedure.

(1) Registered voters in the affected area may cast provisional ballots during in-person absentee voting.

(2) Registered voters in the affected area may cast provisional ballots at the County Election Board office between the hours of 7 a.m. and 7 p.m. on election day.

(A) Such voters on election day shall be issued the appropriate absentee ballot style according to provisional voting procedure outlined in 230:35-5-177.

(B) The Secretary of the County Election Board shall assign a member of the County Election Board staff to act as the Provisional Voting Officer for such voters.

PART 13. EXPENSES

230:40-5-60. Claim for balance of election expenses

As soon as possible following a municipal election, the Secretary shall submit a Record of Expense itemizing all election expenses to the governing board of the municipality. [26:3-105.1(D)] The Record of Expense shall show the amount prepaid by the municipality ~~for Precinct Official and Absentee Voting Board member compensation~~, as outlined in 230:40-5-59, deducted from the total amount of election expenses. The remaining balance shall be due 30 days after the Record of Expense is submitted to the municipality's governing board.

PART 15. MUNICIPALITIES IN MORE THAN ONE COUNTY

230:40-5-65. Municipalities in more than one county

(a) **Supervision.** For a municipality that is located in more than one county, the election shall be conducted by the County Election Board wherein the municipality's central offices are located. [26:13-110] This County Election Board hereafter is called the "parent County Election Board." The Election Boards of the other counties in which part of the municipality is located hereafter are called the "affected County Election Boards."

(b) **Filing.** Candidates for municipal office shall file their Declarations of Candidacy with the Secretary of the parent County Election Board.

(c) **Notification required.** The Secretary of the parent County Election Board shall notify the affected County Election Boards of the dates of the election, the names of the candidates filing for office and any propositions or questions that shall appear on the ballot. Such notification shall be in writing and shall be supplemented by oral communication, if possible.

(d) **Ballot printing.** The Secretary of the affected County Election Board shall be responsible for printing ballots for the election for use in the affected county.

(e) **Receiving supplies, making returns.** Inspectors shall receive their supplies from and return them to the County Election Board of the county wherein their polling places are located. See 230:35-3-68 and 230:35-3-68.1.

(f) **Affected ~~County Results~~county results.** Affected County Election Boards shall meet on election night to canvass results. The Secretary of an affected County Election Board shall report the results and the number of signatures on the Provisional Ballot Roster to the parent county on election night either by telephone or by fax. The County Election Board in an affected county shall meet after 5 p.m. on Friday following the election to certify the final election results. The Secretary of the affected County Election Board shall fax a signed copy of the Official Certification Report to the parent County Election Board as soon as possible after the final results are certified on Friday evening. One copy of the ~~official certification report~~ Official Certification Report signed by a quorum of the affected County Election Board shall be mailed to the parent County Election Board. See 230:35-3-91.

(g) **Certification.** The parent County Election Board shall meet on election night to canvass returns from all precincts in the county and results reported by telephone or fax from each affected county. The results for precincts in affected counties shall be entered manually into OEMS based on the results received by telephone or fax on election night. Final election results shall be certified after 5 p.m. on Friday following the election. The affected County Election Boards shall fax a copy of the signed Official Certification Report to the parent County Election Board. Upon receipt and verification of the faxed Reports, the parent County Election Board shall certify the final election results. See 230:35-3-91.

(h) **Expenses handled through parent board.** The parent County Election Board shall receive claims from all affected counties and shall make all claims to the municipality. The parent County Election Board shall receive payment for election expenses from the municipality and shall pay all expenses

incurred in the election, including lump sum payments to affected County Election Boards for expenses incurred in those counties.

(i) **Reimbursement to affected county.** Upon receipt of the payment from the parent County Election Board, the Secretary of the affected County Election Board shall deposit the payment in the Special Depository Account and shall pay expenses incurred in the county.

(j) **Absentee voting.** Voters who vote by absentee ballot in a multi-county municipal election must make application to and receive absentee ballots from the County Election Board of the county in which they are registered.

(k) **Provisional voting.** Voters who may vote by provisional ballot in a multi-county municipal election must cast the provisional ballot in the correct precinct in the county in which they reside.

PART 17. SPECIAL ELECTIONS

230:40-5-77. Special elections for municipal offices

(a) **Special partisan elections.** When a special partisan election must be held to fill a vacancy in an elected municipal office, the resolution of the municipality's governing body shall contain the following information. [11:16-114]

(1) The dates for a three-day filing period which shall begin on a Monday and end the following Wednesday. [11:16-114] The filing period shall begin not less than 15 days from the date of the resolution. [11:16-114]

(2) The date of the special primary election, which shall be not less than ~~45~~ 35 days after the close of the filing period. [11:16-114]

(3) The date of the special general election, which shall be not less than ~~45~~ 35 days after the date of the special primary. [11:16-114]

(4) A home rule charter municipality may schedule primary and general elections on the identified election dates in the months of March and April when there are fewer than 35 days between the election dates.

(b) **Special nonpartisan elections.** When a special nonpartisan election must be held to fill a vacancy in an elected municipal office, the resolution of the municipality's governing body shall contain the following information. [11:16-114]

(1) The dates ~~of~~ or a three-day filing period ~~beginning~~ which shall begin on a Monday and ~~ending~~ end on the following Wednesday. [11:16-114] The filing period shall begin not less than 15 days from the date of the resolution. [11:16-114]

(2) The date of the special general election, which shall be not less than ~~45~~ 35 days after the close of the filing period. [11:16-114]

(c) **Time for special election resolution.** A copy of the resolution or order shall be filed with the Secretary of the County Election Board not less than 60 days preceding the date of the special general election. [11:16-114; 26:13-102]

(d) **Dates for special elections.** Special municipal elections may be called only on election dates established by state law. [26:13-101.1]

SUBCHAPTER 7. SCHOOL ELECTIONS

PART 1. DATES AND NOTICE FOR ANNUAL SCHOOL ELECTIONS

230:40-7-4. Posting copy of legal notice of school election at County Election Board office

(a) The Board of Education of school districts and technology center school districts are required by law to publish a legal notice of all regular and special elections. In addition to publishing the notice as required by law, the Board of Education is required to post a copy of the legal notice at the County Election Board offices in all counties included in the district.

(b) Upon receipt of a copy of a legal notice described in (a) of this section, the Secretary of the County Election Board shall post the notice in a conspicuous location in the County Election Board office. The Secretary of the parent County Election Board of a multi-county district shall mail or fax a copy of the legal notice to each affected County Election Board, where it also shall be posted.

PART 7. BALLOT PRINTING

230:40-7-29. Mill levy ballots

(a) **Ballot text.** Each school district is responsible for providing the text of the mill levy questions to the Secretary of the County Election Board in the manner described in 230:40-7-3. The Secretary shall cause the text provided by the school district to be printed on the school district's ballot.

(b) **Ballot order.** Mill levy questions for all school districts shall appear on the ballot in the following order.

(1) Emergency levy.

(2) Local support levy.

(3) Building fund levy.

(c) **Ballot heading.** The number of mills in the levy shall not appear in the heading printed on the ballot.

(d) **Permanent levies.** If a school district has voted to establish permanent levies, the emergency, local support, and building fund levies shall not appear on the annual ballot.

PART 23. MULTI-COUNTY SCHOOL DISTRICTS

230:40-7-106. Board meetings shall be scheduled

The County Election Board in each affected county shall schedule a meeting to canvass returns ~~and to certify the results~~ on the night of the election. The parent County Election Board shall schedule a meeting to canvass returns on election night. Another meeting shall be scheduled ~~by the parent County Election Board~~ after 5 p.m. on Friday following the election to certify the final results of the election.

230:40-7-107. Reporting results to parent County Election Board

Affected County Election Boards shall meet on the night of the election to canvass returns ~~and certify~~ and report results to the parent County Election Board ~~in writing~~. The results shall be in the form of an ~~official certification report~~ Official Certification Report signed by a quorum of the affected County Election Board as outlined in 230:35-3-91. A copy of the signed Official Certification Report shall be faxed to the parent County Election Board. The original, signed certification report shall be mailed ~~or delivered~~ to the parent County Election Board on election night. ~~The results also shall be reported to the parent county by telephone or by fax on election night for informational purposes.~~ The affected County Election Board shall meet again after 5 p.m. on Friday following the election to certify the final election results to the parent County Election Board.

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

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230:45-3-9. Conducting the recount [AMENDED]
230:45-3-10. All ballots must be counted [AMENDED]
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A Section is Subchapter 3 is amended to clarify the elections for which the County Sheriff is required to provide security for voted ballots. Several Sections are amended to include references to provisional ballots.

CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 3. RECOUNTS

PART 1. RECOUNTS FOR COUNTY OFFICE

230:45-3-5. Sheriff to provide security for ballots

~~(a)~~ It is the duty of the County Sheriff to provide security for the ballot transfer boxes for all elections ~~involving candidates~~ from election night until ~~5 p.m. on the Friday following the election~~ the county's final election results are certified or until the ballot transfer boxes are delivered to the District Courtroom, whichever is later. [26:8-110] The Secretary shall inform the Sheriff when there will be an election ~~involving candidates~~.

~~(b) In the event that a recount is possible in a question election, the County Sheriff shall provide security for the ballot transfer boxes from election night until 5 p.m. on the Friday following the election or until the ballot transfer boxes are delivered to the District Courtroom, whichever is later. [26:8-110)]~~

230:45-3-9 . Conducting the recount

The County Election Board shall open the ballot transfer box from each requested precinct or for absentee ballots individually and shall assign the ballot cards to the person assigned to operate the voting device if this is an electronic recount, or to a group of Counters if this is a manual recount. [26:8-114] In the event that provisional ballots were counted in a precinct included in the recount, the provisional ballots shall be recounted with the precinct ballots. The ballots shall be counted as outlined in 230:45-3-52 for an electronic recount. The ballots shall be counted as outlined in 230:45-5-11, 230:45-5-12 and 230:45-5-19 for a manual recount. Disputed ballots shall be referred to the County Election Board, and its decision shall be final in all cases. [26:8-114] Each candidate affected by the recount is entitled to have a Watcher present at each place where a count is being made. [26:8-114]

230:45-3-10. All ballots must be counted

When a recount in a particular precinct is initiated, ~~*all ballots in the precinct involved must be counted, and neither party to the recount shall be allowed to terminate the recount process until all such ballots have been recounted*~~ all ballots in the precinct, including any counted provisional ballots, must be counted. [26:8-116.1] The recount shall not be terminated by

any party involved in it until all ballots for the precinct being recounted have been counted. [26:8-116.1.] *This provision shall apply to all elections*. [26:8-116.1]

PART 7. RECOUNTS FOR QUESTION ELECTIONS

230:45-3-39. All ballots must be counted

All ballots, including absentee ballots and any counted provisional ballots, cast in the election in the county shall be recounted. If the election was a multi-county election, the petitioner may specify that all the ballots~~, including absentee ballots,~~ cast in all the counties affected by the election be recounted, or the petitioner may specify that ballots in only certain counties affected by the election be recounted. In no event shall the petitioner designate a recount of fewer than all the ballots cast in the election in any one county. A recount of a question election may not be halted until all ballots~~, including absentee ballots,~~ cast in the election in the designated county have been recounted. [26:8-116]

[OAR Docket #06-729; filed 4-24-06]

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

[OAR Docket #06-668]

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n/a
ANALYSIS:
Chapter 10 establishes the medical requirements for the acceptance of new members into the System and the standard operating procedures for the System. The amendments to the medical requirements reflect recent changes in the national standards utilized to establish these medical requirements. The amendments to the standard operating procedures more clearly define the procedures and requirements necessary to be in compliance with recent statutory changes and Internal Revenue compliance and provide necessary grammatical changes to the chapter for the purpose of clarity as to their meaning and intent.
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 MAY 25, 2006:

270:10-1-5. Medical conditions affecting ability to safely perform essential job functions

(a) Medical conditions that can affect a candidate's ability to safely perform essential job functions.

(b) Candidates with Category A medical conditions shall not be certified as meeting the medical requirements for entrance into the System.

(c) Candidates with Category B medical conditions shall be certified as meeting the medical requirements for entrance into the System only if they can perform the essential job functions without posing a significant safety and health risk to themselves, members, or civilians.

(1) Head.

(A) Category A medical conditions shall include the following:

(i) Defect of skull preventing helmet use or leaving underlying brain unprotected from trauma.

(ii) Any skull or facial deformity that would not allow for a successful respiratory facepiece fit test.

(iii) Any head condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Deformities of the skull such as depressions or exostoses.

(ii) Deformities of the skull associated with evidence of disease of the brain, spinal cord, or peripheral nerves.

(iii) Loss or congenital absence of the bony substance of the skull.

(iv) Any other head condition that may result in a person not being able to safely perform essential job functions.

(2) Neck.

(A) Category A medical conditions shall include the following:

(i) Any neck condition that results in a person not being able to safely perform essential job functions.

(ii) Reserved

(B) Category B medical conditions shall include the following:

(i) Thoracic outlet syndrome.

(ii) Congenital cysts, chronic draining fistulas, or similar lesions.

(iii) Contraction of neck muscles.

(iv) Any other neck condition that may result in a person not being able safely perform essential job functions.

(3) Eyes and Vision.

(A) Category A medical conditions shall include the following:

(i) ~~Far visual acuity.~~ Far visual acuity less than 20/40 binocular, corrected with contact lenses or spectacles~~.~~ or ~~Far~~ far visual acuity less than 20/100 binocular for wearers of hard contacts or spectacles, uncorrected.

(ii) Color perception. Monochromatic vision resulting in inability to use imaging devices.

(iii) Monocular vision.

(iv) Any eye condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Diseases of the eye such as retinal detachment, progressive retinopathy, or optic neuritis.

(ii) Ophthalmological procedures such as radial keratotomy, Lasik procedure, or repair of retinal detachment.

(iii) Peripheral vision in the horizontal meridian of less than 110 degrees in the better eye or any condition that significantly affects peripheral vision in *both* eyes.

(iv) Any other eye condition that may result in a person not being able to safely perform essential job functions.

(4) Ears and hearing.

(A) Category A medical conditions shall include the following:

(i) Chronic vertigo or impaired balance as demonstrated by the inability to tandem gait walk.

(ii) On audiometric testing, average hearing loss in the unaided better ear greater than 40 decibels (db) at 500 Hz, 1000 Hz, ~~and~~ 2000 Hz and 3000 Hz when audiometric device is calibrated to ANSI Z24.5.

(iii) Any ear condition (or hearing impairment) that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Unequal hearing loss.

(ii) Average uncorrected hearing deficit at the test frequencies 500Hz, 1000 Hz, 2000 Hz, and 3000 Hz greater than 40 decibels ~~dB~~ (db) in *either* ear.

(iii) Atresia, stenosis, or tumor of the auditory canal.

(iv) External otitis.

(v) Agenesis or traumatic deformity of the auricle.

(vi) Mastoiditis or surgical deformity of the mastoid.

(vii) Mèniére's syndrome, labyrinthititis, or tinnitus.

(viii) Otitis media.

(ix) Any other ear condition (or hearing impairment) that may result in a person not being able to safely perform essential job functions.

(5) Dental.

(A) Category A medical conditions shall include the following:

(i) Any dental condition that may ~~results~~ result in a person not being able to safely perform ~~the duties of a firefighter~~ essential job functions.

(ii) Reserved.

(B) Category B medical conditions shall include the following:

(i) Diseases of the jaw or associated tissues.

(ii) Orthodontic appliances.

(iii) Oral tissues, extensive loss.

(iv) Relationship between the mandible and maxilla that interferes with satisfactory post-orthodontic replacement or ability to use protective equipment.

(v) Any other dental condition that may result in a person not being able to safely perform essential job functions.

(6) Nose, oropharynx, trachea, esophagus, and larynx.

(A) Category A medical conditions shall include the following:

(i) Tracheostomy.

(ii) Aphonia.

(iii) Any nasal, orpharyngeal, esophageal, or laryngeal condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Congenital or acquired ~~deformitiy~~ deformity.

(ii) Allergic rhinitis.

(iii) Epistaxis, recurrent.

(iv) Sinusitis, recurrent.

(v) Dysphonia.

(vi) Anosmia.

(vii) Tracheal stenosis.

(viii) Naso-pharyngeal polyposis.

(ix) Any other nasal, orpharyngeal, esophageal, or laryngeal condition that may result in a person not being able to safely perform essential job functions.

(7) Lungs and chest walls.

(A) Category A medical conditions shall include the following:

(i) Active hemoptysis

(ii) Empyema.

(iii) Pulmonary hypertension.

(iv) Active tuberculosis.

(v) Obstructive lung diseases (e.g., emphysema, chronic bronchitis, asthma, etc.) with an FEV $_1$/FVC <0.75, with both FEV $_1$FVC below normal (<0.80%) as defined by the American Thoracic Society.

(vi) Hypoxemia - Oxygen saturation <90% (exercise testing indicated when resting oxygen is <94% but >90%). Evaluate VO^2 max as described by the American College of Sports Medicine (ACSM).

(vii) Asthma - Reactive airways disease requiring bronchodilator or corticosteroid therapy in the previous 2 years. A candidate who has required these medications but who does not believe he/she has asthma shall demonstrate a normal response to cold air or methacholine (PC20 greater than 16mg/ml). To be safely administered this test shall be performed by a qualified specialist and to be valid the candidate shall be off all anti inflammatory medications for at least 4 weeks and off bronchodilators the day of the testing. A negative challenge test [as described by the American ~~Thoraic~~ Thoracic Society (ATS)], along with no ~~recentepisode~~ recent episode of bronchospasm off medication shall be considered evidence that the candidate does not have clinically significant airways hyperactivity or asthma.

(viii) Any pulmonary condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Pulmonary ~~resectional~~ resection surgery, chest wall surgery, and pneumothorax.

(ii) Pleural effusion.

(iii) Fibrothorax, chest wall deformity, and diaphragm abnormalities.

(iv) Interstitial lung disease.

(v) Pulmonary vascular diseases or history of pulmonary embolism.

(vi) Bronchiectasis.

(vii) Infectious diseases of the lung or pleural space.

(viii~~vii~~) Cystic fibrosis

(ix) Central or obstructive apnea.

(x) Any other pulmonary condition that may ~~results~~ result in a person not being able to safely perform ~~as a member~~ essential job functions.

(8) Heart.

(A) Category A medical conditions shall include:

(i) Coronary artery disease, including a history of myocardial infarction, angina pectoris, coronary artery bypass surgery, coronary angioplasty, and similar procedures.

(ii) Cardiomyopathy or congestive heart failure, including signs or symptoms of comprised left or right ventricular function, including dyspnea, S3 dallop, peripheral edema, enlarged ventricle, abnormal ejection fraction, and/or inability to increase cardiac output with exercise.

(iii) Acute pericarditis, endocarditis, or myocarditis.

(iv) Syncope, recurrent.

(v) A medical condition requiring an automatic implantable cardiac defibrillator or history of ventricular tachycardia or ventricular fibrillation due to ischemic or valvular ~~herart~~ heart disease, or cardiomyopathy.

(vi) Third-degree atrioventricular block.

(vii) Cardiac pacemaker.

(viii) Idiopathic hypertrophic subaortic stenosis.

(ix) Any cardiac condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Valvular lesions of the heart, including prosthetic valves.

(ii) Recurrent suprventricular or atrial tachycardia, flutter, or
fibrillation.

(iii) Left bundle branch block.

(iv) Second-degree atrioventricular block in the absence of structural heart disease.

(v) Sinus pause >3 seconds.

(vi) Ventricular arrhythmia (history or presence of multi-focal PVC's or ~~nonsustained~~ non-sustained ventricular tachycardia on resting EKG with or without symptoms; history or presence of sustained ventricular tachycardia with or without symptoms).

(vii) Cardiac hypertrophy or hypertrophic cardiomyopathy.

(viii) History of congenital abnormality.

(ix) Chronic pericarditis, endocarditis, or myocarditis.

(x) Any other heart condition that may result in a person not being able to safely perform essential job functions.

(9) Vascular System.

(A) Category A medical conditions shall include the following:

(i) Hypertension with evidence of end organ damage or not controlled by approved medications.

(ii) Thoracic or abdominal aortic aneurysm.

(iii) Carotid artery stenosis or obstruction resulting in ~~≥50~~>50 percent reduction in blood flow.

(iv) Peripheral vascular disease resulting in symptomatic claudication.

(v) Any other vascular condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Vasopastic phenomena such as Raynaud's phenomenon.

(ii) Thrombophlebitis and varicosities.

(iii) Chronic lymphedema due to lymphadenopathy or venous valvular incompetency.

(iv) Congenital or acquired lesions of the aorta or major vessels.

(v) Circulatory instability as indicated by orthostatic hypotension, persistent tachycardia, and peripheral vasomotor disturbances.

(vi) History of surgical repair of aneurysm of heart or major vessel.

(vii) Any other vascular condition that may result in a person not being able to safely perform essential job functions.

(10) Abdominal organs and gastrointestinal system.

(A) Category A medical conditions shall include the following:

(i) Presence of uncorrected inguina/femoral hernia regardless of symptoms.

(ii) Any gastrointestinal condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Cholecystitis.

(ii) Gastritis.

(iii) GI bleeding.

(iv) Acute hepatitis.

(v) Hernia including the following:

(I) Uncorrected umbilical, ventral, or incisional hernia if significant risk exists for infection or strangulation.

(II) Significant symptomatic hiatal hernia if associated with asthma, recurrent pneumonia, chronic pain, or chronic ulcers.

(III) Surgically corrected hernia >3 months after surgical correction.

(vi) Inflammatory bowel disease or irritable bowel syndrome.

(vii) Intestinal obstruction.

(viii) Pancreatitis.

(ix) Diverticulitis.

(x) History of gastrointestinal surgery.

(xi) Peptic or duodenal ulcer of Zollinger-Ellison syndrome.

(xii) Asplenia.

(xiii) Cirrhosis, hepatic or bilary.

(xiv) Chronic active hepatitis.

(xv) Any other gastrointestinal condition that may result in a person not being able to safely perform essential job functions.

(11) Reproductive System.

(A) Category A medical conditions shall include the following:

(i) Any genital condition that results in a person not being able to safely perform essential job functions.

(ii) Reserved.

(B) Category B medical conditions shall include the following:

(i) Pregnancy, for its duration.

(ii) Dysmenorrhea.

(iii) Endometriosis, ovarian cysts, or other gynecologic conditions.

(iv) Testicular or epididymal mass.

(v) Any other genital condition that may result in a person not being able to safely perform essential job functions.

(12) Urinary system.

(A) Category A medical conditions shall include the following:

(i) Renal failure or insufficiency requiring continuous ambulatory peritoneal dialysis (CAPD) or hemodialysis.

(ii) Any urinary condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Diseases of the kidney.

(ii) Diseases of the ureter, bladder, or prostate.

(iii) Any other urinary condition that may result in a person not being able to safely perform essential job functions.

(13) Spine and Axial Skeleton.

(A) Category A medical conditions shall include the following:

(i) Scoliosis of thoracic or lumbar spine with angle ~~≥~~ >40 degrees.

(ii) ~~History of multiple spinal surgeries or spinal surgery involving fusion of more than 2 vertebrae, diskectomy or laminectomy, or rods that are still in place.~~ History of spinal surgery involving fusion of two or more vertebrae or rods that are still in place.

(iii) Any spinal or skeletal condition producing sensory or motor deficit(s) or pain due to rediculopathy or nerve root compression.

(iv) Any spinal or skeletal condition causing pain that frequently or recurrently requires narcotic analgesic medication.

(v) Cervical vertebral fractures with multiple vertebral body compression greater than 25 percent; evidence of posterior element involvement, nerve root damage, disc involvement, dislocation (partial, moderate, severe), abnormal exam, ligament instability, symptomatic, and/or less than 6 months post injury or 1 year since surgery.

(vi) Thoracic vertebral fractures with vertebral body compression greater than 50 percent; evidence of posterior element involvement, nerve root damage, disc involvement, dislocation (severe-with or without surgery), abnormal exam, ligament instability, symptomatic, and/or less than 6 months post injury or 1 year since surgery.

(vii) Lumbosacral vertebral fractures with vertebral body compression greater than 50 percent; evidence of posterior element involvement, nerve root damage, disc involvement, dislocation (severe-with or without surgery), abnormal exam, ligament instability, symptomatic, and/or less than 6 months post injury or 1 year since surgery.

(viii) Any spinal or skeletal condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Congenital or developmental malformations of the back,
particularly those that can cause instability, neurological deficits, pain, or limits flexibility.

(ii) Scoliosis with ange <40 degrees.

(iii) Arthritis of the cervical, thoracic, or lumbosacral spine.

(iv) Facet atrophism, high lumbosacral angle, hyperlordosis, Schmorl's nodes, Scheuermann's disease, spina bifida occulta, spondylolisthesis, spondylolysis, ~~Or~~ or transitional vertebrae.

(v) History of infections or infarcts in the spinal cord, epidural space, vertebrae, or axial skeletal joints.

(vi) History of laminectomy or diskectomy or vertebral fractures.

(vii) Any spinal or skeletal condition that may result in a person not being able to safely perform essential job functions.

(14) Extremities.

(A) Category A medical conditions shall include the following:

(i) Bone hardware such as metal plates or rods supporting the bone during healing.

(ii) History of total joint replacement.

(iii) Amputation or congenital absence of upper extremity limb (hand or higher).

(iv) Amputation of either thumb proximal to the mid-proximal phalanx.

(v) Amputation or congenital absence of lower extremity limb (foot or above).

(vi) Chronic nonhealing or recent bone grafts.

(vii) History of more than ~~on~~ one dislocation of the shoulder without surgical repair or with history of recurrent shoulder disorders within the last 5 years with pain or loss of motion, and with or without radiographic deviations ~~form~~ from normal.

(viii) Any extremity condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) History of shoulder dislocation with surgical repair.

(ii) Significant limitation of function of shoulder, elbow, wrist, hand, or finger, due to weakness, reduced range of motion, atrophy, unequal length, absence, or partial amputation.

(iii) Significant lack of full motion of hip, knee, ankle, foot, or toes due to weakness, reduced range of motion, atrophy, unequal length, absence, or partial amputation.

(iv) History of meniscectomy or ligamentous repair of knee.

(v) History of intra-articular, malunited, or nonunion of upper or lower extremity fracture.

(vi) History of osteomyelitis, septic, or rheumatoid arthritis.

(vii) Any other extremity condition that may result in a person not being able to perform essential job functions.

(15) Neurological disorders.

(A) Category A medical conditions shall include the following:

(i) Ataxias of heredo-degenerative type.

(ii) Cerebral arteriosclerosis as evidenced by a history of transient ischemic attack, ~~reversibile~~ reversible ischemic neurological deficit, or ischemic stroke.

(iii) Hemiparalysis or paralysis of a limb.

(iv) Multiple sclerosis with activity or evidence of progression within previous 3 years.

(v) Myasthenia gravis with activity or evidence of progression within previous 3 years.

(vi) Progressive muscular dystrophy or atrophy.

(vii) Uncorrected cerebral aneurysm.

(viii) All epileptic condtions to include simple partial, complex partial, generalized, and psychomotor seizure disorders other than those with complete control during previous 5 years. A candidate shall also have normal nerological examination without structural abnormality on brain imaging, normal awake and asleep EEG with photic stimulation and hyperventilation, as well as definitive statement ~~form~~ from a qualified neurological specialist. A candidate with epilepsy shall not be cleared for ~~fire fighting~~ firefighting duty until he or she has completed 5 years without a

seizure on a stable medical regimen or 1 year without a seizure after discontinuing all anti-epileptic drugs.

(ix) Dementia (Alzheimer's and other neuro-degenerative diseases) with symptomatic loss of function or cognitive impairment (e.g., ≤ <28 on Mini-Mental Status Exam).

(x) Any neurological condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Congenital malformations.

(ii) Migraine.

(iii) Clinical disorders with paresis, dyscoordination, deformity, abnormal motor activity, abnormality of sensation, or complaint of pain.

(iv) History of subarachnoid or intraparenchymal hemorrhage.

(v) Abnormalities from recent head injury such as severe cerebral contusion or concussion.

(vi) Any other neurological condition that may result in a person not being able to safely perform essential job functions.

(16) Skin.

(A) Category A medical conditions shall include the following:

(i) Metastatic or locally extensive basal or squamous cell carcinoma or melanoma.

(ii) Any ~~dermatolgic~~ dermatologic condition that would not allow for a successful respiratory facepiece fit test.

(iii) Any dermatologic condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Skin conditions of a chronic or recurrent nature (eszema, cysticacne, psoriasis) that cause skin openings or inflammation or irritation of the skin surface.

(ii) Surgery or skin grafting.

(iii) Mycosis fungoides.

(iv) Cutaneous lupus erthematosus.

(v) Raynaud's phenomenon.

(vi) Scleroderma (skin).

(vii) Vasculitic skin lesions.

(viii) Atopic dermatitis/eczema.

(ix) Contact or seborrheic dermatitis.

(xi) Albinism Dariers Disease, Ichthyosis Marfan's Syndrome, Neurofibromatosis, and other genetic conditions.

(xii) Folliculitis, Pseudo-folliculitis, Miliaria, Keloid folliculitis.

(xiii) Hidradenitis suppurativa, Furuncles, Carbuncles, or Grade IV acne (cystic).

(xiv) Mechano-Bullous Disorders (Epidermolysis Bullosa, Hailey Pemphigus, Porphyria, Pemphigoid).

(xv) Urticaria or Angioedema.

(xvi) Any other skin condition that may result in a person not being able to safely perform essential job functions.

(17) Blood and blood-forming organs.

(A) Category A medical conditions shall include the following:

(i) Hemorrhagic states requiring replacement therapy.

(ii) Sickle cell disease (homozygous).

(iii) Clotting disorders.

(iv) Any hematological condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Anemia.

(ii) Leukopenia.

(iii) Polycythemia vera.

(iv) Splenomegaly.

(v) Any other hematological condition that results in a person not being able to safely perform essential job functions.

(18) Endocrine and metabolic disorders.

(A) Category A medical conditions shall include the following:

(i) Diabetes mellitus, which is treated with insulin.

(ii) Diabetes not treated by insulin, which is not controlled as evidenced by Hemoglobin A1C (HbA1C) measurement.

(iii) Any endocrine or metabolic condition that results in a person not being able to safely perform job functions.

(B) Category B medical conditions shall include the following:

(i) Diseases of the adrenal gland, pituitary gland, parathyroid gland, or thyroid ~~bland~~ gland of clinical significance.

(ii) Nutritional deficiency diseases or other metabolic disorder.

(iii) Diabetes mellitus that is well controlled on diet, exercise, and/or oral hypoglycemic agents.

(iv) Any other endocrine or metabolic condition that may result in a person not being able to safely perform essential job functions.

(19) Systemic diseases and miscellaneous conditions.

(A) Category A medical conditions shall include the following:

(i) Any systemic condition that results in a person not being able to safely perform essential job functions.

(ii) Reserved

(B) Category B medical conditions shall include the following:

(i) Connective tissue disease, such as dermatomyositis, systemic lupus erythematosus, scleroderma, and rheumatoid arthritis.

(ii) History of thermal, chemical, or electrical burn injury with residual functional deficit.

(iii) Documented evidence of a predisposition to heat stress with recurrent episodes or resulting injury.

(iv) Any other systemic condition that may result in a person not being able to safely perform essential job functions.

(20) Tumors and malignant diseases.

(A) Category A medical conditions shall include the following:

(i) Malignant disease that is newly diagnosed, untreated, or currently being treated.

(ii) Any tumor or similar condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Benign tumors.

(ii) History of CNS tumor or malignancy.

(iii) History of head and neck malignancy.

(iv) History of lung cancer.

(v) History of GI or GU malignancy.

(vi) History of bone or soft tissue tumors or malignancies.

(vii) History of hematological malignancy.

(viii) Any tumor or similar condition that may result in a person not being able to safely perform essential job functions.

(21) Psychiatric conditions.

(A) Category A medical conditions shall include the following:

(i) Any psychiatric condition that results in a person not being able to safely perform essential job functions.

(ii) Reserved

(B) Category B medical conditions shall include the following:

(i) A history of psychiatric condition or substance abuse problem.

(ii) Requirement for medications that increase an individual's risk of heat stress, or other interference with the ability to safely perform essential job functions.

(iii) Any other psychiatric condition that may result in a person not being able to safely perform essential job functions.

(22) Chemicals, drugs, and medications.

(A) Category A medical conditions shall include the following:

(i) Narcotics, including methadone.

(ii) Sedative-hypnotics.

(iii) Drugs that prolong Prothrombin Time, Partial Thromboplastin Time, or INR.

(iv) Beta-adrenergic blocking agents.

(v) Respiratory medications: Inhaled bronchodilators, inhaled
corticosteroids, systemic corticosteroids, theophylline, and
leukotrienereceptor blockers/antagonists.

(vi) Any chemical drug, or medication that results in a person not being able to safely perform essential job functions.

(vii) Evidence of illegal drug use detected through testing, conducted in accordance with Substance Abuse and Mental Health Service Administration (SAMHSA), shall be a Category A medical condition.

(viii) Evidence of clinical intoxication or measured blood alcohol level that exceeds the legal definition of intoxication according to the AHJ at the time of medical evaluation shall be a Category A medical condition.

(B) Category B medical conditions shall include the following:

(i) Cardiovascular agents.

(ii) Stimulants.

(iii) Psychoactive agents.

(iv) Corticosteroids.

(v) Antihistamines.

(vi) Muscle relaxants.

(vii) Any other chemical drug, or medication that results in a person not being able to safely perform essential job functions.

270:10-1-8. Standard operating procedures

(a) **Benefits.**

(1) All pension benefits are paid in arrears the last working day of the month.

(2) In determining a paid member's normal retirement date, fractional round-up of months and days shall not be used even if the member has volunteer credited service.

(3) If a member serves the majority of the final month of service, the final month will count as a full month of credited service.

(4) Where longevity pay or other salary which requires contributions is paid in a lump sum to a member, only the amount that would have been paid for a member's last thirty (30) months of credited service will be used for determining final average salary.

(5) Retirement pursuant to 11 O.S. § 49-106 has at times included reemployment of a member by a participating municipality in a position which is not covered by the System. Thus, in-service distributions from the System to such a member are permitted. If a retired member is reemployed by a participating municipality in a paid position which is covered by the System, such member's monthly retirement payments shall cease during such period.

(b) **Clerks and fire chiefs.**

(1) The clerk and/or the fire chief of a participating municipality, fire protection district, county fire department or development authority are responsible for the administration of local retirement issues affecting all members of

the System, including but not limited to enrollment of eligible members, assisting members in making application for benefits, and collection and payment of employer and member contributions.

(2) The clerk and/or the fire chief shall notify the System of any changes regarding active members such as termination, mailing addresses, and deaths. The fire chief will assist the clerk in obtaining necessary information concerning active members. Notices of termination must be provided on the System's Form 8 and shall be signed by the Fire Chief.

(c) **Volunteer firefighters.**

(1) A member of the System changing status from a paid member to a volunteer member is not entitled to combine the paid credited service and the subsequent volunteer credited service towards a paid or a volunteer pension. If a paid member has completed ten (10) years but less than twenty (20) years of credited service, the member would be eligible for a paid vested benefit. The member would need to complete ten (10) or more years as a volunteer member to be eligible to receive a vested volunteer benefit.

(2) Volunteer members are deemed to be employees of a fire department of a participating municipality for the purposes of the administration of the System.

(d) **State Board.**

(1) Applications for pension benefits will not be considered by the State Board until the applicant terminates employment with the fire department of a participating municipality on or before the date of the meeting of the State Board in which the application is considered.

(2) Applications for pension benefits, entrance into the system, refunds of contributions, etc. will be placed on the State Board agenda when all paper-work has been properly completed and received by the ~~State Office~~ system. All necessary paper-work should be filed with ~~State Office~~ system no later than the Friday preceding the State Board's regular meeting so as to allow for sufficient time to process the application.

(e) **Member deaths and beneficiaries.**

(1) Guardian checks will be addressed with the Guardian's name and the statement: "Guardian of _____" on the face of the check.

(2) The Estate of the retiree or beneficiary shall be entitled to the benefit check written for the month a retiree or beneficiary dies.

(3) To continue monthly benefits on a child who has reached eighteen (18) years of age, verification that the child is enrolled full-time in an accredited school of learning must be received by the System. Documentation is required each semester until the child reaches twenty-two (22) years of age or marries at which time the benefits will cease.

(4) Step children and grandchildren of members are not beneficiaries unless they are adopted by the member.

(5) Children adopted prior to January 1, 1981, are considered beneficiaries even though the child(ren) may have been adopted after the member's retirement date.

(6) A valid marriage certificate or other necessary proof of marriage is required before an Application of Surviving Spouse for Pension can be considered by the State Board.

(f) **Membership.**

(1) A part-time firefighter shall not belong to the System.

(2) All firefighters must be members of the System if their employer is a participating municipality in the System.

(3) A candidate for a paid firefighter position must first complete a required State Board approved pre-employment physical performance/agility test and physical examination in order to participate and receive any benefits from the System. The physical examination will be reviewed by ~~the State Board's~~ a physician, selected by the State Board, to determine if the applicant meets the required medical standards. When the System receives all the information necessary for entrance into the System, including the written notice from the ~~System's~~ physician, selected by the State Board, that the candidate has met the minimum medical requirements for entrance, the Executive Director shall have the authority to approve an entrance date for the candidate no earlier than the date all the necessary information for entrance is received or the actual hire date whichever is later, provided that the date between the time of the administration of the physical examination and the approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than six (6) months. The State Board shall have the authority to deny or revoke the membership of a candidate submitting false information in such candidate's membership application and shall have the final authority in determining eligibility for membership in the System.

(4) An applicant for a paid firefighter position, who is an active volunteer firefighter with the same fire department, and who has passed the physical performance/agility test approved by the State Board as a condition for entrance as a volunteer firefighter shall only be required to pass the physical examination upon being employed as a paid firefighter if employed by the same fire department.

(5) A terminated paid firefighter who returns to work as a paid firefighter within six (6) months of his or her termination date will not be required to complete another physical examination.

(6) The classification of a paid firefighter shall be a firefighter who is carried on the city payroll as a paid firefighter and who receive a salary which is more than twice the amount of the minimum pension of a volunteer firefighter. Any firefighter making more than this amount will need to complete the required physical performance/agility test and physical exam and his or her employer must remit both the employee and employer contributions to the System.

(g) **Credited Service.**

(1) If a firefighter is off the participating municipality's payroll for a period of time and ~~is not contributing~~ employer and employee contributions are not received ~~to~~ by the System, that period of time will not count ~~towards retirement~~ as credited service until said contributions are received by the System.

(2) New volunteer cities joining the System may purchase up to five (5) years of credited service for each member of the department at the annual rate in effect as of the date of purchase, provided verifiable evidence of active firefighter service for the purchased years for each individual is provided to the System. Even though a city is exempt from contributions, contributions must be paid for a volunteer firefighter to receive purchased credit.

(3) If a question arises concerning a member's correct amount of service time, the member must submit to the State Board three (3) affidavits, based upon the actual knowledge of the member's correct service time~~,~~ and all other necessary documentation~~,~~ as may be required by the State Board. The Chairman of the State Board~~,~~ may direct a member of the State Board or an employee of the System to visit the member and the city in question for further verification. Service time may be corrected to allow not more than twenty (20) years of service.

(4) Volunteer firefighters changing to paid firefighters.

(A) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter on or after May 15, 1992, and serves ten (10) or more years as a paid firefighter, shall be entitled to credit not more than five (5) years of volunteer time toward twenty (20) years of credited service to qualify to receive a paid service pension. The volunteer firefighter shall be entitled to credit to the amount of credited service any remaining volunteer time, over and above the five (5) years of volunteer time, computed at one-twentieth (1/20) of a volunteer pension of each additional volunteer year, but not to exceed thirty (30) years of credited service

(B) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter before May 15, 1992, and serves ten (10) or more years as a paid firefighter, shall be entitled to credit all of the firefighter volunteer time as paid credited service to receive a paid service pension.

(h) **Disability.**

(1) Applications for disability pensions shall provide medical evidence certifying the disability, proof of injury unless otherwise provided, and that the applicant can no longer perform the duties of a firefighter. The proof of injury must be proof of the specific injury that prevented the disability pension applicant from continuing the duties of a firefighter from the time of injury until present. In a case where a disability applicant returned to performing the duties of a firefighter at any time following the injury, the proof of injury must be accompanied by proof that certifies cumulative evidence of a continuing condition relating to that specific injury until the time of filing the disability application. In a case where a firefighter returned to a "light duty" or "restricted duty" only status, proof certifying the disability applicant's work status from the injury time until present shall be submitted along with the disability application. The application shall be filed with the Local Board, if the Local Board exists, or the Executive Director of the System. The existing Local Board or the Executive Director of the System will determine if additional medical evidence is required. If additional medical evidence is required, the State Board shall be responsible for payment of any physical examinations and certifications.

(2) If any additional medical evidence is produced concerning a disability pension application, said medical evidence must be presented to the Local Board, if the Local Board exists, or the Executive Director before the State Board considers the application. If an applicant requests a hearing before the State Board, all evidence concerning the application may be presented providing all parties affected by the hearing agree.

(3) A stroke condition that has been medically certified to be caused by heart disease shall be categorized as heart disease for the purpose of applying line of duty presumptions pursuant to 11 O.S. §49-110.

(4) Any additional medical testing requested by a physician for the purpose of certification of a disability at the request of an existing Local Board shall be approved by the Executive Director of the System prior to the medical testing.

(5) A volunteer member who has completed more than ten (10) years of credited service shall be eligible for consideration of a disability in line of duty pension pursuant to the provisions of 11 O.S. §49-110 provided that competent medical evidence is presented to support the certification of said disability request.

(6) A participating municipality may make an application for a disability pension on behalf of a member provided that medical evidence is presented supporting the existence of a disability. The member may present medical evidence to the contrary.

(7) If there are physician's statements presented which disagree or there is only one physician statement presented, then the Local Board, if one exists, or the Executive Director shall have the medical records examined by a physician of their choosing. If the participating municipality has made the application request and the member presents contrary medical evidence it shall be the responsibility of the existing Local Board or the Executive Director to obtain an authorization of release of medical records from the member prior to the third physician examination.

(i) **Local Boards.**

(1) If an existing Local Board desires to have a member, who is receiving a disability pension, re-examined by a physician for the purposes of certifying if a disability still exists, the request shall be approved by the State Board.

(2) An existing Local Board meets when necessary to review applications for benefits and disability benefits. The Local Board minutes must show action taken by roll call vote. In cities and towns where the city clerk and city treasurer hold both positions the local board becomes a

five (5) member board. The board members shall elect a vice-chairman from among all board members who shall assume the duties of the mayor/chairman in that person's absence.

(3) Any action taken by the local board must be documented. The local board must present objective evidence to the State Board regarding its recommendation. The State Board will consider only the evidence actually presented. The State Board will act upon the evidence presented and render a final decision.

(4) If the city charter provides, the city council or similar authority, in the absence of the mayor, city clerk or the treasurer, may designate an authorized official as a replacement member of the local board, such as a vice-mayor if he or she has the responsibilities of the mayor. A firefighter member of the local board cannot send a replacement. Only local board members present at a local board meeting may vote. The chairman shall have a casting vote with the members only when necessary to avoid a tie vote among local board members. All local board meetings are subject to the Open Meeting Act.

(j) **Contributions.**

(1) There shall be a sixty (60) day waiting period of refund of contributions. If the firefighter requesting the refund of contributions was terminated from service, which resulted in litigation or administrative action, the refund of contributions will not be made until there is a final judgement or conclusion to the litigation or administrative action.

(2) Gross salary shall include but not be limited to base salary, longevity pay, fire service training and other education pay, scuba pay, out of class pay, one time bonus pay earned during the current twelve (12) month period of employment, and buy back pay when paid on an annual basis and available to all firefighters. Gross salary shall not include payment for unscheduled overtime, payment for accumulated sick, annual or any other similar leave upon termination from employment, any uniform or clothing allowance, car allowance or any other compensation for reimbursement of out-of-pocket expenses. All other compensation not specifically mentioned must have contributions paid on them. Contributions shall be deducted from gross salary prior to federal and state income tax withholdings deductions.

(3) Volunteer pension contributions are due on July 1 of each year. Cities, towns or fire protection districts subject to the statutory exemption from payment of volunteer contributions shall file for the exemption with the System on an annual basis.

(4) Workers Compensation benefits shall not be considered a part of gross salary for the purpose of determining pension benefits. The System will not except member contributions related to workers compensation.

(5) If a paid member terminated employment prior to January 1, 1981, and then subsequently returns to work as a paid member after January 1, 1981 and then again terminates, contributions paid in prior to January 1, 1981 would not be refundable.

(6) Salary means a predetermined sum payable at specified and regular times for services rendered, including benefits accumulated and paid as salary; furthermore, any salary received that is to be used in computing a "final average salary" shall be reduced or pro-rated to a monthly amount. It shall be a violation of this section to establish a special pay plan for the purpose of evading the intent of this section.

(k) **Reinstatement of Prior Service.**

(1) If a paid firefighter terminates employment and receives a refund of contributions and then subsequently returns to work for a ~~fire department~~ participating municipality ~~in Oklahoma~~, all withdrawn contributions must be paid back to the System plus 10 percent (10%) interest per annum (from the date the member received his or her accumulated contributions to the date of repayment) in order for the member to receive credit for the missed credited service time.

(2) The member's payment must be made to the System within ninety (90) days following acceptance of the member's application for reinstatement of prior service.

(3) The member may pay for reinstatement of prior service by a lump-sum payment by check or money order. Effective January 1, 2002, the member may also pay for reinstatement of prior service by a lump-sum payment (with interest) from a Code Section 403 (b) annuity, a governmental 457 plan within Oklahoma or a Code Section 401 (a) qualified plan.

(l) **Deferred Option Plan (Plan B).**

(1) Upon termination of employment, a member participating in the Deferred Option Plan (Plan B) pursuant to 11 O.S. Section 49-106.1 [11-49-106.1] A, B, C, D, E and F shall have the following options:

(A) Receive a lump sum payment or installment payments of the member's accumulated Plan B balance ~~including interest~~.

(B) The State Board retains custody of the member's remaining accumulated Plan B balance until the member receives a complete and final payout. No more than once a quarter of any one year the member may elect with fifteen (15) days advance written notice, to change such payout period or amount.

(C) In addition, a member may elect, with seven (7) working days written notice, a withdrawal, but no more than one such withdrawal may be made per quarter in any one year and each withdrawal must be as of the first day of a month. If such withdrawal is made after payments have commenced under (B) above, appropriate adjustments may be made in the payout period under (B) above to reflect such withdrawal.

(D) If the member dies with a balance in the account, such balance will be paid in a lump sum or will continue to be paid in the same manner as was applicable to the member, as elected by the surviving spouse. If there is no surviving spouse, any remaining beneficiaries shall receive a lump sum payment(s) from the account equal to the balance in the account

of the member or any other approved method of payment. If there are no surviving beneficiaries, a lump sum payment from the account equal to the balance in the account shall be paid to the member's estate.

(E) The interest earned annually on the Plan B account balances shall be calculated based on the return of the investment portfolio of the fund on June 30 of each year. The determined annual interest rate shall be applied on a pro rata account balance in the year the rate is established. If a member withdraws all or a portion of his or her account balance prior to June 30 of a given plan year, the member shall receive at the time of withdrawal interest earnings on the withdrawn amount equal to the actuarial assumed interest rate as certified by the actuary in the yearly valuation report of the actuary on a pro rata basis. If the annual interest earnings calculated on June 30 of a given year exceed the actuarial assumed interest rate as certified by the actuary in the yearly valuation report of the actuary, a member who withdraws all or a portion of his or her account balance prior to June 30 of said plan year shall receive additional interest earnings equal to the difference between the minimum actuarial interest rate and the calculated interest rate on a pro rata basis.

(F) At the conclusion of a member's participation in Plan B, the member must terminate employment and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may be reemployed by a participating municipality but only in a position not covered by the System, and receive in-service distributions of such member's accrued monthly benefit from the System.

(2) Participation in the Oklahoma Firefighters Deferred Option Plan must begin the first day of a month.

(3) For a lump sum payment, direct rollover or a combination thereof, which is paid when the regular monthly benefits commence (Plan A), an exclusion ratio must be calculated and applied to the distribution amount from Plan B to determine the portion that may be excluded from income. This exclusion ratio will equal the member's after-tax contributions to the System divided by the expected return. The expected return is the sum of: (1) the member's accumulated Plan B balance plus (2) the amount of the value of the monthly pension from Plan A that the member is expected to receive over time based on single life expectancy factors from Table V issued as part of the income tax regulations under Section 72 of the Internal Revenue Code of 1986.

(m) **Deferred Option Plan under the Back DROP Provision.**

(1) For purposes of this subsection, the definitions as stated in 11 O.S. Section 49-106 [11-49-106] (H)(1) shall apply.

(2) In lieu of participating in the Deferred Option Plan (Plan B) pursuant to subsections A, B, C, D, E and F of 11 O.S. Section 49-106.1 [11-49-106.1] (referred to herein as an election under Plan B), a member may elect to participate in the Deferred Option Plan pursuant to 11 O.S. Section ~~491-106.1~~ 49-106.1 ~~H~~ (H) [49-106.1 (H) (referred to herein as an election under the Back DROP provision) and this subsection.

(A) The applicant must submit his or her completed application for participation in the Deferred Option Plan under the Back DROP provision on the form provided by the System.

(B) The application must be received by the System no later than seven (7) working days from the end of the month in order to receive a payment at the end of that month. All distributions shall be paid on the last working day of a month.

(C) Upon the member's election to participate in the Deferred Option Plan under the Back DROP provision, the member's account balance shall remain in the System under the same conditions as while an active member, unless the member requests a withdrawal.

(D) A member may receive a withdrawal as a lump sum payment or monthly installment payments. A member may also elect, with seven (7) working days written notice, a withdrawal, but no more than one such withdrawal may be made per quarter in any one year and each withdrawal must be as of the first day of a month.

(E) If the member dies with a balance in the account, such balance will be paid in a lump sum ~~of~~ or will continue to be paid in the same manner as was applicable, as elected by the surviving spouse. If there is no surviving spouse, any remaining beneficiaries shall receive a lump sum payment(s) from the account equal to the balance in the account of the member, or any other approved method of payment. It there are no surviving beneficiaries, a lump sum payment from the account equal to the balance in the account shall be paid to the member's estate.

(3) At the member's termination date, his or her monthly pension benefit shall be determined based on earlier attained credited service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance, and the member shall terminate employment with all participating municipalities as a firefighter and the member shall start receiving the member's accrued monthly retirement benefit from the System. Such member may be reemployed by a participating municipality but only in a position not covered by the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System. On the member's back drop date, the member's retirement benefit will be frozen, and at no time will the member be able to increase his or her benefit due to additional years of service, salary or other promotional increases.

(4) The member's credit of his or her deferred benefit balance shall be as follows:

(A) An amount equal to the accumulated contributions the member made to the System from his or her back drop date to termination date with interest based

upon how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan (Plan B) pursuant to ~~the~~ 11 O.S. Section 49-106.1 A-E from his or her back drop date to termination date;

(B) An amount equal to all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date with applicable cost of living adjustments and with interest based on how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan pursuant to ~~the~~ O.S. 11 Section 49-106.1 A-E from his or her back drop date to termination date: and

(C) An amount equal to one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan pursuant to 11 O.S. Section 49-106.1 A-E ~~form~~ from his or her back drop date to termination date.

(5) The provisions of 11 O.S. Section 49-106.1 B, C, E, F and G shall apply to this subsection.

(6) A member shall not participate in the Deferred Option Plan pursuant to the Back DROP provision if the member has elected to participate in Plan B pursuant to subsections A, B, C, D, E and F of 11 O.S. Section 49-101.1.

(7) For a lump sum payment, direct rollover or a combination thereof, which is paid when the regular monthly benefits commence (Plan A), an exclusion ratio must be calculated and applied to the distribution amount from the Back DROP to determine the portion that may be excluded from income. This exclusion ratio will equal the member's after-tax contributions to the System divided by the expected return. The expected return is the sum of: (1) the member's deferred benefit balance plus (2) the amount of the value of the monthly pension from Plan A that the member is expected to receive over time based on single life expectancy factors from Table V issued as part of the income tax regulations under Section 72 of the Internal Revenue Cod of 1986.

(n) **Vested Rights.**

(1) A paid firefighter who terminated active service with more than ten (10) years of credited service with the System prior to July 8, 1985, must return to active service as a paid firefighter in order to establish vested rights.

(2) A volunteer firefighter who terminated active service with ten (10) years of credited service with System prior to July 20, 1987, must return to active service as a volunteer firefighter in order to establish vested rights.

[OAR Docket #06-668; filed 4-17-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 1. OPERATIONS AND PROCEDURES

[OAR Docket #06-736]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Purpose and Definitions [NEW]
300:1-1-1. [NEW]
300:1-1-2. [NEW]
300:1-1-3. [NEW]
Subchapter 3. Administrative Operations [NEW]
300:1-3-1. [NEW]
300:1-3-2. [NEW]
300:1-3-3. [NEW]
Subchapter 5. Rulemaking and Declaratory Rulings [NEW]
300:1-5-1. [NEW]
300:1-5-2. [NEW]
300:1-5-3. [NEW]
AUTHORITY:
Grand River Dam Authority; 82 O.S. § 861 *et seq.;* 82 O.S. Supp.2005, § 861A(B)(1); 75 O.S. § 302
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ANALYSIS:
The rules describe the organization, operations and procedures of the Grand River Dam Authority with respect to its administration, rulemaking, and other activities and are intended to supplement and interpret pertinent provisions of state statutes.
CONTACT PERSON:
Gretchen Zumwalt-Smith, General Counsel, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256-5545

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 25, 2006:

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

300:1-1-1. Purpose

The rules of this Chapter have been promulgated pursuant to the provisions of the Administrative Procedures Act, 75 O.S. § 250.1 *et seq.*, and the authority of the Grand River Dam Authority, 82 O.S. § 861 *et seq.* The rules describe the organization, operations and procedures of the Grand River Dam Authority with respect to its administration, rulemaking, and other activities and are intended to supplement and interpret pertinent provisions of state statutes.

300:1-1-2. Definitions

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

"APA" means and refers to the Oklahoma Administrative Procedures Act set forth at 75 O.S. § 205.1 *et seq.*, as amended.

"Authority" or "GRDA" means the Grand River Dam Authority.

"General Manager" means the General Manager, who is the Chief Executive Officer of the Authority as defined in 82 O.S. § 864, as amended.

"OAC" means and refers to the Oklahoma Administrative Code prepared by the Secretary of State pursuant to the Oklahoma Administrative Procedures Act.

"Person" means an individual, firm, corporation, association or partnership and includes agent, employee and principal, and unless otherwise specified shall include governmental agencies, political subdivisions, public trusts and any other legal entity.

300:1-1-3. General description of the Grand River Dam Authority

The Grand River Dam Authority is a body corporate and politic and an instrumentality of the State of Oklahoma created pursuant to 82 O.S. § 861 *et seq.*, as amended. The Authority is a conservation and reclamation district and was created, generally, to control, store and preserve, the waters of the Grand River and its tributaries; to develop and generate water power and electric power; and to buy, sell, resell, interchange and distribute electric power and energy. The Authority owns and controls the Oklahoma lakes and dams known as "Grand Lake O'The Cherokees" (Pensacola Dam), Lake Hudson (Robert S. Kerr Dam), and the "W.R. Holway Reservoir" (Chimney Rock Dam, Salina Pumped-Storage Project). No tax monies are received or spent to operate the Authority. The general administrative offices of the Authority are located at 226 W. Dwain Willis Avenue, Vinita, Oklahoma 74301-0409.

SUBCHAPTER 3. ADMINISTRATIVE OPERATIONS

300:1-3-1. Purpose

The purpose of this Subchapter is to outline the method of operation of the Authority.

300:1-3-2. General course and method of operation

The following is the general course and method of operation for the Authority.

(1) **Office(s).** The principal Administrative Office of the Authority is located at 226 W. Dwain Willis Avenue, Vinita, Oklahoma 74301-0409. The Post Office Box address is: P.O. Box 409, Vinita, Oklahoma 74301-0409.

(2) **Transaction of business.** Members of the public and others desiring to contact or make inquiries and submissions to the Authority may do so in person at the principal Administrative Office of the Authority, during normal and usual business hours, 8:00 a.m. to 4:45 p.m. Monday through Friday, or by mail addressed to: The Grand River Dam Authority, P.O. Box 409, Vinita, Oklahoma 74301-0409.

(3) **Copies of rules.**

(A) Copies of all rules adopted by the Authority, other written statements of policy or interpretations of general applicability, declaratory rules, orders or other documents as may be required by law, may be inspected, unless otherwise provided for by law, for proper purposes and in a proper manner, at the principal Administrative Office of the Authority during its normal business hours. Copies of rules adopted by the Authority are also on file and available for public inspection at the Oklahoma Administrative Rules Office, a division of the Office of the Secretary of State.

(B) Fees and charges may be collected for copies, searches and other activities relating to records as allowed by law.

(4) **Meetings.** Meetings of the Board of Directors of the Authority are conducted in compliance with the Oklahoma Open Meeting Act and other applicable law. All meetings of the Authority are open to the public except as otherwise provided for by law.

(A) Members of the public may request that a matter be placed on the agenda, but the final determination as to matters placed on the agenda shall be made by the General Manager or Chair of the Authority.

(B) Individuals desiring to appear before and be heard by the Board of Directors on agenda items must make written requests for same. Such requests must be in the office of the General Manager at least three (3) working days prior to the date of the Board meeting at which they desire to be heard. Requests to appear and be heard shall be made in writing to the General Manager at the Administrative offices in Vinita, Oklahoma.

(C) Individuals who have not made a written request in accordance with the above provisions shall not be heard at the meeting except with the approval of a majority of the Board of Directors present at the meeting provided that an item which is not on the agenda shall not be discussed except as may be allowed for new business under the Open Meeting Act.

300:1-3-3. Reproduction of records and copies

(a) The Authority will furnish copies of records as promptly as practicable upon receipt of a sufficiently specific request and payment of advance applicable costs.

(b) The General Manager will appoint one or more persons of the Authority staff to act as the Open Records contact person(s). All requests for the public records will be made upon this person(s) who will be charged with making the public records available for inspection by or copying to the requesting party during normal office hours. The contact person(s) will determine whether the request is for a record not otherwise made confidential under Oklahoma law.

(c) The expense of a document search and copying shall be borne by the party requesting same in accordance with the fee schedule established by the Authority or by statute.

(d) All public records of the Authority shall be made available for public inspection at the administrative offices of the Authority during regular business hours.

(e) Such records shall not be removed from the Authority's office or the Authority's custody and control for the purpose of inspection. Any person inspecting records of the Authority may be accompanied and supervised by an Authority employee.

(f) The following are fees for reproduction of records:

(1) Paper Records

(A) Regular copy - $0.25 per page

(B) Certified copy - $1.00 per page

(C) Copy sent by fax - $0.35 per page

(D) Copy of pages larger that 8-1/2 x 11 - $0.50 per page

(2) Audio Tapes

(A) With tape provided - $5.00 per tape

(B) Without tape provided - $10.00 per tape.

(3) Electronic Records - Requester is required to furnish blank tape(s) if reproduction is not in a printout format.

(A) $50.00 per hour programming time

(B) $1,850.00 per CPU hour

(C) $50.00 per hour for other computer time.

(4) Search Fees - $25.00 per hour

SUBCHAPTER 5. RULEMAKING AND DECLARATORY RULINGS

300:1-5-1. Purpose

The purpose of this Subchapter is to outline the rulemaking process for the Authority.

300:1-5-2. Policies and procedures for rulemaking

(a) **General policies.** In proposing, considering, adopting, amending or repealing rules and taking other actions of general applicability, the Authority shall act in full compliance with the Oklahoma Administrative Procedures Act and other applicable provisions of law.

(b) **Cumulative effect of rules.** The contents of this Chapter shall be cumulative to other rules of the Authority and shall not nullify, replace or supersede other currently effective rules and regulations adopted by the Authority.

(c) **Severability of rules.** The provisions of the various sections of this Chapter and of every other currently effective rules adopted by the Authority are severable. If any parts or provisions of any such rule shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of such rule.

(d) **Lake rules.** Pursuant to 82 O.S. § 861A(B)(1), as amended, rules relating to the waters of the Grand River and its tributaries do not have to be promulgated pursuant to the APA. The Authority, on its own initiative, may, from time to time, repeal, amend or adopt Lake Rules. Public input may be solicited.

(e) **Hearings.** The Authority may hold a public hearing in connection with the promulgation of rules as required by the APA.

(f) **Request for promulgation, amendment or repeal of rules.** An interested person may request the Authority to promulgate, amend, or repeal a rule. Such request must be in writing and must state the reasons supporting the proposed rule, amendment or repeal. The request must also state whether the proposal conflicts with any existing rule. Further, the request must state what statutory provisions, if any, authorize the proposed rule, amendment or repeal. The request must be signed by the requester. Such requests must be submitted to the Authority's Legal Department at its Administrative Office in Vinita, Oklahoma.

300:1-5-3. Requests for declaratory rulings

(a) Any interested person or entity may petition the Authority for a declaratory ruling as to the applicability of any rule of the Authority. The petition shall be addressed to the Legal Department of the Authority at the administrative office in Vinita, Oklahoma.

(b) The petition must identify the rule questioned, the date on which such rule became effective, and shall summarize the contents of the rule. The petition shall contain a brief statement of the issue or issues raised by the rule which cause such a request to be made, and a statement of the petitioner's personal interest in the ruling of the Authority and how a ruling of the Authority would affect those interests.

(c) Upon receipt of the petition for declaratory ruling, the Authority shall consider the petition and within a reasonable time following receipt thereof, either deny the petition in writing with the reasons for denial, submit the petition to the Board of Directors for consideration and decision, or issue a declaratory ruling on the matter(s) contained in the petition.

[OAR Docket #06-736; filed 4-25-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 15. SURPLUS PROPERTY

[OAR Docket #06-737]

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RULES:
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300:15-1-3. [NEW]
Subchapter 3. Declaration and Approval of Surplus Property [NEW]
300:15-3-1. [NEW]
300:15-3-2. [NEW]
Subchapter 5. Sale or Disposal of Surplus Property [NEW]
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300:15-5-2. [NEW]
300:15-5-3. [NEW]
300:15-5-4. [NEW]
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SUPERSEDED EMERGENCY ACTIONS:
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ANALYSIS:
The rules provide general information and provisions pertaining to the transfer, disposal and acquisition of Grand River Dam Authority surplus property for use by state agencies, authorized entities, individuals and business entities. Pursuant to 74 O.S.Supp.2005, § 62.3(D), the Grand River Dam Authority is exempt from the provisions of the Oklahoma Surplus Property Act. These rules are promulgated to ensure that the Authority's surplus property is disposed of at fair market value, in an independent and ethical manner, and that the property or the value of the property has not been misrepresented.
CONTACT PERSON:
Gretchen Zumwalt-Smith, General Counsel, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256-5545

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 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

300:15-1-1. Purpose

This chapter provides general information and provisions pertaining to the transfer, disposal and acquisition of Grand River Dam Authority surplus property for use by state agencies, authorized entities, individuals and business entities. Pursuant to 74 O.S.Supp.2005, § 62.3(D), the Grand River Dam Authority is exempt from the provisions of the Oklahoma Surplus Property Act. These rules are promulgated to ensure that the Authority's surplus property is disposed of at fair market value, in an independent and ethical manner, and that the property or the value of the property has not been misrepresented.

300:15-1-2. Definitions

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

"Authority"or "GRDA" means the Grand River Dam Authority.

"Authorized signature" means the signature of a state employee duly authorized by the chief administrative officer of a state agency to sign forms on behalf of such agency for submission to the Authority.

"Business entity" means an individual, partnership, business trust, cooperative, association, corporation or any other firm, group or concern which functions as a separate entity for business purposes.

"Cannibalize" means to take salvageable parts from (as a disabled machine) for use in building or repairing another machine; or to make use of (a part taken from one thing) in building or repairing something else.

"Fiscal year" means the period of time from July 1 of a calendar year through June 30 of the succeeding calendar year.

"Form" means a document prescribed by the Authority's General Manager to be used by state agencies to provide information to the Authority.

"Inventory" means an itemized list of tangible assets owned by the Authority.

"Proceeds" means funds derived from the sale of surplus property.

"Public auction" means either a tangible event at a public location or an electronic event which is advertised and made available to the public via the Internet.

"Salvage or scrap" means property which, because of its worn, damaged, deteriorated, incomplete condition or specialized nature has no reasonable prospect of sale or use as designed, but has some value in excess of its basic material content.

"Supervisor" means the person in the Grand River Dam Authority designated by the Authority's General Manager to oversee the Surplus Property Program.

"Trade-in" means equipment which is exchanged on replacement equipment.

"Vehicle" or "equipment" means automobiles, station wagons, vans, pickups, trucks, buses, other modes of transportation and heavy equipment.

300:15-1-3. Prohibitions

(a) **Donations of state property.** Donations of state property are prohibited.

(b) **Sales to state employees.** The sale of state property to GRDA employees is prohibited unless items are sold at announced public sales or auctions.

SUBCHAPTER 3. DECLARATION AND APPROVAL OF SURPLUS PROPERTY

300:15-3-1. Declaring state property surplus

(a) **Declaration and approval.** The Authority's Board of Directors shall determine when the Authority's personal property is surplus and shall declare same in Open Meeting. The affirmative vote of five (5) Directors shall be required to declare property surplus and that it is not necessary to the business of the District.

(b) **Request for approval to sell or transfer surplus property.** The Authority's personal property shall not be destroyed, scrapped, sold, transferred, traded in, traded, discarded, donated or otherwise disposed of without prior written approval from the General Manager, or his/her designee. This rule applies to and includes any residue that may be remaining from cannibalization of property.

(c) **Surplus property transfer form.** To request official approval to dispose of surplus property, Assistant General Managers or a designee of the General Manager shall submit a form to the General Manager which shall include the following information:

(1) The Division or Department within the Authority where the property is located.

(2) A desired method of disposal of the surplus property (i.e. public auction or sealed bid).

(3) The reason the property should be declared as surplus property, which may be stated as:

(A) No longer needed to perform the duties intended; or

(B) Broken, cost to repair not economical; or

(C) Obsolete. Not compatible with newer equipment; or

(D) Other, which shall be followed by a specific explanation.

(4) The inventory control number, if any, assigned to the surplus property item;

(5) A description of the surplus property item, including serial, model or other identification numbers, whenever available;

(6) A general statement as to the condition of the surplus property item (i.e. excellent, good, fair, poor, damaged, scrap, missing parts, etc.);

(7) Any known defects or enhancements;

(8) An estimate, current value, suggested selling price or minimum acceptable price;

(9) Any other information which may assist the efficient disposal of the property.

(d) **Additional information for surplus vehicles and equipment.** When the Authority desires to dispose of vehicles or equipment, the following information, in addition to the information listed in 300:15-3-1(c) above, shall be included on the form:

(1) Make, model and model year;

(2) Body style, load rating, seats or passenger capacity, number of cylinders, number of drive wheels;

(3) Vehicle options (i.e. power steering, power brakes, etc.);

(4) Mileage or operation hours;

(5) Vehicle Identification Number (VIN).

(e) **Approval by the Authority.** The Authority's General Manager, or his designee, shall review the form and decide whether to seek a declaration from the GRDA Board of Directors for a declaration that the property is surplus and shall be disposed.

300:15-3-2. Vehicles, equipment and office inventory

(a) GRDA surplus vehicles, equipment and office inventory shall be disposed of by the Department of Central Services in accordance with Rules promulgated by the Department of Central Services.

(b) Vehicles, equipment and office inventory to be disposed of by the Department of Central Services includes, but is not limited to, the following:

(1) Passenger vehicles;

(2) Vans;

(3) Bucket trucks;

(4) Trucks;

(5) Computer equipment;

(6) Office furniture;

(7) Scrap metal;

(8) Tractors;

(9) Brush-hogs;

(10) Bulldozers;

(11) Heavy equipment.

SUBCHAPTER 5. SALE OR DISPOSAL OF SURPLUS PROPERTY

300:15-5-1. Methods of disposal of surplus property

(a) The method of disposal of surplus property shall be approved by the Authority's Board of Directors prior to disposal of the property.

(b) Methods of disposal of surplus property shall be:

(1) **Transfer to a state agency or authorized entity.** Property is transferred to another state agency or authorized entity with or without charge as mutually agreed by both parties. A transfer to an authorized entity (i.e. counties, cities, rural fire departments, and rural water districts) shall be made at market value.

(2) **Sealed bid.** Property is sold by sealed bid.

(3) **Public auction.** Property is sold at a live or online public auction. Such auction shall be open to individuals and business entities. The time, date and location of such

auction shall be advertised in a local newspaper and published on the Authority's website.

(4) **Trade-in.** Property is exchanged as trade-in for replacement equipment.

(5) **Fly Ash.** Fly Ash will be sold at the best available market price.

(6) **Hydro, or Green Credits.** Hydro, or green credits will be sold at the best available market price.

(7) **Disposal by other means.** Property may be disposed of by other means if deemed to be in the best interest of the Authority by the Board of Directors.

300:15-5-2. Sales to related parties

(a) A related party is defined as someone who may fit into any of the following categories pertaining to the surplus property in question:

(1) Has purchasing authority.

(2) Has maintenance authority.

(3) Has disposition or signature authority.

(4) Has authority regarding the disposal price.

(5) Has access to restricted information.

(6) Related parties may not purchase the Authority's surplus property.

300:15-5-3. Sales are final

All surplus property, vehicles and equipment are sold "as is" and are not returnable. All proceeds from sales shall be deposited into a GRDA designated account.

300:15-5-4. Payment provisions

General requirements for purchases. Payment made by the public shall be at the time of purchase and prior to removal of the property purchased. A private business shall provide a business tax identification number and a tax exempt certificate, if applicable, at the time of payment. Otherwise, local sales tax shall be charged. Payment may be in the form of cash, certified funds, business check (not to exceed $2,000.00), money order, cashier's check or credit card approved for use by the Authority. All property sold must be picked-up by the buyer within ten (10) days following the sale.

[OAR Docket #06-737; filed 4-25-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 20. PURCHASING POLICY

[OAR Docket #06-738]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
300:20-1-1. [AMENDED]
300:20-1-2. [AMENDED]
300:20-1-4. [AMENDED]
300:20-1-8. [AMENDED]
300:20-1-11. [AMENDED]
300:20-1-12. [AMENDED]
300:20-1-15. [NEW]

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N/A

ANALYSIS:
The proposed amendment clarifies that Grand River Dam Authority's purchasing policy does not apply to certain contracts and professional services as defined in Section 803 of Title 18. Such contracts shall be exempt from the competitive bidding procedures. The other proposed amendments relate to clarification of the Purchasing Policy, the procuring of products or services through the State Use Program, and the method for obtaining competitive bids. An addition to the purchasing policy sets forth procedures concerning business expenses necessary to the business of the district. Such business expenses shall meet current State of Oklahoma and Internal Revenue Service guidelines for business expense deductibility. The General Manager of Grand River Dam Authority shall designate individuals and the extent of their authority to expend monies for business expenses and shall approve all such expenses prior to reimbursement. Examples of possible business expenses are listed. Each individual expense shall be supported by a receipt or invoice which shall be maintained in accordance with Internal Revenue Service guidelines.

CONTACT PERSON:
Gretchen Zumwalt-Smith, General Counsel, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256-5545

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 25, 2006:

300:20-1-1. Introduction to purchasing policy

(a) The material contained herein is designed to explain and facilitate understanding of the Purchasing Department, its functions, policies and procedures. The material will also serve as a guide to the Operating Departments and serve as a tool to provide information and direction to the various departments and functions of GRDA. Its primary purpose is to communicate policies and give guidance to personnel in charge of purchases, personnel assigned to the purchasing function and others with delegated purchasing authority. This policy does not apply to contracts for professional services as defined in Section 803 of Title 18, as well as power capacity, energy,

transmission and ancillary services, and business expenses described in Section 300:20-1-15(c). Such contracts shall be exempt from competitive bidding procedures. The purchase of coal and natural gas, and the delivery of same, may be confidential and therefore the bidding process may deviate from the guidelines set forth herein.

(b) The included policy statements represent the basic intentions and goals of the GRDA Board of Directors. They represent the permanent foundation upon which the Authority operates, and are expected to be relatively independent of the changing technologies and methods used to carry them out. It is the responsibility of all who have been delegated the authority to commit GRDA funds through the purchasing function to adhere to the policies contained herein.

(c) The procedures set forth are expressly designed to implement the Board's policy and state law. Procedures will conform to changes in policy or law and when necessary, procedures will be modified on an "as needed basis" to refine the purchasing process.

(d) **Definitions.**

(1) **Purchasing.** Identification and recognition of the required need for goods and services in all parts of the organization, and the assurance of satisfaction of those needs at the lowest possible cost, consistent with the best quality of goods required. Purchasing reflects the role of a service department by serving as the primary contact between the various functions of GRDA and its suppliers.

(2) **Policies.** Policies, as referred to herein, are pre-decisions made by Management and the Board of Directors for the purpose of giving information and direction. Policies establish basic philosophies and climates, and determine the major values upon which the Purchasing function must operate.

(3) **Procedures.** Procedures are the prescribed means of accomplishing policy. Their intent is to provide GRDA personnel with the guidelines and, where appropriate, specific action sequences to ensure uniformity, compliance and control of all policy-related activities.

300:20-1-2. Purpose

(a) In order for GRDA to continue to provide low-cost power to GRDA customers, it is imperative that it continually strive for lower costs in every area of its business operation. A large element of cost is purchased material and services, so this activity provides GRDA with an opportunity for cost reduction and control. The overall policy goal is to maintain, at all times, a continuous supply of goods and services necessary to support the production of power by GRDA. Individual aspects of this policy are:

(1) To comply with, in all aspects and without qualification or evasion, the laws of the State of Oklahoma and the GRDA Bylaws governing policy and procedures for purchases.

(2) To ensure the uninterrupted flow of production by obtaining and ensuring delivery of an acceptable quality of goods and services at the maximum end-use value per dollar spent.

(3) The management of inventories of purchased goods so as to meet the use requirements of all GRDA departments at the lowest possible cost.

(4) To develop reliable alternate sources of supply to meet GRDA requirements.

(5) To treat all prices, ~~and~~ technical information, and other bidder information submitted by suppliers as confidential until after bid openings in order to preserve a good business reputation and obtain competitive pricing.

(6) The amicable resolution of complaints on all purchased goods and services.

(7) The standardization of materials, supplies, equipment, services and procedures.

~~(8) To dispose of, to the best advantage, all materials and equipment declared to be surplus or obsolete by the GRDA Board of Directors.~~

(b) Purchasing is an important activity. The primary responsibility of the Purchasing Department is to provide and operate a system for the purchase of materials, supplies and services, with the objective that they will be available at the proper time and in the proper ~~placein~~ place in quantity, quality and price consistent with the needs of the Authority. It is necessary that the responsibility for buying materials and services be assigned to a group of people skilled in purchasing techniques.

(c) To achieve this overall objective, the responsibilities, authorities and controls set forth in this policy must be adhered to by all GRDA employees.

300:20-1-4. Responsibilities

(a) The Board of Directors is primarily responsible for promulgating a comprehensive Purchasing Policy and for approving purchases above $50,000.00.

(b) The General Manager is responsible for the actions of the Assistant General Managers and their subordinates who perform purchasing procedures and the General Manager is responsible for approving emergency purchases above $50,000.00.

(c) The Assistant General Managers shall have commitment authority not to exceed $5,000.00 to commit GRDA for materials, equipment, supplies or services. With the approval of the General Manager, an Assistant General Manager may issue a standing order delegating any portion of his commitment authority to supervisors assigned to the Assistant General Manager's area of responsibility. The General Manager may appoint a Purchase Card Administrator to develop and establish spending authority levels for purchase card transactions.

(d) Unless otherwise directed by the Board of Directors, an Assistant General Manager designated by the General Manager shall supervise and direct purchasing in compliance with the GRDA purchasing manual.

(e) The Purchasing Department has the responsibility for obligating the Authority and for making the final determination of source of supply, ultimate quantities purchased, delivery schedule, price, and commercial terms. These decisions will be made in conjunction with other departments as appropriate.

(f) The Purchasing Department is responsible for initiating and maintaining effective and professional relationships with suppliers, both actual and potential.

(g) The Purchasing Department is to serve as the exclusive channel through which all requests regarding prices and products are handled. This Department and no other will conduct all correspondence with suppliers involving prices or quotations. In cases where technical details are necessary, the department requesting ~~supplies~~ an acquisition may correspond with suppliers. In such cases, the Purchasing Department should be provided with copies of all such correspondence. Close communication and coordination between the Purchasing Department and the department requesting supplies must occur. This Subsection g does not apply to emergency purchases and small-dollar purchases ~~(less than $250.00)~~ in an amount designated by the general manager, but not to exceed $2,500.00.

(h) All employees involved in purchasing activities will work to maintain and enhance the Authority's image by their personal conduct and methods of doing business.

(i) All employees engaged in purchasing activities will recognize and practice good public relations by giving all callers and visitors courteous treatment.

(j) Purchasing Department personnel are to obtain and purchase all goods at the lowest possible end-use cost, considering the guidelines of price, service, quality and delivery.

(k) Purchasing Department personnel are to inform requisitioning departments whenever the quantity or specifications of materials ordered are inconsistent with sound purchasing practices or market conditions.

(l) Purchasing Department personnel will work to establish and encourage timely delivery of specified goods and services in correct quantities.

(m) Purchasing Department personnel will negotiate the return of rejected equipment or supplies to the supplier.

(n) The Purchasing/Contracting and Acquisitions Administrator and Purchasing Department personnel will advise management of economic conditions and changes significant to GRDA's interests.

~~(o) Purchasing Department personnel shall coordinate with the General Counsel to assure compliance with the Oklahoma Public Competitive Bidding Act (61 O.S. § 101 et seq.).~~

300:20-1-8. State of Oklahoma ~~open~~ statewide and state use contracts

~~Open~~ Non-mandatory ~~State~~ statewide ~~Contracts~~ contracts awarded ~~are provided~~ by the Department of Central Services (DCS), for use by certain local governments and state agencies may be utilized by GRDA. These contracts cover a variety of needs common to many agencies. A list of available contracts is ~~provided~~ maintained by DCS Central Purchasing ~~and those applicable to GRDA operations will be obtained~~. As a matter of policy, requisitions will be reviewed by those preparing requisitions to determine ~~for~~ State Contract availability before orders are placed. ~~Open State~~ Statewide Contracts will be used when the end result is timely delivery of an acceptable quality of goods and services at the maximum end-use value per dollar spent. Those preparing requisitions should also consider other contracts (e.g., multistate, multigovernmental, etc.) issued or allowed by DCS Central Purchasing when such contracts would provide the best value to GRDA. GRDA must also comply with the applicable provisions statutes and administrative rules related to the State Use Committee.

300:20-1-11. Responsibilities, delegation, ~~Vendor~~ source selection, ~~quotations, evaluation~~, evaluations, and disputes

~~This policy applies to ordinary transactions on material or services with an estimated value in excess of $2,500.00.~~

~~(1) The selection of vendors is primarily the responsibility of the Purchasing Department and requires a consideration of several factors. In making the selection, the Purchasing Department will coordinate closely with other departments to obtain adequate and reasonable specifications. Whenever possible, identification of brand names, or sufficient detail, should be obtained to ensure that the order can be properly filled. Direct access to the manufacturers will be obtained whenever possible. One major decision required during the purchasing process is vendor selection. It is the purpose of this policy to define the responsibility for and provide basic guidelines for vendor selection.~~

(a) The purchasing process is primarily the responsibility of the Purchasing Department and the Chief Financial Officer and requires consideration of several factors. In managing the purchasing process, the Purchasing Department will coordinate closely with other departments to comply with applicable purchasing requirements and standards. The user departments play a key role in the purchasing process by developing adequate and reasonable specifications for each purchase. Those specifications shall be submitted to and reviewed by the Purchasing Department.

~~(2) Purchases shall be investigated by GRDA to assure the quality of the product or services and the viability of the vendor.~~

(b) Except as prescribed herein, the purchasing process cannot be delegated to employees outside of the Purchasing Department except in circumstances whereby the Chief Financial Officer in coordination with the General Manager or an Assistant General Manager temporarily assigns the other employees to the Purchasing Department or as defined in the internal uniform procedures described herein.

~~(A) Subsequent travel and expenses necessary or advisable to validate quality, timely delivery and, or technical compliance shall be evaluated during the bidding process.~~

~~(B) Buyers should endeavor to place orders with regard to the dependability and service record of the vendor, price and quality of merchandise, and should give special attention to:~~

~~(i) Suppliers who are developing new and improved products or equipment, or who are designing and developing a special product for the company's exclusive use.~~

~~(ii) Suppliers located near the operation.~~

~~(iii) Suppliers with adequate financial strength who also have a reputation for adhering to specifications and delivery schedules.~~

~~(iv) Suppliers who are local vendors.~~

~~(v) Suppliers who are certified minority vendors.~~

(c~~3~~) The ~~Superintendent of Fiscal Services~~ Chief Financial Officer or designee has the responsibility of maintaining a uniform set of procedures and forms to service the bid process, the process for non-competitive purchases (sole source, sole brand, State Use, etc.), and other purchasing matters. Considerations should include the need for forms for vendor notifications, bid analysis and summary, ~~bidder mailing list applications,~~ competitive invitations, instructions to bidders, policy statement of bid award, and sealed bid envelopes. Purchasing Department personnel are responsible for obtaining bids on all material or services covered under this policy as described herein or the internal uniform procedures.~~for both estimating purposes and purchases.~~ ~~Quotations~~ Source selection methods shall be of the following types, depending upon the size and nature of the potential purchase:

(1~~A~~) ~~Verbal B Not to exceed~~ In accordance with the uniform procedures established by the Chief Financial Officer, $2,500.00 or less.

(2~~B~~) Written ~~B~~ Over $2,500.00.

(3~~C~~) Sealed Bids ~~B~~ Over $50,000.00.

(4~~D~~) Verbal/written follow-up on auxiliary boiler fuel, vehicle fuel and emergency confirmatory purchases in accordance with procedures established by the Chief Financial Officer.

(d~~4~~) If a dispute arises on purchased goods and services concerning vendor selection, quotation, or evaluation, the affected vendor may contact the Contracting and Acquisitions Agent assigned to the particular purchase for possible resolution of the dispute. If a dispute arises on purchased goods and services concerning the amount ~~dueor~~ due or non-payment to a vendor, the affected vendor may contact the Accounts Payable Supervisor for possible resolution of the dispute. In both cases, should the dispute not be resolved to the vendor's satisfaction, the vendor may contact the ~~Superintendent of Fiscal Services~~GRDA employee designated by the Chief Financial Officer for further discussion.

(e~~5~~) The ~~Purchasing/Contracting and Acquisitions Administrator~~ Chief Financial Officer or designee will cause to be included in each bid request file a bid analysis summary, required affidavits, and insurance requirement forms. Purchase orders requiring insurance will be sent to the Assistant General Manager of Regulatory Compliance and Risk Management for review. The following factors in combination, not necessarily listed in their order of importance, will be considered in reviewing bids and awarding contracts:

(1~~A~~) Price

(2~~B~~) Quality and conformance to specifications, affidavits and insurance requirements

(3~~C~~) Bidder's previous record of performance and service

(4~~D~~) Ability of bidder to render satisfactory service, delivery, etc.

(5~~E~~) Free on Board points and shipping charges

(6~~F~~) Last purchase cost

(f~~6~~) The right is reserved to reject any and all bids and to contract as the best interests of the Authority may require.

300:20-1-12. Change orders

This Policy provides guidance in the Purchasing function concerning change orders and when they are required to be utilized.

(1) A change order or cumulative change orders which fall within the below listed amounts shall require formal approval by the GRDA Board of Directors. The GRDA Board of Directors must accept the additional adjusted amount prior to GRDA being responsible for payment thereof:

(A) Change orders to purchase orders or to construction or service contracts more than $50,000.00 up to $1,000,000.00 shall not exceed a 15% cumulative increase in the original amount.

(B) Change orders to purchase orders or to construction or service contracts more than $1,000,000.00 shall not exceed a 10% cumulative increase in the original amount.

(2) Any change orders to purchase orders or to construction or service contracts not falling within the two categories specified above shall require written approval by the General Manager of GRDA prior to GRDA being responsible for payment thereof. However, GRDA Board of Directors' approval is not required for change orders in this category unless the total amount of the resulting change order exceeds $50,000.00.

~~(3) Any change orders to public construction contracts for the purpose of making any public improvements or constructing any public building or making repairs to the same, all of which is defined within the Oklahoma Public Competitive Bidding Act (61 O.S. § 101 *et seq.*), shall be issued in accordance with such Act.~~

~~(4) Any and all Board Resolutions previously adopted by the GRDA Board of Directors and to the contrary, including Resolution No. 4659 adopted September 16, 1981, are hereby rescinded and are no longer in force or effect.~~

300:20-1-15. Business expenses

(a) The Legislature has recognized that GRDA is a unique agency, whose mission requires the district to function in competition with private industry within the competitive power market.

(b) The Legislature has further recognized and stated that GRDA shall document its business expenses which are necessary to carry out the business of the district and that such expenses shall meet current State of Oklahoma and Internal Revenue Service guidelines for business expense deductibility.

(c) The General Manager of GRDA shall designate the individuals and the extent of their authority to expend monies for business expenses. Such business expenses may include, but are not limited to, the following:

(1) Meals for GRDA personnel, Directors, State Officials, vendors, customers, prospective customers, and others when conducting GRDA business;

(2) Memorials to business associates and entities not to exceed $100.00 in any one fiscal year;

(3) Marketing tools, items, clothes, hats, etc. which bear the GRDA logo or State of Oklahoma emblem;
(4) Trade Association Memberships or training for GRDA, GRDA personnel, GRDA Directors and GRDA customers;
(5) Lodging expenses;
(6) Miscellaneous business expenses which meet current State of Oklahoma and Internal Revenue Service guidelines for business expense deductibility.

(d) Reimbursement for such business expenses may be reimbursed in the amount of the expense incurred.

(e) All such expenses will be approved by the General Manager prior to reimbursement.

(f) Each individual expense shall be supported by a receipt or invoice which shall be maintained in accordance with Internal Revenue Service guidelines.

[OAR Docket #06-738; filed 4-25-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 25. LICENSE TO ENCROACH

[OAR Docket #06-739]

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PERMANENT final adoption
RULES:
Subchapter 1. Purpose and Definitions [NEW]
300:25-1-1. [NEW]
300:25-1-2. [NEW]
Subchapter 3. Policy, Issuance, Termination and Transfer [NEW]
300:25-3-1. [NEW]
300:25-3-2. [NEW]
300:25-3-3. [NEW]
300:25-3-4. [NEW]
Subchapter 5. Miscellaneous [NEW]
300:25-5-1. [NEW]
300:25-5-2. [NEW]
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N/A
ANALYSIS:
As authorized by 82 O.S.Supp.2005, § 874.2, these rules establish procedures for obtaining a written license to encroach on Grand River Dam Authority ("GRDA") real property for improvements built prior to June 1, 2005. Improvements are defined as buildings, retaining walls, or other permanent or temporary structures or developments located on or attached to GRDA real property. These rules are designed to assist landowners with title and marketability issues, thus enabling the closure of real estate transactions on adjacent properties which include improvements on GRDA real property. These rules also contain term and termination conditions, transfer and assignment rights, and license violations. Provisions for establishing fair market value of the improvements are addressed in these rules. A stipulation is included that free public use of GRDA real property for recreational purposes may not be impeded. The GRDA Board of Directors is reserving the right to refuse any or all applications for a license to encroach.
CONTACT PERSON:
Gretchen Zumwalt-Smith, General Counsel, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256-5545

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 25, 2006:

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

300:25-1-1. Purpose

This Chapter establishes procedures for obtaining a license to encroach on Grand River Dam Authority ("GRDA") real property as authorized by 82 O.S.Supp.2005, § 874.2. The procedure outlined herein applies to only residential property.

300:25-1-2. Definitions

The following words or terms when used in this Chapter shall have the following meaning unless the context indicates otherwise.

"Adjacent Property" means that property which is immediately contiguous and appurtenant to the GRDA property which the improvement is built.

"Board" means the Board of Directors of the Grand River Dam Authority.

"Fair market value" means the price in cash a willing but not obligated tenant would pay, and a willing but not obligated landlord would charge for the same or similar lands for the highest and best legal use of the property.

"GRDA land(s)" means that real property owned by the Grand River Dam Authority.

"Improvements" means buildings, retaining walls, or other permanent or temporary structures or developments located on or attached to GRDA lands.

SUBCHAPTER 3. POLICY, ISSUANCE, TERMINATION AND TRANSFER

300:25-3-1. License to encroach policy

While reserving the right to refuse any or all applications for a License to encroach upon GRDA lands, the Board may issue licenses to encroach for improvements built prior to June 1, 2005 upon GRDA lands to assist landowners with title and marketability issues. No License will be issued for improvements built subsequent to June 1, 2005.

300:25-3-2. Licenses in writing

All Licenses to encroach shall be in writing and shall be upon such terms and conditions and at such rate as may be determined by the Board. All such Licenses shall be upon the form furnished by the Board. All Licenses shall contain the proper legal description, including section, township, range and county and be suitable for filing in the appropriate County Clerk's Office.

300:25-3-3. Issuance and termination of license to encroach

(a) Except as otherwise provided herein, all Licenses to encroach shall be appraised for fair market value.
(b) Applications for a License to Encroach shall state the number of years for which the Applicant is seeking the License. For instance, the Applicant may request that the License is sought for any number of years up to and including 30 years.
(c) A License to encroach shall not be issued until such time as the fair market value as determined by the appraisal provided for herein together with all costs associated with the License, including but not limited to third party survey and appraisal fees, shall have been paid by the Applicant.
(d) All Licenses to encroach shall automatically terminate upon destruction or removal of the improvement on GRDA land. An improvement may be maintained, but it may not be rebuilt if destroyed.
(e) All Licenses to encroach shall terminate upon default of a holder of a license to pay any monies due.
(f) The term (number of years) of a License to encroach shall be at the sole discretion of the Board but may not exceed a maximum of thirty (30) years.
(g) At the end of the term, GRDA may require that the property be returned to its original condition.

300:25-3-4. Transfer of title upon death of holder

The heir(s) or devisee(s) of a deceased holder of a License to encroach shall succeed to the interest and have all rights of the holder under the License.

SUBCHAPTER 5. MISCELLANEOUS

300:25-5-1. Public access

Pursuant to 82 O.S. § 872, GRDA may not prevent free public use of its lands for recreation purposes. Therefore, a License to encroach may not impede public use of GRDA lands.

300:25-5-2. Improvements on GRDA lands

No improvements shall be placed upon GRDA lands without written consent of the Board.

300:25-5-3. License violations

Violation of any of the terms and conditions of a License to encroach or failure to pay any amounts due on GRDA land shall subject the holder of the License to legal or administrative action or both at the option of the Board to collect rent or damages or any other remedy as provided by law.

300:25-5-4. Appraisals

(a) An appraisal for purposes of licensing the improvement to encroach upon GRDA land shall be prepared by an Oklahoma licensed land appraiser.
(b) Appraisals will be made in accordance with Uniform Standards of Professional Appraisal Practices.
(c) The appraisers shall determine the "fair market value" of the land without any improvement. For purposes of this section, fair market value is the price in cash a willing but not obligated tenant would pay, and a willing but not obligated landlord would charge for the same or similar lands for the highest and best legal use of the property. In determining fair market value, the appraisers shall consider the following:
(1) Present land use;
(2) Amount of GRDA land upon which the improvement sits;
(3) Cash rental price of comparable land; and
(4) The term (number of years) of the License
(d) Appraisals are public record under the Open Records Act.

300:25-5-5. Assignment of license

In the event the adjacent property is sold and upon approval of the Board, and payment of all amounts due, a holder of a License to encroach may assign the license to a subsequent adjacent property owner by completing forms provided by GRDA.

300:25-5-6. Taxes

Unless the holder is otherwise exempt by law, ad valorem property taxes shall be paid on any improvements which would be subject to ad valorem property taxes if constructed on privately owned land.

[OAR Docket #06-739; filed 4-25-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 30. AIRCRAFT TRAVEL USE LOGS

[OAR Docket #06-740]

RULEMAKING ACTION:
PERMANENT final adoption

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300:30-1-1. [NEW]
300:30-1-2. [NEW]
300:30-1-3. [NEW]
300:30-1-4. [NEW]
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ANALYSIS:
The proposed rules provide compliance with 74 O.S.2001 § 500.6A(C) regarding the use, maintenance, and reporting requirements related to the Travel Use Log [OSF Form LOG (12/98)].
CONTACT PERSON:
Gretchen Zumwalt-Smith, General Counsel, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256-5545

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 25, 2006:

300:30-1-1. Purpose

The purpose of this Subchapter is to comply with the provisions of 74 O.S.2001, § 500.6A(C) regarding the use, maintenance, and reporting requirements related to the Travel Use Log [OSF Form LOG (12/98)].

300:30-1-2. Use of the travel use log form

Each person who travels on aircraft owned, leased, chartered, or operated by the Authority shall provide all the information required on the Travel Use Log.

300:30-1-3. Travel use log as open record

The Authority will maintain and make available to the public, upon request, all completed Travel Use Log forms, as required by the Oklahoma Open Records Act and other applicable law.

300:30-1-4. Summaries of travel use log forms

The Authority will make summaries of all completed Travel Use Log forms, in accordance with the statutory requirements, and will provide same on an annual basis to the Governor, the Office of State Finance, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

[OAR Docket #06-740; filed 4-25-06]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 35. LAKE RULES

[OAR Docket #06-741]

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PERMANENT final adoption
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Subchapter 1. Definitions, Purpose and Application [NEW]
300:35-1-1. through 300:35-1-6. [NEW]
Subchapter 3. General Provisions [NEW]
300:35-3-1. through 300:35-3-13. [NEW]
Subchapter 5. Boating Safety Rules [NEW]
300:35-5-1. through 300:35-5-9. [NEW]
Subchapter 7. Vessels [NEW]
300:35-7-1. through 300:35-7-12. [NEW]
Subchapter 9. Sanctioned Events [NEW]
300:35-9-1. through 300:35-9-3. [NEW]
Subchapter 11. Permits for Wharves, Landings, Buoys, Breakwaters and Docking Facilities [NEW]
300:35-11-1. through 300:35-11-12. [NEW]
Subchapter 13. Permits for Dikes, Excavations, Dredgings Erosion Control Devices, and Shoreline Stabilization [NEW]
300:35-13-1. through 300:35-13-6. [NEW]
Subchapter 15. Commercial Use of the Lakes and Lands of GRDA [NEW]
300:35-15-1. through 300:35-15-7. [NEW]
Subchapter 17. Raw Water Permits [NEW]
300:35-17-1. through 300:35-17-5. [NEW]
Subchapter 19. Rights of Abutting Landowners [NEW]
300:35-19-1. [NEW]
Subchapter 21. Administration of Rules and Hearings [NEW]
300:35-21-1. through 300:35-21-8. [NEW]
Subchapter 23. Four-Wheel Vehicles, Off-Road Vehicles and All Terrain Vehicles [NEW]
300:35-23-1. through 300:35-23-10. [NEW]
Subchapter 25. [RESERVED]
Subchapter 27. Vegetation Management Plan [NEW]
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ANALYSIS:
The Act (82 O.S.2001, § 861 *et seq*., as amended) creating the Grand River Dam Authority prescribes the use that may be made of the properties and waters of GRDA and authorizes GRDA to promulgate, prescribe and enforce rules and regulations for the use, for recreational and commercial purposes, of its lakes and shorelands, including the use of firearms and the inspection of all vessels of every character proposing to operate or operating on said lakes. The travel of vessels on the waters of GRDA shall be in keeping with the following rules of GRDA in the interest of public health, safety and convenience in the use of the waters and the shorelands of GRDA.
CONTACT PERSON:
Gretchen Zumwalt-Smith, General Counsel, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256-5545

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 25, 2006:

SUBCHAPTER 1. DEFINITIONS, PURPOSE AND APPLICATION

300:35-1-1. Definitions

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

"Authority or GRDA" means the Grand River Dam Authority.

"Board" means the Board of Directors for the Grand River Dam Authority.

"GM" or **"CEO"** means the General Manager and/or the Chief Executive Officer of the Grand River Dam Authority.

"GRDA land or GRDA property" means the land owned by GRDA. The location and boundaries of GRDA land is determined by a legal description (generally described by metes and bounds). Many times, a survey is necessary to determine the boundary of GRDA land. A particular elevation does not necessarily determine the boundary of GRDA land. Additionally, GRDA and/or the U.S. Army Corps of Engineers may have flowage easements over land.

"Wake" means the track of waves left by a vessel or other object moving through the water and such waves are greater than the natural waves in the immediate area of the vessel or are cresting and showing white water or may cause injury to any person or property.

"Waters of GRDA" means and refers to the waters of the Grand River and its tributaries, including, but not limited to, Grand Lake O' the Cherokees, Lake Hudson, and the W.R. Holway Reservoir.

300:35-1-2. Statutory authority

The Act (82 O.S.2001, § 861 *et seq*., as amended) creating the Grand River Dam Authority prescribes the use that may be made of the properties and waters of GRDA and authorizes GRDA to promulgate, prescribe and enforce rules and regulations for the use, for recreational and commercial purposes, of its lakes and shorelands, including the use of firearms and the inspection of all vessels of every character proposing to operate or operating on said lakes. The travel of vessels on the waters of GRDA shall be in keeping with the following rules of GRDA in the interest of public health, safety and convenience in the use of the waters and the shorelands of GRDA.

300:35-1-3. Application of state laws

The laws of the State of Oklahoma, including the Oklahoma Boating Safety Regulation Act, 63 O.S.2001, § 4200 *et seq*., as amended, and the Oklahoma Penal Code, 21 O.S.2001 § 1 *et seq*., as amended, apply to the waters of GRDA, in addition to the rules set out herein. Failure to comply with these laws and Rules may constitute a criminal offense.

300:35-1-4. Registration of boats

The Oklahoma Vessel and Motor Registration Act, 63 O.S.2001, § 4001 *et seq*., as amended, applies to the waters of GRDA and must be complied with in addition to the Rules herein. Every vessel subject to the provisions of the Oklahoma Vessel and Motor Registration Act must have state registration and a current license by no later than June 30 of the current state fiscal year.

300:35-1-5. Law enforcement division of GRDA

(a) GRDA has created a law enforcement division for the purpose of enforcing these Rules on the waters and land of GRDA.

(b) The members of GRDA's law enforcement division are hereby declared to be the enforcement officers for GRDA. The enforcement officers for GRDA may enforce GRDA rules and regulations, those rules and regulations as may be issued pursuant to the provisions of Section 4200 *et seq.* of Title 63 of the Oklahoma Statutes, the provisions of Sections 861 *et seq.* of Title 82 of the Oklahoma Statutes, and all violations of criminal laws occurring within the boundaries of the counties where real property owned or leased by GRDA is located. The enforcement officers shall have the power of peace officers during the performance of their duties, except in the serving and execution of civil process.

(c) The officers shall, in the event of emergency, assist in the rescue of any person who may be in danger and shall assist in the saving of any property that is in danger of being lost or damaged. The officers shall have the authority to stop and board any vessel at any time for the purpose of conducting a safety inspection. They shall require the operator of any vessel operating on the waters of the lakes in any manner which is not in compliance with these Rules, or any applicable state law, to immediately remove said vessel from the lake until compliance has been had.

(d) The officers are charged with the duty of examining and inspecting proposed locations for wharves, docks, dikes, anchorages, boat houses or any proposed structures or improvements to be made upon the waters or lands of GRDA, and issuing certificates of inspection; and causing all vessels to be registered with proper registration numbers, or permit numbers, which shall be displayed upon such vessels.
(e) GRDA's law enforcement officers may cooperate with federal, state and local enforcement officers in the enforcement of all federal and state laws upon the waters, lands and properties of GRDA.

300:35-1-6. Permitted activities

No person, firm, partnership, corporation or other entity shall perform any activity which requires a permit prior to the receipt of such permit from GRDA. For example, no dock may be placed upon the waters of GRDA until such time as the applicant receives written notice that such activity may take place. In the event a permitted activity takes place prior to the issuance of a permit, or written permission from GRDA, after notice and an opportunity to be heard as provided in Subchapter 21 herein, it may be ordered that no permit shall be issued for a period of time up to and including three (3) years. Additionally, GRDA may seek an injunction to prevent any further unauthorized activity.

SUBCHAPTER 3. GENERAL PROVISIONS

300:35-3-1. Free access

The public shall have free access to the waters of the lakes and no charges shall be made to the public for the right to engage in hunting, fishing, swimming or non-commercial boating. The public shall comply with all state hunting and/or fishing laws and rules.

300:35-3-2. Lake elevations

Grand Lake, Lake Hudson, and W.R. Holway Reservoir are flood control and hydro electric power projects, and it is recognized and understood that the elevation of the waters in said lakes will vary from time to time as operations for flood control and hydro electric power generation demand, and the water rights granted under these Rules shall be subject to these conditions and all laws governing the Grand River Dam Authority and shall be subject to all federal and state laws and rules governing the control storage release and use of the waters of Grand River, Grand Lake, Lake Hudson, and W.R. Holway Reservoir.

300:35-3-3. Liability

(a) GRDA shall never be liable in any manner whatsoever because of the quantity or quality of the water in its lakes, nor shall GRDA ever be liable for any damage that the permittee may sustain to person or property which may be occasioned by or result from the construction, maintenance and operation of GRDA's projects and the Fort Gibson Reservoir.
(b) Neither GRDA nor any representative thereof assumes any responsibility for loss or damage to life or property by theft, storm, accident or otherwise, in connection with or growing out of the exercising of the privileges conferred by any permit which may be issued in accordance with these Rules.
(c) Nothing contained in these Rules shall operate to relieve the owners of vessels from complying with, or from the obligation of complying with, the applicable laws of the United States and the State of Oklahoma.

300:35-3-4. Payment of fees

No permit or license, private or commercial, shall be issued until the appropriate fee has been paid.

300:35-3-5. Transfer or assignment of permit prohibited

Transfer or assignment of permits or licenses issued hereunder (both private and commercial) shall not be made except with written consent and approval of GRDA. No person, firm or corporation shall allow his or its name to be used by any other person, firm or corporation to do any work under his or its permit.

300:35-3-6. Cancellation/termination of permit or license

(a) Permits and licenses issued pursuant to these Rules are subject to cancellation in the event the holder fails, refuses or omits to comply with any of the requirements of these Rules, the terms and conditions of the permit, or to make payments when due. In addition, GRDA will notify the Oklahoma State Department of Health and the utility company furnishing electricity of any water or irrigation pump reported to be in an unsafe electrical condition.
(b) Permits and licenses issued under and pursuant to these Rules may be terminated by either party upon giving the other party thirty (30) days written notice prior to the end of any calendar year.

300:35-3-7. Rights reserved

These Rules do not cover the taking or using of water for any purpose or use other than those specifically covered herein.

300:35-3-8. Roads and highways

The existing public rights-of-way to the waters or shorelands and boat ramps sponsored by GRDA shall remain open as a way of free public passage to and from the waters of GRDA.

300:35-3-9. Fishing and hunting

Fishing or hunting within restricted areas will not be permitted, nor will hunting or fishing be permitted within two hundred (200) feet of the tailraces below the dams; nor will hunting or fishing, except commercial bait operators, be permitted at such other points on or about the lakes where such use will unduly interfere with navigation or proper conduct of the business of GRDA or endanger the public.

300:35-3-10. Firearms

(a) Only shotguns and proper archery equipment are allowed on GRDA property, except that hunters may use rifles and pistols, in compliance with state laws and wildlife regulations, on GRDA property which has been designated as a Wildlife Management Area.

(b) All hunting on any GRDA property shall be conducted in accordance with Oklahoma Department of Wildlife Conservation regulations. If hunting within 3 mile of GRDA waters, only nontoxic shot may be used.

(c) The discharge of any firearms or bows in, over or across the waters of the lakes is expressly prohibited except as regulated by the Oklahoma Department of Wildlife Conservation. In no event shall the use of firearms or bows be conducted in a manner which interferes with the business of GRDA's projects or endangers the public.

(d) Persons properly licensed to carry concealed weapons may do so only in accordance with the laws of the State of Oklahoma.

300:35-3-11. Gas and oil storage

The keeping or storage of gasoline and other combustible fuels, except for fuel tanks installed in vessels, in, upon or about GRDA lands and waters will not be permitted unless the location and detailed storage plans therefor are first submitted to and approved by GRDA and comply with all applicable state and federal statutes.

300:35-3-12. Health and sanitation

(a) All sanitary rules, regulations, and laws shall be complied with prior to the granting or renewal of any GRDA permit.

(b) In the interest of public health, sanitation and safety, there shall be no camping on GRDA's lands except in a designated camping area.

(c) Bottles, cans, garbage, rubbish, refuse, debris, wreckage, bilge water containing oil or grease, or materials used in the process of cleaning the outer surfaces of vessels, or any other material of any kind shall not be thrown into or released upon the lakes or deposited or dumped upon the shores of the lakes or upon any land under the jurisdiction of GRDA.

(d) No septic tank, lateral line or lagoon shall be placed on the shorelands of GRDA. No sewage shall be disposed of in the waters or on the shorelands of GRDA. No person shall operate a vessel equipped with a marine toilet which is not a total retention system in accordance with federal regulations regarding marine toilets (63 O.S.2001, § 4213(B)).

(e) The preparation and marking of beaches shall be in such manner as to provide reasonable safety in their use. Commercial beaches shall be provided with adequate and sanitary dressing rooms, toilets, showers and other necessary accessories for public convenience and safety.

300:35-3-13. Repeal

All rules and regulations adopted by the Authority which conflict with the provisions of these Rules are hereby revoked, cancelled and repealed.

SUBCHAPTER 5. BOATING SAFETY RULES

300:35-5-1. Careful operation of a vessel

No person shall operate or give permission to operate a vessel in a wake zone at a speed which is other than reasonable and prudent and which shows due regard for the existence of actual or potential hazards and obstacles, or in such a manner as to endanger the life, limb or property of any other person, or in such manner as to create a wake. For the purpose of this rule, "no wake zone" means any area posted with buoys or within one hundred fifty (150) feet of any boat ramp, dock, pier, or anchored or moored vessel. (63 O.S. 2001, § 4210.4(B))

300:35-5-2. Towing activities

(a) No person shall operate or give permission to operate a vessel on any waters of this state towing a person or persons using parasails or on water skis, a surfboard, a sailboard or similar device, nor shall any person engage in parasailing, water skiing, surfboarding, sailboarding or similar activity at any time between the hours from sunset to sunrise or at such time visibility due to other existing conditions is obscured so as to endanger life or property. (63 O.S. Supp.2004, § 4212(B).

(b) Pursuant to 63 O.S.Supp.2004, § 4212, the following applies to water skiing, wakeboarding, or similar towing activities:

(c) No person shall operate or give permission to operate a vessel on any GRDA waters for towing a person or persons using parasails or on water skis, a surfboard, or similar device unless there is in such vessel:

(1) a person who is at least eight (8) years old, and who, in addition to the operator, is in a position to observe the progress of the person or persons being towed, or

(2) if the vessel is not a personal watercraft, an efficient wide angle convex rear view mirror installed on such vessel in such manner as to permit the person operating said vessel to face the direction of travel and be in a position to observe the progress of the person or persons being towed, or

(3) if the vessel is a personal watercraft, two (2) efficient wide angle convex rear view mirrors installed on such vessel in such manner as to permit the person operating such watercraft to face the direction of travel and be in a position to observe the progress of the person or person being towed.

(d) Water skiing shall be allowed with any watercraft which is designed to accommodate two or more persons.

300:35-5-3. Flotation device required

All vessels shall carry a U.S. Coast Guard approved flotation device (life preserver) for each person on board. The operator of a vessel less than twenty-six (26) feet in length, while under way, shall require each passenger twelve (12) years of age or younger to wear a U.S. Coast Guard approved flotation device. Any person operating or manipulating, or who is a passenger on a personal watercraft, water skis, a sailboard, surfboard, parasail or a similar device shall wear a U.S. Coast Guard approved flotation device. (63 O.S.2001, § 4206.)

300:35-5-4. Sitting and standing in vessel

No person shall sit or ride on the sides of a vessel, a covered bow or the back of any seat of a vessel, or stand in a vessel while under way at any speed greater than idle or trolling speed; unless, the vessel is specifically designed for such use, pursuant to 63 O.S.2001, §§ 4210.6 & 4210.7.

300:35-5-5. Required equipment

(a) Each vessel which is less than twenty-six (26) feet in length, other than a personal watercraft, shall be equipped with a paddle or set of oars, anchor, bailing device and fire extinguisher. All other vessels shall be equipped in accordance with Oklahoma state law.

(b) All vessels must be equipped with proper and working navigations and anchoring lights as provided by law.

300:35-5-6. Prohibited areas

All vessels are prohibited from entering any area within 200 feet below Pensacola, Kerr and Chimney Rock Dams. Vessels are prohibited within 500 feet below said dams during periods of hydrogeneration.

300:35-5-7. Night speed limit

It shall be unlawful for any person to operate any vessel upon the waters of GRDA, between the hours of one-half hour after sunset and one-half hour before sunrise at any speed in excess of thirty-five (35) miles per hour. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punishable by a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Fifty Dollars ($250.00). (63 O.S. 2001, § 4219).

300:35-5-8. Skiing prohibited

(a) No skiing is allowed upstream of the Strang Bridge on Lake Hudson, upstream of Twin Bridges on Grand Lake, in Elm Creek east of Grove water intake tower, upstream of the Harbors Marina on Duck Creek or upstream of the Lakemont Shores Ramp on Drowning Creek.

(b) Wake jumping is prohibited in Cowskin and Elk River and in any arm of Grand Lake that, in its name, ends in Creek, Cove or Hollow. Wake Jumping is defined as the act of repetitively crossing another vessel's wake in such a fashion that the crossing vessel's hull leaves the water.

300:35-5-9. Persons on personal watercraft

The number of persons riding on a personal watercraft shall be limited to that number as recommended by the manufacturer. Any person being towed behind a personal watercraft shall count as one (1) person riding on a personal watercraft.

SUBCHAPTER 7. VESSELS

300:35-7-1. Inspection, registration and certificate of safety

(a) All vessels operated upon the waters of GRDA may be inspected at any time by GRDA's Law Enforcement for safety equipment.

(b) All vessels and equipment used for transportation of the public for pecuniary gain or profit shall be subject to inspection during each permit year by GRDA.

(c) All vessels must be licensed under the Oklahoma Vessel and Motor Registration Act.

300:35-7-2. Loose and derelict vessels

Any loose, derelict or apparently abandoned vessel found on the lakes, or shores of the lakes, may be impounded by GRDA, and any expense in connection with its impoundment shall be the responsibility of the owner.

300:35-7-3. Anchorages

Vessel anchorages shall not be allowed off the shore of the waters of GRDA in any one location for a continuous period in excess of forty-eight (48) hours. At the end of a forty-eight (48) hour period, a new anchorage may not be taken up within a distance of one (1) mile of the anchorage previously used. No buoy may be used as an anchorage without the permission of its owner.

300:35-7-4. Vessel operating distance

No person shall operate any vessel, including personal watercraft, within fifty (50) feet in proximity to another vessel when running at speeds of over ten (10) miles per hour. (63 O.S.Supp.2004, § 4210(F)).

300:35-7-5. Water muffling

Except for a sanctioned event, no person shall operate a vessel or motor which is not equipped with a muffler or muffler system in good working order. The use of cutouts, removal of mufflers or muffler baffles, cutting or punching of holes in mufflers or otherwise modifying the original muffler or muffling system installed by the manufacturer or any subsequent muffler or muffling system so as to increase or modify the noise level is prohibited. (63 O.S.2001, § 4208).

300:35-7-6. Noise abatement

No person shall operate a vessel that exceeds the noise level of ninety (90) decibels on an A-weighted scale when subjected to a sound level test as prescribed by SAE J2005 within fifty (50) feet of any public or private dock or at any location between the hours of 9:00 p.m. through 9:00 a.m. C.S.T.

300:35-7-7. Wake damage

All vessel operators shall be held responsible for any damage that their wake might cause to property. No person shall operate or give permission to operate a vessel in a wake zone at a speed which is other than reasonable and prudent and which

shows due regard for the existence of actual or potential hazards and obstacles, or in such a manner as to endanger the life, limb or property of any other person, or in such a manner as to create a wake. "No wake zone" means any area posted with buoys or within one hundred fifty (150) feet of any boat ramp, dock, pier or anchored or moored vessel.

300:35-7-8. Minimum age

No person shall cause, allow, authorize, or permit any child under twelve (12) years of age to operate and no child under twelve (12) years of age shall operate any vessel powered by a motor or combination of motors in excess of ten (10) horsepower or any sail-powered vessel sixteen (16) feet or greater in length, unless accompanied on the vessel by another person sixteen (16) years of age or older. 63 O.S.Supp. 2004, § 4210(G)

300:35-7-9. Hazardous acts

(a) In addition to the rules of travel for operation of vessels upon the lakes, all vessels shall be operated in such a manner as will best safeguard the lives and property of others upon the lakes.

(b) Any person conducting himself/herself in such a manner as to endanger the health and safety of others upon the lakes or lands of GRDA, or violate any of the statutes of the State of Oklahoma, may be removed from the lakes or lands of GRDA and subject to the penalty of any applicable law.

300:35-7-10. W.R. Holway reservoir

With the exception of the Lake Patrol, vessels powered by internal combustion engines are not permitted on W.R. Holway Reservoir. Swimming is prohibited in the W.R. Holway Reservoir.

300:35-7-11. Penalties

(a) GRDA law enforcement personnel may verbally order any person, firm, partnership, corporation, or any other entity that is violating any provision found in Title 63 or Title 21 of the Oklahoma Statutes or in any GRDA rules to immediately exit the waters and/or lands of GRDA. Failure to obey the verbal order may result in the law enforcement personnel enforcing the provisions of 63 O.S.2001, § 4221 which provides that such failure to comply will constitute a misdemeanor punishable by a fine not to exceed Two Hundred Fifty Dollars ($250.00).

(b) Additionally, any such person or entity, after notice and an opportunity to be heard as provided in Subchapter 21 herein, may be banned from the waters and/or lands of GRDA for a period of time up to, and including, ninety (90) days.

300:35-7-12. Duck Creek boating rules

Due to the unique nature of Duck Creek on the Grand Lake O' the Cherokees, GRDA implements, from time to time, special boating rules for the area. Please contact the GRDA Lake Patrol, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or see the website, www.GRDA.com for the current applicable Duck Creek Boating Rules.

SUBCHAPTER 9. SANCTIONED EVENTS

300:35-9-1. Sanctioned event definition

A sanctioned event is any organized event which has been permitted by GRDA that occurs on the waters and lands of GRDA, including, but not limited to, regattas, motorboat or other boat races, marine parades, tournaments, fishing tournaments, "poker" runs, rock-climbing, and exhibitions.

300:35-9-2. Permit required

No sanctioned event shall be held without a written permit issued by GRDA at least ten (10) days prior to the event. An application for such permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

300:35-9-3. Public and environmental safety

(a) GRDA law enforcement shall require that any sanctioned event be held in a safe manner and under safe environmental conditions.

(b) Any vessel operating in an unsafe manner, or without due regard to other vessels, water skiers, swimmers, sanctioned events, restrictive markers or buoys, existing wind or weather conditions, waves, or wakes, may be immediately removed from the waters of GRDA by GRDA law enforcement.

(c) GRDA may require that any sanctioned event conform to specific environmental requirements for the purpose of protecting fish, wildlife, or habitat. Such requirements shall be specified on the sanctioned event permit. Any sponsor of a sanctioned event, or any participant in such sanctioned event, which fails to follow the environmental requirements may be immediately removed from the waters of GRDA by GRDA law enforcement.

(d) In addition to the penalties specified herein, any person violating this rule may be subject to criminal sanctions as provided by law and any other penalties as provided in 300:35-7-11.

SUBCHAPTER 11. PERMITS FOR WHARVES, LANDINGS, BUOYS, BREAKWATERS AND DOCKING FACILITIES

300:35-11-1. Private use

No person, firm, association, partnership or corporation may construct, install, relocate or operate any wharf, dock, landing, anchorage, boat house or breakwater on waters or

shorelands of GRDA until a private dock permit shall have been issued by GRDA. An application for a private dock permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

300:35-11-2. Commercial use

No person, firm, association, partnership or corporation may construct, install, relocate or operate any wharf, dock, landing, anchorage, boat house or breakwater for pecuniary profit or gain, directly or indirectly, on waters or shorelands of the lakes until a commercial dock permit shall have been issued by GRDA. The Federal Energy Regulatory Commission (FERC) must also approve an application. An application for a commercial dock permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

300:35-11-3. Waivers

(a) Upon written application and hearing, the Board of Directors of GRDA may grant a waiver, exception or modification to the requirements imposed on private and/or commercial permit applicants. Additionally, the Board of Directors may impose additional requirements upon any such applicant. Such waivers, exceptions, modifications, or additional requirements shall be based upon the totality of the circumstances, in consideration of public and environmental concerns.

(b) In approving waivers of these rules, the Board shall consider positive and negative impacts to the following:

(1) Characteristics, zoning and prevailing permitted uses within a half-mile radius of the proposed activity;

(2) Shoreline topography and geometry;

(3) Safety, navigation and flood control requirements;

(4) Environmental impacts;

(5) Potential economic development and tourism benefits;

(6) Recreational use impacts; and

(7) Statutory mandates.

(c) The applicant shall be required to give notice and the Board shall allow for public comment before acting on any request for a waiver of these rules.

(d) Public notice of the waiver request shall be given in accordance with guidelines established by the GRDA staff and shall include:

(1) Publication in newspapers of general circulation, including the county in which the property is located; and

(2) Mailing of written notice, via certified mail, return receipt requested, to all owners of property within a three hundred (300) foot radius of the exterior boundaries of the subject shoreline property. Copies of certified mail receipts must be submitted to GRDA prior to any hearing and before GRDA posts any notice.

(3) The waiver application shall be posted on GRDA's website for a period of at least thirty (30) days.

(4) Any other notice as required by GRDA.

300:35-11-4. Electrical inspections

(a) Each commercial and private boat dock shall comply with and be maintained in accordance with all laws, regulations and codes regarding electrical systems and wiring.

(b) All commercial and private boat docks constructed or modified after June 1, 2006 shall be required to provide to GRDA, within thirty (30) days following completion, a certificate signed by a licensed electrical contractor, evidencing compliance with all laws, regulations and codes regarding electrical systems and wiring.

(c) Before a dock permit may be transferred, a certificate signed by a licensed electrical contractor evidencing compliance with all laws, regulations and codes regarding electrical systems and wiring shall be provided to GRDA.

300:35-11-5. Breakwaters

(a) A breakwater is a structure used to protect docks, shoreline, or other structures by stopping or slowing waves or wakes.

(b) No breakwater shall be placed in the waters of GRDA without a permit. An application for such permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

(c) Breakwaters must be anchored in permanent locations and must have proper lighting. The owner of a breakwater shall be responsible for maintaining it in a safe and environmentally acceptable manner.

300:35-11-6. Buoys

(a) No buoy shall be placed or replaced without a permit from GRDA. An application for such permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

(b) All buoys placed on the lakes shall be commercially manufactured units approved by the Lake Patrol and shall have reflective tape or paint on the top side. Any buoy not maintained in its proper location by the owner shall be subject to removal by GRDA. Any buoys, lighthouses or other types of markers placed with the permission of or installed and maintained by GRDA are primarily warning devices for the convenience of the public and should not be relied upon solely as navigational aids. GRDA assumes no liability or responsibility for loss or damages to life or property arising out of the public's reliance upon said devices.

300:35-11-7. Railways, tram systems, fences, ramps and retaining walls

(a) No private or commercial railways, tram systems, fences, ramps or retaining walls shall be constructed on GRDA property without first obtaining a permit. An application for such permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

(b) Railways, tram systems, fences and retaining walls shall be maintained in a manner such that all electrical systems are to code, that environmental guidelines are met, and that the structures are safe and pose no risk or threat to the public.

(c) No ramp shall be constructed unless the ramp may be accessed by at least twenty-five (25) homeowners or the public at large. Approval from the U.S. Army Corps of Engineers may also be required.

(d) The applicant shall submit complete and detailed maps, plans and specifications for the proposed construction and its location, including a statement of the purpose(s) for which the work is to be done. The applicant must also be required to furnish a survey prepared by a licensed surveyor or engineer showing the location of GRDA's taking (property) line in the project area and shall have such line staked on the ground.

300:35-11-8. Removal and cancellation for failure to comply

(a) If, at any time, any such dock, wharf, boat house, breakwater, buoy or any other structure, private or commercial, is not constructed with generally-accepted building materials and pursuant to generally-accepted construction practices, or installed in accordance with the plans and specifications approved by GRDA, or if such works are not kept in good state of repair and in a good, safe and substantial condition, are not inspected by a licensed electrical contractor as provided herein, or upon failure of payment of any fee when due, GRDA, after notice and opportunity to be heard in accordance with Subchapter 21 herein, shall have the right to remove or cause to be removed from GRDA's waters and lands such structure and/or cancel any license or permit in the event the owner thereof fails to repair or remove the same after being notified by GRDA to repair or remove the same.

(b) Any loose or abandoned dock shall be impounded by GRDA and the owner shall be responsible for any expense incurred by GRDA. GRDA will notify the Oklahoma State Department of Health and the utility company furnishing electricity of any dock reported to be in an unsafe electrical condition.

(c) In the event GRDA removes a dock, wharf, boat house, breakwater, buoy, fence, retaining wall, railway or any other structure, private or commercial, the owner of same shall be required to pay all costs of such removal and may be required to pay all costs related to the repair and reclamation of GRDA lands and waters associated with the removal.

300:35-11-9. Location and site to be returned in good condition

Within thirty (30) days after expiration or termination of any permit, the holder shall remove all works and facilities from the lakes and lands of GRDA and shall leave the premises in as good condition as they were before the construction of said works and facilities.

300:35-11-10. GRDA sole judge

GRDA shall be the sole judge as to whether or not structures are constructed and maintained in accordance with these Rules and Regulations, or kept and operated in a good and safe condition.

300:35-11-11. Expiration of permit

(a) The construction of docks, breakwaters, buoys, railways, tram systems, and retaining walls, or approved modifications to same, must be completed within seven (7) years from the date the permit or modification approval is issued unless the permit specifically provides otherwise.

(b) If the permit expires, the permit is null and void.

300:35-11-12. Dock modification prohibited

Any person, firm, corporation, business or other entity must obtain permission from GRDA prior to making any modification, change, addition or improvement to an existing dock. If a dock will be reconfigured, modified, or expanded from the plans and specifications originally submitted for the construction of the dock, such change must be approved in advance by GRDA. Approval from the Federal Energy Regulatory Commission (FERC) may also be required. This rule applies to both private docks and commercial docks.

SUBCHAPTER 13. PERMITS FOR DIKES, EXCAVATIONS, DREDGINGS EROSION CONTROL DEVICES, AND SHORELINE STABILIZATION

300:35-13-1. Permit required

(a) The contour, elevation or surface of any of GRDA's lands or the reservoir bed shall not be changed in any manner whatsoever by the construction of dams, dikes, jetties, channels, canals or landings until and unless a permit has been issued by GRDA.

(b) No person, firm, partnership, corporation or other entity may excavate, dredge, stabilize or make any improvement or change upon GRDA land or waters until a permit shall have been issued by GRDA. Approval from the Federal Energy Regulatory Commission (FERC), the U.S. Army Corps of Engineers (Corps), and other state and local agencies may also be required. All such activities shall be performed in strict accordance with the plans and specifications approved by GRDA (and, if required, by FERC and the Corps). An application for such permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in

Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

300:35-13-2. Erosion control devices

(a) Erosion control devices. These devices may be permitted to protect the existing shoreline. These types of structures must not be for the purpose of landscaping or beautifying the area with little erosion control value. In some cases, permission may also be required from the U.S. Army Corps. of Engineers. An application for a permit for an erosion control device is available at GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

(b) During construction activities, GRDA shall require that appropriate erosion and sediment control measures be utilized to prevent pollution of GRDA waters.

(c) All material which accumulates behind sediment control structures must be removed from GRDA land and placed at an upland site above the applicable flowage easement.

(d) Disturbed sites must be promptly stabilized with seeding, vegetative planting, erosion control netting, and/or mulch material.

(e) Vegetation removed for erosion control project must be replaced with native species of vegetation.

300:35-13-3. Excavation and dredging

(a) All excavation and dredging activities on GRDA-owned property require a permit from GRDA. An application for such permit may be obtained from the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com. The U.S. Army Corps of Engineers may also require a permit for excavation and dredging activities. Additionally, the Federal Energy Regulatory Commission must approve all dredging activities on GRDA waters requiring the removal of more than 2,000 cubic yards of material. A wetland delineation study must accompany every application and the study must be conducted by a GRDA approved wetland delineation specialist. These approvals and permits must be obtained prior to commencing any dredging or excavation activity.

(b) Excavation of individual boat channels shall be approved only when GRDA determines there is no other practicable alternative to achieving sufficient navigable water depth and the action would not substantially impact sensitive resources.

(1) No more than two thousand (2,000) cubic yards of material shall be removed for any individual boat channel.

(2) The length, width, and depth of approved boat channels shall not exceed the dimensions necessary to achieve six (6) foot water depths for navigation of the vessel at the minimum projected water elevation.

(3) Each side of the channel shall have a slope ratio of at least 3:1.

(4) Only one (1) boat channel or harbor may be considered for each abutting property owner.

(5) The grade of the channel must allow drainage of water during reservoir drawdown periods.

(6) Spoil material from channel excavations must be placed in accordance with any applicable local, state, and federal regulations at an upland site above the applicable flood plain.

(A) Dredging for new or previously authorized areas shall not occur during the months of April, May, June and July to avoid potential impact to fish spawning areas.

(B) Excavation within vegetated wetlands is not authorized.

300:35-13-4. Shoreline stabilization

(a) GRDA may issue permits allowing adjacent residential landowners to stabilize eroding shorelines on GRDA-owned residential access shoreland. GRDA will determine if shoreline erosion is sufficient to approve the proposed stabilization treatment. No shoreline stabilization activities may be conducted until a permit from GRDA is issued. An application for a permit may be obtained from the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

(b) Biostabilization of eroded shorelines.

(1) Moderate contouring of the bank may be allowed to provide conditions suitable for planting of vegetation.

(2) Tightly bound bundles of coconut fiber, logs, or other natural materials may be placed at the base of the eroded site to deflect waves.

(3) Willow stakes and bundles and live cuttings of suitable native plant materials may be planted along the surface of the eroded area.

(4) Native vegetation may be planted within the shoreline management zone to help minimize further erosion.

(5) Riprap may be allowed along the base of the eroded area to prevent further undercutting of the bank.

(c) Use of gabions and riprap to stabilize eroded shorelines.

(1) The riprap material must be quarry-run stone, natural stone, or other material approved by GRDA.

(2) Rubber tires, concrete rubble, or other debris salvaged from construction sites shall not be used to stabilize shorelines.

(3) Gabions (rock wrapped with wire mesh) that are commercially manufactured for erosion control may be used.

(4) Riprap material must be placed so as to follow the existing contour of the bank.

(5) Site preparation must be limited to the work necessary to obtain adequate slope and stability of the riprap material.

(d) Use of retaining walls for shoreline stabilization.

(1) Retaining walls shall be allowed only where the erosion process is severe and GRDA determines that a retaining wall is the most effective erosion control option

or where the proposed wall would connect to an existing GRDA-approved wall on the lot or to an adjacent owner's GRDA-approved wall.
(2) GRDA shall inspect the site of the proposed construction and consider whether the planting of vegetation or the use of riprap would be adequate to control erosion.
(3) GRDA shall determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline.
(4) The retaining wall must be constructed of stone, concrete blocks, poured concrete, gabions, or other materials acceptable to GRDA. Railroad ties, rubber tires, broken concrete (unless determined by GRDA to be of adequate size and integrity), brick, creosote timbers, and asphalt are not allowed.
(5) Reclamation of GRDA land that has been lost to erosion is not allowed.

300:35-13-5. Penalty

Any person, firm, partnership, corporation, or other entity which violates this section, after notice and an opportunity to be heard in accordance with Subchapter 21 herein, shall be required to pay all costs related to the repair, restoration and reclamation of GRDA lands and waters associated with the violation.

300:35-13-6. Expiration of permit

(a) Any permit issued pursuant to Subchapter 13 of these rules must be completed within seven (7) years from the date the permit or modification approval is issued unless the permit specifically provides otherwise.
(b) If the permit expires, the permit is null and void.

SUBCHAPTER 15. COMMERCIAL USE OF THE LAKES AND LANDS OF GRDA

300:35-15-1. Definition

The keeping or operation of one (1) or more vessels, surfboards, aquaplanes, skis, personal watercraft or like devices, docks, landings, anchorages, marine railways, dry docks or any concession, for pecuniary profit or gain on the water of the lakes or upon the property of GRDA, the carriage of any person, or persons, or of any goods, wares, merchandising or other freight, for a valuable consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent or any other person, shall be deemed commercial use of the waters and lands of GRDA and will be allowed only after a permit has been issued. An application for such permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

300:35-15-2. Dock installer's permit

(a) Any person, firm, partnership, corporation, or any other entity operating for pecuniary gain or profit or any business that, directly or indirectly, is engaged in the building and placing, or the demolition and removal, of piers, wharves, landings, anchorages, floating boat houses, docks, barges or other floating structures of a stationary or semi-stationary nature upon the waters of GRDA shall obtain an annual permit. Such person or entity shall neither place nor demolish or remove a pier, wharf, landing, anchorage, floating boat house, dock, barge or other floating structure of a stationary or semi-stationary nature upon the waters of GRDA until a Dock Installer's permit has been issued. An application for such permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.
(b) No dock installer shall build and install a pier, wharf, landing, anchorage, floating boat house, dock, barge or other floating structure of a stationary or semi-stationary nature upon the waters of GRDA until such time as the application process found in Subchapter 11 herein has commenced.
(c) At the time the dock is installed, the dock installer shall post a permanent sign visible on the dock. The sign shall include the name of the dock installer, the dock installer's phone number and the year the dock was installed. The sign shall measure at least 5" x 5".
(d) A dock installer shall build, construct, place, demolish and remove docks in strict compliance with the plans and specifications approved by GRDA. The docks shall be built with generally-accepted building materials and in accordance with generally-accepted construction practices. All styrofoam, trash and construction materials shall be disposed in an environmentally appropriate fashion and shall not be allowed to remain or float in the waters of GRDA.

300:35-15-3. Penalty for violation of dock installer's permit

Any person, firm or corporation who shall violate any provision of this section shall, upon notice and opportunity to be heard in accordance with Subchapter 21 herein, be subject to having the dock installer's permit revoked for a period of time up to, and including, permanent termination. Other penalties may include, but are not limited to, the assessment of all costs associated with the repair and/or reclamation of GRDA lands and waters.

300:35-15-4. Dredging contractor's permit

(a) Any person, firm or corporation operating for pecuniary gain or profit or any business that, directly or indirectly, is engaged in the performance of dredging activities or operations upon the lands or waters of GRDA shall obtain an annual permit. An application for such permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

(b) A dredging contractor shall not perform any activities upon the lands or waters of GRDA until a Dredging Contractor's permit has been issued. Any such structure shall be constructed in accordance with GRDA requirements and in strict compliance with the application and terms and conditions of the permit.

300:35-15-5. Penalty for violation of dredging contractor's permit

Any person, firm or corporation who shall violate any provision of this section shall, upon notice and opportunity to be heard in accordance with Subchapter 21 herein, be subject to having the dredging contractor's permit revoked for a period of time up to, and including, permanent termination. Other penalties may include, but are not limited to, the assessment of all costs associated with the repair and/or reclamation of GRDA lands and waters.

300:35-15-6. Commercial boat operators permit

(a) Any person, firm or corporation operating for pecuniary gain or profit or any business that, directly or indirectly, is engaged in the performance of the carriage of any person, or persons, or of any goods, wares, merchandising or other freight, for a valuable consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent or any other person, upon the lands or waters of GRDA shall obtain an annual permit. An application for such permit is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

(b) No vessel, while carrying passengers for hire, shall be operated or navigated except in charge of a person covered by a policy of insurance that clearly covers the scope of duties resulting from such commercial enterprise.

300:35-15-7. Penalty for violation of commercial boat operators permit

Any person, firm or corporation who shall violate any provision of this section shall, upon notice and opportunity to be heard in accordance with Subchapter 21 herein, be subject to having the commercial boat operators permit revoked for a period of time up to, and including, permanent termination.

SUBCHAPTER 17. RAW WATER PERMITS

300:35-17-1. Definition

(a) For the purpose of these Rules and Regulations, the term "domestic and household use" shall mean water that is taken, used and consumed by the permittee in and upon his premises for all usual and ordinary household uses and purposes which shall include sprinkling and watering lawns and gardens of not to exceed three (3) acres. A raw water permit shall be obtained for any appropriation of water requiring a hose or pipe extending into the lake and running off GRDA property. The term "irrigation" shall mean water that is taken, used and consumed by the permittee in and upon the premises covered by the permit for the purpose of irrigating lands, crops and vegetables growing in and upon said lands by ditches, canals, sprinkling systems and such other usual and ordinary means of irrigation.

(b) Water rights granted under these Rules and Regulations shall not be construed as the supplying or furnishing of water for domestic purposes to the public; such permits only grant the permittee the right to take and use the water as provided by these Rules and Regulations.

(c) Commercial use of water requires a written contract with GRDA.

300:35-17-2. Permit required

The taking of and using waters of GRDA shall be allowed only after an annual permit has been issued by the Grand River Dam Authority. An application for such is available at the GRDA Ecosystems Management Office, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

300:35-17-3. Irrigation billing

(a) Upon approval of the application for an irrigation permit, the permittee may begin irrigation.

(b) If the permittee has provided facilities for measuring the water taken and used, he shall report the amount of water used to GRDA not later than the first day of November of each calendar year.

(c) In the event the permittee and GRDA agree that the amount of water taken will be fixed and established by agreement between the permittee and GRDA, a determination of the amount of water used will be made not later than the first day of March of that calendar year.

(d) In the event the permittee has used more than one (1) acre foot of water during the calendar year, he shall pay for all water in excess of one (1) acre foot on the basis of the fees above set forth before the end of the calendar year.

(e) If the term of the permit is for more than one (1) year, then the permittee shall pay the required fees and charges on the first day of January for each calendar year covered by said permit.

300:35-17-4. Location of diversion

The granting of such permit to take water from Grand Lake or Lake Hudson shall authorize the permittee to locate upon the lands of GRDA the facilities necessary to take such water covered by the permit; provided, the location and manner of diversion is first approved by GRDA; however, a permit for the use of water from Fort Gibson Lake shall give the permittee no permission or right to take or use any lands for any purpose whatsoever. (The lake bed and shorelands of Fort Gibson Lake are owned by the United States of America and are under the jurisdiction and control of the United States Army Engineers, District Office, Tulsa, Oklahoma.)

300:35-17-5. Construction and maintenance

The permittee, upon being granted a permit, shall construct and maintain all taking and diversion facilities according to plans and specifications and in a proper and safe manner that will prevent waste and loss of water and will not pollute or contaminate the lake water. All such facilities shall be subject to inspection by GRDA.

SUBCHAPTER 19. RIGHTS OF ABUTTING LANDOWNERS

300:35-19-1. Abutting landowner's rights

(a) No permit, private or commercial, shall issue for any of the facilities described in these Rules and Regulations which would deprive the owner of land adjacent to the shoreland or lakefront or abutting thereon of any anchorage, wharf, dock, boat dock, houseboat and landing privileges.

(b) GRDA may designate areas closed to such use where, in its opinion, such use would interfere with the health or safety of the public or with the proper conduct of GRDA's business.

SUBCHAPTER 21. ADMINISTRATION OF RULES AND HEARINGS

300:35-21-1. General manager duties

The General Manager of the Grand River Dam Authority is authorized to administer these Rules and Regulations. The General Manager, or the General Manager's designee, shall issue all permits and licenses provided for herein.

300:35-21-2. GRDA Board of Directors duties

The Board of Directors of the Grand River Dam Authority retains the right to authorize and issue any and all permits and licenses not specifically provided for in these Rules and Regulations. No fees, charges or any of these Rules and Regulations shall be changed in any manner without the approval of the Board of Directors.

300:35-21-3. Hearings for violation of rules

(a) The general procedures for hearings established by this Subchapter shall apply to proceedings conducted by GRDA for such purposes as suspending or revoking permits, enforcement matters, and assessing costs.

(b) Hearings may be initiated by GRDA staff by issuance of a Notice of Violation or by filing a Petition with the General Manager's Executive Secretary.

(c) The Notice of Violation or Petition shall inform the Respondent of the matter at issue and, if applicable, the alleged violation. Each Notice of Violation or Petition shall name the Respondent(s) and provide a brief statement of the facts and the relief requested. The Notice of Violation or Petition shall be signed by a GRDA staff member.

(d) The Notice of Violation or Petition shall specify that the Respondent may file a response, how and where the response may be filed, the number of days or a date certain within which to file the response, state any scheduled hearing date, place and time or include notice of the opportunity to request an administrative hearing, and shall be served on the named Respondent.

300:35-21-4. Hearing officer

(a) The General Manager, or his designee, shall preside at any hearing. The General Manager may contract with an individual that is not employed by GRDA to preside at any hearing. The functions of the hearing officer shall commence upon his/her designation and terminate upon the certification of the record to the Board of Directors. The hearing officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. The hearing officer's authority shall include, but not be limited to:

(1) Arrange and change the date, time and place of hearings and prehearing conferences and issue notice thereof;

(2) Hold conferences to settle, simplify or determine the issues in a hearing, or to consider other matters that may aid in the expeditious disposition of the hearing;

(3) Require parties to state their position in writing with respect to the various issues in the hearing and to exchange such statements with all other parties;

(4) Administer oaths and affirmations;

(5) Examine witnesses and direct witnesses to testify;

(6) Receive, rule on, admit, exclude or limit evidence;

(7) Rule on pending motions and procedural items.

300:35-21-5. Report and record

As soon as practicable after the time for the parties to file proposed findings of fact and conclusions of law has expired, the hearing officer shall prepare a report containing the following:

(1) Findings of fact and conclusions of law with the reasons therefore.

(2) Recommendation to the GRDA Board of Directors.

300:35-21-6. Final order

(a) As soon as practicable after the hearing officer has sent his recommendation to the GRDA Board of Directors as provided in 300:35-21-5, the Board of Directors shall adopt, amend, or reject any findings or conclusions of the hearing officer, or may remand the proceeding for additional argument or the introduction of additional evidence at a hearing held for that purpose.

(b) At the conclusion of the proceedings and review of the record by the Board of Directors, the Board of Directors shall issue a final order reflecting the findings of fact, conclusions of law, and specifying the action to be taken.

300:35-21-7. Administrative appeal

An appeal from the Board of Director's Final Order shall be made to the Craig County District Court of Oklahoma.

300:35-21-8. Noncompliance, violations and penalties

Any person, firm or corporation that fails to comply with, or violates any Rule promulgated by GRDA shall, after notice and an opportunity for hearing as provided for herein, be required to reimburse GRDA for any direct cost and overhead incurred as a result of such failure to comply or violation. Such costs may include, but are not limited to, the costs associated with the repair, restoration and reclamation of the lands and waters of GRDA. Additionally, GRDA may cancel any permit or license which has been issued in connection with said boat, structure or facility and may remove or cause it to be removed from GRDA's lands and waters.

SUBCHAPTER 23. FOUR-WHEEL VEHICLES, OFF-ROAD VEHICLES AND ALL TERRAIN VEHICLES

300:35-23-1. Designated areas

In the interest of public safety, there shall be no four-wheel vehicles, off-road vehicles or all terrain vehicles on GRDA lands except in designated areas.

300:35-23-2. Passengers prohibited

No passengers are allowed on three (3) wheelers, four (4) wheelers, or motorcycles.

300:35-23-3. Low gear required

Low gear only except on trails posted at speed limits in excess of five (5) MPH.

300:35-23-4. Racing prohibited

No racing on GRDA property is allowed except as other permitted by a sanctioned event permit.

300:35-23-5. Lights required

All vehicles, including motorcycles, must be equipped with working front and rear lights.

300:35-23-6. Roll bar and seat belt requirements

Dune buggies and 4x4 vehicles must have a roll bar sufficient to support the weight of the vehicle and must have a seat belt for each passenger.

300:35-23-7. No liability

GRDA shall not be liable and hereby disclaims any responsibility for any and all injuries and accidents, up to and including death, which may occur as a result of participating in off-road activities. Each driver and passenger rides at his/her own risk and assumes all risks of the activity.

300:35-23-8. Alcoholic beverages prohibited

Alcoholic beverages, including low point beer, are prohibited from areas in which off-road activities occur.

300:35-23-9. Signage

Drivers shall obey all signs posted on GRDA land including areas that are off limits and speed designations.

300:35-23-10. Penalty

(a) GRDA law enforcement personnel may verbally order any person that is violating these rules to immediately exit the lands of GRDA.

(b) Additionally, any person, after notice and opportunity to be heard in accordance with Subchapter 21 herein, may be banned from the lands of GRDA for a period of time up to, and including, ninety (90) days.

SUBCHAPTER 27. VEGETATION MANAGEMENT PLAN

300:35-27-1. Scope and intent

Shoreline vegetation protects and preserves a healthy vegetative buffer along the shoreline to maintain and enhance the natural and aesthetic resources of the GRDA lakes. Vegetation can help stabilize the shoreline, prevent erosion, and protect water quality. A natural vegetation buffer improves water quality by filtering and trapping organics and chemical pollutants. A vegetative buffer can enhance the natural appearance of the shoreline. This Vegetation Management Plan ("VMP") provides the objectives for maintaining GRDA project property.

300:35-27-2. Applicability

(a) No person may brushhog, bulldoze, clear, or scrape GRDA property. No person may trim any tree or other vegetation on GRDA property. If a tree is dead and dangerous, or poses a hazard to the safety of the public or property, a person may apply for a permit to remove the tree. The VMP provides guidelines for property owners to apply for a permit to add landscaping plantings on GRDA lands. The VMP also provides the procedure by which permits for such activities are obtained.

(b) Floating debris, litter, and trash may be removed from GRDA lands and water at any time and does not require GRDA approval provided the method of removal complies with these rules.

300:35-27-3. Permits

Individuals or entities wishing to remove vegetation (dead and dangerous trees, or hazardous trees only) or plant vegetation, are required to apply for and obtain a permit from the GRDA Office of Ecosystems Management before conducting any such activities. Applications are available at the GRDA Office of Ecosystems Management, located at the west end of Pensacola Dam in Langley, Oklahoma, or by mail at P.O. Box 70, Langley, Oklahoma 74350, or by calling 918-782-9594 or on the GRDA website at www.GRDA.com.

300:35-27-4. Vegetation management

(a) Except for the mowing of lawns established and existing before June 1, 2005, no mowing is authorized on GRDA property.

(b) A permit must be obtained prior to removing any vegetation or planting landscape on GRDA property.

(c) Once a permit is obtained from GRDA, the following guidelines apply:

(1) No herbicides may be used for control/removal of vegetation.

(2) Pesticides shall not be applied on GRDA land.

(3) No living trees, brush, or shrubs will be removed.

(4) Dead and dangerous trees, or hazardous trees, to be cut must be marked in advance by the GRDA Office of Ecosystems Management.

(5) The sale of any tree that is removed or cut is prohibited.

(6) The removal of trees is approved only in cases where the trees are dead and dangerous, damaged and dangerous, diseased and dangerous, or present a public safety or property hazard.

(7) Vegetation may be cleared to create and maintain a foot path between GRDA land and an approved use of GRDA land such as a permitted dock. The foot path may not exceed four (4) feet wide. The path will extend from the common boundary between GRDA and the adjacent landowner to the water at normal summer elevation. The path will be located to minimize removal of trees or other vegetation on GRDA land. The path must be permitted in conjunction with the permitted dock.

(d) Once a permit for landscape planting is obtained from GRDA, the following guidelines apply:

(1) Planting of trees, shrubs, wildflowers, native grasses, and ground covers within GRDA lands may be allowed to create, improve, or enhance the vegetative cover, provided native plants are used.

(2) Fertilizers shall not be applied on GRDA lands.

(3) Vegetable gardens are prohibited on GRDA lands.

(e) The introduction or planting of invasive plant species is prohibited on GRDA lands and waters. In addition to any species designated by the Oklahoma Department of Wildlife Conservation, a list of such species includes:

(1) **Invasive or pest plants**: Russian Olive; Sumac; Paper Mulberry; Saltcedar or Tamarisk; Siberian Elm; Eastern Redcedar; Poison Ivy; Poison Oak; Poison Sumac.

(2) **Noxious aquatic plants**: Azolla pinnata - Mosquito Fern (aka - Water Velvet, Water Fern); Caulerpa taxifolia - Caulerpa (aka - Mediterranean Clone of Caulerpa); Eichhornia azure - Anchored Water Hyacinth (aka - Rooted Water Hyacinth, Blue Water Hyacinth, Saw-petal Water Hyacinth); Hydrilla verticillata - Hydrilla (aka - Florida Elodea, Star Vine, Oxygen Plant, Oxygen Weed); Hygrophila polysperma - Hygro (aka - Miramar Weed, Green Hygro, Oriental Ludwigia, East Indian Hygrophila); Ipomoea aquatica - Water Spinach (aka - Swamp Morning Glory, Chinese Water Spinach, Water Bindweed, Aquatic Morning Glory); Lagarosiphon major - African Elodea (aka - Oxygen Weed); Limnophila species - Ambulia (aka - Asian Marshweed, Limno, Red Ambulia, Indian Ambulia); Lythrum salicaria - Purple Loosestrife (aka - Loosestrife); Marsilea quadrifolia - Marsilea (aka - European Waterclover, Four-leaf Clover Fern, Water Fern, Water Clover, Hairy Pepperwort); Marsilea mutica - Australian Waterclover (aka - Varigated Water-clover, Mardoo); Marsilea minuta - Waterclover; Melaleuca quinquenervia - Paperbark Tree (aka - melaleuca, Cajeput, Punk); Monochoria hastate - Cat's Claw (aka - Monochoria); Ottellia alismoides - Duck Lettuce; Sagittaria sagittifolia - Japanese Arrowhead (aka - Hawaiian Arrowhead, Common Arrowhead, Chinese Arrowhead); Salvinia auriculata - Gian Salvinia (aka - Butterfly, Fern, Water Fern, Water Moss); Salvinia biloba - Gioan Salvinia (aka - Salvinia); Salvinia herzogii - Gian Salvinia (aka - Salvinia); Salvinia molesta - Gian Salvinia (aka - Salvinia, Water Velvet, Karibaweed, Koi Kandy); Solanum tampicense - Wetland Nightshade; Sparganium erectum - Exotic Bur-reed; Glossostigma diandrum - Mud Mat.

(3) **Noxious non-aquatic plants**: Musk Thistle; Canada Thistle; Scotch Thistle.

300:35-27-5. Waivers

Since every possible situation cannot be anticipated, GRDA reserves the absolute discretion to make appropriate exceptions or modifications to the Vegetation Management Plan and the requirements of same. GRDA may impose additional requirements, including the requirements that the permit holder provide a survey to verify the permitted activity was completed in conformance with GRDA requirements.

300:35-27-6. FERC approval

In accordance with its licenses with the Federal Energy Regulatory Commission (FERC), GRDA may only permit incidental vegetation disturbance and removal. Therefore, in certain instances an application for a permit to remove vegetation must be approved by both GRDA and FERC. GRDA reserves the right to request FERC to approve any application for a permit.

300:35-27-7. Penalties

After notice and an opportunity to be heard in according with Subchapter 21 herein, a permit issued pursuant to these rules may be suspended or revoked by GRDA upon a finding that the permit holder has violated any rule provided for herein. Additionally, the holder of the permit may be assessed costs which may include expenses necessary for the reclamation, restoration, and/or clean-up of GRDA land and waters.

[OAR Docket #06-741; filed 4-25-06]

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

[OAR Docket #06-698]

RULEMAKING ACTION:
PERMANENT final adoption
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]
AUTHORITY:
Oklahoma State Board of Health; 63 O.S. §§ 1-106.1, 1-206, 1-206.1, 1-230 and 1-231
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INCORPORATION BY REFERENCE:
n/a
ANALYSIS:
This proposal amends the existing rule by changing the age range of children to be served through Child Guidance programs from those under 18 years of age to those under 13 years of age and providing the ability for fees to be consistent with the established Medicaid rates.
CONTACT PERSON:
Debra Andersen, MA, Chief, Child Guidance Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, Oklahoma 73117, (405) 271-4477.

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 25, 2006:

SUBCHAPTER 3. CHILD GUIDANCE

310:525-3-2. Definitions

"Child Guidance" means promoting optimal development, behavior and interaction of children~~ birth to eighteen (18) years of age~~.

~~**"Children"** means children birth to eighteen (18) years of age.~~

"Family" means natural parents, adoptive parents, foster parents, legal guardians, siblings, aunts, uncles, grandparents or other caregivers living in the home with the identified child.

"Other adults" means childcare providers, teachers, school counselors, caseworkers, and others responsible for influencing the development of children.

310:525-3-3. Services ~~Provided~~

Child Guidance ~~Services~~services ~~are provided for the benefit of children birth to eighteen (18) years of age to promote optimal development, behavior and interaction. Services~~ are provided to children, families, and other adults responsible for influencing the development of children. ~~This~~Child Guidance services ~~includes~~include, but are not limited to, screening, assessment, and evaluation of behavior, communication, hearing and development; and~~,~~ intervention, prevention and education services for risks or delays in ~~of behavioral~~behavior, communication, hearing, and/or ~~developmental~~development~~ and emotional concerns~~.

310:525-3-4. Eligibility

Persons authorized to be served ~~with~~ by Child Guidance programs~~ state and local program funds~~ are children birth to ~~eighteen (18)~~ thirteen (13) years of age, their families, and other adults responsible for influencing ~~the~~their development ~~of children~~.

310:525-3-5. Fees

(a) Fees will be charged for Child Guidance services based ~~on~~upon the ~~individual~~ ability of the child's family to pay as set by the sliding fee ~~schedule~~scale and ~~on~~upon the potential for payments or contribution from the family's third party insurance provider. Families will not be denied Child Guidance services, or be subjected to any variation in quality or delivery of Child Guidance services, because ~~receipts from the third party system. Individuals receiving services funded by Child Guidance may not be refused services on the basis~~ of inability to pay.

(b) The ~~fee~~ schedule of fees~~ is as follows for Behavioral Health Services:~~ will be consistent with Medicaid rates established by the Oklahoma Health Care Authority pursuant to 63 O.S. §§ 5007(F) and 5009.

~~(1) Psychological evaluation and testing at $51.50 per hour.~~

~~(2) Individual counseling at $26.00 per 30 minutes.~~

~~(3) Family counseling (individual client focused; with or without client present) at $27.50 per 30 minutes.~~

~~(c) The fee schedule is as follows for Speech Language Pathology Services:~~

~~(1) Evaluation of speech, language, voice, communication, auditory processing, and/or aural habilitation status at $41.50 per hour.~~

~~(2) Treatment of speech, language, voice, communication, and/or auditory processing disorder (includes aural rehabilitation status)at $30.00 per 30 minutes.~~

~~(d) The fee schedule is as follows for Audiology Services:~~

~~(1) Aural rehabilitation following cochlear implant (includes evaluation of aural rehabilitation status and hearing, therapeutic services) with or without speech processor programming at $30.00 per 30 minutes.~~

~~(2) Pure tone audiometry (threshold); air only $11.00; air and bone $16.00.~~

~~(3) Speech audiometry threshold at $9.50.~~

~~(4) Speech audiometry threshold with speech recognition at $14.00.~~

~~(5) Comprehensive audiometry threshold evaluation and speech recognition at $29.50.~~

~~(6) Tympanometry (impedance testing) at $14.50.~~

~~(7) Acoustic reflex testing at $9.50.~~

~~(8) Conditioning play audiometry at $18.00.~~

~~(9) Auditory evoked potentials for evoked response audiometry and/or testing of the central nervous system; comprehensive at $79.00.~~

~~(10) Evoked otoacoustic emissions: comprehensive or diagnostic evaluation (multiple levels and frequencies) at $50.50.~~

~~(11) Central auditory function test(s) at $13.00.~~

~~(12) Hearing aid examination and selection at $50.00.~~

~~(13) Hearing aid check at $45.00.~~

~~(14) Earmold at $38.00 per ear.~~

(~~e~~c) The Commissioner of Health must approve any changes to the sliding fee scale prior to implementation.

[OAR Docket #06-698; filed 4-19-06]

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

[OAR Docket #06-699]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Childhood Immunizations
310:535-1-2. [AMENDED]
310:535-1-3. [AMENDED]
AUTHORITY:
Oklahoma State Board of Health; 70 O.S.2001, §§ 1210.191 et seq.; 10 O.S.2001, § 412; 63 O.S.2001, § 1-104; 63 O.S.2001, § 1-502
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n/a
ANALYSIS:
This rule change incorporates a change to immunization recommendations made by the U.S. Public Health Service changing the minimum age for hepatitis A vaccine from 2 years of age to 1 year of age.
CONTACT PERSON:
Susan Mendus, M.P.H. Immunization Service, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-4073; facsimile: (405) 271-6133; electronic mail: susanm@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 1. CHILDHOOD IMMUNIZATIONS

310:535-1-2. Criteria for immunizations required

(a) Each child shall present certification that he or she has received or is receiving the immunizations as specified below before he or she is admitted to any public, private, or parochial school.

(b) Certification shall include the following:

(1) Diphtheria, Tetanus and Pertussis (DTP/DTaP) vaccine in five doses unless the fourth dose is received on or after the fourth birthday in which case only four doses are required.

(2) Poliomyelitis vaccine in four doses unless the last dose is on or after the fourth birthday in which case only three doses are required.

(3) Measles, Mumps and Rubella (MMR) vaccine with the first dose on or after the first birthday and the second dose at least twenty-eight days thereafter for children in grades kindergarten through eighth grade in the school year beginning in 1998. In the school year beginning in 1999, this requirement shall apply to the children through the ninth grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2002, children in all grades shall be required to have the second dose of vaccine.

(4) Hepatitis B vaccine in three doses for students of any age or two doses for students eleven through fifteen years of age who complete the alternative dosage schedule providing that the alternative schedule is fully documented. Such documentation must include the name of the vaccine and the dosage received for each dose of that vaccine:

(A) before entering seventh and eighth grades in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering the

seventh through ninth grades. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2002, children in grades seven through twelve shall be required to have the three doses of the vaccine.

(B) before entering kindergarten in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering kindergarten and first grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2004, all children entering school shall be required to have the three doses of the vaccine.

(5) Hepatitis A vaccine in two doses with the first dose on or after the ~~second~~first birthday and the second dose six to eighteen calendar months later:

(A) before entering kindergarten in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering kindergarten and first grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2004, all children entering school shall be required to have the two doses of the vaccine.

(B) before entering grade seven in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering the seventh and eighth grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2003, children in grades seven through twelve shall be required to have the two doses of the vaccine.

(6) Varicella (chickenpox) vaccine in one dose on or after the first birthday before entering kindergarten in 1998. In lieu of vaccination, a parent's statement of a history of the disease chickenpox will be accepted. In the school year beginning in 1999, this requirement shall apply to the children entering kindergarten and first grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2010, all children entering school shall be required to have the vaccine or a parent's statement of a history of the disease chickenpox.

(c) The minimum intervals between doses and minimum ages for doses shall be as follows:

(1) DTP/DTaP:

(A) First and second dose - 4 weeks

(B) Second and third dose - 4 weeks

(C) Third and fourth dose - 4 months

(D) Fourth and fifth dose - 6 months

(E) For all fifth doses given after January 1, 2003 the minimum age for the fifth dose is 4 years of age

(2) Polio:

(A) First and second dose - 4 weeks

(B) Second and third dose - 4 weeks

(C) Third and fourth dose - 4 weeks

(3) MMR: First and second dose - 4 weeks

(4) Hepatitis B 3-dose series:

(A) First and second dose - 1 month (4 weeks)

(B) Second and third dose - 2 months (8 weeks), and the third dose at least 4 months (16 weeks) after first dose, and the third dose not before 24 weeks of age

(5) Hepatitis B 2-dose series: First and second dose - 4 months

(6) Hepatitis A: First and second dose - 6 months and for all doses given on or after January 1, 2003, 6 months will be defined as 6 calendar months

(7) Four day grace period: Vaccine doses administered 4 days or less before the minimum intervals or ages listed in the preceding sections will be counted as valid.

(d) A child, through his parent or guardian, may apply for an exemption from this requirement by submitting a form to the school. The school shall maintain a copy of the application in the child's records and send a copy to the Department for approval.

(1) A request for exemption for medical reasons shall contain a certificate signed by a physician stating that the physical condition of the child is such that the immunization would endanger the life or health of the child and that the child should be exempt for immunization.

(2) A request for exemption for religious or other personal reasons shall contain a signed written statement from the parent or guardian stating a summary of the objections. Lost or unobtainable immunization records are not a ground for personal exemption.

(e) A child participating in a pre-kindergarten school program shall have received or be in the process of receiving the appropriate immunization for the listed diseases based on the child's age.

(f) The Department may grant exemptions or substitutions in the immunization schedule based on a medical history of a physical condition such that the immunization would endanger the life or health of the child or a medical history stating the child is likely to be immune as a result of having had a vaccine-preventable disease if the following are met:

(1) A history of having had diphtheria and/or tetanus is not acceptable as proof of immunity since infection with diphtheria or tetanus may not render an individual immune to either of these diseases,

(2) A history of having had polio, pertussis, rubella, mumps, hepatitis B, or hepatitis A must be supported by laboratory evidence to be acceptable as proof of immunity to these diseases,

(3) A history of having had measles must be accompanied by a statement from a physician, public health authority, or laboratory evidence to be acceptable as proof of immunity to measles,

(4) A parental history of having had varicella is acceptable evidence of immunity to varicella,

(g) Haemophilus influenzae type B (Hib) vaccine is not a requirement for children attending pre-kindergarten, kindergarten, or school.

(h) In some circumstances, the United States Food and Drug Administration may approve the use of an alternative dosage schedule for an existing vaccine. These alternative schedules

may be used to meet the requirements only when the alternative schedule is fully documented. Such documentation must include the name of the vaccine and dosage received for each dose of that vaccine.

310:535-1-3. Criteria for immunizations required for day care

(a) Each child two months of age or older shall present certification that he or she has received or is receiving the immunizations as specified below before he or she is admitted to, and while enrolled in, a day care center or day care home.

(b) Certification shall include the following:

(1) 5 DTaP/DTP doses at 2, 4, 6, and 12 to 18 months and 4 to 6 years or beginning at 6 weeks of age with minimum intervals of 4 weeks between doses 1 and 2 and doses 2 and 3 and 4 months between doses 3 and 4 and 6 months between doses 4 and 5, with all fifth doses given on or after January 1, 2003 given on or after the fourth birthday; The fifth DTaP/DTP is not required if the fourth DTaP/DTP is administered on or after the fourth birthday;

(2) 4 Polio doses at 2, 4 and 6 to 18 months and 4 to 6 years or beginning at 6 weeks of age with minimum intervals of 4 weeks between all doses; The fourth Polio is not required if the third dose is given on or after the fourth birthday;

(3) 1 to 4 Haemophilus influenzae type B (Hib) doses at 2, 4, 6, and 12 to 15 months of age or older depending upon age at first Hib immunization and type of vaccine used or beginning at 6 weeks of age with minimum intervals of 1 month between doses 1, 2, and 3, if a third dose is part of the primary series, and the booster dose no earlier than 12 months of age and at least 2 months after the previous dose;

(4) 2 Measles, Mumps, Rubella doses with the first dose on or after the first birthday and the second dose at 4 to 6 years or at anytime after the first dose provided at least 4 weeks have elapsed since the receipt of the first dose;

(5) 1 Varicella dose on or after the first birthday;

(6) 2 Hepatitis A doses with the first dose on or after the ~~second~~first birthday and the second dose six to eighteen months later and for all doses given on or after January 1, 2003, 6 months will be defined as 6 calendar months;

(7) 3 Hepatitis B doses with minimum intervals as follows: 1 month (4 weeks) between doses 1 and 2, two months (8 weeks) between doses 2 and 3, four months (16 weeks) between doses 1 and 3, and dose 3 no earlier than 24 weeks of age;

(8) Vaccine doses administered 4 days or less before the minimum intervals or ages listed in the preceding sections will be counted as valid.

(c) In the event that the parent, guardian, or responsible adult presenting a child for admission to a child care facility certifies in writing that a family emergency exists, the immunization requirements shall be waived for a period not to exceed thirty days. No such waiver shall be knowingly permitted more than once for any child.

(d) Immunization records for children attending school-age programs are not required if those records are maintained by the school and are readily available.

(e) A child, through his parent or guardian, may apply for an exemption from this requirement by submitting a form to the day care center or day care home. The day care center or day care home shall maintain a copy of the application in the child's records and send a copy to the Department for approval.

(1) A request for exemption for medical reasons shall contain a certificate signed by a physician stating that the physical condition of the child is such that the immunization would endanger the life or health of the child and that the child should be exempt for immunization.

(2) A request for exemption for religious or other personal reasons shall contain a signed written statement from the parent or guardian stating a summary of the objections. Lost or unobtainable immunization records are not a ground for personal exemption.

(f) The Department may grant exemptions or substitutions in the immunization schedule based on a medical history of a physical condition such that the immunization would endanger the life or health of the child or a medical history stating the child is likely to be immune as a result of having had a vaccine-preventable disease if the following are met:

(1) A history of having had diphtheria and/or tetanus is not acceptable as proof of immunity since infection with diphtheria or tetanus may not render an individual immune to either of these diseases;

(2) A history of having had polio, pertussis, rubella, mumps, or hepatitis A must be supported by laboratory evidence to be acceptable as proof of immunity to these diseases;

(3) A history of having had measles must be accompanied by a statement from a physician, public health authority, or laboratory evidence to be acceptable as proof of immunity to measles;

(4) A parental history of having had varicella is acceptable evidence of immunity to varicella;

(5) A history of having had Hib before age two years is not acceptable as proof of immunity since infection with Hib prior to age two years may not render an individual immune.

[OAR Docket #06-699; filed 4-19-06]

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

[OAR Docket #06-626]

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RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-5. [AMENDED]
Subchapter 5. Individual Providers and Specialties

Part 3. Hospitals
317:30-5-47.2 through 317:30-5-47.5. [NEW]
317:30-5-48. [REVOKED]
Part 8. Rehabilitation Hospitals [NEW]
317:30-5-110. through 317:30-5-114. [NEW]
(Reference APA WF # 05-15)

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Part 3. Hospitals
317:30-5-47.2 through 317:30-5-47.5. [NEW]
317:30-5-48. [REVOKED]
Part 8. Rehabilitation Hospitals [NEW]
317:30-5-110. through 317:30-5-114. [NEW]
(Reference APA WF # 05-15)
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October 3, 2005
Register publication:
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05-1310

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
Hospital rules are revised to modify the acute inpatient hospital services reimbursement from a level of care per diem system to a Diagnosis Related Group (DRG) reimbursement system. Under a DRG system, each case is categorized into a diagnosis related group (DRG). Each DRG has a payment weight assigned to it, based on the average resources used to treat Medicaid patients in a DRG. The DRG weight is multiplied by a peer grouped base rate to determine a hospital's level of payment. Payments to freestanding psychiatric facilities, freestanding rehabilitation hospitals, and children's long term care hospitals will continue to be paid under the per diem system. Payments for graduate medical education (GME) are excluded from this system. The current method of payment for GME will be adjusted to reflect the GME costs using Medicare cost reports, similar to the Medicare payment system. Proposed rule revisions for outpatient hospital reimbursement includes payment for emergency room visits, clinic fees, and observation, based on a hospital's trauma level of care classification as determined by the Oklahoma State Department of Health. Payments for hospitals classified as Level I and II Trauma Centers will receive one rate, Levels III and IV facilities will receive different rates.

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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 MAY 25, 2006:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-5. Assignment and Cost Sharing

(a) **Definitions.** The following words and terms, when used in subsection (c) of this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Fee-for-service contract"** means the provider agreement specified in OAC 317:30-3-2. This contract is the contract between the Oklahoma Health Care Authority and medical providers which provides for a fee with a specified service involved.

(2) **"Within the scope of services"** means the set of covered services defined at OAC 317:25-7 and the provisions of the Primary Care Case Manager contracts in the SoonerCare Program.

(3) **"Outside of the scope of the services"** means all medical benefits outside the set of services defined at OAC 317:25-7 and the provisions of the Primary Care Case Manager contracts in the SoonerCare Program.

(b) **Assignment in fee-for-service.** The Authority's Medicaid State Plan provides that participation in the medical program is limited to providers who accept, as payment in full, the amounts paid by OHCA plus any deductible, coinsurance, or copayment required by the State Plan to be paid by the recipient and make no additional charges to the patient or others.

(1) OHCA presumes acceptance of assignment upon receipt of an assigned claim. This assignment, once made, cannot be rescinded, in whole or in part by one party, without the consent of the other party.

(2) Once an assigned claim has been filed, the patient must not be billed and the patient is not responsible for any balance except the amount indicated by OHCA. The only amount a patient may be responsible for is the personal participation as agreed to at the time of determination of eligibility, or the patient may be responsible for services not covered under the medical programs. The amount of personal participation will be shown on the OHCA notification of eligibility. In any event, the patient should not be billed for charges on an assigned claim until the claim has been adjudicated or other notice of action received by the provider. Any questions regarding amounts paid should be directed to OHCA, Customer Services.

(3) When potential assignment violations are detected, the Authority will contact the provider to assure that all provisions of the assignment agreement are understood. When there are repeated or uncorrected violations of the

assignment agreement, the Authority is required to suspend further payment to the provider.

(c) **Assignment in SoonerCare.** Any provider who holds a fee for service contract and also executes a contract with a provider in the Primary Care Case Management program shall adhere to the rules of this subsection regarding assignment.

(1) If the service provided to the recipient is within the scope of the services outlined in the SoonerCare Contract, the recipient shall not be billed for the service. In this case, the provider shall pursue collection from the Primary Care Physician in the case of the SoonerCare Program.

(2) If the service provided to the recipient is outside of the scope of the services outlined in the SoonerCare Contract, then the provider may bill or seek collection from the recipient.

(3) In the event there is a disagreement whether the services are in or out of the scope of the contracts referenced in (1) and (2) of this subsection, the Oklahoma Health Care Authority shall be the final authority for this decision. The provider seeking payment under the SoonerCare Program may appeal to OHCA under the provisions of OAC 317:2-1-2.1.

(4) Violation of this provision shall be grounds for a contract termination in the fee-for-service and SoonerCare programs.

(d) **Cost Sharing-Copayment.** Section 1902(a)(14) of the Social Security Act permits states to require certain recipients to share some of the costs of Medicaid by imposing upon them such payments as enrollment fees, premiums, deductibles, coinsurance, copayments, or similar cost sharing charges. OHCA requires a copayment of some Medicaid recipients for certain medical services provided through the fee for service program. A copayment is a charge which must be paid by the recipient to the service provider when the service is covered by Medicaid. Section 1916(e) of the Act requires that a provider participating in the Medicaid program may not deny care or services to an eligible individual based on such individual's inability to pay the copayment. A person's assertion of their inability to pay the copayment establishes this inability. This rule does not change the fact that a recipient is liable for these charges and it does not preclude the provider from attempting to collect the copayment.

(1) Copayment is not required of the following recipients:

(A) Individuals under age 21. Each recipient's date of birth is available on the REVS system or through a commercial swipe card system.

(B) Recipients in nursing facilities and intermediate care facilities for the mentally retarded.

(C) Pregnant women.

(D) Home and Community Based Waiver service recipients except for prescription drugs.

(2) Copayment is not required for the following services:

(A) Family planning services. Includes all contraceptives and services rendered.

(B) Emergency services provided in a hospital, clinic, office, or other facility.

(3) Copayments required include:

(A) $3.00 per day for inpatient hospital services. Copayments for inpatient care paid under the Diagnosis Related Groups (DRG) methodology are calculated on the actual length of stay and are capped at $90. Copayments for claims paid under Level of Care methodology are calculated at $3.00 per day.

(B) $3.00 per day for outpatient hospital services.

(C) $3.00 per day for ambulatory surgery services including free-standing ambulatory surgery centers.

(D) $1.00 for each service rendered by the following providers:

(i) Physicians,

(ii) Optometrists,

(iii) Home Health Agencies,

(iv) Rural Health Clinics,

(v) Certified Registered Nurse Anesthetists, and

(vi) Federally Qualified Health Centers.

(E) Prescription drugs.

(i) $1.00 for prescriptions having a Medicaid allowable of $29.99 or less.

(ii) $2.00 for prescriptions having a Medicaid allowable of $30.00 or more.

(F) Crossover claims. Dually eligible Medicare/Medicaid recipients must make a copayment of $.50 per service for all Part B covered services. This does not include dually eligible HCBW service recipients.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 3. HOSPITALS

317:30-5-47.2. Disproportionate share hospitals (DSH)

(a) **Eligibility.** A hospital shall be deemed a disproportionate share hospital, as defined by Section 1923 of the federal Social Security Act, if the hospital's Medicaid inpatient utilization rate is at least one standard deviation above the mean Medicaid inpatient utilization rate for hospitals receiving Medicaid payments in the state or if the hospital's low-income utilization rate exceeds 25%.

(1) Eligibility for disproportionate share hospital payments will be determined annually by the OHCA before the beginning of each federal fiscal year based on cost and revenue survey data completed by the hospitals. The survey must be received by OHCA each year by April 30. The information used to complete the survey must be extracted from the hospital's financial records and fiscal year cost report ending in the most recently completed calendar year, for entities that meet the Medicare Provider designation (refer to Medicare Program Memorandum No. A-96-7 for requirements). A hospital may not include costs or revenues on the survey which are attributable to services

rendered in a separately licensed/certified entity. Hospitals found to be ineligible for disproportionate share status upon audit shall be required to reimburse the Authority for any disproportionate share payment adjustments paid for the period of ineligibility.

(2) Beyond meeting either of the tests found in (1) of this subsection, there are three additional requirements which are:

(A) Any hospital offering non-emergency obstetrical services must have at least two obstetricians with staff privileges who have agreed to provide services to Medicaid beneficiaries. This requirement does not apply to children's hospitals.

(B) In the case of an urban hospital, a hospital located in a MSA, an "obstetrician" is defined as any board-certified obstetrician with staff privileges who performs non-emergency obstetrical services at the hospital. In the case of a rural hospital, an "obstetrician" is defined to include any physician with staff privileges who performs non-emergency obstetrical services at the hospital.

(C) A hospital must have a Medicaid inpatient utilization rate of at least one percent.

(b) **Payment adjustment.**

(1) Beginning federal fiscal year 1993 and each year thereafter, DSH payment adjustments will be capped by the federal government. Financial participation from the federal government will not be allowed for expenditures exceeding the capped amount. Eligible DSH hospitals will be assigned to one of the three following categories:

(A) public-private acute care teaching hospital which has 150 or more full-time equivalent residents enrolled in approved teaching programs (using the most recently completed annual cost report) and is licensed in the state of Oklahoma. Public-private hospital is a former state operated hospital that has entered into a joint operating agreement with a private hospital system;

(B) other state hospitals; or

(C) private hospitals and all out-of-state hospitals.

(2) Payment adjustments will be made on a quarterly basis for federal fiscal year 1994 and thereafter using the following formula that determines the hospital's annual allocation:

(A) Step 1. The Medicaid revenue and imputed revenue for charity are totaled for each hospital qualifying for disproportionate share adjustments.

(B) Step 2. A weight is assigned to each qualifying hospital by dividing each hospital's revenue total (Medicaid and charity) by the revenue total of the public-private acute care teaching hospital, which has the assigned weight of 1.0.

(C) Step 3. A weighted value is then determined for each hospital by multiplying the hospital's assigned weight by the hospital's total Medicaid and charity revenue.

(D) Step 4. The weighted values of all hospitals qualifying for disproportionate share adjustments are totaled.

(E) Step 5. The percentage of the public-private acute care teaching hospital's weighted value is determined in relation to the weighted values of all qualifying disproportionate share hospitals.

(F) Step 6. The weighted values of all state hospitals (except public-private acute care teaching hospital) are totaled.

(G) Step 7. The weighted values of all private and out-of-state hospitals qualifying for disproportionate share adjustments are totaled.

(H) Step 8. The percentage of the total weighted values of the hospitals included in Step 6 (State hospitals except public-private acute care teaching hospital) is calculated in relation to the total weighted values (sum of Step 6 and 7) of all remaining hospitals qualifying for disproportionate share adjustment.

(I) Step 9. The percentage of weighted values of the hospitals included in Step 7 (private hospitals and all out-of-state hospitals) is calculated in relation to the total weighted values (sum of Steps 6 and 7) of all remaining hospitals qualifying for disproportionate share adjustment.

(J) Step 10. The weighted percentages for the three hospital groups are next applied to the capped disproportionate share amount allowed by CMS for the federal fiscal year. The amount of disproportionate share to be paid to the public-private acute care teaching hospital is determined by multiplying the state disproportionate share allotment by the weighted percentage of the public-private acute care teaching hospital. Beginning FFY 96, the weighted percentage amount to be paid will not exceed 82.82%. Payment of disproportionate share funds to public/private hospitals will be made to the public entity that is organizationally responsible for indigent care. The weighted percentage amount is then subtracted from the state disproportionate share allotment. Once the public-private acute care teaching hospital's share of the state disproportionate share allotment has been subtracted, the state hospitals' weighted percentage is applied to the remainder. Beginning FFY 96, the State hospital's weighted percentage [from (H) of this paragraph] will not be less than 75.3%. The balance of the disproportionate share allotment is distributed to private hospitals and all out-of-state hospitals. Distribution of funds within each group will be made according to the relationship of each hospital's weighted value to the total weighted value of the group.

(3) Payment adjustments to individual hospitals will be limited to 100 percent of the hospital's costs of providing services (inpatient and outpatient) to Medicaid recipients and the uninsured, net of payments received from Medicaid (other than DSH) and uninsured patients.

317:30-5-47.3. Indirect medical education (IME) adjustment

(a) Effective February 11, 1999, acute care hospitals that qualify as major teaching hospitals will receive an indirect medical education (IME) payment adjustment, which covers the increased operating, or patient care, costs that are associated with approved intern and resident programs.

(b) In order to qualify as a major teaching hospital and be deemed eligible for an IME adjustment, the hospital or hospitals of common ownership must:

(1) belong to the Council on Teaching Hospitals or have a medical school affiliation; and

(2) be licensed by the State of Oklahoma; and

(3) have 150 or more full-time equivalent (FTE) residents enrolled in approved teaching programs.

(c) Eligibility for an IME adjustment will be determined by the OHCA, using the provider's most recently received annual cost report or the application (see OAC 317:30-5-47.3) for the quarterly Direct Medical Education Supplemental payment adjustment.

(d) An annual fixed IME payment pool will be established based on the State matching funds made available by transfers from other State agencies. The pool of funds will be distributed annually each State fiscal year. The total pool of monies made available by funds transferred by any State agency will be limited to $10,038,714, the 1999 base year amount. The base year payment amount will be updated annually each July 1 using the first quarter publication of the DRI PPS-type Hospital market basket forecast for the midpoint of the upcoming fiscal year, if funds are available.

(e) The payments will be distributed equally. For hospitals that have public-private ownership, or have entered into a joint operating agreement, payment will be made to the public entity that is organizationally responsible for the public teaching mission.

(f) If payment causes total payments to exceed Medicare upper limits as required by 42 CFR 447.272, the payment will be reduced to not exceed the Medicare upper limit.

317:30-5-47.4. Direct medical education supplemental incentive payment adjustment

(a) Effective July 1, 1999, in-state hospitals that qualify as teaching hospitals will receive a supplemental payment adjustment for direct medical education (DME) expenses. These payments will be made in order to encourage training in rural hospital and primary care settings and to recognize the loss of support for GME due to the advent of Managed Care capitated programs.

(b) In order to qualify as a teaching hospital and be deemed eligible for DME supplemental incentive payment adjustments, the hospital must:

(1) be licensed by the State of Oklahoma;

(2) have costs associated with approved or certified Oklahoma medical residency programs in medicine, osteopathic medicine, and associated specialties and sub-specialties. An approved medical residency program is one approved by the Accrediting Council for Graduate Medical Education of the American Medical Association, by the Bureau of Professional Education of the American Osteopathic Association, or other professional accrediting associations. A resident is defined as a Post-Graduate Year 1 (PGY1) and above resident who participates through hospital or hospital-based rotations in approved medical residency/internship programs in Family Medicine, Internal Medicine, Pediatrics, Surgery, Ophthalmology, Psychiatry, Obstetrics/Gynecology, Anesthesiology, Osteopathic medicine, or other Certified Medical Residencies, including specialties and sub-specialties as required in order to become certified by the appropriate board; and

(3) apply for certification by the OHCA prior to receiving payments for any quarter during a State Fiscal year. To qualify, a hospital must have a contract with the Oklahoma Health Care Authority (OHCA) to provide Medicaid services and belong to The Council on Teaching Hospitals or otherwise show proof of affiliation with an approved Medical Education Program. Affiliation means an agreement to support the costs of medical residency education in the approved programs.

(4) Federal and state hospitals, including Veteran's Administration, Indian Health Service/Tribal and Oklahoma Department of Mental Health and Substance Abuse Services Hospitals are not eligible for supplemental DME payments. Major teaching hospitals are eligible.

(c) Determination of a hospital's eligibility for a DME supplemental payment adjustment will be done quarterly by the OHCA based on reports designed by the OHCA. The reports will detail the resident-months of support provided by the hospital and the total eligible Medicaid days of service from the paid claims for the same quarter and be attested to by the hospital Administrator, or designated personnel. The annual application must be attested to by the hospital administrator and by the residency program director. All reports will be subject to audit and payments will be recouped for inaccurate or false data. The amount of resident-months will also be compared to the annual budgets of the schools, the annual CMS form 2552 (Cost Report) and the monthly assignment schedules.

(d) An annual fixed DME payment pool will be established based on the State Matching funds made available by the University Hospitals Authority or other State agencies.

(e) The payments will be distributed based on the relative value of the weighted resident-months at each participating hospital. A resident-month is defined as a PGY1 and above resident full-time equivalent (FTE) for that month. Resident is defined in (b)(2) of this section. An FTE is defined as a resident assigned by the residency program to a rotation that is hospital or hospital-based. The resident must be assigned to a specific hospital for a supervised hospital-based residency experience. Required residency clinical or educational experience will be allowed. The time residents spend in non-provider settings such as freestanding clinics, nursing homes and physicians' offices in connection with approved programs may be included in determining the number of FTE's in the count if the following conditions are met:

(1) The resident spends his or her time in patient care activities.

(2) The written agreement between the hospital and the non-hospital site must indicate that the hospital will incur the cost of the resident's salary and fringe benefits while the resident is training in the non-hospital site and the hospital is providing reasonable compensation to the non-hospital site for supervisory teaching activities.

(3) The hospital must incur all or substantially all of the costs for the training program in the non-hospital setting, which means the residents' salaries and fringe benefits (including travel and lodging where applicable) and the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education.

(f) Training outside the formal residency program (moonlighting) is not eligible for this payment. The pool of available funds will be distributed quarterly based on the relative value of the eligible hospitals' resident-months weighted for Medicaid services rendered.

(1) The weighted relative value is determined as follows:

(A) Annually (prior to each state fiscal year) the OHCA will determine each participating hospital's individual acuity factor from data taken from the Oklahoma MMIS system (or reported claims data) by using the days of services and weights determined for the levels of care.

(B) Determine the total resident-months from the quarterly reports in (c) of this section for each hospital.

(C) Determine the total eligible patient days for the quarter from the quarterly reports in (c) of this section for each hospital reporting.

(D) Determine the relative value for each hospital. The relative value is defined as the product of the individual acuity factor [see (A) of this paragraph] times the total resident-months [see (B) of this paragraph] times the eligible patient days [see (C) of this paragraph].

(2) The pool of available funds will be allocated quarterly based on the prior quarter's relative value as determined in (1)(D) of this subsection. The per resident-month amount will be limited to $11,000 and the total payments will be limited to and not exceed the upper payment limits described in (g) of this section.

(g) If payment in (d) of this section causes total payments to exceed Medicare upper limits as required by CFR 447.272, the payment will be reduced to not exceed the Medicare upper limit.

317:30-5-47.5. Critical Access Hospitals

Critical Access Hospitals (CAHs) are rural public or non-profit hospitals which have been certified by Medicare as a Critical Access Hospital. The facility must provide documentation to be determined eligible for the CAH peer group.

317:30-5-48. Cost reports [REVOKED]

~~Each hospital shall submit to the Authority its Medicare Cost Report (HCFA 2552), including Medicaid-specific information (as appropriate), for the annual cost reporting period. Failure to submit the required completed cost report shall be grounds for the Authority to determine that a provider is not in compliance with its contractual requirements. The Authority shall enter into a Common Audit Agreement with a designated fiscal intermediary to audit Medicaid cost reports. Hospitals shall submit a copy of their cost reports to this designated fiscal intermediary. All payments made to providers are subject to adjustment based upon final (audited) cost report information.~~

PART 8. REHABILITATION HOSPITALS

317:30-5-110. Eligible providers

To be eligible for reimbursement, all licensed rehabilitation hospitals must be Medicare certified and have a current contract on file with the Oklahoma Health Care Authority (OHCA).

317:30-5-111. Coverage for adults

For persons 21 years of age or older, payment is made to hospitals for inpatient services as described in this section.

(1) All general inpatient hospital services which are not provided under the Diagnosis Related Group (DRG) payment methodology for all persons 21 years of age or older is limited to 24 days per person per state fiscal year (July 1 through June 30). The 24 day limitation applies to both hospital and physician services. No exceptions or extensions will be made to the 24 day inpatient services limitation.

(2) All inpatient services are subject to post-payment utilization review by the Oklahoma Health Care Authority, or its designated agent. These reviews will be based on OHCA's, or its designated agent's, admission criteria on severity of illness and intensity of treatment.

(A) It is the policy and intent to allow hospitals and physicians the opportunity to present any and all documentation available to support the medical necessity of an admission and/or extended stay of a Medicaid recipient. If the OHCA, or its designated agent, upon their initial review determines the admission should be denied, a notice is sent to the facility and the attending physician(s) advising them of the decision. This notice also advises that a reconsideration request may be submitted within 60 days. Additional information submitted with the reconsideration request will be reviewed by the OHCA, or its designated agent, who utilizes an independent physician advisor. If the denial decision is upheld through this review of additional information, OHCA is informed. At that point, OHCA sends a letter to the hospital and physician requesting refund of the Medicaid payment previously made on the denied admission.

(B) If the hospital or attending physician did not request reconsideration by the OHCA, or its designated agent, the OHCA, or its designated agent, informs OHCA that there has been no request for reconsideration and as a result their initial denial decision is final. OHCA, in turn, sends a letter to the hospital and physician requesting refund of the amount of Medicaid payment previously made on the denied admission.

(C) If an OHCA, or its designated agent, review results in denial and the denial is upheld throughout the appeal process and refund from the hospital and physician is required, the Medicaid recipient cannot be billed for the denied services.

(3) If a hospital or physician believes that a hospital admission or continued stay is not medically necessary and thus not Medicaid compensable but the patient insists on treatment, the patient should be informed that he/she will be personally responsible for all charges. If a Medicaid claim is filed and paid and the service is later denied, the patient is not responsible. If a Medicaid claim is not filed and paid, the patient can be billed.

(4) Payment is made to a participating hospital for hospital based physician's services. The hospital must have a Hospital-Based Physician's contract with OHCA for this method of billing.

317:30-5-112. Coverage for children

Payment is made to rehabilitation hospitals for medical services for persons under the age of 21 within the scope of the Authority's Medical Programs, provided the services are reasonable for the diagnosis and treatment of illness or injury, or to improve the functioning of a malformed body member. Medical and surgical services are comparable to those listed for adults except all medically necessary inpatient hospital services, other than psychiatric services, for all persons under the age of 21 will not be limited.

317:30-5-113. Medicare eligible individuals

Payment is made to hospitals for services to Medicare eligible individuals as set forth in this section.

(1) **Individuals eligible for Part A and Part B.**

(A) Payment is made utilizing the Medicaid allowable for comparable Part B services.

(B) Payment is made for the coinsurance and/or deductible for Part A services for categorically needy individuals.

(2) **Individuals who are not eligible for Part A services.**

(A) The Part B services are to be filed with Medicare. Any monies received from Medicare and any coinsurance and/or deductible monies received from OHCA must be shown as a third party resource on the appropriate claim form for inpatient per diem. The inpatient per diem should be filed with the fiscal agent along with a copy of the Medicare Payment Report.

(B) For individuals who have exhausted Medicare Part A benefits, claims must be accompanied by a statement from the Medicare Part A intermediary showing the date benefits were exhausted.

317:30-5-114. Reimbursement

Payment is made at the lesser of the facilities usual and customary fee or the OHCA fixed per diem rate.

[OAR Docket #06-626; filed 4-11-06]

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

[OAR Docket #06-621]

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Part 5. Eligibility
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Part 5. Eligibility
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ANALYSIS:

Rules are revised to provide Medicaid benefits to certain groups of individuals who previously have been determined ineligible as they were inmates of a public institution. Section 1905(a)(27)(A) of the Social Security Act (SSA) specifically excludes Federal Financial Participation (FFP) for medical care provided to inmates of a public institution, and SSA 1905(a)(27)(B) excludes FFP for inpatients in an institution for mental disease (IMD). Current agency rules prohibit individuals in the custody of the Department of Mental Health or Corrections from qualifying for Medicaid. In order to support the Oklahoma Department of Corrections (DOC), the Office of Juvenile Affairs (OJA), and the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) in their efforts to limit expenditures, revisions are proposed to extend Medicaid coverage to individuals who become inpatients of a hospital, nursing facility, juvenile psychiatric facility or an intermediate care facility for the mentally retarded and who are either in the custody of the Office of Juvenile Affairs or the Department of Corrections or who are adults (age 21 through 64) who are patients in an institution for mental disease. These individuals would have to meet all eligibility requirements such as categorical relationship, citizenship, and income the same as other Medicaid recipients. The DOC, OJA, and ODMHSAS will be responsible for the state share and Medicaid will only reimburse for services rendered while the clients are inpatients of a medical institution subject to amount, scope or duration of existing service definitions. Eligibility rules are in need of revision to allow Medicaid coverage for these individuals.

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 MAY 25, 2006:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 5. ELIGIBILITY

317:30-3-74. Persons not eligible for medical assistance [REVOKED]

~~Individuals who are in the custody of the Department of Mental Health or the Department of Corrections are not eligible for medical assistance.~~

[OAR Docket #06-621; filed 4-11-06]

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

[OAR Docket #06-616]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
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N/A

ANALYSIS:

Physicians rules are revised to allow payment for allergy injections administered under the supervision of the contracted provider. This change has been requested by OHCA audit staff who determined that administration of these injections by nursing staff employed by the provider is a common occurrence. This change will provide the contracted provider more flexibility and reduce professional time involved in providing this service, thus resulting in reduced costs to the provider. The change reduces the regulatory restrictions on contracted provider and should help to increase access to care for Medicaid eligible individuals since it brings Medicaid expectations into line with current practices. Rules are in need of revision to allow for payment of allergy injections administered by the employees of the contracted provider.

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 MAY 25, 2006:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 1. PHYSICIANS

317:30-5-14. Injections

(a) Coverage for injections is limited to those categories of drugs included in the vendor drug program for Medicaid. OHCA administers and maintains an open formulary subject

to the provisions of Title 42, United States Code (U.S.C.), Section 1396r-8. The Authority covers any drug for its approved purpose that has been approved by the Food and Drug Administration (FDA). Administration of injections is paid in addition to the medication.

(1) **Immunizations for children.** An administration fee will be paid for vaccines administered by providers participating in the Vaccines for Children Program. When the vaccine is not included in the program, the administration fee is included in the vaccine payment. Payment will not be made for vaccines covered by the Vaccines for Children Program.

(2) **Immunizations for adults.** Coverage for adults is limited to:

(A) influenza immunizations,

(B) Pneumococcal Immunizations, and

(C) Gamma Globulin and Hepatitis A Vaccine when documentation shows the individual has been exposed to Hepatitis.

(b) The following drugs, classes of drugs or their medical uses are excluded from coverage:

(1) Agents used for the treatment of anorexia, weight gain, or obesity;

(2) Agents used to promote fertility;

(3) Agents used to promote hair growth;

(4) Agents used for cosmetic purposes;

(5) Agents used for the symptomatic relief of coughs and colds. Cough and cold drugs are not covered;

(6) Agents that are experimental or whose side effects make usage controversial; and

(7) Vitamins and Minerals with the following exception:

(A) Vitamin B-12 is covered only when there is a documented occurrence of malabsorption disease;

(B) Vitamin K injections are compensable; and

(C) Iron injections when medically necessary and documented by objective evidence of failure to respond to oral iron.

(c) Use the appropriate HCPC code when available. When drugs are billed under miscellaneous codes, a paper claim must be filed. The claims must contain the drug name, strength, dosage amount, and National Drug Code (NDC).

(d) Payment is made for allergy injections for adults and children. ~~When the physician personally supervises preparation of the allergy antigen, payment is based on the number of treatments per vial. The appropriate CPT code is used times the number of treatments in a vial.~~ When the ~~physician~~ contracted provider actually administers or supervises the administration of the injection, the administration fee is compensable. No payment is made for administration when the allergy antigen is self-administered by the patient. When the allergy antigen is purchased by the physician, payment is made by invoice attached to the claim. ~~If the physician also administers the allergy antigen, payment is made for each administration.~~

(e) Rabies vaccine, Imovax, Human Diploid and Hyperab, Rabies Immune Globulin are covered under the vendor drug program and may be covered as one of the covered prescriptions per month. Payment can be made separately to the physician for administration. If the vaccine is purchased by the physician, payment is made by invoice attached to the claim.

(f) Trigger point injections (TPI's) are covered using appropriate CPT codes. Modifiers are not allowed for this code. Payment is made for up to three injections (3 units) per day at the full allowable. Payment is limited to 12 units per month. The medical records must clearly state the reasons why any TPI services were medically necessary. All trigger point records must contain proper documents and be available for review. Any services beyond 12 units per month or 36 units per 12 months will require mandatory review for medical necessity. Medical records must be automatically submitted with any claims for services beyond 36 units.

(g) If a physician bills separately for surgical injections and identifies the drugs used in a joint injection, payment will be made for the cost of the drug in addition to the surgical injection. The same guidelines apply to aspirations.

(h) When IV administration in a Nursing Facility is filed by a physician, payment may be made for medication. Administration should be done by nursing home personnel.

(i) Intravenous fluids used in the administration of IV drugs are covered. Payment for the set is included in the office visit reimbursement.

[OAR Docket #06-616; filed 4-11-06]

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

[OAR Docket #06-615]

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Subchapter 5. Individual Providers and Specialties
Part 3. Hospitals
317:30-5-42. [AMENDED]
Part 58. Non-Hospital Based Hospice [NEW]
317:30-5-530. through 317:30-5-532. [NEW]
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N/A
ANALYSIS:
Provider rules are revised to allow for the payment of hospice services for children who have been certified by their physician as having a terminal illness and a life expectance of less than six months. OHCA staff have been receiving requests for hospice services for children and current rules allow only for coverage of hospice services provided through the ADvantage Waiver for individuals age 21 and over. Children's hospice care requires preauthorization and is available for two 90-day periods and an unlimited number of 60-day periods during the remainder of the patient's lifetime. After the patient and/or family has chosen to receive hospice care, the hospice medical team is responsible for the patient's medical care for the terminal illness in the home environment. Agency rules are in need of revision in order to provide Medicaid compensable home based hospice services to eligible individuals under the age of 21.
CONTACT PERSON:
Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 3. HOSPITALS

317:30-5-42. Coverage for children

Payment is made to hospitals for medical and surgical services for persons under the age of 21 within the scope of the Authority's Medical Programs, provided the services are reasonable for the diagnosis and treatment of illness or injury, or to improve the functioning of a malformed body member. Medical and surgical services are comparable to those listed for adults except as follows.

(1) **Inpatient general acute care services limitations.** All medically necessary inpatient hospital services, other than psychiatric services, for all persons under the age of 21 will not be limited.

(2) **Utilization control requirements for psychiatric beds.** Medicaid utilization control requirements applicable to inpatient psychiatric services for persons under 21 years of age in psychiatric facilities apply to acute care hospitals. Acute care hospitals are required to maintain the same level of documentation on individuals receiving psychiatric services as the free-standing psychiatric facilities (refer to OAC 317:30-5-95.2).

(3) **Outpatient hospital services.** Payment is made for outpatient hospital services, including lab and x-rays.

(4) **Outpatient physical therapy.** Payment is made for preauthorized outpatient physical therapy. Payment is limited to four visits per month.

(5) **Hospice Services.** Hospice is palliative and/or comfort care provided to the client and his/her family when a physician certifies that the client has a terminal illness and has six months or less to live and orders hospice care. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. The hospice services must be related to the palliation and management of the client's illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills. Payment is made for home based hospice services for terminally ill individuals with a life expectancy of six months or less when the patient and/or family has elected hospice benefits in lieu of standard Medicaid services that have the objective to treat or cure the client's illness. Once the client has elected hospice care, the hospice medical team assumes responsibility for the client's medical care for the terminal illness in the home environment. Hospice care includes nursing care, physician services, medical equipment and supplies, drugs for symptom control and pain relief, home health aide and personal care, physical, occupational and/or speech therapy, medical social services, dietary counseling and grief and bereavement counseling to the client and/or family. Services must be prior authorized. Hospice care is available for two 90-day periods and an unlimited number of 60-day periods during the remainder of the patient's lifetime. However, the patient and/or the family may voluntarily terminate hospice services. To be covered, hospice services must be reasonable and necessary for the palliation or management of a terminal illness or related conditions. A certification that the individual is terminally ill must be completed by the patient's attending physician or the Medical Director of an Interdisciplinary Group. Nurse practitioners serving as the attending physician may not certify or re-certify the terminal illness. A plan of care must be established before services are provided. The plan of care should be submitted with the prior authorization request.

(~~5~~6) **Exclusions.** The following are excluded from coverage:

(A) Inpatient diagnostic studies that could be performed on an outpatient basis.

(B) Services or any expense incurred for cosmetic surgery unless the physician certifies the procedure emotionally necessary.
(C) Sterilization of persons who are under 21 years of age.
(D) Reversal of sterilization procedures for the purposes of conception.
(E) Hysterectomy, unless therapeutic and unless a copy of an acknowledgment form, signed by the patient or an acknowledgment by the physician that the patient has already been rendered sterile is attached to the claim.
(F) Medical services considered to be experimental.

PART 58. NON-HOSPITAL BASED HOSPICE

317:30-5-530. Eligible providers

Non-Hospital Affiliated Hospice entities must be appropriately licensed and have a contract with the Oklahoma Health Care Authority to provide Hospice services.

317:30-5-531. Coverage for adults

There is no coverage for hospice services provided Medicaid eligible adults except for the hospice provision provided through the ADvantage Waiver.

317:30-5-532. Coverage for children

Hospice is palliative and/or comfort care provided to the client and his/her family when a physician certifies that the client has a terminal illness and has six months or less to live and orders hospice care. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. The hospice services must be related to the palliation and management of the client's illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills. Payment is made for home based hospice services for terminally ill individuals with a life expectancy of six months or less when the patient and/or family has elected hospice benefits in lieu of standard Medicaid services that has the objective to treat or cure the client's illness. Once the client has elected hospice care, the hospice medical team assumes responsibility for the client's medical care for the terminal illness in the home environment. Hospice care includes nursing care, physician services, medical equipment and supplies, drugs for symptom control and pain relief, home health aide and personal care, physical, occupational and/or speech therapy, medical social services, dietary counseling and grief and bereavement counseling to the client and/or family. Services must be prior authorized. Hospice care is available for two 90-day periods and an unlimited number of 60-day periods during the remainder of the patient's lifetime. However, the patient and/or the family may voluntarily terminate hospice services. To be covered, hospice services must be reasonable and necessary for the palliation or management of a terminal illness or related conditions. A certification that the individual is terminally ill must be completed by the patient's attending physician or the Medical Director of an Interdisciplinary Group. Nurse practitioners serving as the attending physician may not certify or re-certify the terminal illness. A plan of care must be established before services are provided. The plan of care should be submitted with the prior authorization request.

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

[OAR Docket #06-623]

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ANALYSIS:
Long Term Care Facilities rules are revised to increase the Medicaid payment for Part A coinsurance for Medicare covered skilled nursing facility care for dually eligible individuals. Current rules provide for payment at 50%

of the Part A coinsurance for Medicare covered skilled nursing facility care. Additional funds appropriated to the Oklahoma Health Care Authority by House Bill 1088 were mandated to increase certain provider reimbursement rates. The agency is proposing to increase the Medicare skilled nursing facility payment to 100% of the Part A coinsurance. Rule revisions are needed in order to comply with the provisions of House Bill 1088 to increase the Medicaid provider reimbursement rate for Medicare skilled nursing facility care.

CONTACT PERSON:

Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG TERM CARE FACILITIES

317:30-5-122. Levels of care

The level of care provided by a long term care facility to a patient is based on the nature of the health problem requiring care and the degree of involvement in nursing services/care needed from personnel qualified to give this care.

(1) **Skilled Nursing facility.** Payment is made ~~at 50% of~~ for the Part A coinsurance for Medicare covered skilled nursing facility care for dually eligible, categorically needy individuals.

(2) **Nursing Facility.** Care provided by a nursing facility to patients who require professional nursing supervision and a maximum amount of nonprofessional nursing care due to physical conditions or a combination of physical and mental conditions.

(3) **Intermediate Care Facility for the Mentally Retarded.** Care provided by a nursing facility to patients who require care and active treatment due to mental retardation or developmental disability combined with one or more handicaps. The mental retardation or developmental disability must have originated during the patient's developmental years (prior to 22 years of chronological age).

[OAR Docket #06-623; filed 4-11-06]

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

[OAR Docket #06-614]

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Subchapter 5. Individual Providers and Specialties
Part 9. Long Term Care Facilities
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N/A

ANALYSIS:

Long Term Care Facilities reimbursement rules are revised to reflect a new methodology for establishing reimbursement rates. Senate Bill 1622 created the Oklahoma Nursing Facility Funding Advisory Committee and established as their purpose the development and recommendation of a new methodology for calculating state Medicaid program reimbursement. The reimbursement will be facility specific, based on Direct Care Staffing Costs and will not reduce rates currently in effect. The new method is to only apply to new funds that become available. The new methodology will establish rates for each home which consist of a Base Rate and two add-ons, one for Direct Care and one for Other Costs. The base rate for the regular nursing facilities will be the rate in effect on June 30, 2005, with any changes that are specifically funded through new appropriations (such as an appropriation for minimum wage changes, etc.). The Direct Care component will be facility specific and will be determined by a facility's specific expense for Direct Care in relation to all other facilities' Direct Care expense, limited to the 90th percentile and paid from a pool of 70% of available funds. The Other Component will be a statewide adjustment (same for all facilities) and be paid from a pool of 30% of available funds. Annually, the pool of available funds will be re-established adding any new monies or changes in federal matching and re-allocated with new rate add-ons being established based on new cost report date. Rules revisions are needed in order to comply with Senate Bill 1622.

CONTACT PERSON:

Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG TERM CARE FACILITIES

317:30-5-133. Payment methodologies

(a) **Private Nursing Facilities.**

(1) **Facilities.** Private Nursing Facilities include:

(A) Nursing Facilities serving adults (NF),

(B) Nursing Facilities serving Aids Patients (NF-Aids),

(C) Nursing Facilities serving Ventilator Patients (NF-Vents),

(D) Intermediate Care Facilities for the Mentally Retarded (ICF/MR),

(E) Intermediate Care Facilities with 16 beds or less serving Severely or Profoundly Retarded Patients (Acute ICF/MR), and

(F) Payment will be made for non-routine nursing facility services identified in an individual treatment plan prepared by the State MR Authority. Services are limited to individuals approved for NF and specialized services as the result of a PASRR/MR Level II screen. The per diem add-on is calculated as the difference in the statewide standard private MR base rate and the statewide NF facility base rate.

(2) **Reimbursement calculations.** Rates for Private Nursing Facilities will be reviewed periodically and adjusted as necessary through a public process. The rates are based on a statewide rate for each type of facility which consists of the sum of one or more of four components.

(A) **Base Year Rate component.** The Base Year Rate component will consist of the Primary Operating Cost, the Administrative Services Allowance and the Capital Allowance. Each of these components is set through a review of statewide base year cost report data, as reported on the annual cost reports, and adjusted for a statewide average per diem audit amount. The Capital Allowance component is also adjusted to reflect an expected occupancy level of 93 percent in order to exclude payment for unfilled beds through the Medicaid program.

(B) **Discretionary Inflation Rate component.** A Discretionary Inflation Rate component may be added to the Base Year Rate component dependent upon the factors listed in (i)-(vii) of this paragraph. These factors may be reviewed individually or in the aggregate. Nothing in this paragraph shall mandate the State give majority consideration to any one factor or all factors. The factors include:

(i) access to Medicaid Services;

(ii) Medicaid utilization;

(iii) Cost Report analyses;

(iv) National and State-specific trends and costs including trends and salary levels and changes in minimum wage levels;

(v) analyses of economic impact of changes in law or regulation;

(vi) budget appropriations to OHCA; and

(vii) Industry efforts to:

(I) reduce or contain employee benefits expenditures.

(II) consolidate or centralize personnel or departmental functions to reduce costs.

(III) review departmental staffing levels and to use lesser-skilled employees or reduce numbers of full-time equivalent employees where possible to do so without adversely affecting the quality of patient care.

(IV) standardize drugs and medical supplies in order to reduce costs that are unnecessary.

(V) expedite billings.

(VI) use volunteer service and fund raising.

(VII) control utility costs.

(VIII) reduce the incidence of employee injuries.

(IX) reduce employee turnover and to involve employees in cost containment efforts.

(X) review contractual arrangements to determine if more cost-effective ways of providing services and supplies can be achieved.

(XI) incorporate efficiency incentives into the compensation systems of employees.

(XII) use management information systems to plan and achieve efficiencies in operations (including but not limited to flexible budgeting, cost accounting, case-mix, group purchasing, etc.).

(C) **Wage Enhancement Payment component.** The Wage Enhancement payment is subject to Title 63 of Oklahoma Statute, Section 5022 and is described at OAC 317:30-5-131.1. The Wage Enhancement payment is added as per the methodology listed at OAC 317:30-5-131.1.

(D) **Periodic Incentive Payment component.** A Periodic Incentive payment may be made to certain facilities whose score on a predetermined array of factors meets levels that exceeds the standard or norm. Among factors under consideration are the Customer Satisfaction Surveys, the OSDH survey and Certification data, the Wage Enhancement audit data, the Recipient Trust Fund audit data, data from the State Ombudsman and Pharmacy Utilization (DUR program) data. This payment is made based upon the availability of additional funds and the reliability of the data collected.

(E) **Nursing Facilities serving ventilator-dependent patients.** A prospective statewide enhanced rate is paid to nursing facilities who do not have a waiver under Section 1919(b)(4)(C)(ii) of the Social Security Act on behalf of ventilator-dependent patients.

(i) Reimbursement is limited to the same rate paid for care of NF patients plus an enhancement for patients who are ventilator dependent. The

enhanced rate is an amount reflecting the additional costs of meeting the specialized care needs of ventilator-dependent patients. In additional to increased skilled staffing costs, the following are used in calculating the enhanced rate:

(I) additional nursing hours;

(II) medical equipment and supplies;

(III) nutritional therapy; and

(IV) respiratory therapy.

(ii) Reimbursement for the enhanced rate requires prior authorization. In order for Medicaid eligible patients to be considered for prior authorization, the facility submits the treatment plan and most recent doctor's orders and/or hospital discharge summary for each ventilator-dependent patient to OHCA.

(iii) The enhanced rate will be reviewed periodically and adjusted as necessary through a public process.

(F) **Nursing Facilities Serving Adults.** Base Rate when used in this subpart is defined as the rate in effect on June 30, 2005, adjusted for any changes as described in (B) through (E) for which the legislature has specified appropriated funds. Direct Care Costs are defined as those costs for salaries, benefits and training for registered nurses, licensed practical nurses, nurse aides and certified medication aides. Other Costs are defined as the total allowable routine and ancillary costs of nursing facility care less the Direct Care Costs. As of July 1, 2005, Nursing Facilities Serving Adults will be reimbursed as follows:

(i) The rate for each facility will be the sum of the Base Rate plus the add-ons for Direct Care and Other Costs as described below.

(ii) Annually, any funds over and above those to cover the Base Rate described above will be used to create two pools of funds used to adjust the rates as follows:

(I) The first pool will be 30% of the total available funds and will be used to adjust the rates equally (a statewide adjustment) for Other Costs.

(II) The second pool will be 70% of the total available funds and will be used to adjust rates on a facility-specific basis for Direct Care Costs. The add-on for each facility will be determined by multiplying each facility's reported direct care cost per day (with a maximum limit set at the 90th percentile) by the percent increase in the total direct care expenditures due to the addition of the direct care pool funds.

(iii) The available funds for establishing these pools and the subsequent add-ons for Direct Care and Other Costs will be re-determined and re-calculated annually and adjusted for changes in available funds and federal matching percentages.

(b) **Public Nursing Facilities.** Reimbursement for public Intermediate Care Facilities for the Mentally Retarded (ICF/MR) shall be based on each facility's reasonable cost and shall be paid on an interim basis with an annual retroactive adjustment. Reasonable costs shall be based on Medicare principles of cost reimbursement. Rates for Public facilities will be reviewed periodically and adjusted as necessary through a public process.

[OAR Docket #06-614; filed 4-11-06]

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

[OAR Docket #06-624]

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Part 37. Advanced Practice Nurse
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Nurse Midwives and Advanced Practice Nurses rules are revised to clarify provider requirements for providers who practice in states other than

Oklahoma. Current rules state that reimbursement may only be made to Advances Practice Nurses and Nurse Midwives who are registered with the Oklahoma Board of Nursing which prevents payments to qualified providers who serve Oklahoma's Medicaid eligible recipients in border states. Revisions will allow reimbursement to out of state providers who are appropriately licensed in the state in which they practice and who have a current contract with the agency.

CONTACT PERSON:

Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 19. NURSE MIDWIVES

317:30-5-225. Eligible providers

The Nurse-Midwife must be a qualified professional nurse registered with the Oklahoma Board of Nurse Registration and Nursing Education who possesses evidence of certification according to the requirement of the American College of Nurse-Midwives, and has the right to use the title Certified Nurse-Midwife and the abbreviation C.N.M. Nurse Midwives who practice in states other than Oklahoma must be appropriately licensed in the state in which they practice. In addition, all providers must have a current contract on file with the Oklahoma Health Care Authority.

(1) In accordance with the Omnibus Budget Reconciliation Act of 1993, effective October 1, 1993, certified nurse midwife services include maternity services, as well as services outside the maternity cycle within the scope of their practice under state law.

(2) The signature of the Nurse-Midwife on Form MS-MA-5, Notification of Needed Medical Services, will be acceptable as medical verification of pregnancy. Form MS-MA-5 should be filed after the first prenatal visit with the local county Oklahoma Department of Human Services office in the county where the patient resides. If Form MS-MA-5 is not completed, a written statement from the Nurse-Midwife verifying the applicant is pregnant and the expected date of delivery is acceptable.

PART 37. ADVANCED PRACTICE NURSE

317:30-5-375. Eligible providers

The Advanced Practice Nurse must be a registered nurse in good standing with the Oklahoma Board of Nursing, and ~~has~~ have acquired knowledge and clinical skills through the completion of a formal program of study approved by the Oklahoma Board of Nursing Registration and ~~has~~ have obtained professional certification through the appropriate National Board recognized by the Oklahoma Board of Nursing. Advanced Practice Nurse services are limited to ~~primary care health services, within~~ the scope of their practice~~. "Primary care health services" are~~ as defined in ~~accordance with~~ 59 O.S. 567.3a and corresponding rules and regulations subchapter 15,485; 10-15-1 thru 485 10-16-9 of Oklahoma Nursing Practice Act. Rules regarding Nurse Midwives are referenced in OAC 317:30-5-225. Advanced Practice Nurses who practice in states other than Oklahoma must be appropriately licensed in the state in which they practice. In addition, all providers must have a current contract on file with the Oklahoma Health Care Authority.

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

[OAR Docket #06-625]

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Subchapter 5. Individual Providers and Specialties
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317:30-5-342. [REVOKED]
317:30-5-343. [AMENDED]
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N/A
ANALYSIS:
Ambulance rules are revised to add coverage by stretcher service, clarify coverage issues, and allow for the adoption of the payment methodology currently utilized by Medicare. The adoption of the Medicare payment methodology which wraps all services, except mileage, into the base rate will simplify billing and bring the Agency more in line with established practices. Clarification of coverage issues will enable ambulance entities to better understand the Agency's policies and is expected to result in less need for inquiries concerning coverage. These changes also clarify that the Agency's Non-Emergency Transportation Waiver, SoonerRide, is the first source of non-emergency transportation for medical services unless the patient's medical status requires transportation by ambulance or stretcher.
CONTACT PERSON:
Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 33. TRANSPORTATION BY AMBULANCE

317:30-5-335. Eligible providers

To be eligible for reimbursement, an ambulance company or a stretcher service must be licensed by the State Department of Health. Ambulance companies and all other transportation providers must have a current contract on file with the Oklahoma Health Care Authority (OHCA).

317:30-5-336. Coverage for adults

Ambulance transportation for adults is covered as set forth in this Section

(1) **Covered services.**

(A) Ambulance and stretcher transportation is covered only when medically necessary and when due to the patient's condition any other method of transportation is contraindicated. ~~Indicate on the claim what emergency exists, i.e., auto accident. Also indicate patient's condition that requires ambulance level of transportation, i.e., bedfast, comatose, heart attack, etc. Payment for base rate includes payment for all supplies. There is no separate payment for supplies except as set out in this section.~~ Stretcher service is limited to those situations within the scope of the license extended to the entity. The OHCA's Non-Emergency Transportation (NET) Waiver, known as SoonerRide, is the first choice for non-emergency transportation for scheduled medical services. SoonerRide provides non-emergency transportation in accordance with all applicable criteria set forth in the American's with Disabilities Act (ADA). Regularly scheduled non-emergency medical services, such as outpatient dialysis, must be scheduled through SoonerRide unless the patient's condition requires transportation by stretcher or ambulance. All claims for scheduled trips for outpatient services which cannot be provided by SoonerRide must be accompanied by medical documentation to substantiate the need for the higher level of transportation and will be reviewed prior to payment by OHCA staff. Ambulance or stretcher transport for unscheduled emergent medical care will be covered if the trip meets all applicable criteria.

(B) As a general rule, only ambulance or stretcher transportation within the ambulance locality is covered. Ambulance locality means the service area surrounding the facility from which ~~the patient seeks service~~ individuals normally travel or are expected to travel to seek medical care. OHCA utilizes the locality areas as defined by Medicare. If ambulance transportation is provided out of the ambulance locality, the claim must be documented with the reason for the trip outside of the service area. If it is determined the patient was transported out of locality and the closest facility could have cared for the patient, payment will be made only for the distance to the nearest medical institution with appropriate facilities.

(C) Appropriate facilities means that the institution is generally equipped to provide the needed hospital or skilled nursing care for the illness or injury involved. In the case of a hospital, it also means that a physician or physician specialist is available to provide the necessary care required to treat the patient's condition. However, the fact that a particular physician does or does not have staff privileges in a hospital is not a consideration in determining whether the hospital has appropriate facilities. Thus, ambulance service to a more distant hospital solely to avail a patient of the service of a specific physician or physician specialist does not make the hospital in which the physician has staff privileges the nearest hospital with appropriate facilities.

(D) The fact that a more distant institution is better equipped to care for the patient does not mean that a closer institution does not have "appropriate facilities". Such a finding is warranted, however, if the beneficiary's condition requires a higher level of trauma care or other specialized service available only at the more distant hospital. However, a legal impediment barring a patient's admission would mean that the institution did not have "appropriate facilities". For example, the nearest ~~tuberculosis hospital~~ transplant center may be in another state and that state's law precludes admission of nonresidents.

(E) An institution is also not considered an appropriate facility if no bed is available. However, ~~if~~

the ~~claim is not~~ medical records must be properly documented~~, the fiscal agent will assume that a bed was available~~.

(F) Transportation to the outpatient facilities of a hospital, free-standing Ambulatory Surgery Center, Independent Diagnostic Testing Facility (IDTF), physician's office, or other outpatient facility is compensable ~~only~~ if the ~~patient is admitted, has surgery in the ambulatory surgery department, or receives x rays or a cast check for a fractured hip, pelvis, or back~~ patient's condition necessitates ambulance transportation. See definition of bed confined in (P) of this paragraph.

(G) ~~Payment will be made for waiting time or return trip, not both.~~ If a beneficiary is transported to a destination and returned to their original point of pickup, coverage will include payment for the primary transport and return transport. If the provider is required to remain and attend the patient between transports, the provider may claim waiting time. Waiting time shall be paid in half hour increments and shall not include the first half hour. The first 30 minutes of waiting time is included in the base rates.

(H) Ambulance transportation from a hospital with a higher level of care to a hospital in the locality is covered.

(I) Transportation from a hospital to a hospital with a lower level of care is covered only if the ~~first hospital lacks appropriate facilities to care for the patient and the admitting hospital was the nearest one with appropriate facilities~~ patient is expected to be inpatient for a period greater than one week and the transfer will afford the patient greater access to family and/or caregivers.

(J) Ambulance transportation from nursing home to nursing home (skilled or intermediate care) is covered only if the discharging institution is not certified and the admitting nursing home is certified. Nursing home to nursing home transfers are also covered if the patient requires care not available at the discharging facility, i.e., secure Alzheimer's Unit, and the patient's medical status requires ambulance transport.

(K) Transportation for residents of nursing facilities to hospital and back home on same day is covered if medical necessity is documented.

(L) Ambulance transportation to a Veteran's Administration Hospital is covered when the trip has not been authorized by the VA.

(M) ~~Transportation to and from a Free Standing Ambulatory Surgery Center is covered when transportation by any other method is contraindicated.~~ If the patient refuses treatment after immediate aid has been provided, the ambulance may bill for waiting time and the base rate.

(N) When twins are transported, payment is made for only one trip as twins are considered as one passenger.

~~(O) Electrocardiogram monitoring enroute is covered only when the following conditions are met:~~

~~(i) The ambulance company assures that any state or local laws applicable to EKG monitoring are met.~~

~~(ii) A physician must order the EKG and the same physician must be in communication with the ambulance during the trip.~~

~~(iii) The EKG is reasonable and necessary for the care of the patient.~~

(O) Payment is made according to the medically necessary services actually furnished. That is, payment is based on the level of service furnished, not simply on the vehicle used.

~~(P) Payment for oxygen includes oxygen set up, cannulas, tubing and airways. Payment is based on each 15 minutes or portion thereof. The number of units for each 15 minute increment should be entered in Number of Services column on the claim form using Code A0070.~~

(P) Medical necessity is established when the patient's condition is such that use of any other method of transportation is contraindicated. Non-emergency transports are not covered unless the patient is bed confined or has a medical condition that requires medical expertise not available with a less specialized method of transportation. Bed confined means that the patient is unable to get up from bed without assistance, unable to ambulate, and unable to sit in a chair or wheelchair. The term bed confined is not synonymous with bed rest or non-ambulatory.

(Q) If the patient dies before dispatch, no payment is available. If the patient dies after dispatch, but before the patient is loaded, payment is allowed for the base rate but no mileage. If the patient dies after pickup, payment is available for the base rate and mileage. Time of death is the point at which the patient is pronounced dead by an individual authorized by the State to make such pronouncements.

(~~Q~~R) Air Ambulance Services, which includes fixed and rotary wing transportation, are covered only where:

(i) The point of pickup is inaccessible by land vehicle; or

(ii) Great distances or other obstacles are involved in getting the patient to the nearest hospital with appropriate facilities and speedy admission is essential; i.e., in cases where transportation by land ambulance is contraindicated; and

(iii) Instances where the patient's condition and other circumstances of the case necessitated the use of this type of transportation. However, where land ambulance service would have sufficed, payment should be based on the amount payable for land ambulance, if this is less costly.

(iv) Base rate includes the lift off, professional intensive care, transport isolette, ventilator setup,

~~and~~ respiratory setup, ~~using Code A0040~~ and all other medical services provided during the flight.

(v) If the accident scene is inaccessible by air and a land ambulance must pick up the patient to transport to a site where the air ambulance can land, the land ambulance trip is covered.

(vi) Air transportation is covered only to a hospital.

(vii) If the patient dies before takeoff, no payment is made. This includes situations in which the air ambulance has taxied to the runway, has been cleared for takeoff, but has not actually taken off. Failure of the dispatcher to notify the pilot of the death does not negate this rule. If the patient dies after takeoff but before the patient is loaded, payment is made for the base rate but no mileage. If the patient dies after the patient is loaded, payment is made for the base rate and mileage. Time of death is defined as the point at which the patient has been pronounced dead by an individual authorized by the State to make such pronouncements.

(viii) Only one base rate is allowed per trip.

~~(R) Helicopter ambulance transportation is covered only if it is determined to be medically necessary as set out in (Q) of this paragraph.~~

~~(S) If the accident scene is inaccessible by the helicopter and a land ambulance must pick up the patient to transport them to a site where the helicopter can land, the land ambulance trip is covered.~~

~~(T) Base rate includes the lift off, professional intensive care, transport isolette and all supplies.~~

~~(U) Special Ambulance Transportation (A0050) requires review to determine medical necessity prior to payment.~~

~~(V) Only one base rate is allowed per trip; use the single appropriate code for the base rate.~~

(2) **Non-covered services.**

(A) Transportation by ambulance when patient's condition did not require that level of transportation and another mode of transportation would suffice.

(B) Ambulance transportation from residence to residence is not covered except for transfers from nursing home to nursing home when the transferring facility is not certified.

~~(C) Payment is not made for ambulance transportation provided an individual who has purchased a membership from the ambulance company.~~

(~~D~~C) Payment will not be made for ambulance transportation determined not to be medically necessary.

~~(E) Transportation of a deceased patient is not covered if the patient was pronounced dead prior to the calling of the ambulance. If the patient expires after the ambulance is called, payment can be made to the point of pick up. If the patient expires while being transported, the entire trip can be covered.~~

(~~F~~D) Transportation to a funeral home, mortuary, or morgue is not covered.

~~(G) Transportation by non-certified ambulance, "wheelchair coach", or "aid car", is not covered.~~

~~(H) Payment is not made for transportation to a physician's office, unless necessary for emergency treatment, prior to continuing on to the hospital.~~

~~(I) Charges for reusable items are not paid. The following are examples of reusable items:~~

~~(i) Esophageal obturator~~

~~(ii) Needle retractor~~

~~(iii) Cervical collars and similar immobilization devices~~

~~(iv) Inverters~~

~~(v) Blood pressure cuffs~~

~~(vi) Fracture boards~~

~~(vii) Back boards~~

~~(viii) Neck boards~~

~~(ix) Inflatable leg and arm splints~~

~~(x) Sandbags~~

~~(xi) Airways~~

~~(xii) Orthopedic stretchers~~

~~(xiii) Oxygen tanks~~

~~(J) Service charges for late payments are not allowed.~~

(~~K~~E) Ambulance transportation is not covered when provided while the patient was an inpatient. For example, transportation to and from another facility for tests, x-rays, etc., while still an inpatient of another facility is not compensable. All non-physician services furnished an inpatient are part of the inpatient bill.

~~(L) Payment is not made for services which can only be administered by a physician such as cannula insertion, airway insertion, intubation, cardioversion, drug administration, prescription drugs, CPR, etc.~~

(~~M~~F) Payment is not made for more than one base rate per trip.

317:30-5-342. Public transportation [REVOKED]

~~Payment is made to public transportation companies for transportation for eligible individuals and an escort, if necessary, when authorized by OHCA.~~

~~(1) Transportation is authorized by Form F-1, Authorization for Bus Transportation, for Adults, Children and individuals eligible under Vocational Rehabilitation. Form F-1 must be attached to the invoice.~~

~~(2) An invoice and form F-1 should be submitted directly to OHCA, Attention: Finance Division, P.O. Box 25352, Oklahoma City, Oklahoma 73125.~~

317:30-5-343. Reimbursement

~~Reimbursement for emergency ambulance transportation is based on a previously estimated statewide reimbursement system. Reimbursement for transportation includes a $14.51 add-on to base rates for non-reusable supplies. Reusable supplies are not reimbursed.~~ Payment is made at the lower of

the provider's usual and customary charge or the OHCA's fee schedule.

[OAR Docket #06-625; filed 4-11-06]

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

[OAR Docket #06-617]

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Subchapter 5. Individual Providers and Specialties
Part 62. Private Duty Nursing [NEW]
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ANALYSIS:
Provider rules are revised to establish rules for private duty nursing care provided Medicaid eligible children. Currently, these services are covered under the EPSDT program but the agency's SURS and Care Management units have identified numerous problems with the management and audit of these services. Frequently, providers are not notifying the agency of changes to the patient's plan of care. Revisions are intended to clarify the conditions under which private duty nursing can be approved. Revisions are anticipated to result in better quality care for these medically fragile children by requiring the direct involvement of an OHCA Exceptional Needs Coordinator in the treatment process. Private duty nursing providers will benefit since the rules will make the prior authorization process more efficient. The revisions will also enable SURS to effectively resolve overpayments identified by the audit process. Rule revisions are needed to establish specific provider rules for private duty nursing care for children.
CONTACT PERSON:
Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 62. PRIVATE DUTY NURSING

317:30-5-555. Eligible providers

(a) An organization who desires to be paid by Oklahoma Medicaid for private duty nursing must meet the following requirements prior to providing services to eligible Medicaid beneficiaries:

(1) an executed contract with OHCA, and

(2) the organization must meet the requirements of OAC 317:30-5-545 or it must be licensed by the State Health Department as a Home Care Agency.

(b) The provider of services within the organization must be a licensed practical nurse or a registered nurse.

317:30-5-556. Definitions

The definition of private duty nursing is medically necessary care provided on a regular basis by a Licensed Practical Nurse or Registered Nurse in the patient's residence.

317:30-5-557. Coverage by category

(a) **Adults.** Oklahoma Medicaid does not cover adults (persons age 21 or over) for private duty nursing with the exception of subsection (c).

(b) **Children.** Oklahoma Medicaid does cover children (Persons under the age of 21) if:

(1) the child is eligible for Medicaid and

(2) the Oklahoma Health Care Authority, in its discretion, deems the services medically necessary. Medical necessity is determined in accordance with OAC 317:30-5-560.1.

(c) **Individuals eligible for Part B of Medicare.** Payment is made utilizing the Medicaid allowable for comparable services.

317:30-5-558. Private duty coverage limitations

(a) The following regulations apply to all private duty nursing services and provide coverage limitations:

(1) All services must be prior authorized to receive payment from the Medicaid agency. Prior authorization

means authorization in advance of services provided in accordance with OAC 317:30-5-560.1;

(2) A treatment plan must be completed prior to the prior authorization and must be updated throughout the course of nursing treatment;

(3) A personal visit by an Oklahoma Health Care Authority Care Management Nurse is required prior to the authorization for services;

(4) Care in excess of the designated hours per day granted in the prior authorization are not compensable. The banking, saving or accumulation of unused prior authorized hours to be used later are not compensable.

(5) The agency requesting prior authorization must have adequate staff and resources to meet the Plan of Care requirements. Failure to provide care in the manner described on the Plan of Care will result in termination of the prior authorization and selection of another provider.

(6) Private duty nursing services does not include office time or administrative time in providing the service. The time billed is for direct nursing services only.

(7) Staff must be engaged in purposeful activity that directly benefit the person receiving services. Staff must be physically able and mentally alert to carry out the duties of the job. At no time will the Authority compensate an organization for nursing staff time when sleeping.

(8) OHCA will not compensate service if all health and safety issues cannot be met in the home setting.

(9) A provider may not misrepresent facts in a treatment plan or omit facts from a treatment plan.

(10) It is outside the scope of coverage to deliver care in a manner outside the treatment plan or to deliver units over the authorized units of care.

(11) Private duty nursing will not be authorized in excess of 16 hours per day except immediately following a hospital stay or the temporary incapacitation of the primary caregiver. Under these two exceptions, care in excess of 16 hours may be authorized for a period up to 30 days. As expressed in this subsection, incapacity means an involuntary ability to provide care.

(12) Family and/or caregivers and/or guardians are required to provide some of the nursing care without compensation.

(b) A violation of any private duty nursing coverage limitations will result in an overpayment. Continued violations may result in contract termination.

317:30-5-559. How services are authorized

An eligible provider may have private duty nursing services authorized by following all the following steps:

(1) create a treatment plan for the patient as expressed in OAC 317:30-5-560;

(2) request a home visit by an OHCA Care Management Nurse; and

(3) have an OHCA Care Management Nurse determine medical necessity of the service by scoring the client's needs on the Private Duty Nursing Acuity Grid (Form OHCA-26).

317:30-5-560. Treatment Plan

(a) An eligible organization must create a treatment plan for the patient as part of the process to have private duty nursing services authorized. The treatment plan must be signed by the patient's attending physician.

(b) The treatment plan must include all of the following medical and social data so that OHCA Care Managers can appropriately determine medical necessity by the use of the Private Duty Nursing Acuity Grid:

(1) diagnosis

(2) prognosis

(3) anticipated length of treatment

(4) number of hours of private duty nursing requested per day

(5) assessment needs and frequency (e.g., vital signs, glucose checks, neuro checks, respiratory)

(6) medication method of administration and frequency

(7) age appropriate feeding requirements (diet, method and frequency)

(8) respiratory needs

(9) mobility requirements including need for turning and positioning, and the potential for skin breakdown

(10) developmental deficits

(11) casting, orthotics, therapies

(12) age appropriate elimination needs

(13) seizure activity and precautions

(14) age appropriate sleep patterns

(15) disorientation and/or combative issues

(16) age appropriate wound care and/or personal care

(17) communication issues

(18) social support needs

(19) name, skill level, and availability of all caregivers

(20) other pertinent nursing needs such as dialysis, isolation

317:30-5-560.1. Prior authorization requirements

(a) Authorizations are provided for a maximum period of six months.

(b) Authorizations may only be received by creating a treatment plan for the patient, requesting a visit by an OHCA Care Management Nurse, and having the Care Management Nurse determine medical necessity by scoring the client's needs on the Private Duty Nursing Acuity Grid. The number of hours requested on the treatment plan may be modified based on the assessment of OHCA staff during a visit by a Care Management Nurse. If the patient's condition necessitates a change in the treatment plan, the provider must request a new prior authorization.

(c) Changes in the treatment plan may necessitate another visit by the Care Management staff.

317:30-5-560.2. Record documentation

Copies of the treatment plan signed by the attending physician. Copies of the attending physician's orders and, at a minimum, the last 30 days of medical records for the actual care provided must be maintained in the home. Medical

records must include the beginning and ending time of the care and must be signed by the person providing care. The nurse's credentials must also be included. All provisions of the treatment plan, such as vital signs, medication administration, glucose/neuro checks, vital signs, respiratory assessments, and all applicable treatments must be documented in the record. All records must meet the requirements set forth in OAC 317:30-3-15.

[OAR Docket #06-617; filed 4-11-06]

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

[OAR Docket #06-613]

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ANALYSIS:
Rules are revised to implement a Consumer-Directed Personal Assistance Services and Supports (CD-PASS) service option in the ADvantage Waiver Program. With funding from a CMS Systems Change Grant, the Oklahoma Department of Human Services, the Long Term Care Authority of Tulsa along with Independent Living Centers and consumers of Personal Care services have been working on developing CD-PASS services for the past two years. The voluntary pilot project in the Tulsa area will offer some clients an option of directing their personal care services with assistance from an Employee Support Services Provider. Clients who elect to participate will be the provider's "employer of record' and will employ, train, discharge and schedule their personal care assistant, instead of utilizing a licensed home care agency. Support assistance provided to the client will include payroll functions (including appropriate withholding), technical assistance, and consultation. Expected outcomes are that client satisfaction with services increase, health and safety of clients is comparable if not better than that for clients served through traditional Personal Care and that cost between CD-PASS and traditional Personal Care is about the same. Revisions are needed to implement the Consumer-Directed Personal Assistance Services and Supports service option.

ADvantage Waiver Services rules are revised to establish Institution Transition Services as a separate billable service under Medicaid for individuals who qualify for ADvantage Program services. Revisions are needed to address transition services consistent with the Centers for Medicare and Medicaid directions as a result of approval of a consumer directed personal assistance service system waiver amendment, also known as CD pass. Institution Transition Services are those services that are necessary to enable an individual to leave an institution and receive necessary support in their own home. This service may include Case Management, Nursing Assessment and Evaluation for in-home service planning, Environmental Modifications and Medical Equipment and Supplies. The Centers for Medicare and Medicaid Services has directed the State to restructure the definitions of Institution Transition Services to make them distinct and separate from the homologous, non-ITS Case Management, Skilled Nursing, Environmental Modification and Equipment and Supply services.
CONTACT PERSON:
Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 85. ADVANTAGE PROGRAM WAIVER SERVICES

317:30-5-761. Eligible providers

ADvantage Program service providers, except pharmacy providers, shall be certified by the ADvantage Program Administrative Agent (AA) and all providers must have a current

signed Medicaid contract on file with the Medicaid Agency (Oklahoma Health Care Authority).

(1) The provider programmatic certification process shall verify that the provider meets licensure, certification and training standards as specified in the waiver document and agrees to ADvantage Program Conditions of Participation. Providers must obtain programmatic certification to be ADvantage Program certified.

(2) The provider financial certification process shall verify that the provider uses sound business management practices and has a financially stable business. All providers, except for NF Respite, Medical Equipment and Supplies, and Environmental Modification providers, must obtain financial certification to be ADvantage Program certified.

(3) Providers may fail to gain or may lose ADvantage Program certification due to failure to meet either programmatic or financial standards.

(4) At a minimum, the AA reevaluates provider financial certification annually.

(5) The AA relies upon DHS/Aging Services Division (ASD) for ongoing programmatic evaluation of Adult Day Care and Home Delivered Meal providers for continued programmatic certification. Providers of Medical Equipment and Supplies, Environmental Modifications, and NF Respite services do not have a programmatic evaluation after the initial certification.

(6) For a legally responsible spouse or legal guardian of an adult client to be Medicaid reimbursed under the 1915(c) ADvantage Program as a service provider, the provider must meet all of the following authorization criteria and monitoring provisions:

(A) Authorization for a spouse or legal guardian to be the care provider for a client may occur only under the following conditions:

(i) The client is offered a choice of providers and documentation demonstrates that:

(I) either no other provider is available; or

(II) available providers are unable to provide necessary care to the client; or

(III) the needs of the client are so extensive that the spouse or legal guardian who provides the care is prohibited from working outside the home due to the client's need for care.

(ii) The Director of OKDHS approves a request for spouse or legal guardian to be the provider under one of the aforementioned documented circumstances.

(B) The service must:

(i) meet the definition of a service/support as outlined in the federally approved waiver document;

(ii) be necessary to avoid institutionalization;

(iii) be a service/support that is specified in the individual service plan;

(iv) be provided by a person who meets the provider qualifications and training standards specified in the waiver for that service;

(v) be paid at a rate that does not exceed that which would otherwise be paid to a provider of a similar service and does not exceed what is allowed by the State Medicaid Agency for the payment of personal care or personal assistance services;

(vi) not be an activity that the spouse or legal guardian would ordinarily perform or is responsible to perform. If any of the following criteria are met, assistance or care provided by the spouse or guardian will be determined to exceed the extent and/or nature of the assistance they would be expected to ordinarily provide in their role as spouse or guardian:

(I) spouse or guardian has resigned from full-time/part-time employment to provide care for the client; or

(II) spouse or guardian has reduced employment from full-time to part-time to provide care for the client; or

(III) spouse or guardian has taken a leave of absence without pay to provide care for the client; or

(IV) spouse or guardian provides assistance/care for the client thirty-five or more hours per week without pay and the client has remaining unmet needs because no other provider is available due to the nature of the assistance/care, special language or communication, or intermittent hours of care requirements of the client.

(C) The spouse or legal guardian who is a service provider will comply with the following:

(i) not provide more than 40 hours of services in a seven day period;

(ii) planned work schedules must be available two weeks in advance, and variations to the schedule must be noted and supplied to the fiscal agent when billing;

(iii) maintain and submit time sheets and other required documentation for hours paid; and

(iv) be documented in the service plan as the client's care provider.

(D) In addition to case management, monitoring, and reporting activities required for all waiver services, the state is obligated to the following additional monitoring requirements when clients elect to use a spouse or legal guardian as a paid service provider:

(i) at least quarterly reviews by the AA of expenditures and the health, safety, and welfare status of the individual recipient;

(ii) face-to-face visits with the recipient by AA representative on at least a semi annual basis; and

(iii) monthly reviews by the AA of hours billed for spouse or legal guardian providing care.

(~~6~~7) The AA or OKDHS Aging Service Division (OKDHS/ASD) periodically performs a programmatic audit of Case Management, Home Care (providers of

Skilled Nursing, State Plan Personal Care, In-Home Respite, Advanced Supportive/Restorative Assistance and Therapy Services), ~~and~~ Comprehensive Home Care, and CD-PASS providers. If due to a programmatic audit, a provider Plan of Correction is required, the AA stops new case referrals to the provider until the Plan of Correction has been approved and implemented. Depending on the nature and severity of problems discovered during a programmatic audit, at the discretion of the AA and ~~DHS/ASD~~ OKDHS/ASD, clients determined to be at risk for health or safety may be transferred from a provider requiring a Plan of Correction to another provider.

317:30-5-762. Coverage

Individuals receiving ADvantage Program services must have been determined to be eligible for the program and must have an approved plan of care. Any ADvantage Program service provided must be listed on the approved plan of care and must be necessary to prevent institutionalization of the recipient. Waiver services which are expansions of Oklahoma Medicaid State Plan services may only be provided after the recipient has exhausted these services available under the State Plan.

(1) To allow for development of administrative structures and provider capacity to adequately deliver Consumer-Directed Personal Assistance Services and Supports (CD-PASS), availability of CD-PASS is limited to ADvantage Program clients that reside in the following counties and zip codes:

(A) Tulsa;

(B) Creek;

(C) Rogers;

(D) Wagoner; and

(E) Osage County zip codes of 74126, 74127, 74106, and 74063.

(2) ADvantage Case Managers within the CD-PASS geographic target area will provide information and materials that explain the CD-PASS service option to their clients. The AA provides information and material on CD-PASS to Case Managers for distribution to clients.

(3) The client may request CD-PASS services from their Case Manager or call an AA maintained toll-free number to request CD-PASS services.

(4) The AA uses the following criteria to determine an ADvantage client's service eligibility to participate in CD-PASS:

(A) residence in the CD-PASS geographic target area;

(B) client's receipt of State Plan or ADvantage Personal Care services for 12 months or more;

(C) client's health and safety with CD-PASS services can reasonable be assured based on a review of service history records and a review of client capacity and readiness to assume Employer responsibilities under CD-PASS with any one of the following findings as basis to deny a request for CD-PASS due to inability to assure client health and safety;

(i) the client does not have the ability to make decisions about his/her care of service planning and the client's "authorized representative" is not willing to assume CD-PASS responsibilities, or

(ii) the client is not willing to assume responsibility, or to enlist and "authorized representative" to assume responsibility, in one or more areas of CD-PASS such as in service planning, or in assuming the role of employer of the PSA or APSA provider, or in monitoring and managing health or in preparation for emergency backup, or

(iii) the client has a recent history of self-neglect or self-abuse as evidenced by Adult Protective Services intervention within the past 12 months and does not have an "authorized representative" with capacity to assist with CD-PASS responsibilities;

(D) client voluntarily makes an informed choice to receive CD-PASS services. As part of the informed choice decision-making process for CD-PASS, the AA staff or the Case Manager provides consultation and assistance as the client completes a self-assessment of preparedness to assume the role of Employer of their Personal Services Assistant. The orientation and enrollment process will provide the client with a basic understanding of what will be expected of them under CD-PASS, the supports available to assist them to successfully perform Employer responsibilities and an overview of the potential risks involved.

(5) The AA uses the following criteria to determine that based upon documentation, a person is no longer allowed to participate in CD-PASS:

(A) the client does not have the ability to make decisions about his/her care or service planning the client's "authorized representative" is not willing to assume CD-PASS responsibilities; or

(B) the client is not willing to assume responsibility, or to enlist an "authorized representative" to assume responsibility, in one or more areas of CD-PASS such as in service planning, or in assuming the role of employer of the PSA or APSA provider, or in monitoring and managing health or in preparation for emergency backup; or

(C) the client has a recent history of self-neglect or self-abuse as evidenced by Adult Protective Services intervention and does not have an "authorized representative" with capacity to assist with CD-PASS responsibilities; or

(D) participant abuses or exploits their employee; or

(E) participant falsifies time-sheets or other work records; or

(F) based on documented experience of being abusive and/or uncooperative, no Employer Support Services Provider will agree to assist the person, or

(G) participant, even with Employer Support Services Provider assistance, is unable to operate within their Individual Budget Allocation; or

(H) inferior quality of services provided by participant's employee jeopardizes the participant's health and/or safety.

317:30-5-763. Description of services

Services included in the ADvantage Program are as follows:

(1) **Case Management.**

(A) Case Management services are services that assist a client in gaining access to medical, social educational or other services, regardless of payment source of services, that may benefit the client in maintaining health and safety. Case managers initiate and oversee necessary assessments and reassessments to establish or reestablish waiver program eligibility. Case managers develop the client's comprehensive plan of care, listing only services which are necessary to prevent institutionalization of the client, as determined through assessments. Case managers initiate the addition of necessary services or deletion of unnecessary services, as dictated by the client's condition and available support. Case managers monitor the client's condition to ensure delivery and appropriateness of services and initiate plan of care reviews. If a client requires hospital or nursing facility services, the case manager assists the client in accessing institutional care and, as appropriate, periodically monitors the client's progress during the institutional stay and helps the client transition from institution to home by updating the service plan and preparing services to start on the date the client is discharged from the institution. Case Managers must meet ADvantage Program minimum requirements for qualification and training prior to providing services to ADvantage clients. Prior to providing services to clients receiving Consumer-Directed Personal Assistance Services and Supports (CD-PASS), Case Managers are required to receive training and demonstrate knowledge regarding CD-PASS service delivery model, "Independent Living Philosophy" and demonstrate competency in Person-centered planning.

(B) Providers may only claim time for billable Case Management activities described as follows:

(i) A billable case management activity is any task or function defined under OAC 317:30-5-763(1)(A) that only an ADvantage case manager because of skill, training or authority, can perform on behalf of a client;

(ii) Ancillary activities such as clerical tasks like mailing, copying, filing, faxing, drive time or supervisory/administrative activities are not billable case management activities, although the administrative cost of these activities and other normal and customary business overhead costs have been included in the reimbursement rate for billable activities;

~~(iii) If a client is in a hospital or nursing facility and the case manager provides transitional case management services to the client and the client returns home with ADvantage services, case management services provided during the institutional stay, within 120 days of transition to ADvantage, may be authorized for reimbursement and are to be claimed as delivered on the day of discharge from the institution.~~

~~(I) If the client has received transitional services but dies prior to discharge, the client is enrolled in the waiver on the date of death, the AA authorizes services for reimbursement and the provider claims services as delivered on the date of client death/waiver enrollment.~~

~~(II) If the client has received transitional services but fails to enter the waiver, any transitional services provided are reimbursed as "Medicaid administrative" costs and providers follow special procedures specified by the AA to bill for services provided.~~

(C) Case Management services are prior authorized and billed per 15-minute unit of service using the rate associated with the location of residence of the client served.

(i) Standard Rate: Case Management services are billed using a Standard rate for reimbursement for billable service activities provided to a client who resides in a county with population density greater than 25 persons per square mile.

(ii) Very Rural/Difficult Service Area Rate: Case Management services are billed using a Very Rural/Difficult Service Area rate for billable service activities provided to a client who resides in a county with population density equal to or less than 25 persons per square mile. An exception would be services to clients that reside in AA identified zip codes in Osage County adjacent to metropolitan areas of Tulsa and Washington Counties. Services to these clients are prior authorized and billed using the Standard rate.

(iii) The United States 2000 Census, Oklahoma Counties population data is the source for determination of whether a client resides in a county with a population density equal to or less than 25 persons per square mile, or resides in a county with a population density greater than 25 persons per square mile.

(2) **Respite.**

(A) Respite services are provided to clients who are unable to care for themselves. They are provided on a short-term basis because of the absence or need for relief of the primary caregiver. Payment for respite care does not include room and board costs unless more than seven hours are provided in a nursing facility. Respite care will only be utilized when other sources of care and support have been exhausted. Respite care will only be listed on the plan of care when it is

necessary to prevent institutionalization of the client. Units of services are limited to the number of units approved on the plan of care.

(B) In-Home Respite services are billed per 15-minute unit service. Within any one-day period, a minimum of eight units must be provided with a maximum of 28 units provided. The service is provided in the client's home.

(C) Facility-Based Extended Respite is filed for a per diem rate, if provided in Nursing Facility. Extended Respite must be at least eight hours in duration.

(D) In-Home Extended Respite is filed for a per diem rate. A minimum of eight hours must be provided in the client's home.

(3) **Adult Day Health Care.**

(A) Adult Day Health Care is furnished on a regularly scheduled basis for one or more days per week, at least four hours per day in an outpatient setting. It provides both health and social services which are necessary to ensure the optimal functioning of the client. Physical, occupational, respiratory and/or speech therapies may only be provided as an enhancement to the basic Adult Day Health Care service when authorized by the plan of care and billed as a separate procedure. Meals provided as part of this service shall not constitute a full nutritional regimen. Transportation between the client's residence and the service setting is provided as a part of Adult Day Health Care. Personal Care service enhancement in Adult Day Health Care is assistance in bathing and/or hair washing authorized by the plan of care and billed as a separate procedure. Most assistance with activities of daily living, such as eating, mobility, toileting and nail care, are services that are integral to the Adult Day Health Care service and are covered by the Adult Day Health Care basic reimbursement rate. Assistance with bathing and/or hair care is not a usual and customary adult day health care service. Enhanced personal care in adult day health care for assistance with bathing and/or hair washing will be authorized when an ADvantage waiver client who uses adult day health care requires assistance with bathing and/or hair washing to maintain health and safety.

(B) Adult Day Health Care is a 15 minute unit. No more than 6 hours are authorized per day. The number of units of service a client may receive is limited to the number of units approved on the client's approved plan of care.

(C) Adult Day Health Care Therapy Enhancement is a maximum one session per day unit of service.

(D) Adult Day Health Personal Care Enhancement is a maximum one per day unit of bathing and/or hair washing service.

(4) **Environmental Modifications.**

(A) Environmental Modifications are physical adaptations to the home, required by the client's plan of care, which are necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the home and without which, the client would require institutionalization. Adaptations or improvements to the home which are not of direct medical or remedial benefit to the waiver client are excluded.

~~(B) If a client is in a hospital or nursing facility and environmental modification are required as part of institutional transition services to assist the person to return home safely, environmental services provided during the institutional stay within 120 days of transition to ADvantage, may be authorized for reimbursement and are to be claimed as delivered on the day of discharge from the institution.~~

(~~C~~B) All services require prior authorization.

(5) **Specialized Medical Equipment and Supplies.**

(A) Specialized Medical Equipment and Supplies are devices, controls, or appliances specified in the plan of care, which enable clients to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live. Also included are items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid state plan. This service shall exclude any equipment and/or supply items which are not of direct medical or remedial benefit to the waiver client. This service is necessary to prevent institutionalization.

~~(B) If a client is in a hospital or nursing facility and specialized medical equipment and supplies are required as part of institutional transition services to assist the person to return home safely, specialized medical equipment and supplies provided during the institutional stay within 120 days of transition to ADvantage, may be authorized for reimbursement and are to be claimed as delivered on the day of discharge from the institution.~~

(~~C~~B) Specialized Medical Equipment and Supplies are billed using the appropriate HCPC procedure code. All services must be prior authorized.

(6) **Comprehensive Home Care.** Comprehensive Home Care is an integrated service-delivery package which includes case management, personal care, skilled nursing, in-home respite and advanced supportive/restorative assistance.

(A) Comprehensive Home Care is provided by an agency which has been trained and certified by the Long Term Care Authority to provide an integrated service delivery system. Comprehensive Home Care is case management in combination with one or more of the following services:

(i) personal care,
(ii) in-home respite,
(iii) skilled nursing, and/or
(iv) advanced supportive/restorative services.

(B) All services must be provided in the home and must be sufficient to achieve, maintain or improve

the client's ability to carry out daily living activities. However, with OKDHS area nurse approval, or for ADvantage waiver clients, with service plan authorization and ADvantage Program Manager approval, Personal Care services may be provided in an educational or employment setting to assist the client in achieving vocational goals identified on the service plan. The sub-component services of Comprehensive Home Care are the same as described in (A) of this paragraph (see subparagraph (1)(A) of this section for Case Management services, OAC 317:35-15-2 for Personal Care service, subparagraph (8)(A) of this section for Skilled Nursing, subparagraph (2)(A) of this section for In-Home Respite, and subparagraph (7)(A) of this section for Advanced Supportive/Restorative Assistance).

(C) CHC services are billed using the appropriate HCPC procedure code along with the CHC provider location code on the claim.

(7) **Advanced Supportive/Restorative Assistance.**

(A) Advanced Supportive/Restorative Assistance services are maintenance services to assist a client who has a chronic, yet stable, condition. The service assists with activities of daily living which require devices and procedures related to altered body functions. This service is for maintenance only and is not utilized as a treatment service.

(B) Advanced Supportive/Restorative Assistance service is billed per 15-minute unit of service. The number of units of this service a client may receive is limited to the number of units approved on the plan of care.

(8) **Skilled Nursing.**

(A) Skilled Nursing services are services of a maintenance or preventive nature provided to clients with stable, chronic conditions. These services are not intended to be treatment for an acute health condition and may not include services which would be reimbursable under either Medicaid or Medicare's Home Health Program. This service primarily provides nurse supervision to the Personal Care Assistant or to the Advanced Supportive/Restorative Assistance Aide, assessment of the client's health and assessment of services to meet the client's needs as specified in the plan of care. A skilled nursing assessment/evaluation on-site visit is made to each client for whom Advanced Supportive/Restorative Assistance services are authorized to evaluate the condition of the client. A monthly visit report will be made to the ADvantage Program case manager, to report the client's condition or other significant information concerning each advanced supportive/restorative care client.

(i) The ADvantage Program case manager may recommend authorization of Skilled Nursing services for assessment/evaluation of:

(I) the client's general health, functional ability and needs and/or

(II) the adequacy of personal care and/or advanced supportive/restorative assistance services to meet the client's needs including providing on-the-job training and competency testing for personal care or advanced supportive/restorative care aides in accordance with rules and regulations for delegation of nursing tasks as established by the Oklahoma Board of Nursing.

(ii) In addition to assessment/evaluation, the ADvantage Program case manager may recommend authorization of Skilled Nursing services for the following:

(I) filling a one-week supply of insulin syringes for a blind diabetic who can self-inject the medication but cannot fill his/her own syringe. This service would include monitoring the client's continued ability to self-administer the insulin;

(II) setting up oral medications in divided daily compartments for a client who self-administers prescribed medications but needs assistance and monitoring due to a minimal level or disorientation or confusion;

(III) monitoring a client's skin condition when a client is at risk of skin breakdown due to immobility or incontinence, or the client has a chronic stage II decubitus requiring maintenance care and monitoring;

(IV) providing nail care for the diabetic client or client with circulatory or neurological deficiency;

(V) providing consultation and education to the client, client's family and/or other informal caregivers identified in the service plan, regarding the nature of the chronic condition. Provide skills training (including return skills demonstration to establish competency) for preventive and rehabilitative care procedures to the client, family and/or other informal caregivers as specified in the service plan.

(B) Skilled Nursing service is billed for an assessment/evaluation per assessment or, for non-assessment services, billed for the first hour unit of service and for each 15-minute unit of service provided after the first hour. An agreement by a provider to produce a nurse evaluation is an agreement, as well, to provide the nurse assessment identified Medicaid in-home care services for which the provider is certified and contracted. Reimbursement for a nurse evaluation shall be denied if the provider that produced the nurse evaluation fails to provide the nurse assessment identified Medicaid in-home care services for which the provider is certified and contracted.

~~(C) If a client is in a hospital or nursing facility and skilled nursing services are required as part of institutional transition services to assist the person to return~~

~~home safely, skilled nursing services provided during the institutional stay within 120 days of transition to ADvantage, may be authorized for reimbursement and are to be claimed as delivered on the day of discharge from the institution.~~

(9) **Home Delivered Meals.**

(A) Home Delivered Meals provide one meal per day brought to the client's home. Each meal has a nutritional content equal to one third of the Recommended Daily Allowance. Meals are only provided to clients who are unable to prepare meals and lack an informal provider to do meal preparation.

(B) Home Delivered Meals are billed per meal/unit. The limit of the number of units a client is allowed to receive is limited on the client's plan of care.

(10) **Occupational Therapy services.**

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

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

(11) **Physical Therapy services.**

(A) Physical Therapy services are those services that prevent physical disability through the evaluation and rehabilitation of clients disabled by pain, disease or injury. Services are provided in the client's home and are intended to help the client achieve greater independence to reside and participate in the community. Treatment involves use of physical therapeutic means such as massage, manipulation, therapeutic exercise, cold or heat therapy, hydrotherapy, electrical stimulation and light therapy. Under a physician's order, a licensed physical therapist evaluates the client's rehabilitation potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional physical therapy assistant services, within the limits of their practice, working under the supervision of the licensed physical therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the client's rehabilitative progress and will report to the client's case manager and physician to coordinate necessary addition and/or deletion of services, based on the client's condition and ongoing rehabilitation potential.

(B) Physical Therapy services are billed per 15-minute units of service. Payment is not allowed solely for written reports or record documentation.

(12) **Comprehensive Home Care (CHC) Personal Care.**

(A) Comprehensive Home Care (CHC) Personal Care is assistance to a client in carrying out activities of daily living such as bathing, grooming and toileting, or in carrying out instrumental activities of daily living, such as preparing meals and doing laundry, to assure personal health and safety of the client or to prevent or minimize physical health regression or deterioration. Personal Care services do not include service provision of a technical nature, i.e. tracheal suctioning, bladder catheterization, colostomy irrigation, and operation/maintenance of equipment of a technical nature.

(B) CHC Case Manager and Skilled Nursing staff are responsible for development and monitoring of the client's CHC Personal Care plan.

(C) Comprehensive Home Care (CHC) Personal Care services are prior authorized and billed per 15-minute unit of service with units of service limited to the number of units on the ADvantage approved plan of care.

(13) **Speech and Language Therapy Services.**

(A) Speech/Language Therapy services are those that prevent speech and language communication disability through the evaluation and rehabilitation of clients disabled by pain, disease or injury. Services are provided in the client's home and are intended to help the client achieve greater independence to reside and participate in the community. Services involve use of therapeutic means such as evaluation, specialized treatment, and/or development and oversight of a therapeutic maintenance program. Under a physician's order, a licensed Speech/Language therapist evaluates the client's rehabilitation potential and develops an appropriate, written therapeutic regimen. The regimen utilizes paraprofessional therapy assistant services within the limits of their practice, working under the supervision of the licensed

speech/language therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the client's rehabilitative progress and will report to the client's case manager and physician to coordinate necessary addition and/or deletion of services, based on the client's condition and ongoing rehabilitation potential.

(B) Speech/Language Therapy services are billed per 15-minute unit of service. Payment is not allowed solely for written reports or record documentation.

(14) **Respiratory Therapy Services.**

(A) Respiratory therapy services are provided for a client who, but for the availability of in-home respiratory services, would require respiratory care as an inpatient in a hospital or nursing facility. Services are provided in the client's home under the care of a physician who is familiar with the technical and medical components of home ventilator support and the physician must determine medically that in-home respiratory care is safe and feasible for the client. Treatment involved use of therapeutic means such as: evaluation, respiratory treatments, chest physiotherapy, and/or development and oversight of a therapeutic maintenance program. Under a physician's order, a registered respiratory therapist evaluates the client and develops an appropriate, written therapeutic regimen. The regimen includes education and training for informal caregivers to assist with and/or maintain services, where appropriate. The therapist will ensure monitoring and documentation of the client's progress and will report to the client's case manager and physician to coordinate necessary addition and/or deletion of services, based on the client's condition and ongoing rehabilitation potential.

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

(15) **Hospice Services.**

(A) Hospice is palliative and/or comfort care provided to the client and his/her family when a physician certifies that the client has a terminal illness and has six months or less to live and orders Hospice Care. A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional and spiritual stresses which are experienced during the final stages of illness and during dying and bereavement. The client signs a statement choosing hospice care instead of routine medical care that has the objective to treat and cure the client's illness. Once the client has elected hospice care, the hospice medical team assumes responsibility for the client's medical care for the terminal illness in the home environment. Hospice care services include nursing care, physician services, medical equipment and supplies, drugs for symptom control and pain relief, home health aide and personal care services, physical, occupational and/or speech therapy, medical social services, dietary counseling and grief and bereavement counseling to the client and/or family. A Hospice plan of care must be developed by the hospice team in conjunction with the client's ADvantage case manager before hospice services are provided. The hospice services must be related to the palliation or management of the client's terminal illness, symptom control, or to enable the individual to maintain activities of daily living and basic functional skills. ADvantage Hospice may be provided to the client in a Nursing Facility (NF) only when the client is placed in the NF for ADvantage Facility Based Extended Respite. Hospice provided as part of Facility Based Extended Respite may not be reimbursed for more than five days during any 30 day period. A client that is eligible for Medicare Hospice provided as a Medicare Part A benefit, is not eligible to receive ADvantage Hospice services.

(B) Hospice services are billed per diem of service for days covered by a Hospice plan of care and during which the Hospice provider is responsible for providing Hospice services as needed by the client or client's family.

(16) **ADvantage Personal Care.**

(A) ADvantage Personal Care is assistance to an individual in carrying out activities of daily living such as bathing, grooming and toileting, or in carrying out instrumental activities of daily living, such as preparing meals and doing laundry, to assure personal health and safety of the individual or to prevent or minimize physical health regression or deterioration. Personal Care services do not include service provision of a technical nature, i.e. tracheal suctioning, bladder catheterization, colostomy irrigation, and operation/maintenance of equipment of a technical nature.

(B) ADvantage Home Care Agency Skilled Nursing staff working in coordination with an ADvantage Case Manager are responsible for development and monitoring of the client's Personal Care plan.

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

(17) **Personal Emergency Response System.**

(A) Personal Emergency Response System (PERS) is an electronic device which enables certain individuals at high risk of institutionalization to secure help in an emergency. The individual may also wear a portable "help" button to allow for mobility. The system is connected to the person's phone and programmed to signal, in accordance with client preference, a friend, a relative or a response center once a "help" button is activated. The response center is staffed by trained professionals. For an ADvantage Program client to be eligible to receive PERS service,

the client must meet all of the following service criteria:

(i) a recent history of falls as a result of an existing medical condition that prevents the individual from getting up from a fall unassisted;

(ii) lives alone and has no regular caregiver, paid or unpaid, and therefore is left alone for long periods of time;

(iii) demonstrates capability to comprehend the purpose of and activate the PERS;

(iv) has a health and safety plan detailing the interventions beyond the PERS to assure the client's health and safety in his/her home;

(v) has a disease management plan to implement medical and health interventions that reduce the possibility of falls by managing the client's underlying medical condition causing the falls; and,

(vi) the service avoids premature or unnecessary institutionalization of the client.

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

(18) **Consumer-Directed Personal Assistance Services and Support (CD-PASS).**

(A) Consumer-Directed Personal Assistance Services and Supports are Personal Services Assistance, Advanced Personal Services Assistance and Employer Support Services that enable an individual in need of assistance to reside in their home and in the community of their choosing rather than in an institution and to carry out functions of daily living, self care, and mobility. CD-PASS services are delivered as authorized on the service plan. The client employs the Personal Services Assistant (PSA) and/or the Advanced Personal Services Assistant (APSA) and is responsible, with assistance from the Employer Support Services provider, for ensuring that the employment complies with State and Federal Labor Law requirements. The client may designate an adult family member or friend, an individual who is not a PSA or APSA to the client, as an "authorized representative" to assist in executing these employer functions. The client:

(i) recruits, hires and, as necessary, discharges the PSA or APSA;

(ii) provides instruction and training to the PSA or APSA on tasks to be done and works with the Consumer Directed Agent/Case Manager to obtain Advantage skilled nursing services assistance with training when necessary. Prior to performing an Advanced Personal Services Assistance task for the first time, the SPSA must demonstrate competency in the tasks in an on-the-job training session conducted by the client and the client must document the attendant's competency in performing each task in the ASPA's personnel file;

(iii) determines where and how the PSA or APSA works, hours of work, what is to be accomplished and, within Individual Budget Allocation limits, wages to be paid for the work;

(iv) supervises and documents employee work time; and,

(v) provides tools and materials for work to be accomplished.

(B) The service Personal Services Assistance may include:

(i) assistance with mobility and with transfer in and out of bed, wheelchair or motor vehicle, or both;

(ii) assistance with routine bodily functions that may include:

(I) bathing and personal hygiene;

(II) dressing and grooming;

(III) eating including meal preparation and cleanup;

(iii) assistance with homemaker type services that may include shopping, laundry, cleaning and seasonal chores;

(iv) companion type assistance that may include letter writing, reading mail and providing escort or transportation to participate in approved activities or events. "Approved activities or events" means community civic participation guaranteed to all citizens including but not limited to, exercise of religion, voting or participation in daily life activities in which exercise of choice and decision making is important to the client that may include shopping for food, clothing or other necessities, or for participation in other activities or events that are specifically approved on the service plan.

(C) Advanced Personal Services Assistance are maintenance services provided to assist a client with a stable, chronic condition with activities of daily living when such assistance requires devices and procedures related to altered body function if such activities, in the opinion of the attending physician or licensed nurse, may be performed if the individual were physically capable, and the procedure may be safely performed in the home. Advanced Personal Services Assistance is a maintenance service and should never be used as a therapeutic treatment. Clients who develop medical complications requiring skilled nursing services while receiving Advanced Personal Services Assistance should be referred to their attending physician who may, if appropriate, order home health services. The service of Advanced Personal Services Assistance includes assistance with health maintenance activities that may include:

(i) routine personal care for persons with ostomies (including tracheotomies, gastrostomies

and colostomies with well-healed stoma) and external, in dwelling, and suprapubic catheters which includes changing bags and soap and water hygiene around ostomy or catheter site;

(ii) remove external catheters, inspect skin and reapplication of same;

(iii) administer prescribed bowel program including use of suppositories and sphincter stimulation, and enemas (Pre-packaged only) with clients without contraindicating rectal or intestinal conditions;

(iv) apply medicated (prescription) lotions or ointments, and dry, non-sterile dressings to unbroken skin;

(v) use lift for transfers;

(vi) manually assist with oral medications;

(vii) provide passive range of motion (non-resistive flexion of joint) delivered in accordance with the plan of care, unless contraindicated by underlying joint pathology;

(viii) apply non-sterile dressings to superficial skin breaks or abrasions; and

(ix) use Universal precautions as defined by the Center for Disease Control.

(D) The service Employer Support Services is assistance with employer related cognitive tasks, decision-making and specialized skills that may include:

(i) assistance with Individual Budget Allocation planning and support for making decisions, including training, reference material and consultation, regarding employee management tasks such as recruiting, hiring, training and supervising the Personal Service Assistant or Advanced Personal Service Assistant;

(ii) responsibility for obtaining criminal and abuse registry background checks, on behalf of the client, on prospective hires for PSAs or APSAs;

(iii) for making available Hepatitis B vaccine and vaccination series to PSA and APSA employees in compliance with OSHA standards;

(iv) for performing Internal Revenue Service (IRS) fiscal reporting agent and other financial management tasks and functions including, but not limited to:

(I) employer payroll, at a minimum of semi monthly, and associated mandatory withholding for taxes, Unemployment Insurance and Workers' Compensation Insurance performed on behalf of the client as employer of the PSA or APSA; and

(II) other employer related payment disbursements as agreed to with the client and in accordance with the client's Individual Budget Allocation.

(E) The service of Personal Services Assistance is billed per 15-minute unit of service. The number of units of PSA a client may receive is limited to the number of units approved on the Service Plan.

(F) The service of Advanced Personal Services Assistance is billed per 15-minute unit of service. The number of units of APSA a client may receive is limited to the number of units approved on the Service Plan.

(G) The service of Employer Support Services is billed per month unit of service. The Level of service and number of units of Employer Support Services a client may receive is limited to the Level and number of units approved on the Service Plan.

(19) **Institution Transition Services.**

(A) Institution Transition Services are those services that are necessary to enable an individual to leave the institution and receive necessary support through ADvantage waiver services in their home and/or in the community. Institution Transition Services may include, as necessary, any one or a combination of the following:

(i) Case Management;

(ii) Nursing Assessment and Evaluation for in-home service planning;

(iii) Environmental Modifications including Assessment for Transition Environmental Modification Services; and/or,

(iv) Medical Equipment and Supplies.

(B) Institution Transition Case Management Services are services as described in OAC 317:30-5-763(1) required by the individual's plan of care, which are necessary to ensure the health, welfare and safety of the individual, or to enable the individual to function with greater independence in the home, and without which, the individual would continue to require institutionalization. ADvantage Transition Case Management Services assist institutionalized individuals that are eligible to receive ADvantage services in gaining access to needed waiver and other State plan services, as well as needed medical, social, educational and other services to assist in the transition, regardless of the funding source for the services to which access is gained. Transition Case Management Services may be authorized for periodic monitoring of an ADvantage client's progress during an institutional stay, and for assisting the client transition from institution to home by updating the service plan, including necessary Institution Transition Services to prepare services and supports to be in place or to start on the date the client is discharged from the institution. Transition Case Management Services may be authorized to assist individuals that have not previously received Advantage services but have been referred by the AA or OKDHS to the Case Management Provider for assistance in transitioning from the institution to the community with Advantage services support.

(i) Institution Transition Case Management services are prior authorized and billed per 15 minute unit of service using the appropriate HCPC

and modifier associated with the location of residence of the client served as described in OAC 317:30-5-763(1)(C).

(ii) A unique modifier code is used to distinguish Institution Transition Case Management services from regular Case Management services.

(C) Institution Transition Skilled Nursing Services are nursing services, required by the individual's plan of care, which are necessary to ensure the health, welfare and safety of the individual, or to enable the individual to function with greater independence in the home, and without which, the individual would continue to require institutionalization. Institutional Transition Skilled Nursing services are solely for assessment/evaluation and service planning for in-home assistance services.

(i) Institution Transition Skilled Nursing services are prior authorized and billed per assessment/evaluation visit using the appropriate HCPC.

(ii) A unique modifier code is used to distinguish Institution Transition Skilled Nursing Services from regular Skilled Nursing Services.

(D) Institution Transition Environmental Modifications are those physical adaptations to the home, required by the individual's plan of care, which are necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the home, and without which, the individual would continue to require institutionalization. Such adaptations are the same as described under OAC 317:30-5-763(4)(A) and may include the installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, or installation of specialized electric and plumbing systems which are necessary to accommodate the medical equipment and supplies which are necessary for the welfare of the individual. Excluded are those adaptations or improvements to the home which are of general utility, and are not of direct medical or remedial benefit to the individual, such as carpeting, roof repair central air conditioning, etc. Adaptations which add to the total square footage of the home are excluded from this benefit. All services shall be provided in accordance with applicable state or local building codes. Services may include accessibility evaluation of the client's home and follow-up evaluation of the adequacy of installed environmental modifications to meet the client's accessibility and environmental adaptive needs. Accessibility evaluation services must be performed by an Accessibility Specialist who is trained and certified through a Federal or State agency approved program for Americans with Disabilities Act (ADA) Accessibility Guidelines - Title III (Public Accommodations) or by a physical or occupational therapist. Accessibility evaluation services do not include evaluations of the need for modifications or equipment that serve a therapeutic or rehabilitative function for which a therapist evaluation is necessary.

(i) Institution Transition Environmental Modification services are prior authorized and billed using the appropriate HCPC.

(ii) A unique modifier code is used to distinguish Institution Transition Environmental Modification Services and Assessments from regular Environmental Modification Services and Assessments.

(E) Institution Transition Specialized medical equipment and supplies are those devices, controls, or appliances, specified in the plan of care, which enable individuals to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live, which are necessary to ensure the health, welfare and safety of the individual, or which enable the individual to function with greater independence in the home, and without which, the individual would continue to require institutionalization. This service also includes items necessary for life support, ancillary supplies and equipment necessary to the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State plan. Item reimbursed with waiver funds shall be in addition to any medical equipment and supplies furnished under the State plan and shall exclude those items which are not of direct medical or remedial benefit to the individual. All items shall meet applicable standards of manufacture, design and installation.

(i) Institution Transition Medical Equipment and Supply services are prior authorized and billed using the appropriate HCPC.

(ii) A unique modifier code is used to distinguish Institution Transition Medical Equipment and Supply Services from regular Medical Equipment and Supply services.

(F) Institutional Transition Services may be authorized and reimbursed under the following conditions:

(i) The service is necessary to enable the individual to move from the institution to their home;

(ii) The individual is eligible to receive ADvantage services outside the institutional setting;

(iii) Institutional Transition Services are provided to the individual within 120 days of discharge from the institution;

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

(G) If the client has received Institution Transition Services but fails to enter the waiver, any Institution Transition Services authorized and provided are reimbursed as "Medicaid administrative" costs and providers follow special procedures specified by the AA to bill for services provided.

317:30-5-764. Reimbursement

(a) Rates for waiver services are set in accordance with the rate setting process by the Committee for Rates and Standards and approved by the Oklahoma Health Care Authority Board.

(1) The rate for NF Respite is set equivalent to the rate for enhanced nursing facility services that require providers having equivalent qualifications;

(2) The rate for daily units for Adult Day Health Care are set equivalent to the rate established by the Oklahoma Department of Human Services for the equivalent services provided for the ~~DHS~~ OKDHS Adult Day Service Program that require providers having equivalent qualifications;

(3) The rate for units of Home-Delivered Meals are set equivalent to the rate established by the Oklahoma Department of Human Services for the equivalent services provided for the ~~DHS~~ OKDHS Home-Delivered Meals Program that require providers having equivalent qualifications;

(4) The rates for units of In-Home Respite, CHC Personal Care, and CHC In-Home Respite are set equivalent to State Plan Agency Personal Care unit rate which require providers having equivalent qualifications;

(5) The rates for a unit of Skilled Nursing and CHC Skilled Nursing are set equivalent to State Plan Home Health Benefit Skilled Nursing unit that require providers having equivalent qualifications.

(6) CD-PASS rates are determined using the Individual Budget Allocation (IBA) Expenditure Accounts Determination process for each client. The IBA Expenditure Accounts Determination process includes consideration and decisions about the following:

(A) Authorized PSA and APSA units (determined from CDA/CM and client planning);

(B) Total CD-PASS IBA (annualized authorized units X the rate for comparable agency personal assistance services). The Total CD-PASS IBA (TIBA) is the annualized budget amount calculated to cover reimbursement for all CD-PASS services - Personal Services Assistance (PSA), Advanced Personal Services Assistance (APSA) and Employer Support Services (ESS). The TIBA is equal to that portion of the annualized cost for Personal Care services and Advanced Supportive/Restorative assistance under the client's existing service plan that CD-PASS services replace;

(C) Authorized Employer Support Service level (based on AA assessment of client's level of need for Employer Supportive Services from review of Consumer Readiness assessment for those new to CD-PASS or performance if existing CD-PASS participant);

(D) Total Annual ESS budget allocation (annualized ESS authorized units X the ESS level rate) and

(E) Client IBA (CIBA) which is equal to the Total CD-PASS IBA minus Total ESS allocation (E=B-D).

(F) The Individual Budget Allocation (IBA) Expenditure Accounts Determination constrains total Medicaid reimbursement for CD-PASS to be equal to or less than expenditures for equivalent services using agency providers. The TIBA and service unit rates are calculated by the AA during the CD-PASS service eligibility determination process. Based upon the client record review, client "Self-assessment of Readiness" to assume employer role and responsibilities and other available information, the AA authorizes a level of support to cover Employer Support Service needs. This process establishes the monthly rate for Employer Support Services. Thereafter, as part of the service planning authorization process at a minimum of annually, the AA, in consultation with the client reviews and updates the authorized level of Employer Support Services.

(G) The PSA rate is determined as follows. The monthly ESS rate amount is subtracted from an amount equivalent to the total monthly unit authorization reimbursement for agency Personal Care (PC) services under the client's existing service plan and the result is divided by the total number of PC units authorized per month.

(i) The allocation of portions of PSA rate to cover salary, mandatory taxes, Worker's Compensation insurance and optional benefits is determined individually for each client using the CD-PASS Individualized Budget Allocation Expenditure Accounts Determination Process;

(ii) If both APSA and PSA units are being authorized the ESS monthly rate amount employed in the PSA rate determination is in proportion to the units of PSA to combined PSA plus APSA units;

(H) The APSA rate is determined as follows. The monthly ESS rate amount is subtracted from an amount equivalent to the total monthly unit authorization reimbursement for agency Advanced Supportive/Restorative (ASR) assistance services under the client's existing service plan and the result divided by the total number of ASR units authorized per month.

(i) The allocation of portions of APSA rate to cover salary, mandatory taxes, Worker's Compensation insurance and optional benefits is determined individually for each client using the CD-PASS Individualized Budget Allocation Expenditure Accounts Determination Process;

(ii) If both APSA and PSA units are being authorized, the ESS monthly rate amount employed in the APSA rate determination is in proportion to the units of APSA to combined PSA plus APSA units.

(I) The IBA Expenditure Accounts Determination process defines the level of program financial resources required to meet the consumer's need for CD-PASS services. If the client's need for services changes due to a change in health/disability status and/or a change in the level of support available from other sources to meet needs, the Case Manager, based

upon an updated assessment, amends the service plan to increase CD-PASS service units appropriate to meet additional client need. The AA, upon favorable review, authorizes the amended plan and updates the client's IBA. Service amendments based on changes in client need for services do not change an existing PSA or APSA rate. The client, with assistance from the ESSP, reviews and revises the IBA Expenditure Accounts calculation annually or more often to the extent appropriate and necessary.

(b) The AA approved ADvantage service plan is the basis for the MMIS service prior authorization, specifying:

(1) service;
(2) service provider;
(3) units authorized; and
(4) begin and end dates of service authorization.

(c) As part of ADvantage quality assurance, provider audits evaluate whether paid claims are consistent with service plan authorizations and documentation of service provision. Evidence of paid claims that are not supported by service plan authorization and/or documentation of service provision will be turned over to SURS for follow-up investigation.

[OAR Docket #06-613; filed 4-11-06]

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

[OAR Docket #06-619]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
317:35-1-2. [AMENDED]
Subchapter 5. Eligibility and Countable Income
Part 1. Determination of Qualifying Categorical Relationships
317:35-5-7. [AMENDED]
Subchapter 6. SoonerCare Health Benefits for Categorically Needy Pregnant Women and Families with Children
Part 7. Certification, Redetermination and Notification
317:35-6-60. through 317:35-6-61. [AMENDED]
Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
Part 9. Certification, Redetermination and Notification
317:35-9-75. [AMENDED]
Subchapter 19. Nursing Facility Services
317:35-19-22. [AMENDED]
(Reference APA WF # 05-08 and 05-18)
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Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
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06-52
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N/A
ANALYSIS:
Eligibility rules are revised to remove deprivation as a condition of Medicaid eligibility for low income families. Under existing rules, in order to qualify for Medicaid, a child who is not disabled must be deprived of parental support due to death, continued absence, physical or mental incapacity, or unemployment. Therefore, low income families with both parents present in the home are generally not eligible for health benefits through the Medicaid program. Rule revisions are needed to eliminate the existing marriage penalty and extend health care coverage to low income children and their parents.

Eligibility rules are revised to increase the length of the Medicaid certification period for low income families with children from six to twelve months. If a redetermination of eligibility is not completed timely and entered into the OKDHS computer system during the early days of the last month of coverage, the Medicaid case is automatically closed. A patient in the midst of treatment may not be aware that eligibility has been terminated until immediate medical attention is needed. The process to recertify eligibility for health benefits generally takes up to 20 days. Also, by extending the certification to twelve months, the loss of coverage to children in families who experience financial fluctuations will be minimized. A longer eligibility period will also reduce the administrative work that focuses on checking and rechecking income levels of Medicaid families with state eligibility standards. Rule revisions are needed enhance the continuity of care for low income families with children.
CONTACT PERSON:
Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

317:35-1-2. Definitions

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

"Acute Care Hospital" means an institution that meets the requirements of 42CFR, Section 440.10 and:

(A) is maintained primarily for the care and treatment of patients with disorders other than mental diseases;

(B) is formally licensed or formally approved as a hospital by an officially designated authority for state standard setting; and

(C) meets the requirements for participation in Medicare as a hospital.

"Administrative agent" means the Long-Term Care Authority who is under contract with the Oklahoma Department of Human Services (OKDHS) to perform certain administrative functions related to the ADvantage Waiver.

"AFDC" means Aid to Families with Dependent Children.

"Aged" means an individual whose age is established as 65 years or older.

"Aid to Families with Dependent Children" means the group of low income families with children described in Section 1931 of the Social Security Act. The Personal Responsibility and Work Opportunity Act of 1996 established the new eligibility group of low income families with children and linked eligibility income and resource standards and methodologies and the requirement for deprivation for the new group to the State plan for Aid to Families with Dependent Children in effect on July 16, 1996. Oklahoma has elected to be less restrictive for all Medicaid clients related to AFDC.

"Area nurse" means a registered nurse in the OKDHS Aging Services Division, designated according to geographic areas who evaluates the UCAT and determines medical eligibility for Personal Care, ADvantage Waiver, and Nursing Facility services. The area nurse also approves care plan and service plan implementation for Personal Care services.

"Area nurse designee" means a registered nurse selected by the area nurse who evaluates the UCAT and determines medical eligibility for Personal Care, ADvantage Waiver, and Nursing Facility services.

"Authority" means the Oklahoma Health Care Authority (OHCA).

"Blind" means an individual who has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens.

"Board" means the Oklahoma Health Care Authority Board.

"Buy-in" means the procedure whereby the Authority pays the client's Medicare premium.

(A) **"Part A Buy-in"** means the procedure whereby the Authority pays the Medicare Part A premium for individuals determined eligible as Qualified Medicare Beneficiaries Plus (QMBP) who are enrolled in Part A and are not eligible for premium free enrollment as explained under Medicare Part A. This also includes individuals determined to be eligible as Qualified Disabled and Working Individuals (QDWI).

(B) **"Part B Buy-in"** means the procedure whereby the Authority pays the Medicare Part B premium for categorically needy individuals who are eligible for Part B Medicare. This includes individuals who receive TANF or the State Supplemental Payment to the Aged, Blind or Disabled, and those determined to be Qualified Medicare Beneficiary Plus (QMBP)/Specified Low Income Medicare Beneficiaries (SLMB) or Qualifying Individual-1 (QI-1). Also included are individuals who continue to be categorically needy under the PICKLE amendment and those who retain eligibility after becoming employed.

"Caretaker relative" means a person other than the biological or adoptive parent with whom the child resides who meets the specified degree of relationship within the fifth degree of kinship.

"Case management" means the activities performed for client's to assist them in accessing services, advocacy and problem solving related to service delivery.

"Categorically needy" means that income and when applicable, resources are within the standards for the category to which the client is related.

"Categorically related" or "related" means the individual is:

(A) aged, blind, or disabled;

(B) pregnant;

(C) an adult individual who has a minor dependent child under the age of 18 ~~and who is deprived of parental support due to absence, death, incapacity, unemployment~~; or

(D) a child under 19 years of age.

"Certification period" means the period of eligibility extending from the effective date of certification to the date of termination of eligibility or the date of the next periodic redetermination of eligibility.

"County" means the Oklahoma Department of Human Services' office or offices located in each county within the State.

"CSED" means the Oklahoma Department of Human Services' Child Support Enforcement Division.

"Custody" means the custodial status, as reported by the Oklahoma Department of Human Services.

"Deductible/Coinsurance" means the payment that must be made by or on behalf of an individual eligible for Medicare before Medicare payment is made. The coinsurance is that

part of the allowable medical expense not met by Medicare, which must be paid by or on behalf of an individual after the deductible has been met.

(A) For Medicare Part A (Hospital Insurance), the deductible relates to benefits for in-patient services while the patient is in a hospital or nursing facility. After the deductible is met, Medicare pays the remainder of the allowable cost.

(B) For Medicare Part B (Supplemental Medical Insurance), the deductible is an annual payment that must be made before Medicare payment for medical services. After the deductible is met, Medicare pays 80% of the allowable charge. The remaining 20% is the coinsurance.

"Disabled" means an individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted (or can be expected to last) for a continuous period of not less than 12 months.

"Disabled child" means for purposes of Medicaid Recovery a child of any age who is blind, or permanently and totally disabled according to standards set by the Social Security Administration.

"Estate" means all real and personal property and other assets included in the recipient's estate as defined in Title 58 of the Oklahoma Statutes.

"Gatekeeping" means the performance of a comprehensive assessment by the LTC nurse utilizing the Uniform Comprehensive Assessment Tool (UCAT) for the determination of Medical eligibility, care plan development, and the determination of Level of Care for Personal Care, ADvantage Waiver and Nursing Facility services.

"Local office" means the Oklahoma Department of Human Services' office or offices located in each county within the State.

"LOCEU" means the Oklahoma Health Care Authority's Level of Care Evaluation Unit.

"LTC nurse" means a registered nurse in the OKDHS Aging Services Division who meets the certification requirements for UCAT Assessor and case manager, and who conducts the uniform assessment of individuals utilizing the Uniform Comprehensive Assessment Tool (UCAT) for the purpose of medical eligibility determination. The LTC nurse also develops care plans and service plans for Personal Care services based on the UCAT.

"Medicare" means the federally funded health insurance program also known as Title XVIII of the Social Security Act. It consists of two separate programs. Part A is Hospital Insurance (HI) and Part B is Supplemental Medical Insurance (SMI).

(A) **"Part A Medicare (HI)"** means Hospital Insurance that covers services for inpatient services while the patient is in a hospital or nursing facility. Premium free enrollment is provided for all persons receiving OASDI or Railroad Retirement income who are age 65 or older and for those under age 65 who have been receiving disability benefits under these programs for at least 24 months.

(i) Persons with end stage renal disease who require dialysis treatment or a kidney transplant may also be covered.

(ii) Those who do not receive OASDI or Railroad Retirement income must be age 65 or over and pay a large premium for this coverage. Under Authority rules, these individuals are not required to enroll for Part A to be eligible for Medicaid benefits as categorically needy. They must however, enroll for Medicare Part B. Individuals eligible as a QMBP or as a Qualified Disabled and Working Individual (QDWI) under Medicaid are required to enroll for Medicare Part A. The Authority will pay Part A premiums for QMBP individuals who do not qualify for premium free Part A and for all QDWI's.

(B) **"Part B Medicare (SMI)"** means Supplemental Medical Insurance that covers physician and related medical services other than inpatient or nursing facility care. Individuals eligible to enroll in Medicare Part B are required to do so under Authority policy. A monthly premium is required to keep this coverage in effect.

"Minor child" means a child under the age of 18.

"Nursing Care" for the purpose of Medicaid Recovery is care received in a nursing facility, an intermediate care facility for the mentally retarded or other medical institution providing nursing and convalescent care, on a continuing basis, by professional personnel who are responsible to the institution for professional medical services.

"OHCA" means the Oklahoma Health Care Authority.

"OKDHS" means the Oklahoma Department of Human Services.

"Qualified Disabled and Working Individual (QDWI)" means individuals who have lost their Title II OASDI benefits due to excess earnings, but have been allowed to retain Medicare coverage.

"Qualified Medicare Beneficiary Plus (QMBP)" means certain aged, blind or disabled individuals who may or may not be enrolled in Medicare Part A, meet the Medicaid QMBP income and resource standards and meet all other Medicaid eligibility requirements.

"Qualifying Individual" means certain aged, blind or disabled individuals who are enrolled in Medicare Part A, meet the Medicaid Qualifying Individual income and resource standards and meet all other Medicaid eligibility requirements.

"Qualifying Individual-1" means a Qualified Individual who meets the Qualifying Individual-1 income and resource standards.

"Recipient lock-in" means when a recipient is restricted to one primary physician and/or one pharmacy. It occurs when the OHCA determines that a Medicaid recipient has used multiple physicians and/or pharmacies in an excessive manner over a 12-month period.

"Scope" means the covered medical services for which payment is made to providers on behalf of eligible individuals.

The Oklahoma Health Care Authority Provider Manual (OAC 317:30) contains information on covered medical services.

"Specified Low Income Medicare Beneficiaries (SLMB)" means individuals who, except for income, meet all of the eligibility requirements for QMBP eligibility and are enrolled in Medicare Part A.

"TEFRA" means the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248). TEFRA provides coverage to certain disabled children living in the home who would qualify for Medicaid if residents of nursing facilities, ICF/MRs, or inpatient acute care hospital stays expected to last not less than 60 days.

"Worker" means the OKDHS worker responsible for Medicaid eligibility determinations.

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 1. DETERMINATION OF QUALIFYING CATEGORICAL RELATIONSHIPS

317:35-5-7. Determining categorical relationship to AFDC

(a) All individuals under age 19 are automatically related to AFDC and further determination is not required. Adults age 19 or older are related to AFDC when there is a minor dependent child(ren) in the home and the individual is the parent, or is the caretaker relative other than the parent who meets the proper degree of relationship. A minor dependent child is any child who meets the AFDC eligibility requirements of age~~,~~ and relationship~~ and deprivation of parental support due to death, continued absence, physical or mental incapacity or unemployment~~.

~~(1) **Death of a natural or adoptive parent.** Deprivation by reason of death exists when it is determined that either parent is deceased.~~

~~(2) **Continued absence of a natural or adoptive parent from the home.** Continued absence exists when the parent's function as a provider of maintenance, physical care or guidance is interrupted or terminated. It must be anticipated that the absence will continue for at least 30 days or more. The decision as to whether a child is deprived of parental support or care due to his/her parent's continued absence from the home is made in accordance with the assessment procedures in (A) - (E) of this paragraph.~~

~~(A) **Physical absence from the home.** In determining if deprivation due to continued absence exists, it must be established that the parent is physically absent from the home, i.e., does not reside in the home with the child. The physical absence of the parent may be for any reason except for the sole purpose of employment or seeking employment, education or the performance of active duty in the United States Uniformed Services. "Uniformed Services" is defined as the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration and Public Health Services of the United States.~~

~~(i) If a parent does not currently reside with the child because of employment, seeking employment in another locality, education or active service duty but would reside with the child were it not for the employment, education or service duty, then such parent is not considered physically absent from the home. However, if the parent would not reside in the home regardless of employment, education or service duty, then such parent is considered physically absent.~~

~~(ii) A separate place of residence for the parent may be used to establish physical absence.~~

~~(iii) Incarceration of a parent in a penal institution establishes continued absence. A parent who is a "convicted offender" but who is permitted to live at home while serving a court imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home for purposes of deprivation. Once "convicted offender" status is verified, deprivation is met and further action to determine continued absence is not required. This does not include the "House Arrest Program".~~

~~(iv) In situations where joint custody of the child(ren) has been granted and is being carried out, the child(ren) is/are not considered to be deprived of parental support or care by reason of continued absence from the home.~~

~~(v) In determining whether the absence from the home is such as to interrupt the parent's functioning as a parent is whether the parent has daily in person contact with the child(ren). If the absent parent does not have daily in person contact with the child(ren), his/her functioning as a parent is considered interrupted and the child(ren) is deprived. Further action to determine deprivation due to continued absence is not necessary. In person contact means that the parent and child(ren) are physically together. The length of time they are together is not a factor in determining in person contact. Daily contact means that the contact occurs each day of the week (Sunday-Saturday). The determination of whether the contact is daily must be made based on the parent's normal pattern of visitation/contact. For example, if the parent normally has daily in person contact with the child(ren) but is out of town on vacation for two weeks, he/she would still be considered to have daily contact since this interruption of contact is not a regular occurrence.~~

~~(B) **Support and maintenance.** If physical absence is determined and daily in person contact has been maintained, then provision of support and maintenance (as defined in (2) of this subsection)~~

~~becomes a factor in determining whether parental functioning has been interrupted.~~

~~(i) Support and maintenance are defined as payments, in cash or kind, made to the household or other entities (including the Child Support Enforcement Division), which are intended to meet, in whole or in part, the day-to-day expenses of the child(ren). This may include the provision of goods (food, clothing, diapers, etc.), shelter, utilities, daily transportation, or other items. If the absent parent normally provides support and maintenance (as described in this unit) on a monthly basis and expects to continue in the future, the child(ren) would not be deprived on the support and maintenance requirement. This would be true even if the absent parent had missed the previous month's payment. If, however, he/she has had a change in circumstances (e.g., employment ended) and does not expect to pay support for some indefinite period of time, he/she would not be considered to be providing support and maintenance.~~

~~(ii) If the absent parent does not provide support and maintenance, the child(ren) is considered deprived.~~

~~(C) **Physical care.** If the absent parent has daily in-person contact with the child(ren) and provides regular support and maintenance, then the worker must determine if the parent participates in the provision of physical care for the child(ren). Although the length of time the parent and child(ren) are together is not a factor in determining daily in-person contact, it could be a factor in determining whether the parent provides physical care as described in (i) of this subparagraph.~~

~~(i) Physical care includes the actual provision of physical care (e.g., feeding, bathing, dressing the child(ren), etc.,) or, as in the case of an older child, the supervision of the child in providing his/her own physical care. It may also include other types of parental supervision such as granting or denying permission for activities, etc.~~

~~(ii) If it is determined that the absent parent does not provide physical care, the child(ren) are considered deprived and further consideration is not necessary.~~

~~(D) **Guidance.** Guidance is providing advice to the child(ren) in such areas as school matters, leisure or sports activities, relationships with other children or adults, etc. Guidance may also include participation in decision-making regarding the child(ren)'s well-being, discipline, etc. It is not expected that the parent actually provides this type of guidance to a very small child. However, it should be ascertained whether the parent would provide guidance if the child were older. If the absent parent does not provide guidance or it is determined that he/she would not if the child were older, the child(ren) is considered deprived.~~

~~(E) **Continued absence decision.** If there is any question as to whether absence actually exists, the client is advised that it may be necessary to obtain further evidence from persons acquainted with the situation. The child is considered deprived if any one of the items listed in (i)-(iv) of this subparagraph exists. The absent parent does not:~~

~~(i) have daily in-person contact with the child;~~

~~(ii) provide regular support and maintenance;~~

~~(iii) provide physical care; **OR**~~

~~(iv) provide guidance.~~

(~~F~~b) **CSED Requirement.** As a condition of eligibility, when ~~the reason for deprivation is absence~~ both the parent or caretaker and minor child(ren) are receiving Medicaid benefits and a parent is absent from the home, the parent or caretaker relative must agree to cooperate with CSED. However, federal regulations provide for a waiver of this requirement when cooperation with CSED is not in the best interest of the child. CSED is responsible for making the good cause determination. If the parent or caretaker relative is claiming good cause, his/her needs cannot be included in the benefit group unless CSED has determined good cause exists. There is no requirement of cooperation with CSED for a child(ren) only Medicaid case.

~~(3) **Physical or mental incapacity of natural or adoptive parent.**~~

~~(A) **Definition of physical or mental incapacity.**~~

~~(i) Physical or mental incapacity of a natural or adoptive parent is deemed to exist when one parent has a physical or mental defect, illness or impairment that:~~

~~(I) is of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the otherwise eligible child;~~

~~(II) can be expected to last for a period of at least 30 days; and~~

~~(III) is supported by competent medical and social evidence.~~

~~(ii) Both parents may be included in the benefit group if either parent is incapacitated due to a reduced ability to provide support or care, regardless of the incapacitated parent's usual function as homemaker or wage earner. The criterion for incapacity is the reduced ability of the parent to provide support or care, not the parent's employability.~~

~~(B) **Determination of substantial reduction or elimination of ability to provide support or care.** The Level of Care Evaluation Unit (LOCEU) determines substantial reduction or elimination of a parent's ability to provide support or care for a dependent child based on:~~

~~(i) the parent's inability to perform any type of gainful employment;~~

~~(ii) the parent's inability to provide care for the child without help from others. Child care includes feeding, cleaning, and supervision of the child;~~

~~(iii) the number of hours the parent is able to work being substantially reduced; or~~

~~(iv) the wages the parent is able to earn being substantially reduced.~~

~~(C) **Determination of incapacity at the time of application.** The determination of incapacity of one of the parents is made by LOCEU, except in those instances where the individual is currently eligible for SSA disability benefits, SSI benefits, and/or Aid to the Blind or Aid to the Disabled. In such instances, the determination of blindness or disability is accepted as establishing incapacity. If a parent is not already receiving such SSA or SSI benefits and/or Aid to the Blind or Aid to the Disabled, the OKDHS worker makes a referral to LOCEU for a determination of incapacity.~~

~~(D) **Determination of incapacity when disability or blindness has not been pre-determined.**~~

~~(i) **Responsibility of the LOCEU for incapacity determinations.** If disability or blindness has not already been determined, the OKDHS worker must make a referral to LOCEU for a decision on incapacity. The LOCEU determines:~~

~~(I) whether the parent is incapacitated; and~~

~~(II) sets an effective date of eligibility from the standpoint of incapacity.~~

~~(ii) **Responsibility of the OKDHS worker for incapacity determinations.** The worker submits medical information from hospitals, physicians, and other agencies. All pertinent clinical evidence necessary to substantiate or explain the medical diagnosis and medical summary shall be included, such as results of physical examination, psychiatric evaluations, x-ray reports, laboratory tests, or any other pertinent medical data. Medical information, along with OKDHS form ABCDM-80-D, Medical Social Summary, is sent to LOCEU. The Medical Social Summary contains the medical social information which will enable LOCEU to make a proper decision.~~

~~(4) **Unemployment.**~~

~~(A) **Applicability.** Deprivation for the child may be established when both the natural or adoptive parents are residing with the child and the parent determined to be the principal wage earner (PWE) meets the conditions to qualify as unemployed. The parent's citizenship status is not a factor in determining which parent is the PWE.~~

~~(B) **Principal wage earner (PWE).** The principal wage earner 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 application. This determination is made regardless of when the parent(s) relationship began or when the parent(s) began residing with the children. 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 parent's responsibility to provide the documentation to the best of their ability. The worker provides assistance, when necessary, to obtain the needed information. Acceptable documentation includes OKDHS 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. 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.~~

~~(i) 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.~~

~~(ii) If the income in the six month period is identical, either parent may be designated the PWE. The designation should be the one most advantageous to the benefit group.~~

~~(iii) The designation of the PWE is permanent and remains effective as long as the deprivation remains unemployment and the parent remains eligible for and continues to receive health benefits. If the health benefit case is closed and a new application is filed at a later date, the PWE must be redetermined.~~

~~(C) **Conditions PWE must meet prior to certification.** The PWE must meet specific conditions for deprivation to be established for the child(ren) and for the needs of the PWE to be included in the benefit group.~~

~~(i) **Qualifications as unemployed.** For the PWE to be considered unemployed, the PWE must not be employed or must be employed less than 100 hours per month. The PWE must meet the definition of unemployed prior to the date of the health benefit application and during the application process. To qualify as an unemployed parent, the PWE must be unemployed for 30 days prior to the date of application. The PWE is considered to meet the status of unemployed if the PWE is not employed or the PWE is employed fewer than 100 hours per month. Employment may exceed the 100 hour standard for a particular month if the work is intermittent and the excess hours are of a temporary nature. The 100 hour requirement is also considered to have been met if the PWE worked fewer than 100 hours in each of the prior two months and is expected to work fewer than 100 hours in the next month. The 100 hour rule is not applicable to Domestic Volunteer Service Act of 1973 (VISTA) volunteers.~~

~~(I) Any hours spent working to earn income, regardless of whether the PWE receives~~

~~the income, are considered in computing the 100 hours standard. Only those hours spent actually performing services for the employer should be counted in determining the 100 hours. Hours the PWE is on call are not to be considered in determining the 100 hour standard. The hours of self-employment for an individual are based on the actual hours worked in a month, to the extent possible.~~

~~(II) Current employment information must be used in determining if the PWE is working more than 100 hours per month. It is recognized that the number of hours worked in connection with selling the product, traveling or buyer contact can not be verified. Acceptable evidence of actual hours worked will be a written statement from a disinterested third party, insofar as possible. A person who contracted the labor of the PWE is considered a disinterested third party. An employee of the PWE, a member of the PWE's household or a relative of the PWE is not considered a disinterested third party. The statement of the PWE, if consistent with information known to the worker, is acceptable verification in these situations. If the PWE is unable to adequately verify the actual number of hours worked and the current net monthly income is representative of the PWE's number of hours worked, the current net monthly income is to be divided by the federal minimum wage.~~

~~(ii) **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 following conditions:~~

~~(I) 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 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 covered quarter as defined by the Social Security Administration. The Social Security Administration 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 could have earnings in one quarter to qualify for a full year's coverage.~~

~~(II) The PWE is receiving or has received Unemployment Insurance Benefits (UIB) within the 12 calendar months prior to the application date. If the PWE has a pending UIB application, the work history determination is delayed until the UIB determination is made.~~

~~(III) The PWE would have qualified for UIB for 1 week or more during the 12 calendar month period prior to the 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. 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. 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. If the PWE earned an amount equal to the Total Taxable Wages in one quarter of the base period, the PWE is "deemed" eligible for UIB based on that quarter alone.~~

~~(D) **Unemployment insurance benefits eligibility.** The PWE is required to apply for and/or accept UIB which the PWE is eligible or potentially eligible to receive. The PWE must apply for such benefits and the worker allows 30 days for verification of a UIB application to be furnished.~~

~~(E) **Ineligible alien status.** If the PWE is an ineligible alien, the PWE's needs are not included in the assistance unit.~~

~~(F) **Changes after certification.** If after initial certification, the PWE begins working more than 100 hours per month, the parents are no longer eligible for health benefits based on unemployment.~~

SUBCHAPTER 6. SOONERCARE HEALTH BENEFITS FOR CATEGORICALLY NEEDY PREGNANT WOMEN AND FAMILIES WITH CHILDREN

PART 7. CERTIFICATION, REDETERMINATION AND NOTIFICATION

317:35-6-60. Certification for SoonerCare Health Benefits for pregnant women and families with children

An individual determined eligible for SoonerCare Health Benefits may be certified for a medical service provided on or after the first day of the month of application. The period of certification may not be for retroactive months. The certification period in family cases is assigned for the shortest period of eligibility determined for any individual in the case. However, the individual who is categorically needy and categorically related to pregnancy-related services retains eligibility for the period covering prenatal, delivery and postpartum periods without regard to other certification periods in the case.

(1) **Certification as a TANF (cash assistance) recipient.** A categorically needy individual who is determined eligible for TANF is certified effective the first day of the month of TANF eligibility.

(2) **Certification of non-cash assistance individuals categorically needy and categorically related to AFDC.** The certification period for the individual categorically related to AFDC is ~~six~~ 12 months. The certification period can be less than ~~six~~ 12 months if the individual:

(A) is certified as eligible in a money payment case during the ~~six-month~~ 12-month period;

(B) is certified for long-term care during the ~~six-month~~ 12-month period;

(C) becomes ineligible for medical assistance after the initial month; or

(D) becomes ineligible as categorically needy.

(i) If an income change after certification causes the case to exceed the categorically needy maximums, the case is closed.

(ii) Individuals, however, who are determined pregnant and eligible as categorically needy continue to be eligible for pregnancy-related services through the prenatal delivery and postpartum period, regardless of income changes. A pregnant individual included in a TANF case which closes continues to be eligible for pregnancy related services through the postpartum period.

(3) **Certification of individuals categorically needy and categorically related to pregnancy-related services.** The certification period for the individual categorically related to pregnancy-related services will cover the prenatal, delivery and postpartum periods. The postpartum period is defined as the two months following the month the pregnancy ends. Eligibility as categorically needy is based on the income received in the first month of the certification period. No consideration is given to changes in income after certification.

(4) **Certification of newborn child deemed eligible.**

(A) A newborn child is deemed eligible on the date of birth for Medicaid benefits when the child is born to a woman who is eligible for pregnancy-related services as categorically needy. (For purposes of this subparagraph, a newborn child is defined as any child under the age of one year.) The newborn child is deemed eligible through the last day of the month the newborn child attains the age of one year. The newborn child's eligibility is not dependent on the mother's continued eligibility. The mother's coverage may expire at the end of the postpartum period; however, the newborn child is deemed eligible until age one. The newborn child's eligibility is based on the original eligibility determination of the mother for pregnancy-related services, and consideration is not given to any income or resource changes that occur during the deemed eligibility period.

(B) The newborn child is deemed eligible for Medicaid only as long as he/she continues to live in Oklahoma with the mother. No other conditions of eligibility are applicable, including social security number enumeration and child support referral. However, it is recommended that social security number enumeration be completed as soon as possible after the newborn child's birth. It is also recommended that a child support referral be completed, if needed, as soon as possible and sent to DHS Child Support Enforcement Division (CSED). The referral enables Child Support Services to be initiated.

(C) During the original eligibility determination process for pregnancy-related services, the worker informs the mother that the newborn child will be deemed eligible on the date of birth. The mother is also advised of the importance of her reporting the newborn child's birth immediately so deeming can be done timely.

(D) When a categorically needy newborn child is deemed eligible for Medicaid, he/she is added for a certification period of 13 months. The certification period expires at the end of the month that the newborn child reaches age one. The certification period is shortened only in the event the child:

(i) leaves the mother's home;

(ii) loses Oklahoma residence;

(iii) has medical needs included in another assistance case; or

(iv) expires.

(E) A newborn child cannot be deemed eligible when the mother's only coverage was presumptive eligibility, and continued eligibility was not established.

317:35-6-61. Redetermination of eligibility for persons receiving SoonerCare Health Benefits.

~~(a)~~ A periodic redetermination of eligibility for SoonerCare Health Benefits is required on all categorically needy cases categorically related to AFDC. The redetermination is made prior to the end of the initial certification period and each ~~six~~ 12 months thereafter.

~~(b) In every instance in which LOCEU originally determined incapacity, the MEDATS file specifies a date on which incapacity is to be redetermined or that further redetermination is not needed. Regardless of which of these is designated by LOCEU, any time that the worker's personal observations of the client's actions leads the worker to believe that~~

~~marked improvement in the client's physical and/or mental condition has occurred, the worker prepares OKDHS form ABCDM-80-D, Medical Social Summary, and transmits it to LOCEU. This summary sets forth the reasons for the worker's opinion that the client's physical and/or mental condition has improved, such as the worker's personal observations of the client's actions in the home, the office, on the street, etc.; what the client says about his/her condition; whether the client is receiving treatment; etc. The decision for LOCEU will be entered by MEDATS.~~

~~(c) When LOCEU's original incapacity decision sets a redetermination for a specified time and required a Medical Social Summary, the worker submits the OKDHS form ABCDM-80-D. The information is submitted timely to obtain a decision by the end of the month of the due date. The client is considered incapacitated until LOCEU renders a decision stating otherwise, even if the decision is delayed past the redetermination. If the client chooses not to cooperate in obtaining information to determine continued incapacity, both parents needs are removed from the health benefit.~~

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

PART 9. CERTIFICATION, REDETERMINATION AND NOTIFICATION

317:35-9-75. Certification for long-term medical care through ICF/MR, HCBW/MR services and to persons age 65 and older in a mental health hospital

(a) **Application date.** If the applicant is found eligible for Medicaid, certification may be made retroactive for any service provided on or after the first day of the third month prior to the month of application and for future months. ~~When categorically needy individuals are certified for State Supplemental Payment or TANF, the retroactive certification for Medicaid is handled with an M-category case number.~~ The first month of the certification period must be the first month that medical service was provided and the recipient was determined eligible. An applicant approved for long-term medical care under Medicaid as categorically needy is mailed a permanent Medical Identification Card.

~~(1) As soon as eligibility or ineligibility for long-term medical care is established the local office updates the computer form and the appropriate notice is computer generated to the client and vendor. Notice information is retained on the notice file for county use.~~

~~(2) An applicant approved for long-term medical care under Medicaid as categorically needy is mailed a permanent Medical Identification Card.~~

~~(3) When eligibility is established for care in an ICF/MR (public and private) or for a person 65 or older in a mental health hospital, the certification is not teleprocessed until the Management of Recipient's Funds form, ABCDM-96, has been received from the administrator of the facility providing the care.~~

(b) **Certification period for long-term medical care.** A certification period of 12 months is assigned for an individual categorically related to ABD who is approved for long-term care. When the individual determined eligible for long-term medical care is categorically related to AFDC, a certification period of ~~six~~ 12 months is assigned. ~~Although "medical eligibility number of months" on the computer input record will show 99 months, redetermination of financial eligibility is completed according to the categorical relationship.~~

SUBCHAPTER 19. NURSING FACILITY SERVICES

317:35-19-22. Certification for NF

(a) **Application date.** The date of the application for NF care is most important in determining the date of eligibility. If the applicant is found eligible for Medicaid, certification may be made retroactive for any service provided on or after the first day of the third month prior to the month of application and for future months. An applicant approved for long-term medical care under Medicaid as categorically needy is mailed a Medical Identification Card.

~~(1) As soon as eligibility or ineligibility for long-term medical care is established the local office updates the computer form and the appropriate notice is computer generated to the client and vendor. Notice information is retained on the notice file for county use.~~

~~(2) An applicant approved for long-term medical care under Medicaid as categorically needy is mailed a Medical Identification Card.~~

~~(3) When eligibility is established for care in an NF, the certification is not teleprocessed until the Management of Recipient's Funds form has been received from the administrator of the facility providing the care.~~

(b) **Time limited approvals for nursing care.** A medical certification period of a specific length may be assigned for an individual who is categorically related to ABD or AFDC. This time limit is noted on the system. It is the responsibility of the nursing facility to notify the area nurse 30 days prior to the end of the certification period if an extension of approval is required by the client. Based on the information from the NF the area nurse, or nurse designee, determines whether or not an update of the UCAT is necessary for the extension. The area nurse, or nurse designee, coordinates with appropriate staff for any request for further UCAT assessments.

(c) **Certification period for long-term medical care.** A financial certification period of 12 months is assigned for an individual categorically related to ABD who is approved for long-term care. When the individual determined eligible for long-term medical care is categorically related to AFDC, a certification period of ~~six~~ 12 months is assigned. ~~Although "medical eligibility number of months" on the computer input~~

~~record will show 99 months, redetermination of eligibility is completed according to the categorical relationship.~~

[OAR Docket #06-619; filed 4-11-06]

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

[OAR Docket #06-618]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Eligibility and Countable Income
Part 1. Determination of Qualifying Categorical Relationships
317:35-5-2. [AMENDED]
Subchapter 7. Medical Services
Part 3. Application Procedures
317:35-7-16. [AMENDED]
317:35-7-17. [REVOKED]
(Reference APA WF # 05-07)
AUTHORITY:
Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Foster Care Independence Act of 1999
DATES:
Comment period:
December 1, 2005 through January 3, 2006
Public hearing:
January 5, 2006
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 5. Eligibility and Countable Income
Part 1. Determination of Qualifying Categorical Relationships
317:35-5-2. [AMENDED]
Subchapter 7. Medical Services
Part 3. Application Procedures
317:35-7-16. [AMENDED]
317:35-7-17. [REVOKED]
(Reference APA WF # 05-07)
Gubernatorial approval:
September 1, 2005
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23 Ok Reg 275
Docket number:
05-1318
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Foster Care Independence Act of 1999, P.L. NO. 106-169 created a new optional Medicaid eligibility group for young individuals who leave state custody and foster care upon reaching age 18. Typically, young people aging out of the foster care system have significant health concerns but no insurance and limited access to health and mental health services. These young people often need health services more than other youth who have not been in foster care. Studies have shown that children in foster care suffer more frequent and more serious medical, developmental, and psychological problems than nearly any other group of children. Young people who have been in foster care may be at high risk for continuing health problems because of the circumstances that brought them into foster care, as well as the ongoing instability of their lives. Revisions are needed to the OHCA rules to allow these children access to medical care. OHCA rules are revised, consistent with the Foster Care Independence Act and the Centers for Medicare and Medicaid directions, to provide Medicaid coverage to these individuals who leave custody and foster care on their 18th birthday and transition into independent living, until they reach age 21.
CONTACT PERSON:
Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 1. DETERMINATION OF QUALIFYING CATEGORICAL RELATIONSHIPS

317:35-5-2. Categorically related programs

(a) Categorical relationship is established using the same definitions of age, disability and blindness as ~~are~~ used by the Social Security Administration (SSA) in determining eligibility for Supplemental Security Income (SSI) or SSA benefits. If the individual is a SSA/SSI recipient in current payment status (including presumptive eligibility), a TANF recipient, or is low-income under age 19, categorical relationship is automatically established. Categorical relationship to pregnancy-related services is established when the determination is made by medical evidence that the individual is or has been pregnant. Pregnancy-related services include all medical services provided within the scope of the program during the prenatal, delivery and post-partum periods. For an individual age 19 or over to be related to AFDC, the individual must have a minor dependent child ~~who is deprived of parental support~~. Categorical relationship to Refugee services is established in accordance with OAC 317:35-5-25. Categorical relationship for the Breast and Cervical Cancer Treatment program is established in accordance with OAC 317:35-21. Categorical relationship for the Family Planning Waiver Program is established in accordance with OAC 317:35-5-8. To be eligible for Medicaid benefits, an individual must be related to one of the following:

(1) Aged
(2) Disabled
(3) Blind
(4) Pregnancy
(5) Aid to Families ~~With~~ with Dependent Children

(6) Refugee
(7) Breast and Cervical Cancer Treatment program
(8) Family Planning Waiver Program

(b) The Authority may provide Medicaid to reasonable categories of individuals under age 21 who are not receiving cash assistance under any program but who meet the income requirement of the State's approved AFDC plan. ~~Individuals eligible for Medicaid benefits include individuals between the ages of 19 and 21:~~

(1) Individuals eligible for Medicaid benefits include individuals between the ages of 19 and 21:

(~~1~~ A) for whom a public agency is assuming full or partial financial responsibility who are in ~~the~~ custody ~~of the State~~ as reported by the Oklahoma Department of Human Services (OKDHS) and in foster homes, private institutions or public facilities; or

(~~2~~ B) in adoptions subsidized in full or in part by a public agency; or

(~~3~~ C) individuals under age 21 receiving active treatment as inpatients in public psychiatric facilities or programs if inpatient psychiatric services for individuals under age 21 are provided under the State Plan and the individuals are supported in full or in part by a public agency~~.~~ ; or

(2) Individuals eligible for Medicaid benefits include individuals between the ages of 18 and 21 if they are in custody as reported by OKDHS on their 18th birthday and living in an out of home placement.

SUBCHAPTER 7. MEDICAL SERVICES

PART 3. APPLICATION PROCEDURES

317:35-7-16. Special application procedures for children in ~~DHS~~ OKDHS custody

~~In determining initial eligibility for short term medical care for children for whom DHS has custody, the following procedures are used.~~ The rules in this section apply when determining eligibility for health benefits for children who are reported by OKDHS as being in custody.

(1) When a child placed in ~~DHS~~ custody as reported by OKDHS ~~is not placed outside~~ remains in the parent's home and there is not an active medical case:

(A) The ~~DHS Division of Children, Youth and Family Services (DCYFS) worker~~ OKDHS child welfare specialist advises the family that an application for medical services~~, if needed,~~ may be made at the local ~~DHS~~ OKDHS office.

(B) The ~~DHS~~ OKDHS Family Support Services (FSS) worker is responsible for ~~completing Form PS-3 and OAC 340:10 Appendix T when application is made and~~ processing the ~~application~~ SC-1, SoonerCare Health Benefits application or FSS-1, Comprehensive Application and Review, whichever is appropriate. ~~The date of application is the date of the request for medical services.~~

(2) When a child placed in ~~DHS~~ custody as reported by OKDHS has an active case and a change in placement is made to a home or facility outside the parent's home:

(A) The ~~DHS DCYFS worker~~ OKDHS child welfare specialist completes Form ~~K-13~~ CWS-KIDS-4, Eligibility Determination, and forwards it to the ~~DHS FSS worker~~ OKDHS custody specialist advising of this change, including the date the child was placed outside the home. This referral is made within ~~ten~~ five working days of the placement.

(B) The ~~DHS FSS worker~~ OKDHS custody specialist makes the appropriate change to ~~a one child only~~ remove the child from the family case and opens a child only case ~~to be effective at~~ the next effective date.

(3) When a child in ~~DHS~~ custody as reported by OKDHS is placed outside the home and there is not an active case, the ~~DHS DCYFS worker~~ OKDHS child welfare specialist is responsible for ~~the completion of Form PS-3 and OAC 340:10 Appendix T~~ completing and forwarding the CWS-KIDS-4, Eligibility Determination, to the OKDHS custody specialist. The CWS-KIDS-4 must be sent within five working days of removal from the home. ~~The application must include type and date of custody and placement plan (e.g., foster home, institution).~~ The date of application is the date the child is placed in ~~DHS~~ custody. The OKDHS custody specialist is responsible for processing the application.

~~(A) For a child who has been in DHS custody and remained in his/her own home but is later placed outside the home, the date on the application is the date the child is placed outside the parent's home;~~

~~(B) When the child's date of placement in DHS care precedes the court order date, the earlier date is the date of application. The application is forwarded to the local DHS office for determination of eligibility and case number assignment within ten working days of the placement and/or custody.~~

(4) When a child in ~~DHS~~ custody as reported by OKDHS placed outside the home is later returned to the home but remains in ~~DHS~~ custody:

(A) The ~~DHS DCYFS worker~~ OKDHS child welfare specialist forwards Form K-13 to the ~~county office~~ OKDHS custody specialist advising of the change in placement ~~and whether the child is currently receiving medical services. If immediate medical needs are not indicated, the responsible DCYFS worker advises the family to request application at the county office if medical services are needed at a future date. The DCYFS worker's responsibility must be completed within ten working days of the placement.~~ The OKDHS child welfare specialist advises the family that a Medicaid application may be made at the local OKDHS office for medical benefits to continue, if the family meets eligibility criteria.

(B) The ~~DHS FSS worker closes the Title XIX case~~ OKDHS custody specialist is responsible for sending

a SC-1 to the family so the child's Medicaid eligibility can be redetermined. If the family does not return the completed SC-1, the OKDHS custody specialist closes the child's Medicaid case. ~~If Form K-13 indicates there is not a need for medical services, further action is not required unless the family later contacts the office for medical assistance. If Form K-13 indicates continued medical services are needed, the FSS worker must contact the family and complete Form PS-3 and OAC 340:10 Appendix T considering the total family composition, income and resources. Case actions are coordinated and the certification must be completed within a 30-day period.~~

~~(5) When a child in DHS custody has adisability which appears to meet the SSI disability qualification in addition to applying for Title XIX:~~

~~(A) The local DHS DCYFS worker is responsible for submitting the necessary information to DCYFS State Office within ten working days after placement so that an application for SSI can be made on behalf of the child. SSI application must be made by State Office within 30 working days of placement.~~

~~(B) Within five working days of receipt of notice from the SSA of approval or denial of the SSI application, DHS DCYFS State Office advises the local DCYFS worker of the decision via memorandum. The local DCYFS worker notifies the DHS FSS worker via Form K-13 of the decision within five working days of receipt of notice from State Office DCYFS.~~

~~(C) The DHS DCYFS worker reports to DCYFS State Office any changes in living arrangement and/or custody within ten working days of the change. Such changes are reported by DCYFS State Office to SSA within ten working days of receipt from the local DCYFS worker. Within five working days of receipt of notice from the SSA that a change in benefits has occurred, DCYFS State Office advises the local DCYFS worker of the decision via memorandum. The local DCYFS worker advises the DHS FSS worker of any change via Form K-13 within five working days of receipt of notice from State Office DCYFS.~~

(5) When a child in custody as reported by OKDHS and living in an out of home placement attains age 18, he/she may still be eligible for medical benefits until the age of 21 under the Foster Care Independence Act if his/her income is below the standard on OKDHS Appendix C-1, Schedule 1.A. The individual must complete a new application and have eligibility redetermined in accordance with OAC 317:35-6.

317:35-7-17. Special application procedures for children in emergency shelters [REVOKED]

~~When a child is placed in any emergency shelter, the DHS DCFS worker completes the application for medical assistance. The application is then sent to the local office where a case number is obtained, a case record is established, and a certification teleprocessed into the computer system. A child placed in the shelter may be in emergency custody up to 90 days before a disposition is made at the adjudicatory hearing. When the child is expected to remain in the emergency shelter over 60 days, certification may be made for a maximum of three months.~~

[OAR Docket #06-618; filed 4-11-06]

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

[OAR Docket #06-620]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Eligibility and Countable Income
Part 3. Non-Medical Eligibility Requirements
317:35-5-26. [AMENDED]
(Reference APA WF # 05-09A)
AUTHORITY:
Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 435.1008 and 435.1009; Section 1905(a)(27)(A) and (B) of the Social Security Act
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Eligibility rules are revised to provide Medicaid benefits to certain groups of individuals who previously have been determined ineligible as they were inmates of a public institution. Section 1905(a)(27)(A) of the Social

Security Act (SSA) specifically excludes Federal Financial Participation (FFP) for medical care provided to inmates of a public institution, and SSA 1905(a)(27)(B) excludes FFP for inpatients in an institution for mental disease (IMD). Current agency rules prohibit individuals in the custody of the Department of Mental Health or Corrections from qualifying for Medicaid. In order to support the Oklahoma Department of Corrections (DOC), the Office of Juvenile Affairs (OJA), and the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) in their efforts to limit expenditures, revisions are proposed to extend Medicaid coverage to individuals who become inpatients of a hospital, nursing facility, juvenile psychiatric facility or an intermediate care facility for the mentally retarded and who are either in the custody of the Office of Juvenile Affairs or the Department of Corrections or who are adults (age 21 through 64) who are patients in an institution for mental disease. These individuals would have to meet all eligibility requirements such as categorical relationship, citizenship, and income the same as other Medicaid recipients. The DOC, OJA, and ODMHSAS will be responsible for the state share and Medicaid will only reimburse for services rendered while the clients are inpatients of a medical institution subject to amount, scope or duration of existing service definitions. Eligibility rules are in need of revision to allow Medicaid coverage for these individuals.

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 MAY 25, 2006:

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 3. NON-MEDICAL ELIGIBILITY REQUIREMENTS

317:35-5-26. Residence requirements; residents of public institutions; homeless persons

(a) **Residence.** To be eligible for Medicaid services, the applicant must be residing in the State of Oklahoma with intent to remain at the time the medical service is received. A durational residence requirement is not imposed.

(1) Temporary absence from the State, with subsequent returns to the State, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of Oklahoma residence.

(2) Oklahoma residence does not include transients or visitors passing through the state but does not preclude persons who do not have a fixed address if intent is established.

(3) Intent to remain or return is defined as a clear statement of plans to remain or return in addition to other evidence and/or corroborative statements of others.

(4) When a non-resident makes application for Medicaid benefits, the local office provides services necessary to make available to the applicant any Medicaid services for which he/she might be eligible from his/her state of residence. The local office contacts the state or county of the applicant's residence to explore possible eligibility for medical benefits from the state and to obtain information needed for the determination of medical eligibility for the services received while in Oklahoma.

(b) **Individuals residing in institutions (correctional facilities and institutions for mental disease).** The Medicaid program will only pay for services rendered to adults (21 through 64 years of age) who are inpatients in an institution for mental disease (IMD), juveniles in the custody of the Office of Juvenile Affairs who are inmates in a state-owned and operated facility, or inmates in a correctional facility, when these individuals are admitted as an inpatient to a hospital, nursing facility, juvenile psychiatric facility or an intermediate care facility for the mentally retarded and meet all other eligibility requirements.

(~~b~~ c) **Homeless individuals.** Individuals are not required to have a fixed address in order to be eligible for assistance. Individuals who lack a fixed or regular residence, who have temporary accommodations, i.e., supervised shelters, residence of other individuals, a hallway, bus station, car or other similar places, are considered as "homeless".

[OAR Docket #06-620; filed 4-11-06]

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

[OAR Docket #06-612]

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PERMANENT final adoption

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317:35-17-14. [AMENDED]
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Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; House Bill 2300 of the 2nd Session of the 49th Legislature; Senate Bill 1109 of the 2nd Session of the 49th Legislature; 42 CFR 440.180

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ANALYSIS:
Rules are revised to implement a Consumer-Directed Personal Assistance Services and Supports (CD-PASS) service option in the ADvantage Waiver Program. With funding from a CMS Systems Change Grant, the Oklahoma Department of Human Services, the Long Term Care Authority of Tulsa along with Independent Living Centers and consumers of Personal Care services have been working on developing CD-PASS services for the past two years. The voluntary pilot project in the Tulsa area will offer some clients an option of directing their personal care services with assistance from an Employee Support Services Provider. Clients who elect to participate will be the provider's "employer of record" and will employ, train, discharge and schedule their personal care assistant, instead of utilizing a licensed home care agency. Support assistance provided to the client will include payroll functions (including appropriate withholding), technical assistance, and consultation. Expected outcomes are that client satisfaction with services increase, health and safety of clients is comparable if not better than that for clients served through traditional Personal Care and that cost between CD-PASS and traditional Personal Care is about the same. Revisions are needed to implement the Consumer-Directed Personal Assistance Services and Supports service option.

ADvantage Waiver Services rules are revised to establish Institution Transition Services as a separate billable service under Medicaid for individuals who qualify for ADvantage Program services. Revisions are needed to address transition services consistent with the Centers for Medicare and Medicaid directions as a result of approval of a consumer directed personal assistance service system waiver amendment, also known as CD pass. Institution Transition Services are those services that are necessary to enable an individual to leave an institution and receive necessary support in their own home. This service may include Case Management, Nursing Assessment and Evaluation for in-home service planning, Environmental Modifications and Medical Equipment and Supplies. The Centers for Medicare and Medicaid Services has directed the State to restructure the definitions of Institution Transition Services to make them distinct and separate from the homologous, non-ITS Case Management, Skilled Nursing, Environmental Modification and Equipment and Supply services.
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 MAY 25, 2006:

SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES

317:35-17-3. ADvantage program services

(a) The ADvantage program is a Medicaid Home and Community Based Waiver used to finance noninstitutional long-term care services for elderly and a targeted group of physically disabled adults when there is a reasonable expectation that within a 30 day period, the person's health, due to disease process or disability, would, without appropriate services, deteriorate and require nursing facility care to arrest the deterioration. ADvantage program clients must be Medicaid eligible and must not reside in an institution, room and board, licensed residential care facility, or licensed assisted living facility. The number of clients who may receive ADvantage services is limited.

(1) To receive ADvantage services, individuals must meet one of the following categories:

(A) be age 65 years or older, or

(B) be age 21 or older if physically disabled and not developmentally disabled or if the person has a clinically documented, progressive degenerative disease process that responds to treatment and previously has required hospital or NF level of care services for treatment related to the condition and requires ADvantage services to maintain the treatment regimen to prevent health deterioration, or

(C) if developmentally disabled and between the ages of 21 and 65, not have mental retardation or a cognitive impairment related to the developmental disability.

(2) In addition, the individual must meet the following criteria:

(A) require nursing facility level of care [see OAC 317:35-17-2];

(B) meet service eligibility criteria [see OAC 317:35-17-3(d)]; and

(C) meet program eligibility criteria [see OAC 317:35-17-3(e).

(b) Home and Community Based Waiver Services are outside the scope of state plan Medicaid services. The Medicaid waiver allows the OHCA to offer certain Home and Community Based services to an annually capped number of persons who are categorically needy (refer to OKDHS Appendix C-1, Schedule VIII. B. 1.) and without such services would be institutionalized. The estimated cost of providing an individual's care outside the nursing facility cannot exceed the annual cost of caring for that individual in a nursing facility. When determining the ADvantage service plan cost cap for an individual, the comparable Medicaid cost to serve that individual in a nursing facility is estimated. If the individual has Acquired Immune Deficiency Syndrome (AIDS) or if the individual requires ventilator care, the appropriate Medicaid enhanced nursing facility rate to serve the individual is used to estimate the ADvantage cost cap. To meet program cost effectiveness eligibility criteria, the annualized cost of a client's ADvantage services cannot exceed the ADvantage program services expenditure cap unless approved by the Administrative Agent (AA) under one of the exceptions listed in (1)-~~(4)~~ (5) of this subsection. The cost of the service plan furnished to a client

may exceed the expenditure cap only when all of the increased expenditures above the cap are due solely to:

(1) a one-time purchase of home modifications and/or specialized medical equipment; and/or

(2) documented need for a temporary (not to exceed a 60-day limit) increase in frequency of service or number of services to prevent institutionalization; or

(3) expenditures are for ADvantage Hospice services; ~~and/or,~~

(4) expenditures in excess of the cap are for prescribed drugs, which would be paid by Medicaid if the individual were receiving services in a nursing home; and/or

(5) expenditures are for Institution Transition Services, and the annualized expenditures for ADvantage services to a client under any combination of these circumstances can reasonably be expected to be no more than 200% of the individual cap.

(c) Services provided through the ADvantage waiver are:

(1) case management or Comprehensive Home Care (CHC) case management;

(2) respite or CHC in-home respite;

(3) adult day health care;

(4) environmental modifications;

(5) specialized medical equipment and supplies;

(6) physical therapy/occupational therapy/respiratory therapy/speech therapy or consultation;

(7) advanced supportive/restorative assistance or CHC advanced supportive/restorative assistance;

(8) skilled nursing or CHC skilled nursing;

(9) home delivered meals;

(10) hospice care;

(11) medically necessary prescription drugs within the limits of the waiver;

(12) personal care (state plan), ADvantage personal care, or CHC personal care;

(13) Personal Emergency Response System (PERS);

(14) Consumer-Directed Personal Assistance Services and Supports (CD-PASS);

(15) Institution Transition Services; and

(~~14~~ 16) Medicaid medical services for individuals age 21 and over within the scope of the State Plan.

(d) The OKDHS area nurse or nurse designee makes a determination of service eligibility prior to evaluating the UCAT assessment for nursing facility level of care. The following criteria are used to make the service eligibility determination:

(1) an open ADvantage Program waiver slot, as authorized by the waiver document approved by the Centers for Medicare and Medicaid Services (CMS), is available to assure federal participation in payment for services to the client. If the AA determines all ADvantage waiver slots are filled, the client cannot be certified on the OKDHS computer system as eligible for ADvantage services and the client's name is placed on a waiting list for entry as an open slot becomes available. ADvantage waiver slots and corresponding waiting lists, if necessary, are maintained for persons that have a developmental disability and those that do not have a developmental disability.

(2) the client is in the ADvantage targeted service group. The target group is an individual who is frail and 65 years of age or older or age 21 or older with a physical disability and who does not have mental retardation or a cognitive impairment.

(3) the client does not pose a physical threat to self or others as supported by professional documentation.

(4) members of the household or persons who routinely visit the household, as supported by professional documentation, do not pose a threat of harm or injury to the client or other household visitors.

(e) The AA determines ADvantage program eligibility through the service plan approval process. The following criteria are used to make the ADvantage program eligibility determination that a client is not eligible:

(1) if the client's needs as identified by UCAT and other professional assessments cannot be met through ADvantage program services, Medicaid State Plan services and other formal or informal services. The State, as part of the waiver program approval authorization, assures CMS that each waiver client's health, safety, or welfare can be maintained in their home. If a client's identified needs cannot be met through provision of ADvantage program or Medicaid State Plan services and other formal or informal services are not in place or immediately available to meet those needs, the client's health, safety or welfare in their home cannot be assured.

(2) if the client poses a physical threat to self or others as supported by professional documentation.

(3) if other members of the household or persons who routinely visit the household who, as supported by professional documentation, pose a threat of harm or injury to the client or other household visitors.

(4) if the client's needs are being met, or do not require ADvantage services to be met, or if the client would not require institutionalization if needs are not met.

(5) if, after the service and care plan is developed, the risk to client health and safety is not acceptable to the client, or to the interdisciplinary service plan team, or to the AA.

(f) The case manager provides the AA with professional documentation to support the recommendation for redetermination of program eligibility. The service providers continue providing services according to the service plan as provider safety permits until the client is removed from the ADvantage program. As a part of the procedures requesting redetermination of program eligibility, the AA will provide technical assistance to the Provider for transitioning the client to other services.

(g) Individuals determined ineligible for ADvantage program services are notified in writing by OKDHS of the determination and of their right to appeal the decision.

(h) The AA provides OKDHS with notification that the client is no longer program eligible.

317:35-17-14. Case Management services

(a) Case management services involve ongoing assessment, service planning and implementation, service monitoring and evaluation, client advocacy, and discharge planning.

(1) Within one working day of receipt of an ADvantage referral from the AA, the case management supervisor assigns a case manager to the client. Within three working days of being assigned an ADvantage client, the case manager makes a home visit to review the ADvantage program (its purpose, philosophy, and the roles and responsibilities of the client, service provider, case manager, Administrative Agent and OKDHS in the program), and review, update and complete the UCAT assessment, and to discuss service needs and ADvantage service providers. The Case Manager notifies in writing the client's UCAT identified primary physician that the client has been determined eligible to receive ADvantage services. The notification is via a preprint form that contains the client's signed permission to release this health information and requests physician's office verification of primary and secondary diagnoses and diagnoses code obtained from the UCAT.

(2) Within 10 working days of the receipt of ADvantage referral, or the annual re-assessment visit, the case manager completes and submits to the case management supervisor an individualized care plan and service plan for the client. The care plan and service plan are based on the client's service needs identified by the UCAT, Part III, and includes only those ADvantage services required to sustain and/or promote the health and safety of the client. The case manager uses an interdisciplinary team (IDT) planning approach for care plan and service plan development. If in-home care is the primary service, the IDT includes, at a minimum, the client, a nurse from the ADvantage in-home care provider chosen by the client, and the case manager. Otherwise, the client and case manager constitute a minimum IDT.

(3) The case manager identifies long-term goals, challenges to meeting goals, and service goals including plan objectives, actions steps and expected outcomes. The case manager identifies services, service provider, funding source, units and frequency of service and service cost, cost by funding source and total cost for ADvantage services. The client signs and indicates review/agreement with the care plan and service plan by indicating acceptance or non-acceptance of the plans. The client, the client's legal guardian or legally authorized representative shall sign the service plan in the presence of the case manager. The signatures of two witnesses are required when the client signs with a mark. If the client refuses to cooperate in development of the service plan, or, if the client refuses to sign the service plan, the case management agency refers the case to the AA for resolution. In addition, based on the UCAT and/or case progress notes that document chronic uncooperative or disruptive behaviors, the LTC nurse or AA may identify clients that require AA intervention.

(A) For clients that are uncooperative or disruptive, the AA develops an individualized Addendum to the Rights and Responsibilities Agreement to try to modify the client's uncooperative/disruptive behavior. The rights and responsibilities addendum focuses on behaviors, both favorable and those that jeopardize the consumer's well-being and includes a design approach of incremental plans and addenda that allow the client to achieve stepwise successes in the modification of their behavior.

(B) The AA may implement a service plan without the client's signature if the AA has developed an Addendum to the Rights and Responsibilities Agreement for the client. For these clients the presence of a document that "requires" their signature may itself trigger a "conflict". In these circumstances, mental health/behavioral issues may prevent the client from controlling their behavior to act in their own interest. Since the person by virtue of level of care and the IDT assessment, needs ADvantage services to assure their health and safety, the AA may implement the service plan if the AA demonstrates effort to work with and obtain the client's agreement through an individualized Addendum to the Rights and Responsibilities Agreement. Should negotiations not result in agreement with the care plan and service plan, the client may withdraw their request for services or request a fair hearing.

(4) CD-PASS Planning and Supports Coordination.

(A) The ADvantage Case Management provider assigns to the CD-PASS client a Case Manager that has successfully completed training on CD-PASS, Independent Living Philosophy and Person-centered planning. Case Managers that have completed this specialized CD-PASS training are referred to as Consumer-Directed Agent/Case Managers (CDA/CM) with respect to their CD-PASS service planning and support role in working with CD-PASS clients. The CDA/CM educates the client about their rights and responsibilities as well as about community resources, service choices and options available to the client to meet CD-PASS service goals and objectives.

(B) The client may designate a family member or friend as an "authorized representative" to assist in the service planning process and in executing client employer responsibilities. If the client chooses to designate an "authorized representative", the designation and agreement identifying the "willing adult" to assume this role and responsibility is documented with dated signatures of the client, the designee and the client's Case Manager or the AA staff.

(i) A person having guardianship or power of attorney or other court sanctioned authorization to make decisions on behalf of the client has legal standing to be the client's designated "authorized representative".

(ii) An individual hired to provide Personal Services Assistance to a client may not be designated the "authorized representative" for the client.

(C) The CDA/CM provides support to the client in the Person-centered CD-PASS planning process. Person-centered planning is a process directed by the participant, with assistance as needed from an "authorized representative" or support team. The process supports the client to exercise choice and control and to assume a responsible role in developing, implementing and managing their services and supports. The process is intended to identify the strengths, capacities, preferences, needs and desired outcomes of the participant and it may enlist assistance from individuals freely chosen by the participant to serve as important contributors. The person-centered planning process enables the participant to identify and access a personalized mix of paid and non-paid services and supports to help him/her achieve personally-defined outcomes in the most inclusive community setting. The focus of person-center planning is on the individual's development of personal relationships, positive roles in community activities, and self-empowerment skills. Decisions are made and outcomes controlled by the participant. Strengths, preferences and an individualized system of support are identified to assist the individual to achieve functional and meaningful goals and objectives. Principles of Person-Centered Planning are as follows:

(i) The person is the center of all planning activities.

(ii) The client and their representative, or support team, are given the requisite information to assume a controlling role in the development, implementation and management of the client's services.

(iii) The individual and those who know and care about him or her are the fundamental sources of information and decision-making.

(iv) The individual directs and manages a planning process that identifies his or her strengths, capacities, preferences, desires, goals and support needs.

(v) Person-centered planning results in personally-defined outcomes.

(D) The CDA/CM encourages and supports the client, or as applicable their designated "authorized representative", to lead, to the extent feasible, the CD-PASS service planning process for Personal Services Assistance. The CDA/CM helps the client define support needs, service goals and service preferences including access to and use of generic community resources. Consistent with client-direction and preferences, the CDA/CM provides information and helps the client locate and access community resources. Operating within the constraints of the Individual Budget Allocation (IBA) units, the CDA/CM assists the client in translating the assessment of client needs and preferences into an individually tailored, personalized service plan.

(E) To the extent the client prefers, the CDA/CM develops assistance to meet client needs using a combination of traditional Personal Care and CD-PASS PSA services. However, the CD-PASS IBA and the PSA unit authorization will be reduced proportional to agency Personal Care service utilization.

(F) The client determines with the PSA to be hired, a start date for PSA services. The client coordinates with the CDA/CM to finalize the service plan.

(G) Based on outcomes of the planning process, the CDA/CM prepares an ADvantage service plan or plan amendment to authorize CD-PASS Personal Service Assistance units consistent with this individual plan and notifies existing duplicative Personal Care service providers of the end date for those services.

(H) If the plan requires an APSA to provide assistance with Health Maintenance activities, the CDA/CM works with the client and, as appropriate, arranges for training by a skilled nurse for the client or client's family and the APSA to ensure that the APSA performs the specific Health Maintenance tasks safely and competently;

(i) If the client's APSA has been providing Advanced Supportive Restorative Assistance to the client for the same tasks in the period immediately prior to being hired as the PSA, additional documentation of competence is not required;

(ii) If the client and APSA attest that the APSA has been performing the specific Health Maintenance tasks to the client's satisfaction on an informal basis as a friend or family member for a minimum of two months in the period immediately prior to being hired as the PSA, and no evidence contra-indicates the attestation of safe and competent performance by the APSA, additional documentation is not required.

(I) The CDA/CM monitors the client's well being and the quality of supports and services and assists the client in revising the PSA services plan as needed. If the client's need for services changes due to a change in health/disability status and/or a change in the level of support available from other sources to meet needs, the CDA/CM, based upon an updated assessment, amends the service plan to increase CD-PASS service units appropriate to meet additional client need and forwards the plan amendment to the AA for authorization and update of the client's IBA.

(J) The CDA/CM uses the ADvantage Risk Management process the results of which are binding on all parties to resolve service planning or service delivery disagreements between clients and ADvantage service providers under the following circumstances:

(i) A claim is formally registered with the CDA/CM by the client (or the client's family or "authorized representative"), the AA, or a provider that the disagreement poses a significant risk to the client's health or safety; and

(ii) The disagreement is about a service, or about the appropriate frequence, duration or other aspect of the service; or

(iii) The disagreement is about a behavior/action of the client, or about a behavior/action of the provider.

(K) The CDA/CM and the client prepare an emergency back-up/emergency response capability for CD-PASS PSA services in the event a PSA provider of services essential to the individual's health and welfare fails to deliver services. As part of the planning process, the CDA/CM and client define what failure of service or neglect of service tasks would constitute a risk to health and welfare to trigger implementation of the emergency backup. Any of the following may be used in planning for the backup:

(i) Identification of a qualified substitute provider of PSA services and preparation for their quick response to provide backup services when called upon in emergency circumstances (including execution of all qualifying background checks, training and employment processes); and/or,

(ii) Identification of one or more qualified substitute ADvantage agency service providers (Adult Day Care, Personal Care or Nursing Facility Respite provider) and preparation for their quick response to provide backup services when called upon in emergency circumstances.

(L) If the emergency backup fails, the CDA/CM is to request the AA to authorize and facilitate client access to Adult Day Care, Agency Personal Care or Nursing Facility Respite services.

(~~4~~5) The case manager submits the care plan and service plan to the case management supervisor for review. The case management supervisor documents the review/approval of the plans within two working days of receipt from the case manager or returns the plans to the case manager with notations of errors, problems, and concerns to be addressed. The case manager re-submits the corrected care plan and service plan to the case management supervisor within two working days. The case management supervisor returns the approved care plan and service plan to the case manager. Within one working day of receiving supervisory approval, the case manager makes a copy of the plans and other client original documents for the client file, faxes a copy of the plan to the AA and forwards the original care plan and service plan and required documents.

(~~5~~6) Within one working day of notification of care plan and service plan authorization, the case manager communicates with the service plan providers and with the client to facilitate service plan implementation. Within one working day of receipt of a copy or the computer-generated authorized service plan from the AA, the case manager sends (by mail or fax) copies of the authorized service plan or computer-generated copies to providers. Within five working days of notification of an initial or new service plan authorization, the case manager visits the client, gives the client a copy of the service plan or computer-generated copy of the service plan and evaluates the progress of the service plan implementation. The case manager evaluates service plan implementation on the following minimum schedule:

(A) within 30 calendar days of the authorized effective date of the service plan or service plan addendum amendment; and

(B) monthly after the initial 30 day follow-up evaluation date.

(b) **Authorization of service plans and amendments to service plans.** The Administrative Agent certifies the individual service plan and all service plan amendments for each ADvantage client. When the AA verifies client ADvantage eligibility, plan cost effectiveness, that service providers are ADvantage authorized and Medicaid contracted, and that the delivery of ADvantage services are consistent with the client's level of care need, the service plan is authorized. Except as provided by the process described in OAC 317:30-5-761(6), ~~Family~~ family members may not receive payment for providing ADvantage waiver services. A family member is defined as an individual who is legally responsible for the client (spouse or parent of a minor child).

(1) If the service plan authorization or amendment request packet received from case management is complete and the service plan is within cost effectiveness guidelines, the AA authorizes or denies authorization within three working days of receipt of the request. If the service plan authorization or amendment request packet received from case management is complete and the service plan is not within cost-effectiveness guidelines, the plan is referred for administrative review to develop an alternative cost-effective plan or assist the client to access services in an alternate setting or program. If the request packet is not complete, the AA notifies the case manager immediately and puts a "hold" on authorization until the required additional documents are received from case management.

(2) The AA authorizes the service plan by entering the authorization date and signing the submitted service plan. Notice of authorization and a copy of the authorized plan or a computer-generated copy of the authorized plan are provided to case management. AA authorization determinations are provided to case management within one working day of the certification date. A service plan may be authorized and implemented with specific services temporarily denied. The AA communicates to case management the conditions for approval of temporarily denied services. The case manager submits revisions for denied services to AA for approval.

(3) For audit purposes (including SURS reviews), the computer-generated copy of the authorized service plan is documentation of service authorization for ADvantage waiver and State Plan Personal Care services. State or Federal quality review and audit officials may obtain a copy of specific service plans with original signatures by submitting a request to the AA.

(c) **Change in service plan.** The process for initiating a change in the service plan is described in this subsection.

(1) The service provider initiates the process for an increase or decrease in service to the client's service plan. The requested changes and justification for them are documented by the service provider and, if initiated by a direct care provider, submitted to the client's case manager. If in agreement, the case manager requests the service changes on a care plan and service plan amendment submitted to the AA. The AA approves or denies the care plan and service plan changes within two working days of receipt of the plan.

(2) The client initiates the process for replacing Personal Care services with Consumer-Directed Personal Services and Supports (CD-PASS) in geographic areas in which CD-PASS services are available. The client may contact the AA using a CD-PASS services request form provided by the Case Manager or by calling the toll-free number established to process requests for CD-PASS services.

(~~2~~3) A significant change in the client's physical condition or caregiver support, one that requires additional goals, deletion of goals or goal changes, or requires a four-hour or more adjustment in services per week, requires a UCAT reassessment by the case manager. The case manager, in consultation with AA, makes the determination of need for reassessment. Based on the reassessment and consultation with the AA, the client may, as appropriate, be authorized for a new service plan or be eligible for a different service program. If the client is significantly improved from the previous assessment and does not require ADvantage services, the case manager obtains the client's dated signature indicating voluntary withdrawal for ADvantage program services. If unable to obtain the client's consent for voluntary closure, the case manager requests assistance from the AA. The AA requests that the OKDHS area nurse initiate a reconsideration of level of care. If the client's service needs are different or have significantly increased, the case manager develops an amended or new service plan and care plan, as appropriate, and submits the new/amended plans for authorization.

[OAR Docket #06-612; filed 4-11-06]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #06-628]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
317:40-1-2. [NEW]
Subchapter 5. Client Services
Part 9. Service Provisions
317:40-5-102. [AMENDED]
317:40-5-104. [NEW]
317:40-5-110. [AMENDED]
Part 11. Community Residential Supports
317:40-5-150. [AMENDED]
317:40-5-152. [AMENDED]
(Reference APA WF # 05-19)
AUTHORITY:
Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1020 of Title 56 of the Oklahoma Statutes; Section 1430.1 et seq of Title 10 of the Oklahoma Statutes; Section 1175.6b of Title 22 of the Oklahoma Statutes
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ANALYSIS:
Developmental Disabilities Services rules are revised to establish guidelines to: (1) address situations in which Waiver-funded residential supports can be provided; and (2) govern the provision of specialized medical supplies. Nutrition Service rules are revised to provide for persons who refuse nutrition services and specify requirements for nutrition services for persons not receiving residential supports. Rules regarding the Authorization for Habilitation Training Specialist Services are revised to specify requirements for authorization of Habilitation Training Specialist services. Daily Living Supports rules are revised to clarify requirements for providers of Daily Living Supports services and criteria for a person receiving those services to receive additional staff supports. Rules for group home services for persons with mental retardation are revised to cite new rules governing alternative group homes established to implement Senate Bill 1583 and to remove the prohibition on serving persons with pending criminal charges in alternative group homes.
CONTACT PERSON:
Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

317:40-1-2. Authorization for Residential Supports in the Community Waiver

(a) **Applicability.** The rules in this Section apply to services provided through the Community Waiver, specifically:

(1) those services identified in OAC 340:100-5-22.1, Community Residential Supports; and

(2) group home services.

(b) **General Information.** Waiver services are provided to supplement, and do not replace, existing non-Waiver, natural, or informal supports a service recipient receives. Waiver services support the service recipient to remain with his or her family and in the community. Service recipients and their Teams must examine all other service options prior to seeking residential supports. The criteria in subsection (c) of this Section are used to determine the necessity of residential supports.

(c) **Necessity of Residential Supports.** If the service recipient is unable to care for himself or herself, the Team may request residential supports if the supports requested comply with OAC 340:100-3-33.1, Criteria to establish service necessity, and:

(1) there is no caretaker to provide needed care to the service recipient;

(2) the service recipient's caretaker, as defined in Section 10-103 of Title 43A of the Oklahoma Statutes:

(A) has moved into a nursing facility;

(B) is age 70 or older;

(C) is permanently incapacitated; or

(D) has died;

(3) there is a risk of abuse or neglect to a service recipient in the current home as evidenced by;

(A) recurrent involvement of the Oklahoma Department of Human Services Division of Children and Family Services (DCFS) or Adult Protective Services (APS) as documented by the case manager that indicates the service recipient's health and safety cannot be assured and attempts to resolve the situation are not effective with DCFS or APS involvement; or

(B) removal from the home by DCFS or APS;

(4) direct support services required to enable a service recipient to remain in his or her current home exceed the cost of residential supports;

(5) the behavior of the service recipient is such that others are at risk of being seriously harmed by the service recipient, and sufficient supervision cannot be provided to ensure the safety of those in the home or community as evidenced by:

(A) documentation from DCFS or APS;

(B) medical records from previous injuries;

(C) incident reports or other documentation from service providers; or

(D) police reports;

(6) the service recipient's medical, psychiatric, or behavioral challenges are such that the service recipient is seriously injuring or harming himself or herself, or is in imminent danger of doing so as evidenced by any of the items listed in subparagraphs (A) through (D) of paragraph (5) of this subsection;

(7) the Legislature has appropriated special funds to serve a specific group or a specific class of individuals;

(8) as a temporary resolution to an emergency situation as defined in subsection (e) of this Section; or

(9) if residential supports are approved as part of a transition plan for a person leaving an ICF/MR.

(d) **Approval of Residential Supports.** When the Team requests residential supports, the case manager submits the documentation of relevant factors from subsection (c) of this Section to the Developmental Disabilities Services Division (DDSD) division director or designee. The director or designee approves or denies the request prior to the delivery of residential supports.

(e) **Emergency temporary residential supports.** Emergency temporary residential supports are authorized as described in this subsection.

(1) When an emergency situation exists in which temporary residential supports are requested by the Team, the case manager submits the justification for the services and a signed proposal developed by DDSD and the caregiver to the DDSD division director or designee. The proposal must include:

(A) criteria of what must occur for the service recipient to return to his or her home;

(B) a projected timeframe for the service recipient to return to his or her home; and

(C) an acknowledgment by the caregiver that residential services are temporary.

(2) The division director or designee reviews the documentation and approves or denies the request prior to the delivery of emergency temporary residential supports.

(3) If an extension is required, the case manager submits additional information regarding the need for the extension and the new projected date for the service recipient to return to his or her home. Any extensions which are granted must also:

(A) be approved prior to service delivery;

(B) be time limited; and

(C) include criteria for return home.

(f) **Appeals.** The denial of a request for residential supports may be appealed through the hearing process described in OAC 340:2-5-61.

(g) **Options.** When community residential supports, as defined in OAC 340:100-5-22.1, are needed, as described in OAC 340:100-3-33.1, the service recipient or guardian selects a community residential option that meets the needs of the service recipient, taking into consideration the available resources.

(1) The options are:

(A) Specialized Foster, as described in OAC 317:40-5-50 through 40-5-76;

(B) Group Home services, as described in Oac 317:40-5-152;

(C) Agency Companion, as described in OAC 317:40-5-1 through 40-5-39;

(D) Daily Living Supports, as described in OAC 317:40-5-150 and OAC 317:40-5-152; and

(E) Prader-Willi services.

(2) The Team plans community residential supports to meet the service recipient'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.

SUBCHAPTER 5. CLIENT SERVICES

PART 9. SERVICE PROVISIONS

317:40-5-102. ~~Nutritional~~ Nutrition Services

(a) **Purpose.** The rules in this Section are established to ensure that ~~nutritional~~ nutrition services to sustain quality of life and ensure optimal nutritional status are provided to individuals with developmental disabilities who receive Home and Community-Based Waiver services.

(b) **General information.** ~~DDSD nutritional~~ Nutrition services are based on the individual's need as specified by the Individual Plan and include evaluation of ~~an individual's~~ the service recipient's nutritional status.

(1) ~~The evaluation must include, but is not limited to:~~ If nutrition services from funding sources other than Waiver services are available to the service recipient, the service recipient uses those services before using Waiver services. In order for the service recipient to receive Waiver-funded nutrition services, the requirements in this Section must be fulfilled.

~~(A) health, diet, and behavioral history impacting on nutrition;~~

~~(B) clinical measures including body composition and physical assessment;~~

~~(C) dietary assessment, including:~~

~~(i) nutrient needs;~~

~~(ii) eating skills;~~

~~(iii) nutritional intake; and~~

~~(iv) drug-nutrient interactions; and~~

~~(D) recommendations to address nutritional risk needs, including:~~

~~(i) outcome strategies;~~

~~(ii) staff training; and~~

~~(iii) program monitoring and evaluation.~~

(2) A legally competent ~~individual~~ adult or legal guardian~~,~~ who has been informed of the risks and benefits of the service~~,~~ has the right to refuse ~~nutritional~~ nutrition services.

(A) Refusal of nutrition services must be documented in the Individual Plan.

(B) If the service recipient has been receiving nutrition services and nutritional status is currently stable, the Team may specify that nutrition services are not needed. The Team specifies individual risk factors for the service recipient that would necessitate resumption of nutrition services and assigns responsibility to a named Team Member(s) for monitoring and reporting the service recipient's status regarding these factors.

(3) ~~DDSD staff~~ Staff of the Oklahoma Department of Human Services Developmental Disabilities Services Division (DDSD) and contract agents implement procedures for nutritional risk identification, implementation of needed services, and nutritional risk monitoring to maintain and improve the nutritional health status of each person served.

~~(4) Each individual receiving nutritional services must have:~~

~~(A) an updated DHS form DDS-7, Physical Status Review (PSR), in accordance with OAC 340:100-5-26, identifying an eating problem or nutritional risk; and~~

~~(B) a DHS form DDS-40, Level of Nutritional Risk Assessment, placing the individual at risk.~~

~~(5) All special diets, nutritional supplements, and aids to digestion and elimination must be prescribed by a physician.~~

(c) **Services for persons not receiving residential supports.** If the service recipient does not receive residential supports as defined in OAC 340:100-5-22.1, or group home services:

(1) the Individual Plan must justify the need for nutrition services as described in OAC 340:100-3-33.1, Criteria to establish service necessity; and

(2) procedures described in subsections (e) through (j) are followed unless other procedures are approved in writing by the DDSD area manager or designee.

(d) **Services for persons receiving residential supports.** If the service recipient receives residential supports as defined in OAC 340:100-5-22.1, or group home services:

(1) the service recipient must have an updated OKDHS Form DDS-7, Physical Status Review (PSR), in accordance with OAC 340:100-5-26, identifying an eating problem or nutritional risk indicated by a score of 3 or 4 on Eating, 4 on Gastrointestinal, 4 on Skin Breakdown, 4 on bowel Function, or 3 or 4 on the Nutrition section of the PSR. The Team must address these risks in the Individual Plan and identify appropriate professional oversight; and

(2) the requirements in subsections (e) through (j) of this Section are followed.

(~~c~~e) **Assessment.** ~~Each individual with a score of 3 or 4 on the Eating or Nutrition section of the Physical Status Review must have a nutrition therapist identified.~~ The nutrition therapist evaluates the service recipient's nutritional status and completes OKDHS Form DDS-40, Level of Nutritional Risk Assessment.

(1) ~~The nutrition therapist evaluates the individual's nutritional status and completes DHS form DDS-40, Level of Nutritional Risk Assessment.~~ The assessment must include, but is not limited to:

(A) health, diet, and behavioral history impacting on nutrition;

(B) clinical measures including body composition and physical assessment.

(C) dietary assessment, including:

(i) nutrient needs;

(ii) eating skills;

(iii) nutritional intake; and

(iv) drug-nutrient interactions; and

(D) recommendations to address nutritional risk needs, including:

(i) outcomes;

(ii) strategies;

(iii) staff training; and

(iv) program monitoring and evaluation.

(2) The nutrition therapist and other involved professionals make recommendations for achieving positive nutritional outcomes based on the risks identified on the OKDHS form DDS-40.

(3) The nutrition therapist sends a copy of the DDS-40 to the case manager within ten working days of the authorization.

(4) If the assessment shows the ~~person~~ service recipient rated as "High Nutritional Risk", the nutrition therapist sends a copy of the DDS-40 to the DDSD area nutrition therapist or DDSD area professional support services designee as well as the case manager within 10 working days of the authorization.

(~~d~~ f) **Planning.** The DDSD case manager, in conjunction with the Team, reviews the identified nutritional issues that impact the ~~individual's~~ service recipient's life.

(1) Any ~~individual~~ service recipient with a PSR score of 3 or above on Section A, Eating, ~~of Physical Status Review, which indicates the presence of safety issues associated with eating,~~ must have an individualized mealtime assistance plan developed and reviewed at least annually by the Team member(s) identified responsible in the Individual Plan. The mealtime assistance plan includes but is not limited to:

(A) a diet or meal plan;

(B) positioning needs;

(C) adaptive equipment needs;

(D) communication needs;

(E) food presentation;

(F) documentation requirements; ~~and~~

(G) ~~training and assistance requirements~~ monitoring requirements; and

(H) training and assistance requirements.

(2) In accordance with OAC 340:100-5-26, the Team:

(A) discusses any gastrostomy or jejunostomy tube placement, including discussion of less intrusive alternatives, prior to implementation of the proposed procedure; or

(B) reviews emergency placement of any gastrostomy or jejunostomy tube within five working days after placement.

(3) The Team annually develops, ~~or reviews~~ and documents in the Individual Plan a review of, a plan for return to oral intake, in accordance with individual needs, for each ~~person~~ service recipient who receives nutrition through a tube.

(4) Desired nutritional outcomes are developed and integrated into the Individual Plan using the least restrictive, least intrusive, most normalizing measures that can be carried out across environments.

(5) The Team member(s) identified responsible in the Individual Plan develops methods to support the nutritional outcomes, which include:

(A) implementation strategies;

(B) staff training; and

(C) program monitoring.

(~~e~~ g) **Implementation.** Strategies are implemented by the assigned person within a designated time frame established by the Team based on individual need(s).

(1) Direct support staff members are trained in accordance with the Individual Plan and OAC 340:100-3-38.

(2) All special diets, nutritional supplements, and aids to digestion and elimination must be prescribed and reviewed at least annually by a physician.

(~~f~~ h) **Documentation.** Program documentation as determined necessary by the Team is maintained in the ~~individual's~~ service recipient's home record for the purpose of evaluation and monitoring. The professional provider(s) sends documentation regarding the ~~individual's~~ service recipient's progress on the nutrition ~~objectives~~ outcomes, program concerns, and recommendations for remediation of any problem area to the case manager each month, or as often as deemed necessary by the Team.

(~~g~~ i) **Evaluation and monitoring.** A review to evaluate the success of the program is performed at least once each month or as deemed necessary in the Individual Plan by the professional(s) designated by the Team. The area manager or designee may require a specified schedule for service recipients with a high nutritional risk.

(1) The designated professional(s) reviews the program data submitted for:

(A) completeness;

(B) consistency of implementation; and

(C) positive outcomes.

(2) DDSD professional support services personnel provide administrative oversight and quality assurance monitoring on an ongoing basis to ~~individuals designated at~~ service recipients with eating risk or nutritional risk identified through the PSR using:

(A) on-site visits; and

(B) record reviews.

(3) When ~~an individual~~ a service recipient is identified by the DDS-40 to be at high nutritional risk, he or she receives increased monitoring by:

(A) the nutrition therapist and health care coordinator, as determined necessary by the Team; and

(B) ~~designated DDSD support services personnel~~ the DDSD area nutrition therapist or DDSD area professional support services designee.

(4) Significant changes in nutritional status~~, as determined for the individual by the Team,~~ must be reported to the case manager by the health care coordinator.

(5) The DDS-40:

(A) is used by the contract nutrition provider to reassess service recipients at high risk ~~individuals~~ on a quarterly basis; and

(B) must be submitted by the contract nutrition provider to the DDSD area nutrition therapist or

DDSD area professional support services designee within 15 days following the end of each quarter (March, June, September, December).

~~(6) For the purpose of tracking nutritional outcomes, the case manager immediately notifies the DDSD area nutrition therapist when an individual:~~

~~(A) receives a score of 4 on Section (p), Nutrition, of the Physical Status Review; or~~

~~(B) is contemplating the utilization of, or has an emergency placement of, a gastrostomy or jejunostomy tube.~~

(~~7~~6) The DDSD area nutrition therapist or designee ~~compiles the data and~~, in conjunction with DDSD support services professionals, provides technical assistance to resolve individual nutrition issues and makes recommendations for~~:~~ additional technical assistance if needed.

~~(A) technical assistance; or~~

~~(B) problem resolution of systems issues.~~

(~~h~~j) **Technical Assistance.** Professional contract providers serving as ~~physical/nutritional~~ management consultants provide technical assistance as authorized. Technical assistance may be requested using ~~DHS~~ OKDHS form DDS-41, Physical-Nutritional Management Consultation Request, by the Team or DDSD support services staff to address:

(1) unresolved nutritional management issues;

(2) gastrostomy or jejunostomy tube placement or removal;

(3) individualized mealtime assistance plan development; or

(4) any aspect of assessment, planning, implementation, evaluation, or monitoring of nutrition services.

317:40-5-104. Specialized medical supplies

(a) **General requirements.** Specialized medical supplies include supplies specified in the plan of care that meet the criteria given in this Section.

(1) Specialized medical supplies include the purchase of ancillary supplies not available under the Medicaid State Plan. Items reimbursed with Home and Community Based Waiver (HCBW) funds are in addition to any supplies furnished under the Medicaid State Plan.

(2) Specialized medical supplies meet the criteria for service necessity given in OAC 340:100-3-33.1.

(3) All items meet applicable standards of manufacture, design, and installation.

(4) Specialized medical supplies providers must hold a current Durable Medical Equipment (DME) contract with the Oklahoma Health Care Authority.

(5) Items that can be purchased as specialized medical supplies include:

(A) incontinence supplies, as described in subsection (b) of this Section;

(B) nutritional supplements;

(C) supplies for respirator or ventilator care;

(D) decubitus care supplies;

(E) supplies for catheterization; and

(F) supplies needed for health conditions.

(6) Items that cannot be purchased as specialized medical supplies include:

(A) over the counter medications(s);

(B) personal hygiene items;

(C) medicine cups;

(D) items that are not medically necessary;

(E) prescription medication(s); and

(F) items available through the Medicaid State Plan. Items available through the Medicaid State Plan must be exhausted before waiver-funded services can be accessed.

(7) Specialized medical supplies must be:

(A) necessary to address a medical condition;

(B) of direct medical or remedial benefit to the service recipient;

(C) medical in nature; and

(D) consistent with accepted health care practice standards and guidelines for the prevention, diagnosis, or treatment of symptoms of illness, disease, or disability.

(b) **Limited coverage.** Items available in limited quantities through specialized medical supplies include:

(1) incontinence wipes, 300 wipes per month;

(2) non-sterile gloves, as approved by the Team;

(3) disposable underpads, 60 pads per month; and

(4) incontinence briefs, 180 briefs per month.

(A) Adult briefs are purchased only in accordance with the implementation of elimination guidelines developed by the Team.

(B) Exceptions to the requirement for implementation of elimination guidelines may be approved by the DDSD nurse when the service recipient has a medical condition that precludes implementation of elimination guidelines, such as atonic bladder, neurogenic bladder, or following a surgical procedure.

(c) **Exceptions.** Exceptions to the requirements of this Section are explained in this subsection.

(1) When a service recipient's Team determines that the service recipient needs medical supplies that:

(A) are not available under the Medicaid State Plan and for which no Health Care Procedure Code exists, the case manager e-mails pertinent information regarding the service recipient's medical supply need to the programs manager responsible for Specialized Medical Supplies. The e-mail includes all pertinent information that supports the need for the supply, including but not limited to, quantity and purpose; or

(B) exceed the limits stated in subsection (b) of this Section, the case manager submits the request for additional supplies to the DDSD area manager.

(2) Approval or denial of exception requests is made on a case by case basis and does not override the general applicability of this Section.

(3) Approval of a specialized medical supplies exception does not exceed one plan of care year.

317:40-5-110. Authorization for Habilitation Training Specialist Services

(a) Habilitation Training Specialist (HTS) Services are:

(1) authorized as a result of needs identified by the team and informed ~~consumer~~ selection by the service recipient;

(2) shared ~~between~~ among service recipients who are members of the same household ~~receiving services to meet identified needs~~; and

(3) authorized only during periods when staff are engaged in purposeful activity which directly or indirectly benefits the ~~person receiving services~~ service recipient. Staff must be physically able and mentally alert to carry out the duties of the job. At no time are HTS services authorized for periods during which the staff are allowed to sleep.

(b) HTS Services may be provided in community residential service settings defined in OAC 340:100-5-22.1 including:

(1) agency companion services as described in OAC 317:40-5-1 through 40-5-39;

~~(2) services provided to waiver participants who continue residing in settings which had more than 8 hours daily HTS or Homemaker Services authorized as of December 31, 2000. These participants may continue to receive needed direct support services which were in excess of the eight hours direct support included in the Daily Living Supports which were initiated January 1, 2001;~~

(~~3~~ 2) as provided in accordance with Daily Living Supports policy at OAC 317:40-5-150; and,

(~~4~~ 3) as provided in accordance with Specialized Foster Care Policy at OAC 317:40-5-50 through 40-5-76; or

(~~5~~ 4) services for people with Prader Willi ~~services~~ syndrome.

(c) HTS Services are based on need and limited to no more than 12 hours per day per household in any setting other than ~~those receiving~~ settings described in OAC 340:100-5-22.1, Community Residential Supports, except~~:~~

~~(1) to waiver participants who continue to reside in settings which received services in excess of 12 hours as of December 31, 2000, and continue to need such service; or~~

~~(2)~~ with approval ~~of the area manager or designee~~ in accordance with OAC 340:100-3-33, Service authorization, that the increased services are necessary to avoid institutional placement due to:

(~~A~~ 1) the complexity of the family or caregiver support needs. Consideration must be given to:

(~~i~~ A) the age and health of the caregiver;

(~~ii~~ B) the number of household members requiring the caregiver's time; and

(~~iii~~C) the accessibility of needed resources; and

(~~B~~ 2) the resources of the family, caregiver, or household members that are available to the ~~person~~ service recipient. Consideration must be given to the number of family members able to assist the caregiver and available community supports; and

(~~C~~ 3) the resources of other agencies or programs available to the ~~person~~ service recipient or family. Consideration must be given to services available from:

(~~i~~ A) the public schools;

(~~ii~~ B) the Oklahoma Health Care Authority;

(~~iii~~ C) the Oklahoma Department of Rehabilitative Services;

(~~iv~~ D) other ~~DHS~~ OKDHS programs; and

(~~v~~ E) services provided by other local, state, or federal resources.

(d) When it appears that approval of an exception is needed to prevent institutional placement, the case manager submits the request which identifies the circumstances supporting the need for an exception to the area manager.

(e) The DDSD area manager or designee must approve, deny, or notify the case manager of issues preventing approval within 10 working days.

PART 11. COMMUNITY RESIDENTIAL SUPPORTS

317:40-5-150. Daily Living Supports

(a) **Introduction.** Daily Living Supports (DLS) are provided by an agency, ~~with a valid OHCA contract~~ approved by the Developmental Disabilities Services Division (DDSD), that has a valid Oklahoma Health Care Authority contract for the service~~, that is approved by DDSD~~.

(1) Daily Living Supports require meeting the daily support needs of the ~~people~~ service recipients living in the home.

(A) In accordance with the needs of the service recipient, Daily Living Supports include hands-on assistance, supervision, or prompting so that the ~~person~~ service recipient performs the task, such as eating, bathing, dressing, toileting, transferring, personal hygiene, light housework, money management, community safety, recreation, social, health, or medication management.

(B) Daily Living Supports also include assistance with cognitive tasks or provision of services, in accordance with OAC 340:100-5-57, to prevent ~~an individual~~ a service recipient from harming self or others~~, in accordance with the needs of the person receiving services~~.

(C) Daily Living Supports also include:

(i) the provision of staff training in accordance with OAC 340:100-3-38, to meet the specific needs of the service recipient;

(ii) program supervision that includes the 24-hour availability of response staff to meet schedules and unpredictable needs; ~~and~~

(iii) program oversight;

(iv) assisting the service recipient in obtaining services and supplies;

(v) developing and assuring emergency plans are in place; and

(vi) coordinating overall safety and supports in the home.

(D) Direct support services are coordinated and shared among household members receiving services to meet identified needs.

(2) DLS include an average of eight hours daily of direct support services. ~~People~~ Service recipients needing direct support services exceeding an average of eight hours per day identify, with case manager assistance, roommates willing to share Daily Living Supports services. Additional direct support services are considered in accordance with subsection (f) of this Section.

~~(3) Additional direct support services are considered in accordance with subsection (f) of this Section.~~

~~(4) The rules in this Section shall not be construed as a limitation of the rights of class members set forth in the Consent Decree in Homeward Bound vs. The Hissom Memorial Center.~~

~~(5) The limits on levels of staff support specified in the rules named in paragraph (1) of OAC 340:100-5-22.3 do not apply to Waiver participants who remain in settings which had authorized services on December 31, 2000, in excess of the stated limits.~~

(b) **Eligibility.** Daily Living Supports are provided to individuals who:

(1) are eighteen years of age or older, unless approved by the Director of ~~DHS~~ OKDHS or designee;

(2) need an average of at least eight hours of direct support services daily;

(3) are participants in the DDSD Community waiver, described in OAC 317:40-1-1;

(4) ~~receive~~ need community residential services outside the family home; and

(5) do not simultaneously receive any other community residential or group home services.

(c) **Service requirements.** Daily Living Supports must be:

(1) included in the ~~person's~~ service recipient's Individual Plan in accordance with OAC 340:100-5-51, including a description of the type(s) and intensity of supervision and assistance that must be provided to the ~~individual~~ service recipient;

(2) authorized in the ~~individual's~~ service recipient's Plan of Care;

(3) provided by the contracted provider agency chosen by the ~~person~~ service recipient or guardian; ~~and,~~

(4) delivered in accordance with DDSD Community Residential Supports rules at OAC 340:100-5-22.1; and

(5) provided directly to the service recipient.

(d) **Home Requirements.** Daily Living Supports are provided to eligible ~~individuals~~ service recipients living outside their family's home ~~who reside~~ in a home that:

(1) is leased or owned by the ~~person(s) receiving services~~ service recipient(s) or the ~~person's~~ service recipient's legal guardian; and

(2) houses no more than three individuals living together. Exceptions for homes shared by four service recipients may be granted in writing by the DDSD director or designee.

(e) **Responsibilities of provider agencies.** Each provider agency providing Daily Living Supports must:

(1) ensure ongoing supports as needed when the ~~individual~~ service recipient is out of the home visiting family and friends, or hospitalized for psychiatric or medical care;

(2) ensure compliance with all applicable DDSD policy found at OAC 340:100; and

(3) provide for the welfare of all service recipients living in the home.

(f) **Criteria for direct support staff services beyond eight hours per day.** Additional direct support services including Habilitation Training Specialist(HTS), Homemaker, or Intensive Personal Supports, beyond the average of eight hours per day referenced in subsection (a) of this Section must be approved by the DDSD ~~Area Manager~~ area manager or designee.

(1) In order to ~~approve~~ receive additional direct support staff services, ~~the Area Manager or designee ensures that the individual receives Daily Living Supports, and that the criteria given in subparagraphs (A)-(C) of this paragraph are met~~ the service recipients living together must have insufficient supports including hourly nursing services to meet their needs for support.

~~(A) **Living environment.** The individual must have insufficient supports including hourly nursing services to minimize the need for additional support.~~

(~~i~~ A) Additional direct support staffing may be authorized if the ~~individual~~ service recipient is living with two roommates but still has medical or behavior support needs beyond the capacity of staff shared with the other roommates, including participation by staff providing hourly nursing services.

(~~ii~~ B) Additional direct support staffing is only provided to ~~an individual~~ a service recipient who has one or no roommates if ~~the service is provided in accordance with paragraph (2) of OAC 340:100-5-22.3; or if~~:

(i) the ~~Area Manager~~ area manager or designee ~~determines~~ documents that behavior support issues make it impossible for the ~~individual~~ service recipient to have a roommate~~.~~ ; or

(~~iii~~ ii) ~~If an individual has one roommate, additional staff is approved only~~ in accordance with paragraph ~~(3)~~ (2) of this subsection.

~~(B) **Level of need.** The Area Manager or designee must determine that the person meets the criteria given in this subparagraph.~~

~~(i) To be eligible for additional staff, the individual must:~~

~~(I) require highly structured and frequent behavioral or health intervention supports, which cannot be met with the staffing included in Daily Living Supports;~~

~~(II) require intervention by more than one support staff trained in positive behavioral approaches; or~~

~~(III) be at risk of harm to self or others without the immediate support of a second staff member.~~

(~~ii~~ C) If a ~~person~~ service recipient lives with ~~less than two~~ one or no roommates or requires a second support staff to meet his or her intensive behavior

support needs, the Team must provide clear documentation that the ~~individual~~ service recipient has difficulty establishing compatible relations with others as evidenced by:

(~~I~~ i) severe and persistent emotional and behavioral disturbances; or

(~~II~~ ii) a history of difficulty sharing a home with others.

~~(2) The case manager submits the request for additional support staff to the area manager or designee, including written justification of the need as identified in this subsection. The area manager or designee approves, denies, or notifies the case manager of issues preventing approval of the request within ten working days.~~

(~~3~~ 2) The area manager or designee may grant conditional approvals for staff beyond an average of eight hours per day per service recipient:

(A) ~~may grant conditional approvals, not to exceed six months:~~ due to the temporary or permanent departure of a roommate while another roommate is being identified; or

~~(i) due to the temporary or permanent departure of a roommate; or~~

~~(ii) to facilitate emergency placement of a person needing services when a roommate is not available; and~~

(B) ~~must report to the DDSD Programs Administrator for Community Services any conditional approval that extends beyond six months~~ to facilitate emergency residential placement of a person needing services while roommates are being identified.

(~~4~~ 3) As part of the annual review, the case manager must:

(A) re-evaluate the ~~individual's~~ service recipient's need for additional direct support services; and

(B) implement any alternative solutions that would promote independence and reduce intrusion by paid workers as much as possible. Documentation of such evaluations and the implementation of alternative solutions is included in the case manager's record.

(g) **Daily Living Supports claims.** No more than 365 units of Daily Living Supports may be billed per year, except Leap Year, for each ~~individual receiving services~~ service recipient.

(1) The provider agency claims one unit of service for each day during which the ~~individual~~ service recipient receives Daily Living Supports. A day is defined as the period between 12:00 a.m. and 11:59 p.m.

(2) ~~Providers must claim at least monthly for all days that Daily Living Supports were actually provided during the preceding month.~~ Claims must not be based on budgeted amounts.

(3) When ~~an individual~~ a service recipient changes provider agencies, only the outgoing service provider agency claims for the day that the ~~individual~~ service recipient moves.

(h) **Billing for other support services.** ~~The provider agency may claim separately for additional~~ Additional support services such as HTS, Intensive Personal Supports, or Homemaker Services may be provided to ~~an individual~~ a service recipient receiving Daily Living Supports, if:

(1) the additional support services have been authorized in the ~~person's~~ service recipient's Plan of Care~~; and~~. Additional support services cannot be authorized unless 56 hours per week of DLS services are scheduled for the service recipient. The direct support staffing is averaged across the week when the needs of the service recipients in the household vary from day to day; and

(2) an average of eight hours of ~~direct staff support, excluding Nursing,~~ DLS has already been provided to the ~~person~~ service recipient ~~that~~ each day that week.

(A) The provider cannot bill for additional support services unless 56 hours of DLS have been provided during the week to the service recipient.

(B) If support services are provided to multiple ~~individuals~~ service recipients residing in the same household at the same time, the provider agency cannot count these hours toward each ~~individual's~~ service recipient's 8-hour minimum. For example, three hours of ~~HTS~~ service provided simultaneously by a single direct contact staff to three residents in the same household may only be counted as three hours of ~~HTS~~ service for one of the ~~individuals~~ service recipients, not three hours for each resident.

(i) **Therapeutic leave.** Therapeutic leave is a Medicaid payment made to the Daily Living Supports contract provider to enable the service recipient to retain personal care services.

(1) Therapeutic leave is claimed when the service recipient does not receive Daily Living Supports services for 24 consecutive hours from 12:00 a.m. to 11:59 p.m. because of:

(A) a visit with family or friends without direct support staff;

(B) vacation without direct support staff; or

(C) hospitalization, whether direct support staff are present or not. Daily living supports staff are present with the ~~individual~~ service recipient in the hospital as approved by the ~~person's~~ service recipient's Team in the Individual Plan.

(2) ~~An individual~~ A service recipient may receive therapeutic leave for no more than 14 consecutive days per event, not to exceed 60 days per Plan of Care year.

(3) The payment for a day of therapeutic leave is the same amount as the per diem rate for Daily Living Supports.

(4) ~~If, because of the service recipient's absence, the direct support staff member is unable to work,~~ To promote continuity of direct support staff in the service recipient's absence, the provider pays the staff member the salary that he or she would have earned if the service recipient were not on therapeutic leave if the provider is unable to provide an alternative work opportunity.

317:40-5-152. Group home services for persons with mental retardation

(a) **General Information.** Group homes provide a congregate living arrangement offering up to 24-hour per day supervision, supportive assistance, and training in daily living skills to eligible individuals eighteen years of age and older. Upon approval of the director of the Developmental Disabilities Services Division (DDSD) of the Oklahoma Department of Human Services or designee, persons younger than eighteen may be served.

(1) Group homes ensure that persons reside and participate in the community. Services are provided in homes located in close proximity to generic community services and activities.

(2) Group homes must be licensed by DDSD in accordance with 10 O.S. § 1430.1.

(3) Persons receiving group home services receive no other form of residential supports.

(4) Habilitation training specialist services or Homemaker services for persons receiving group home services may be approved only by the director of DDSD or designee to resolve a temporary emergency when no other resolution exists.

(b) **Minimum provider qualifications.** Approved providers must have a current contract with the Oklahoma Health Care Authority (OHCA) to provide Home and Community-Based Waiver Services for the Mentally Retarded.

(1) Group home providers must have a completed and approved Application for Provider Agency from DDSD.

(2) Provider's staff must:

(A) complete the DDSD-sanctioned training curriculum in accordance with OAC 340:100-3-38; and

(B) fulfill requirements for pre-employment screening given at OAC 340:100-3-39.

(c) **Description of services.** Group home services are provided in accordance with this subsection.

(1) Services to each individual are provided in accordance with the Individual Plan developed in accordance with OAC 340:100-5-50 through 100-5-54.

(2) Health care services are secured in accordance with OAC 340:100-5-26.

(3) Group homes follow protective intervention practices described in OAC 340:100-5-57 and 100-5-58.

(4) Individuals are offered recreational and leisure activities maximizing the use of generic programs and resources, including individual and group activities.

(5) Group home services meet all applicable requirements of OAC 340:100.

(6) In addition to the documentation required by OAC 340:100-3-40, the provider agency must maintain:

(A) staff time sheets which document the hours each staff member was present and on duty in the group home; and

(B) documentation of each service recipient's presence or absence on the daily attendance form provided by DDSD.

(7) The provider agency ensures that program coordination staff (PCS) supervise, guide, and oversee all aspects of group home services.

(A) The PCS must:

(i) get to know each person receiving services and his or her needs;

(ii) make announced and unannounced visits to the group home. The PCS makes a minimum of three unannounced monitoring visits per month. 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 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) 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;

(vii) ensure rules of ~~DHS~~ OKDHS and OHCA are followed; and

(viii) 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.

(8) Staff who assist an individual 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.

(d) **Coverage limitations.** Services are provided up to 366 days per year.

(e) **Types of group home services.** There are three types of group home services provided through Home and Community-Based Waiver Services.

(1) **Traditional group homes.** Traditional group homes serve no more than 12 persons.

(A) Homes opened after the effective date of these rules serve no more than six individuals.

(B) Traditional group home services may also be provided through DDSD state funds.

(2) **Community living homes.** Community living homes serve up to six individuals.

(A) Persons who receive community living home services have needs that cannot be met in a less structured setting. These include people with:

(i) a diagnosis of severe or profound mental retardation requiring frequent assistance in the performance of activities necessary for daily living or continual supervision to ensure the individual's health and safety;

(ii) complex needs requiring frequent assistance in the performance of activities necessary for daily living, such as the frequent assistance of staff for positioning, bathing, or other necessary movement; or

(iii) complex needs requiring frequent supervision and training in appropriate social and interactive skills in order to remain included in the community.

(B) Services offered in a community living home include:

(i) 24-hour awake supervision;

(ii) program supervision and oversight including hands-on assistance in performing activities of daily living, transferring, positioning, skill-building and training.

(3) **Alternative ~~community~~ group homes.** Alternative ~~community~~ group homes serve up to four individuals who have evidence of behavioral or emotional challenges in addition to mental retardation and require extensive supervision and assistance in order to remain in the community.

(A) To be eligible for alternative ~~community~~ group homes services an individual must meet criteria given in OAC 340:100-5-22.6. ~~:~~

~~(i) experience behavioral episodes that are ongoing, intense in nature, and highly disruptive, requiring close supervision and frequent intervention by staff; and~~

~~(ii) have had at least one prior inpatient psychiatric stay.~~

(B) Services are provided in accordance with OAC 340:100-5-22.6 to meet the needs of the ~~person~~ service recipient including:

(i) supports to assist ~~individuals~~ the service recipient in acquiring, retaining, and improving self-care, daily living, social, adaptive, and leisure skills needed to reside successfully within the community;

(ii) 24-hour awake staff;

(iii) specialized training developed to meet the specific needs of each ~~person~~ service recipient; and

(iv) program supervision and oversight including 24-hour availability of response staff to meet individual schedules or unpredictable needs.

~~(C) Persons with pending criminal charges are not eligible for Alternative Community Living Home services unless it can be demonstrated that they will not pose an immediate danger to self or others.~~

(~~D~~ C) A determination must be made by the Developmental Disabilities Services Division Community Services Unit that the ~~Alternative Community Living Home~~ alternative group home is appropriate and all other community residential services are not appropriate.

[OAR Docket #06-628; filed 4-11-06]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #06-622]

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DDSD rules are revised to implement a rate increase appropriated by the Legislature for waiver employment services for persons with mental retardation. Rates will be increased for services to persons in individual placements who receive job coach services or community-based services. Also, the definition of an individual placement is established in the rules. Rule revisions are needed in order to implement the mandated rate increases and to insure an adequate pool of qualified providers are available to furnish services to individuals who qualify for DDSD waiver employment services.
CONTACT PERSON:
Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 7. WAIVER EMPLOYMENT SERVICES

317:40-7-2. Definitions

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

"Commensurate Wage" means wages paid to a worker with a disability based on the worker's productivity in proportion to the wages and productivity of workers without a disability performing essentially the same work in the same geographic area. Commensurate wages must be based on the prevailing wage paid to experienced workers without disabilities doing the same job.

"Employment Assessment" means the evaluation that identifies the unique preferences, strengths, and needs of the service recipient in relation to work. The assessment determines work skills and work behaviors, is supplemented by personal interviews and behavioral observations, and incorporates information that addresses the service recipient's desired medical, physical, psychological, social, cultural, and educational outcomes, as well as present and future employment options. The assessment, which is updated annually or more frequently as needed, includes support needs, environmental preferences, and possible accommodations.

"Enhanced Rate" means a differential rate established to provide an incentive to agencies to provide community employment services to service recipients with significant needs.

"Group Placement" means two to eight service recipients situated close together, who are provided continuous, long-term training and support in an integrated job site. Service recipients may be employed by the company or by the provider agency. The terms "work crew" and "enclave" also describe a group placement.

"Individual placement in community-based services" means the service recipient is provided supports that enable him or her to participate in approved community-based activities, as described in OAC 317:40-7-5, individually and not as part of a group placement.

"Individual placement in job coaching services" means one service recipient receiving job coach services who:

(A) works in an integrated job setting;

(B) receives minimum wage or more;

(C) does not receive services from a job coach who is simultaneously responsible for continuous job coaching for a group;

(D) is employed by a community employer or the provider agency; and

(E) has a job description that is specific to his or her work.

"Integrated Employment Site" means an activity or job that provides regular interaction with people without disabilities, excluding service providers, to the same extent that a worker without disabilities in a comparable position interacts with others.

"Job Coach" means an individual who holds a DDSD-approved training job coach certification and provides ongoing support services to eligible persons in supported employment placements. Services directly support the service recipient's work activity including marketing and job development, job and work site assessment, training and worker assessment, job matching procedures, development of co-worker natural and paid supports, and teaching job skills.

"Job Sampling" means a paid situational assessment whereby a service recipient performs a job at a prospective employer's integrated job site, in order to determine the service recipient's interests and abilities. Situational assessments adhere to the Department of Labor (DOL) regulations regarding wages. The Team determines the appropriate type and number of situational assessments for each service recipient.

"On-Site Supports" means a situation in which the job coach is physically at the job site providing job training to a service recipient.

"Situational assessment" means a comprehensive community-based evaluation of the service recipient's functioning in relation to the supported job, including the job site, the community through which the service recipient must travel to and from the job, and the people at the job site such as the job coach, co-workers, and supervisor.

"Sub-Contract With Industry" means the provider agency enters into a sub-contract with an industry or business to pay industry employees to provide supports to service recipients. If the industry agrees, the provider agency may contract with an employee(s) of the industry directly to provide the services. The state continues to pay the provider agency and the agency provides all pertinent information that is required for persons served by the agency. The Team determines what, if any, training is required for the employees of the industry providing services.

"Supported Employment" means competitive work in an integrated work setting with ongoing support services for service recipients for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of disabilities.

"Unpaid Training" means unpaid experience in integrated employment sites in accordance with DOL regulations. Service recipients do a variety of tasks, which do not equal the full job description of a regular worker.

"Volunteer Job" means an unpaid activity in which a service recipient freely participates.

317:40-7-12. Enhanced rates

An Enhanced Rate is available for both Community-Based Group Services and Group Job Coaching Services.

(1) Eligibility for an enhanced rate is determined by Team assessment as detailed in OAC 340:100-5-56, OAC 340:100-5-57, and subsection (d) of OAC 340:100-5-26 of the service recipient's needs.

(2) To be eligible for the enhanced rate, the service recipient must ~~have~~:

(A) have a protective intervention plan that:

(i) contains a restrictive or intrusive procedure as defined in OAC 340:100-1-2 implemented in the employment setting;

(ii) has been approved by the State Behavior Review Committee (SBRC) in accordance with OAC 340:100-3-14 or by the Developmental Disabilities Services Division (DDSD) staff in accordance with subsection (g) of OAC 340:100-5-57; and

(iii) has been reviewed by the Human Rights Committee (HRC) in accordance with OAC 340:100-3-6;

(B) have procedures included in the Individual Plan which address dangerous behavior that places the service recipient or others at risk of serious physical harm but are neither restrictive or intrusive procedures as defined in OAC 340:100-1-2. The Team submits documentation of this risk and the procedures to the positive support field specialist to assure that positive approaches are being used to manage dangerous behavior;

(C) have a visual impairment that requires assistance for mobility or safety; ~~or~~

(D) have two or more of the circumstances given in this subparagraph.

(i) The service recipient has medical support needs which are rated at Level 4, Level 5, or Level 6 on the Physical Status Review (PSR), explained in OAC 340:100-5-26.

(ii) The service recipient has nutritional needs supported by the PSR requiring tube feeding or other dependency for food intake which must occur in the employment setting.

(iii) The service recipient has mobility needs, supported by the PSR, such that he or she requires two or more people for lifts, transfers, and personal care. Use of a mechanical lift or other assistive technology has been evaluated for the current employment program and determined not feasible by the DDSD division director or designee; or

(E) reside in alternative group home as described in OAC 317:40-5-152.

(3) The enhanced rate can be claimed only if the person providing services fulfills all applicable training criteria specified in OAC 340:100-3-38.

~~(4) Persons residing in alterative group homes, as described in OAC 317:40-15-152 are eligible to receive the enhanced rate. Employment providers fulfill all applicable criteria given in OAC 317:40-5-152.1.~~

(~~5~~ 4) There are no exceptions for the enhanced rate other than as allowed in this Section.

[OAR Docket #06-622; filed 4-11-06]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 45. OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE

[OAR Docket #06-627]

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Subchapter 3. Carriers [NEW]
317:45-3-2. [NEW]
Subchapter 5. Qualified Health Plans [NEW]
317:45-5-1. through 317:45-5-2. [NEW]
Subchapter 7. Employer Eligibility [NEW]
317:45-7-3. through 317:45-7-4. [NEW]
317:45-7-6. through 317:45-7-8. [NEW]
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Agency rules are being issued to establish criteria that implements the Oklahoma Employer and Employee Partnership for Insurance Coverage Program (O-EPIC). The program establishes access to affordable health coverage for approximately 25,000 low-income working adults and their spouses. The Program is funded through a portion of monthly proceeds from the Tobacco Tax that are collected and dispersed through the Health Employee and Economy Improvement Act (HEEIA) Revolving Fund. Revisions will allow the state to provide health insurance premium assistance to small Oklahoma's business employers with 25 employees or less and their employees whose family income is at or below 185% of the Federal Poverty Level. The employer will be responsible for contributing a minimum of 25% of the eligible employee's monthly health plan premium.
CONTACT PERSON:
Joanne Terlizzi at 522-7272

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 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

317:45-1-1. Purpose and general program provisions

The purpose of this Chapter is to provide rules, in compliance with all applicable federal and state regulations, for the Oklahoma Employer and Employee Partnership for Insurance Coverage (O-EPIC) program that establishes access to affordable health coverage for low-income working adults and their spouses. The Oklahoma Health Care Authority (OHCA) contracts with a Third Party Administrator (TPA) for administration of the Program.

317:45-1-3. Definitions

The following words or terms, when used in this Chapter, will have the following meanings unless the context clearly indicates otherwise:

"Carrier" means:

(A) an insurance company, group health service or Health Maintenance Organization (HMO) that provides health benefits pursuant to Title 36 O.S., Section 6512;

(B) A Multiple Employer Welfare Arrangement (MEWA) licensed by the Oklahoma Insurance Department; or

(C) A domestic MEWA exempt from licensing pursuant to Title 36 O.S., Section 634(B) that otherwise meets or exceeds all of the licensing and financial requirements of MEWAs as set out in Article 6A of Title 36.

"Eligibility period" means the period of eligibility extending from an approval date to an end date.

"O-EPIC" means the Oklahoma Employer and Employee Partnership for Insurance Coverage program.

"OESC" means the Oklahoma Employment Security Commission.

"OHCA" means the Oklahoma Health Care Authority.

"OKDHS" means the Oklahoma Department of Human Services.

"Oklahoma Employer and Employee Partnership for Insurance Coverage" means a health plan purchasing strategy in which a state uses public funds to pay for a portion of the premium costs of employer-sponsored health plans for eligible populations.

"Premium" means a monthly payment to a Carrier for health plan coverage.

"Qualified Health Plan" means a health plan that has been approved by the OHCA for participation in the O-EPIC program.

"Qualifying Event" means the occurrence of an event that permits individuals to join a group health plan outside of the "open enrollment period" and/or that allows individuals to modify the coverage they have had in effect. Qualifying Events are defined by the employer's health plan and meet federal requirements under Public Law 104-191 (HIPAA), and 42 U.S.C. 300bb-3.

"State" means the State of Oklahoma, acting by and through the Oklahoma Health Care Authority or its designee.

"TPA" means the Third Party Administrator.

"Third Party Administrator" means the entity contracted by the State to provide the administration of the Oklahoma Employer and Employee Partnership for Insurance Coverage program.

SUBCHAPTER 3. CARRIERS

317:45-3-2. Audits

Carriers are subject to audits related to health plan qualifications. These audits may be conducted periodically to determine if Qualified Health Plans continue to meet all requirements as defined in OAC 317:45-5-1.

SUBCHAPTER 5. QUALIFIED HEALTH PLANS

317:45-5-1. Qualified Health Plan requirements

(a) Qualified Health Plans participating in O-EPIC must offer, at a minimum, benefits that include:

(1) hospital services;
(2) physician services;
(3) clinical laboratory and radiology;
(4) pharmacy; and
(5) office visits.

(b) The health plan, if required, must be approved by the Oklahoma Department of Insurance for participation in the Oklahoma market. All health plans must share in the cost of covered services and pharmacy products in addition to any negotiated discounts with network providers, pharmacies, or pharmaceutical manufacturers. If the health plan requires co-payments or deductibles, the co-payments or deductibles cannot exceed the limits described in this subsection.

(1) An annual out-of-pocket maximum cannot exceed $3,000 per individual. This amount includes any individual, annual deductible amount, except for pharmacy.
(2) Office visits cannot require a co-payment exceeding $50 per visit.
(3) Annual pharmacy deductibles cannot exceed $500 per individual.
(c) Qualified Health Plans may provide an Explanation of Benefits (EOB) for paid or denied claims subject to member co-insurance or member deductible calculations. If an EOB is provided it must contain, at a minimum, the:
(1) provider's name;
(2) patient's name;
(3) date(s) of service;
(4) code(s) and/or description(s) indicating the service(s) rendered, the amount(s) paid or the denied status of the claim(s);
(5) reason code(s) and description(s) for any denied service(s); and
(6) amount due from the patient or responsible party.

317:45-5-2. Closure criteria for health plans

Eligibility for the Carrier's health plans ends when:
(1) changes to the design or benefits of the Qualified Health Plan such that it no longer meets O-EPIC requirements for Qualified Health Plans. Carriers are required to report to OHCA any changes in health plans potentially affecting its qualification for participation in the O-EPIC program not less than 90 days prior to the effective date of such change(s).
(2) the Carrier no longer meets the definition set forth in OAC 317:45-1-3.
(3) the health plan is no longer an available product in the Oklahoma market.
(4) the health plan fails to meet or comply with all requirements for a Qualified Health Plan as defined OAC 317:45-5-1.

SUBCHAPTER 7. EMPLOYER ELIGIBILITY

317:45-7-3. Employer cost sharing

Employers are responsible for a portion of the eligible employee's monthly health plan premium as defined in OAC 317:45-7-1. Employers are not required to contribute to an eligible spouse's coverage.

317:45-7-4. Qualifying Event

Employers must allow an employee to enroll or change coverage following a Qualifying Event. The employer files form OEPIC-4, Small Business Employer Change Form, with the TPA for that employee experiencing the Qualifying Event.

317:45-7-6. Credits and adjustments

When an overpayment has occurred, the employer must immediately refund the TPA, by check, to the attention of the Finance Division. The TPA system has the capability of automatic credits and debits. When an erroneous payment occurs, that results in an overpayment, an automatic recoupment is made to the employer's account against monies owed to the employer on behalf of their employee(s).

317:45-7-7. Audits

Employers are subject to audits related to eligibility status and subsidy payments. Eligibility may be revoked at any time if inconsistencies are found. Any monies paid in error are subject to recoupment.

317:45-7-8. Closure

Eligibility provided under the O-EPIC program ends during the eligibility period when:
(1) the employer terminates its contract with all Qualified Health Plan;
(2) the employer fails to pay premiums to the Carrier;
(3) the employer fails to provide an invoice verifying the monthly health plan premium has been paid;
(4) an audit indicates a discrepancy that makes the employer ineligible;
(5) the employer no longer has a business location in Oklahoma;
(6) the Qualified Health Plan or Carrier no longer qualifies for O-EPIC; or
(7) the employer's eligibility period ends and is not renewed.

SUBCHAPTER 9. EMPLOYEE ELIGIBILITY

317:45-9-2. Employee eligibility period

(a) Employee eligibility is contingent upon the employer's program eligibility.
(b) The employee's eligibility is determined by the TPA using the eligibility requirements listed in OAC 317:45-9-1.
(c) If the employee is determined eligible for O-EPIC, he/she is approved for a period not greater than 12 months. The length of the eligibility period is based on the remaining number of months the employer has left in its eligibility period.
(d) The employee's eligibility period begins on the first day of the month following the date of approval.

317:45-9-3. Qualifying Event

(a) Employees are allowed 30 calendar days to apply for O-EPIC following a Qualifying Event.
(b) An employee's spouse may become eligible for coverage and is allowed 30 calendar days to apply for O-EPIC following a Qualifying Event of the employee or spouse.

317:45-9-4. Employee cost sharing

Employees are responsible for up to 15% percent of their health plan premium. The employees are also responsible for

up to 15% of their spouse's health plan premium if the spouse is included in the program. The combined portion of the employee's cost sharing for health plan premiums cannot exceed three percent of his/her gross annual household income computed monthly.

317:45-9-5. Reimbursement for out-of-pocket medical expenses

(a) Employees are responsible for all out-of-pocket expenses. Out-of-pocket expenses for services covered by the health plan, as defined by the health plan's benefit summary and policies, that exceed 5% of the employee's gross annual household income during the current eligibility period may be reimbursable.

(b) The employee must submit a reimbursement claim form with appropriate documentation to the TPA. Information may be submitted at any time but no later than 90 days after the close of their eligibility period. Appropriate supporting documentation includes an original EOB or paid receipt. Both EOB and paid receipts must include required information listed in OAC 317:45-5-1(c)(1)-(6). Reimbursement for out-of-pocket medical expenses is made for the amount indicated as the member's responsibility on the EOB or receipt reflecting the amount paid for medical expenses, including prescribed prescriptions.

(c) Reimbursement for qualified medical expenses are subject to a fixed cap amount. The fixed cap for reimbursement is established annually and is calculated using local and national data concerning individual out-of-pocket health care expenses. The objective of the fixed cap is to set the amount high enough such that, in the great majority of households, all of the costs above the 5% threshold would be absorbed.

317:45-9-6. Audits

Individuals participating in the O-EPIC program are subject to audits related to their eligibility, subsidy payments, and out-of-pocket reimbursements. Eligibility may be reversed at any time if inconsistencies are found. Any monies paid in error will be subject to recoupment.

317:45-9-7. Closure

(a) Employer and employees eligibility are tied together. If the employer no longer meets the requirements for O-EPIC then eligibility for the associated employees enrolled under that employer are also ineligible. Employees are mailed a written notice 10 days prior to closure of eligibility.

(b) The employee's certification period may be terminated when:

(1) termination of employment, either voluntary or involuntary, occurs;

(2) the employee moves out-of-state;

(3) the covered employee dies;

(4) the employer ends its contract with the Qualified Health Plan;

(5) the employer's eligibility ends;

(6) an audit indicates a discrepancy that makes the employee or employer ineligible;

(7) the employer is terminated from O-EPIC;

(8) the employer fails to pay the premium;

(9) the Qualified Health Plan or Carrier is no longer qualified;

(10) the employee becomes eligible for Medicaid/Medicare;

(11) the employee or employer reports to the OHCA or the TPA any change affecting eligibility; or

(12) the employee is no longer listed as a covered person on the employer's health plan invoice.

317:45-9-8. Appeals

(a) Employee appeal procedures based on denial of eligibility due to income are described at OAC 317:2-1-2.

(b) Employee appeals regarding out-of-pocket expenses are made to the TPA. If the employee disagrees with the TPA's findings, reconsideration of the finding may be made to the OHCA. The decision of the OHCA is final.

[OAR Docket #06-627; filed 4-11-06]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 25. BOILER AND PRESSURE VESSEL RULES

[OAR Docket #06-611]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. General Requirements
380:25-7-18. Air and ventilation requirements - combustion air supply and ventilation of boiler room [AMENDED]
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Incorporated standards:
The National Fire Protection Association's National Fuel Gas Code, NFPA 54, 2002 Edition
Incorporated rules:
380:25-7-18

Availability:

Oklahoma Department of Labor, 4001 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105; Hours: 8 a.m. through 5 p.m., Mondays through Fridays, excluding holidays.

ANALYSIS:

The amendments to OAC 380:25-7-18 bring the boiler and pressure vessel rules for proper air and ventilation requirements of gas-fired boilers and pressure vessels installed prior to 1995 into alignment with nationally-recognized fire safety standards by mandating compliance with the National Fire Protection Association's National Fuel Gas Code, NFPA 54 - the standard already adopted by the Office of the Oklahoma State Fire Marshal. In order to prevent possible flame roll-out and the excess levels of carbon monoxide that can result from an inadequate supply of combustion air, the amendment specifies that boilers and pressure vessels must meet NFPA 54 requirements and replaces the inadequate formula and chart contained in the current text of the rule.

CONTACT PERSON:

Elizabeth J. Stefanik, (405) 528-1500, x 231

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 25, 2006:

SUBCHAPTER 7. GENERAL REQUIREMENTS

380:25-7-18. Air and ventilation requirements - combustion air supply and ventilation of boiler room

(a) A permanent source of ~~outside~~combustion and ventilation air, as required by the ~~applicable ASME Code and the Act~~National Fire Protection Association's National Fuel Gas Code, NFPA 54, latest revision, shall be provided for each boiler room to permit satisfactory combustion of the fuel as well as proper ventilation of the boiler room under normal operating conditions.

(b) The total requirements of the burners for all fired ~~pressure vessels~~boilers and pressure vessels, as well as any air required for the operation of other equipment located in the boiler room, including air compressors, clothes dryers, exhaust fans, water heaters, and central heating units must be used to determine the ~~louver sizes whether fired by coal, oil or gas; however, the minimum net free louvered area must not be less than one square foot. The following table or formula shall be used to determine the net louvered area in square feet:~~total area, in square feet, in inlet air opening or openings required for the boiler room or machinery room.

~~INPUT BTU/HOUR~~	~~REQUIRED AIR CU FT/MINUTE~~	~~MIN. NET LOUVERED AREA SQ FT~~
~~500,000~~	~~125~~	~~1.0~~
~~1,000,000~~	~~250~~	~~1.0~~
~~2,000,000~~	~~500~~	~~1.6~~
~~3,000,000~~	~~750~~	~~2.5~~
~~4,000,000~~	~~1,000~~	~~3.3~~
~~5,000,000~~	~~1,250~~	~~4.1~~
~~6,000,000~~	~~1,500~~	~~5.0~~
~~7,000,000~~	~~1,750~~	~~5.8~~
~~8,000,000~~	~~2,000~~	~~6.6~~
~~9,000,000~~	~~2,250~~	~~7.5~~
~~10,000,000~~	~~2,500~~	~~8.3~~

~~(BTUH ÷ 10,000) × 2.5 = CFM ÷ 300 CFM (NOTE: One square foot = approx. 300 CFM)~~

(c) When mechanical ventilation is used, ~~in lieu of 380:25-7-18(b)~~ the supply of combustion and ventilation air to the boiler room and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute and the total air delivered shall be equal to or greater than ~~shown in the Table in (b)~~required by (a) of this Section. When a specially engineered system is to be used in supplying combustion and ventilation air to a boiler room or machinery room, such system shall be approved by the chief boiler inspector prior to its installation and use.

(d) Existing installations that complied with previously accepted standards of the Oklahoma Boiler and Pressure Vessel Safety Act and Boiler and Pressure Vessel Rules are deemed to be satisfactory until such time that it becomes necessary to

repair or replace such combustion air supply system or components. When repair and/or replacement is required, such repairs and/or installations shall be performed in accordance with the requirements for new installations.

[OAR Docket #06-611; filed 4-10-06]

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

[OAR Docket #06-649]

RULEMAKING ACTION:
PERMANENT final adoption
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]
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ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 15 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance advocacy services for individuals receiving services by organizations operated or certified by or under contract with ODMHSAS, delete redundant or superfluous language, and correct scrivener's errors.

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 JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

450:15-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by staff responsible for the consumer's health, safety, or welfare, including but not limited to:

(A) non-accidental physical injury or mental anguish;
(B) sexual abuse;
(C) sexual exploitation;
(D) use of mechanical restraints without proper authority;
(E) the intentional use of excessive or unauthorized force aimed at hurting or injuring the consumer; or
(F) deprivation of food, clothing, shelter, or healthcare by staff responsible for providing these services to a consumer.

"Advocate" means an employee of the Office of Consumer Advocacy, who provides assistance to consumers in exercising their rights, listens to their concerns, encourages them to speak for themselves, seeks to resolve problems, helps protect their rights, conducts investigations and seeks to improve the quality of the consumer's life and care.

"Advocate General" means the chief administrative officer of the ODMHSAS Office of Consumer Advocacy.

"Board" means Board of Mental Health and Substance Abuse Services.

~~**"Client"** means an individual, adult or child, who has applied for, is receiving or has received assistance or services of a DV/SA or batterer's program.~~

~~**"Client record"** means written information including assessment information, description of services provided services plan, and other information on an individual client.~~

"Community mental health center" or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consumer" means an individual, adult or child, who has applied for, is receiving or has received mental health or substance abuse evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contacts.

"Consumer committee" or **" Consumer government"** means any established group within the facility comprised of consumers, led by consumers and which meets regularly to address consumer concerns to support the overall operations of the facility.

"Correctional institution" means any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house or residential community program operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense, or other persons held in lawful custody. Other persons held in lawful custody includes juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.

~~**"DV/SA"** means domestic violence and sexual assault.~~

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse services.

"Designated record set" means health information, in any medium including paper, oral, video, electronic, film, audio and digital, maintained by or for facilities operated by ODMHSAS for the purpose, in whole or in part, for making decisions about a consumer, that is:

(A) The medical records about a consumer including but not limited to the intake, screenings, assessments, history and physical examination, psychosocial evaluation, consultation report(s), treatment and continuing care plan, medication record(s), progress notes, psychometric/psychological testing results, discharge assessment, discharge plan, discharge summary, physician orders, immunization record(s), laboratory reports, ancillary therapy notes and reports, and case management records; or

(B) The eligibility, billing and payment information and minimum data sets maintained by or for the facility.

(C) Records that are sometimes filed with the medical records but are not part of the designated record set include:

(i) Administrative records including court commitment paperwork, critical incident reports or peer review documents; and

(ii) Information compiled in anticipation of litigation.

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination and a determination that emergency detention is warranted for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Exploitation" or **"exploit"** means an unjust or improper use of the resources of a consumer for the profit or advantage, pecuniary or otherwise, of a person other than the consumer through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense.

"Facility" means a public or private agency, corporation, partnership, or other entity operated or certified by ODMHSAS or with which ODMHSAS contracts to provide the physical custody, detention or treatment of consumers.

"Guardian" means a person appointed by a court to ensure the essential requirements for the health and safety of an incapacitated or partially incapacitated person~~, the unit, are met, to manage the estate or financial resources of the unit, or both~~. As used in this subchapter, guardian includes a general or limited guardian of the person, a general or limited guardian of the estate, a special guardian, and a temporary guardian.

"Licensed mental health professional" or **"LMHP"** means:

(A) a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology;

(B) a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions;

(C) a licensed clinical psychologist;

(D) a licensed professional counselor as defined in Section 1906 of Title 59 of the Oklahoma Statutes;

(E) a person licensed as a clinical social worker pursuant to the provisions of Section 1250 et seq. of Title 59 of the Oklahoma Statutes;

(F) a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes;

(G) a licensed behavioral practitioner as defined in Section 1931 of Title 59 of the Oklahoma Statutes; or

(H) an advanced practice nurse as defined in Section 567.3a of Title 59 of the Oklahoma Statutes specializing in mental health.

"Maltreatment" is used collectively in this Subchapter to refer to abuse, neglect, exploitation, mistreatment, sexual abuse or exploitation, and rights violation.

"Minor" means any person under the age of 18 years except any person convicted of a crime specified in Section 7306-1.1 of Title 10 of the Oklahoma Statutes or any person who has been certified as an adult pursuant to Section 7303-4.3 of Title 10 and convicted of a felony.

"Mistreatment" means an act or omission that:

(A) violates a statute, regulation, written rule, procedure, directive, or accepted professional standards and practices;

(B) results in or creates the risk of injury to a consumer; or

(C) unintentional excessive or unauthorized use of force.

"Money" means any legal tender, note, draft, certificate of deposit, stock, bond, check or credit card.

"Neglect" means:

(A) the failure of staff to provide adequate food, clothing, shelter, medical care or supervision which includes, but is not limited to, lack of appropriate supervision that results in harm to a consumer;

(B) the failure of staff to provide special care made necessary by the physical or mental condition of the consumer;

(C) the knowing failure of staff to provide protection for a consumer who is unable to protect his or her own interest; or

(D) staff knowingly causing or permitting harm or threatened harm through action or inaction that has resulted or may result in physical or mental injury.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Program of Assertive Community Treatment" or **"PACT"** is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

"Privacy Officer" means the employee of ODMHSAS designated to provide guidance on state and federal privacy laws.

"Program" means a structured set of activities designed and structured to achieve specific objectives relative to the needs of the clients.

"Resident" means a person residing in a residential care facility certified by ODMHSAS.

"Resident committee" or **"Resident government"** means any established group within the facility comprised of residents, led by residents and which meets regularly to address resident concerns to support the overall operations of the facility.

"Residential care facility" or **"RCF"** means any house, home, establishment or institution licensed pursuant to the provisions of the Oklahoma Residential Care Home Act 63 O.S., §§ 1-819 through 1-840, other than a hotel, fraternity or sorority house, or college or university dormitory, which is certified pursuant to 43 O.S. § 3-315 as a Community Residential Mental Health Facility and offers or provides residential accommodations, food service and supportive assistance to its residents or houses any resident requiring supportive assistance that are ambulatory, essentially capable of managing their own affairs and not routinely requiring nursing care or intermediate care.

"Restraint" refers to manual, mechanical and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

"Seclusion" means the placement of an individual or individuals alone in a room or other area from which egress is prevented by a physical barrier.

"Sexual abuse" includes:

(A) rape, incest, or lewd and indecent acts or proposals, as defined by state law, by staff;

(B) oral, anal or vaginal penetration of a consumer by staff;

(C) the anal or vaginal penetration of a consumer by staff with any other object; or

(D) for the purpose of sexual gratification, the touch, feeling or observation of the body or private parts of a consumer by staff; or

(E) indecent exposure by staff providing services to the consumer.

"Sexual exploitation" by staff with regard to a consumer includes:

(A) staff allowing, permitting or encouraging a consumer to engage in sexual acts with others or prostitution, as defined by state law, which results in harm to a consumer; or

(B) staff allowing, permitting, encouraging, or engaging in the lewd, obscene or pornographic photographing, filming or depicting of a consumer in those acts as defined by state law.

~~**"Shelter services"** means a cooperative living arrangement in a secure residential setting with counseling provided by qualified staff, or support and client advocacy for victims of domestic violence and their dependents.~~

"Staff" means an agent or employee of a public or private institution or facility responsible for the care of a client or consumer and providing services to the client or consumer.

~~**"Transitional living services"** means housing maintained and operated by a certified domestic violence and sexual assault program.~~

"Treatment Advocate" is a family member or other concerned individual designated by a consumer to participate in treatment and discharge planning, and acts in the best interest of and serves as an advocate for the consumer.

"Verbal Abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions or behaviors by staff that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation.

SUBCHAPTER 3. CONSUMER RIGHTS

PART 1. MENTAL HEALTH AND DRUG OR ALCOHOL ABUSE SERVICES CONSUMER BILL OF RIGHTS

450:15-3-2. General rights statement

(a) Consumers of mental health or drug or alcohol abuse services shall retain all rights, benefits and privileges guaranteed by the laws and Constitution of the State of Oklahoma and the United States of America, except those specifically lost through due process of law.

(b) Each consumer has the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect ~~for individual dignity~~.

(c) Each consumer has the right to a safe, sanitary, and humane living enviroment.

(d) Each consumer has the right to a humane psychological environment protecting them from harm, abuse, and neglect.

(e) Each consumer has the right to services suited to his or her conditions and needs for treatment without regard to his or her race, religion, gender, sexual orientation ethnic origin, age, degree of disability, handicapping condition, legal status.

(~~e~~f) In addition to the rights described in (a) through (d) of this Section, all persons receiving mental health or drug or alcohol abuse services shall have the rights guaranteed by this Part, referred to as the Mental Health and Drug or Alcohol Abuse Services Bill of Rights, unless an exception is specifically authorized by this Part or an order of a court of competent jurisdiction.

450:15-3-14. Right to treatment

(a) Each consumer shall be provided with prompt, competent and appropriate individualized treatment that offers the consumer a realistic prospect of improvement. Consumers who have problems in multiple domains shall be provided with appropriately integrated attention to all of their needs within the context of the treatment program. Each consumer shall be afforded treatment by sufficient numbers of duly qualified facility personnel that meet applicable licensing or certification or accreditation standards and conform to applicable rules of ODMHSAS.

(b) Each consumer or his or her legal guardian shall have the opportunity to be involved in the consumer's treatment. An individual of the consumer's choice shall have the opportunity to be involved in the consumer's treatment with the consent of the consumer.

(c) Each consumer shall be free from unnecessary, inappropriate or excessive medication. Medications shall not be used for convenience of staff, to punish, or as a substitute for a treatment program.

(d) If the consumer is involuntarily committed, consideration shall also be given to whether the conditions that resulted in the consumer's commitment still exist.

(e) Each consumer shall be informed of his or her proposed and ongoing treatment, including participation in his or her treatment plan and of the reasonable expectations and consequences of his or her following or not following the plan.

(f) Each consumer who has a co-occurring disorder shall receive services for those disorders. No program shall deny services to a consumer for any disorder solely because that consumer is displaying symptoms of, or receiving treatment for a co-occurring disorder of another type.

(~~f~~g) Each consumer is entitled to receive a thorough treatment plan update to determine the value and appropriateness of the present care and treatment being received, and the necessity of continuing the consumer's care in the facility rather than in a less restrictive environment outside the facility.

(~~g~~h) Each consumer shall be informed of said rights including the right of each consumer voluntarily admitted to refuse treatment and the qualified right of an involuntary consumer to refuse treatment, which shall be noted in the consumer's record.

(~~h~~i) Each consumer shall be informed of the benefits, risks (including side effects, both long and short term) of medications prescribed.

(~~i~~j) In the presence of a significant change in the consumer's condition which creates an emergency condition and danger to the consumer or to others, the attending physician may order necessary treatment for the consumer without obtaining informed consent. The circumstances constituting the emergency condition shall be documented in the consumer's record.

(~~j~~k) Each consumer has the right to know why services are refused and the program shall provide a written explanation concerning the reason he or she was refused certain services.

(l) Each consumer shall not be subject to unnecessary, inappropriate or unsafe termination from treatment. Discharge shall not take place as punishment for displaying symptoms of the consumer's disorder.

450:15-3-16. Rights regarding medication and treatment during pre-screening detention

(a) During the detention periods authorized by 43A O.S. § 5-204 or during the time set forth for emergency examination, appropriate treatment and medication including psychotropic medications, may be administered to a consenting individual.

(b) If a consumer refuses medication and constitutes a risk of harming self or others, then it is the physician's responsibility to initiate emergency detention or involuntary commitment pursuant to 43A O.S. §§ 5-206, et seq.

(c) Treatment and medication may be administered to a non-consenting individual under the following conditions pursuant to43A O.S. § 5-204:

(1) upon a written order of a physician who has personally examined the consumer; and

(2) who finds an emergency exists wherein such medication or treatment is necessary to protect the consumer, the facility, or others from serious bodily harm; and

(3) who so notes the emergency in the individual's medication record, with an explanation of the facts leading up to the decision to administer treatment and medication, including psychotropic medication. Use of involuntary medication shall not continue beyond the emergency unless either the consumer consents or the consumer is declared legally incompetent and the guardian consents.

(d) ~~Seclusion and restraint may be administered to a non-consenting individual upon the written order of a physician who has personally examined the patient and who finds that seclusion or restraint is necessary to protect the patient, the facility, or other persons. The physician shall note in the patient's chart an explanation of the decision to administer seclusion and~~

~~restraint. This shall not prohibit emergency seclusion and restraint pending notification of a physician.~~ Seclusion and restraint may be administered to a non-consenting individual under the following conditions pursuant to 43A O.S. § 5-205:

(1) Upon the written order of a physician who has personally examined the consumer;

(2) Who finds that seclusion or restraint is necessary to protect the consumer, the facility, or other persons.

(3) The physician shall note in the patient's chart an explanation of the decision to administer seclusion and restraint. This shall not prohibit emergency seclusion and restraint pending notification of a physician.

(e) If the person is under the influence of psychotropic medication during any court hearing held pursuant to 43A O.S. § 5-400, the court and the jury, if any, shall be advised by the District Attorney at the beginning of such hearing that such consumer is under the influence of psychotropic medication, the purpose and effect of the medication.

PART 11. RESIDENT RIGHTS, MENTAL HEALTH RESIDENTIAL CARE FACILITIES

450:15-3-81. Resident rights

(a) Each resident shall have and enjoy all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged by due process of law by a court of competent jurisdiction. Each facility shall insure each resident has the rights specified as follows.

(1) Each resident has the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity.

(2) Each resident has the right to a safe, sanitary, and humane living environment.

(3) Each resident has the right to a humane psychological environment protecting them from harm, abuse, and neglect.

(4) Each resident has the right to an environment which provides reasonable privacy, promotes personal dignity, and provides opportunity for the client to improve his or her functioning.

(5) Each resident has the right to receive services suited to his or her condition and needs for treatment without regard to his or her race, religion, ~~sex~~ gender, ethnic origin, age, degree of disability, handicapping condition, legal status, sexual orientation~~, or ability to pay for the services~~.

(6) Each resident, on admission, has the absolute right to communicate his or her change of address with a relative, friend, clergy, or attorney, by telephone or mail.

(7) Each resident shall have and retain the right to confidential communication with an attorney, personal physician, or clergy.

(8) Each resident has the right to uncensored, private communications including, but not limited to, letters, telephone calls, and personal visits. Copies of any personal letter, sent or received, by a resident shall not be kept in his or her clinical record.

(9) No resident shall ever be neglected or sexually, physically, verbally, or otherwise abused.

(10) Each resident has the right to easy access to his or her personal funds on deposit with the facility, and shall be entitled to an accounting for said funds. A limitation on access to such funds may be made when it is determined, and documented, as essential to prevent the resident from unreasonably and significantly dissipating their assets.

(11) Each resident has the right to have his or her own clothing and personal possessions. This right may be forfeited, or limited, only if the personal property is determined to be potentially dangerous to the client, or others, or if the property is determined to be functionally unsafe.

(12) Each resident shall have the right to practice his or her own religious beliefs, and afforded the opportunity for religious worship. No client shall ever be coerced into engaging in, or refraining from, any personal religious activity, practice, or belief.

(13) The records of each resident shall be treated in a confidential manner.

(14) Each resident has the right to refuse to participate in any research project or medical experiment without informed consent of the resident, as defined by law. A refusal to participate shall not affect the services available to the resident.

(15) A resident may voluntarily participate in work therapy, and shall be paid just ompensation for such participation. However, each resident is responsible for personal care and housekeeping tasks without compensation.

(16) The community residential mental health facility shall provide residents who are leaving at the request of the community residential mental health facility all funds and property belonging to him or her at the time of his or her departure.

(17) Each resident shall have the right to establish and to participate in a resident committee or resident government.

(18) Each resident has the right to assert grievances with respect to any alleged infringement of these stated rights of residents, or any other subsequently statutorily granted rights.

(19) No resident shall ever be retaliated against, or subject to, any adverse conditions because of having asserted his or her rights as aforestated in this section.

(b) Each affected facility shall have written policy and implementing procedures, and shall provide documented staff training to insure the implementation of each and every resident right stated in this section.

(c) Each affected facility shall have written policy and implementing procedures to insure each resident enjoys, and has explained to him or her, these rights; and these rights are visibly posted in both resident and public areas of the facility.

(d) The ODMHSAS Office of Consumer Advocacy, in any investigation or monitoring shall have access to residents, RCF records and RCF staff as set forth in OAC 450:15-7-3.

450:15-3-82. Resident right to fee information

To insure that the residents have access to the information pertaining to RCF's fee schedule, each resident shall have access to written information about the RCF's fee schedule. The RCF shall provide a written description of the services provided by the RCF, the rates charged for these services, and items for which a resident may be separately charged to each resident annually or when changes occur. THE RCF shall obtain and document in writing the resident's consent prior to their accrual. This policy shall also be available to those individuals who are seeking service. This information shall be visibly posted.

SUBCHAPTER 7. OFFICE OF CONSUMER ADVOCACY

PART 1. DUTIES

450:15-7-3. Advocate General

The Advocate General shall be an attorney appointed by the Board. He or she is responsible for the Office of Consumer Advocacy and coordinates its system-wide implementation. The Advocate General shall have the following powers and:

(1) To serve as an advocate for consumers. If a consumer needs legal counsel, the Advocate General shall advise the consumer of his or her right to seek counsel and refer the individual to counsel, if necessary.

(2) To supervisory personnel assigned to the Office of Consumer Advocacy.

(3) To monitor and review grievance procedures in facilities operated by, subject to certification by or under contract with the Department.

(4) To investigate unresolved grievances and allegations of improper treatment of individuals receiving services from facilities operated by, subject to certification by or under contract with the Department.

(5) To access facilities operated by, subject to certification by or under contract with the Department. Reasonable access shall be granted for the purposes of conducting investigations of abuse, neglect and improper treatment and performing other activities as necessary to monitor care and treatment provided by such facilities. These investigations may be unannounced and or unscheduled as determined by the Advocate General.

(6) To access and copy necessary ~~the~~ records of individuals receiving services from facilities operated by, subject to certification by or under contract with the Department. Records that are confidential under state and federal law shall be maintained as confidential and not be redisclosed by the Advocate General.

(7) To submit a report of the results of investigations of abuse to the appropriate district attorney, licensing board and, if the individual is a juvenile in the custody of a state agency, submit a report to that state agency.

(8) Make recommendations to Commissioner and provide regular or special reports regarding investigations and unresolved grievances to the Commissioner and Board.

(9) To perform other duties as assigned by the Board.

PART 2. INVESTIGATIONS

450:15-7-11. Responsibilities

During the investigative process, an individual accused of maltreatment of a consumer shall:

(1) Be available for interviews and accommodate the Advocate in scheduling of interviews;

(2) Refrain from any action which interferes with the investigation, including any action which intimidates, threatens, or harasses any person who has or may provide information relating to the allegation; and

(3) Provide pertinent information and respond fully and truthfully to questions asked.

(4) Refrain from intentionally misdirecting investigator by falsehoods or omissions.

450:15-7-15. Investigative report and findings

(a) After completing the information-gathering portion of the investigative process, the Advocate shall prepare a written investigative report minimally containing:

(1) The allegation(s) made to the Office of Consumer Advocacy, the location of the alleged incident(s), and the assigned Office of Consumer Advocacy case number;

(2) A statement of any injuries sustained by the alleged victim(s);

(3) The applicable definition(s) of the type of maltreatment at issue such as abuse, neglect, exploitation, or mistreatment;

(4) The finding(s) in accordance with subsection (b) of this Section;

(5) A list of the involved parties, their titles and role in the matter, if they were interviewed and, if so, when and if interviewed face to face or by telephone;

(6) The name, address, and telephone numbers of any interpreter used during the investigation;

(7) An explanation of the basis for the finding(s);

(8) Any areas of concern relating to the referral identified during the investigation regarding that facility, that provider, or practices or procedures which have implications for the safety, health, or welfare of clients;

(9) A list of relevant documents and records reviewed during the investigation; and

(10) A list of attachments to the report.

(b) The investigative finding options are:

(1) **"Supported"** which means the available information establishes that it is more likely than not that the alleged maltreatment occurred;

(2) **"Unsupported"** which means the available information established that it is unlikely that the alleged maltreatment occurred; or

(3) **"Unable to support"** which means the available information was not sufficient to establish whether or not the alleged maltreatment occurred.

(c) Except as otherwise specifically provided in this section and as otherwise provided by state or federal laws, the information, records, materials and reports related to investigations by the Office of Consumer Advocacy are confidential and contain privileged information. Accordingly, such records, materials and reports shall not be open to public inspection nor their contents disclosed nor shall a subpoena or subpoena duces tecum purporting to compel disclosure of such information be valid pursuant to 43A O.S.§1-109(C).

(d) An order of the court authorizing the inspection, release or disclosure of information, records, material and reports related to investigations by the Office of Consumer Advocacy shall be entered by a court only after a review of the records and a determination, with due regard for confidentiality of the information and records and the privilege of the persons identified in the records that a compelling reason exists, any applicable privilege has been waived and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

(e) The Office of Consumer Advocacy shall provide results of investigations as follows:

(1) A copy of the final Office of Consumer Advocacy investigation report shall be sent to the executive director of a ODMHSAS operated facility.

(2) A summary of the allegation and finding shall be sent to the executive director of a state certified or contract facility.

(3) When an executive director is named as an individual accused of maltreatment of a consumer in the allegation, the Office of Consumer Advocacy shall forward a summary of the investigative report to the chair of the board of directors of the facility.

(4) A copy of all Office of Consumer Advocacy reports shall be sent to the ~~Provider Certification~~ Legal Division of the ODMHSAS.

(5) A summary of the allegations and finding shall be provided to the Board and a copy of the report shall be provided upon request of the Board.

(6) The Department or the Office of Consumer Advocacy may summarize the outcome of an investigation, stating the allegation and the finding. The summary may be provided to the person suspected of the abuse, neglect or improper treatment, the person subject to alleged abuse, neglect or improper treatment, the person who reported an allegation, and the executive director of a facility certified by or under contract with the Department at which the alleged abuse, neglect, or improper treatment occurred.

(f) The Office of Consumer Advocacy shall maintain the original report, supporting documents, and pertinent recorded tapes in locked file cabinets in accordance with the applicable ODMHSAS records management and disposition plan.

[OAR Docket #06-649; filed 4-17-06]

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

[OAR Docket #06-650]

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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]
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ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 16 are part of the Department's review of Title 450. These proposed amendments are intended to clarify certification requirements, delete redundant or superfluous language, and correct scrivener's errors.
CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-6765.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

450:16-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a caretaker responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a caretaker responsible for providing these services to a resident.

"ADL" means activities of daily living.

"Administrator" means the person who is in charge of a community residential mental health facility and who devotes at least one-third (1/3) of his or her full working time to on-the-job supervision of the community residential mental health facility.

"Adults who have a serious mental illness" are persons eighteen (18) years of age or older who meet the following criteria:

(A) Currently or at any time during the past year have had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet criteria specified within DSM-IV with the exception of "V" codes, substance abuse disorders, and developmental disorders, unless they co-occur with another diagnosable serious mental illness; AND

(B) Based on a client assessment scale, has at least moderate to severe impairment in the following areas:

(i) Feeling, mood and affect,
(ii) Thinking,
(iii) Family relationships,
(iv) Interpersonal skills,
(v) Role performance,
(vi) Socio-legal, or
(vii) Self care/basic needs.

"Clubhouse" means a psychiatric rehabilitation program currently certified as a Clubhouse through the International Center for Clubhouse Development (ICCD).

"CMHC" means community mental health center.

"Continuity of care agreements" means an agreement between the community residential mental health facility and providers of critical and comprehensive community based behavioral health services, including but not limited to a provider of inpatient behavioral health care and a local provider of community-based behavioral health services. Continuity of care agreements shall specify the responsibility of each entity related to assuring continuous and coordinated care on behalf the residents.

"Co-occurring disorder" means any combination of mental health and substance abuse symptoms or diagnosis in a resident.

"Corporal punishment" means any physical punishment including, but not limited to punching, slapping, kicking, spanking, or whipping.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the community residential mental health facility or the routine care of a resident. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to residents, staff and visitors; medication errors; residents that are absent without leave (AWOL); neglect or abuse of a resident; fire; unauthorized disclosure of information; damage to or theft of property belonging to a resident or the community residential mental health facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Direct care staff" means any staff member who, in the performance of his or her routine duties has contact with residents and is required to meet the training requirements for community residential mental health staff as listed in the "Standards and Criteria for Community Mental Health Residential Facilities".

"Enhanced residential care facility" means a community residential mental health facility meeting all statutory and regulatory requirements of the ODMHSAS and OSDH and which specifically serves only "Adults who have a serious mental illness" who cannot be accommodated in a non-enhanced community residential mental health facility.

"General psychosocial rehabilitation program" or **"PSR"** means a type of psychiatric rehabilitation program which focuses on long term recovery and maximization of self-sufficiency, role function and independence. General psychosocial rehabilitation programs may be organized within a variety of structures which seek to optimize the participants' potential for occupational achievement, goal setting, skill development and increased quality of life.

"Health care services" means services provided by health care professionals and includes, but is not limited to dentists, optometrists, and podiatrists.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, client profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and clients that provide the ability to monitor the course of client services throughout the statewide ODMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, community residential mental health facilities, prevention programs, and centers for the homeless which are operated or funded in part by ODMHSAS.

"Medication administration technician course" is an educational program from an institute of higher learning which has been reviewed and approved by the OSDH pursuant to 310:680-11-1 and affords the student a certificate of training in the administration of medication and measuring and documenting vital signs.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1) (a) and maintained in the Office of Administrative Rules.

"OSDH" means Oklahoma State Department of Health.

"Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs, or general supervision of the physical and mental well-being of a person who is currently unable to maintain a private, independent residence, or who has limited abilities in the managing of his or her person, whether or not a guardian has been appointed for such person.

"Registered/licensed dietitian" means a person who is registered as a dietitian by the American Dietetic Association and licensed by the Oklahoma Board of Medical Licensure and Supervision.

"Resident" means a person residing in a residential care facility certified by ODMHSAS.

"Resident committee" or **"Resident government"** means any established group within the facility comprised of residents, led by residents and meets regularly to address resident concerns to support the overall operations of the facility.

"Residential care facility" or **"RCF"** means any house, home, establishment or institution licensed pursuant to the provisions of the Oklahoma Residential Care Home Act 63 O.S., §§ 1-819 through 1-840, other than a hotel, fraternity or sorority house, or college or university dormitory, is certified pursuant to 43 O.S. § 3-315 as a Community Residential Mental Health Facility and offers or provides residential accommodations, food service and supportive assistance to its residents or houses any resident requiring supportive assistance that are ambulatory, essentially capable of managing their own affairs and not routinely requiring nursing care or intermediate care.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of the individual's body.

"Seclusion" means the placement of an individual or individuals alone in a room or other area from which egress is prevented by a physical barrier.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms or violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Socialization activities" means all activities which encourage interaction and the development of communication, interpersonal, social and recreational skills, and can include client education.

"Special need (persons with)" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf or hard of hearing, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Supportive assistance" means the service rendered to any person which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. The term "supportive assistance" shall not be interpreted or applied so as to prohibit the participation of residents in housekeeping or meal preparation tasks as a part of the written treatment plan for the training, habilitation or rehabilitation of the resident prepared with the participation of the resident, the mental health or drug or alcohol services case manager assigned to the resident and the administrator of facility, or his or her designee. Supportive assistance shall not include medical service.

"Volunteer" means any individual providing direct services to residents, and who is not on the facility's payroll, but fulfills a defined role within the facility. This definition does not include special entertainment/visiting groups

SUBCHAPTER 13. QUALITY OF LIFE

450:16-13-18. Utilization of community resources

(a) The RCF shall provide instruction and assistance in utilization of community resources and activities, such as post office, veteran services, Indian Health Services, health fair, county fair, and church.

(b) In addition, residents should receive instruction and assistance in utilization of primary health resources, and in substance disorder recovery resources such as twelve-step or similar support resources as is appropriate and desired by the resident.

(~~b~~c) Compliance with 450:16-13-18 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events and residents' council minutes.

450:16-13-46. Mental health and substance abuse education

(a) The RCF shall provide or arrange for instruction to residents on at least a quarterly basis regarding psychiatric illnesses and medication, as well as use of and dependence on substances (including nicotine and caffeine) to enable the resident to understand his or her illness and to help residents make better decisions about substance use and psychiatric

treatment management in order to help them achieve recovery goals.

(b) The RCF shall document the dates, topic, attendees, and the speaker(s) or trainer(s) of the instruction.

(c) Compliance with 450:16-13-46 shall be determined by resident, staff, and appropriate CMHC staff interviews; and a review of in-house documentation.

SUBCHAPTER 21. PERSONNEL, STAFFING AND TRAINING

450:16-21-1. Staff orientation

(a) The RCF shall provide new direct care staff with an orientation within thirty (30) days of hire which, at least, consists of instructions on:

(1) Orientation of RCF policies and procedures to include residents' rights, confidentiality, and abuse policy.

(2) Orientation of ODMHSAS standards and criteria for RCF.

(3) Techniques and philosophies which addresses appropriate non-violent intervention and potentially aggressive interpersonal conflicts, staff attitudes which promote dignity and enhanced self-esteem, keys to effective communication skills, verbal and non-verbal interaction and non-violent intervention. This training must be one-hour in length, at a minimum.

(4) Orientation to the RCF policy and services for helping clients with substance use issues, and techniques for facilitating conversations with clients about substance use, as well as assisting them with making better choices and developing skills to implement those choices.

(b) Compliance with 450:16-21-1 shall be determined by a review of staff personnel files; and orientation procedures and materials.

450:16-21-4. Residential care staff training requirements, administrator

(a) The administrator of the RCF shall annually receive a total of twenty-four (24) hours of training credit annually, provided by an Oklahoma institution of higher learning. This training will consist of eight (8) hours of mental health-related subjects, including attention to training regarding co-occurring substance use disorders and intervention strategies; three (3) of the eight (8) hours of mental-health related training must be in techniques and philosophies within a training curriculum that has been pre-approved by the Director of DMHSAS Provider Certification which addresses appropriate non-violent intervention and potentially aggressive interpersonal conflicts, staff attitudes which promote dignity and enhanced self-esteem, keys to effective communication skills, verbal and non-verbal interaction and non-violent intervention; and, sixteen (16) hours required by the OSDH, in addition to CPR (cardiopulmonary resuscitation), and first aid provided by certified instructors.

(b) Compliance with 450:16-21-4 shall be determined by a review of the administrator's personnel file.

[OAR Docket #06-650; filed 4-17-06]

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

[OAR Docket #06-651]

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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
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SUPERSEDED EMERGENCY ACTIONS:
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INCORPORATIONS BY REFERENCE:
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ANALYSIS:
In accordance with the Administrative Procedures Act these proposed rules are part of the Department's review of Title 450. These proposed actions are intended to amend or revoke rules, clarify certification mandates, delete redundant or superfluous language, and correct scrivener's errors. Community mental health center programs provide comprehensive and essential services to citizens throughout the state of Oklahoma. The programs provide a public health service assuring quality and accessible care for persons and their families impacted by mental illnesses. Programs operating without the benefit of monitoring and oversight pursuant to these rules could potentially provide care in unsafe and ineffective manners.
CONTACT PERSON:
Linda Winton, Policy Analyst and Agency Liaison Officer, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-6765.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

450:17-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a staff responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a resident.

"Adults who have a serious mental illness" are persons eighteen (18) years of age or older who meet the following criteria:

(A) Currently or at any time during the past year have had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet criteria specified within DSM-IV with the exception of "V" codes, substance abuse disorders, and developmental disorders, unless they co-occur with another diagnosable serious mental illness; and

(B) Based on a client assessment scale, has moderate impairment in at least four, severe impairment in two or extreme impairment in one of the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Family relationships;
(iv) Interpersonal skills;
(v) Role performance;
(vi) Socio-legal; or
(vii) Self care and basic needs; or

(C) Has duration of illness of at least one year and at least moderate impairment in two, or severe impairment in one of the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Family relationships;
(iv) Interpersonal skills;
(v) Role performance;
(vi) Socio-legal; or
(vii) Self care and basic needs.

"Case management services" means planned linkage, advocacy and referral assistance provided in partnership with a consumer to support that consumer in self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a treatment plan developed with and approved by the consumer and qualified staff. "Children who have a serious emotional disturbance" are persons under eighteen (18) years of age who meet the following criteria:

(A) Possess a diagnosable, serious disorder under DSM-IV such as pervasive developmental disorder, childhood schizophrenia, schizophrenia of adult-type manifesting in adolescence, conduct disorder, affective disorder, other disruptive behaviors, or other disorders with serious medical implications such as eating disorders, or persistent involvement with alcohol or drugs; and

(B) Based on a client assessment scale, has moderate impairment in at least four, severe impairment in two, or extreme impairment in one in the following areas:

(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Substance use;
(iv) Family relationships;
(v) Interpersonal skills;
(vi) Role performance;

(vii) Socio-legal;
(viii) Self care and basic needs; or
(ix) Caregiver resources; or

(C) Has duration of illness for at least one year and has a functioning level of moderate impairment in at least two, or severe impairment in one of the following areas:
(i) Feeling, mood and affect;
(ii) Thinking;
(iii) Family relationships;
(iv) Interpersonal skills;
(v) Role performance;
(vi) Socio-legal; or
(vii) Self care and basic needs.

"Chronic Homelessness" refers to an individual with a disabling condition who has either: (a) been continuously homeless for a year or more, or (b) has had at least 4 episodes of homelessness in the past 3 years. For this condition, the individual must have been on the streets or in an emergency shelter (i.e. not transitional housing) during these episodes. Chronic homelessness only includes single individuals, not families. A disabling condition is a diagnosable substance abuse disorder, serious mental illness, or developmental disability, including the co-occurrence of two or more of these conditions.

"Creating A Positive Environment" or **"CAPE"** means a specific curriculum designed by ODMHSAS to train staff in verbal and non-verbal communication techniques in the management of selected and potentially problematic behaviors and to foster attitudes that promote the consumer's dignity and self-esteem in facility treatment settings.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Clubhouse" means a psychiatric rehabilitation program currently certified as a Clubhouse through the International Center for Clubhouse Development (ICCD).

"Community living programs" means a range of supportive housing options for persons not in crisis who need assistance with obtaining and maintaining an independent living situation and may include transitional housing and permanent supported housing.

"Community mental health center" or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consumer" means an individual, adult or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer advocacy" includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

"Consumer committee" or **"consumer government"** means any established group within the facility comprised of consumers, led by consumers and meets regularly to address consumer concerns to support the overall operations of the facility.

"Co-occurring disorder" means any combination of mental health and substance abuse symptoms or diagnoses in a consumer.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to individuals with co-occurring disorders.

"Crisis Intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are mentally ill.

"Crisis stabilization" means emergency, psychiatric, and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, referral provided in a ODMHSAS certified facility having nursing and medical support available.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"DSM" means the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination and a determination that emergency detention is warranted for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Facility" means community mental health center.

"General psychosocial rehabilitation" or **"PSR"** means a type of psychiatric rehabilitation program which focuses on long term recovery and maximization of self-sufficiency, role function and independence. General psychosocial rehabilitation programs may be organized within a variety of structures which seek to optimize the participants' potential for occupational achievement, goal setting, skill development and increased quality of life.

"Hard of hearing" is any degree of hearing loss which interferes with the individual's ability to communicate without some form of specialized accommodation which may include, but not be limited to: hearing aids, sign language interpreters, assistive listening devices, or communication through speech reading. The hearing loss of those individuals needing special services may range from mild, 25 to 45 decibels in the better functioning ear, to profound, 90 decibels or more.

"Historical timeline" means a method by which a specialized form is used to gather, organize and evaluate information about significant events in a consumer's life, experience with mental illness, and treatment history.

"Homebased services to children and adolescents" means intensive therapeutic services provided in the home to children for the purpose of reduction of psychiatric impairment and preventing removal of the child to a more restrictive setting for care. Services include a planned combination of procedures developed by a team of qualified mental health professionals, including a physician.

"Homeless" refers to a person who is sleeping in an emergency shelter; sleeping in places not meant for human habitation, such as cars, parks, sidewalks, or abandoned or condemned buildings; spending a short time (30 consecutive days or less) in a hospital or other institution, but ordinarily sleeping in the types of places mentioned above; living in transitional/supportive housing but having come from streets or emergency shelters; being evicted within a week from a private dwelling unit and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; being discharged from an institution and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; or is fleeing a domestic violence situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

"Independent living skills, assistance in development of" means all activities directed at assisting individuals in the development of skills necessary to live and function within the community, e.g., consumer education on topics such as hygiene, cooking, budgeting, meal planning, housecleaning and when clinically indicated, side-by-side work with the consumer in a normalized setting and prevocational and vocational activities.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Independent living training" means a supervised place of temporary transitional residence for mental health consumers participating in an independent living training program before moving to a more independent living situation. These facilities are intended for participation by mental health consumers who have recently been released from an institution, and who need short-term training and support before entering an independent living situation.

"Job development services" means strategies which market the CMHC rehabilitation services and assist employers in facilitating the successful employment of individuals with psychiatric disabilities. Marketing, in this context, is defined as an ongoing, continuous approach which enables the rehabilitation unit to identify employer needs, refocus resources and management structures as needed and improve services to consumers and employers which satisfy those needs for the purpose of job development services such as developing long-term relationships between the agency and employers which will lead to more and better job opportunities for persons with psychiatric disabilities.

"Licensed mental health professional" or **"LMHP"** means:

(A) a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology;

(B) a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions;

(C) a licensed clinical psychologist;

(D) a licensed professional counselor as defined in Section 1906 of Title 59 of the Oklahoma Statutes;

(E) a person licensed as a clinical social worker pursuant to the provisions of Section 1250 et seq. of Title 59 of the Oklahoma Statutes;

(F) a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes;

(G) a licensed behavioral practitioner as defined in Section 1931 of Title 59 of the Oklahoma Statutes; or

(H) an advanced practice nurse as defined in Section 567.3a of Title 59 of the Oklahoma Statutes specializing in mental health.

"Linkage" refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CMHC and other providers.

"Medical resident" means a physician who is a graduate of a school of medicine or osteopathy and who is receiving specialized training in a teaching hospital under physicians who are certified in that specialty.

"Medication error" means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1) (a) and maintained in the Office of Administrative Rules.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

"Permanent supported housing" means a permanent residential program for mental health consumers in which the agency facilitates placement of, and provides intensive case management services to, individuals who reside in an apartment or house, either individually or shared, and may include congregate or scattered site housing. Staffs are not required on-site, but are on-call for residents. These facilities are intended for Mental Health consumers who desire and are evaluated as being capable of, living in a house or apartment without on-site supervision.

"Program of Assertive Community Treatment" or **"PACT"** is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological written description of services provided to a consumer and documentation of the consumer's response related to the intervention plan.

"Psychosocial evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Rehabilitation assessment services" means a process utilized to determine the individual's functional work-related abilities and vocational preferences for the purpose of rehabilitation assessment the identification of the skills and environmental supports needed by the individual in order to function more independently in an employment setting, and to determine the nature and intensity of services which may be necessary to obtain and retain employment.

"Resident" means a person residing in a community living program certified by ODMHSAS.

"Residential treatment" means a structured, 24-hour supervised treatment program for individuals who are mentally ill with a minimum of twenty-one (21) hours of therapeutic services provided per week with the emphasis on stabilization and rehabilitation for transfer to a less restrictive environment. Stay in the program is time limited.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms or violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Serious Emotional Disturbance" or **"SED"** means a child from birth to eighteen years of age who does not have a primary diagnosis of a developmental disorder(s) and meets the following criteria:

(A) possesses a diagnosable, serious disorder under DSM-IV such as pervasive developmental disorder, childhood schizophrenia, schizophrenia of adult-type manifesting in adolescence, conduct disorder, affective disorder, other disruptive behaviors, or other disorders with serious medical implications such as eating disorders, or persistent involvement with alcohol or drugs; and

(B) has a functioning level which includes: a moderate impairment in at least four; severe impairment in two; or extreme impairment in one of the following areas; OR has an illness with a duration of at least one year and has a functioning level of moderate impairment in at least two; or a severe impairment in one of the following areas:

(i) Feeling, mood and affect include: an uncontrolled emotion that is clearly disruptive in its effects on other aspects of a child's life; frustration, anger, loneliness and boredom persist beyond the precipitating situation; and symptoms of distress are pervasive and do not respond to encouragement or reassurance;

(ii) Thinking processes include: daily life is disrupted due to impaired thoughts and thinking process; an inability to distinguish between fantasy and reality exists; and unusual thoughts or attachments to objects are present;

(iii) Substance use includes: frequent difficulties due to substance use and repeated use of substances causing difficulty at home or in school;

(iv) Family situation includes: disruption of family relationships or family does not function as a unit and experiences frequent turbulence; relationships that exist are psychologically devastating; the child does not have family support and is abused or neglected;

(v) Interpersonally the child will: have a severe inability to establish or maintain a personal social support system; lacks close friends or group affiliations; is socially isolated; and lacks age appropriate social skills;

(vi) Role performance consists of: frequent disruption of role performance and the individual is unable to meet usual expectations; has persistent behavior problems; and has failure, or been suspended or expelled from school;

(vii) Socio-legal issues include: inability to maintain conduct within the limits prescribed by law, rules and strong mores; shows little concern for consequences of actions; and delinquent acts or frequent contact with law enforcement exists;

(viii) Self care and basic needs are such that the ability to care for self is considerably below expectation; or

(ix) Caregiver resources are: the caregiver has difficulties in providing for the child's basic needs; or the developmental needs are such that there is a negative impact on the child's level of functioning.

"Service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance abuse services [43A O.S. §3-302(1)].

"Socialization" means all activities, which encourage interaction and the development of communication, interpersonal, social and recreational skills and can include consumer education.

"Special need, persons with" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf or hard of hearing, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Supervised housing programs" means a temporary or permanent residential program for mental health consumers, in which the consumer resides in one of a group of apartments. These facilities are intended for use by mental health consumers who desire and are evaluated as being capable of living in an apartment setting, without on-site staff.

"Supportive services" refers to assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

"Transitional housing program" means a type of Community Living Program in which the consumer's stay in the residence is considered temporary and time-limited in nature. The actual program model may include a range of approaches, including but not limited to independent living programs and supervised housing programs.

"Vocational placement services" means a process of developing or creating an appropriate employment situation matched to the functional abilities and choices of the individual for the purpose of vocational placement services such as the identification of employment positions, conducting job analysis, matching individuals to specific jobs, facilitating job expansion or advancement and communicating with employers about training needs.

"Vocational preparation services" means services that focus on development of general work behavior for the purpose of vocational preparation such as the utilization of individual or group work-related activities to assist individuals in understanding the meaning, value and demands of work; to modify or develop positive work attitudes, personal characteristics and work behaviors; to develop functional capacities; and to obtain optimum levels of vocational development.

"Volunteer" means any person who is not on the program's payroll, but provides direct services and fulfills a defined role within the program and includes interns and practicum students.

SUBCHAPTER 3. REQUIRED SERVICES

PART 1. REQUIRED SERVICES

450:17-3-1. Required core services

The services in this subchapter are core services, ~~and~~ are required of each CMHC, and are required to be provided in a co-occurring capable manner.

PART 3. SCREENING INTAKE AND REFERRAL

450:17-3-21. Screening intake and assessment services

(a) CMHC policy and procedure shall require a comprehensive assessment of each consumer's service needs is completed in a timely manner. Screening and intake should maximize recognition of the prevalence of co-occurring disorders among those who typically present for services at a Community Mental Health Center.

(b) Screening and intake services shall include a complete assessment of each consumer to determine clinical needs. This shall include but not be limited to an assessment of the following areas and needs:

(1) Behavioral, including substance use, abuse, and dependence;

(2) Emotional;

(3) Physical;

(4) Social and recreational; and

(5) Vocational.

(c) The consumer and family as appropriate shall be an active participant(s) in the intake and assessment process.

(d) The CMHC shall have policy and procedures specific to each program service which dictate timeframes by when assessments must be completed and documented. In the event the consumer is not admitted and as a result the assessment is not included in the clinical record, the policy shall specify

how screening and assessment information is maintained and stored.

(e) Compliance with 450:17-3-21 shall be determined by a review of clinical records, and policy and procedures.

PART 5. EMERGENCY SERVICES

450:17-3-41. Emergency services

(a) CMHCs shall provide, on a twenty-four (24) hour basis, accessible co-occurring disorder capable emergency services for substance abuse and/or ~~for~~ psychiatric emergencies.

(b) This service shall include the following:

(1) 24-hour assessment and evaluation, including emergency examinations;

(2) Availability of 24-hour inpatient referral;

(A) CMHC staff shall be actively involved in the emergency services and referral process to state-operated psychiatric inpatient units.

(B) Referral to state-operated psychiatric inpatient units by the CMHC shall occur only after all other community resources are explored with the individual and family if family is available and the consumer gives written consent for release.

(C) Prior notification to the state-operated psychiatric inpatient unit of all referrals from CMHCs is required.

(3) Availability of assessment and evaluation in external settings.

(4) Referral services, which shall include actively working with local sheriffs and courts regarding the appropriate referral process and appropriate court orders (43A O.S. §§ 5-201 through 5-407);

(5) CMHCs serving multiple counties shall provide or arrange for on-site assessment of persons taken into protective custody [43A O.S. §5-06(5)] in each county;

(6) The CMHC's emergency telephone response time shall be less than fifteen (15) minutes from initial contact, unless there are extenuating circumstances;

(7) Face-to-face assessment; and

(8) Intervention and resolution.

(b) Compliance with 450:17-3-41 shall be determined by a review of policy and procedures, and clinical records.

450:17-3-43. Emergency examinations, staffing

(a) Staff providing emergency examinations shall be an LMHP as defined in 43A O.S. § 1-103 and meet the CMHC's privileging requirements for the provision of emergency services, which shall include core competency in emergency evaluation of co-occurring disorders.

(b) Compliance with 450:17-3-43 shall be determined by a review of clinical privileging records and personnel records.

PART 7. OUTPATIENT COUNSELING SERVICES

450:17-3-61. Outpatient counseling services

(a) Facilities that provide outpatient services shall offer a range of co-occurring disorder capable services to consumers based on their needs regarding emotional, social and behavioral problems. These outpatient counseling services shall be provided or arranged for, and shall include, but not be limited to the following:

(1) Individual counseling;

(2) Group counseling;

(3) Marital or family counseling;

(4) Psychological/psychometric evaluations or testing; and

(5) Psychiatric assessments.

(b) Compliance with 450:17-3-61 shall be determined by a review of written policy and procedures; clinical records; and ICIS data reported by facilities.

450:17-3-62. Outpatient counseling services, substance abuse

(a) Facilities shall provide co-occurring disorder capable outpatient substance abuse counseling services.

(b) These services shall include the provision of Human Immunodeficiency Virus (HIV) education, training, and counseling services for drug dependent persons (43A O.S. § 3-425.1), and every facility shall:

(1) Provide educational sessions regarding HIV to such persons, and also make the sessions available to spouses or other sexual partners of the drug dependent person; and

(2) Refer all drug dependent persons for HIV infection testing and counseling.

(c) The HIV testing and counseling may be provided by the facility, or through a public or private organization for the testing or counseling services. All test results shall be maintained in the confidential manner prescribed by applicable state or federal statutes or regulations.

(d) Compliance with 450:17-3-62 shall be determined by a review of the following: written policy and procedures; substance abuse consumer records; and other supporting facility records and documentation.

PART 9. MEDICATION CLINIC SERVICES

450:17-3-81. Medication clinic services

(a) Medication clinic services shall include an assessment of each individual's condition and needs; and an assessment of the effectiveness of those services.

(b) Medication clinic services shall be co-occurring capable and shall utilize accepted practice guidelines for psychopharmacologic management of co-occurring disorders.

(~~b~~c) CMHCs shall offer comprehensive medication clinic services to consumers in need of this service, including, but not limited to:

(1) Prescribing or administering medication, including evaluation and assessment of the medication services provided.

(2) Medication orders and administration:

(A) Only licensed staff physicians, medical residents or consultant physicians shall write medication orders and prescriptions.

(B) A list of those physicians authorized to prescribe medications shall be maintained and regularly updated.

(C) A list of licensed staff members authorized to administer medications shall be maintained and regularly updated.

(3) Physician's assistants and nurse practitioners may write medication orders, or prescriptions consistent with state and federal law.

(c) Compliance with 450:17-3-81 shall be determined by on-site observation and a review of the following: clinical records, written policy and procedures, and roster of licensed, credentialed staff.

450:17-3-84. Availability of medications in a CMHC's community living setting

(a) This standard applies to a CMHC's residential program(s) not having on-site medical staff.

(b) The CMHC shall have policy and procedures governing consumer access to medications and shall include, at least, the following items:

(1) Non-medical staff and volunteers shall not dispense or administer medication;

(2) Medication shall be not withheld from consumers for whom it is prescribed, for non-medical reasons. There shall be policies governing the provision of medication to clients who are actively using substances at the time of their dosage, which document how to determine which medications should continue to be provided, and which medications should be withheld or postponed.

(3) Prescribed medication shall be stored in a non-resident area that shall be kept locked, except those medications which may be needed by the consumer on an emergency basis;

(4) Only medication and medical supplies shall be stored in a non-resident area apart from the medication storage area.

(5) Consumers in non-medical settings shall keep a log of all self-administered medications.

(c) Compliance with 450:17-3-84 shall be determined by on-site observation; and a review of the following: clinical records, medication logs, and policy and procedures.

PART 11. CASE MANAGEMENT

450:17-3-101. Case management services, adult

(a) Case management efforts shall empower consumers to access and use needed services and meet self-determined goals. These services include resource skills development and consumer advocacy ~~and rehabilitation services~~ provided in various settings based on consumer need.

(b) Case management services shall be co-occurring disorder capable and made available to all adults who have a serious mental illness, and shall provide the following:

(1) Screening to determine their need for case management services, which
shall include evidence the following were evaluated:

(A) Consumer's level of functioning within the community;

(B) Consumer's job skills and potential;

(C) Client strengths and resources;

(D) Consumer's present living situation and support system;

(E) Consumer's use of substances and orientation to changes related to substance use;

(F) Consumer's medical and health status; and,

(~~E~~G) Consumer's needs or problems which interfere with the ability to successfully function in the community;

(2) Emergency services and emergency assistance; and

(3) Service planning and monitoring, which shall address issues and problems identified in the consumer evaluation and shall also:

(A) Incorporate needed referral sources to address identified consumer needs;

(B) Be developed jointly between the case manager and the consumer;

(C) Address the frequency of case management services specified in the treatment plan; and

(D) Be incorporated into the treatment plan and monitored at least every six (6) months.

(c) Compliance with 450:17-3-101 shall be determined by on-site observation and a review of the following: clinical records, and written policy and procedures.

450:17-3-101.1. Case management services, child, adolescent and family

(a) Case management services shall be co-occurring disorder capable and offered to children and their families to assure access to needed services. This includes referral, linkage and advocacy. These services may be offered to any child or family who presents for service at a community mental health center but must be offered to a child identified as Seriously Emotionally Disturbed. Services should be offered in a manner that engages families in intervention strategies which promote healthy decisions regarding substance use in order to promote healthy support for the presenting child.

(b) The case manager shall know the local available services, the procedures and criteria for assessing local services. The case manager shall act as an advocate for the child and family in obtaining needed community resources, including coordination of efforts with the child's school.

(c) The case manager shall develop a case management service plan based on the needs of the child and family.

(d) The case management services shall be specified in the child's case management service plan. The inability to make face-to-face contact shall be documented in the child's case record.

(e) Compliance with 450:17-3-101.1 shall be determined by review of case records of consumers, and their families, receiving juvenile case management services.

450:17-3-103. Case management services for the hospitalized consumer and consumers in substance abuse treatment facilities

(a) Case managers shall maintain contact with hospitalized consumers and consumers in any level of substance abuse treatment. Individuals in an inpatient psychiatric unit setting shall be provided face-to-face case management assessment upon discharge. This shall occur as soon as possible, but shall not exceed one (1) week post-discharge.

(b) Case managers from the CMHC to which the consumer will be discharged shall assist the consumer and psychiatric inpatient unit and/or substance abuse treatment facility with discharge planning for consumers returning to the community.

(c) Each CMHC shall assign at least one (1) staff member who is responsible for linkage between psychiatric inpatient unit and/or the substance abuse treatment facility and the CMHC. Linkage shall include, but not be limited to, the following activities, pursuant to appropriately signed releases and adherence to applicable privacy provisions:

(1) Regular visits or communication with the psychiatric inpatient unit and/or substance abuse treatment facility to monitor progress of those consumers hospitalized and/or in facility-based substance abuse treatment from the CMHC's service area.

(2) Attendance at meetings established for the purpose of improving communication and coordination between the inpatient unit and/or substance abuse treatment facility and the CMHC.

(3) Provide knowledge and communication to other CMHC staff regarding psychiatric inpatient unit admission and/or substance abuse treatment facility and discharge procedures.

(d) Compliance with 450:17-3-103 shall be determined by a review of the following: clinical records; staff interviews; information from ODMHSAS operated psychiatric inpatient unit; substance abuse treatment facilities; meetings minutes (CMHC or state-operated psychiatric inpatient unit); and a review of a minimum of ten (10) clinical records of consumers hospitalized or receiving facility-based substance abuse treatment within the past twelve (12) months.

PART 15. ADULT RECOVERY AND REHABILITATION PROGRAMS

450:17-3-141. Psychiatric rehabilitation programs

(a) This section governs day programs for persons living with serious mental illness. These standards reflect two recovery focused programs: General psychosocial rehabilitation model (PSR) and Clubhouse model.

(b) The CMHC shall provide either, or both, the PSR model or Clubhouse model. CMHC policy and procedures shall reflect that these models incorporate the following core principles:

(1) Recovery is the ultimate goal of psychiatric rehabilitation. Interventions must facilitate the process of recovery.

(2) Psychiatric rehabilitation practices help people re-establish normal roles in the community and their integration into community life.

(3) Psychiatric rehabilitation practices facilitate the development of personal support networks.

(4) Psychiatric rehabilitation practices facilitate an enhanced quality of life for each person receiving services.

(5) People have the capacity to learn and grow.

(6) People receiving services have the right to direct their own affairs, including those that are related to their psychiatric disability.

(7) People are to be treated with respect and dignity.

(8) Psychiatric rehabilitation practitioners make conscious and consistent efforts to eliminate labeling and discrimination, particularly discrimination based upon a disabling condition.

(9) Culture and ethnicity play an important role in recovery. They are sources of strength and enrichment for the person and the services.

(10) Psychiatric rehabilitation interventions build on the strength of each person.

(11) Psychiatric rehabilitation services are to be coordinated, accessible, and available as long as needed.

(12) Services are to be designed to address the unique needs of each individual, consistent with the individual's cultural values and norms.

(13) Psychiatric rehabilitation practices actively encourage and support the involvement of persons in normal community activities, such as school and work, throughout the rehabilitation process.

(14) The involvement and partnership of persons receiving services and family members is an essential ingredient of the process of rehabilitation and recovery.

(15) Psychiatric rehabilitation practitioners should constantly strive to improve the services they provide.

(16) Psychiatric rehabilitation programs recognize that co-occurring substance abuse disorders will be common place among many of the participants in these programs. As such, the program shall be co-occurring disorder capable and facilitate processes for dual recovery for these individuals.

(c) Psychiatric rehabilitation programs are required to maintain minimum staff ratios to assure participants have choices in activities and staff with whom they work. The following staffing ratios shall be maintained for each location at which a psychiatric rehabilitation program is in operation.

(1) Ten (10) or fewer participants in attendance; at least one staff member present provided arrangements for emergency back up staff coverage are in place and described in the program's policy and procedures;

(2) Eleven (11) to twenty eight (28) participants in attendance; at least two staff members present; or,

(3) Programs with twenty nine (29) or more participants shall maintain a 14:1 participant-to-staff ratio.

(d) Compliance with 450:17-3-141 shall be determined by on-site observation; interviews with participants; interviews with staff; a review of policy and procedures; and a review of clinical records; or proof of compliance with 450:17-3-146.

450:17-3-144. General psychosocial rehabilitation (PSR)

(a) The PSR shall be designed to provide an array of services that focus on long term recovery and maximization of self-sufficiency, role functioning, and independence as distinguished from the symptom stabilization function of acute care. Program services shall seek to optimize the participant's potential for occupational achievement, goal setting, skill development, and increased quality of life, therefore maximizing the individual's independence from institutional care and supports in favor of community and peer support.

(b) The program shall be open a minimum of five (5) hours per day for at least three (3) days per week.

(c) Proof of completion of orientation in the PSR model shall be kept on file for all program staff members. The CMHC policies and procedures shall document a plan by which employees who are staff members in the PSR program are to be oriented to the PSR model.

(d) Program participants shall be referred to as members, as opposed to patients or clients. Members choose the way they utilize the program. Participation is voluntary; there shall be no artificial reward systems such as, but not limited to, token economy and point systems.

(e) The program shall incorporate the following functions:

(1) **Recovery Orientation.** The service elements include a Recovery oriented treatment plan, member goal setting, employment and educational support services, and a staff philosophy of recovery that permeates all service elements and activities.

(2) **Empowerment Orientation.** The service elements include peer support, leadership skill development, member participation on agency boards, and participation in consumer advocacy groups. All PSR programs shall establish an advisory committee consisting of members and a staff person, which will address issues such as program development and planning, and program problem solving.

(3) **Competency Orientation.** The service elements include curriculum based life skills training (covering self-management of illness, independent living skills, social skills, and work related skills), a multi-dynamic learning approach and an explicit focus on generalization to contexts beyond the immediate learning task and transfer of skills to real life situations. Curricula shall include attention to building decision making capacity and life skills to implement decisions regarding substance use, including nicotine and caffeine, to promote health choices. Decision making should not be mandated abstinence but should be client-centered within the overall context of recovery goals. Service elements also include a work unit~~s~~ component that adheres to the following standards:

(A) Members and staff work side-by-side.

(B) The work completed is work generated by the PSR program. No work for outside individuals or agencies is acceptable.

(C) All work in the PSR program is designed to help members regain self-worth, purpose and confidence; it is not intended to be job specific training.

(D) The program is organized into one or more work units, each of which has sufficient staff, members and meaningful work.

(f) Compliance with 450:17-3-144 shall be determined by on-site observation; interviews with members; interviews with staff; a review of policy and procedures; and a review of clinical records.

SUBCHAPTER 5. OPTIONAL SERVICES

PART 7. DAY TREATMENT SERVICES, CHILDREN AND ADOLESCENTS

450:17-5-34. Day treatment services for children and adolescents

(a) Day treatment services are designed for non-residential consumers who spend only a part of a twenty-four (24) hour period in the program.

(1) Hours of operation shall be held during periods which make it possible for consumers to receive a minimum of three (3) hours of treatment and services each day in the program, excluding time spent in fulfillment of academic educational activities as required by law; days and hours of operation shall be regularly scheduled and conspicuously displayed so as to communicate the schedule to the public; and

(2) Services provided shall be co-occurring disorders capable and include, at a minimum, the following:

(A) Weekly individual therapy, group, and family therapy,

(B) Social skills development through activities which encourage interaction and the development of communications and interpersonal skills,

(C) Integrated attention to decision making and healthy skill building regarding substance use, including nicotine and caffeine.

(~~C~~D) Recreation and leisure activities

(~~D~~E) Emergency services,

(~~E~~F) Habilitation services,

(~~F~~G) Referral to other resources when indicated by treatment goals and objectives; and

(~~G~~H) Provide, or arrange for, academic education as required by state or federal law.

(b) Compliance with 450:17-5-34 shall be determined by on-site observation; and a review of the following: clinical records, policy and procedures, and program descriptions.

PART 9. VOCATIONAL EMPLOYMENT SERVICES

450:17-5-45. Vocational employment services

(a) The vocational employment services program is an identified program within the CMHC that assists in the rehabilitation and support of persons with psychiatric disabilities, which may include but is not limited to the following:

(1) Rehabilitation assessment services;
(2) Vocational preparation services;
(3) Job development services;
(4) Vocational placement services; and
(5) Case management and other supportive services.

(b) If offered by a CMHC, vocational employment services should be co-occurring disorder capable and be available to individuals with co-occurring disorders who are interested in work as a goal, even if they are not yet abstinent.

(~~b~~c) Compliance with 450:17-5-45 shall be determined by on-site observation and a review of the following: organization chart; interagency agreements; written policy and procedures; and contractual agreements.

PART 11. COMMUNITY LIVING PROGRAMS

450:17-5-56. Community living programs

(a) Community living programs shall be co-occurring disorders capable and include at least one of the following two types of supportive housing options for persons not in crisis who need assistance with obtaining and maintaining an independent living situation:
(1) Transitional housing; or
(2) Permanent Supported housing;

(b) A community living program shall have written policies and procedures specifying how, and by whom, the following services shall be performed:
(1) Medical treatment for residents on both emergency and routine bases;
(2) Mental health and substance abuse services on both emergency and routine bases;
(3) Daily living, social and occupational evaluation and progress planning;
(4) Daily living and social skills training;
(5) Occupational and vocational training;
(6) Assistance to residents in locating appropriate alternative living arrangements as clinically indicated or requested by resident or as part of program completion or graduation;
(7) A mechanism for orientation and education of new residents, which shall include, at least:
(A) Emergency procedures including fire, health and safety procedures;
(B) Resident rights and responsibilities; and
(C) Program expectations and rules.
(8) Assistance to residents in accessing community resources including but not limited to rental assistance and other benefits.

(c) There shall be documentation indicating that each resident has received orientation and education on emergency procedures, resident rights and responsibilities, and program expectations and rules.

(d) To ensure a safe and sanitary environment for residents, the following shall apply for all CMHC owned and/or managed housing facilities:
(1) The apartment or house and furnishings shall be in good repair, and free of unpleasant odors, and insect and rodent infestations.
(2) The apartment or house shall contain safe heating and air conditioning systems, which are in proper working conditions. Each apartment or house shall have an annual fire and safety inspection by the State or local Fire Marshal's office.
(3) Apartments or houses shall be inspected by CMHC staff on a regular basis as specified in agency Policy and Procedures to ensure that fire, health or safety hazards do not exist.
(4) The program shall develop and maintain emergency policy and procedures which shall include but are not limited to:
(A) Fire response and evaluations;
(B) Response to other disasters;
(C) Relocation if housing unit(s) become unlivable; and
(D) Personal accident or illness.

(d) Compliance with 450:17-5-56 shall be determined by on-site observation; interviews with residents, program staff, and other appropriate CMHC staff; and a review of facility documentation including a review of the CMHC written policy and procedures and resident records.

PART 15. INPATIENT SERVICES

450:17-5-95. Inpatient services within the community mental health setting

(a) Inpatient services are intended to meet the needs of consumers through evaluation, treatment, and stabilization.

(b) Inpatient services shall be co-occurring disorders capable and include:
(1) Evaluation and diagnostic studies for both mental health and substance abuse disorders;
(2) Intensive care and treatment, including detoxification when required, during acute periods of emotional disturbance or profound crisis;
(3) Initiation and stabilization of psychotropic medication regimen, if indicated;
(4) Other services as defined by needs of individual consumers; and
(5) A multidisciplinary treatment team, including twenty-four (24) hour psychiatric nursing, and a medical staff, shall be employed to meet the broad clinical needs of consumers.

(c) Compliance with 450:17-5-95 shall be determined by a review of the following: CMHC policy and procedures; clinical records; and staffing patterns and clinical privileging.

450:17-5-96. Inpatient services within the community mental health setting, service issues

(a) Policy and procedures for inpatient services shall be established and maintained, addressing service issues within the inpatient unit.

(b) The written policy and procedures shall define and direct:

(1) Admissions including admission and exclusion criteria. (Note: There should be no arbitrary barriers to admission based on substance levels or substance history);
(2) Assessment;
(3) Treatment planning;
(4) Documentation of progress;
(5) Discharge and aftercare planning and implementation;
(6) Follow-up;
(7) Treatment modalities utilized and methods for implementation; and
(8) The provision of services to persons with special needs.

(c) Compliance with 450:17-5-96 shall be determined by a review of the following: written policy and procedures; and by staff interviews.

450:17-5-98. Inpatient services within the community mental health setting, activity services

(a) Activity services shall be provided for consumers of the inpatient services.

(b) These activity services shall:
(1) Meet the social, recreational, physical, health maintenance, and integrated mental health and substance abuse rehabilitative needs of the consumer; and
(2) Be scheduled during day, evening, and weekend hours.

(c) Compliance with 450:17-5-98 shall be determined by a review of the following:
(1) On-site observation;
(2) Personnel files;
(3) Job descriptions;
(4) Records and schedules of the activities provided;
(5) Daily activity schedules; and
(6) Policy and procedures.

SUBCHAPTER 7. FACILITY CLINICAL RECORDS

450:17-7-3. Basic requirements

(a) The CMHC's policies and procedures shall:
(1) Define the content of the consumer record in accordance with 450:17-7-4 through 17-7-9.
(2) Define storage, retention and destruction requirements for consumer records. ODMHSAS operated CMHCs shall comply with the Department's Records Disposition Schedule as approved by the Oklahoma Archives and Records Commission.
(3) Require consumer records be contained within equipment which is maintained under locked, secure measures.
(4) Require legible entries in consumer records, signed with first name or initial, last name, and dated by the person making the entry.
(5) Require the consumer's name be typed or written on each page in the consumer record.
(6) Require a signed consent for treatment before a consumer is admitted on a voluntary basis.
(7) Require a signed consent for follow-up before any contact after discharge is made.

(b) Compliance with 450:17-7-3 shall be determined by a review of the following: facility policy, procedures or operational methods; clinical records; other facility provided documentation; and PI information and reports. A CMHC may propose administrative and clinical efficiencies through a streamlining of the requirements noted in this subchapter if client outcomes are maintained or improved and face-to-face clinical time is able to be increased by proposed reduction in recordkeeping requirements. Such proposal shall be submitted for consideration and approval by the Department.

450:17-7-5. Clinical record content, intake assessment

(a) All facilities shall assess each individual to determine appropriateness of admission.

(b) The CMHC shall document the first contact per episode between the potential consumer and the CMHC to determine appropriateness of admission.

(c) Consumer intake assessment information shall contain but not be limited to the following:
(1) Date, to include month, day and year of the interview or intake including re-admissions for CMHC services;
(2) Source of information;
(3) Consumer's first name, middle initial and last name;
(4) Gender;
(5) Birth date;
(6) Home address;
(7) Telephone number;
(8) Referral source;
(9) Reason for referral;
(10) Significant other to be notified in case of emergency;
(11) ICIS intake data core content;
(12) Presenting problem and disposition;
(13) Health and drug history information, with drug history information to include the following for both current and past medications:
(A) Name of medication,
(B) Strength and dosage of ~~current~~ medication,
(C) Length of time ~~patient~~ consumer was on the ~~drug, if known~~ medication,
(D) Benefit(s) of medication, and
(E) Side effects~~, and~~;
~~(F) Relevant drug history of family members;~~
(14) Psychosocial information, which shall include:
(A) Personal history, including:
(i) Family - social,
(ii) Educational,
(iii) Cultural - moral beliefs,
(iv) Occupational - military,
(v) Sexual,
(vi) Marital,
(vii) Domestic violence or sexual assault,

(viii) Recreation and leisure,
(ix) Financial,
(x) Clinical treatment history including medical and psychiatric treatment,
(xi) Legal or criminal record, and
(xii) Substance abuse;
(B) Present life situation;
(C) Interviewer's interpretation of findings;
(D) What consumer wants in terms of service;
(E) Disposition;
(F) Mental status information, including questions regarding:
(i) Physical presentation, such as general appearance, motor activity, attention and alertness, etc.;
(ii) Affective process, such as mood, affect, manner and attitude, etc., and
(iii) Cognitive process, such as intellectual ability, social-adaptive behavior, thought processes, thought content, and memory, etc.;
(G) Level of Functioning;
(H) Signature of interviewer and professional credentials, if any.
(15) Additional information as required by the facility.

(d) The CMHC shall have policy and procedures that dictate timeframes by when intake assessment must be completed for each program service to which a client is admitted.

(e) An intake assessment update, to include date, identifying information, source of information, present problems, present life situation, current level of functioning, and what consumer wants in terms of service, is acceptable only on re-admissions within one (1) year of previous admission.

(f) Compliance with 450:450:17-7-5 shall be determined by a review of the following: intake assessment instruments and other intake documents of the facility; clinical records and other agency documentation of intake materials or requirements; and policies and procedures.

450:17-7-5.1. Clinical record content, on-going assessment

(a) The CMHC shall have procedures and policies which delineate the process, protocols, and timeframes by which on-going clinical assessments occur.

(b) Compliance with 450: 17-7-5.1 shall be determined by a review of the clinical records and agency policies and procedures.

450:17-7-8. ~~Treatment~~ Service plan

(a) The ~~treatment~~ service plan shall provide evaluation, formation of measurable ~~treatment~~ service objectives and reflect ongoing changes in goals and objectives based upon consumer's progress or identification of new needs, challenges and problems.

(b) A~~n initial treatment~~ comprehensive service plan shall be completed after completion of intake assessment or after the first treatment session ~~on~~ for all consumers.

(c) The CMHC shall have policy and procedures that dictate timeframes by when comprehensive ~~treatment~~ service plans must be completed for each program service to which a consumer is admitted.

(d) Comprehensive ~~treatment~~ service plan contents shall address the following:
(1) Consumer strengths, needs, ~~Describe~~ abilities, and preferences ~~assets and liabilities~~;
(2) ~~Reflect consideration of clinical needs~~ Identified challenges and problems;
(3) ~~Specify~~ Specific service goals ~~necessary to meet the needs~~;
(4) ~~Include referrals for needed services~~ Measurable and time limited objectives;
(5) ~~Contain specific goals~~ Date each objective is initiated and target date for completion;
(6) ~~Contain measurable time framed objectives~~ Each type of service to be received;
(7) ~~Specify~~ Anticipated frequency of ~~treatment~~ each type of service;
(8) ~~Designate person(s) responsible for~~ The practitioner(s) who will be providing and responsible for each service ~~treatment~~;
(9) ~~Delineate specific discharge criteria~~ Any needed referrals for services;
(10) ~~Include substantiated diagnosis in terminology of the current DSM published by the American Psychiatric Association~~ Specific discharge criteria; and
(11) ~~Describe t~~ The consumer's ~~involvement~~ participation in the development of the service, ~~and consumer's response to treatment~~ plan, and their response to the plan including ~~as evidenced by a statement dated and signed by the consumer verifying his or her involvement in the treatment planning process and~~ his or her agreement with the plan. ~~, proposed interventions, and target dates for completion.~~

(e) ~~Treatment plans shall be dated and signed by all members of the treatment team who participate in the planning or in providing the services.~~
~~(1)~~ ~~Treatment~~ Service plan updates shall ~~contain~~ address the following:
(~~A~~1) ~~Change in~~ Progress on previous service plan goals and/or objectives ~~based upon consumer's progress or identification of new problems~~;
(~~B~~2) ~~Change in primary clinician assignment~~ A statement documenting a review of the current service plan and an explanation if no changes are to be made to the service plan;
(~~C~~3) Change in ~~frequency or types of services provided~~ goals and/or objectives (including target dates) based upon consumer's progress or identification of new need, challenges and problems; ~~and~~
(~~D~~4) Change in frequency and/or type of services provided ~~A statement documenting review, including an explanation if no charges are made in the plan.~~;
(5) Change in practitioner(s) who will be responsible for providing services on the plan;
(6) Additional referrals for needed services; and

(7) Change in discharge criteria.

(~~2~~f) Service Plan updates should occur every 1-6 months during which services are provided. The CMHC shall have policy and procedures that dictate timeframes by when ~~treatment~~ service plan updates must be completed for each program service to which a client is admitted.

(g) Service plans, both comprehensive and update, must include dated signatures for the consumer (if over age 14), the parent/guardian (if under age18 or otherwise applicable), the primary service practitioner, the treating physician, and all other practitioners who will be providing services on the plan.

(~~f~~h) Compliance with 450:17-7-8 shall be determined by a review of the clinical records.

450:17-7-10. Progress Notes

(a) Progress notes shall chronologically describe the services provided, the consumer's response to the services provided ~~progress in treatment~~ and ~~document~~ the consumer's progress in ~~response to services related to the~~ treatment.

(b) Progress notes, except for in PSR programs, shall address the following:

(1) ~~Person(s) to whom services were rendered~~ Date;

(2) ~~Activities and services provided as they relate to the goals and objective of the treatment plan, including ongoing reference to the treatment plan~~ Person(s) to whom services were rendered;

(3) ~~Documentation of the progress or lack of progress made in treatment as it relates to the treatment plan~~ Start and stop time for each timed treatment service;

(4) ~~The consumer's current status~~ Specific service plan problems, goals and/or objectives addressed;

(5) ~~Documentation of the consumer's response to treatment services, changes in behavior and mood, and outcome of treatment or services~~ Services provided and methods used to address service plan problems, goals and/or objectives;

(6) ~~Plans for continuing therapy or for discharge, whichever is appropriate; and~~ Progress or lack of progress made in treatment as it relates to service plan problems, goals and/or objectives;

(7) Consumer's response, and ~~Family's~~ family's response ~~to services provided~~ when applicable~~.~~, to the treatment services provided;

(8) Any new problem(s), goals and/or objectives identified during the treatment service;

(9) Signature of the service provider; and

(10) Credentials of service provider.

(c) Progress notes for PSR programs shall address the following:

(1) Date(s) attended during the week;

(2) Start and stop time(s) for each day attended;

(3) Specific goal(s) and/or objectives addressed during the week (these must be identified on the service plan);

(4) Type of skills training provided during the week;

(5) Consumer satisfaction with staff intervention(s);

(6) Progress made toward goals and objectives;

(7) Any new needed supports identified during the week;

(8) Signature of the psychosocial rehabilitation practitioner; and

(9) Credentials of the psychosocial rehabilitation practitioner.

(~~c~~d) Progress notes shall be documented according to the following time frames:

(1) Outpatient staff must document each visit or transaction including missed appointments;

(2) Residential and independent living staff must document: each day of services, summary note monthly; ~~and~~

(3) Inpatient: nursing service is to document on each shift. Each member of the treatment team shall write a weekly progress note for the first two months and monthly thereafter~~.~~ ; and

(4) PSR staff must maintain a daily record of member attendance, and shall write a summary progress note weekly.

(~~d~~e) Compliance with 450:17-7-10 shall be determined by a review of clinical records.

SUBCHAPTER 13. ORGANIZATIONAL MANAGEMENT

450:17-13-1. Organizational and facility description

(a) The CMHC shall have a written organizational description which is reviewed annually and minimally includes:

(1) The overall target population specifically including those individuals with co-occurring disorders, for ~~whom~~ who services will be provided;

(2) The overall mission statement; and

(3) The annual facility goals and objectives.

(b) The CMHC's governing authority shall review and approve the mission statement and annual goals and objectives and document their approval.

(c) The CMHC shall make the organizational description, mission statement and annual goals available to staff.

(d) The CMHC shall make the organizational description, mission statement and annual goals available to the general public upon request.

(e) Each CMHC shall have in writing, by program component or service, the following:

(1) Philosophy and description of services;

(2) Identity of the professional staff that provides these services;

(3) Admission and exclusionary criteria that identify the type of consumers for whom the services is primarily intended; ~~and~~

(4) Goals and objectives; and

(5) Delineation of processes to assure accessible, integrated, and co-occurring capable services and a plan for how each program component will address the needs of individuals with co-occurring disorders.

(f) The CMHC shall have written procedures and plans for attaining the organization's goals and objectives. These procedures and plans shall define specific tasks, including actions regarding the organization's co-occurring capability

set target dates and designate staff responsible for carrying out the procedures and plans.

(g) Compliance with OAC 450:18-13-1 shall be determined by a review of the facility's target population definition; facility policy and procedures; mission statement; written plan for professional services; other stated required documentation; and any other supporting documentation.

SUBCHAPTER 19. HUMAN RESOURCES

450:17-19-2. Job descriptions

(a) There shall be job descriptions for all positions setting forth minimum qualifications and duties of each position.

(b) All job descriptions shall include an expectation of core competencies in relation to individuals with co-occurring disorders.

(~~b~~c) Compliance with 450:17-19-2 shall be determined by a review of written job descriptions for all facility positions, and other supporting documentation provided.

SUBCHAPTER 21. STAFF DEVELOPMENT AND TRAINING

450:17-21-2. Staff development

(a) The CMHC shall have a written plan for the professional growth and development of all administrative, professional and support staff.

(b) This plan shall include, but not be limited to:

(1) orientation procedures;

(2) inservice training and education programs;

(3) availability of professional reference materials; and

(4) mechanisms for insuring outside continuing educational opportunities for staff members.

(c) The results of performance improvement activities, accrediting and audit findings and recommendations shall be addressed by and documented in the staff development and clinical privileging processes.

(d) Staff competency development shall be aligned with the organization's goals related to co-occurring capability, and incorporate a training plan, training activities, and supervision designed to improve co-occurring core competencies of all staff.

(~~d~~e) Staff education and inservice training programs shall be evaluated by the CMHC at least annually.

(~~e~~f) Compliance with 450:17-21-2 shall be determined by a review of the staff development plan; clinical privileging processes; documentation of inservice training programs; and other supporting documentation provided.

450:17-21-3. Annually required inservice training for all employees

(a) Inservice presentations shall be conducted each calendar year and are required for all employees on the following topics:

(1) Fire and safety;

(2) AIDS and HIV precautions and infection control;

(3) Consumer's rights and the constraints of the Mental Health Patient's Bill of Rights;

(4) Confidentiality; ~~and~~

(5) Oklahoma Child Abuse Reporting and Prevention Act, 10 O.S. §§ 7101-7115; and

(6) Facility policy and procedures

(7) Cultural Competence; and,

(8) Co-occurring disorder competency and treatment principles.

(b) Compliance with 450:17-21-3 shall be determined by a review of inservice training records; personnel records; and other supporting written information provided.

SUBCHAPTER 25. GOVERNING AUTHORITY

450:17-25-2. Board composition

(a) Members of the Board of Directors shall reside, or be employed, or otherwise have a demonstrated interest in the area served.

(b) The composition of the Board shall reflect an equitable representation of the population distribution in the service area. Each county in a multi-county service area of five or fewer counties must be represented on the Board by at least one resident of the county. CMHCs serving six or more counties may rotate such membership or otherwise ensure representation.

(c) Composition of the Board shall also reflect a broad representation of the community, including minorities and consumers.

(d) No more than forty percent of the Board's members shall be providers of mental health services.

(e) The Board shall have no less than seven members.

(f) System shall be devised to provide for a staggering of terms so that the terms of the Directors do not all expire at the same time.

(g) The Board shall have a provision for the removal of individuals from the Board for non-attendance of Board meetings.

(h) The governing body shall meet at least quarterly.

(i) Employees of an agency shall be prohibited from participation as Board members of their governing authority, except in an ex-official, nonvoting capacity.

(j) The meetings of the Board of Directors shall comply with the Oklahoma open meeting laws.

(k) Compliance with 450:17-25-2 shall be determined by a review of facility policy and procedures regarding governing authority; governing body bylaws, rules and regulations; governing body minutes; membership rolls; and other documentation as needed.

[OAR Docket #06-651; filed 4-17-06]

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

[OAR Docket #06-652]

RULEMAKING ACTION:
PERMANENT final adoption
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]
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In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 23 are part of the Department's review of Title 450. These actions are intended to amend or revoke rules, clarify certification mandates, delete redundant or superfluous language, and correct scrivener's errors. Community-based structured crisis centers are essential components of local emergency mental health and substance abuse response systems. The centers provide a public health service by assuring quality care for persons who may at risk of harming themselves or others as a result of severe symptoms related to mental illnesses or addictive disorders or both.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

450:23-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a staff responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a resident.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Community-based Structured Crisis Center" or **"CBSCC"** means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization as authorized by O.S. 43A 3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Consumer" means an individual, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons.

"Co-occurring disorder" means any combination of mental health and substance abuse symptoms or diagnoses in a client.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to individuals with co-occurring disorders.

"Creating A Positive Environment" or **"CAPE"** means a specific curriculum designed by ODMHSAS to train staff in verbal and non-verbal communication techniques in the

management of selected and potentially problematic behaviors and to foster attitudes that promote the consumer's dignity and self-esteem in facility treatment settings.

"Crisis intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are experiencing a mental health and/or substance abuse crisis.

"Crisis stabilization" means emergency psychiatric and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment and referral.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination and a determination that emergency detention is warranted for a period not to exceed seventy-two (72) hours, excluding weekends and holidays, except upon a court order authorizing detention beyond a seventy-two-hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted, by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Intervention plan" means a description of services to be provided in response to the presenting crisis situation that incorporates the identified problem(s), strengths, abilities, needs and preferences of the individual served.

"Licensed mental health professional" or **"LMHP"** means:

(A) psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology;

(B) a licensed Doctor of Medicine or Doctor of Osteopathy who has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions;

(C) a licensed clinical psychologist;

(D) a licensed professional counselor as defined in Section 1906 of Title 59 of the Oklahoma Statutes;

(E) a person licensed as a clinical social worker pursuant to the provisions of Section 1250 et seq. of Title 59 of the Oklahoma Statutes;

(F) a licensed marital and family therapist as defined in Section 1925.2 of Title 59 of the Oklahoma Statutes;

(G) a licensed behavioral practitioner as defined in Section 1931 of Title 59 of the Oklahoma Statutes; or

(H) an advanced practice nurse as defined in Section 567.3a of Title 59 of the Oklahoma Statutes specializing in mental health.

"Linkage services" means the communication and coordination with other service providers that assure timely appropriate referrals between the CBSCC and other providers.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous performance improvement, continuous improvement, organization-wide performance improvement and total quality management.

"Persons with special needs" means any persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf/hearing impaired, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness and/or substance abuse disorders. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Progress notes" mean a chronological description of services provided to a consumer, the consumer's progress, or lack of, and documentation of the consumer's response related to the intervention plan.

"Psychosocial evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of the individual's body.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms or violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Triage" means a dynamic process of evaluating and prioritizing the urgency of crisis intervention needed based on the nature and severity of consumers' presenting situations.

SUBCHAPTER 3. CBSCC SERVICES

450:23-3-1. Required services

Each CBSCC shall provide co-occurring disorder capable crisis intervention and stabilization services.

450:23-3-2. Crisis stabilization

(a) The CBSCC shall provide crisis stabilization to individuals who are in crisis as a result of a mental health and/or substance abuse related problem. Each crisis stabilization program must be specifically accessible to individuals who present with co-occurring disorders. The CBSCC must have the capability of providing services to individuals who are in emergency detention status.

(b) Crisis stabilization services shall be provided in the least restrictive setting possible, and be accessible to within the community in which they reside.

(c) A physician shall be available at all times for the crisis unit, either on-duty or on call. If the physician is on call, he or she shall respond by telephone or in person to the licensed staff on duty at the crisis unit within 20 minutes.

(d) Crisis stabilization services shall include, but not be limited to, the following service components and each shall have written policy and procedures and each shall be co-occurring disorder capable, with policies and procedures that support this capability:

(1) Triage crisis response;

(2) Co-occurring capable Psychiatric crisis stabilization; and

(3) Co-occurring capable Drug/alcohol crisis stabilization.

(e) The CBSCC shall have written policy and procedures addressing mechanical restraints, and these shall be in compliance with 450:23-3-6.

(f) Compliance with 450:23-3-2 shall be determined by on-site observation, and a review of the following: clinical records; ICIS information; and the CBSCC policy and procedures.

450:23-3-3. Crisis stabilization, triage response

(a) Crisis stabilization services shall include twenty-four (24) hour triage response and emergency examination.

(b) Qualified staff providing triage crisis response services shall be:

(1) Clinically privileged pursuant to the CBSCC's privileging requirements for crisis stabilization services; and

(2) Knowledgeable about applicable laws, ODMHSAS rules, facility policy and procedures, and referral sources.

(c) Components of this service shall minimally include the capacity to provide:

(1) Immediate response, on-site and by telephone;

(2) Integrated screening for the presence of co-occurring disorders;

(3) On-site emergency integrated mental health and/or substance abuse examination; and

(~~3~~4) Referral.

(d) The CBSCC shall have written policy and procedures minimally:

(1) Providing twenty-four (24) hour, seven (7) days per week, triage crisis response services; and

(2) Defining methods and required content for documentation of each triage crisis response service provided.

(3) Ensuring that individuals who present in crisis with co-occurring disorders are identified, and that there are no barriers to access triage crisis response based on arbitrary alcohol or drug levels, types of diagnosis or medications.

(e) Compliance with 450:23-3-3 shall be determined by a review of the following: clinical privileging records; personnel files and job descriptions; policy and procedures, program description; on-site observation; and clinical documentation of services provided.

450:23-3-4. Crisis stabilization services, psychiatric services

(a) Psychiatric crisis stabilization services shall provide continuous twenty-four (24) hour evaluation, crisis stabilization, and social services intervention for consumers in need of assistance for emotional or mental distress, including those who present with co-occurring substance abuse disorders seven (7) days per week.

(b) Licensed registered nurses and other support staff shall be adequate in number to provide care needed by consumers twenty-four (24) hours a day, seven (7) days per week.

(c) Crisis stabilization services shall be provided by a co-occurring disorder capable multidisciplinary team of medical, nursing, social services, substance abuse, and administrative staff adequate to meet the clinical needs of the individuals served.

(d) Services shall minimally include:

(1) Psychiatric observation and evaluation;

(2) Substance abuse screening, observation, and evaluation;

(3) Intensive care and intervention during acute periods of crisis stabilization;

(~~3~~4) Initiation and medical supervision of rapid stabilization regimen as prescribed by a physician including medically monitored detoxification where indicated; ~~and~~

(5) Motivational strategies to facilitate further treatment participation for mental health and/or substance abuse needs; and

(~~4~~6) Providing a referral or placement, as indicated by consumer needs.

(e) Psychiatric crisis stabilization services shall be utilized only after less restrictive community resources have been determined to be inadequate to meet the current psychiatric needs of the consumer.

(f) Compliance with 450:23-3-4 shall be determined by on-site observation; a review of the following: staff personnel files and clinical privileges records; ICIS information; clinical records; critical incident reports; staffing; census; and by on-site observation.

450:23-3-5. Crisis stabilization, drug and alcohol services

(a) Drug and alcohol crisis stabilization services shall provide continuous twenty-four (24) hour evaluation, crisis stabilization, and social services intervention for consumers experiencing substance abuse related crises including those with co-occurring mental health disorders who do not require mental health crisis stabilization services seven (7) days per week.

(b) Licensed registered nurses and other support staff shall be adequate in number to provide care needed by consumers twenty-four (24) hours a day seven (7) days per week.

(c) Services shall be provided by a co-occurring disorder capable multidisciplinary team of medical, nursing, social services , mental health, and other staff adequate to meet the clinical needs of the individuals served.

(d) Staff members assigned to a medical supervised detoxification component shall be knowledgeable about the physical signs of withdrawal, the taking of vital signs and the implication of those vital signs, and emergency procedures as well as demonstrating core competencies in addressing the needs of individuals receiving detoxification services who may have co-occurring mental health disorders and be on psychotropic medication.

(e) Services shall minimally include:

(1) Medically-supervised substance abuse and mental health screening, observation and evaluation;

(2) Care and intervention during acute periods of crisis stabilization;

(3) Medically-supervised and co-occurring disorder capable detoxification, in compliance with procedures outlined in OAC Title 450, Subchapter 18;

(4) On-site access to community organizations providing help for substance abuse related problems and availability of linkage and coordination with agencies providing mental health care; ~~and~~

(5) Motivational strategies to facilitate further treatment participation for mental health and/or substance abuse needs; and,

(6) Providing a referral or placement, as indicated by consumer needs.

(f) Drug and alcohol crisis stabilization services shall be utilized only after less restrictive community resources have been determined to be inadequate to meet the current needs, related to the use of substances, of the consumer.

(g) Compliance with 450:23-3-5 shall be determined by a review of the following: personnel files; ICIS information; policy and procedures; critical incident reports; staffing; census; and by on-site observation.

SUBCHAPTER 5. CBSCC CLINICAL RECORDS

450:23-5-4. Clinical record content, intake and assessment

(a) The CBSCC shall assess each individual to determine appropriateness of admission.

(b) Consumer intake information shall contain, but not be limited to the following identification data:

(1) Consumer name;

(2) Home address;

(3) Telephone number;

(4) Referral source;

(5) Reason for referral;

(6) Significant other to be notified in case of emergency;

(7) ICIS intake data core content; and

(8) Presenting problem and disposition.

(9) A record of pertinent information regarding adverse reactions to drugs, drug allergies, or sensitivities shall be obtained during intake and kept in a highly visible location in or on the record.

(10) Screening for co-occurring disorders, trauma, and homelessness, medical and legal issues.

(c) Consumer assessment information for admitted consumers shall be completed within 72 hours of admission to the CBSCC and shall contain, but not be limited to, the following:

(1) ~~Psychosocial~~ Integrated mental health and substance abuse psychosocial evaluation that minimally addresses:

(A) The consumer's strengths and abilities to be considered during community re-entry;

(B) Economic, vocational and spiritual issues as indicated; and

(C) An initial discharge plan.

(2) Interpretive summary of relevant assessment findings that results in the development of an intervention plan addressing mental health, substance abuse, and other related issues contributing to the crisis;

(3) An integrated intervention plan that minimally addresses the consumer's:

(A) Presenting crisis situation that incorporates the identified problem(s);
(B) Strengths and abilities;
(C) Needs and preferences; and
(D) Goals and objectives.

(d) Compliance with 450:23-5-4 shall be determined by a review of the following: intake assessment instruments and other intake documents of the CBSCC; clinical records; and, other agency documentation of intake materials or requirements.

450:23-5-5. Health, mental health, substance abuse, and drug history

(a) A health and drug history shall be completed for each consumer at the time of admission.

(b) A mental health history, including symptoms and safety screening, shall be completed for each consumer at the time of admission.

(c) A substance abuse history, including checklist for use, abuse, and dependence for common substances (including nicotine and caffeine) and screening for withdrawal risk and IV use shall be completed for each consumer at the time of admission.

(~~b~~d) The drug history shall include obtainable information regarding:
(1) Name of medication;
(2) Strength and dosage of current medication;
(3) Length of time patient was on the drug, if known;
(4) Benefit(s) of medication;
(5) Side effects; and
(6) Relevant drug history of family members.

(~~c~~e) Compliance with 450:23-5-5 shall be determined by a review of clinical records.

450:23-5-7.1. Aftercare and discharge planning

(a) Aftercare and discharge planning is to be initiated for the consumer at the earliest possible point in the crisis stabilization service delivery process. Discharge planning must be matched to the consumer's needs and address the presenting problem and any identified co-occurring disorders or issues.

(b) The program will have designated staff with responsibility to initiate discharge planning.

(c) Referral and linkage procedures shall be in place so staff can adequately advocate on behalf of the person served as early as possible during the stabilization treatment process to transition to lesser restrictive or alternative treatment settings, as indicated.

(d) Compliance with 450:23-5-7.1 shall be determined by a review of closed consumer records, policies and procedures, and interviews with referral contacts.

450:23-5-8. Aftercare and discharge summary

(a) An aftercare plan shall be entered into each consumer's record upon discharge from the CBSCC. A copy of the plan shall be given to the consumer, as well as to any facility designated to provide follow-up with a valid written authorization by the consumer.

(b) An aftercare plan shall include a summary of progress made toward meeting the goals and objectives of the intervention plan, as well as an overview of psychosocial considerations at discharge, and recommendations for continued follow-up after release from the CBSCC.

(c) The aftercare plan shall minimally include:
(1) Presenting problem at intake;
(2) Any co-occurring disorders or issues, and recommended interventions for each;
(~~2~~3) Physical status and ongoing physical problems;
(~~3~~4) Medications prescribed at discharge;
(~~4~~5) Medication and lab summary, when applicable;
(~~5~~6) Names of family and significant other contacts;
(~~6~~7) Any other considerations pertinent to the consumer's successful functioning in the community;
(~~7~~8) Consumer's comments on participation in his or her crisis resolution efforts; and
(~~8~~9) The credentials of the staff members treating the consumer and their dated signatures.

(d) Compliance with 450:23-5-8 shall be determined by a review of closed consumer records.

SUBCHAPTER 11. ORGANIZATIONAL MANAGEMENT

450:23-11-1. Organizational description

(a) The CBSCC shall have a written organizational description which is reviewed annually and minimally includes:
(1) The overall target population, specifically including those individuals with co-occurring disorders, for whom services will be provided;
(2) The overall mission statement;
(3) The CBSCC's annual goals and objectives;

(b) The CBSCC's governing body shall approve the mission statement and annual goals and objectives and document their approval.

(c) The CBSCC shall make the organizational description, mission statement and annual goals and objectives available to staff.

(d) The CBSCC shall make the organizational description, mission statement and annual goals and objectives available to the general public upon request.

(e) Each CBSCC shall have a written plan for professional services which shall have in writing the following:
(1) Services description and philosophy;
(2) The identification of the professional staff organization to provide these services;
(3) Written admission and exclusionary criteria to identify the type of clients for whom the services are primarily intended; and
(4) Written goals and objectives.
(5) Delineation of processes to assure accessible, integrated, and co-occurring capable services and a plan for how each program component will address the needs of individuals with co-occurring disorders.

(f) There shall be a written statement of the procedures/plans for attaining the organization's goals and objectives. These procedures/plans should define specific tasks, including actions regarding the organization's co-occurring capability, set target dates and designate staff responsible for carrying out the procedures or plans.
(g) Compliance with 450:23-11-1 shall be determined by a review of the following: CBSCC target population definition; CBSCC policy and procedures; mission statement; written plan for professional services; other stated required documentation; and any other supporting documentation.

SUBCHAPTER 17. PERSONNEL

450:23-17-2. Job descriptions
(a) The CBSCC shall have written job descriptions for all positions setting forth minimum qualifications and duties of each position.
(b) All job descriptions shall include an expectation of core competencies in relation to individuals with co-occurring disorders.
(~~b~~c) Compliance with 450:23-17-2 shall be determined by a review of written job descriptions for all center positions, and other supporting documentation provided.

SUBCHAPTER 19. STAFF DEVELOPMENT AND TRAINING

450:23-19-2. Staff development
(a) The CBSCC shall have a written plan for the professional growth and development of all administrative, professional clinical and support staff.
(b) This plan shall include but not be limited to:
(1) orientation procedures;
(2) inservice training and education programs;
(3) availability of professional reference materials; and
(4) mechanisms for insuring outside continuing educational opportunities for staff members.
(c) The results of performance improvement activities and accrediting and audit findings and recommendations shall be addressed by and documented in the staff development and clinical privileging processes.
(d) Staff competency development shall be aligned with the organization's goals related to co-occurring capability, and incorporate a training plan, training activities, and supervision designed to improve co-occurring core competencies of all staff.
(~~d~~e) Staff education and inservice training programs shall be evaluated by the CBSCC at least annually.
(~~e~~f) Compliance with 450:23-19-2 shall be determined by a review of the staff development plan, clinical privileging processes, documentation of inservice training programs, and other supporting documentation provided.

450:23-19-3. Inservice
(a) Inservice trainings are required annually for all employees who provide clinical services within the CBSCC program on the following topics:
(1) Fire and safety;
(2) Infection Control and universal precautions;
(3) Consumer's rights and the constraints of the Mental Health Consumer's Bill of Rights;
(4) Confidentiality;
(5) Oklahoma Child Abuse Reporting and Prevention Act, 10 O.S. §§ 7101 et seq., and Protective Services for the Elderly and for Incapacitated Adults Act, 43A O.S. §§ 10-101 et seq.;
(6) Facility policy and procedures; and
(7) Cultural diversity.
(8) Co-occurring disorder competency and treatment principles.
(b) All staff providing clinical services shall have a current certification in basic first aid and in Cardiopulmonary Resuscitation (CPR).
(c) All clinical staff shall have training in Creating A Positive Environment (CAPE) within three (3) months of being hired with annual updates thereafter.
(d) In lieu of CAPE, a CBSCC may petition DMHSAS Provider Certification for approval to substitute CAPE with a different curriculum that must be published, have similar learning objectives, and incorporate similar number of hours required for staff training. Such petition will have to be approved in writing prior to conducting of any training pursuant to this provision.
(e) Compliance with 450:23-19-3 shall be determined by a review of the following: inservice training records; personnel records; and other supporting written information provided.

[OAR Docket #06-652; filed 4-17-06]

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

[OAR Docket #06-653]

RULEMAKING ACTION:
PERMANENT final adoption
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]
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In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 55 are part of the Department's review of Title 450. These actions are intended to amend or revoke rules, clarify certification mandates, delete redundant or superfluous language, and correct scrivener's errors. Behavioral health case management services are essential to assure continuity of care, access to critical support services, and advocacy on behalf of persons with mental health, substance abuse, and domestic violence support or treatment needs. As such the practice of case management services positively impacts the public health and wellness of persons served and the general public.
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 JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

450:50-1-2. Definitions

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

"Board" means the State Board of Mental Health and Substance Abuse Services.

"Case management" means the application of principles and practices of linking, advocacy and referral in partnership with a consumer to support the consumer in self-sufficiency and community tenure.

"Certified behavioral health case manager" means any person who is certified by the Department of Mental Health and Substance Abuse Services to offer behavioral health case management services as one of the three (3) classifications of case manager within the confines of a mental health facility~~,~~ ~~domestic violence or sexual assault facility~~ or drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services.

"Certified Behavioral Health Case Manager-Adult" or **"CBHCM-A"** means any person who offers behavioral health case management services to adults within the confines of a behavioral health setting and is certified pursuant to the rules and standards set forth by the Board of Mental Health and Substance Abuse Services.

"Certified Behavioral Health Case Manager-Child, Adolescent and Family" or **"CBHCM-CAF"** means any person who offers behavioral health case management services to children, adolescents and their families within the confines of a behavioral health setting and is certified pursuant to the rules and standards set forth by the Board of Mental Health and Substance Abuse Services.

"Certified Behavioral Health Case Manager-Dual Certification" or **"CBHCM-DC"** means any person who offers behavioral health case management services to adults and children, adolescents and families within the confines of a behavioral health setting and is certified pursuant to the rules and standards set forth by the Board of Mental Health and Substance Abuse Services.

"Commissioner" means the Commissioner of Mental Health and Substance Abuse Services.

"Consumer" means an individual who is receiving or has received services (evaluation or treatment) from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in Title 450, Chapters 16, 17, 18, 19 and 23 of the Oklahoma Administrative Code as client(s) or patient(s) or resident(s) or a combination thereof.

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Project Supervisor" means a person who is a certified behavioral health case manager and meets the requirements established by the Board to supervise a provisionally certified behavioral health case manager in the completion of the competency-based case management project.

"Provisionally Certified Behavioral Health Case Manager" means a person who has completed the Department-sponsored training in case management, and is under supervision for completion of the competency-based case management project.

~~**"Supervisor"** means a person who is a certified behavioral health case manager and meets the requirements established by the Board to supervise a provisionally certified behavioral health case manager in the completion of the competency-based case management project.~~

SUBCHAPTER 3. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION APPLICATION

450:50-3-1. Qualifications for certification

(a) Each applicant for certification as a behavioral health case manager shall:

(1) Be employed at a mental health facility, ~~domestic violence or sexual assault facility,~~ or a drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services;

(2) Attend the requisite case management certification training offered by the Department for the specific classification of certification (adult, child, adolescent and family or dual) sought by the applicant;

(3) Complete the competency-based case management project;

(4) Be possessed of good moral character;

(5) Be at least 21 years of age; and

(6) Otherwise comply with rules promulgated by the Board implementing 43A O. S. § 3-318.

(b) In addition to the qualifications specified by subsection (a) of this rule, an applicant for a certification as a behavioral health case manager shall:

(1) Possess one of the following:

(A) a bachelor's degree in a behavioral health related field which includes but is not limited to psychology, social work, occupational therapy, family studies, human resources/services counseling, human developmental psychology, gerontology, early childhood development, chemical dependency studies, school guidance and counseling, rehabilitative services, sociology, criminal justice, earned from a regionally accredited college or university recognized by the United States Department of Education; or

(B) a current license as a registered nurse in Oklahoma; or

(C) a current certification as an alcohol and drug counselor in Oklahoma; and

(2) Complete a minimum of six (6) weeks of supervised full time experience providing behavioral health case management services under the supervision of a case management supervisor in accordance with section 450:50-3-2 of this chapter.

450:50-3-2. Applications for certification, dual certification, provisional certification

(a) Applications for certification as a behavioral health case manager shall be made in writing to the Department on a form and in a manner prescribed by the Commissioner. The application shall be accompanied by the application fee and official education transcripts.

(b) An application shall include the following documents:

(1) Application form completed in full according to its instructions;

(2) Official university transcript(s) or documentation of current status as a licensed mental health professional in the state of Oklahoma in lieu of official university transcript(s) to evidence completion of a completed bachelor's degree, or documentation of current certification as an alcohol and drug counselor in the state of Oklahoma, or current licensure as a registered nurse in the state of Oklahoma~~; or, documentation of certification pursuant to OAC 450:50-3-6;~~

(3) Documentation on a form prescribed by the Department of employment at a mental health facility, ~~a domestic violence or sexual assault facility,~~ or a drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services;

(4) Supervision agreement between the applicant and a case management supervisor on a form prescribed by the Department; and

(5) Fees.

(c) A complete application must be submitted at least ~~seven (7)~~ fourteen (14) days prior to attending case management certification training.

(d) An applicant, who meets the requirements for certification and otherwise complied with this Chapter shall be eligible for certification.

SUBCHAPTER 5. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION TRAINING

450:50-5-1. Case management certification training

(a) The purpose of this section is to delineate the training requirements for each of the three classifications of certified behavioral health case manager.

(b) The Department shall have the authority and responsibility for the following:

(1) Provide case management training classes on a regular basis but no less than six times during the year.

(2) Provide supervisor training classes on a regular basis but no less than twice a year.

(c) The adult case management certification training is a 24-hour class that focuses on case management issues of adults receiving services in mental health facilities, ~~domestic violence or sexual assault facilities,~~ or drug or alcohol treatment facilities operated by the Department or contracted with the State to provide behavioral health services. Applicants seeking certification as a certified behavioral health case manager-Adult must attend this training.

(d) The child, adolescent and family case management certification training is a 24 hour class that focuses on case management issues of children and adolescents their families receiving services in mental health facilities, ~~domestic violence or sexual assault facilities~~ or drug or alcohol treatment facilities operated by the Department or contracted with the State to provide behavioral health services. Applicants seeking certification as Certified Behavioral Health Case Manager-Child, Adolescent and Family must attend this training in full.

(e) Those seeking dual certification must complete either the Adult case management training or the Child, Adolescent and Family case management training, then attend an additional twelve- (12) hour cross-training in the focus area not previously trained. ~~attend one of the two 24 hour classes offered by the Department as well as 12 hours of cross training in the other area, for a total of 36 hours of training.~~

(f) The case management competency-based project supervisor training is a six hour class that focuses on the specifics of supervision and the competency-based project. Certified

behavioral health case managers who were acting as a competency-based project supervisor on or prior to July 1, 2003, are required to attend this training by December 31, 2004.

450:50-5-2. Case Management Project Supervision ~~Supervised experience requirements~~

(a) Persons who have successfully completed case manager certification training will be considered a provisionally Certified Behavioral Health Case Manager, shall work under the supervision of a Project Supervisor ~~fully Certified Behavioral Health Case Manager,~~ and shall have the same rights, privileges and responsibilities as a fully certified behavioral health case manager for a period of no longer than six months from the last day of case management certification training class, unless an extension of the Provisional Certification status has been granted in accordance with 450:50-3.

(b) Supervised experience shall begin only after completion of the case management certification training. Supervision shall continue throughout the completion of the competency-based case management project for no less than six (6) weeks from the last day of case management certification training class and no longer than 6 months from the last day of case management certification training class.

(c) At the time of application for certified behavioral health case manager, the applicant shall submit to the Department a supervision agreement between the Project Supervisor and applicant/supervisee.

(d) Project Supervisors ~~Case management supervisors~~ shall be a certified behavioral health case manager with at least two years experience in behavioral health case management and have completed the six hours of competency-based project supervisors training.

(e) The ~~supervisor~~ Project Supervisor and supervisee shall be jointly responsible for the following:

(1) Ensuring the requirements under this subchapter are fulfilled; and,

(2) Ensuring the consumer's right to confidentiality and the proprietary rights of the ~~supervisor~~ Project Supervisor and the supervisee's employer are adhered to during the course of the supervision.

(f) Supervised experience shall consist of the following:

(1) Provision of case management services by a provisionally certified behavioral health case manager to a consumer or consumer and family within the confines of a behavioral health setting to complete the competency based case management project as established in the case management certification training curriculum; and

(2) ~~Individual~~ supervision of the delivery of case management services in conjunction with the completion of the competency based project. ~~Individual~~ supervision shall mean weekly face-to-face contact between the Project Supervisor and the supervisee for duration of the supervision of the competency based project.

(g) Upon completion of the supervision:

(1) The supervisee shall submit a statement signed by the supervisor verifying the supervisee has completed the required supervision and competency-based project; and

(2) The ~~supervisor~~ Project Supervisor shall sign and submit an evaluation of supervised experience on a form prescribed by the Department.

(h) The ~~supervisor~~ Project Supervisor's signature will appear on required documents within the case management certification project

(i) Any Project Supervisor who fails to comply with Case Management Supervision requirements set forth in 450:50-5-2 will be subject to sanctions including possible revocation or suspension of Project Supervisor status.

(j) Any Provisionally Certified Behavioral Health Case Manager may file a written complaint against a Project Supervisor for failure to comply with Case Management Supervision requirements set forth in 450:50-5-2 any time during the six-week project and up to 30 days after the completion of the project. Written complaints must be submitted to the ODMHSAS Coordinator of Case Management Development for review. The Coordinator of Case Management Development will respond in writing to all complainants within 30 days of receipt of the written complaint.

450:50-5-3. Case management certification competency-based project

(a) The case management certification project is a competency-based ~~product~~ project designed to provide the applicant hands-on experience in specific case management services.

(b) The competency-based project shall be due no earlier than six (6) weeks or later than three (3) months from the last day of the 24 hour training class as specified on each individual's letter granting provisional certification. An extension of the due date may be requested by writing the Coordinator of Case Management Development for the Department to extend the project due date for a period of no longer than one (1) month. The extension request must be signed by the provisional case manger and the Project Supervisor. The Coordinator of Case Management Development or an ODMHSAS-designee will then deem if an extension request is approved and provide written notification or denial to the provisional case manager. No more than two (2) requests for extension shall be granted. Provisional Certification Status will remain in effect, as granted in accordance with 450:50-5-2, through the duration of the second extension request as approved by the Coordinator of Case Management Development.

(c) ODMHSAS shall return the results of the competency-based project review to the individual within eight (8) weeks of receipt of the project. Unless otherwise specified, ODMHSAS will send the results to the individual at the business address listed on the application. ODMHSAS must receive written notification of change of address.

(1) The Coordinator of Case Management Development or designee shall review the project.

(2) If the project, or any part, is found to be unacceptable, the coordinator shall contact the project supervisor and supervisee in writing with an explanation of necessary corrections. Notification may be in writing or by telephone. Technical assistance from the Coordinator of Case

Management Development or designee shall be available upon request.

(d) Any individual who does not successfully complete the competency based project within the 6 month period of provisional certification will be required to attend case management training class before attempting to complete and submit the project again.

450:50-5-4. Continuing education requirements

(a) Certified behavioral health case managers must complete twelve (12) hours continuing education per year and submit documentation of the continuing education to ODMHSAS every two (2) years.

(b) Continuing education is acceptable when it:

(1) Provides information to enhance delivery of case management services; or

(2) Meets the requirements for LPC, LMFT, LBP, LCSW, CADC, LADC, or CME continuing education; or

(3) Is a required undergraduate or graduate course in a behavioral health related field and pertains to direct interaction with consumers (three hours of course work is equal to twelve hours in-service)~~; and~~

~~(4) Is accrued during the twenty-four (24) months preceding the renewal deadline.~~

(c) Continuing education may be accrued when the Certified Behavioral Health Case Manager provides supervision of a competency-based case management project. The Certified Behavioral Health Case Manager may accrue 6 hours for supervision of one competency-based project annually.

(d) Certified behavioral health case managers must complete, as part of their annually required twelve (12) hours, three (3) hours of ethics training every year. Ethics training must meet the requirements for LPC, LMFT, LBP, LCSW, CADC, LADC or CME ethics training.

(e) Certified behavioral health case managers shall retain documents verifying attendance for all continuing education hours claimed for the reporting period. Acceptable verification documents include:

(1) An official continuing education validation form furnished by the presenter;

(2) A letter or certificate from the sponsoring agency verifying name of program, presenter, and number of hours attended and participant's name;

(3) An official grade transcript verifying completion of the undergraduate or graduate course; or

(4) A letter confirming supervision of a competency-based project which must be submitted on agency's letterhead and signed by the agency director or clinical director.

(f) Failure to complete the continuing education requirements and submit the required documentation by the renewal date renders the certification in suspension, and results in the loss of all rights and privileges of a certified behavioral health case manager. The Certified Behavioral Health Case Manager certification may be reinstated during a period of no longer than 12 months following the suspension date. If not reinstated the certification shall become null and void. The Certified Behavioral Health Case Manager has the right to renew the certificate by payment of renewal fees ($15.00) and late renewal fees ($25.00) and documentation of obtaining 12 hours of continuing education for each of the two prior years.

SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT

450:50-7-4. Professional standards

(a) It shall be unprofessional conduct for a Certified Behavioral Health Case Manager to violate a state or federal statute if the violation is directly related to the duties and responsibilities of the counselor or if the violation involves moral turpitude.

(b) Certified behavioral health case managers shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.

(c) Certified behavioral health case managers shall notify the Department of any change in name, address, telephone number and employment if the case manager will continue to provide case management services as defined by 450:50-1-2 in the new employment setting.

[OAR Docket #06-653; filed 4-17-06]

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

[OAR Docket #06-654]

RULEMAKING ACTION:
PERMANENT final adoption

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]

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In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 55 are part of the Department's review of Title 450. These actions are intended to amend or revoke rules, clarify certification mandates, delete redundant or superfluous language, and correct scrivener's errors. PACT provides essential alternatives to citizens with serious mental illnesses who, without these community-based services, are at risk for hospitalization or involvement with law enforcement and criminal justice institutionalization or both. PACT programs provide a public health service by ensuring quality care and active treatment for persons who are most in need of these specialized services.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

450:55-1-2. Definitions

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

"Community-based Structured Crisis Center" or **"CBSCC"** means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment and other credentials.

"Consumer" means an individual who has applied for, is receiving, or has received services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Co-occurring disorder" means any combination of mental health and substance abuse symptoms or diagnoses in a client.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to individuals with co-occurring disorders.

"Crisis intervention" means an immediately available service to meet the psychological, physiological and environmental needs of individuals who are experiencing a mental health or substance abuse crisis.

"Crisis stabilization" means emergency psychiatric and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment and referral.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; consumers that are absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to a consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"DSM" means the current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"FTE" means an employee, or more than one, who work(s) the time equivalent to the number of hours per week, month or year of one (1) employee working full-time.

"Governing Agency" means the facility or specific community based behavioral health provider under which the PACT program is operated.

"Historical time line" means a method by which a specialized form is used to gather, organize and evaluate historical information about significant events in a consumer's life, experience with mental illness, and treatment history.

"Individual Treatment Team" or **"ITT"** means the primary case manager and a minimum of two other clinical staff on the PACT team who are responsible to keep the consumer's treatment coordinated, monitor their services, coordinate staff activities and provide information and feedback to the whole team.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse

databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and consumers that provide the ability to monitor the course of consumer services throughout the statewide DMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, residential care facilities, prevention programs, and centers for the homeless which are operated or funded in part by DMHSAS.

"Linkage services" means the communication and coordination with other service providers pursuant to a valid release that assure timely appropriate referrals between the PACT program and other providers.

"Longitudinal Face Sheet" means a process that is used to track a PACT consumer's specific demographic, personal contact, treatment history and other relevant information from the time of admission until discharge.

"Mental Health Professional" means:

(A) Physicians with a current license and board certification in psychiatry or board eligible, or a current resident in psychiatry, where the services provided to a DMHSAS funded program are within the scope of the supervised residency program. Other licensed physicians experienced in behavior health counseling practices may be considered, if the facility has verified sufficient training and experience in the areas of practice for which the ICIS service is being reported; or

(B) Practitioners with a license to practice or those actively and regularly receiving board approved supervision to become licensed by one of the following licensing boards: Psychology, Social Work (clinical specialty), Professional Counselor, or Marriage and Family Therapist; or Licensed Behavioral Practitioners; or

(C) Advanced Practice Nurse (certified in psychiatric mental health specialty) licensed as a registered nurse with a current certification of recognition by the Oklahoma State Board of Nursing.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1) (a) and maintained in the Office of Administrative Rules

~~**"Peer Specialist"** is a member of the PACT team who is or has been a recipient of mental health services for a serious mental illness.~~

"Performance Improvement" or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous performance improvement, continuous improvement, organization-wide performance improvement and total quality management.

"Persons with special needs" means any person with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf and hearing impaired, visually impaired, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Primary Case Manager" is a certified behavioral health case manager assigned by the team leader to coordinate and monitor activities of the ITT, has primary responsibility to write the treatment plan and make revisions to the treatment plan and weekly schedules.

"Program Assistant" is a member of the PACT team providing duties supportive of the Team and may include organizing, coordinating, and monitoring non-clinical operations of the PACT, providing receptionist activities and coordinating communication between the team and consumers

"Program of Assertive Community Treatment" or **"PACT"** means a clinical program that provides continuous treatment, rehabilitation and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological description of services provided to a consumer, the consumer's progress, or lack of, and documentation of the consumer's response related to the intervention plan.

"Recovery Support Specialist" is a member of the PACT team who is or has been a recipient of mental health services for a serious mental illness and has completed the ODMHSAS approved training and testing.

"Team Leader" is the clinical and administrative supervisor of the PACT team who also functions as a practicing clinician. The team leader is responsible for monitoring each consumer's clinical status and response to treatment as well as supervising all staff and their duties as specified by their job descriptions.

SUBCHAPTER 3. PROGRAM DESCRIPTION AND PACT SERVICES

450:55-3-2. Admission criteria

(a) The PACT program shall maintain written admission policies and procedures that, at a minimum include the following:

(1) Priority shall be given to people with a primary diagnosis of schizophrenia or other psychotic disorders, such as schizoaffective disorder or bipolar disorder with psychotic features as defined by the current DSM, and with at least four (4) of the following:

(A) At least four psychiatric hospitalizations in the past 24 months or lengths of stays totaling over 30 days in the past 12 months which can include admissions to Community-Based Structured Crisis Care;

(B) Persistent or recurrent severe affective, psychotic or suicidal symptoms;

(C) Coexisting substance abuse disorder greater than six (6) months;

(D) High risk of or criminal justice involvement in the past 12 months which may include frequent contact with law enforcement personnel, incarcerations, parole or probation;

(E) Homeless, imminent risk of being homeless or residing in substandard or unsafe housing;

(F) Residing in supported housing but clinically assessed to be able to live in a more independent living situation if intensive services are provided; or requiring supported housing if more intensive services are not available;

(G) Inability to participate in traditional office-based services or evidence that they require a more assertive and frequent non-office based services to meet their clinical needs;

(H) Inability to consistently perform the range of practical daily living tasks required for basic adult functioning in the community; and

(2) Individuals with a sole primary diagnosis of substance abuse, brain injury, or Axis II disorders are not appropriate for PACT.

(3) Individuals with a history of violent behaviors may or may not be considered for admission.

(b) Compliance with 450:55-3-2 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-5. Hours of operation and staff coverage

(a) The PACT program shall assure adequate coverage to meet consumers' needs including but not limited to:

(1) The PACT team shall be available to provide treatment, rehabilitative and support services seven days per week, including holidays and evenings, according to the following:

(A) The PACT team hours of operation for a team size greater than 8.5 FTEs, excluding the psychiatrist and program assistant, shall be weekdays, Monday through Friday, with two overlapping eight-hour-shifts for a total of 12 hours of coverage per day. The hours of operation for a team size of 8.5 FTE or less shall be a single eight-hour shift; with consumer needs as specified in the treatment plans driving any extended hours of operation.

(B) In addition, for teams serving l~~ess than~~ ten (10) to fifty (50) consumers, there shall be eight (8) hours of coverage per day with a minimum of one (1) clinical staff on weekends and holidays.

(C) For teams serving fifty (50) or more consumers, there shall be eight (8) hours of coverage per day with a minimum of two (2) clinical staff on weekends and holidays.

(2) The PACT team shall operate an after-hours on-call system. PACT shall regularly schedule PACT staff for on-call duty to provide crisis and other services during the assigned on-call hours when staff is not working to personally respond to consumers by telephone or in person on a 24 hour per day, 7 day a week basis.

(3) Psychiatric backup shall also be available and on-call during all after-hours periods. If availability of the PACT team's psychiatrist during all hours is not feasible, alternative psychiatric backup shall be arranged.

(b) Compliance with 450:55-3-5 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-6. Service intensity

(a) The PACT team is the primary provider of services and has the responsibility to meet the consumer's multiple treatment, rehabilitation and supportive needs with minimal referrals to external agencies or programs within the governing agency for services.

(b) The PACT team shall have the capacity to provide multiple contacts per week to consumers experiencing severe symptoms or significant problems in daily living.

(c) The PACT team shall provide an average of three contacts per week for each consumer, unless otherwise clinically indicated.

(d) Each team shall provide at least 75 percent of service contacts in the community, in non-office or non-facility based settings.

(e) The PACT team shall provide ongoing contact when permitted by consumers who are hospitalized for drug and alcohol or psychiatric reasons. To ensure continuity of care the PACT team shall:

(1) Assist in the admission process if at all possible;

(2) Have contact with the consumer and inpatient treatment providers within 48 hours of knowing of the inpatient admission to provide information, assessment, assist with the consumer's needs and begin discharge planning;

(3) Maintain a minimum of weekly face-to-face contact with the consumer and treatment team staff;

(4) Transition the consumer from the inpatient setting into the community;

(5) Maintain at least three (3) face-to-face contacts per week for one month for consumers who are discharged from an inpatient facility. The team shall document any failed attempts.

(f) Telephone answering devices will not be used as a primary method to receive phone calls. PACT clients shall have direct phone access to the PACT office. Monday through Friday, 8:00 a.m. to 5:00 p.m.~~, the~~ The program assistant or other PACT staff shall be available to personally answer all incoming phone calls. ~~Telephone answering devices will not be used as a primary method to receive phone calls at any time.~~

(g) Compliance with 450:55-3-6 shall be determined by on-site observation; and a review of the following: clinical records; ICIS information; and the PACT policy and procedures.

450:55-3-7. Staffing requirements

(a) The PACT team shall include individuals qualified to provide the required services while closely adhering to job descriptions as defined in the "PACT Start-up Manual, most recent edition as published by the National Alliance for the Mentally Ill."

(b) Each PACT team shall have the following minimum staffing configuration:

(1) One (1) full-time team leader who is the clinical and administrative supervisor of the team and also functions as a practicing clinician in the PACT team. The team leader shall be a Mental Health Professional

(2) A Board Certified or Board Eligible psychiatrist providing a minimum of 16 hours per week of direct care to minimally include: initial and psychiatric assessments, daily organizational staff meetings, treatment planning, home visits, pharmacological management, collaboration with nurses, crisis intervention, and liaison with inpatient facilities. In the initial build-up phase, a minimum of 8 hours shall be provided until the team is serving ten or more clients. For teams serving over 50 consumers, the Psychiatrist shall provide an additional three (3) hours per week for every fifteen (15) additional consumers admitted to the program. On-call time is not included.

(3) At least two (2) full-time registered nurses ~~that have at least two (2) years or more of mental health experience~~.

(4) At least one (1) additional full-time Mental Health Professional.

(5) At least two (2) full-time bachelor's level or higher degree behavioral health case managers.

(6) At least one (1) ~~professional~~ staff member on the team, excluding the psychiatrist, team leader and program assistant shall be qualified as a substance abuse treatment specialist, and at least one (1) ~~professional~~ staff member on the team, excluding the psychiatrist, team leader and program assistant, shall be qualified as an employment specialist.

(7) A minimum of one (1) full-time or two (2) -half time (0.5 FTE) ~~peer~~ Recovery Support Specialist(s). ~~The Peer Specialist must have been a recipient of mental health services in the past.~~ The Recovery Support ~~Peer~~ Specialist shall be a fully integrated team member.

(8) A minimum of one ~~half time (.5 FTE)~~ (1) program assistant.

(c) Teams serving greater than 65 consumers shall include the following additional staff:

(1) A full-time assistant team leader who is the back-up clinical and administrative supervisor of the team and also functions as a practicing clinician in the PACT team. The assistant team leader shall be a Mental Health Professional

(2) One (1) full-time registered nurse who has at least two (2) years or more of mental health experience which shall result in three (3) fulltime registered nurses.

(3) One (1) additional full-time Mental Health Professional.

(4) ~~An additional one-half time (.5 FTE) peer specialist which will result in one (1) full-time or two (2) half-time (.5 FTE) Peer Specialists on the team.~~

~~(5)~~ One (1) additional full-time bachelor level behavioral health case manager, when serving greater than 85 consumers on the team.

(d) The PACT program shall have policies and procedures addressing the use of students, medical residents, osteopathic residents, psychiatric residents and volunteers on the team.

(1) Psychiatric residents shall not replace the clinical work of the PACT psychiatrist such as on-call coverage, pharmacological management, treatment planning or crisis intervention.

(2) The hours a psychiatric resident works on a PACT team shall not be counted towards the standard hours of the PACT psychiatrist.

(e) Compliance with 450:55-3-6 shall be determined by on-site observation; and a review of the following: clinical records; ICIS information; and the PACT policy and procedures.

450:55-3-9. Clinical supervision

(a) Each PACT team shall have a written policy for clinical supervision of all staff providing treatment, rehabilitation, and support services. A component of the supervision shall include assisting all staff to have basic core competency in working with clients who have co-occurring substance abuse disorders. The team leader or a clinical staff designee shall assume responsibility for supervising and directing all PACT team staff activities. This supervision and direction shall minimally consist of:

(1) Periodic observation, in which the supervisor accompanies an individual staff member to meet with consumers in regularly scheduled or crisis meetings to assess the staff member's performance, give feedback, and model alternative treatment approaches; and

(2) Participation with team members in daily organizational staff meetings and regularly scheduled treatment planning meetings to review and assess staff performance and provide staff direction regarding individual cases.

(b) Compliance with 450:55-3-9 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

450:55-3-10. Required services

(a) The PACT program shall minimally provide the following comprehensive treatment, rehabilitation, and support services as a self-contained service unit on a continuous basis. The PACT program shall provide or make arrangements for treatment services, which shall minimally include:

(1) **Crisis intervention.** Crisis intervention shall be provided to individuals who are in crisis as a result of a mental health and/or substance abuse related problem.

(A) Crisis intervention services shall be provided in the least restrictive setting possible, and be accessible to individuals within the community in which they reside.

(B) Crisis assessment and intervention shall be provided 24 hours per day, seven days per week by the

PACT team. These services will include telephone and face-to-face contact and will include mechanisms by which the PACT crisis services can be coordinated with the local mental health system's emergency services program as appropriate.

(C) Crisis intervention services shall include, but not be limited to, the following service components and each shall have written policy and procedures:

(i) Psychiatric crisis intervention; and

(ii) Drug and alcohol crisis intervention.

(2) **Symptom assessment, management and individual supportive therapy.** The PACT shall provide ongoing symptom assessment, management, and individual supportive therapy to help consumers cope with and gain mastery over symptoms and impairments in the context of adult role functioning. This therapy shall include but not necessarily be limited to the following:

(A) Ongoing assessment of the consumer's mental illness symptoms and the consumer's response to treatment;

(B) Education of the consumer regarding his or her illness and the effects and side effects of prescribed medications, where appropriate;

(C) Symptom-management efforts directed to help each consumer identify the symptoms and occurrence patterns of his or her mental illness and develop methods (internal, behavioral, or adaptive) to help lessen their effects; and

(D) Psychological support to consumers, both on a planned and as-needed basis, to help them accomplish their personal goals and to cope with the stresses of day-to-day living.

(3) **Medication prescription, administration, monitoring and documentation.** The PACT shall have medication policies and procedures that are specific to the PACT program and meet the unique needs of the consumers served. All policies and procedures shall comply with local, state and federal pharmacy and nursing laws.

(A) Medication related policies and procedures shall identify processes to:

(i) Record physician orders;

(ii) Order medication;

(iii) Arrange for all consumer medications to be organized by the team and integrated into consumers' weekly schedules and daily staff assignment schedules;

(iv) Provide security for medications and set aside a private designated area for set up of medications by the team's nursing staff; and

(v) Administer delivery of and provide assistance with medications to program consumers.

(B) The PACT team psychiatrist shall minimally:

(i) Assess each consumer's mental illness symptoms and behavior and prescribe appropriate medication;

(ii) Regularly review and document the consumer's symptoms of mental illness as well as his or her response to prescribed medication treatment;

(iii) Educate the consumer regarding his or her mental illness and the effects and side effects of medication prescribed to regulate it; and

(iv) Monitor, treat, and document any medication side effects.

(C) All qualified PACT team members shall assess and document the consumer's mental illness symptoms and behavior in response to medication and shall monitor for medication side effects.

(4) **Rehabilitation.** The PACT shall provide or make arrangements for rehabilitation services. The PACT shall provide work-related services as needed to help consumers find and maintain employment in community-based job sites. These services shall include but not be limited to:

(A) Assessment of job-related interests and abilities, through a complete education and work history assessment as well as on-the-job assessments in community-based jobs;

(B) Assessment of the effect of the consumer's mental illness on employment, with identification of specific behaviors that interfere with the consumer's work performance and development of interventions to reduce or eliminate those behaviors;

(C) Development of an ongoing employment rehabilitation plan to help each consumer establish the skills necessary to find and maintain a job;

(D) Individual supportive therapy to assist consumers to identify and cope with the symptoms of mental illness that may interfere with their work performance;

(E) On-the-job or work-related crisis intervention; and

(F) Work-related supportive services, such as assistance with grooming and personal hygiene, securing of appropriate clothing, wake-up calls, and transportation.

(5) **Substance abuse services.** The PACT shall provide substance abuse services as clinically indicated by consumers. These shall include but not be limited to individual and group interventions to assist consumers to:

(A) Identify substance use, effects and patterns;

(B) Recognize the relationship between substance use and mental illness and psychotropic medications;

(C) Develop motivation for decreasing substance use; and

(D) Develop coping skills and alternatives to minimize substance use and achieve periods of abstinence and stability.

(6) **Services to support activities of daily living.** The PACT shall provide as needed services to support activities of daily living in community-based settings. These shall include individualized assessment, problem solving, side-by-side assistance and support, skill training, ongoing supervision, e.g. prompts, assignments, monitoring, encouragement, and environmental adaptations to assist consumers to gain or use the skills required to:

(A) Carry out personal hygiene and grooming tasks;

(B) Perform household activities, including house cleaning, cooking, grocery shopping, and laundry;

(C) Find housing that is safe and affordable (e.g., apartment hunting, finding a roommate, landlord negotiations, cleaning, furnishing and decorating, procuring necessities, such as telephone, furnishings, linens, etc.;

(D) Develop or improve money-management skills;

(E) Use available transportation; and

(F) Have and effectively use a personal physician and dentist.

(7) **Social, interpersonal relationship and leisure-time skill training.** The PACT shall provide as needed services to support social, interpersonal relationship, and leisure-time skill training to include supportive individual therapy, e.g., problem solving, role-playing, modeling, and support, etc.; social-skill teaching and assertiveness training; planning, structuring, and prompting of social and leisure-time activities; side-by-side support and coaching; and organizing individual and group social and recreational activities to structure consumers' time, increase their social experiences, and provide them with opportunities to practice social skills and receive feedback and support required to:

(A) Improve communication skills, develop assertiveness and increase self-esteem as necessary;

(B) Develop social skills, increase social experiences, and where appropriate, develop meaningful personal relationships;

(C) Plan appropriate and productive use of leisure time;

(D) Relate to landlords, neighbors, and others effectively; and

(E) Familiarize themselves with available social and recreational opportunities and increase their use of such opportunities.

(8) The PACT will assign each consumer a primary case manager who coordinates and monitors the activities of the individual treatment team and has primary responsibility to write the treatment plan, to provide individual supportive therapy, to ensure immediate changes are made in treatment plans as consumer's needs change and to advocate for consumer rights and preferences.

(9) The PACT shall provide support and direct assistance to ensure that consumers obtain the basic necessities of daily life that includes but is not necessarily limited to:

(A) Medical and dental services;

(B) Safe, clean, affordable housing;

(C) Financial support;

(D) Social services;

(E) Transportation; and

(F) Legal advocacy and representation.

(10) The PACT shall provide services as needed on behalf of identified consumers to their families and other major supports, with consumer's written consent, which includes the following:

(A) Education about the consumer's illness and the role of the family in the therapeutic process;

(B) Intervention to resolve conflict; or

(C) Ongoing communication and collaboration, face-to-face and by telephone, between the PACT team and the family.

(b) Compliance with 450:55-3-10 shall be determined by on-site observation, a review of the clinical records, ICIS information and the PACT policy and procedures.

SUBCHAPTER 5. PACT CLINICAL DOCUMENTATION

450:55-5-4. Initial assessment and treatment plan

(a) The initial assessment data shall be collected and evaluated by PACT team leader or appropriate staff designated by the team leader. Such assessments shall be based upon all available information, including self-reports, reports of family members and other significant parties, and written summaries from other agencies, including police, courts, and outpatient and inpatient facilities, where applicable, culminating in a comprehensive initial assessment. Consumer assessment information for admitted consumers shall be completed on the day of admission to the PACT

(b) The initial assessment shall contain, but not be limited to, the following identification data:

(1) Consumer's name;

(2) Date of admission to PACT;

(3) Social Security number;

(4) ~~Initial assessment~~ Presenting problem/client self-assessment of problem;

(5) Reason for treatment;

(6) Availability of social supports and resources;

(7) History of psychiatric illness and previous services;

(8) Developmental and social history;

(9) Current functioning;

(10) Admitting diagnosis (Axis I-V); ~~and~~

(11) Justification for Admission; and,

(12) Primary case manager (Certified Behavioral health Case Manager) and individual treatment team (ITT).

(c) The initial treatment plan is completed on the day of admission and guides team services until the comprehensive assessment and comprehensive treatment plan is completed. Interventions from the initial treatment plan should be reported on the consumer weekly schedule card. The initial treatment plan shall contain, but not be limited to, the following identification data:

(1) Consumer's name;

(2) Date;

(3) ~~Problem(s) to be addressed ;~~ Short term goals;

(4) ~~Intervention(s) to address problems;~~ Problems to be addressed;

(5) ~~Consumer or guardian participation;~~ Objectives;

(6) ~~Consumer's signature; and~~ Consumer or guardian participation;

(7) ~~Team leader's signature~~ Consumer's signatures; and,

(8) Team leader's signature.

(d) Compliance with 450:55-5-4 shall be determined by a review of the following: intake assessment instruments and other intake documents of the PACT program, clinical records and other agency documentation of admission materials or requirements.

450:55-5-5. Comprehensive assessment

(a) The consumer's psychiatrist, primary PACT case manager, and individual treatment team members shall prepare the written comprehensive assessment(s) within six (6) weeks of admission.

(b) The comprehensive assessment shall include a written narrative report for each of the following areas:

(1) Psychiatric and substance abuse history, mental status, and a current DSM diagnosis, to be completed by the PACT psychiatrist;

(2) Medical, dental, and other health needs to be completed by a PACT registered nurse;

(3) Integrated substance abuse assessment as well as the e~~E~~xtent and effect of drugs or alcohol use and interaction with mental illness, plus description of periods of relative sobriety, completed by a team professional as approved by the team leader;

(4) Extent and effect of any violence within the consumer's living situation(s) or personal relationships;

(5) The current version of the Alcohol Severity Index (ASI) within the first 6 weeks of admission and as clinically indicated thereafter;

(6) Education and employment;

(7) Social development and functioning by a team professional as approved by the team leader;

(8) Activities of daily living, to be completed by the team professional or Recovery Support ~~Peer~~ specialist under the supervision of the team leader;

(9) Family structure and relationships by a team professional as approved by the team leader; and

(10) Historical timeline by all team members under the supervision of the team leader.

(c) Compliance with 450:55-5-5 shall be determined by on-site observation and a review of the clinical records, ICIS information and the PACT policy and procedures.

SUBCHAPTER 11. ORGANIZATIONAL MANAGEMENT

450:55-11-1. Organizational description

(a) The parent organization under which the PACT operates shall clarify formal management and reporting responsibilities related to the PACT within the parent organization's overall structure.

(b) The PACT's parent organization shall approve the mission statement and annual goals and objectives for the PACT and document their approval.

(c) The PACT or parent organization shall have a written organizational description which is reviewed annually and minimally includes:

(1) The overall target population for whom services will be provided specifically including those individuals with co-occurring disorders;

(2) The specific geographic area in which PACT services are to be provided;

(3) The overall mission statement; and

(4) The PACT program's annual goals and objectives:

(d) There shall be documentation verifying these documents are available to the general public upon request.

(e) Compliance with 450:55-11-1 shall be determined by on-site observation and a review of organizational charts, and the PACT policy and procedures.

450:55-11-2. Program organization

(a) The parent organization under which the PACT operates shall vest authority with a team leader who shall be responsible for ensuring the PACT team meets the following organizational requirements.

(1) Each PACT shall have a written plan for professional services, which shall contain the following:

(A) Services description and philosophy;

(B) The identification of the professional staff organization to provide these services;

(C) Written admission and exclusionary criteria to identify the type of consumers for whom the services are primarily intended; and

(D) Written goals and objectives.

(E) Delineation of processes to assure accessible, integrated, and co-occurring capable services and a plan for how each program component will address the needs of individuals with co-occurring disorders.

(2) There shall be a written statement of the procedures and plans for attaining the organization's goals and objectives. These procedures and plans should define specific tasks, including actions regarding the organization's co-occurring capability, set target dates and designate staff responsible for carrying out the procedures and plans.

(b) Compliance with 450:55-11-2 shall be determined by a review of the following: PACT target population definition, PACT policy and procedures, written plan for professional services, other stated required documentation and any other supporting documentation

SUBCHAPTER 15. PERSONNEL

450:55-15-2. Job descriptions

(a) The PACT or parent organization shall have written job descriptions for all PACT positions setting forth minimum qualifications and duties of each position.

(b) All job descriptions shall include an expectation of core competencies in relation to individuals with co-occurring disorders.

(c) Compliance with 450:55-15-2 shall be determined by a review of written job descriptions for all center positions and other supporting documentation provided.

SUBCHAPTER 17. STAFF DEVELOPMENT AND TRAINING

450:55-17-2. Staff development

(a) The PACT or parent organization shall have a written plan for the professional growth and development of all PACT administrative, professional clinical and support staff.

(b) This plan shall include but not be limited to:

(1) Orientation procedures;

(2) In-service training and education programs, including co-occurring disorder competencies;

(3) Availability of professional reference materials; and

(4)Mechanisms for insuring outside continuing educational opportunities for staff members.

(c) The results of performance improvement activities and accrediting and audit findings and recommendations shall be addressed by and documented in the staff development processes.

(d) Staff competency development shall be aligned with the organization's goals related to co-occurring capability, and incorporate a training plan, training activities, and supervision designed to improve co-occurring core competencies of all staff.

(~~d~~e) Staff education and in-service training programs shall be evaluated at least annually by the agency.

(~~e~~f) Compliance with 450:55-17-2 shall be determined by a review of the staff development plan, documentation of in-service training programs and other supporting documentation provided.

450:55-17-3. In-service

(a) In-service presentations shall be conducted yearly and shall be required for all employees on the following topics:

(1) Fire and safety;

(2) Infection Control and universal precautions;

(3) Creating A Positive Environment (CAPE) training or similar programs;

(4) Consumer's rights and the constraints of the Mental Health Consumer's Bill of Rights;

(5) Confidentiality;

(6) Oklahoma Child Abuse Reporting and Prevention Act, 10 O.S. §§ 7101 et seq. and Protective Services for the Elderly and for Incapacitated Adults Act, 43A O.S. §§ 10-101 et seq;

(7) Facility policy and procedures; ~~and~~

(8) Cultural competency~~.~~; and

(9) Co-occurring disorder competency and treatment principles.

(b) Staff providing clinical services shall have a current cardiopulmonary resuscitation certification.

(c) Compliance with 450:55-17-3 shall be determined by a review of in-service training records, personnel records and other supporting written information provided.

[OAR Docket #06-654; filed 4-17-06]

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

[OAR Docket #06-669]

RULEMAKING ACTION:
PERMANENT final adoption

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]

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Oklahoma Board of Nursing 59 O.S. §567.2A.3, 567.3a.5, 567.3a.6., 567.3a.7, 567.3a.8, 567.3a.9, 567.3a.10, 567.3a.11, 567.3a.12, 567.3a.13, 567.4.F, 567.4a.1, 567.4a.2, 567.4a.3, 567.4a.4, 567.4a.6, , 567.4a.7, 567.4a.8, 567.5, 567.6, 567.15.

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The revisions to 485:10-7-2 and 485:10-9-2 identify practice requirements for licensure by endorsement and clarify requirements for foreign-educated applicants and for issuance of a temporary license. The revisions to 485:10-9-1 ensure that Air Force medics applying for practical nurse licensure meet educational requirements. The addition of rules under 485:10-10-8.1 address requirements for reinstatement of Advanced Unlicensed Assistant certification. 485:10-15-4 clarifies national certification requirements for advanced practice nurses applying for initial and continuing recognition. 485:10-15-4.1 clarifies requirements for advanced practice nurses to receive temporary recognition. In 485:10-15-6 and 485:10-15-7, education and national certification for Advanced Registered Nurse Practitioners (ARNP) and Clinical Nurse Specialists are addressed. In addition, a category for the Acute Care Pediatric ARNP is added. The revisions to 485:10-16-1 clarify categories of education for advanced practice nurses applying for and holding prescriptive authority. In 485:10-16-3, information regarding initial educational requirements for prescriptive authority is clarified. There are minor clarifications made to 485:10-16-2, 485:10-16-4 and 485:10-16-6. Content from 485:10-16-8 has been moved to 485:10-16-5 to improve the flow of content and make it easier to find information. In addition, a statement regarding the need for a supervising physician is added to emphasize statutory requirements. Finally, requirements for initial application for authority to order, select, obtain and administer drugs by Certified Registered Nurse Anesthetists are clarified in 485:10-18-2.
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. §308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 7. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A REGISTERED NURSE

485:10-7-2. Licensure by endorsement

(a) **Qualifications.**

(1) An applicant for licensure by endorsement as a Registered Nurse must meet the requirements of the Oklahoma Nursing Practice Act. An evaluation of educational requirements may be completed to ensure the applicant meets educational standards.

(2) An applicant licensed in another state since January 1, 1952 must have written the licensing examination adopted by the Board with a passing score as established by the Board. A license to practice nursing in Oklahoma will not be issued until this requirement is met.

(3) An applicant must submit evidence of either:

(A) successful completion of the National Council Licensure Examination for Registered Nurses since July 1, 1982; or

(B) passing the State Board Test Pool Examination for Registered Nurse licensure prior to July 1, 1982.

(4) In addition to meeting other requirements for endorsement established by the Board in these rules, effective January 1, 2005, each applicant for endorsement must demonstrate evidence of continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;

(B) Successfully pass the National Council Licensure Examination for Registered Nurses;

(C) Submission of an official transcript verifying successful completion of at least seven (7) academic semester credit hours of nursing courses which include classroom and clinical instruction; and/or

(D) Present evidence of licensure as a registered nurse in another state with employment in a position that requires nursing licensure with verification of at least 520 work hours during the past two (2) years.

(5) Applicants for endorsement who took the National Council Licensure Examination for Registered Nurses for initial licensure within the last two years must:

(A) Provide evidence of completion of the nursing education program within two years of initial application for licensure by examination; or

(B) Have at least six months work experience in the state of original licensure.

(b) **Applications.**

(1) Applications must be completed, notarized and accompanied by a photograph signed by the applicant and filed with the Board.

(2) Endorsement may be accepted from the original state of licensure by examination.

(3) If the applicant has written the licensing examination adopted by the Board in a state other than the state of original licensure, an endorsement will be requested from that state, also.

(4) If the application is not completed within one (1) year after receipt of fee, the application must be refiled.

(c) **Fee for licensure by endorsement.**

(1) The fee shall accompany the application.

(2) The fee is not refundable.

(3) If the application is not completed within one (1) year, a new application and new fee will be required for licensure.

(d) **Qualifications for applicants educated in foreign countries.** An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma.

(1) The applicant must present evidence of:

(A) graduation from a government-approved school of nursing;

(B) completion of formal courses including theory and clinical experience in nursing care of the adult, nursing care of children, maternal-infant nursing, psychiatric-mental health nursing as evidenced by:

(i) a translated transcript with certified proof of translation from original country of licensure, or

(ii) a certified copy of original transcript obtained directly from the Commission of Graduates of Foreign Nursing Schools (CGFNS)

(C) licensure in country of graduation as evidenced by official verification received directly from:

(i) the Commission of Graduates of Foreign Nursing Schools, or

(ii) verification received directly from the licensing body of applicant's initial licensure from a US Territory;

(D) competence in oral and written English as evidenced by successful completion of:

(i) Test of English as a Foreign Language (TOEFL) and Test of Spoken English (TSE) and Test of Written English (TWE) of the Educational Testing Service, or

(ii) Test of English for International Communication (TOEIC) and Test of Spoken English and Test of Written English of the Educational Testing Service, or

(iii)International English Language Testing System (IELTS).

(E) An evaluation of educational credentials as evidenced by:

(i) CGFNS Certificate Status ~~obtained within the five years immediately preceding the date of application for licensure by endorsement~~ or

(ii) CGFNS Healthcare Profession and Science Course-by-Course Report;

(iii) Reports received from CGFNS must have been completed within the five (5) years immediately preceding the date of application for licensure by endorsement. The five-year requirement is waived if the applicant holds a license in another state.

(F) Evidence of either:

(i) successful completion of the National Council Licensure Examination for Registered Nurses since July 1, 1982; or

(ii) passing the State Board Test Pool Examination for Registered Nurse licensure prior to July 1, 1981;

(2) The requirements for competence in spoken and written English are waived for applicants who are:

(A) Graduates of nursing education programs taught in English in Australia, Canada (except Quebec), Ireland New Zealand, the United Kingdom, Trinidad, Tobago, and the United States.

(B) Licensed in another US State or Territory, ~~and~~ have successfully completed the licensure examination approved by the Board and have at least one year full-time equivalent work experience in a clinical setting as a registered nurse in the state of licensure.

(3) Applicants must submit a completed application and the required fee.

(e) **Temporary license.**

(1) A temporary license may be issued to the applicant on proof of ~~current licensure in another state and evidence of having written the licensure examination and payment of the fee for licensure by endorsement.~~

(A) Current licensure in another state;

(B) Evidence of having written the licensure examination;

(C) Evidence of meeting educational qualifications through completion of a state board-approved nursing education program, or an evaluation of educational credentials and licensure in country of origin for the foreign-educated nurse as evidenced by:

(i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Healthcare Profession and Science Course-by-Course Report with verification of equivalent educational credentials and unrestricted licensure in country of origin, or

(ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status; and

(D) Payment of the fee for licensure by endorsement and temporary license.

(2) The temporary license may not be issued for a period longer than ninety (90) days.

(3) The temporary license may be extended, but such period shall be no longer than one (1) year for any applicant.

SUBCHAPTER 9. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A LICENSED PRACTICAL NURSE

485:10-9-1. Licensure by examination

(a) **Qualifications.** An applicant for licensure by examination as a Licensed Practical Nurse must meet the following qualifications:

(1) has received a high school diploma or a high school equivalency certificate (GED), or meets criteria for an Adult High School Diploma;

(2) submits an application containing such information as the Board may prescribe;

(3) submits proof satisfactory to the Board in such manner and upon such forms as the Board may require to show that the applicant has completed the basic curricula of a state Board-approved practical nursing education program conducted in a member board jurisdiction that meets the requirements of 485:10-5-6 (e-1, 2), and holds or is entitled to hold a diploma or degree therefrom;

(4) has completed equivalent courses through one of the following methods:

(A) in a state approved program of nursing with a minimum overall grade point average of 2.0, and a grade of a "C" or higher in all nursing courses. Evidence must be provided that verifies successful completion of a minimum of one academic year of instruction in a registered nursing education program, including classroom instruction and clinical practice in nursing care of the adult, nursing care of children, and maternal-infant nursing. Course content in anatomy and physiology, growth and development,

mental health, pharmacology and nutrition also must have been successfully completed. Courses in external degree programs are not acceptable for PN equivalency; or

(B) has completed an equivalent level of training as a military medic. The following levels of training have been evaluated and determined to be equivalent training:

(i) U.S.Army 91WM6 (previously known as 91C)

(ii) Air Force Medical Service Specialist 4NO51 (previously known as 90250) or 4NO71 (previously known as 90270), with further evaluation to verify that training included content on mental health, and classroom instruction and clinical experience in care of the adult, care of the child, and maternal-newborn nursing; or

(C) has completed a registered nursing education program in a foreign country and meets the requirements of 485:10-7-2(d).

(5) Board-approved role transition learning packet related to legal and ethical aspects of practical nursing must be completed by all PN equivalency applicants prior to approval to write the examination for licensure.

(b) **Applications.**

(1) Applications for licensure by examination must be completed, notarized and filed with the Board prior to the examination. If the application is not completed within one (1) year, a new application and new fee will be required.

(2) One (1) photograph signed by the applicant must be filed with the application.

(c) **Admission to the examination.** The candidate must register with the authorized testing service and submit required fee. An authorization to test will be mailed to the candidate allowing them to schedule the exam.

(d) **Fee for examination.**

(1) The fee for writing the licensing examination adopted by the Board for practical nurse licensure shall be established by the Board in accordance with statutory guidelines and shall accompany the application.

(2) The fee for rewriting the licensing examination adopted by the Board for practical nurse licensure shall be the same as the fee established for the first-time writing.

(3) The fee for the examination (first time and rewrite) is not refundable.

(e) **Policies for the examination.**

(1) Applicants must pass the National Council Licensure Examination for Practical Nurses (NCLEX-PN).

(2) Applicants who fail the NCLEX-PN may be eligible to repeat the examination upon filing an application and fee meeting Board requirements.

(3) To be eligible to write or rewrite the NCLEX-PN, the applicant must submit a completed application, transcript, and fee to the Board and a completed registration form and fee to the authorized testing service within two years of completion of the nursing education program or the equivalent coursework and/or related experience. If more than two years has elapsed, the applicant must complete additional education as follows:

(A) Successfully complete a Board-approved refresher course in accordance with the Board's policy; or

(B) Successfully complete nursing didactic coursework and faculty-supervised clinical experience in a board-approved nursing education program at the appropriate educational level, to include at least 80 hours in classroom and skills laboratory review and at least 160 hours participating in patient care activities in the clinical setting.

(4) After completion of the required additional education, the applicant will have two additional years to take and pass the NCLEX-PN.

485:10-9-2. Licensure by endorsement

(a) **Qualifications.**

(1) An applicant for licensure by endorsement as a Licensed Practical Nurse shall meet the requirements of the Oklahoma Nursing Practice Act. An evaluation of educational requirements may be completed to ensure the applicant meets educational standards.

(2) An applicant licensed in another state since June 30, 1954 must have passed the licensing examination adopted by the Board. A license to practice practical nursing in Oklahoma will not be issued until this requirement is met.

(3) In addition to meeting other requirements for endorsement established by the Board in these rules, effective January 1, 2005, each applicant for endorsement must demonstrate evidence of continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;

(B) Successfully pass the National Council Licensure Examination for Practical Nurses;

(C) Submission of an official transcript verifying successful completion of at least seven (7) academic semester credit hours or 105 contact hours of nursing courses in a state-approved practical or registered nursing education program, which includes classroom and clinical instruction; and/or

(D) Present evidence of licensure as a practical nurse in another state with employment in a position that requires practical nursing licensure with verification of at least 520 work hours during the past two (2) years.

(4) Applicants for endorsement who took the National Council Licensure Examination for Practical Nurses for initial licensure within the last two years must

(A) Provide evidence of completion of the nursing education program within two years of initial application for licensure by examination; or

(B) Have at least six months work experience in the state of original licensure.

(b) **Applications.**

(1) Applications must be completed, certified and accompanied by a photograph signed by the applicant and filed with the Board.

(2) Endorsement may be accepted from the original state of licensure by examination.

(3) If the applicant has written the licensing examination adopted by the Board in a state other than the state of original licensure, an endorsement will be requested from that state, also.

(4) If the application is not completed within one (1) year after receipt of fee, the application must be refiled.

(c) **Fee for licensure by endorsement.**

(1) The fee shall accompany the application.

(2) The fee is not refundable.

(3) If the application is not completed within one (1) year, a new application and new fee will be required for licensure.

(d) **Qualifications for applicants educated in foreign countries.** An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma.

(1) The applicant must present evidence of:

(A) completion of a high school diploma or high school equivalency certificate (GED), or meet criteria for an Adult High School Diploma;

(B) competence in oral and written English as evidenced by successful completion of:

(i) Test of English as a Foreign Language (TOEFL), Test of Written English (TWE), and Test of Spoken English (TSE) of the Educational Testing Service; or

(ii) Test of English for International Communication (TOEIC) and Test of Spoken English and Test of Written English of the Educational Testing Service; or

(iii) International English Language Testing System (IELTS);

(C) graduation from a government approved school of practical nursing or equivalent courses in a government approved school of nursing;

(D) licensure in country of graduation as evidenced by official verification completed within the last 12 months immediately preceding the date of application for licensure by endorsement received directly from:

(i) the Commission of Graduates of Foreign Nursing Schools, or

(ii) verification received directly from the licensing body of applicant's initial licensure from a US Territory;

(E) completion of formal courses including theory and clinical experience in nursing care of the adult, nursing care of children, and maternal-infant nursing in a government-approved school of nursing as evidenced by:

(i) a translated transcript from original country of licensure with certified proof of translation; or

(ii) a certified copy of the transcript received directly from the Commission on Graduates of Foreign Nursing Schools (CGFNS).

(F) An evaluation of educational credentials as evidenced by:

(i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Healthcare Profession and Science Course-by-Course Report or

(ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status ~~obtained within the five years immediately preceding the date of application for licensure by endorsement~~;

(iii) Reports received from CGFNS must have been completed within the five (5) years immediately preceding the date of application for licensure by endorsement. The five-year requirement is waived if the applicant holds a license in another state.

(2) The applicant must successfully complete the licensing examination adopted by the Oklahoma Board of Nursing.

(3) The requirements for competence in spoken and written English are waived for applicants who are:

(A) Graduates of nursing education programs taught in English in Australia, Canada (except Quebec), Ireland New Zealand, the United Kingdom, Trinidad, Tobago, and the United States or

(B) Licensed in another US State or Territory, ~~and~~ have successfully completed the licensure examination approved by the Board and have at least one year full-time equivalent work experience in a clinical setting as a practical nurse in the state of licensure.

(4) Applicants must submit a completed application with the required application and evaluation fees.

(e) **Temporary license.**

(1) A temporary license may be issued to the applicant on proof of ~~current licensure in another state, evidence of having written the licensure examination and payment of the fee for licensure by endorsement.~~

(A) Current licensure in another state;

(B) Evidence of having written the licensure examination;

(C) Evidence of meeting educational qualifications through completion of a state board-approved nursing education program, or an evaluation of educational credentials and licensure in country of origin for the foreign-educated nurse as evidenced by:

(i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Healthcare Profession and Science Course-by-Course Report with verification of equivalent educational credentials and unrestricted licensure in country of origin, or

(ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status; and

(D) Payment of the fee for licensure by endorsement and temporary license.

(2) The temporary license may not be issued for a period longer than ninety (90) days.

(3) The temporary license may be extended, but such period shall be no longer than one (1) year.

SUBCHAPTER 10. ADVANCED UNLICENSED ASSISTIVE PERSONNEL

485:10-10-8.1. Reinstatement of certification

(a) The certification of the advanced unlicensed assistive person is lapsed if not renewed by expiration date thereof.

(b) A completed application for reinstatement must be submitted to the Board office with the required fee. If the application is not completed within one (1) year, a new application and new fee will be required.

(c) The application for reinstatement must be accompanied by one of the following:

(1) notarized verification of employment as an AUA in an acute care setting for a minimum of 12 months within the previous 24 months; or

(2) documentation verifying successful completion of twelve hours of clinical inservice appropriate to the AUA role within the previous 24 months; or

(3) rewriting the certification examination with a passing score, both the written and core skills portions of the exam; or

(4) documentation verifying initial certification as an AUA within the 24 months immediately prior to reinstatement of AUA certification.

(d) An application for reinstatement for a certification that has been revoked, suspended or surrendered must be in compliance with all terms and conditions of any Order entered with regard to the revocation, suspension or surrender and shall be considered by the Board.

SUBCHAPTER 15. REQUIREMENTS FOR PRACTICE AS AN ADVANCED PRACTICE NURSE

485:10-15-4. Application

(a) An applicant for recognition as an advanced practice nurse must:

(1) hold a current license to practice as a Registered Nurse in Oklahoma;

(2) submit an official transcript verifying ~~documentary evidence of~~ completion of a formal educational program accepted by the Board;

(3) submit evidence of current national certification ~~by a national certifying body~~ recognized by the Board; and

(4) submit a completed application for recognition and the required fee.

(b) Changing certifications

(1) An advanced practice nurse who wishes to change or add an area of specialty and national certification must meet initial requirements for advanced practice recognition, as identified in 485:10-15-4(a).

(2) An advanced practice nurse who changes their national certification and certifying body within the same specialty area must notify the Board in writing within thirty (30) days of the change and submit a copy of a current national certification within the same specialty area and recognized by the Board.

(3) An advanced practice nurse holding more than one certification who does not renew or maintain one of their national certifications must notify the Board in writing within 30 days of the change. The advanced practice nurse shall not work in the specialty area upon expiration of their national certification.

485:10-15-4.1. Temporary recognition

Temporary recognition may be granted under the following conditions:

(1) hold a current license to practice as a Registered Nurse in Oklahoma,

(2) submit documentary evidence of registration for a Board-approved national certifying examination,

(3) submit a completed application for temporary recognition and the required fee~~.~~,

(4) submit an official transcript verifying successful completion of the advanced practice educational program.

485:10-15-6. Practice as an Advanced Registered Nurse Practitioner

(a) **Educational programs.** ~~The Board shall recognize educational programs which prepare Registered Nurses in the role of Advanced Registered Nurse Practitioner.~~ Successful completion of an educational program shall establish eligibility to take recognized advanced practice nurse certification examination in a specialty area. ~~After September 1, 1991, the~~ The educational program shall:

(1) Prepare advanced practice nurses as a part of a Master's level or higher preparation in nursing in a program accredited by an approved national nursing accrediting agency; or

(2) Meet the following requirements:

(A) be based on measurable objectives that relate directly to the scope of practice for the specialty area;

(B) include theoretical and clinical content directed to the objectives;

(C) be equivalent to at least one academic year. A preceptorship which is part of the formal program shall be included as part of the academic year;

(D) be university-based or university-affiliated with oversight by a nursing program accredited by an approved national nursing accrediting agency.

(b) **National Certification** ~~**Certifying body**~~**.** National certification in the specialty area at an advanced practice level is required for recognition. The Board shall identify and keep on file the current list of recognized certifications and certifying

bodies approved by the Board. A licensee may request that a ~~certifying body~~ certification program be considered by the Board for inclusion on the list. A certifying body examination shall meet the following requirements:

(1) ~~have~~ require applicants for the certification examination to have completed a formal program of study consistent with ~~requirements in~~ the area of certification ~~that meets criteria outlines in these Rules and Regulations~~;

(2) offer an examination in the area of certification which shall:

(A) measure the theoretical and clinical content based on the scope of practice in the specialty area;

(B) be developed in accordance with generally accepted standards of validity and reliability; and

(C) be open only to Registered Nurses who have successfully completed the appropriate formal program of study as defined in these Rules and Regulations~~;~~.

~~(D) nurses currently holding recognition by the Oklahoma Board of Nursing as advanced practice nurses and who do not meet the certification requirements of the law, must comply by January 1, 1995. After that date any nurse who practices as an Advanced Registered Nurse Practitioner must meet the requirements for certification as set forth in the Nursing Practice Act.[59 O.S. 567.3(5)]~~

(c) **Scope of practice for ARNP.** The Advanced Registered Nurse Practitioner's scope of practice includes the full scope of nursing practice and practice in an expanded role as follows:

(1) The Advanced Registered Nurse Practitioner (ARNP) provides comprehensive health care to clients across the life span.

(2) The ARNP is responsible and accountable for the continuous and comprehensive management of a broad range of health services, which include, but are not limited to:

(A) promotion and maintenance of health;

(B) prevention of illness and disability;

(C) diagnosis and prescription of medications, treatments, and devices for acute and chronic conditions and diseases;

(D) management of health care during acute and chronic phases of illness;

(E) guidance and counseling services;

(F) consultat on and/or collaboration with other health care providers and community resources;

(G) referral to other health care providers and community resources.

(3) The ARNP will provide services based upon education, experience, ~~or~~ and national certification. It is the responsibility of the licensee to document competency of any act, based upon education, experience ~~and/or~~ and certification.

(4) The scope of practice as previously defined is incorporated into the following specialty categories and further delineates the population served:

(A) Adult ARNP provides health care to adolescents and adults.

(B) School Nurse ARNP provides health care to preschool, school age and adolescent clients.

(C) Family ARNP provides health care to persons across the lifespan.

(D) Geriatric ARNP provides health care to older adults.

(E) Neonatal ARNP provides health care to neonates and infants.

(F) Pediatric ARNP provides health care to persons from newborn to young adulthood.

(G) Women's Health Care ARNP provides health care to adolescent and adult females. Care may also be provided to males with reproductive health needs or problems.

(H) Acute Care ARNP provides health care to adults who are acutely or critically ill.

(I) The Adult Psychiatric and Mental Health ~~Nurse Practitioner~~ ARNP provides acute and chronic psychiatric and mental health care to persons age 13 or older.

(J) The Family Psychiatric and Mental Health ~~Nurse Practitioner~~ ARNP provides acute and chronic psychiatric and mental health care to persons across the lifespan.

(K) The Acute Care Pediatric ARNP provides health care to persons from newborn to young adulthood with complex acute, critical and chronic health conditions.

485:10-15-7. Practice as a Clinical Nurse Specialist

(a) **Education.**

(1) Any nurse graduating prior to September 1, 1991, may apply for recognition as a Clinical Nurse Specialist by submitting a transcript which verifies conferral of a Master's Degree in Nursing and documentation verifying the completion of a minimum of two semesters of course work in supervised advanced clinical practice.

~~(b)~~ ~~**Recognition.**~~

(2) Any nurse graduating with a Master's Degree in Nursing after September 1, 1991, may apply for recognition as a Clinical Nurse Specialist by submitting a transcript verifying conferral of a Master's Degree in Nursing accredited by an approved national nursing accrediting agency and documentation verifying the completion of a minimum of two semesters of course work in which the major focus of study was a clinical nurse specialist track or pathway.

(3) Successful completion of the educational program shall establish an academic preparation consistent with the recognized certification examination in the specialty area.

(~~c~~b) **National certification.** ~~The Board shall identify and keep on file the current list of recognized certifying bodies approved by the Board. A licensee may request that a certification program be considered for inclusion on the list by the Board for approval and official recognition by the Board as a certifying body. A certifying body examination shall meet the following requirements:~~

(1) National certification in the specialty area at an advanced practice level or the highest level available in lieu of the availability of an advanced practice level examination in that specialty is required for recognition.

(2) The Board shall identify and keep on file the current list of recognized certifications and certifying bodies approved by the Board. A licensee may request that a certification program be considered for inclusion on the list. A certifying body examination shall meet the following requirements:

(~~1~~A) Approved or accredited by a certification credentialing body approved by the Board. The certification credentialing body shall verify the certification examination meets the following requirements:

(~~A~~i) measures theoretical and clinical content based on the scope of practice in the specialty area;

(~~B~~ii) is developed in accordance with generally accepted standards of validity and reliability;

(~~2~~B) Open only to licensed or credentialed health care professionals;

(~~3~~C) Based upon national standards of practice for the specialty area.

SUBCHAPTER 16. REQUIREMENTS FOR PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE NURSES

485:10-16-1. Definitions

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

"Continuing education categories" are defined in the following categories and represent and define methods for meeting initial and renewal contact and academic credit hours requirement for prescriptive authority:

(A) Category A: Academic credit. See continuing education equivalencies table for semester/quarter hour conversion to contact hours.

(B) Category B: Seminar or lecture or workshop or ~~class or programmed learning~~ course, either on-site or online, approved for contact hours, continuing education units or continuing medical education units through a recognized approver of continuing education.

(C) Category C: ~~Single articles~~ Articles in professional ~~reading~~ journals or ~~manuscripts~~ other professional references approved for contact hours, continuing education units or continuing medical education units through a recognized approver of continuing education.

(D) Category D: ~~Publicized~~ Published article in ~~referred~~ refereed journal/book/research project. Evidence of publication of one article related to pharmacotherapy appropriate for advanced practice nurses. These will be evaluated on a case-by-case review.

(E) Category E: Presenter/lecturer. Evidence of providing content related to pharmacotherapeutics at an advanced practice level. The presentation/lecture must be approved for contact hours or offered as part of an academic course with a target audience of advanced practice nurses.

"Continuing education equivalences" means:

(A) 1 Continuing Education Unit (CEU) = 10 contact hours

(B) 1 contact hour = .1 CEU

(C) 1 contact hour = 50 minutes

(D) 1 academic semester hour = 15 contact hours

(E) 1 academic quarter hour = 12.5 contact hours

(F) 1 Continuing Medical Education Unit (CME) = 60 minutes or 1.2 contact hours

(G) 1 clock hour = 60 minutes

(H) 1 CE credit = 1 contact hour or 50 minutes

"Course in pharmacotherapeutic management" means a course in which the content must include pharmacodynamic and kinetic principles, classifications of medications relevant to the scope of practice, sources for and methods of evaluating drug information, legal and ethical implications of prescribing, clinical application and use of pharmacological agents in the prevention of illness, restoration and maintenance of health.

"**Qualified preceptor"** means an advanced practice nurse with a current unrestricted license who has a scope of practice which includes prescribing and has met the requirements for prescriptive authority; a licensed practitioner of medicine or osteopathy with unrestricted prescriptive authority.

485:10-16-2. Provision

The ~~Board of Nursing will provide the~~ Board of Pharmacy, ~~all~~ pharmacies, and ~~all~~ registered pharmacists may access the Board of Nursing's website for the ~~with a~~ formulary and ~~a list~~ the licensure and recognition status of advanced practice nurses recognized for prescriptive authority~~, termination, suspension and reinstatement of prescriptive authority~~.

485:10-16-3. Initial application

The advanced practice nurse applicant for prescriptive authority shall:

(1) hold a current R.N. license and recognition as an A.R.N.P., C.N.M. or C.N.S. in Oklahoma;

(2) submit a completed application approved by the Board for prescriptive authority and the required fee;

(3) submit a written statement from a physician supervising prescriptive authority which identifies a mechanism for:

(A) appropriate referral, consultation, and collaboration between the advanced practice nurse and physician supervising prescriptive authority;

(B) availability of communication between the advanced practice nurse and physician supervising prescriptive authority through direct contact, telecommunications, or other appropriate electronic means for consultation, assistance with medical emergencies or patient referral;

(4) submit documentation verifying completion of forty-five contact hours or three academic credit hours of education, ~~or the equivalent,~~ as required by law and defined in the rules and regulations, which are applicable to the scope of practice, in pharmacotherapeutics, clinical application, and use of pharmacological agents in the prevention of illness, and in the restoration and maintenance of health in a program beyond basic nursing preparation. Such contact hours or academic credits shall be obtained within a time period of three (3) years immediately preceding the date of application for prescriptive authority. The three (3) year time period may be waived if the applicant has graduated from their advanced practice educational program within a time period of three years immediately preceding the date of application for prescriptive authority and submits the following documentation:

(A) Course descriptions with course objectives verifying the integration of didactic and clinical hours in pharmacotherapeutic management content throughout the advanced practice program curriculum; and

(B) Credentials of the faculty teaching the courses verifying the faculty's scope of practice includes prescribing.

(C) Verification of the total number of contact hours completed in pharmacotherapeutics.

~~(A)~~ The following categories identify how this requirement may be met. No more than the identified percentage for each category may apply toward the contact hour/academic hour or the equivalent requirements for initial application:

(i) Category A: Up to 100% of requirement (3 credit hours)

(ii) Category B: Up to 100% of requirement (45 contact hours)

(iii) Category C: Up to 50% of requirement (22.5 contact hours)

(iv) Category D: Up to 20% of requirement (9 contact hours)

(v) Category E: Up to 20% of requirement (9 contact hours)

~~(B) Such contact hours or academic credits shall be obtained within a time period of three years immediately preceding the date of application for prescriptive authority.~~

(5) ~~Effective July 1, 2002, submit~~ Submit documentation verifying successful completion of a ~~Master's Degree~~ graduate degree at an advanced practice level ~~in a clinical nurse specialty~~ or post-master's certificate at an advanced practice level, if the Master's degree is in nursing.

485:10-16-4. Clinical Nurse Specialist pharmacology requirements

The initial application for prescriptive authority shall also include:

(1) Documentation verifying completion of a course in pharmacotherapeutic management applicable to the Clinical Nurse Specialist's scope of practice which must be a minimum of two credit hours or 30 contact hours of Categories A or B continuing education categories ~~or equivalences~~.

(2) Documentation verifying satisfactory completion of a minimum of 320 clock hours preceptorial experience with a qualified preceptor whereby the Clinical Nurse Specialist is providing direct care including demonstrating competence in prescribing drugs and medicines. This preceptorial experience must be developed and overseen by an academic program that prepares Clinical Nurse Specialists. The pharmacotherapeutic course must be a prerequisite or corequisite to the preceptorial experience ~~and be approved~~ verified by official documentation of approval by the academic program that offers the preceptorial experience.

485:10-16-5. Maintenance

(a) The advanced practice nurse may prescribe in writing, orally, or by other means of telecommunication, drugs or medical supplies which are not listed on the exclusionary formulary approved by the Board, and which are within the scope of practice for the advanced practice nurse, and that are not otherwise prohibited by law.

(b) The advanced practice nurse must have a supervising physician on file with the Board prior to prescribing drugs or medical supplies. Changes to the written statement between the advanced practice nurse and supervising physician shall be filed with the Board within 30 days of the change and shall be effective upon filing.

(c) The advanced practice nurse with prescriptive authority who prescribes Schedule III-V drugs will comply with state and Federal Drug Enforcement Administration (DEA) requirements prior to prescribing controlled substances.

(1) The advanced practice nurse with prescriptive authority will submit in writing the assigned DEA number to the Board of Nursing within fourteen (14) days of receipt.

(2) No more than a 7-day supply for Schedule III-V drugs shall be prescribed by the advanced practice nurse with prescriptive authority.

485:10-16-6. Renewal

The application for renewal of prescriptive authority shall:

(1) be concurrent with the two-year RN licensure renewal and renewal of advanced practice recognition;

(2) include:

(A) a completed application approved by the Board and required fee;

(B) documentation approved by the Board verifying a minimum of 15 contact hours, or one academic credit hour of education, or the equivalent, in pharmacotherapeutics, clinical application and use of pharmacological agents in the prevention of illness, and in the restoration and maintenance of health, in a program beyond basic registered nurse preparation, approved by the Board, within the two-year period

immediately preceding the effective date of application for renewal of prescriptive authority, which is applicable to the scope of practice. This documentation requirement does not apply to individuals renewing within 24 months of initial prescriptive authority approval.

(i) The following categories identify how this requirement may be met. No more than the identified percentage for each category may apply towards the contact hour/academic hour or the equivalent requirements for renewal of prescriptive authority;

(ii) Maximum number of units acceptable in continuing education categories ~~or equivalences~~:

(I) Category A: up to 100% of requirement (1 credit hour)

(II) Category B: up to 100% of requirement (15 contact hours)

(III) Category C: up to 50% of requirement (7.5 contact hours)

(IV) Category D: up to 20% of requirement (3 contact hours)

(V) Category E: up to 20% of requirement (3 contact hours)

(C) A written statement signed by the physician supervising prescriptive authority that includes a method of assuring availability of the supervising physician through direct contact, telecommunications or other appropriate electronic means for consultation, assistance with medical emergencies, or patient referral.

485:10-16-7. Reinstatement/Inactive Status

(a) **Reinstatement.**

(1) If an advanced practice nurse fails to renew prescriptive authority prior to the expiration date of that authority, the advanced practice nurse's prescriptive authority shall expire.

(2) If reinstatement is not approved within three years of the expiration of prescriptive authority, the applicant will be required to meet initial application criteria.

(b) **Inactive Status.**

(1) An advanced practice nurse may submit a written request to place prescriptive authority on inactive status.

(2) An advanced practice nurse's prescriptive authority will be placed on inactive status upon notification to the Board office that the nurse does not have a current physician supervising prescriptive authority.

(3) The date of inactive status will be the date of approval by the Board. The Board may delegate approval of the licensee's request to be placed on inactive status to Board staff.

(4) An advanced practice nurse may request return to active status of prescriptive authority by submitting a completed application and return to active fee.

(5) If return to active status of prescriptive authority is not approved within three years of the date of approval of inactive status, the applicant will be required to meet initial application criteria.

485:10-16-8. Information which must be included on the prescription

~~The advanced practice nurse may prescribe in writing, orally, or by other means of telecommunication, drugs or medical supplies which are not listed on the exclusionary formulary approved by the Board, and which are within the scope of practice for the advanced practice nurse, and that are not otherwise prohibited by law.~~

(a~~1~~) Prescriptions will comply with all applicable state and federal laws.

(b~~2~~) All prescriptions will include the following information:

(1~~A~~) Name, title, address, and telephone number of the advanced practice nurse who is prescribing.

(2~~B~~) Name of physician supervising prescriptive authority.

(3~~C~~) Name of the client.

(4~~D~~) Date of the prescription.

(5~~E~~) Full name of the drug, dosage, route and specific directions for administration.

(6~~F~~) DEA number of advanced practice nurse, if required.

(c~~3~~) Written prescriptions shall include the signature of the advanced practice nurse.

(d~~4~~) Records of all prescriptions will be documented in client records.

~~(5) The advanced practice nurse with prescriptive authority who prescribes Schedule III-V drugs will comply with state and Federal Drug Enforcement Administration (DEA) requirements prior to prescribing controlled substances.~~

~~(A) The advanced practice nurse with prescriptive authority will immediately notify the Board of Nursing that DEA registration was received.~~

~~(B) No more than a 7-day supply for Schedule III-V drugs shall be prescribed by the advanced practice nurse with prescriptive authority.~~

SUBCHAPTER 18. PRESCRIPTIVE AUTHORITY FOR C.R.N.A.

485:10-18-2. Initial application

The Certified Registered Nurse Anesthetist (C.R.N.A.) who applies for authority to order, select, obtain and administer drugs shall:

(1) hold a current R.N. license and recognition as a C.R.N.A. in Oklahoma;

(2) submit the following:

(A) a completed application approved by the Board for authority to order, select, obtain and administer drugs and the required fee;

(B) evidence of satisfactory completion of a minimum of fifteen (15) units of continuing education

in advanced pharmacology related to the administration of anesthesia as recognized by the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists within the two-year period immediately preceding the date of application;

(C) evidence of professional liability insurance.

(D) official transcript of C.R.N.A. education, if not on file with Board office.

(E) legible copy of current national certification.

[OAR Docket #06-669; filed 4-17-06]

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

[OAR Docket #06-638]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
490:1-1-1. [AMENDED]
490:1-1-2. [AMENDED]
Subchapter 3. Oklahoma State Board of Examiners for Nursing Home Administrators
490:1-3-1. through 490:1-3-3. [AMENDED]
490:1-3-4. [REVOKED]
490:1-3-6. [AMENDED]
Subchapter 5. Complaints/Referrals. [NEW]
490:1-5-1. [REVOKED]
490:1-5-2. through 490:1-5-8. [NEW]
Subchapter 6. Administrator Registry. [NEW]
490:1-6-1. [NEW]
Subchapter 7. Fees and Deposits
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These changes will affect individuals applying for original or renewal of licensure as Nursing Home Administrators
Amendments of 490:1-1-1 relate to additions and deletions of language for the purpose of complying with the Administrative Procedures Act
Amendments of 490:1-1-2 relates to definitions being added and deleted
Amendments of 490:1-3-1 relates to how many members constitute a quorum
Amendments of 490:1-3-2 relates to minutes being taken in Executive Session
Amendments of 490:1-3-3 relates to change of language and how many members constitute a quorum
Revocation of 490:1-3-4 relates to deleting Board composition
Amendments of 490:1-3-6 relates to continuing education programs and training
Revocation of 490:1-5-1 relates to deleting Notice and hearing and adding complaints/referrals
Additions of 490:1-5-2 through 490:1-5-8 relates to the process of complaints/referrals
Addition of 490:1-6-1 relates to the new Administrator's Registry
Amendments to 490:1-7-1 relates to fee schedule changes
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 JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

490:1-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S., Sections 301 et seq. This Board, known as the Oklahoma State Board of Examiners for Nursing Home Administrators, carries out statutory authority for developing, imposing and enforcing standards ~~which~~ that must be met by individuals in order to receive, maintain, or renew a nursing home administrator's license. ~~and the responsibility of imposing continuing education hours for renewal of a nursing home administrator's license.~~ These rules are written to carry out the aforementioned statutory responsibilities~~.~~ for licensing administrators in Nursing and Specialized Facilities (which includes Intermediate Care Facilities for the Mentally Retarded) as defined in the Nursing Home Care Act.

490:1-1-2. Definitions

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

~~**"Active Status"** means a nursing home administrator's license is current and in good standing.~~

"Administrator-In-Training" (AIT) means a person serving a Board approved Internship within a nursing home under the supervision of a Board approved preceptor.

"Administrator of Record" means a nursing home administrator, licensed by the state of Oklahoma, who is in

charge of a facility and given essential and necessary authorization from the owner and/or governing body to comply with all pertinent promulgated rules and state statutes, and who is responsible for hiring, maintaining, and directing a team of professionals to attain and maintain physical, mental, and psychological well-being of each resident, client, or patient.

~~**"Adult Day Care Center"** or **"center"** means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty four hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers. [63:1-872].~~

"Adverse action" means ~~any act proposed by the Board denying, refusing to issue or renew a nursing home administrator license, or an action for the suspension or revocation of a nursing home administrator's license.~~ revocation or suspension of a license, reprimand, censure or probation; any other loss of the license, or the right to apply for, or renew a license; voluntary surrender, non-renewal (excluding nonrenewals due to non-payment of fees, retirement, or change to inactive status); and any other negative action or finding by the Board that is publicly available information.

"Assisted Living Center" means any home or establishment offering, coordinating or providing services to two (2) or more persons who:

(A) are domiciled therein;

(B) are unrelated to the operator;

(C) by choice or functional impairments, need assistance with personal care or nursing supervision;

(D) may need intermittent or unscheduled nursing care;

(E) may need medication assistance; and

(F) may need assistance with transfer and/or ambulation. [63:1-890.2].

"Board" (OSBENHA) means the Oklahoma State Board of Examiners for Nursing Home Administrators.

"Coercion" means compelling, pressuring or otherwise improperly influencing the free will decisions made by a consumer or a potential consumer of a long term care facility served by a licensed long term care administrator or representative or affiliate.

"Complaint" means an allegation that an individual licensed as a nursing facility administrator has failed to comply with one or more of the established standards for licensure as a nursing facility administrator.

~~**"Continuing Education"** means educational opportunities beyond formal education and initial entry level into a profession to enable practitioners to maintain competence, to become aware of new developments and to provide responsible, quality services.~~

"Continuum of Care Facility" means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes and one or both of the following:

(A) assisted living center services as defined in the Continuum of Care and Assisted Living Act; and

(B) adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes. [63:1-890.2.4].

~~**"Inactive Status"** means a license which is in good standing, but not current.~~

"Intermediate Care Facilities for the Mentally Retarded (ICF-MR)" means a facility whose primary purpose is to provide health and rehabilitative services for mentally retarded individuals or persons with related conditions, using a plan of care that includes professionally developed and supervised activities, experiences, or therapies. The objective of the services offered is to maintain the optimal physical, intellectual, social, and/or vocational level at which the individual is presently or potentially capable of functioning.

"Intermediate Care Facilities for the Mentally Retarded 16 Beds and Less" (ICF/MR-16) means small facilities serving the mentally retarded which provide residential accommodations and transitional living training to aid residents in adapting to live in the general society. Resident accommodations are limited to not more than 16 residents, plus any required "live-in" staff.

"License" means the written permission of the Board authorizing and granting a person the privilege of serving as a nursing home administrator for a specific period of time.

"Nursing facility, Nursing Home, Rest Home, Specialized Home, and Specialized Facility" shall have the same meanings as the term "Nursing Facility" as such term is defined in the Nursing Home Care Act.

~~**"Nursing home"** means any home, establishment, or institution in which there is offered or provided, by any person, medical services, skilled nursing care, necessary special dietary service, and personal care and supervision to three or more persons domiciled therein who by reason of physical or mental infirmity may require such service.~~

"Nursing home administrator" means a person licensed by the state of Oklahoma under the provisions of 63 O.S., Sections 330.51 et seq. Administrator and Nursing Facility Administrator shall have the same meanings as the term "Nursing Home Administrator" as such term is defined in 63 O.S., Section 330.51.

"OSBENHA" (Board) means Oklahoma State Board of Examiners for Nursing Home Administrators.

~~**"Owner"** means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility.~~

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

"Preceptor" means a Board approved person who is currently licensed as a nursing home administrator in Oklahoma and is charged with coordinating the training of an Administrator In Training (AIT).

"Provisional license" means the temporary authority to serve as nursing home administrator as granted by the Board to an individual of good character who meets appropriate conditions and requirements as prescribed by the Board.

~~**"Qualified Mental Retardation Professional" (QMRP)** means an individual determined by the State Department of Health, pursuant to Section 483.430, 42 C.F.R., to have at least one (1) year of experience working directly with persons with mental retardation or other developmental disabilities, and be one of the following: a doctor of medicine or osteopathy licensed to practice in this state, a registered nurse, or an individual who holds at least a bachelor's degree in a related field.~~

"Referral" means the statutory requirement for the Health Department to provide written notice of substandard quality of care findings from state Medicare/Medicaid surveys. In order to satisfy notification requirements, the state survey agency "refers" by letter, the name of the administrator and survey results to the Board.

"Residential Care Home" means any establishment or institution other than a hotel motel, fraternity or sorority house, or college or university dormitory which offers or provides residential accommodations, food service and supportive assistance to any of its residents or houses any resident requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care.

"Specialized facility" means any facility which offers or provides inpatient long-term care services on a twenty-four hour basis to a limited category of persons requiring such services, including, but not limited to, a facility providing health or habilitation services for developmentally disabled persons, infants and/or children, or Alzheimer's and dementia residents.

"Uninvited Solicitation" means coercion or harassment of a patient, resident or client residing in a long term care facility for the purpose of attempting to persuade the patient, resident or client to change long term care facilities without prior request of the patient, resident or client.

"Waiver" means the granting of an exemption from a State regulation under the provisions of 63 O.S., Sections 330.51 et. seq.

SUBCHAPTER 3. OKLAHOMA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

490:1-3-1. Organization

The members of the Board shall, as soon as a majority has been appointed and annually, thereafter, elect from their membership a president, vice-president and secretary-treasurer.

(1) Nominations may be made by any member of the Board or a committee named by the president.

(2) Each member of the Board shall cast one vote for each office for which an election is held.

(3) ~~Fifty percent of the total membership~~ Eight (8) members of the Board shall constitute a quorum. Election shall be by majority vote of the members present and voting.

(4) Board officer vacancies shall be filled in like manner.

490:1-3-2. Officers and committees

(a) The president shall be the Chief Executive Officer of the Board. The president shall call and preside at all meetings and shall be a member ex-officio of all committees. The president may act for the Board in such other matters as it may authorize.

(b) The vice-president in the absence of the president shall assume all the president's duties and have all the president's authority. The vice-president shall also perform such duties as may be assigned by the president.

(c) The secretary-treasurer shall keep accurate and complete minutes of all meetings (including minutes of executive sessions), attend to all correspondence, call meetings on order of the president, maintain accurate and complete records of all other business transactions and funds of the Board.

(d) The elected officers shall constitute the Executive-Committee of the Board and provide counsel to the president in situations requiring immediate attention and action. The Executive Committee will act in strict compliance with the Oklahoma Open Meeting Act.

(e) Standing and special committees may be appointed by the president and shall serve until their purpose is accomplished or until the date of the meeting at which the officers of the Board are elected. Such committees shall maintain a permanent record of all activities and shall report same at each regular meeting of the Board.

490:1-3-3. Meeting of the Board

(a) All proceedings of the Board ~~will~~ shall be held and conducted in compliance with the State Open Meeting Law.

(b) The annual meeting of the Board for purpose of election of officers shall be the last meeting before the end of the calendar year, December 31.

(c) Regularly scheduled meetings shall be held at a time and place designated by the president.

(d) The secretary shall notify the membership of the time and place of all meetings at least five (5) days prior to the date of said meeting.

(e) Special meetings may be called at any time by the president and shall be called at the request of a majority of the members of the Executive Committee or at the request of a majority of the membership of the Board. At any special meeting no business shall be transacted except that stated in the notice calling the meeting. The secretary shall notify the Board of the time, place and business to be transacted at least forty-eight (48) hours in advance of the time set for the special meeting.

(f) ~~Fifty (50) percent of the membership~~ Eight (8) members of the Board ~~will~~ shall constitute a quorum for ~~the annual, regular, and special~~ meetings.

~~(g) Roberts Rules of Order will be followed at each meeting of the Board.~~

490:1-3-4. Board composition. [REVOKED]

~~(a) *The Oklahoma State Board of Examiners for Nursing Home Administrators shall consist of fifteen (15) members, eleven of whom shall be representative of the professions and institutions concerned with the care and treatment of critically ill or infirm elderly patients, two members representing the general public, and the State Commissioner of Health and the Director of the Department of Human Services, or their designees. The thirteen members shall be appointed by the Governor, with the advice and consent of the Senate.*~~

~~(b) *Six of the thirteen appointive members shall each be presently an owner and a licensed administrator and shall have had five (5) years' experience in the nursing home profession as an owner and administrator. Two members shall be representatives of the general public and shall not have any direct or indirect financial interest in nursing homes. The other members shall not be nursing home owners or administrators and shall have no direct financial interest in nursing homes.*~~

~~(c) *The terms of all appointive members shall be three (3) years. Any vacancy occurring in the position of an appointive member shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired term.* . [63 O.S. 330.51 et seq.]~~

490:1-3-6. ~~Training and instruction~~ Continuing Education Programs and Training Programs

(a) In order to receive OSBENHA recognition and continuing education credit (CEU), continuing education programs shall be submitted to the Board for consideration prior to presentation as indicated ~~at 490:1-3-6.(e)(4)~~ under this Chapter. All continuing education programs submitted to the OSBENHA for recognition and continuing education credit hours will be submitted with a $55.00 per credit hour non-refundable approval fee. Approval will be granted only for specific programs for specific dates of presentation. The Board shall not be bound to granting specific continuing education credit should subsequent information come to its attention that program content differed from that approved.

(b) Sponsors shall be responsible for obtaining satisfactory documentation of attendance.

(c) All programs approved by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) that receive a NAB approval number will be accepted presumptively by OSBENHA for CEU credits.

(~~b~~d) If the Board finds that programs of training and instruction conducted within the state are not sufficient in number or content to enable applicants for nursing home administrators' licenses and nursing home administrators to meet requirements established by this Board, it shall institute and conduct or arrange with others to conduct one or more such programs and shall make provision for their accessibility to ~~appropriate residents~~ citizens of this state. The Board may approve and conduct programs sufficient to meet educational and training requirements established by the Board.

(~~c~~e) The Board reserves the right to monitor any or all approved programs.

(~~d~~f) Criteria for Board program approval:

(1) Relevance of subject matter and adequate facilities:

(A) Must relate to Nursing Home Administration.

(B) Must be designed to promote continued knowledge, skills and attitudes consistent with current standards in nursing home administration.

(C) Assist administrators in the improvement of their professional competencies.

~~(D) Programs which deal specifically with internal affairs of an organization do not qualify for credit.~~

(~~E~~D) Programs must be open and available to all qualified nursing home administrators in Oklahoma.

(~~F~~E) Program location (facilities) must provide adequate space to accommodate potential attendees and have the ability to provide needed equipment, sound, projectors, etc.

(2) Faculty qualifications:

(A) Must have experience in long term care, supervision and administration or,

(B) Must have expertise in teaching and instructional methods suitable to subject presented or,

(C) Must have suitable academic qualifications and experience for subject presented.

(3) Learning objectives:

(A) Must be reasonable and clearly stated.

(B) Must be stated in behavioral terms, which define the expected outcomes for participants.

(C) Must demonstrate the consistency of content (objectives).

(D) Must identify mechanism by which learning objectives are shared with participants.

(4) Teaching methods:

(A) Must be clearly stated.

(B) Must be appropriate to subject matter, and allow suitable time.

(C) Must describe instructional aids and resource materials utilized.

(5) Sponsors must have expertise in the subject matter presented and should be from one of the following categories:

(A) Accredited educational institutions.

(B) Professional association and/or trade association.

(C) Private educational group.

(D) A state agency.

(6) Registration fee for programs:

(A) Must be published clearly on promotional material.

(B) Fees will be reviewed by OSBENHA.

(7) Evaluation of program:

(A) Sponsor must allow OSBENHA to evaluate program.

(B) OSBENHA will provide evaluation form for each program participant's responses.

(C) OSBENHA will provide a summary of evaluations for each program.

(D) Copies of actual evaluations will be provided to sponsor at additional cost upon request.

(8) Certification of attendance:

(A) Must state method to be used.

(B) To receive full credit, attendees must attend the full program. Partial credit with a minimum of two clock hours may be earned in a divisible program. Program content will be considered by the Board in determining whether partial credit will be granted.

(C) The maximum number of hours which can be earned shall be seven clock hours per day.

(D) Must provide list of participants to OSBENHA.

(9) Instructional hours:

(A) Must be based upon clock hours (60 minutes = 1 clock hour).

(B) Schedule must show registration, meal times (not included in credit hours), and breakdown of daily educational activities.

(10) Target group for programs:

(A) Nursing Home Administrators.

(B) Other disciplines related to long term care.

(11) OSBENHA reserves the right to evaluate any or all approved programs.

(~~e~~g) Review process:

(1) All programs will be reviewed by the Education Committee.

(2) The Education Committee will make recommendations to the full Board for approval/or denial.

(3) Types of programs to be reviewed shall be appropriately designed for Nursing Home Administrators.

(4) Sponsors must submit program to OSBENHA 30 days in advance of program, provided however, that should the Board fail to meet through lack of a quorum or other circumstance, the application will be reviewed at the next meeting of the Board and if approved, hours will be awarded retroactively.

(5) If a program is disapproved, the sponsor ~~is to~~ shall be notified in writing including the reasons for rejection.

(6) If a program is disapproved, the sponsor has 30 days to appeal in writing. The appeal must include a copy of the original application package and any additional information which the sponsor feels is needed for further clarification.

(7) The committee may recommend approval of a submitted program content or a portion of the program content even though it has been determined that the same content or a portion of the program content has been previously approved by the Board during the current calendar year; however, licensed nursing home administrators who have attended and received credit for such previously approved program that falls into this category shall be denied credit for attending subsequent duplicate programs during the same calendar year.

~~(8) All programs approved by the NAB will be presumptively approved by the Board.~~

(h) Programs which deal specifically with internal affairs of an organization do not qualify for credit.

SUBCHAPTER 5. ~~NOTICE AND HEARING~~ COMPLAINTS/REFERRALS

490:1-5-1. Notice and hearing [REVOKED]

~~(a) The Board shall have jurisdiction to hear disciplinary charges brought under the provisions of the rules of this Subchapter against persons licensed as nursing home administrators. An individual proceeding may be initiated by the Board or by any interested person upon the filing of a written, verified complaint containing a brief statement setting forth the relief requested, and the facts alleged to give rise to relief, and naming the persons against whom relief is sought. Individual proceedings shall be conducted by the Board according to the provisions established in the Oklahoma Statutes at Title 75, Section 309, et seq.~~

~~(b) Any proposed action by the Board denying, refusing to issue or renew a license, or an action for the suspension or revocation of a license shall be sent to the applicant or licensee by certified mail addressed to the last known place of business or residence as contained in the records of the Board. Said notice shall be so mailed at least fifteen (15) days in advance of the proposed action of the Board.~~

~~(1) Any applicant aggrieved by an action of the Board respecting the application for licensure renewal of same or proposed suspension or revocation may, within fifteen (15) days of the receipt of notice of the action or proposed action of the Board, request a hearing. The hearing shall be conducted in an orderly manner by the Board.~~

~~(2) Hearings will be conducted by one of the following methods as determined by the Board: by the Board; by any member of the Board acting as hearing examiner; or by an attorney licensed to practice before the Supreme Court of the State of Oklahoma acting as hearing examiner. A hearing examiner or any Board member shall withdraw from any proceeding in which he or she cannot afford a fair and impartial hearing or consideration. Any party may request such disqualification by filing an affidavit, promptly upon the discovery of the alleged disqualifications, stating the particular grounds for objection. The issue shall be referred to the Board to be determined promptly by the Board.~~

~~(3) The Board will set a date, time and place for the hearing and the secretary will inform the aggrieved applicant by registered mail, addressed to applicants last known business or residence address as contained in the records of the Board, of the scheduling of such hearing at least ten (10) days in advance of the date set for the hearing.~~

~~(4) All parties shall have an opportunity to respond and be represented by counsel at said hearings.~~

~~(5) All parties shall have a full opportunity to present evidence and argue all issues involved and to cross examine as may be required for a full and true disclosure of the facts.~~

~~(6) The rules of evidence before the Board shall be those described in title 75, Oklahoma Statutes, Section 310.~~

~~(7) The decision of the Board shall be based exclusively on the evidence and matters noticed.~~

~~(8) A record of the proceeding shall be produced and kept by the Board. The record shall contain all pleadings, motions, and intermediate rulings, evidence received or~~

~~considered, a statement of matters of officially noticed, questions and offers of proof, objections, and rulings thereon, and decision, opinion, or report by the officer presiding at the hearing, all staff memoranda or data submitted to the Board in connection with their consideration of the case.~~

~~(9) The full proceedings of any hearing shall be transcribed on the request of any party. The fee for the reporter shall be paid by the party requesting the services of the reporter. The Board may require the requesting party to post a reasonable deposit to cover the cost of transcribing the full proceedings.~~

~~(10) All final orders in any individual proceeding shall be in writing or stated in the record. A final order shall include findings of fact and conclusions of law, separately stated. Any party to a proceeding before the Board may file proposed findings of fact and conclusions of law; and if proposed findings of fact are filed, the final order of the Board shall include a ruling upon each proposed finding. All parties shall be notified either in person or by mail of any order. Upon request, a copy of the order shall be mailed forthwith to each party and to his attorney of record at the address specified in the request.~~

~~(c) A petition for rehearing, reopening or reconsideration of a final order must be filed with the Board within ten (10) days from the entry of the order. It must be signed by the party or the parties attorney, and must set forth with particularity such statutory grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by the perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit~~

~~(d) The Board shall receive and take appropriate action with respect to any written verified charge or complaint to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of these Rules, Regulations, and Standards. The signed complaint or charge shall contain a brief statement setting forth the rule violated and the facts alleged to give rise to the right to relief, and naming the persons against whom the allegations are made.~~

~~(1) Upon filing of a sworn complaint with the Board charging a person with any of the actions specified as a ground for disciplinary action, the president of the Board shall fix a time disciplinary action, the president of the Board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a written notice of the time and place fixed for the Hearing, to be sent by certified mail to the last known address of the licensee as recorded in the records of the Board at least ten (10) days prior to the hearing date.~~

~~(2) The Board may direct an investigation of any such charge or allegation of an action by a licensee that would necessitate disciplinary action by the Board.~~

~~(3) All notices of any requests for hearings related to such complaints and charges shall be handled and conducted as outlined in 490:1-5-1(b).~~

490:1-5-2. Receipt of Complaints/Referrals

The Board shall investigate and take appropriate action on any complaint/referral received, including those from the Department of Human Services or any other regulatory agency. The following requirements apply to complaints and referrals filed with the Board.

(1) Any person may submit a complaint to the Board in writing, by phone, or in person. Anonymous complaints will not be accepted. Complaints may be generated by the Board or staff as a result of information obtained from media, law enforcement agencies, or any other source. The Board shall reduce to writing a verbal complaint received by phone or in person.

(2) Referrals may be submitted by a State Agency, a State Licensing Board, or any other regulatory entity.

(3) If the complainant is a facility resident, the resident's personal or legal representative, or a current employee of the facility, the Board shall keep the complainant's identity confidential. For all other complainants, the Board shall ask the complainant's preference regarding confidentiality.

490:1-5-3. Investigation of Complaints/Referrals

Each complaint/referral shall be thoroughly investigated by Board staff, or through contract with a state agency that has been trained to conduct investigations of similar healthcare professionals or entities.

490:1-5-4. Preparation of Investigative Report

(a) Upon receipt of the complaint/referral, a written investigative report shall be compiled that includes, but is not limited to, the following information:

(1) The exact nature of the complaint(s)/referral(s);

(2) The identity of the administrator;

(3) A description of the investigation;

(4) The identity of the investigator;

(5) The identity of witnesses interviewed, unless the witness wishes to remain anonymous and is a current resident, a current staff member, or the personal or legal representative of a current resident;

(6) A description of documents or other tangible items examined in the course of the investigation;

(7) All evidence obtained that would directly or by reference establish the ultimate fact of the complained act or omission; and

(8) All evidence that would either explain or mitigate the complained act or omission. The investigative report shall be forwarded to the Board's legal counsel for preparation of the formal complaint.

(b) At least five (5) working days prior to the Board meeting at which a decision will be made, each member of the Board shall be furnished a copy of the complaint/referral, and the investigative report.

(c) The investigative report furnished to the Board shall be considered a confidential investigation document until a motion to vote on the complaint/referral is made, at which time, the report shall be considered a public record.

(d) After the vote upon the complaint/referral is made and recorded, the Board shall maintain as a public record a full and complete copy of the investigative report indexed by docket number or similar internal reference.

490:1-5-5. Board Decision

(a) Any decision by the OSBENHA pursuant to a complaint or referral shall be voted upon by a quorum of the Board in an open meeting.

(b) Each complaint/referral shall be acted upon pursuant to a motion after an opportunity for discussion by the Board. Following discussion of the evidence, any member of the Board may make a motion to continue the investigation in order to gather additional evidence or to make further inquiries.

(c) The investigation may be extended for sixty (60) days upon a finding of good cause as provided for in the Chapter.

(d) If the vote to extend the investigation fails, the Board shall vote upon the merits of the complaint/referral.

(e) Each member of the Board shall vote based on the evidence presented in the report required pursuant to the provisions of this section.

(f) No recommendation on a complaint/referral shall be made to the Board by a subcommittee or a staff member of the Board.

490:1-5-6. Notice

(a) Notice of a Board decision issued to a nursing home administrator who is the subject of a complaint shall be issued in accordance with the provisions of Article II of the Administrative Procedures Act governing individual proceedings.

(b) Any request for a hearing by a nursing home administrator regarding the proposed action of the Board shall be received by the Board within ten (10) days of the receipt of the notice of the Board decision by the nursing home administrator.

(c) If no request for hearing is given to the Board by the nursing home administrator, the Board decision shall become final.

490:1-5-7. Hearing

(a) The Board will set a date, time and place for the hearing and will inform the aggrieved licensee by registered mail, addressed to licensee's last known business or residence address as contained in the records of the Board, of the scheduling of such hearing at least thirty (30) days in advance of the date set for the hearing. Attached to the notice will be the formal Complaint.

(b) Individual proceedings shall be conducted by the Board according to the provisions established in the Oklahoma Statutes at Title 75, Section 309.et seq.

(1) All parties shall have an opportunity to respond and be represented by counsel at said hearings.

(2) All parties shall have a full opportunity to present evidence and argue all issues involved and to cross examine as may be required for a full and true disclosure of the facts.

(3) The decision of the Board shall be based exclusively on the evidence and matters noticed.

(4) A record of the proceeding shall be produced and kept by the Board.

(5) The full proceedings of any hearing shall be transcribed on the request of any party. The fee for the reporter shall be paid by the party requesting the services of the reporter. The Board may require the requesting party to post a reasonable deposit to cover the cost of transcribing the full proceedings.

(6) All final orders in any individual proceeding shall be in writing. A final order shall include findings of fact and conclusions of law, separately stated.

(c) Any party aggrieved by a decision of the Board following a hearing may appeal directly to district court pursuant to the provisions of Section 318 of Title 75 of the Oklahoma Statutes.

490:1-5-8. Reporting

(a) A monthly report will be compiled by the Executive Director detailing Board activity for the past month.

(b) An annual report will be compiled by the Executive Director and submitted to the Board using a format approved by the Board.

SUBCHAPTER 6. ADMINISTRATOR REGISTRY

490:1-6-1. Administrator Registry (AR)

(a) A registry of administrators shall be created and maintained by the Board. The registry will include information such as name, license number, date first licensed, current facility of employment, history of facility employment, results of criminal background check, notation if the individual is required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act, history of complaints registered against the individual, history of referrals received from OSDH, status as a preceptor; AIT or status of license, and any other information deemed necessary by the Board. The Administrator Registry shall be created and maintained in both paper and electronic formats, and shall be available for public inspection.

(b) Complaints/referrals shall be initially entered into the registry upon receipt, but no later than two (2) working days after receipt.

(c) Board decisions and other data required to keep the Administrator Registry current shall be entered into the Registry no later than three (3) working days after receipt.

(d) The registry shall be organized in chronological order both by the date of the complaint or referral and by the name of the licensed administrator.

(e) The registry shall contain the nature of the complaint or referral; action, if any, taken by the Board; and the number of complaints and referrals made against an individual administrator.

SUBCHAPTER 7. FEES AND DEPOSITS

490:1-7-1. Fees and deposits

(a) All fees, including the annual license fee, and other fees collected by the Board under the provisions of this Chapter shall be deposited with the State Treasurer within twenty-four (24) hours of receipt, who shall keep in special fund to be known as the Oklahoma State Board of Examiners for Nursing Home Administrators Fund, which fund may be used for the purposes of the Board as provided in the Statutes.

(b) Funds received by the Board for any purposes described herein shall become the exclusive property of the Board and shall not be refunded in whole or in part for any reasons or purpose without Board approval.

(c) The Board may impose a fee as determined by the Board for training or education program conducted or approved by the Board.

[OAR Docket #06-638; filed 4-14-06]

TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
CHAPTER 10. LICENSING OF NURSING HOME ADMINISTRATORS

[OAR Docket #06-640]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Licensing of Nursing Home Administrators
490:10-1-1. [AMENDED]
490:10-1-2. [REVOKED]
490:10-1-3. [AMENDED]
490:10-1-4. [AMENDED]
490:10-1-5. [REVOKED]
490:10-1-6. [AMENDED]
490:10-1-8. [NEW]
Subchapter 3. Application for Licensure
490:10-3-1. [AMENDED]
Subchapter 5. Licensure Expiration, Renewal, Denial, Revocation and Suspension
490:10-5-1. [AMENDED]
490:10-5-2. [AMENDED]
490:10-5-3. [AMENDED]
490:10-5-4. [AMENDED]
Subchapter 8. Administrator-in-Training (AIT)
490:10-8-2. [AMENDED]
490:10-8-4. [AMENDED]
490:10-8-5. [AMENDED]
490:10-8-10. [AMENDED[
490:10-8-16. [AMENDED]
490:10-8-17. [AMENDED]
Subchapter 9. ~~Inactive~~License Status [AMENDED]
490:10-9-1. [AMENDED]
490:10-9-2. [NEW]
Subchapter 10. Fee Schedule
490:10-10-1. [AMENDED]
AUTHORITY:
Oklahoma State Board of Examiners for Nursing Home Administrators; 63, O.S. Sections 330.51 et seq.
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Incorporated Standards:
American College of Health Care Administrator's Code of Ethics
Incorporating rules:
490:10-1-6(a), 490:10-1-8(b)
Availability:
8:30 a.m. to 5:00 p.m., Monday through Friday at the Oklahoma State Board of Examiners for Nursing Home Administrators, 2401 NW 23rd, Ste 62, Oklahoma City, Oklahoma, 73107, 405-522-1616
ANALYSIS:
These changes will affect individuals applying for original or renewal of licensure as Nursing Home Administrators

Amendments of 490:10-1-1 relates to clarify of language

The additions and deletions are necessary to clarify current language and to update cites from statutory language.

Revocation of 490:10-1-2 relates to deleting repetition of definitions

Amendments of 490:10-1-3 relates to changing language for personal qualifications of applicants

Amendments of 490:10-1-4 relates to qualifications for licensure of applicants

Revocation of 490:10-1-5 relates to deleting Provisional license

Amendments of 490:10-1-6 relates to administrator responsibilities

Additions of 490:10-1-8 relates to the Administrator Code of Ethics

Amendments of 490:10-3-1 relates to the application process

Amendments of 490:10-5-1 relates to changing language on expiration of license

Amendments of 490:10-5-2 relates to increasing continuing education hours for nursing home administrators

Amendments of 490:10-5-3 relates to adding and deleting language relating to denial, revocation and suspension of license

Amendments of 490:10-5-4 relates to adding and deleting language relating to the auditing process of administrators

Amendments of 490:10-8-2 relates to the applicant having a background check before beginning the AIT program

Amendments of 490:10-8-4 relates to the preceptor selection process

Amendments of 490:10-8-5 relates to the preceptor qualifications and agreements

Amendments of 490:10-8-10 relates to the change of status and discontinuance of the preceptor

Amendments of 490:10-8-16 relates to the refusal to approve or renew the preceptor or intern assignment

Amendments of 490:10-8-17 relates to supervision of more than one AIT restricted

Amendments of 490:10-9-1 relates to adding and deleting language regarding licensure status

Additions of 490:10-9-2 relates to adding language for reinstatement of license

Amendments of 490:10-10-1 relates to fee schedule changes
CONTACT PERSON:
Mary Ann Karns, President, OSBENHA, 2401 NW 23rd, Ste 62, Oklahoma City, OK, 73107, 405-522-1616

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

FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. LICENSING OF NURSING HOME ADMINISTRATORS

490:10-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act. This Chapter outlines the specific rules for licensing ~~nursing home~~ administrators in Nursing and Specialized Facilities (which includes Intermediate Care Facilities for the Mentally Retarded) as defined in the Nursing Home Care Act.

490:10-1-2. Definitions [REVOKED]

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

~~**"Active Status"** means a nursing home administrator's license is current and in good standing.~~

~~**"Administrator in Training"** (AIT) means a person serving a Board approved Internship within a nursing home under the supervision of a Board approved preceptor.~~

~~**"Administrator of Record"** means a nursing home administrator, licensed by the state of Oklahoma, who is in charge of a facility and given essential and necessary authorization from the owner and/or governing body to comply with all pertinent promulgated rules and state statutes, and who is responsible for hiring, maintaining, and directing a team of professionals to attain and maintain physical, mental, and psychological well being of each resident, client, or patient. "**center"** means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty four hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers [63:1-872].~~

~~**"Adverse action"** means any act proposed by the Board denying, refusing to issue or renew a nursing home administrator license, or an action for the suspension or revocation of a nursing home administrator's license.~~

~~**"Assisted Living Center"** means any home or establishment offering, coordinating or providing services to two (2) or more persons who:~~

~~(A) are domiciled therein;~~

~~(B) are unrelated to the operator;~~

~~(C) by choice or functional impairments, need assistance with personal care or nursing supervision;~~

~~(D) may need intermittent or unscheduled nursing care;~~

~~(E) may need medication assistance; and~~

~~(F) may need assistance with transfer and/or ambulation [63:1-890.2].~~

~~**"Board"** (OSBENHA) means the Oklahoma State Board of Examiners for Nursing Home Administrators.~~

~~**"Continuing Education"** means educational opportunities beyond formal education and initial entry level into a profession to enable practitioners to maintain competence, to become aware of new developments and to provide responsible, quality ser~~

~~**"Continuum of Care Facility"** means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes and one or both of the following:~~

~~(A) assisted living center services as defined in the Continuum of Care and Assisted Living Act; and~~

~~(B) adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes [63:1-890.2.4].~~

~~**"Inactive Status"** means a license which is in good standing, but not current.~~

~~**"Intermediate Care Facilities for the Mentally Retarded 16 Beds and Less" (ICF/MR-16)** means small facilities serving the mentally retarded which provide residential accommodations and transitional living training to aid residents in adapting to live in the general society. Resident accommodations are limited to not more than 16 residents, plus any required "live in" staff.~~

~~**"License"** means the written permission of the Board authorizing and granting a person the privilege of serving as a nursing home administrator for a specific period of time.~~

~~**"Nursing home"** means any home, establishment, or institution in which there is offered or provided, by any person, medical services, skilled nursing care, necessary special dietary service, and personal care and supervision to three or more persons domiciled therein who by reason of physical or mental infirmity may require such service.~~

~~**"Nursing home administrator"** means a person licensed by the state of Oklahoma under the provisions of 63 O.S., Sections 330.51 et seq.~~

~~**"Owner"** means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility.~~

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

~~**"Preceptor"** means a Board approved person who is currently licensed as a nursing home administrator in Oklahoma and is charged with coordinating the training of an Administrator In Training (AIT).~~

~~**"Provisional license"** means the temporary authority to serve as nursing home administrator as granted by the Board to an individual of good character who meets appropriate conditions and requirements as prescribed by the Board.~~

~~**"Qualified Mental Retardation Profession" (QMRP)** means an individual determined by the State Department of~~

~~Health, pursuant to Section 483.430, 42 C.F.R., to have at least one (1) year of experience working directly with persons with mental retardation or other developmental disabilities, and be one of the following: a doctor of medicine or osteopathy licensed to practice in this state, a registered nurse, or an individual who holds at least a bachelor's degree in a related field.~~

~~**"Residential Care Home"** means any establishment or institution other than a hotel motel, fraternity or sorority house, or college or university dormitory which offers or provides residential accommodations, food service and supportive assistance to any of its residents or houses any resident requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care.~~

~~**"Waiver"** means the granting of an exemption from a State regulation under the provisions of 63 O.S., Sections 330.51 et. seq.~~

490:10-1-3. Personal qualifications of applicants

(a) ~~Applicant~~ Applicants ~~must~~ shall not be less than twenty-one (2l) years of age at the time ~~application is filed~~ the license is issued.

(b) Each applicant must establish to the satisfaction of the Board that the applicant is of reputable and responsible character as defined in Subchapter 5 of this Chapter.

(c) Each applicant must establish to the satisfaction of the Board that the applicant is in sound physical and mental health.

490:10-1-4. ~~Education~~ Other qualifications for licensure of applicants

(a) In order to qualify for a license, ~~Each~~ each applicant ~~shall be required to pass a written and/or oral examination in such nursing home administration subjects as the Board may determine.~~ must provide evidence satisfactory to the Board of the following:

(1) Successful completion of a four (4) year program and receipt of a bachelor's degree from an accredited college or university;

(2) Receipt of a passing score on the examination conducted by the National Association of Board of Examiners of Long Term Care Administrators (NAB) if the applicant is requesting an initial license;

(3) Receipt of a passing score on the current Oklahoma State Standards test;

(4) Successful completion of all continuing education hours required by the Board;

(5) Remittance of any required fees associated with obtaining a license; and

(6) Successful completion of the Administrator-in-Training program if the applicant is requesting an initial license.

(b) ~~Endorsement~~ Reciprocity ~~is~~ may be granted to an applicant~~s~~ if he/she ~~meeting~~ meets the ~~same~~ minimum requirements set forth above ~~as required by original applicants as approved by the Board.~~ and is a licensed administrator in good standing with two years experience in a supervisory position in a nursing facility in another state.

~~(c) The following are requirements for licensing nursing home administrators:~~

~~(1) Applicant may apply directly for Nursing Home Administrator licensure if (s)he meets one of the following criteria:~~

(A) A Bachelor's or Master's Degree.

~~(B) A licensed administrator with two years experience in a supervisory position in a nursing facility from another state.~~

~~(2) The applicant may obtain an Oklahoma license after passing the Oklahoma State Standards Exam. If the applicant has not previously passed the exam by the National Association of Board of Examiners of Nursing Home Administrators (NAB), the applicant will be required to pass the exam.~~

~~(d) Effective January 1, 2001, each applicant must establish to the satisfaction of the Board that the applicant has successfully completed a four (4) year program and obtain a bachelor's degree from an accredited college or university.~~

490:10-1-5. Provisional license [REVOKED]

~~To fill a position of nursing home administrator that unexpectedly becomes vacant, the Board may issue one provisional license, for a single period not to exceed 6 months. The license may be issued to a person who does not meet all of the licensing requirements established by the Board but who:~~

~~(1) Is of good character and otherwise suitable; and~~

~~(2) Must possess, at a minimum, a four (4) year college degree; and~~

~~(3) Obtains the services of a currently licensed Oklahoma nursing home administrator to act as consultant to the provisional license; and~~

~~(4) Has been found to have no felony convictions as a result of OSBI criminal arrest checks; and~~

~~(5) Meets any other appropriate conditions and requirements as may be prescribed by the Board for issuance of a provisional nursing home administrator's license.~~

490:10-1-6. Administrator responsibilities

(a) Nursing home Administrators shall adhere to the Administrator Code of Ethics as adopted by the Board.

(~~a~~b) Nursing Home Administrators licensed by the Board shall not concurrently serve as the administrator of more than one nursing facility. The Board shall have the authority to grant a waiver of this restriction upon the showing of emergency, public necessity or other such conditions evidencing undue burden upon the operation of the facility. This restriction shall not apply to ICF/MR-16 beds and less.

(~~b~~c) Every person licensed as a nursing home administrator and ~~is~~ designated the "administrator of record" shall display such license in a conspicuous place in the office or place of business requiring such license.

(~~c~~d) Failure of licensee to meet the continuing education requirement for licensure shall result in the license not being renewed or reactivated.

(~~d~~e) Each licensed nursing home administrator shall notify the Board within fifteen (15) days following the relocation of either business or personal mailing address. The Board will assess a late fee if it is determined that the nursing home administrator failed to provide current contact information within this fifteen day requirement.

(~~e~~f) Upon receipt of satisfactory evidence that a license has been lost, mutilated, or destroyed, the Board may issue a duplicate or replacement license upon payment of a fee as prescribed by the Board. ~~Satisfactory evidence is construed to be a notarized affidavit stating facts of the loss, mutilation or destruction of the license.~~

(~~f~~g) Request for a change of name requires legal proof of the name change (e.g., copy of marriage certificate, divorce decree, etc.) ~~and that~~ before a replacement license can be issued.

(h) An administrator shall not knowingly initiate contact with a patient, resident or client currently residing in a long term care facility for the purpose of attempting to persuade a change to another long term care facility.

(i) An administrator shall not knowingly solicit or permit an employee to solicit patients, residents or clients for its long term care facility through coercion or harassment. If an administrator has knowledge of such actions by an employee, the administrator shall take such steps as are reasonable and necessary for such conduct to cease.

(j) Administrators shall self-report any violation of OSBENHA rules to the Board within 24 hours of the violation. Self-
reporting or failure thereof shall be taken into consideration at the time any disciplinary action is considered.

(k) An Administrator, or applicant for Administrator licensure, in connection with a license application or an investigation conducted by the Board pursuant to OAC 490:1-5, or an investigation conducted by the Oklahoma State Department of Health, the Oklahoma Department of Human Services, the Oklahoma
Health Care Authority, or any other agency of the state or federal government having regulatory responsibility over or relating to the delivery of care to persons in a facility operated or managed by the Administrator, shall not:

(1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a misapprehension known by the Administrator or applicant for licensure to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Board or such government agency or any designated representative thereof, unless a request for a protective order has been first made to the Board pursuant to the provisions of OAC 490:1-5-5 (or OAC 490:1-5-7), in which case the Administrator or applicant may await the decision of the Board concerning the issuance or denial of a protective order before making any response.

490:10-1-8. Administrator Code of Ethics

(a) The Board is committed to ethical professional conduct and therefore adopts the following standards to establish and maintain a high degree of integrity and dignity in the profession and to protect the public against unprofessional conduct on the part of nursing home administrators.

(b) The American College of Health Care Administrators Code of Ethics is adopted in whole.

(c) Furthermore, the Board adopts the following as an addition to the OSBENHA code of ethics: Administrators have a fiduciary duty to the facility and cannot serve as guardian of the person or of the estate, or hold a durable power of attorney or power of attorney for any resident of a facility of which they are an administrator.

(d) Licensees shall place a copy of the Administrator Code of Ethics approved by the Board in a conspicuous location in a public area in the place of business requiring such license.

SUBCHAPTER 3. APPLICATION FOR LICENSURE

490:10-3-1. Application process

(a) Each applicant for licensure as a nursing home administrator shall make a verified application therefore on a form furnished by the Board. ~~The application and supporting data and documents as may be required by the Board must be completed and on file at least thirty (30) days prior to the announced licensure examination date. Each applicant found to be eligible for the examination will be notified, by letter addressed to the address shown on the application, of eligibility for, and of the time and place of the examination, at least ten (10) days prior to the time designated.~~

(b) Upon receipt of an application for licensure, the Board shall request a criminal history background check be performed on the individual requesting licensure. If the results of a criminal background check reveal that the subject person has been convicted of any of the following offenses, the individual's application for licensure shall not be approved.

(1) Assault, battery, or assault and battery with a dangerous weapon;

(2) Aggravated assault and battery;

(3) Murder or attempted murder;

(4) Manslaughter, except involuntary manslaughter, rape, incest or sodomy;

(5) Indecent exposure and indecent exhibition;

(6) Pandering;

(7) Child abuse;

(8) Abuse, neglect or financial exploitation of any person entrusted to the care or possession of such person;

(9) Burglary in the first or second degree;

(10) Robbery in the first or second degree;

(11) Robbery or attempted robbery with a dangerous weapon, or imitation firearm;

(12) Arson in the first or second degree;

(13) Unlawful possession or distribution, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act;

(14) Grand larceny; or

(15) Petit larceny or shoplifting within the past seven (7) years.

(~~b~~c) The Board will conduct at least two licensure examinations within the calendar year. The application and supporting data and documents as may be required by the Board must be completed and on file at least thirty (30) days prior to the announced licensure examination date. Each applicant found to be eligible for the examination will be notified, by letter addressed to the address shown on the application, of eligibility for, and of the time and place of the examination, at least ten (10) days prior to the time designated.

(~~c~~d) All licensure applicants, qualifying academically for initial licensure after promulgation of the rules of this Chapter, ~~must~~ shall successfully pass the nursing home administrator examination offered by the National Association of Board of Examiners of Long Term Care Administrators (NAB) or other standard national tests as approved by the Board and the State Licensure Laws, Rules, Regulations and Standards examination offered by the Board and complete a Board approved Administrator-In-Training (AIT) program.

(~~d~~e) Fees for the standard national examination, state standards examination, reviews and AIT program shall be in the amount as prescribed by the Board or standard national exam officials.

(~~e~~f) Each applicant who fails the written ~~and/or oral~~ examination ~~or who otherwise fails to meet the minimum qualifications~~ may apply for re-examination at the next examination scheduled by the Board subject to compliance with the provisions of this chapter.

(~~f~~g) Applicants accepted for licensure as a nursing home administrator either by examination or provision will pay a fee as prescribed by the Board. The fee is due and payable on notice of eligibility for licensure and license will not be issued until said fee is paid in full to the Oklahoma State Board of Examiners for Nursing Home Administrators. The certificate of license will be mailed to the applicant within seven (7) days of Board approval.

(~~g~~h) Candidates eligible for the State Standards ~~and/or other Board approved and required~~ Examination~~s~~ shall be notified in writing, no more than three times, of examination date for the opportunity to take said examination. Candidates who are unable to take ~~these~~ this examination~~s~~ within the notification period shall be required to take appropriate review course before being qualified to take the State Standards ~~and/or other Board approved~~ examination.

SUBCHAPTER 5. LICENSURE EXPIRATION, RENEWAL, DENIAL, REVOCATION AND SUSPENSION

490:10-5-1. Expiration

Each license, issued by examination, ~~will~~ shall expire on December 31 following its issuance. Provisional license will expire six months from date of license.

490:10-5-2. Renewal

(a) Each applicant for a renewal of a license shall file an application as prescribed by the Board and shall provide such evidence of ability and competence to continue as a licensed nursing home administrator as may be required by the Board.

(b) Each applicant for a renewal of a license as a licensed Nursing Home Administrator shall submit evidence upon request satisfactory to the Board that the applicant has successfully completed ~~eighteen (18)~~ twenty-four (24) clock hours of continuing education in nursing home administration subjects, approved by the Board, within the period of current license.

(c) Provisional license shall not be renewed. In order to receive original license holders of this license are required to successfully complete six (6) clock hours of continuing education, if offered during this time period.

(d) Each applicant for the renewal of a license shall file application at least thirty (30) days prior to the expiration date of current license. The Board will, within ten (10) days of the expiration date of the current license, notify the applicant of its intention to renew, reject, or otherwise defer action on the renewal request. A late fee as prescribed by the Board will be paid by applicants who do not file for renewal at least thirty (30) days prior to expiration date of current license.

(e) Failure to receive the renewal application shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(f) If the license is not renewed by the last day of the year, the licensee does not hold a valid license and shall not hold a nursing home administrator position in Oklahoma ~~until the lapsed license has been reactivated~~.

(g) Should the nursing home operated by a licensed nursing home administrator fail to comply with the Oklahoma State Department of Health requirements for licensure applicable to said facility, the Board may consider such information in determining whether the administrator is suitable for licensure renewal.

(h) All outstanding fees must be paid prior to license renewal.

490:10-5-3. Denial, revocation and suspension

~~(a)~~ The Board may deny an initial application~~,~~; deny a renewal application; ~~or may~~ suspend or revoke a nursing home administrator license; warn; censure; or use other remedies that may be considered to be less than revocation and suspension; against currently licensed nursing home administrators upon proof of any of the following:

(1) The obtaining or attempting to obtain a license by fraud or deceit.

(2) Conviction of a crime involving moral turpitude. A conviction of a felony or a conviction of a crime involving violation of any narcotic or drug control law. The record of a conviction or a certified copy thereof certified by the Clerk of the Court or by the Judge in whose Court the conviction is entered, is conclusive evidence of the conviction. OSBI criminal arrest checks indicating felony convictions ~~shall~~ may be used as grounds for denial.

(3) Habitual indulgence in the use of narcotic drugs or alcohol.

(4) Commitment to a mental institution or judicial determination of incompetence.

(5) Gross negligence, fraud, dishonesty, theft, malfeasance, misfeasance, physical or verbal abuse of a resident, or failure to report an allegation of physical or verbal abuse of a resident to appropriate state authorities, as required by law, cheating in the management of a nursing home or other conduct unbecoming to a person licensed or subject to licensure under this law when, in the judgment of the Board, such conduct is detrimental to the best interest of the nursing home profession and the public.

(6) Concurrently serving or acting as the administrator of more than one nursing home.

(7) Failure to comply with state or federal requirements ~~for licensure~~ applicable to the facility.

(8) Failure to uphold the "Administrator Code of Ethics" adopted by the Board.

(9) Upon evidence that the administrator has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing facility patronage.

(10) Intentional retaliation or discrimination against any resident or employee for contacting or providing information to any state official.

(11) Failure to provide verification of continuing education hours.

(12) Failure to comply with requirements for nursing home administrators established by the OSBENHA Board.

~~(b) The Board may warn, censure, or use other remedies that may be considered to be less than revocation and suspension against currently licensed nursing home administrators reportedly found to have violated provisions of the rules of this Chapter and/or rules and regulations applicable to licensure of long term care facilities.~~

~~(c) All individuals seeking restoration or reinstatement of a license that has been revoked or suspended must make application on forms approved and required by the Board and appear, in person, before the Board for presentation of facts relating to such request.~~

~~(d) The Board in its discretion may restore a revoked license after a period of two (2) years and may restore a suspended license after suspension time has elapsed, upon submission of evidence satisfactory to the Board that the conditions responsible for the suspension or revocation no longer exist and that no other reasons exist which warrant suspensions or revocation. Evidence shall include complete documentation attested to under oath and by witnesses of facts which indicate that the conditions responsible for revocation or suspension no longer exist. Letters of recommendations from employees, officers of courts, or respected members of the individual's community shall also be submitted.~~

490:10-5-4. Auditing of continuing education

(a) The board will receive continuing education information from sponsors for audit purposes only and will not keep an individual record of continuing education hours for administrators.

(b) An annual audit of 5% of the total number of licensed administrators will be made to verify compliance with statements made on renewal forms. This percentage may be increased at the Board's discretion.

(c) Failure to provide verification of continuing education hours as requested by this audit ~~may~~ shall result in a revocation of license or other disciplinary action against the ~~applicant~~ administrator as determined by the Board.

SUBCHAPTER 8.
ADMINISTRATOR-IN-TRAINING (AIT)

490:10-8-2. Application

(a) The applicant will submit to the Board an application, which shall contain such information as name, education, employment history, questions pertaining to moral character, any other information the Board may feel it needs to be in the application, and an affidavit stating that the applicant, if granted a license, will obey the laws of the state and the rules of the Board, and will maintain the honor and dignity of the profession.

(b) The applicant will supply a certified copy of each college transcript indicating the courses completed and hours earned, specifying whether semester or quarter hours.

(c) The applicant will be subjected to a criminal background check as described in this Chapter prior to beginning the AIT program.

(~~c~~d) A fee as prescribed by the Board shall be submitted with the application.

490:10-8-4. Preceptor selection

(a) From an approved list of preceptors, the trainee may indicate a preceptor ~~of his~~ choice.

(b) It shall be the responsibility of the Board to contact a preceptor to determine if the preceptor will accept the AIT.

(c) Once a preceptor accepts an AIT, changes must be approved by the Board.

(d) The preceptor shall notify the Board of the date of acceptance and the date of any discontinuance of traineeship.

~~(e) The preceptor shall not be related to an intern within the fourth degree of consanguinity or affinity.~~

490:10-8-5. Preceptor qualifications and agreements

(a) ~~Anyone~~ A licensed administrator wishing to be certified as a preceptor for the AIT program may apply to the Board providing such information as the applicant's name, address, licensing history, education, experience, and other information which the Board deems necessary.

(b) To be certified as a preceptor, the applicant must:

(1) exemplify the highest ethical and professional standards as an administrator for at least twenty-four (24) months;

(2) be licensed and employed as a Oklahoma nursing home administrator for at least twenty-four (24) months;

(3) be the full time administrator of a facility which is licensed by the Oklahoma State Department of Health as a nursing facility or be the Owner/Administrator;
(4) successfully complete a preceptor training seminar/course under the direction of the Board;
(5) be an administrator or owner/administrator of a nursing facility which is currently in substantial compliance with the rules and regulations governing nursing homes;
(6) have not been the subject of any action by any Board or licensing authority which resulted in formal reprimand, suspension or revocation of license;
(7) agree to give the intern an opportunity to observe and take part in the managerial tasks of the preceptor, acquaint the intern with the organization and operation of all the various departments of the facility by permitting his/her observation and/or participation in department activities subject to the training program approved by the Board;
(8) hold an exit interview with the intern upon completion of an internship to point out noted strengths and weaknesses; and
(9) upon satisfactory completion of the program, provide the Board a letter certifying the completion of the required hours of internship.

(c) ~~Certified preceptors who guide the AIT to successful completion of the entire program may earn up to eighteen (18) clock hours of continuing education upon payment of the processing fee.~~ If a substandard quality of care finding in a facility is upheld against an administrator, such administrator shall not be eligible to be certified as a preceptor for twenty-four (24) months from the date the finding is upheld.

(d) Preceptors shall be certified for a 24 month period and may be renewed at the discretion of the Board.

490:10-8-10. Change of status and discontinuance

(a) If the AIT changes preceptors, ~~transfers to a different preceptor~~ or discontinues the training, ~~he~~ the AIT must notify the Board prior to making this change.

(b) The notification requires the name of the AIT and preceptor, the change requested, the effective date, reasons for the change, and any other information that the Board requests. Either the AIT or the preceptor must sign the notification.

(c) If a substandard quality of care finding in a facility is upheld against an administrator who is a certified preceptor working with an AIT, the Board shall assist the AIT in finding a new preceptor.

490:10-8-16. Refusal to ~~approval~~ approve or renew preceptor or intern assignment.

(a) The Board may, for good cause, refuse to approve or renew a preceptor designation or may refuse to approve an assignment of an intern to a preceptor.

(b) If a substandard quality of care finding in a facility is upheld against an administrator who is a certified preceptor, such administrator shall be de-certified as a preceptor for a period of twenty-four months from the date the finding was upheld by the Board. A de-certified preceptor must reapply and be approved by the Board prior to being recertified as a preceptor.

490:10-8-17. Supervision of more than ~~two~~ one AIT~~'s~~ restricted

A preceptor may supervise no more than ~~two (2)~~ one (1) AIT~~'s concurrently~~.

SUBCHAPTER 9. ~~INACTIVE~~ LICENSE STATUS

490:10-9-1. ~~Inactive~~ License status

(a) "Active Status" means the individual holding the license has satisfied all requirements for licensure as a nursing home administrator and holds a current license.

(b) "Inactive Status" means the individual holding a license has chosen to enter a status where a reduced fee is paid for renewal and no CEUs are required. This individual will remain on the Board's mailing list, and is eligible for reactivation as a licensed administrator.

(~~a~~c) Licensees may request his/her license be placed on inactive status; however, licensee may not function in a nursing home administrator capacity in Oklahoma until the license is reactivated.

(~~1~~d) Licensees may request his/her license be placed on inactive status; however, licensee may not function in a nursing home administrator capacity in Oklahoma until the license is reactivated.

(1~~A~~) submit a written request for inactive status, and
(2~~B~~) submit the inactive status fee as prescribed by the Board.

(~~2~~e) License may remain on inactive status for a period not to exceed five years and request must be made for Inactive Status annually.

(~~3~~f) The inactive fee is charged each time inactive status is requested.

~~(b) A nursing home administrator who has been granted Inactive Status by the Board, and who otherwise meets the qualifications for active licensure, may apply for and be granted licensure as an active nursing home administrator upon satisfactory completion of a written examination covering current state standards and the payment of the current licensure fee. A review course will be offered but not required for this examination. The fee for this review and examination shall be in the amount as prescribed by the Board.~~

~~(c) A nursing home administrator previously licensed by the Board but whose license has expired and who otherwise meets the qualifications for active licensure, may apply for and be granted licensure as an active nursing home administrator upon satisfactory completion of a course of study in State Nursing Home Laws, Rules and Regulations and successful completion of a written examination in those subjects. The fee for this course and examination shall be the amount as prescribed by the Board.~~

~~(d) Petitioners who are returned to active status as a nursing home administrator shall pay the current renewal license fee~~

~~as prescribed by the Board for the year in which they are reinstated and shall complete a pro-rata portion of the continuing education~~
~~required as a condition of re-licensure as determined by the Board.~~

490:10-9-2. Reinstatement

(a) A nursing home administrator who has been granted Inactive Status by the Board, and who otherwise meets the qualifications for active licensure, may apply for and be granted licensure as an active nursing home administrator upon satisfactory completion of a written examination covering current state standards, continuing education hours as determined by the Board, and the payment of the current licensure fee. A review course will be offered but not required for this examination. The fee for this review and examination shall be in the amount as prescribed by the Board.
(b) All fees must be current to be eligible for reinstatement.
(c) All individuals seeking restoration or reinstatement of a license that has been revoked or suspended must make application on forms approved and required by the Board and appear, in person, before the Board for presentation of facts relating to such request.
(d) The Board in its discretion may restore a revoked license after a period of two (2) years and may restore a suspended license after suspension time has elapsed, upon submission of evidence satisfactory to the Board that the conditions responsible for the suspension or revocation no longer exist and that no other reasons exist which warrant suspensions or revocation. Evidence shall include complete documentation attested to under oath and by witnesses of facts which indicate that the conditions responsible for revocation or suspension no longer exist. Letters of recommendations from employees, officers of courts, or respected members of the individual's community shall also be submitted.
(e) Petitioners who are returned to active status as a nursing home administrator shall pay the current renewal license fee as prescribed by the Board for the year in which they are reinstated and shall complete continuing education as determined by the Board as a condition of re-licensure.

SUBCHAPTER 10. FEE SCHEDULE

490:10-10-1. Fee Schedule

(a) Nursing Home Administrator License (original) - $200.00
~~(b) Nursing Home Administrator License (from lapsed status) - $200.00~~
(~~c~~b) Nursing Home Administrator License(annual) - ~~$175.00~~ $200.00
(~~d~~c) Provisional License (per application) - $200.00
(~~e~~d) Inactive Status (annual) - $100.00
(~~f~~e) Name Change (per request) - $25.00
(~~g~~f) Endorsement Licensure Questionnaire (per request) - $50.00
(~~h~~g) Replacement of Annual Card (per request) - $25.00
(~~i~~h) Duplicate License (per request) - $25.00
(~~j~~i) State Standards Review (per person, original or inactive status) - $100.00
(~~k~~j) State Standards Exam Packet - $50.00
(~~l~~k) State Standards Exam (per person, original or inactive status) - $100.00
~~(m) State Standards Exam & Review (reactivate from lapsed status) - $450.00~~
(~~n~~l) Board Sponsored Educational Workshops (per day) - $60.00 - $85.00
(~~o~~m) Late Fee on NHA Licensure Renewal (per person) - $100.00
(~~p~~n) Photocopies (per page) - $.25
(~~q~~o) Rules and Regulations (per copy) - $15.00
(~~r~~p) Administrator-In-Training (AIT) Program (per person) - $350.00
(~~s~~q) Training & Education Program Approval Fee - (per credit hour) - $55.00
(~~t~~r) Mailing List (on plain paper)(per page) - $.50
(~~u~~s) Mailing List on Labels (per page) - $1.00
~~(v) Processing fee for Preceptor for 18 continuing education units - $50.00~~
(~~w~~t) Electronic Mailing List - $10.00
(~~x~~u) Return Check Fee - $30.00
(v) Late fee for failure to ~~providing~~ provide current contact information - $75.00

[OAR Docket #06-640; filed 4-14-06]

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

[OAR Docket #06-630]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
575:1-1-3. [AMENDED]
575:1-1-4. [AMENDED]
AUTHORITY:
Oklahoma State Board of Examiners of Psychologists; 59, O.S., 2001, Section 1352.1(8).
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INCORPORATION BY REFERENCE:
n/a
ANALYSIS:
The amendments to these rules rename a citizen's "complaint" to a "request for inquiry" to avoid confusion with the Board's formal complaint and to better characterize the nature of a citizen's request that an inquiry be made as one that has not been investigated. The amendments would make it clear that requests for inquiry not meeting the formal requirements of the Board rule may still be acted upon by the Board if they are otherwise reliable. They include language limiting discovery to the forms provided for in the Administrative Procedures Act and clarifying that the investigative reports prepared and submitted to the Board's Probable Cause Committee constitute confidential and privileged work product material, and not subject to disclosure. The amendments would also clarify the order of procedure at hearings. (Title 59, OS 2003, Section 1352.1 and 1370.1)
CONTACT PERSON:
Sue A. Fleming, Executive Officer, Oklahoma State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, OK 73105, 405-524-9094.

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 25, 2006:

575:1-1-3. Investigation of ~~complaints~~ requests for inquiry

(a) **Choice of investigative mode when unlicensed individuals are involved.** When violations of the law by unlicensed individuals are brought to the attention of the Board, the Board may conduct an investigation in its own behalf, request investigation by appropriate state agencies, and/or refer the matter to the Office of the Attorney General. The choice of an investigative mode shall depend on the circumstances of the case and shall be made at the discretion of the Board.

(b) **Notification of the disposition of ~~complaints~~ requests for inquiry against licensed psychologists and investigations of them.** At the point at which any ~~complaint~~ request for inquiry and/or investigation is resolved, the Board shall inform the ~~complainant~~ requesting party and the psychologist of the disposition of the matter as well as the supporting rationale based on known facts and applicable laws or rules. The Board shall also notify the Attorney General's Office, the Office of the Governor, and legislative committees as appropriate.

(c) **Investigative procedure.** The following is the procedure for investigation of ~~complaints~~ requests for inquiry against licensed psychologists:

(1) **Requirements for ~~complaint~~ requests for inquiry.** The investigation of a ~~complaint~~ request for inquiry about a licensed psychologist~~, whether the complaint be made by the Board or by other complainants,~~ may be initiated only when the ~~complaint~~ request for inquiry is in writing, signed, notarized, and filed with the Board. The notarized ~~complaint~~ request for inquiry must contain a brief statement setting forth the allegations of fact and naming the licensee or licensees ~~against~~ about whom the ~~complaint~~ request for inquiry is filed. The ~~complaint~~ request for inquiry provides the basis for the chairperson and/or vice chairperson of the Board to request an informal meeting with the licensee, whose participation is voluntary, and/or for appointment of an investigator for the case. The Board may receive, accept, process, investigate, act upon, and otherwise dispose of written requests for inquiry which are not in substantial compliance with this subsection if the Board, in its discretion, determines that the request for inquiry otherwise contains sufficient indicia of reliability and/or the allegations can be independently verified by the Board.

(2) **Independently verified allegations - written ~~complaint~~ request for inquiry may not be required.** In all ~~matters of complaints or~~ inquiries, the Board shall require the ~~complaint or~~ request for inquiry to be in writing, signed, and notarized. However, alleged violations of the Psychologists Licensing Act which can be independently verified by the Board may not require written ~~complaint~~ request for inquiry.

(3) **Selection of investigator.** The Board shall select a member or other qualified individual to investigate ~~complaints~~ any request for inquiry ~~against~~ regarding any psychologist~~s~~. This selection may be by majority vote of the Board or by appointment by the chairperson or vice chairperson.

(4) **Compensation for expenses.** The investigator shall be compensated by the Board for necessary and prudent expenses which are properly documented and approved by the Board.

(5) **Investigator's gathering of information.** The Board member or other individual authorized to receive and investigate ~~complaints~~ requests for inquiry shall gather all information necessary to adequately apprise a Probable Cause Committee. The investigation may include interviews with the ~~complainant~~ requesting party, the licensee ~~complained against~~ named in the request for inquiry, and others as appropriate. The licensee will have the opportunity during the investigator's interview to show compliance with all lawful requirements for the retention of the license. The gathering of information to assist the Board in its disposition of ~~complaints~~ requests for inquiry is the only designated function of the investigator during the conduct of the investigation. Any investigative reports prepared and submitted to the Board's Probable Cause Committee, the prosecutorial arm of the Board, are to be used solely to determine whether or not to recommend the pursuit of disciplinary action, and thus constitute confidential and privileged work product material, not subject to disclosure. The investigator shall not offer his/her opinions to the ~~complainant~~ requesting party and/or to the licensee. Such opinions shall include but not be limited to the merits of the ~~complaint~~ request for inquiry and/or whether an ethical violation has occurred.

(6) **Presentation of Probable Cause Committee's summary and recommendation.** The Probable Cause Committee, comprised of the investigator, counsel to

the Board and other appropriate individuals, is an advisory body whose function is to summarize the ~~complaint~~ requests for inquiry and to make an informed recommendation regarding disposition of the ~~complaint~~ requests for inquiry to the Board. The Probable Cause Committee's recommendation will be presented at an open meeting of the Board. The ~~complainant~~ requesting party and the licensee will be given prior notification by mail of the date, time, and place of that meeting. Notice shall be served as specified in Section 1370 (B and D) of the Psychologists Licensing Act. During the Probable Cause Committee's presentation, no questions will be posed by or to the licensee or the complaining witness pertaining to the substance of the case. Such questions may be submitted in writing to the representative of the Attorney General's office following the Board meeting.

(7) **Dismissal of ~~complaint~~ request for inquiry by majority vote.** Upon consideration of the recommendation of the Probable Cause Committee, the Board may decide not to pursue further the allegations, and may dismiss the ~~complaint~~ request for inquiry by an approving vote of a majority of the members present in open meeting.

(8) **Informal disposition of certain ~~complaints~~ requests for inquiry.** In some situations including, but not limited to, cases where the inquiry ~~or complaint~~ does not allege conduct as described in the Psychologists Licensing Act in Section 1370(A) or conduct punishable by suspension or revocation of a license, probation, or formal reprimand, the matter may be handled informally. However, no matter can be considered closed until so voted by a majority of the Board in open meeting.

(9) **Recusal of Board member.** A Board member, acting as the appointed investigator or Probable Cause Committee member, shall be recused from all Board decisions relating to the ~~complaint~~ request for inquiry.

575:1-1-4. Hearings for psychologists

(a) **Issuance of formal complaint; setting date for formal hearing.** If the ~~complaint~~ request for inquiry and/or the summary and recommendation of the Probable Cause Committee appear to the Board to warrant and support such action, and upon the affirming vote of a majority of the members present in open meeting, the Board shall file its own complaint (the Board vs. the licensee) and the Chair of the Board or Executive Officer shall set the date, time, and place for a formal hearing. Notice shall be served as specified in Section 1370 (B and D) of the Psychologists Licensing Act, except that notice shall be served twenty (20) days before the date of the hearing.

(b) **Purpose of formal hearing.** The formal hearing will be an administrative proceeding held to determine whether or not a licensee should be disciplined due to alleged improper conduct. The purpose of the proceeding will be that of insuring the overall public interest inherent in such matters and not that of vindicating a private wrong alleged to have occurred to the ~~complainant~~ complaining witness. As such, the ~~complainant~~ complaining witness will become a witness only in the Board's proceedings and is not a party to the Board's action.

(c) **Notice to licensee.** The chairperson or vice chairperson of the Board shall then notify the licensee named in the Board's complaint by certified or registered mail. This notification shall include a copy of the Board's complaint, an explanation of rights, and the date, time, and location of the Board meeting at which the Board will hold its formal hearing regarding the complaint. The notice shall also include other information as required in the Administrative Procedures Act. The explanation of rights shall include the following alternatives regarding the licensee's response to the Board's complaint: The licensee may be represented at the hearing in writing, in person, or by counsel. If the licensee does not so appear, the Board may, within its discretion, summarily revoke or suspend the accused's license or may issue a formal reprimand. The Board shall record its findings and order in writing.

(d) **Notice to other persons.** The Board shall also notify other persons whose presence is required of the date, time, and place of the hearing. Notice shall be served as specified in Section 1370 (B and D) of the Psychologists Licensing Act.

(e) **Discovery.** Discovery by either the Board or the licensee shall be limited to the forms of discovery permitted by the Oklahoma Administrative Procedures Act. Requests for discovery under this section must be made at least 10 days before the hearing.

(f) **Subpoenas**

(~~e~~ 1) **Issuance of subpoenas for witnesses and physical evidence.** The Board may compel the attendance of witnesses, and the production of physical evidence before it from witnesses, upon whom process is served by subpoena anywhere within the state. Such subpoenas will be issued over the signature of the chairperson or vice chairperson and the seal of the Board.

(~~f~~ 2) **Service of subpoenas.**

~~(1)~~ From the institution of formal Board proceedings, subpoenas will be issued on behalf of the licensee or the Board as specified in Section 1370(D) of the Psychologists Licensing Act. Service of the subpoena will be the responsibility of the requesting party.

~~(2)~~ Subpoenas shall be served and return made in the manner prescribed by general civil law.

(g) **Order of procedure.** ~~In an individual hearing, the order of procedure shall follow that which applies in civil legal proceedings.~~ The order of procedure at the hearing shall be as follows:

(1) Opening statements by legal counsel of both parties;

(2) Presentation of evidence by both parties followed by cross-examination of witnesses, and questions by State Board members;

(3) Closing arguments by legal counsel of both parties; and

(4) Submission of case to the Board for decision.

(h) **Rules of evidence.** Formal rules of evidence shall not apply. Rules of evidence shall be those specified in the Administrative Procedures Act.

(i) **Hearing officer.** In accordance with 1370 (C), the Board or the presiding member of the Board may direct that the board utilize a hearing officer to hear matters specified by the Board

or by the presiding member. The duties of the hearing officer shall be specified in writing prior to the assumption of the duties. The duties may include, but are not limited to, any of the following:

(1) to hear and rule upon pretrial discovery disputes.

(2) to hear and rule on Motions in Limine.

(3) to review Motions to Dismiss in order to advise the Board on questions of law 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 Board member recused from a hearing.

(7) to mark, identify and admit or deny exhibits.

(8) to rule upon objections made during the hearing.

(j) **Questioning of witnesses.** Notwithstanding subsection (i), a quorum of the Board shall be present at the hearing and may, in accordance with the procedures noted in the Administrative Procedures Act, direct questions to the witnesses.

(k) **Administration of oaths.** The Board may administer oaths through the chairperson, vice chairperson, or the hearing officer.

(l) **Evidentiary rulings.** Subject to subsection (i), the presiding member of the Board shall rule on the admissibility of evidence. The rulings of the presiding member shall be the rulings of the Board unless reversed by a majority vote of the Board.

(m) **Attorneys.** A representative of the Attorney General's Office or, if the Board chooses, a private attorney licensed in the State of Oklahoma and engaged by the Board, shall serve as the prosecutor of the Board's case. The respondent psychologist may be represented by a personally engaged attorney.

(n) **Majority vote.** Disciplinary action to be taken as a result of the hearing shall require a majority vote of the Board members present.

(o) **Record of hearing.** A record of the formal hearing will be made by audiotape and/or by a court reporter. A written transcript shall be provided by the secretary of the Board upon written application and a deposit sufficient in amount to have the record transcribed or copied, the deposit to be paid by the individual requesting the written transcript. The tape and/or transcript shall be kept on file in the Board office for one year.

(p) **Order setting forth findings of fact and conclusions of law.**

(1) The Board shall establish the findings of fact and conclusions of law in summarizing the outcome of a hearing. The Board will issue and record its order as authorized in Section 1370(C) of the Psychologists Licensing Act.

(2) The order of the Board will be effective immediately.

(3) The Board may revoke a license, suspend it for a period of time, place the psychologist on probation with specific conditions of time, place the psychologist on probation with specific conditions of probation, reprimand the psychologist, or impose a combination of such sanctions. The Board may revoke the probation for failure to comply with the conditions and exact the penalty.

(4) As authorized in Section 1370(A) of the Psychologists Licensing Act, the Board may impose a financial penalty not to exceed $10,000.00, and/or may assess the psychologist the reasonable costs of the proceedings against him or her.

(5) Copies of the order shall be sent by certified mail to the licensee and to the licensee's attorney, kept in the permanent Board file, and made available to other psychologist licensing jurisdictions.

(q) **Petitions for rehearing.** A petition for rehearing, reopening, or reconsideration of an adverse final order may be filed with the Board within 10 days from the day upon which the licensee is served with the written order of the Board. It must be signed by the penalized licensee, or that licensee's attorney, and must set forth with particularity the statutory ground upon which it is based. However, a petition for rehearing based upon fraud by any party or procurement of the order by perjured testimony or fictitious evidence may be filed at any time. Such petition must be accompanied by sworn affidavit. Upon receipt of such petition, it shall be turned over to the Board member or other authorized individual responsible for complaints, who shall proceed to investigate in the manner prescribed in 575:1-1-3 for investigation of complaints.

(r) **Monitoring compliance with Board order.** The Board shall be responsible for monitoring compliance with an order of the Board.

(s) **Procedure for appeal of Board rulings.** A psychologist who feels aggrieved by reason of the suspension or revocation of his/her license, or of a probation or reprimand, may file suit within thirty (30) days after receiving notice of the Board's order in the district court of Oklahoma County, or in the district court of the county of his residence, to annul or vacate the order of the Board. The suit shall be filed against the Board as defendant, and service of process shall be upon either the chairperson or secretary of the Board. The suit shall be tried by the court without a jury and shall be a review of the record, but the burden of proof and the cost of transcribing the record are upon the plaintiff assailing the order of the Board. The judgment of the district court may be appealed to the Supreme Court of Oklahoma in the same manner as other civil cases.

[OAR Docket #06-630; filed 4-12-06]

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

[OAR Docket #06-631]

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PERMANENT final adoption

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

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Oklahoma State Board of Examiners of Psychologists; 59, O.S., 2001, Section 1352.1(8).
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Incorporated standards:
Association of State and Provincial Psychology Board (ASPPB) Code of Conduct, 2005 revision
Incorporating rules:
575:10-1-10
Availability:
Oklahoma State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, 8:00 a.m. to 4:30 p.m., Monday through Friday
ANALYSIS:
The amendments to these rules will increase the annual license renewal fee from $300.00 to $400.00, and adopt the 2005 revision of the ASPPB Code of Conduct with an exception regarding the requirement for records retention which would be changed from 5 to 6 years. (Title 59, OS 2003, Section 1361, 1367, and 1368)
CONTACT PERSON:
Sue A. Fleming, Executive Officer, Oklahoma State Board of Examiners of Psychologists, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, OK 73105, 405-524-9094.

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 25, 2006:

575:10-1-5. Psychologists' licenses; license status; public inquiries

(a) **License issued by Board.** The license shall be issued to each applicant found to meet the requirements for licensure as a psychologist established by the Board. All licensees shall be required to practice only within their major program of doctoral study and supervised experience.

(b) **Status of licenses.** There shall be three types of status for licenses of psychologists:

(1) **Active license.** An active license is a license which has been issued or renewed by the Board for the current calendar year by payment of the appropriate fee. The renewal fee shall be ~~three~~ four hundred dollars ~~($300.00)~~ ($400.00) each year and is due prior to January 1 of each year. The active status shall be the only status which is valid for the practice of psychology. It is the responsibility of each licensed psychologist to keep the Board informed of his/her current address.

(2) **Inactive license.** A license may be placed on inactive status by payment of a one-time fee of twenty-five dollars ($25.00). Licenses on inactive status shall not be valid for the practice of psychology; however, active status may be re-established upon payment of the current renewal fee, without penalty, if the board establishes that there are no known impediments to licensure [pursuant to O.S. 59, Section 1370(A)] and there are no unresolved complaints on file with this Board or the Board of another state. Inquires concerning the credentials of psychologists whose licenses are on inactive status shall be honored by the Board.

(3) **Invalid license.**

(A) **Invalid license for nonpayment of renewal fee.** A license shall be on invalid status when the renewal fee or inactive fee has not been received by the Board by December 31 of the year the license was issued or last renewed. When this occurs, the license is invalid for the practice of psychology until it is again renewed. Payment of the current renewal fee, plus penalty, shall reinstate the license to active status if the Board establishes that there are no known impediments to licensure [pursuant to O.S. 59, Section 1370(A)]. Inquiries to the Board concerning the credentials of psychologists whose licenses are invalid shall be answered with the statement that the licensee does not hold a valid license to practice in the state of Oklahoma.

(B) **Invalid license for noncompletion of continuing professional education requirement.** A license shall be on invalid status as of December 31 of the year the license was issued, or last renewed, if the psychologist has not completed the required twenty (20) hours of acceptable continuing professional education. When this occurs, the license is invalid for the practice of psychology until it is again renewed. Completion of 20 hours of acceptable continuing professional education, together with verification ruled acceptable to the Board, shall reinstate the license to active status if the Board establishes that there are no known impediments to licensure [pursuant to O.S. 59, Section 1370(A)]. Inquiries to the Board concerning the credentials of psychologists whose licenses are invalid shall be answered with the statement that the licensee does not hold a valid license to practice in Oklahoma.

(c) **Public inquiries regarding licensees.** Inquiries to the Board concerning the credentials of a psychologist shall be answered by providing information about the status of the psychologist's license and whether or not there are any known impediments to licensure and/or unresolved Board complaints with this Board or the Board of another state.

575:10-1-9. Fees after becoming licensed as a psychologist

(a) **Fee to renew the license.** The renewal fee shall be ~~three~~ four hundred dollars ~~($300.00)~~ ($400.00) each year and is due prior to January 1 of each year.

(b) **Fee to hire a psychological technician.** The fee which a psychologist must pay to hire a psychological technician in his/her private practice shall be one hundred and fifty dollars ($150.00). The renewal fee shall be one hundred dollars ($100.00) each year and is due on the anniversary date of approval by the Board.

575:10-1-10. A Code of Ethics for psychologists

(a) **Adoption of "Ethical Principles of Psychologists and Code of Conduct. "** The "Ethical Principles of Psychologists and Code of Conduct," 2002 revision, of the American Psychological Association (APA) is adopted by the Board in its entirety as part of its Code of Ethics.

(b) **Adoption of "ASPPB Code of Conduct. "** The "ASPPB Code of Conduct," ~~2001~~ 2005, of the Association of State and Provincial Psychology Boards, is adopted by the Board ~~in its entirety~~ as part of its Code of Ethics. The ASPPB Code is adopted in its entirety with the exception of III. Rules of Conduct (A) (7) (b) Maintenance and Retention of Records, with the exception being that the Board will require all records be retained for a period of six years after the last date on which service was rendered or for a longer period of time if required by law.

(c) **Penalty for violation of the Code of Ethics.** A violation of the Board's Code of Ethics is considered unprofessional conduct and may be grounds for imposing sanctions as specified in 59 O.S., Section 1370(A).

[OAR Docket #06-631; filed 4-12-06]

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

[OAR Docket #06-700]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
590:10-1-4. Health insurance contribution [AMENDED]
590:10-1-20. Actuarial cost to withdraw from system [NEW]
Subchapter 3. Credited Service
590:10-3-6. Full-time-equivalent employment [AMENDED]
Subchapter 7. Retirement Benefits
590:10-7-16. Rollovers [AMENDED]
Subchapter 19. Medicare Gap Benefit Option
590:10-19-14. Payments to an alternate payee under a QDRO [AMENDED]
AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., §901, 902, 903, 909, 913, 915, 915.3, 916.3, 917, 919.1, 920B, 923, 932, 935, 1701, 1707; 20 O.S. §1101.1
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590:10-1-4. Health insurance contribution [AMENDED]
Subchapter 7. Retirement Benefits
590:10-7-16. Rollovers [AMENDED]
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Superseded rules:
Subchapter 1. General Provisions
590:10-1-20. Actuarial cost to withdraw from system [NEW]
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23 Ok Reg 516
Docket number:
05-1541
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
Subchapter 1. General Provisions
590:10-1-4. Health insurance contribution
[74 O.S. §§921, 1316.2]
This amendment requires OPERS to maintain the Retirement Medical Benefit Fund as a sub-account for the payment of health insurance premiums and sets forth requirements based on the federal tax laws.
590:10-1-20. Actuarial cost to withdraw from system
[74 O.S. §910]
This new rule establishes how the actuarial cost is to be determined when an entity seeks to withdraw from OPERS.
Subchapter 3. Credited Service
590:10-3-6. Full-time-equivalent employment
[74 O.S. §§902, 913.4]
This amendment establishes a method for calculating full-time-equivalent employment for elected officials who are in office for partial months.
Subchapter 7. Retirement Benefits
590:10-7-16. Rollovers
[74 O.S. §901]
This amendment will apply to the Oklahoma Public Employees Retirement System and the Uniform Retirement System for Justices and Judges. The amendment clarifies the types of rollovers and applicable restrictions in order to keep OPERS in compliance with federal tax laws.
Subchapter 19. Medicare Gap Benefit Option
590:10-19-14. Payments to an alternate payee under a QDRO
[74 O.S. §916.1]
This amendment clarifies language regarding a QDRO under the Medicare Gap benefit.

CONTACT PERSON:
Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

590:10-1-4. Health insurance contribution

(a) The Oklahoma Public Employees Retirement System shall contribute the amount required by law towards the cost of health insurance coverage under the State and Education Employees Group Insurance Plan or other eligible group insurance plans only for retired members who actually receive a monthly retirement benefit for that month. This contribution shall not be made for beneficiaries, survivors or directly to the retired member.

(b) For eligible group health insurance plans other than the State and Education Employees Group Insurance Plan, the System will contribute the amount required by law after the group insurance plan has made application to the System and completed any necessary and required forms and/or agreements. The group insurance plan must be in compliance with Oklahoma law and offer insurance to all of the covered participating employer's employees, former employees who are vested and former employees who retired from that covered employer. The insurance plan shall provide a certification monthly detailing each covered retired member in the form and manner required by the System. The subsidy shall be paid in arrears for each eligible retired member.

(c) Pursuant to the federal Internal Revenue Code Section 401(h) and Treasury Regulation §1.401-14, the Retirement Medical Benefit Fund shall be maintained as a sub-account of the Oklahoma Public Employees Retirement Fund. From the Retirement Medical Benefit Fund, OPERS shall remit the amount specified in 74 O.S. Section 1316.2 for health insurance premiums.

(d) All contributions to the Retirement Medical Benefit Fund shall be reasonable and ascertainable.

(e) Contributions to the Retirement Medical Benefit Fund must be subordinate to the contributions to the Oklahoma Public Employees Retirement Fund for retirement benefits. At no time shall the aggregate actual contributions to the Retirement Medical Benefit Fund (when added to actual contributions for life insurance protection under the plan, if any) be in excess of twenty-five percent (25%) of the total aggregate actual contributions made to the Oklahoma Public Employees Retirement Fund (not including contributions to fund past service credits). The Board shall annually determine whether the twenty-five (25%) test has been met. If at any time the Retirement Medical Benefit Fund contributions (plus any life insurance contributions) would exceed the twenty-five percent (25%) test, the excess amount of contributions shall be transferred to the Oklahoma Public Employees Retirement Fund for retirement benefits.

(f) Forfeitures in the Retirement Medical Benefit Fund shall not be allocated to individual accounts under the fund, but shall be used for account expenses.

(g) At no time prior to the satisfaction of all liabilities under the Retirement Medical Benefit Fund or termination of the fund shall any assets in the fund be used for, or diverted to, any purpose other than the providing of payment of the Oklahoma Public Employees System's portion of the monthly retiree health insurance premium benefit described by Title 74 O.S. Section 1316.2 and the payment of administrative expenses. Assets in the Retirement Medical Benefit Fund may not be used for retirement or disability benefits or any other purposes for which other assets held in the Oklahoma Employees Retirement Fund are used.

(h) The provisions of section 401(h)(5) of the Internal Revenue Code of 1986, as amended from time to time, shall apply upon the satisfaction of all liabilities under law and the Oklahoma Public Employees Retirement Fund.

590:10-1-20. Actuarial cost to withdraw from system

Actuarial cost for the purpose of withdrawing from the System pursuant to Section 910 of Title 74 of the Oklahoma Statutes shall be determined in accordance with the generally accepted actuarial principles and procedures using methodologies and assumptions which are consistent with those utilized in the actuarial valuation report for the most recent Fiscal Year ending June 30. The actuarial cost to withdraw from the System shall be calculated by the consulting actuary for the System. The employer requesting the withdrawal shall be responsible for paying any fees, costs and expenses for professional services associated with determining the actuarial cost to withdraw from the System. The employer shall also be responsible for any reasonable costs and expenses of the System to retrieve documents for the determination of the actuarial cost to withdraw from the System.

SUBCHAPTER 3. CREDITED SERVICE

590:10-3-6. Full-time-equivalent employment

(a) Full-time-equivalent employment is a term which refers to a member's actual employment with a participating employer of the System. ~~Full-time equivalent~~ Full-time-equivalent employment with a participating Employer must have been service for which required contributions have been paid to the System.

(1) Members obtain ~~full-time equivalent~~ full-time-equivalent employment in two ways:

(A) actual employment with a participating employer of the System, while participating and paying contributions to the System; and/or

(B) making certain types of purchases of service credit which represent actual employment with a participating employer of the System.

(2) Each hour for which retirement contributions are paid shall credit the member with one (1) hour of ~~full-time equivalent~~ full-time-equivalent employment. 173 hours shall constitute one month of ~~full-time equivalent~~ full-time-equivalent employment.

(3) Examples of service and/or employment which ~~does~~ do not constitute ~~full-time equivalent~~ full-time-equivalent employment include, but are not limited to: overtime, leave without pay, unused sick leave, bonus years, temporary or seasonal employment, prior service or military service granted free of charge, purchased military service credit other than purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, service purchased from another retirement system including transported service, and purchased incentive, severance or termination credit.

(4) Examples of service and/or employment which ~~does~~ do constitute ~~full-time equivalent~~ full-time-equivalent employment include, but are not limited to: purchased prior service, repayment of withdrawn contributions, purchase of elected service, purchased temporary total disability credit, purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, and delinquent service paid for by the employer.

(b) For purposes of determining the full-time-equivalent employment for elected officials, if the elected official is in office and participating for fifteen (15) days or more in either the first or last month in such office, the full month will be credited as service for such official. If an elected official resigns from office effective on a day other than the last day of the month, then such elected official shall not receive credit for a full month, but only those hours of full-time-equivalent employment service for that month.

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-16. Rollovers

(a) This section applies to the Oklahoma Public Employees Retirement System and to the Uniform Retirement System for Justices and Judges.

(b) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to Section 401(a)(31) of the federal Internal Revenue Code.

(c) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; the portion of any other distribution(s) that is not includible in gross income; any distribution upon hardship of the employee; and any other distribution(s) that is reasonably expected to total less than $200.00 during a year.

(d) A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or an individual retirement annuity described in section 408(a) or (b) of the Code or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(e) An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, a qualified plan described in section 401(a) of the Code, an annuity contract described in section 403(b) of the Code, or an eligible deferred compensation plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A) of the Code, that accepts the distributee's eligible rollover distribution.

(f) A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(g) A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

SUBCHAPTER 19. MEDICARE GAP BENEFIT OPTION

590:10-19-14. Payments to an alternate payee under a QDRO

(a) An Eligible Member for whom a qualified domestic relations order has been filed and previously accepted by the System prior to the effective date of these rules may elect a Medicare Gap Benefit only if the Pre-Medicare and/or Post Medicare Benefit amounts are sufficient to make the required payment to the alternate payee under the QDRO and result in a payment amount to the member of at least $100.00 per month.

(b) All qualified domestic relations orders filed with the System after the effective date of these rules ~~will be accepted by the System only if it includes~~ shall include a provision requiring that the award will only be made for members electing a Medicare Gap Benefit ~~only~~ if the member's Pre-Medicare and/or Post Medicare Benefit amounts are sufficient to make the required payment to the alternate payee under the QDRO

and result in a payment amount to the member of at least ~~$100.00~~ One Hundred Dollars ($100.00) per month.

[OAR Docket #06-700; filed 4-19-06]

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

[OAR Docket #06-701]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [NEW]
590:15-1-5. Final benefit and Death benefit [AMENDED]
590:15-1-6. Revoking survivor benefits [REVOKED]
Subchapter 3. Excess Contributions [NEW]
590:15-3-1. Purpose and intent [NEW]
590:15-3-2. Definitions [NEW]
590:15-3-3. Transfer of excess contributions [NEW]
590:15-3-4. Limitations on transfer of excess contributions [NEW]
590:15-3-5. Initial and residual transfers [NEW]
590:15-3-6. Deceased Eligible Members [NEW]
AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. §902, 909; 20 O.S., § 1101.1, 1102A, 1103, 1103.1, 1108
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Superseded rules:
Subchapter 3. Excess Contributions [NEW]
590:15-3-1. Purpose and intent [NEW]
590:15-3-2. Definitions [NEW]
590:15-3-3. Transfer of excess contributions [NEW]
590:15-3-4. Limitations on transfer of excess contributions [NEW]
590:15-3-5. Initial and residual transfers [NEW]
590:15-3-6. Deceased Eligible Members [NEW]
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ANALYSIS:
Subchapter 1. General Provisions
590:15-1-5. Final benefit and Death benefit
[20 O.S. §1103E]
This amendment clarifies statutory provisions regarding the payment of death benefits.
590:15-1-6. Revoking survivor benefits
[20 O.S. §1103A]
This amendment revokes this rule as it is obsolete.
Subchapter 3. Excess Contributions
590:15-3-1. Purpose and intent
[20 O.S. §§1101.1, 1102A]
This rule is intended to keep the Uniform Retirement System for Justices and Judges in compliance with the federal tax laws with regard to certain additional contributions.
590:15-3-2. Definitions
[20 O.S. §§1101.1, 1102A]
This rule sets forth definitions to be used within this sub-chapter.
590:15-3-3. Transfer of excess contributions
[20 O.S. §§1101.1, 1102A]
This rule allows the transfer of certain excess contributions from URSJJ to the Oklahoma State Employees Deferred Savings Incentive Plan and requires certain information on the transfer application.
590:15-3-4. Limitations on transfer of excess contributions
[20 O.S. §§1101.1, 1102A]
This rule establishes a limit on transfer of excess contributions as required by federal tax laws.
590:15-3-5. Initial and residual transfers
[20 O.S. §§1101.1, 1102A]
This rule establishes which participants are included in the initial transfer of excess contributions and a time limit in which a member must notify URSJJ of the member's excess contributions if such contributions were not transferred.
590:15-3-6. Deceased Eligible Members
[20 O.S. §1101.1, 1102A]
This rule determines whether the contributions of a deceased eligible member who elected to transfer excess contributions prior to death will still be transferred to the Oklahoma State Employees Deferred Savings Incentive Plan.
CONTACT PERSON:
Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

590:15-1-5. Final benefit and Death benefit

(a) The retirement benefit payable for the month of death of a member or survivor shall be payable to said member or ~~surviving spouse~~ survivor, whichever is applicable. In the event the final benefit is returned to the System or is not otherwise paid, said benefit will be paid to the member's estate or survivor's estate, whichever is applicable.

(b) The four thousand dollars ($4,000) death benefit available for any retired member who dies on or after July 20, 1987, shall be payable to the beneficiary listed by the member or to the member's estate. This beneficiary designation is not affected by any designation of joint-annuitant, deferred compensation beneficiary or insurance beneficiary, unless otherwise specifically designated in writing by member. For any retired member who died on or after July 1, 1999, the death benefit amount shall be five thousand dollars ($5,000).

590:15-1-6. Revoking survivor benefits [REVOKED]

~~A Justice or Judge participating in the Survivor Benefit Plan may not revoke the Election of Survivor Benefits for his spouse and discontinue payment of the additional three percent (3%) contribution required for the Survivor Benefit Plan after the 30 day waiver period unless the member's spouse is deceased or the member and spouse are divorced. No refund of previously paid additional three percent (3%) survivor contribution will be allowed.~~

SUBCHAPTER 3. EXCESS CONTRIBUTIONS

590:15-3-1. Purpose and intent

By adoption of the rules set out in this Subchapter, the Board represents that:

(1) With respect to the transfer of certain Excess Contributions which represent the additional three percent (3%) spousal contributions from the System to the Incentive Plan, the Board intends to comply in all respects with the tax qualification requirements for governmental plans applicable to such refunds or transfers as specified in the Internal Revenue Code of 1986, as amended from time to time and as applicable to governmental plans and the relevant regulatory provisions and guidance related thereto ("Tax qualification requirements").

(2) The procedures in this Subchapter will not be implemented until the Board has received a favorable private letter ruling from the Internal Revenue Service that the transfers described in this Subchapter satisfy the tax qualification requirements.

(3) In administering this Subchapter, the Board will comply with the legislative intent as contained in the Transfer Legislation.

590:15-3-2. Definitions

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

"Board" means the Board of Trustees of the Oklahoma Public Employees Retirement System which administers the Uniform Retirement System for Justices and Judges.

"Code" means the Internal Revenue Code of 1986, as amended from time to time and as applicable to governmental plans and the relevant regulatory provisions and guidance related thereto.

"Eligible Member" means a member of the System who was an active participating justice or judge and a single unmarried individual on September 1, 2005, and who, prior to September 1, 2005, made the additional three percent (3%) spousal contributions pursuant to statutes in effect at that time, provided such additional spousal contributions have not been previously refunded by the System.

"Excess Contributions" means the additional three percent (3%) spousal contributions for a survivor benefit made by an Eligible Member while the member was married, but who is unmarried on September 1, 2005, and which contributions remain on deposit with the System as of the date of the transfer, and includes both Pre-tax Excess Contributions and Post-tax Excess Contributions.

"Incentive Plan" means the Oklahoma State Employees Deferred Savings Incentive Plan, which is a qualified plan under Code Section 401(a).

"Post-tax Excess Contributions" means the Excess Contributions which were employee contributions and which were not picked up by the employer under the provisions of Code Section 414(h)(2).

"Pre-tax Excess Contributions" means the Excess Contributions which were picked up by the employer under the provisions of Code Section 414(h)(2).

"Private Letter Ruling" means the private letter ruling issued by the Internal Revenue Service to the Board.

"System" means the Uniform Retirement System for Justices and Judges.

"Transfer Legislation" means Enrolled House Bill 1858 of the 1st Session of the 50th Legislature, as it amends Section 1102A of Title 20 of the Oklahoma Statutes.

590:15-3-3. Transfer of excess contributions

On or about September 1, 2005, the Board will implement the following procedures for the transfer of the excess contributions:

(1) The Board shall cause to be sent an Application for Transfer of Excess Contributions to each member that appears to be an Eligible Member. The Application for Transfer of Excess Contributions will contain the following:

(A) An election to transfer the excess contributions or to waive the transfer and retain the option to elect at retirement a survivor benefit;

(B) A statement that by making the election to transfer the excess contributions, an Eligible Member forfeits any rights to future survivor benefits of any kind from the System;

(C) The amount of the contributions to be transferred;

(D) A statement that the Application for Transfer of Excess Contributions must be received by the System on or before December 1, 2005;

(E) A statement that failure to sign and return the Application for Transfer of Excess Contributions results in the Eligible Member waiving the option to make the transfer and such waiver is irrevocable; and

(F) A statement that the election to transfer the excess contributions shall not take effect until the Board receives official written notice that this distribution satisfies the tax qualification requirements for governmental plans applicable to such transfers as specified in the Internal Revenue Code.

(2) In the event an Eligible Member disputes the amount of transfer as set forth in the Application for Transfer of Excess Contributions, the Eligible Member shall provide a written objection to the Board within 30 days of the date the Application for Transfer of Excess

Contributions was mailed to the Eligible Member. The objection shall set forth the basis for the objection, including the specific error and the amount the Eligible Member believes is correct. The Board shall respond to the complaint within 30 days of receipt. If the Eligible Member is aggrieved by the decision, the exclusive remedy is through the administrative hearing procedures as provided in 590:1-1-6.

(3) The Board will direct that the Excess Contributions are transferred to the Incentive Plan or maintained in the System as stated in the Application for Transfer of Excess Contributions.

590:15-3-4. Limitations on transfer of excess contributions

(a) The Pre-tax Excess Contributions that are transferred to the Incentive Plan may not exceed the limitations on annual additions imposed by Code Section 415(c).

(b) The Post-tax Excess Contributions that are transferred to the Incentive Plan have already been tested against the limitations imposed by Code Section 415(c) as mandatory employee contributions to a defined benefit plan and therefore will not be tested again.

590:15-3-5. Initial and residual transfers

(a) The initial transfer of Excess Contributions shall include all Eligible Members who elected to transfer their Excess Contributions and who did not object to the transfer amount. If an Eligible Member objects to the transfer amount and the objection is not resolved by the date of the initial transfer, the Excess Contributions shall not be included in the initial transfer. The Board shall provide for a residual transfer date to occur at least one year following the initial transfer date.

(b) An Eligible Member of the System who has Excess Contributions in the Plan but was not identified or included in the initial transfer must notify the System within one year of date of the initial transfer to request the transfer of the Excess Contributions as part of the residual transfer. The final transfer of all Excess Contributions shall occur at the time of the residual transfer at least one year following the initial transfer date.

590:15-3-6. Deceased Eligible Members

In order for the election for transfer to be effective, an Eligible Member must be living at the time the Board receives official written notice from the Internal Revenue Service that this distribution satisfies the tax qualification requirements for governmental plans applicable to such transfers as specified in the Internal Revenue Code. If an Eligible Member dies after the Board receives such official written notice, but before the actual transfer, the Excess Contributions shall be transferred to the Incentive Plan in the same manner as if the Eligible Member were not deceased. Once transferred to the Incentive Plan, distribution shall be governed by the Incentive Plan provisions as provided in 590:35-13-5 and 590:35-13-6. If an Eligible Member dies prior to the Board receiving such official written notice, the Eligible Member's election shall be deemed invalid and shall not be accepted by the System.

[OAR Docket #06-701; filed 4-19-06]

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

[OAR Docket #06-702]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
590:30-1-4. Contents of qualified domestic relations order [AMENDED]
AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., Sections 901, 909 and 923(B)(10)
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N/A
ANALYSIS:
590:30-1-4. Contents of qualified domestic relations order
[74 O.S. §§915.3, 923]
This amendment clarifies the rules for the Medicare Gap Benefit option as it relates to Qualified Domestic Relations Orders. Once the Medicare Gap Benefit has been approved by the Internal Revenue Service, all Qualified Domestic Relations Orders filed with OPERS must include a provision regarding a minimum amount payable to the member after payment to the Alternate Payee.
CONTACT PERSON:
Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 26, 2006:

590:30-1-4. Contents of qualified domestic relations order

For a qualified domestic relations order (QDRO) to be accepted and binding on the System the order must meet the following requirements:

(1) The order must clearly specify the following:

(A) the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order and Social Security number of each,

(B) the dollar amount or exact percentage of the member's benefits to be paid to the alternate payee,

(C) the number of payments or period to which such order applies,

(D) the characterization of the benefit as to marital property rights or child support, and whether the benefit ceases upon the death or remarriage of the alternate payee,

(E) each plan to which such order applies,

(F) the date of marriage and the date of commencement of divorce proceedings giving rise to the QDRO for division of marital property,

(G) if the order is for child support, the name of each child covered by the order, each child's date of birth and the Social Security Number of each,

(H) if the order is for child support, the exact amount (if any) awarded in continuing child support for each child and the exact amount (if any) awarded for arrearages, and

(I) any conditions that will cause the QDRO to terminate.

(2) The order meets the requirements of this section only if such order:

(A) does not require the System to provide any type or form of benefit, or any option not otherwise provided under the state law as related to the Retirement System,

(B) does not require the System to provide increased benefits,

(C) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic relations order by the System, and

(D) does not require payment of benefits to an alternate payee prior to the actual retirement date of the related member or prior to the date the member elects to receive a lump sum distribution of his or her retirement account upon withdrawal from the System or Plan.

(3) The order must provide an exact dollar amount or percentage of total benefit. The order may not provide for a percentage of the benefit accrued on a given date, unless the exact dollar amount is also provided. The order may not provide a formula which requires the System to calculate the amount payable to an alternate payee.

(4) If the Order awards a dollar amount, subsequent benefit adjustment will not change the amount of payment to an alternate ~~payee;~~ payee unless the order specifically provides for the apportionment of future cost of living ~~increases; if~~ increases. If the order awards a percentage of the total benefit, the payment to the alternate payee may increase or decrease due to subsequent benefit adjustments, unless the order directs otherwise.

(5) Upon the effective date of the Medicare Gap Benefit option as provided in Chapter 10, Subchapter 19, of these rules, the order must contain a provision requiring that the award will only be made if the Pre-Medicare and/or Post Medicare Benefit amounts of the member are sufficient to make the required payment to the alternate payee and result in a payment amount to the member of at least One Hundred Dollars ($100.00) per month.

[OAR Docket #06-702; filed 4-19-06]

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

[OAR Docket #06-742]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
785:45-1-2. Definitions [AMENDED]
Subchapter 5. Surface Water Quality Standards
Part 3. Beneficial Uses and Criteria to Protect Uses
785:45-5-10. Public and private water supplies [AMENDED]
785:45-5-12. Fish and wildlife propagation [AMENDED]
785:45-5-13. Agriculture: livestock and irrigation [AMENDED]
785:45-5-20. Fish consumption [AMENDED]
Part 5. Special Provisions
785:45-5-29. Delineation of NLW areas [NEW]
Appendix A. Designated Beneficial Uses for Surface Waters [REVOKED]
Appendix A. Designated Beneficial Uses for Surface Waters [NEW]
Appendix C. Suitability of Water for Livestock and Irrigation Uses [REVOKED]
Appendix E. Requirements for Development of Site Specific Criteria for Metals [REVOKED]
Appendix E. Requirements for Development of Site-Specific Criteria for Metals [NEW]
Appendix F. Statistical Values of the Historical Data for Mineral Constituents of Water Quality (Beginning October 1976 Ending September 1983, Except As Indicated) [REVOKED]
Appendix F. Statistical Values of the Historical Data for Mineral Constituents of Water Quality (Beginning October 1976 Ending September 1983, Except As Indicated) [NEW]
Appendix H. Beneficial Use Designations for Certain Limited Areas of Groundwater [NEW]

AUTHORITY:
Oklahoma Water Resources Board; 82 O.S., § 1085.30; 27A O.S., §§ 1-1-202 and 1-3-101; and 82 O.S., § 1085.2.

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Incorporated standards:
The adopted amendment of 785:45-5-10 provides that "There shall be no discharge of radioactive materials in excess of the criteria found in Title 10 Code of Federal Regulations Part 20, Appendix B, Table 2."
Incorporated rule:
785:45-5-10
Availability:
8:00 a.m. to 5:00 p.m., Monday through Friday, 3800 N. Classen Blvd., Oklahoma City, Oklahoma
ANALYSIS:

Oklahoma Administrative Code ("OAC") Section 785:45-1-2, Definitions, has been amended in several ways. First, multiple terms have been revised, and at least one new term has been added, in order to make the OWRB's terminology and definitions consistent with definitions used by the Department of Environmental Quality ("DEQ") in the same subject areas. The circumstance which created the need for these amendments is a request from the DEQ to address some inconsistencies between the definitions used by both agencies. The intended effect of these amendments is to provide more consistency in rule language used by the Oklahoma Water Resources Board ("OWRB") and DEQ. Second, the definitions for "seven day-, two-year low flow" and "seasonal seven-day, two-year low flow" have been amended. The circumstance which created the need for these amendments is that the current language, promulgated in 2002, was disapproved by the U.S. Environmental Protection Agency ("EPA") pursuant to the federal Clean Water Act. The EPA specified that to correct the disapproval, the OWRB must adopt definitions which clearly refer to "receiving water", not "effluent flow". The intended effect of these amendments is to cure the problem cited by EPA and obtain EPA's approval of these amendments. Third, the term "background concentration" has been amended. The circumstance which created the need for this amendment is a request from an affected entity for clarification of this term in relation to how it is to be applied. The intended effect of this amendment is to clearly define how this existing term is to be used.

OAC 785:45-5-10, Public and private water supply, has been amended in several ways. First, the language regarding radioactive materials is being amended to update and delete obsolete language. The circumstance which created the need for these amendments is that the current citation to "Oklahoma Radiation Protection Regulations, 1969, or its latest revision" is outdated because such regulations have been revoked. The intended effect of these amendments is to update the citation to the appropriate reference in the Code of Federal Regulations. Second, new language has been added to establish a criterion for chlorophyll-a applicable to certain waters of the state including Wister Lake, Tenkiller Ferry Reservoir, and waterbodies designated in 785:45 Appendix A as "Sensitive Water Supplies". The circumstance which created the need for these amendments is that drinking water supplies are currently at risk from the undesirable consequences of excessive algae, including taste and odor and carcinogenic compounds. The intended effect of these amendments is to provide additional protection to the public and its water supplies, and to help prevent costly treatment upgrades to public water systems.

OAC 785:45-5-12, Fish and wildlife propagation, has been amended in at least three ways. First, a citation for procedures to implement narrative criteria for toxicity has been updated. The circumstance which created the need for this amendment is that the current language contains an inappropriate and outdated reference to the state's "Continuing Planning Process document". The intended effect of this amendment is to update the reference to rules codified at OAC 785:46 Subchapter 3. Second, new language has been added to establish a narrative criterion for sediments. The circumstance which created the need for this amendment is that sedimentation causes adverse impacts in Oklahoma's streams, and needs to be addressed in the OWQS. The intended effect of this amendment, together with related amendments being proposed for OAC 785:46, is to provide a uniform methodology that will be used by all state environmental agencies to assess and regulate the impacts of sediments in Oklahoma's streams. Third, new language has been added in order to provide for determinations of regulatory low flow on a site-specific basis with respect to dissolved oxygen in stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, such as the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System. The circumstance which created the need for these amendments is that the existing regulatory flow rules are not designed for a hydrologically modified waterbody. The intended effect of these amendments is to provide flexibility for state agencies to use appropriate regulatory flow in determination of waste discharge permit limits.

OAC 785:45-5-13, Agriculture: livestock and irrigation, has been amended in at least two ways. First, definitions have been added for technical terms used in this section. The circumstance which created the need for these amendments is that the terms "long term average concentration" and "short term average concentration" are currently used in this section but are not defined. The intended effect of these amendments is to provide definitions for consistent interpretation and application of these terms. Second, language regarding criteria for mineral concentrations has been amended. The circumstance which created the need for these amendments is that some interested persons have perceived an inconsistency between the application of the numeric criteria and the exemption to those criteria. The intended effect of these amendments is to clarify the exemption to the numeric criteria.

OAC 785:45-5-20, Fish consumption, has been amended upon the request of the DEQ. The changes amplify the narrative standard for toxic substances in aquatic organisms and delete the current language on the numerical advisory levels for fish tissue. The circumstance which created the need for these amendments is that DEQ believes the current language on advisory levels for fish consumption is problematic and lacks the flexibility desirable in order for DEQ to take action to protect public health. The intended effect of these amendments is to eliminate any differences in advisory levels that may arise between what is prescribed in the Oklahoma Water Quality Standards ("OWQS") and in the DEQ Continuing Planning Process document.

Language regarding nutrient limited watersheds ("NLW") has been added in a new section 785:45-5-29, and amended in Appendix A. These amendments include two different sets of changes. The first set of changes includes portions of the new 785:45-5-29 and portions of the amendments in Appendix A, which together clarify the extent of the watersheds of pertinent waterbodies which have been given the "NLW" designation. The circumstance which created the need for these changes is that requests from the public have led OWRB staff to examine the definition of "watershed" as it is applied in the context of the NLW limitation. This review has indicated to OWRB staff that the inclusion of the entire watershed of a waterbody identified as NLW may not be appropriate in every case. The intended effect of these changes is to define precisely, and in some cases to limit, the boundaries of the NLW restrictions. The second set of changes gives several waterbodies the NLW designation due to excessive algae growth caused by nutrient loading that is potentially causing impairment of the beneficial uses of those waterbodies. The intended effect of these amendments is to cause implementation of more protective regulations or practices in the affected watersheds.

Appendix A, Designated Beneficial Uses for Surface Waters, has been revoked and reenacted with numerous other changes in addition to those relating to NLW designations. One category of changes includes new or additional use designations for several streams which include an unnamed tributary to the North Canadian River (the receiving stream for the Town of Geary wastewater) in Canadian County; an unnamed tributary to Turkey Creek (the receiving stream for the City of Hennessey wastewater) in Kingfisher County; an unnamed tributary to Little River (the receiving stream for the Town of Bowlegs wastewater) in Seminole County; and an unnamed tributary to the Red River (the receiving stream for the Rural Water District No. 1, Choctaw County wastewater) in Choctaw County. The circumstances which created the need for these changes are that Use Attainability Analyses ("UAAs") have been completed for these streams. The UAA for each stream indicated that certain uses should be designated for that stream. In some cases, the UAA indicated that limitations for additional protection should be designated for a stream. The intended effect of the amendments is to designate the particular uses and limitations indicated by the UAAs as required by EPA regulations under the federal Clean Water Act. A second category of changes is to correct errors in descriptions of certain streams and lakes. The circumstance which created the need for these amendments is that it has been brought to the attention of the OWRB staff that the descriptions in question contain errors. The intended

effect of these amendments is to correct the errors and to state the descriptions accurately.

Appendix C, Suitability of Water for Livestock and Irrigation Uses, has been revoked. The circumstance which created the need for this revocation is that this appendix has been misinterpreted as containing criteria which are binding to protect waters designated with the Agricultural beneficial use, rather than mere guidelines for such use. The intended effect of this revocation is to eliminate this ongoing misinterpretation and remove these guidelines from their misplacement in rules.

Appendix E, Requirements for Development of Site Specific Criteria for Metals, has been revoked and reenacted with corrections in grammatical (e.g., hyphenation of terms) and formatting errors. The circumstance which created the need for these amendments is that OWRB staff has found that when this Appendix has been published, certain formulas have been re-formatted with incorrect characters. Moreover, the term "site-specific" needs to be hyphenated for grammatical correctness. The intended effect of these amendments is to correct the formatting errors and make the text grammatically correct.

Appendix F, Statistical Values of the Historical Data for Mineral Constituents of Water Quality (Beginning October 1976 Ending September 1983, Except as Indicated) has been revoked and reenacted. The circumstance which created the need for these amendments is that it has come to the attention of the OWRB staff that numerous errors and discrepancies are contained within the text and values published in this appendix. The intended effect of these amendments is to correct these errors and provide accurate and complete text and values for the items in this appendix. In addition, the Oklahoma Corporation Commission staff has requested that certain watersheds identified in this appendix be divided into smaller units, because the segment averages currently identified for such watersheds are not always representative of the streams that make up that segment. The intended effect of the latter changes is to provide more accurate historical representations of certain chemical constituents of certain streams within existing stream segments.

Appendix H, Beneficial Use Designations for Certain Groundwater, has been added to provide beneficial use designations for certain limited groundwater areas that are more appropriate and accurate than the default designations prescribed in 785:45-7-3. The circumstance which created the need for these amendments is that the default designated uses for certain areas of groundwater are not existing uses and likely cannot be supported due to natural conditions or irreversible human-induced impacts such as pollution. The intended effect of these amendments is to provide more accurate and appropriate designations of the uses of the groundwater in these limited areas, and to provide the public and state agencies a centralized source of basic information concerning these areas and possible limitations imposed therein by state environmental agencies.

The rules amendments adopted by the OWRB in this rulemaking implement portions of 82 O.S., §§ 1085.2 and 1085.30, and 27A O.S., §§ 1-1-202 and 1-3-101. Rules related to these rules amendments are codified in OAC Title 785, Chapter 46.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

785:45-1-2. Definitions

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

"Abatement" means reduction of the degree or intensity of pollution.

"Acute test failure" means greater than or equal to 50% ~~lethality~~ mortality to appropriate test ~~organisms in 100%~~ species at or below the critical effluent dilution ~~in~~ after a 48 ~~hours~~ hour test as provided in OAC 252:690-3-29.

"Acute toxicity" means greater than or equal to 50% lethality to appropriate test organisms in a test sample.

"Alpha particle" means a positively charged particle emitted by certain radioactive materials. It is the least penetrating of the three common types of radiation (alpha, beta and gamma) and usually is not dangerous to plants, animals or humans.

"Ambient" means surrounding, especially of or pertaining to the environment about an entity, but undisturbed and unaffected by it.

"Aquifer" means a formation that contains sufficient saturated, permeable material to yield significant quantities of water to wells and springs. This implies an ability to store and transmit water; unconsolidated sands and gravels are typical examples.

"Assimilative capacity" means the amount of pollution a waterbody can receive and still maintain the water quality standards designated for that waterbody.

"Attainable uses" means the best uses achievable for a particular waterbody given water of adequate quality. The process of use attainability analysis can, and in certain cases must, be used to determine attainable uses for a waterbody.

"Background concentration" means the ambient concentration of a given parameter upstream or upgradient from a facility, practice or activity which has not been affected by that facility, practice or activity.

"BCF" means bioconcentration factor.

"Beneficial uses" means a classification of the waters of the State, according to their best uses in the interest of the public.

"Benthic macroinvertebrates" means invertebrate animals that are large enough to be seen by the unaided eye, can be retained by a U. S. Standard No. 30 sieve, and live at least part of their life cycles within or upon available substrate in a body of water or water transport system.

"Best Available Technology" means the best proven technology, treatment techniques or other economically viable means which are commercially available.

"Best management practices" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state or United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Beta particle" means a negatively charged elementary particle emitted by radioactive decay that may cause skin burns. It is easily stopped by a thin sheet of metal.

"Bioconcentration factor" means the relative measure of the ability of a contaminant to be stored in tissues and thus to accumulate through the food chain and is shown as the following formula: BCF = Tissue Concentration divided by Water Concentration.

"BMPs" means best management practices.

"Board" means Oklahoma Water Resources Board.

"BOD" means biochemical oxygen demand.

"Carcinogenic" means cancer producing.

"Chronic test failure" ~~is~~ means the statistically significant difference (at the 95% confidence level) between survival or reproduction of the ~~appropriate~~ test organism ~~in the chronic low flow dilution (LFD)~~ at or below the chronic critical dilution after completion of a 7 ~~or 21 days~~ day test as provided in OAC 252:690-3-29, or other test as approved by the permitting authority and the EPA Regional Administrator, and a control. ~~Statistical analyses shall be consistent with methods described in EPA's publication no. 600/14-89/001, "Short-Term Methods For Estimating The Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms", or most recent revision.~~

"Chronic toxicity" means a statistically significant difference (at the 95% confidence level) between longer-term survival and/or reproduction or growth of the appropriate test organisms in a test sample and a control. Teratogenicity and mutagenicity are considered to be effects of chronic toxicity.

"Coliform group organisms" means all of the aerobic and facultative anaerobic gram-negative, non-spore-forming rod shaped bacteria that ferment lactose broth with gas formation within 48 hours at 35°C.

"Color" means true color as well as apparent color. True color is the color of the water from which turbidity has been removed. Apparent color includes not only the color due to substances in solution (true color), but also that color due to suspended matter.

"Conservative element" means a substance which persists in the environment, having characteristics which are resistant to ordinary biological or chemical degradation or volatilization.

"Conservation plan" means, but is not limited to, a written plan which lists activities, management practices and maintenance or operating procedures designed to promote natural resource conservation and is intended for the prevention and reduction of pollution of waters of the state.

"Critical dilution" means, for chronic whole effluent toxicity testing, an effluent dilution expressed as a percentage representative of the dilution afforded a wastewater discharge according to the appropriate Q*-dependent chronic mixing zone equation.

"Critical temperature" means the higher of the seven-day maximum temperature likely to occur with a 50% probability each year, or 29.4°C (85°F).

"Criterion" means a number or narrative statement assigned to protect a designated beneficial use.

"Degradation" means any condition caused by the activities of humans which result in the prolonged impairment of any constituent of the aquatic environment.

"Designated beneficial uses" means those uses specified for each waterbody or segment whether or not they are being attained.

"Dissolved oxygen" means the amount of oxygen dissolved in water at any given time, depending upon the water temperature, the partial pressure of oxygen in the atmosphere in contact with the water, the concentration of dissolved organic substances in the water, and the physical aeration of the water.

"DO" means dissolved oxygen.

"DRASTIC" means that standardized system developed by the United States Environmental Protection Agency for evaluating groundwater vulnerability to pollution, based upon consideration of depth to water (D), net recharge (R), aquifer media (A), soil media (S), topography (T), impact of the vadose zone media (I), and hydraulic conductivity (C) of the aquifer.

"EPA" means the United States Environmental Protection Agency.

"Ephemeral stream" means an entire stream which flows only during or immediately after a rainfall event, and contains no refuge pools capable of sustaining a viable community of aquatic organisms.

"Epilimnion" means the uppermost homothermal region of a stratified lake.

"Eutrophication" means the process whereby the condition of a waterbody changes from one of low biologic productivity and clear water to one of high productivity and water made turbid by the accelerated growth of algae.

"Existing beneficial uses" means those uses listed in Title 40 CFR §131.3 actually attained by a waterbody on or after November 28, 1975. These uses may include public water supplies, fish and wildlife propagation, recreational uses, agriculture, industrial water supplies, navigation, and aesthetics.

"Existing point source discharge(s)" means, for purposes of 785:45-5-25, point source discharges other than stormwater which were/are in existence when the ORW, HQW or SWS designation was/is assigned to the water(s) which receive(s) the discharge. The load from a point source discharge which is subject to the no increase limitation shall be based on the permitted mass loadings and concentrations, as appropriate, in the discharge permit effective when the limitation was assigned. Publicly owned treatment works may use design flow, mass loadings or concentration as appropriate if those flows, loadings or concentrations were approved as a portion of Oklahoma's Water Quality Management Plan prior to the application of the ORW, HQW, or SWS limitation.

"Fecal coliform" means a group of organisms common to the intestinal tracts of humans and of animals. The presence of fecal coliform bacteria in water is an indicator of pollution and of potentially dangerous bacterial contamination.

"Fresh groundwater" means groundwater with naturally-occurring concentrations of total dissolved solids less than 10,000 mg/L, or with levels of total dissolved solids of 10,000 or more mg/L caused by human activities.

"Geometric mean" means the nth root of the product of the samples.

"Groundwater" *means waters of the state under the surface of the earth regardless of the geologic structure in which it is standing or moving outside the cut bank of any definite stream.* [82: 1020.1(A)]

"Groundwater basin" means a distinct underground body of water overlain by contiguous land and having substantially the same geological and hydrological characteristics and yield capabilities". [82: 1020.1(C)]

"HLAC" means Habitat Limited Aquatic Community.

"HQW" means High Quality Water.

"HUC" means hydrologic unit code utilized by the United States Geologic Survey and other federal and state agencies as a way of identifying all drainage basins in the United States in a nested arrangement from largest to smallest, consisting of a multi-digit code which identifies each of the levels of classification within two-digit fields.

"Intolerant climax fish community" means habitat and water quality adequate to support game fishes or other sensitive species introduced or native to the biotic province or ecological region, which require specific or narrow ranges of high quality environmental conditions.

"Lake" means:

(A) An impoundment of waters of the state over 50 acre-feet in volume which is either:

(i) owned or operated by federal, state, county, or local government or

(ii) appears in Oklahoma's Clean Lakes Inventory.

(B) Surface impoundments which are used as a treatment works for the purpose of treating stabilizing or holding wastes are excluded from this definition.

"LC50" means lethal concentration and is the concentration of a toxicant in an external medium that is lethal to fifty percent of the test animals for a specified period of exposure.

"Long-term average flow" means an arithmetic average stream flow over a representative period of record.

"MDL" means the Method Detection Limit and is defined as the minimum concentration of an analyte that can be measured and reported with 99% confidence that the analyte concentration is greater than zero (0). MDL is dependent upon the analyte of concern.

"Mixing zone" means when a liquid of a different quality than the receiving water is discharged into the receiving water, a mixing zone is formed. Concentration of the liquid within the mixing zone decreases until it is completely mixed with receiving water. A regulatory mixing zone is described in 785:45-5-26.

"Narrative criteria" means statements or other qualitative expressions of chemical, physical or biological parameters that are assigned to protect a beneficial use.

"Natural source" means source of contamination which is not human induced.

"NLW Impairment Study" means a scientific process of surveying the chemical, physical and biological characteristics of a nutrient threatened reservoir to determine whether the reservoir's beneficial uses are being impaired by human-induced eutrophication.

"Non-conservative element" means a substance which undergoes significant short-term degradation or change in the environment other than by dilution.

"Nonpoint source" means a source of pollution without a well defined point of origin.

"Normal stream flow conditions" means flow corresponding to low gradient areas in the hydrograph.

"NTU" means Nephelometric Turbidity Unit, which is the unit of measure using the method based upon a comparison of the intensity of light scattered by the sample under defined conditions with the intensity of light scattered by a standard reference suspension (formazin). The higher the intensity of scattered light, the higher the turbidity.

"Numerical criteria" means concentrations or other quantitative measures of chemical, physical or biological parameters that are assigned to protect a beneficial use.

"Numerical standard" means the most stringent of the numerical criteria assigned to the beneficial uses for a given stream.

"Nutrient impaired reservoir" means a reservoir with a beneficial use or uses determined by an NLW Impairment Study to be impaired by human-induced eutrophication.

"Nutrient-limited watershed" means a watershed of a waterbody with a designated beneficial use which is adversely affected by excess nutrients as determined by Carlson's Trophic State Index (using chlorophyll-a) of 62 or greater, or is otherwise listed as "NLW" in Appendix A of this Chapter.

"Nutrients" means elements or compounds essential as raw materials for an organism's growth and development; these include carbon, oxygen, nitrogen and phosphorus.

"ORW" means Outstanding Resource Water.

"OWRB" means Oklahoma Water Resources Board.

"PCBs" means polychlorinated biphenyls.

"Picocurie" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Point source" means any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, well, discrete fissure, container, rolling stock or concentrated animal feeding operation from which pollutants are or may be discharged. This term does not include return flows from irrigation agriculture.

"Pollutant" means any material, substance or property which may cause pollution.

"Pollution" *means contamination or other alteration of the physical, chemical or biological properties of any natural waters of the State, or such discharge of any liquid, gaseous or solid substance into any waters of the State as will or is likely to create a nuisance or render such waters harmful, or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life".* [82: §1084.2(1)]

"Polychlorinated biphenyls" means a group of organic compounds (206 possible) which are constructed of two phenyl rings and more than one chlorine atom.

"PQL" means Practical Quantitation Limit and is defined as 5 times the MDL. The PQL represents a practical and routinely achievable detection limit with high confidence.

"Put and take fishery" means the introduction of a fish species into a body of water for the express purpose of sport fish harvest where existing conditions preclude a naturally reproducing population.

"Q*" means dilution capacity.

"Salinity" means the concentration of salt in water.

"Sample standard" means the arithmetic mean of historical data from October 1976 to September 1983 except as otherwise provided in Appendix F of this Chapter, plus two standard deviations of the mean.

"Seasonal base flow" means the sustained or fair-weather runoff, which includes but is not limited to groundwater runoff and delayed subsurface runoff.

"Seasonal seven-day, two-year low flow" means the ~~design~~ 7-day low flow ~~for determining allowable BOD load to~~ of a stream likely to occur with a 50% probability for a season with the applicable dates in Table 1 of Appendix G of OAC 785:45.

"Seasonal 7Q2" means the seasonal seven-day, two-year low flow.

"Sensitive representative species" means *Ceriodaphnia dubia, Daphnia magna, Daphnia pulex, Pimphales promelas* (Fathead minnow), *Lepomis macrochirus* (Bluegill sunfish), or other sensitive organisms indigenous to a particular waterbody.

"Seven-day, two-year low flow" means the ~~design~~ 7-day low flow ~~for determining allowable discharge load to~~ of a stream likely to occur with a 50% probability each year.

"7Q2" means the seven-day, two-year low flow.

"Standard deviation" means a statistical measure of the dispersion around the arithmetic mean of the data.

"Standard Methods" means the publication "Standard Methods for the Examination of Water and Wastewater", published jointly by the American Public Health Association, American Water Works Association, and Water Environment Federation.

"Standards", when capitalized, means this Chapter, which constitutes the Oklahoma Water Quality Standards described in 82 O.S. §1085.30. Whenever this term is not capitalized or is singular, it means the most stringent of the criteria assigned to protect the beneficial uses designated for a specified water of the State.

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Subwatershed" means a smaller component of the larger watershed.

"Synergistic effect" means the presence of cooperative pollutant action such that the total effect is greater than the sum of the effects of each pollutant taken individually.

"Thermal pollution" means degradation of water quality by the introduction of heated effluent and is primarily a result of the discharge of the cooling waters from industrial processes, particularly from electrical power generation.

"Thermal stratification" means horizontal layers of different densities produced in a lake caused by temperature.

"Variance" means a temporary (not to exceed three years) exclusion of a specific numerical criterion for a specific discharge to a specific waterbody.

"Warm Water Aquatic Community" means a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality and habitat are adequate to support intolerant climax fish communities and includes an environment suitable for the full range of warm water benthos.

"Wastes" *means industrial waste and all other liquid, gaseous or solid substances which may pollute or tend to pollute any waters of the state".* [82 O. S. §1084.2(2)]

"Waterbody" means any specified segment or body of waters of the state, including but not limited to an entire stream or lake or a portion thereof.

"Water quality" means physical, chemical, and biological characteristics of water which determine diversity, stability, and productivity of the climax biotic community or affect human health.

"Waters of the state" *means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this State or any portion thereof* [82:1084.2(3)].

"Watershed" means the drainage area of a waterbody including all direct or indirect tributaries.

"WWAC" means Warm Water Aquatic Community.

"Yearly mean standard" means the arithmetic mean of historical data from October 1976 to September 1983 except as otherwise provided in Appendix F of this Chapter, plus one standard deviation of the mean. The moving yearly mean standard is an average of the last five years of available data.

"Zone of passage" means a three dimensional zone expressed as a volume in the receiving stream through which mobile aquatic organisms may traverse the stream past a discharge without being affected by it. A regulatory zone of passage is described in 785:45-5-26.

SUBCHAPTER 5. SURFACE WATER QUALITY STANDARDS

PART 3. BENEFICIAL USES AND CRITERIA TO PROTECT USES

785:45-5-10. Public and private water supplies

The following criteria apply to surface waters of the state having the designated beneficial use of Public and Private Water Supplies:

(1) **Raw water numerical criteria.** For surface water designated as public and private water supplies, the numerical criteria for substances identified under the "Public and Private Water Supply (Raw Water)" column in Table 2 of Appendix G of this Chapter shall not be exceeded. Raw water numerical criteria are considered long term average standards. For purposes of permitting discharges for attainment of these standards, the permitting authority shall use long term average receiving stream flows and complete mixing of effluent and receiving water to determine appropriate permit limits.

(2) **Radioactive materials.**

(A) There shall be no discharge of radioactive materials in excess of the criteria found in ~~Oklahoma Radiation Protection Regulations, 1969, or its latest revision~~ Title 10 Code of Federal Regulations Part 20, Appendix B, Table 2.

(B) The concentration of gross alpha particles shall not exceed the criteria specified in (i) through (iv) of this subparagraph, or the naturally occurring concentration, whichever is higher.

(i) The combined dissolved concentration of Radium-226 and Radium-228, and Strontium-90, shall not exceed 5 picocuries/liter, and 8 picocuries/liter, respectively.

(ii) Gross alpha particle concentrations, including Radium-226 but excluding radon and uranium, shall not exceed 15 picocuries/liter.

(iii) The gross beta concentration shall not exceed 50 picocuries/liter.

(iv) The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in waters having the designated use of Public and Private Water supply shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

(3) **Coliform bacteria.**

(A) The bacteria of the total coliform group shall not exceed a monthly geometric mean of 5,000/100 ml at a point of intake for public or private water supply.

(B) The geometric mean will be determined by multiple tube fermentation or membrane filter procedures based on a minimum of not less than five (5) samples taken over a period of not more than thirty (30) days.

(C) Further, in no more than 5% of the total samples during any thirty (30) day period shall the bacteria of the total coliform group exceed 20,000/100 ml.

(D) In cases where both public and private water supply and primary body contact recreation uses are designated, the primary body contact criteria will apply.

(4) **Oil and grease (petroleum and non-petroleum related).** For Public and Private Water Supplies, surface waters of the State shall be maintained free from oil and grease and taste and odors.

(5) **General criteria.**

(A) The quality of the surface waters of the state which are designated as public and private water supplies shall be protected, maintained, and improved when feasible, so that the waters can be used as sources of public and private raw water supplies.

(B) These waters shall be maintained so that they will not be toxic, carcinogenic, mutagenic, or teratogenic to humans.

(6) **Water Column criteria to protect for the consumption of fish flesh and water.**

(A) Surface waters of the State with the designated beneficial use of Public and Private Water Supply shall be protected to allow for the consumption of fish, shellfish and water.

(B) The water column numerical criteria to protect human health for the consumption of fish flesh and water for the substances identified in Table 2 of Appendix G of this Chapter shall be as prescribed under the "Fish Consumption and Water" column in Table 2 of Appendix G in all surface waters designated with the beneficial use of Public and Private Water Supply. Water column numerical criteria to protect human health for the consumption of fish flesh and water are considered long term average standards. For purposes of permitting discharges for attainment of these standards, the permitting authority shall use long term average receiving stream flows and complete mixing of effluent and receiving water to determine appropriate permit limits. Water column criteria to protect human health for the consumption of fish flesh only may be found in the column "Fish Consumption" in Table 2 of Appendix G of this Chapter.

(7) **Chlorophyll-a numerical criterion for certain waters.** The long term average concentration of chlorophyll-a at a depth of 0.5 meters below the surface shall not exceed 0.010 milligrams per liter in Wister Lake, Tenkiller Ferry Reservoir, nor any waterbody designated SWS in Appendix A of this Chapter. Wherever such criterion is exceeded, numerical phosphorus or nitrogen criteria or both may be promulgated.

785:45-5-12. Fish and wildlife propagation

(a) **List of subcategories.** The narrative and numerical criteria in this section are designed to maintain and protect the beneficial use classification of "Fish and Wildlife Propagation". This classification encompasses several subcategories which are capable of sustaining different climax communities of fish and shellfish. These subcategories are Habitat Limited Aquatic Community, Warm Water Aquatic Community, Cool Water Aquatic Community (Excluding Lake Waters), and Trout Fishery (Put and Take).

(b) **Habitat Limited Aquatic Community subcategory.**

(1) Habitat limited aquatic community means a subcategory of the beneficial use "Fish and Wildlife Propagation" where the water chemistry and habitat are not adequate to support a "Warm Water Aquatic Community" because:

(A) Naturally occurring water chemistry prevents the attainment of the use; or

(B) Naturally occurring ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of a sufficient volume of effluent to enable uses to be met; or

(C) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or

(D) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the use; or

(E) Physical conditions related to the natural features of the waterbody, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of the "Warm Water Aquatic Community" beneficial use.

(2) Habitat Limited Aquatic Community may also be designated where controls more stringent than those required by sections 301(b) and 306 of the federal Clean Water Act as amended, which would be necessary to meet standards or criteria associated with the beneficial use subcategories of Cool Water Aquatic Community or Warm Water Aquatic Community, would result in substantial and widespread economic and social impact.

(c) **Warm Water Aquatic Community subcategory.** Warm Water Aquatic Community means a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality and habitat are adequate to support climax fish communities.

(d) **Cool Water Aquatic Community subcategory.** Cool Water Aquatic Community means a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality, water temperature and habitat are adequate to support cool water climax fish communities and includes an environment suitable for the full range of cool water benthos. Typical species may include smallmouth bass, certain darters and stoneflies.

(e) **Trout Fishery subcategory.** Trout Fishery (Put and Take) means a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality, water temperature and habitat are adequate to support a seasonal put and take trout fishery. Typical species may include trout.

(f) **Criteria used in protection of fish and wildlife propagation.** The narrative and numerical criteria to maintain and protect the use of "Fish and Wildlife Propagation" and its subcategories shall include:

(1) **Dissolved oxygen.**

(A) Dissolved oxygen (DO) criteria are designed to protect the diverse aquatic communities of Oklahoma.

(B) Allowable loadings designed to attain these dissolved oxygen criteria are provided as follows:

(i) For streams with sufficient historical data, the allowable load shall be based on meeting the dissolved oxygen concentration standard at the seven-day, two-year low flow and the appropriate seasonal temperatures.

(ii) For streams lacking sufficient historical data, or when the appropriate flow is less than one (1) cubic foot per second (cfs), the allowable load shall be based on meeting the dissolved oxygen concentration standard at one (1) cfs and the appropriate seasonal temperature.

(iii) Provided, for streams designated in OAC 785:45 Appendix A as HLAC or WWAC which have sufficient historical data as determined by the permitting authority, the allowable BOD load may be based upon meeting the dissolved oxygen concentration standard at the applicable seasonal temperature and corresponding seasonal seven-day, two-year low flow.

(iv) Provided further, in stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, including but not limited to the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System, a properly designed and implemented site-specific hydrologic study approved by the permitting authority and the Board may be used to determine the appropriate regulatory low flow. In such circumstances, the allowable BOD load may be based upon meeting the dissolved oxygen concentration standard at the applicable seasonal temperature and the site-specific regulatory low flow.

(C) Except for naturally occurring conditions, the dissolved oxygen criteria are as set forth in Table 1 of Appendix G of this Chapter.

(2) **Temperature.**

(A) At no time shall heat be added to any surface water in excess of the amount that will raise the temperature of the receiving water more than 2.8°C outside the mixing zone.

(B) The normal daily and seasonal variations that were present before the addition of heat from other than natural sources shall be maintained.

(C) In streams, temperature determinations shall be made by averaging representative temperature measurements of the cross sectional area of the stream at the end of the mixing zone.

(D) In lakes, the temperature of the water column and/or epilimnion, if thermal stratification exists, shall not be raised more than 1.7°C above that which existed before the addition of heat of artificial origin, based upon the average of temperatures taken from the surface to the bottom of the lake, or surface to the bottom of the epilimnion if the lake is stratified.

(E) No heat of artificial origin shall be added that causes the receiving stream water temperature to exceed the maximums specified below:

(i) The critical temperature plus 2.8°C in warm water and habitat limited aquatic community streams and lakes except in the segment of the Arkansas River from Red Rock Creek to the headwaters of Keystone Reservoir where the maximum temperature shall not exceed 34.4°C.

(ii) 28.9°C in streams designated cool water aquatic community.

(iii) 20°C in streams designated trout fishery (put and take).

(F) Water in privately-owned reservoirs used in the process of cooling water for industrial purposes is exempt from these temperature restrictions, provided the water released from any such lake or reservoir into a stream system shall meet the water quality standards of the receiving stream.

(3) **pH (hydrogen ion activity).** The pH values shall be between 6.5 and 9.0 in waters designated for fish and wildlife propagation; unless pH values outside that range are due to natural conditions.

(4) **Oil and grease (petroleum and non-petroleum related).**

(A) All waters having the designated beneficial use of any subcategory of fish and wildlife propagation shall be maintained free of oil and grease to prevent a visible sheen of oil or globules of oil or grease on or in the water.

(B) Oil and grease shall not be present in quantities that adhere to stream banks and coat bottoms of water courses or which cause deleterious effects to the biota.

(5) **Biological Criteria.**

(A) Aquatic life in all waterbodies with the beneficial use designation of Fish and Wildlife Propagation (excluding waters designated "Trout, put-and-take") shall not exhibit degraded conditions as indicated by one or both of the following:

(i) comparative regional reference data from a station of reasonably similar watershed size or flow, habitat type and Fish and Wildlife beneficial use subcategory designation or

(ii) by comparison with historical data from the waterbody being evaluated.

(B) Compliance with the biological criteria to protect Fish and Wildlife Propagation set forth in this paragraph shall be based upon measures including, but not limited to, diversity, similarity, community structure, species tolerance, trophic structure, dominant species, indices of biotic integrity (IBI's), indices of well being (IWB's), or other measures.

(6) **Toxic substances (for protection of fish and wildlife).**

(A) Surface waters of the state shall not exhibit acute toxicity and shall not exhibit chronic toxicity outside the chronic regulatory mixing zone. Acute test failure and chronic test failure shall be used to determine discharger compliance with these narrative aquatic life toxics criteria. The narrative criterion specified in this subparagraph (A) which prohibits acute toxicity shall be maintained at all times and shall apply to all surface waters of the state. The narrative criterion specified in this subparagraph (A) which prohibits chronic toxicity shall apply at all times outside the chronic regulatory mixing zone and within the zone of passage to all waters of the state except:

(i) When a discharge into surface waters designated with the Fish and Wildlife Propagation beneficial use complies with and meets the discharge permit limitations but the flow immediately upstream from the discharge is less than one (1) cubic foot per second or when the flow falls below the seven-day, two-year low-flow, whichever is larger. For purposes of the permitting process, the regulatory low flow shall be the larger of one (1) cubic foot per second or the seven-day, two-year low flow; and

(ii) To streams listed as ephemeral in Appendix A.

(B) Procedures to implement these narrative criteria are found in ~~Oklahoma's Continuing Planning Process document~~ OAC 785:46 Subchapter 3.

(C) Toxicants for which there are specific numerical criteria are listed in Table 2 of Appendix G of this Chapter.

(D) For toxicants not specified in Table 2 of Appendix G of this Chapter, concentrations of toxic substances with bio-concentration factors of 5 or less shall not exceed 0.1 of published LC50 value(s) for sensitive representative species using standard testing methods, giving consideration to site specific water quality characteristics.

(E) Concentrations of toxic substances with bio-concentration factors greater than 5 shall not exceed 0.01 of published LC50 value(s) for sensitive representative species using standard testing methods, giving consideration to site specific water quality characteristics.

(F) Permit limits to prevent toxicity caused by discharge of chlorine and ammonia are determined pursuant to the narrative criteria contained within (A) and (B) of this paragraph.

(G) The acute and chronic numerical criteria listed in the "Fish and Wildlife Propagation" column in Table 2 of Appendix G of this Chapter apply to all waters of the state designed with any of the beneficial use sub-categories of Fish and Wildlife Propagation. The numerical criteria which prohibit acute toxicity apply outside the acute regulatory mixing zone.

(i) The numerical criteria specified in Table 2 of Appendix G which prohibit chronic toxicity shall apply at all times outside the chronic regulatory mixing zone and within the zone of passage to all waters of the state except:

(I) When a discharge into surface waters designated with the Fish and Wildlife Propagation beneficial use complies with and meets the discharge permit limitations but the flow immediately upstream from the discharge is less than one (1) cubic foot per second or when the flow falls below the seven-day, two-year low-flow, whichever is larger. For purposes of the permitting process, the regulatory low flow shall be the larger of one (1) cubic foot per second or the seven-day, two-year low flow; and

(II) To streams listed as ephemeral in Appendix A.

(ii) Equations are presented in Table 2 of Appendix G for those substances whose toxicity varies with water chemistry. Metals listed in Table 2 of Appendix G are measured as total metals in the water column.

(H) For purposes of determining permit conditions, criteria for dissolved metals identified in Table 3 of Appendix G of this Chapter may be ascertained and implemented as an alternative to the total recoverable metals criteria set forth in Table 2 of Appendix G.

Such dissolved metals criteria apply to all waters of the state designated with any of the beneficial use sub-categories of Fish and Wildlife Propagation. Such dissolved metals criteria may be determined by multiplying the total recoverable numerical criteria in OAC 785:45 Appendix G, Table 2 by the conversion factors identified in Table 3 of Appendix G.

(7) **Turbidity.**

(A) Turbidity from other than natural sources shall be restricted to not exceed the following numerical limits:

(i) Cool Water Aquatic Community/Trout Fisheries: 10 NTUs;

(ii) Lakes: 25 NTUs; and

(iii) Other surface waters: 50 NTUs.

(B) In waters where background turbidity exceeds these values, turbidity from point sources shall be restricted to not exceed ambient levels.

(C) Numerical criteria listed in (A) of this paragraph apply only to seasonal base flow conditions.

(D) Elevated turbidity levels may be expected during, and for several days after, a runoff event.

(8) **Sediments.** Concentrations or loads of suspended or bedded sediments that are caused by human activity shall not impair the Fish and Wildlife Propagation use or any subcategory thereof.

785:45-5-13. Agriculture: livestock and irrigation

(a) The surface waters of the State shall be maintained so that toxicity does not inhibit continued ingestion by livestock or irrigation of crops.

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

(1) **"Long term average concentration"** means the arithmetic mean of at least ten samples taken across at least twelve months.

(2) **"Short term average concentration"** means the arithmetic mean of all samples taken during any 30-day period.

(c) Highly saline water should be used with best management practices as outlined in "Diagnosis and Reclamation of Saline Soils," United States Department of Agriculture Handbook No. 60 (1958).

(~~c~~ d) Guidelines for suitability of water quality for livestock and irrigation purposes are provided in Appendix C of this Chapter.

(~~d~~ e) For chlorides, sulfates and total dissolved solids at 180°C (see Standard Methods), the arithmetic mean of the concentration of the samples taken for a year in a particular segment shall not exceed the historical "yearly mean standard" determined from the table in Appendix F of this Chapter. For permitting purposes, the long term average concentration shall not exceed the yearly mean standard. Yearly mean standards shall be implemented by the permitting authority using long term average flows and complete mixing of effluent and receiving water. Furthermore, not more than one (1) in twenty (20) samples randomly collected at a site shall exceed the historical value of the "sample standard" calculated for that segment. For permitting purposes, the short term average concentration shall not exceed the sample standard. Sample standards shall be implemented by the permitting authority using short term average flows and complete mixing of effluent and receiving water.

(~~e~~ f) The data from sampling stations in each segment are averaged, and the mean chloride, sulfate, and total dissolved solids at 180°C are presented in Appendix F of this Chapter. Segment averages shall be used unless more appropriate data are available.

(~~f~~ g) The table in Appendix F of this Chapter contains statistical values from historical water quality data of mineral constituents. In cases where mineral content varies within a segment, the most pertinent data available should be used.

(~~g~~ h) ~~For permitting purposes,~~ Notwithstanding the applicability of other rules prohibiting impairment of any beneficial use and toxicity to aquatic life, neither long term average ~~mineral constituent~~ concentrations nor short term average concentrations of minerals in-stream to protect the Agricultural beneficial use shall ~~not~~ be required to be less than 700 mg/L for TDS, ~~and~~ nor less than 250 mg/L for either chlorides ~~and~~ or sulfates. ~~These criteria shall be applied in the mixing zone.~~

785:45-5-20. Fish consumption

(a) **General.** The surface waters of the state shall be maintained so that toxicity does not inhibit ingestion of fish and shellfish by humans. ~~The numerical criteria and values for substances listed in (c) of this Section and the column "Fish Consumption" in Table 2 of Appendix G of this Chapter shall apply to surface water designated as Warm Water Aquatic Community, Cool Water Aquatic Community, or Trout Fishery.~~

(b) **Water column criteria to protect for the consumption of fish flesh.** The water column numerical criteria (total recoverable) identified in the "Fish Consumption" column in Table 2 of Appendix G protect human health for the consumption of fish, shellfish and aquatic life. Water column numerical criteria to protect human health for human consumption of fish flesh are considered long term average standards. For purposes of permitting discharges for attainment of these standards, the permitting authority shall use long term average receiving stream flows and complete mixing of effluent and receiving water to determine appropriate permit limits.

(c) **Fish tissue levels.**

~~(1)~~ Surface waters of the state shall be maintained to prevent bio-concentration of toxic substances in fish, shellfish, or other aquatic organisms to levels that become a risk to human health.

~~(2) Concentrations of substances in fish tissue in excess of the screening and consumption advisory values listed in this paragraph shall be cause for appropriate regulatory action.~~

~~(A) Aldrin:~~

~~(i) Screening value - 0.006 mg/kg~~

~~(ii) Limited consumption advisory - 0.006 mg/kg~~

~~(iii) Consumption prohibition advisory - 0.006 mg/kg~~

~~(B) Chlordane:~~

~~(i) Screening value - 0.225 mg/kg~~

~~(ii) Limited consumption advisory - 0.300 mg/kg~~

~~(iii) Consumption prohibition advisory - 0.500 mg/kg~~

~~(C) DDT:~~

~~(i) Screening value - 2.250 mg/kg~~

~~(ii) Limited consumption advisory - 3.000 mg/kg~~

~~(iii) Consumption prohibition advisory - 5.000 mg/kg~~

~~(D) Dieldrin:~~

~~(i) Screening value - 0.012 mg/kg~~

~~(ii) Limited consumption advisory - 0.012 mg/kg~~

~~(iii) Consumption prohibition advisory - 0.012 mg/kg~~

~~(E) Endrin:~~

~~(i) Screening value - 1.500 mg/kg~~

~~(ii) Limited consumption advisory - 2.000 mg/kg~~

~~(iii) Consumption prohibition advisory - 2.000 mg/kg~~

~~(F) Heptachlor:~~

~~(i) Screening value - 0.150 mg/kg~~

~~(ii) Limited consumption advisory - 0.200 mg/kg~~

~~(ii) Consumption prohibition advisory - 0.300 mg/kg~~

~~(G) Mercury:~~

~~(i) Screening value - 0.750 mg/kg~~

~~(ii) Limited consumption advisory - 1.000 mg/kg~~

~~(iii) Consumption prohibition advisory - 1.500 mg/kg~~

~~(H) PCBs:~~

~~(i) Screening value - 0.750 mg/kg~~

~~(ii) Limited consumption advisory - 1.000 mg/kg~~

~~(iii) Consumption prohibition advisory - 2.000 mg/kg~~

~~(I) Toxaphene:~~

~~(i) Screening value - 3.750 mg/kg~~

~~(ii) Limited consumption advisory - 5.000 mg/kg~~

~~(iii) Consumption prohibition advisory - 8.000 mg/kg~~

PART 5. SPECIAL PROVISIONS

785:45-5-29. Delineation of NLW areas

(a) **Scope and applicability.** This Section prescribes in greater detail than OAC 785:45 Appendix A the spatial limitations for nutrient-limited watershed areas. The "NLW" designations in OAC 785:45 Appendix A are independent of and have no bearing on other designations such as those for beneficial uses or anti-degradation limitations.

(b) **List and descriptions of nutrient-limited watersheds.** This subsection describes all areas which are nutrient limited watersheds and subject to the "NLW" designation. These are the only areas which are subject to limitations applicable to nutrient limited watersheds.

(1) **Spiro Lake.** The nutrient limited watershed area for Spiro Lake is the entire watershed and drainage area of Spiro Lake, including all direct and indirect tributaries.

(2) **Clinton Lake.** The nutrient limited watershed area for Clinton Lake is the entire watershed and drainage area of Clinton Lake, including all direct and indirect tributaries.

(3) **Hobart Lake.** The nutrient limited watershed area for Hobart Lake is the entire watershed and drainage area of Hobart Lake, including all direct and indirect tributaries.

(4) **Lake Overholser.** The nutrient limited watershed area for Lake Overholser is the entire watershed and drainage area of Lake Overholser up to but not including Canton Reservoir, and includes direct and indirect tributaries in HUCs 11100301080 (excluding downstream from Lake Overholser), 11100301070, and 11100301060.

(5) **Lake Carl Etling.** The nutrient limited watershed area for Lake Carl Etling is the entire watershed and drainage area of Lake Carl Etling, including South Carrizo Creek and all direct and indirect tributaries.

(6) **Fort Gibson Reservoir.** The nutrient limited watershed area for Fort Gibson Reservoir is the entire watershed and drainage area of Fort Gibson Reservoir up to but not including Lake Hudson, and includes direct and indirect tributaries in HUCs 11070209120 (excluding downstream from Fort Gibson Reservoir), 11070209100, and 11070209090.

(7) **Spavinaw Lake.** The nutrient limited watershed area for Spavinaw Lake is the entire watershed and drainage area of Spavinaw Lake, including Spavinaw Creek and all direct and indirect tributaries.

(8) **Eucha Lake.** The nutrient limited watershed area for Eucha Lake is the entire watershed and drainage area of Eucha Lake, including Spavinaw Creek and Beaty Creek and Brush Creek and all direct and indirect tributaries.

(9) **Lake Claremore.** The nutrient limited watershed area for Lake Claremore is the entire watershed and drainage area of Lake Claremore, including all direct and indirect tributaries.

(10) **Hulah Reservoir.** The nutrient limited watershed area for Hulah Reservoir is the entire watershed and drainage area of Hulah Reservoir, including all direct and indirect tributaries in the HUC 11070106020.

(11) **Wister Reservoir.** The nutrient limited watershed area for Wister Reservoir is the entire watershed and drainage area of Wister Reservoir, including the Poteau River upstream from Wister Reservoir and all direct and indirect tributaries and Fourche Maline Creek and all direct and indirect tributaries.

(12) **Taylor (Marlow) Lake near Rush Springs.** The nutrient limited watershed area for Taylor Lake is the entire watershed and drainage area of Taylor Lake, including all direct and indirect tributaries.

(13) **Fort Cobb Lake.** The nutrient limited watershed area for Fort Cobb Lake is the entire watershed and drainage area of both Fort Cobb Lake and Crowder Lake, including all direct and indirect tributaries in the HUCs 11130302130 and 11130302120.

(14) **Vanderwork Lake.** The nutrient limited watershed area for Vanderwork Lake is the entire watershed and drainage area of Vanderwork Lake, including all direct and indirect tributaries.

(15) **Elk City Lake.** The nutrient limited watershed area for Elk City Lake is the entire watershed and drainage area of Elk City Lake, including all direct and indirect tributaries.

(16) **Ozzie Cobb Lake.** The nutrient limited watershed area for Ozzie Cobb Lake is the entire watershed and drainage area of Ozzie Cobb Lake, including Rock Creek and all direct and indirect tributaries.

(17) **Great Salt Plains Reservoir.** The nutrient limited watershed area for Great Salt Plains Reservoir is the entire watershed and drainage area of the Great Salt Plains Reservoir, including Clay Creek and the Salt Fork of the Arkansas River and all direct and indirect tributaries.

(18) **Fort Supply Reservoir.** The nutrient limited watershed area for Fort Supply Reservoir is the entire watershed and drainage area of Fort Supply Reservoir, including Wolf Creek and all direct and indirect tributaries.

(19) **Tenkiller Reservoir.** The nutrient limited watershed area for Tenkiller Reservoir is the entire watershed and drainage area of Tenkiller Reservoir, including the Illinois River and Caney Creek and all direct and indirect tributaries.

(20) **Lake Thunderbird.** The nutrient limited watershed area for Lake Thunderbird is the entire watershed and drainage area of Lake Thunderbird, including Little River above Lake Thunderbird and all direct and indirect tributaries.

APPENDIX A. DESIGNATED BENEFICIAL USES FOR SURFACE WATERS [REVOKED]

APPENDIX A. DESIGNATED BENEFICIAL USES FOR SURFACE WATERS [NEW]

(a) **Introduction.** The Tables that follow in this Appendix identify certain waterbodies throughout the state of Oklahoma and designate beneficial uses for those waterbodies. The waterbodies are identified by their name (e.g., "Horse Creek") or other description (e.g., "Tributary of Lebos Creek at Sec. 2, T2N, R 26W, IM", "Red River from the Arkansas State Line to the Kiamichi River") and a "WQM Segment" number. The WQM Segment number refers to one of the 59 water quality management segments in the 7 planning basins which correspond to the 7 Tables that follow. The segment numbers are assigned according to an Oklahoma Water Resources Board publication completed pursuant to a Clean Water Act Section 208 authorization during FY84. The first digit of the WQM Segment number indicates the basin number; the next three digits indicate the major drainage segment within that basin; and the last two digits indicate the subdivision of the major drainage segment. The Tables also set forth columns to show the beneficial uses or subcategories of uses which are designated for each identified waterbody.

(b) **Beneficial Use designations.** Designations of beneficial uses for a waterbody are reflected in the Tables by the presence of the following codes or a dot ("•") in the columns to the right of the waterbody name. An empty space in a column means that column's beneficial use or subcategory thereof is not designated for that waterbody.

(1) EWS - Emergency Water Supply beneficial use
(2) PPWS - Public and Private Water Supply beneficial use
(3) F&W Prop. - Fish and Wildlife Propagation beneficial use
  (A) WWAC - Warm Water Aquatic Community subcategory
  (B) HLAC - Habitat Limited Aquatic Community subcategory
  (C) CWAC - Cool Water Aquatic Community subcategory
  (D) Trout - Trout Fishery (put and take) subcategory
(4) Ag - Agriculture beneficial use
  (A) 1 - Class I Irrigation
  (B) 2 - Class II Irrigation
  (C) 3 - Class III Irrigation
(5) HP - Hydropower beneficial use
(6) M&I - Industrial and Municipal process and cooling water
(7) Rec - Recreation beneficial use
  (A) PBCR - Primary Body Contact beneficial use
  (B) SBCR - Secondary Body Contact beneficial use
(8) Nav - Navigation beneficial use
(9) Aes - Aesthetics beneficial use
(10) A dot ("•") used in a column indicates that the beneficial use in that column's heading is designated for that waterbody without a more specific subcategory or other designation.

The criteria to protect the beneficial uses are provided in Subchapter 5 and Appendix G of this Chapter.

(c) **Limitations for Additional Protection.**

(1) Limitations for additional protection are described in 785:45-5-25.
(2) Waterbodies that are subject to limitations for additional protection in 785:45-5-25 are identified by the designation of any of the following codes in the "Limitations" column to the right of the waterbody's name:
  (A) "ORW" - indicates waters designated Outstanding Resource Waters;
  (B) "HQW" - indicates waters designated High Quality Waters; and
  (C) "SWS" - indicates waters designated Sensitive Public and Private Water Supplies.

(d) **Remarks used in Appendix A.** The presence of any of the following footnotes in the "Remarks" column to the right of a waterbody's name denotes special circumstances which are applicable to that waterbody.

(1) A footnote (1) designates those streams for which further investigations are pending. Beneficial use designations for those streams are provided in Subchapter 5 of this Chapter.
(2) A footnote (2) indicates that criteria for the beneficial use of Primary Body Contact Recreation apply regardless of the recreation use designated.
(3) A footnote (3) excludes the Scenic River designation from that portion of Lee Creek necessary for a dam to be built in the State of Arkansas with a crest elevation of no more than the 420 foot MSL elevation according to plans, specifications and conditions contained in U.S. Army Corps of Engineer Permit WD-050-03-3541 and in the Federal Energy Regulatory Commission License for Project No. 5251-002, which were approved by the U.S. Environmental Protection Agency. Changes in water quality caused by the impoundment of water by said dam shall not constitute a violation of Oklahoma's Water Quality Standards.
(4) The remark "CSW" designates those waters identified as Culturally Significant Waters.
(5) The remark "NLW" designates a nutrient-limited watershed. Specific delineations of nutrient-limited watersheds are provided in 785:45-5-29.

TABLE 1.

Designated Beneficial Uses of Surface Waters
Water Quality Management Basin 1, Middle Arkansas River

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Arkansas River from mouth of Canadian River to the mouth of the Verdigris River including Webbers Falls Reservoir	121400	EWS	WWAC	•	•	•	PBCR	•	•		
Dirty Creek	120400	PPWS	WWAC	•		•	PBCR		•		
Tributary of Dirty Creek at SW 1/4, Sec. 31, T12N, R21E, IM	120400		HLAC	•		•	SBCR		•		
South Fork of Dirty Creek	120400		WWAC	•		•	PBCR		•		
Tributary of the South Fork of Dirty Creek at SW SE SE, Sec. 2, T10N,R19E, IM	120400		HLAC	•		•	SBCR		•		
Georges Fork	120400	EWS	WWAC	•		•	PBCR		•		
Tributary of Georges Fork at SE 1/4, Sec. 35, T12N, R19E, IM	120400	EWS	HLAC	•		•	SBCR		•		
Tributary of Dirty Creek at SE 1/4, Sec. 1, T12N, R18E, IM	120400		WWAC	•		•	PBCR		•		
Tributary of the South Fork of Dirty Creek at SE 1/4, Sec. 1, T12N, R18E, IM	120400		WWAC	•		•	PBCR		•		
Lower Illinois River from headwater of Robert S. Kerr Reservoir to Tenkiller Dam	121700	PPWS	Trout	1		•	PBCR	•	•	HQW	
Upper Illinois River from Tenkiller Dam, including Tenkiller Reservoir upstream to Barren Fork confluence	121700	PPWS	CWAC	1	•	•	PBCR		•	HQW	NLW
Caney Creek	121700	PPWS	CWAC	•			PBCR		•		
Negro Jake Creek	121700		CWAC				PBCR		•		
Park Hill Branch	121700		WWAC	•		•	PBCR		•		
Barren Fork from mouth upstream to Hwy. 59	121700	PPWS	CWAC	1			PBCR		•	ORW	Scenic River
North Mining Camp Creek	121700		CWAC				PBCR		•		
Tyner Creek	121700	PPWS	CWAC	•			PBCR		•	ORW	

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Dennison Hollow	121700	PPWS	CWAC	•			PBCR		•	ORW	
Peacheater Creek	121700	PPWS	CWAC	•			PBCR		•	ORW	
Scraper Hollow	121700	PPWS	CWAC	•			PBCR		•	ORW	
England Hollow	121700	PPWS	CWAC	•			PBCR		•	ORW	
Green Creek	121700	PPWS	CWAC	•			PBCR		•	ORW	
Shell Branch	121700	PPWS	CWAC	•			PBCR		•	ORW	
East Peavine Creek	121700		CWAC				PBCR		•		
Barren Fork from Hwy. 59 to Arkansas State Line	121700	PPWS	CWAC	1			PBCR		•	ORW	
Evansville Creek	121700	PPWS	CWAC	•			PBCR		•	ORW	
Upper Illinois River upstream of Barren Fork confluence	121700	PPWS	CWAC	1			PBCR		•	ORW	Scenic River
Luna Creek	121700		CWAC				PBCR		•		
Tahlequah Creek	121700	PPWS	CWAC	•			PBCR		•	ORW	
Steely Hollow Creek	121700		CWAC				PBCR		•		
Flint Creek	121700	PPWS	CWAC	•			PBCR		•	ORW	Scenic River
Sager Creek	121700	PPWS	CWAC	1			PBCR		•	ORW	
Ballard Creek	121700	PPWS	CWAC	•			PBCR		•	ORW	
Tributary of Arkansas River at Sec. 7, T12N, R21E, IM	120400		WWAC	•		•	PBCR		•		
Greenleaf Creek including Greenleaf Lake and Watershed	120400	PPWS	WWAC	•		•	PBCR		•	SWS	
Star Lake	120400		WWAC	•		•	PBCR		•		
Sand Creek	120400		HLAC	•		•	SBCR		•		
Bayou Manard	120400	PPWS	WWAC	•		•	PBCR		•		
Coody Creek	120400	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Grand River Main Stem (Grand Neosho River) from mouth to Kansas State Line. including Lake Hudson and (Grand) Lake o' the Cherokees but excluding Fort Gibson Reservoir	121600	PPWS	WWAC	1	•	•	PBCR		•		
Fort Gibson Reservoir	121600	PPWS	WWAC	1	•	•	PBCR		•		NLW
Ranger Creek	121600	PPWS	WWAC	•		•	PBCR		•		
Fourteen Mile Creek	121600	PPWS	CWAC	•		•	PBCR		•	HQW	
Black Bird Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Clear Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Spring Creek	121600	PPWS	CWAC	•		•	PBCR		•	HQW	
Snake Creek	121600		CWAC	•			PBCR		•	HQW	
Little Spring Creek	121600	PPWS	CWAC	•		•	PBCR		•	HQW	
Double Spring Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Chouteau Creek	121600	PPWS	WWAC	•		•	PBCR		•		
Tributary of Chouteau Creek at SE 1/4, Sec.13, T20N, R18E, IM	121600		WWAC	•		•	SBCR		•		
Tributary of Chouteau Creek at SE 1/4, Sec. 29, T20N, R19E, IM	121600		HLAC	•		•	SBCR		•		
Pryor Creek downstream from the road crossing in Sec. 30, T21N, R19E, IM	121610		WWAC	1		•	PBCR		•		
Pryor Creek upstream from the road crossing in Sec. 30, T21N, R19E, IM to the road crossing in Sec. 12, T21N, R18E, IM	121610	PPWS	WWAC	1		•	PBCR		•		
Pryor Creek upstream from the road crossing in Sec. 12, T21N, R18E, IM	121610		WWAC	1		•	SBCR		•		
Crutchfield Branch	121600		WWAC	•		•	PBCR		•		
Saline Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Little Saline Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Horse Creek	121600	EWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Little Horse Creek	121600		WWAC				PBCR		•		
Spavinaw Creek below Spavinaw Lake dam	121600	PPWS	CWAC	1			PBCR		•		
Spavinaw Lake and watershed upstream of Spavinaw Lake dam	121600	PPWS	CWAC	1			PBCR		•	SWS	NLW
Eucha Lake and watershed	121600	PPWS	CWAC	1			PBCR		•	SWS	NLW
Brush Creek	121600	PPWS	CWAC	•			PBCR		•	HQW	
Beaty Creek	121600	PPWS	CWAC	•			PBCR		•	HQW	
Rock Creek	121600	PPWS	WWAC	•		•	PBCR		•		
Big Cabin Creek downstream from the road crossing in Sec. 10, T24N, R20E, IM	121600	PPWS	WWAC	1		•	PBCR		•		
Mustang Creek	121600		WWAC	•		•	PBCR		•		
Big Cabin Creek upstream from the road crossing in Sec. 10, T24N, R20E, IM to the road crossing in Sec. 8, T26N, R20E, IM	121600		WWAC	1		•	SBCR		•		
Little Cabin Creek	121600		WWAC	•		•	PBCR		•		
Bull Creek	121600		WWAC				PBCR		•		
Big Cabin Creek upstream from the road crossing in Sec. 8, T26N, R20E, IM	121600		WWAC	1		•	PBCR		•		
Drowning Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Tributary of Muskrat Creek in Sec.36, T23N, R 23E, IM	121600		HLAC	•		•	SBCR		•		
Honey Creek	121600	PPWS	CWAC	•			PBCR		•	HQW	
Elm Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Whitewater Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Cave Springs Branch	121600	PPWS	CWAC	•			PBCR		•	HQW	
Elk River	121600	PPWS	CWAC	1		•	PBCR		•		
Hollow Creek	121600	PPWS	CWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Sycamore Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Brush Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Lost Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Spring River	121600	PPWS	CWAC	1		•	PBCR		•		
Shawnee Branch	121600	PPWS	CWAC	•		•	PBCR		•		
Flint Branch	121600	PPWS	CWAC	•		•	PBCR		•		
Warren Branch	121600	PPWS	CWAC	•		•	PBCR		•	HQW	
Devil's Hollow	121600	PPWS	CWAC	•		•	PBCR		•		
Five Mile Creek	121600	PPWS	CWAC	•		•	PBCR		•		
Hudson Creek	121600		WWAC	•		•	PBCR		•		
Tributary of Hudson Creek at SE 1/4, Sec. 30, T27N, R23E, IM	121600		HLAC	•		•	SBCR		•		
Tar Creek	121600		HLAC				SBCR				
Verdigris River from its mouth to Oolagah Reservoir Dam	121500	PPWS	WWAC	1	•	•	PBCR	•	•		
Tributary of Verdigris River at SW 1/4, Sec. 20, T16N, R19E, IM	121500		HLAC	•		•	SBCR		•		
Coal Creek (near Wagoner)	121500	PPWS	WWAC	•		•	PBCR		•		
Tributary of Verdigris River at SE 1/4, Sec. 34, T17N, R17E, IM	121500		HLAC	•		•	SBCR		•		
Coal Creek	121500	PPWS	WWAC	•		•	PBCR		•		
Inola Creek	121500		WWAC	•		•	PBCR		•		
Pea Creek	121500		WWAC	•		•	PBCR		•		
Adams Creek	121500	PPWS	WWAC	•		•	PBCR		•		
Salt Creek	121500		WWAC	•		•	SBCR		•		
Tributary of Salt Creek at NW 1/4, Sec. 1, T19N, R15E, IM	121500		HLAC	•		•	SBCR		•		
Dog Creek downstream from Lake Claremore	121500	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Cat Creek	121500	EWS	WWAC	•		•	PBCR		•		
Tributary of Cat Creek at NW 1/4, Sec. 21, T21N, R16E, IM	121500	EWS	HLAC	•		•	SBCR		•		
Lake Claremore and Watershed	121500	PPWS	WWAC	•		•	PBCR		•	SWS	NLW
Chambers Creek	121500	EWS	HLAC	•			SBCR		•		
Mossy Creek	121500	EWS	HLAC	•			SBCR		•		
Spunky Creek	121500		WWAC	•		•	PBCR		•		
Tributary of Spunky Creek at Sec. 6, T19N, R15E	121500		HLAC	•		•	SBCR		•		
Tributary of Verdigris River at Sec. 28, T20N, R15E, IM	121500		HLAC	•		•	SBCR		•		
Bird Creek	121300	PPWS	WWAC	1		•	PBCR		•		
Mingo Creek	121300	EWS	WWAC	•		•	PBCR		•		
Unnamed tributary of Mingo Creek	121300	EWS	HLAC	•		•	SBCR		•		
Elm Creek	121300		WWAC				PBCR		•		
Owasso Creek	121300		HLAC	•		•	SBCR		•		
Tributary of Owasso Creek at SE1/4, Sec. 31, T21N, R14E, IM	121300		HLAC	•		•	SBCR		•		
Ranch Creek	121300		WWAC				PBCR		•		
Yahola Lake and Watershed	121300	PPWS	WWAC	1		•	PBCR		•	SWS	
Flat Rock Creek	121300		WWAC	•		•	SBCR		•		
Tributary of Flat Rock Creek at SE 1/4, Sec. 18, T20N, R13E, IM	121300		HLAC	•		•	SBCR		•		
Delaware Creek	121300	PPWS	WWAC	•		•	PBCR		•		
Hominy Creek downstream from Skiatook Reservoir	121300	PPWS	WWAC	2		•	PBCR		•		
Hominy Creek upstream from and including Skiatook Reservoir	121300	PPWS	WWAC	2		•	PBCR		•	SWS	
Claremore Creek	121300	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Hominy Municipal Lake and Watershed	121300	PPWS	WWAC	1		•	PBCR		•	SWS	
Candy Creek	121300	PPWS	WWAC	•		•	PBCR		•		
Pecan Hollow Creek	121300	PPWS	WWAC	•		•	PBCR		•	SWS	
Tributary of Bird Creek at Sec. 19, T24N, R11E, IM	121300		HLAC	•		•	SBCR		•		
Birch Creek downstream from Birch Reservoir	121300	PPWS	WWAC	•		•	PBCR		•		
Birch Reservoir and Watershed	121300	PPWS	WWAC	1		•	PBCR		•	SWS	
Tributary of Birch Creek at Sec. 14, T24N, R9E, IM	121300		HLAC	•		•	SBCR		•	SWS	
Bluestem Lake and Watershed	121300	PPWS	WWAC	1		•	PBCR		•	SWS	
Tributary of Verdigris River at Sec. 11, T21N, R15 E, IM	121500		HLAC	•		•	SBCR		•		
Caney River from the mouth to the Kansas State Line	121400	PPWS	WWAC	1		•	PBCR		•		
Hulah Reservoir and watershed	121400	PPWS	WWAC	1		•	PBCR		•		NLW
Rabb Creek	121400	PPWS	WWAC	•		•	PBCR		•		
Hogshooter Creek	121400		WWAC				PBCR		•		
Keeler Creek	121400		WWAC	•		•	PBCR		•		
Tributary of Keeler Creek at NW 1/4 Sec. 19, T25N, R13E, IM	121400		HLAC	•		•	SBCR		•		
Sand Creek	121400	PPWS	WWAC	1		•	PBCR		•		
Buck Creek	121400	PPWS	WWAC	•		•	PBCR		•		
Coon Creek	121400	PPWS	WWAC	•		•	PBCR		•		
Deer Creek	121400		WWAC	•		•	PBCR		•		
Little Caney River including Copan Reservoir and Watershed	121400	PPWS	WWAC	1		•	PBCR		•	SWS	
Pond Creek	121400	PPWS	WWAC	•		•	PBCR		•		
Buck Creek	121400	PPWS	WWAC	•		•	PBCR		•		
Fourmile Creek	121500		WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Verdigris River from and including Oolagah Reservoir to the Kansas State Line	121510	PPWS	WWAC	1	•	•	PBCR	•	•		
Blue Creek	121510	PPWS	WWAC	•		•	PBCR		•		
Spencer Creek including Chelsea Reservoir and Watershed	121510	PPWS	WWAC	1		•	PBCR		•	SWS	
Lightning Creek	121510	PPWS	WWAC	•		•	PBCR		•		
Salt Creek	121510	PPWS	WWAC	•		•	PBCR		•		
Big Creek	121510	PPWS	WWAC	•		•	PBCR		•		
California Creek	121510	PPWS	WWAC	•		•	PBCR		•		
Unnamed tributary (return flow, City of Delaware)	121510	EWS	HLAC	•		•	SBCR		•		
Tributary to Oologah Reservoir NW 1/4, Sec. 5, T26N, R16E, IM	121510	EWS	HLAC	•		•	SBCR		•		
Snow Creek	121510	PPWS	WWAC	•		•	PBCR		•		
Onion Creek	121510	PPWS	WWAC	•		•	PBCR		•		
Arkansas River from mouth of Verdigris River to Keystone Dam	120410 & 120420	EWS	WWAC	•	•	•	SBCR	•	•		(2)
Pecan Creek	120410	PPWS	WWAC	•		•	PBCR		•		
Cloud Creek	120410	PPWS	WWAC	•		•	PBCR		•		
Ash Creek	120410	PPWS	WWAC	•		•	PBCR		•		
Snake Creek	120410	PPWS	WWAC	•		•	PBCR		•		
Posey Creek	120420		WWAC	•		•	PBCR		•		
Polecat Creek downstream from Lake Heyburn	120420		WWAC	•		•	PBCR		•		
Coal Creek downstream from Sec. 35, T18N, R12E, IM	120420	PPWS	WWAC	1			PBCR		•		
Coal Creek upstream from Sec. 35, T18N, R12E, IM	120420	PPWS	HLAC	1			PBCR		•		
Rock Creek downstream from Sahoma Lake	120420		WWAC	•		•	PBCR		•		
Childress Creek	120420		HLAC	•		•	SBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Little Polecat Creek	120420		WWAC	•		•	SBCR		•		
Sahoma Reservoir and Watershed	120420	PPWS	WWAC	1		•	PBCR		•	SWS	
Heyburn Lake and Watershed	120420	PPWS	WWAC	1		•	PBCR		•	SWS	
Shell Creek downstream from Shell Lake	120420	PPWS	WWAC	•		•	PBCR		•		
Shell Lake and Watershed	120420	PPWS	WWAC	1		•	PBCR		•	SWS	

TABLE 2.

Designated Beneficial Uses of Surface Waters
Water Quality Management Basin 2, Lower Arkansas River Basin

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Arkansas River from the Arkansas State Line to the mouth of the Canadian River including R.S. Kerr Reservoir	220200	PPWS	WWAC	1	•	•	PBCR	•	•		
Lee Creek downstream from the 420 ft. elevation level	220200	PPWS	CWAC	1			PBCR		•	HQW	HQW
Lee Creek upstream from the 420 ft. elevation level	220200	PPWS	CWAC	1			PBCR		•	ORW	Scenic River (3)
Webbers Creek	220200	PPWS	CWAC	•			PBCR		•	ORW	
Briar Creek (Bear Creek)	220200	PPWS	CWAC	•			PBCR		•	ORW	
Little Lee Creek	220200	PPWS	CWAC	1			PBCR		•	ORW	Scenic River
Jenkins Creek	220200	PPWS	CWAC	1			PBCR		•	ORW	
Poteau River downstream from Brazil Creek	220100	PPWS	WWAC	1		•	PBCR		•		
Tributary of Cedar Creek at Sec. 8, T9N, R27E, IM	220100		WWAC	•		•	PBCR		•		
Spiro Lake	220100	PPWS	WWAC	•		•	PBCR		•	SWS	NLW
James Fork	220100	PPWS	WWAC	•		•	PBCR		•		
Brazil Creek	220100	PPWS	WWAC	1		•	PBCR		•		
Poteau River upstream from Brazil Creek	220100	PPWS	WWAC	1		•	PBCR		•		
Wister Reservoir and watershed	220100	PPWS	WWAC	1		•	PBCR		•		NLW
Riddle Creek	220100		HLAC	•		•	SBCR		•		
Tributary of Riddle Creek at SE 1/4 Sec. 4, T07N, R26E, IM	220100		HLAC	•		•	SBCR		•		
Sugarloaf Creek	220100	PPWS	WWAC	1		•	PBCR		•		
Morris Creek	220100		WWAC	•		•	PBCR		•		
Caston Creek	220100	PPWS	WWAC	1		•	PBCR		•		
Coal Creek	220100	EWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Fourche Maline Creek	220100	PPWS	WWAC	1		•	PBCR		•		
Little Fourche Maline Creek	220100	PPWS	WWAC	•		•	PBCR		•		
Red Oak Creek	220100		WWAC				PBCR		•		
Bandy Creek	220100		WWAC	•		•	PBCR		•		
Tributary of Bandy Creek at NE 1/4, Sec. 17, T5N, R19E, IM	220100		WWAC	•		•	SBCR		•		
Wilburton City Lake and Watershed	220100	PPWS	WWAC	1		•	PBCR		•	SWS	
Tributary of Fourche Maline Creek at SE 1/4, Sec. 12, T5N, R19E, IM	220100		HLAC	•		•	SBCR		•		
Coon Creek Lake and Watershed	220100	PPWS	WWAC	1		•	PBCR		•	SWS	
Black Fork downstream from Cedar Creek	220100	PPWS	WWAC	•		•	PBCR		•		
Black Fork upstream from Cedar Creek	220100	PPWS	CWAC	•			PBCR		•	HQW	
Cedar Creek	220100	PPWS	WWAC	•			PBCR		•		
Big Creek	220100	PPWS	CWAC	•			PBCR		•		
Tributary of Big Creek at NE 1/4, Sec. 22, T3N, R26E, IM	220100	EWS	WWAC	•		•	PBCR		•		
Oil Branch	220100		WWAC	•		•	PBCR		•		
Garrison Creek	220100		WWAC	•			PBCR		•		
Unnamed tributary at sect.18, T11N, R27E, IM	220100		HLAC				SBCR		•		
Camp Creek	220200	PPWS	CWAC	•			PBCR		•		
Big Skin Bayou Creek	220200	PPWS	WWAC	•		•	PBCR		•		
Cache Creek	220200	PPWS	WWAC	•		•	PBCR		•		
Onion Creek	220200		HLAC	•		•	SBCR		•		
Sans Bois Creek	220200	PPWS	WWAC	•		•	PBCR		•		
John Wells Reservoir and Watershed	220200	PPWS	WWAC	•		•	PBCR		•	SWS	
Beaver Creek	220200	EWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Sallisaw Creek downstream from U.S. Hwy. 64	220200	PPWS	CWAC	1		•	PBCR		•		
Shilo Branch	220200		WWAC	•		•	PBCR		•		
Tributary of Shilo Branch at SW 1/4, Sec. 1, T11N, R23E, IM	220200		HLAC	•		•	SBCR		•		
Little Sallisaw Creek (Cedar Creek)	220200	PPWS	WWAC	•		•	PBCR		•		
Sallisaw Creek upstream from U.S. Hwy 64	220200	PPWS	CWAC	1		•	PBCR		•	HQW	
Brushy Creek downstream from Brushy Lake	220200	PPWS	CWAC	•		•	PBCR		•		
Brushy Lake and Watershed	220200	PPWS	CWAC	•		•	PBCR		•	SWS	
Greasy Creek	220200	PPWS	CWAC	•		•	PBCR		•		
Vian Creek	220200	PPWS	CWAC	•		•	PBCR		•		
Little Vian Creek	220200	PPWS	CWAC	2		•	PBCR		•		
Canadian River from mouth to Eufaula Reservoir Dam	220300	PPWS	WWAC	1	•	•	PBCR	•	•		
Taloka Creek	220300	PPWS	WWAC	•		•	PBCR		•		
Snake Creek	220300		WWAC	•		•	SBCR		•		
Emachaya Creek	220300	PPWS	WWAC	1		•	PBCR		•		
Canadian River including Eufaula Reservoir (excluding the North Canadian River) to its confluence with Little River	220600	PPWS	WWAC	1		•	PBCR		•		
Mud Creek	220600	PPWS	WWAC	1		•	PBCR		•		
Longtown Creek	220600	PPWS	WWAC	•		•	PBCR		•		
Gibson Creek	220600		HLAC	•		•	SBCR		•		
Tributary of Gibson Creek at NW NW Sec.18,T8N,R16E, IM	220600		HLAC	•		•	SBCR		•		
Gaines Creek	220600	PPWS	WWAC	•		•	PBCR		•		
Coal Creek	220600	PPWS	WWAC	•		•	PBCR		•		
McAlester Lake and Watershed	220600	PPWS	WWAC	1		•	PBCR		•	SWS	
Deer Creek	220600		WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Sandy Creek	220600		WWAC	•		•	SBCR		•		
Tributary of Sandy Creek at NW 1/4, Sec. 3, T5N, R14E, IM	220600		WWAC	•		•	SBCR		•		
Tributary of Coal Creek at SW NW SW Sec. 18, T5N, R12E, IM	220600		HLAC	•		•	SBCR		•		
Ash Creek	220600	PPWS	WWAC	•		•	PCBR		•		
Mud Creek	220600		WWAC	•		•	PBCR		•		
Brushy Creek	220600	PPWS	WWAC	1		•	PBCR		•		
Blue Creek	220600	PPWS	WWAC	1		•	PBCR		•		
Peaceable Creek	220600	PPWS	WWAC	1		•	PBCR		•		
Chun Creek upstream from Sec. 15, T4N, R14E, IM	220600	EWS	WWAC	•		•	SBCR		•		
Tributary of Chun Creek at SW 1/4, Sec. 16, T4N, R14E, IM	220600		HLAC	•		•	SBCR		•		
Chun Creek in and downstream from Sec. 15, T4N, R14E, IM	220600	EWS	WWAC	•		•	PBCR		•		
Bull Creek downstream from Brown Lake	220600		WWAC	•		•	PBCR		•		
Brown Lake and Watershed	220600	PPWS	WWAC	1		•	PBCR		•	SWS	
Mill Creek	220600	PPWS	WWAC	•		•	PCBR		•		
Big Creek	220600		WWAC	•			PBCR		•		
Unnamed tributary of Canadian River at SE 1/4, Sec. 22, T6N, R10E, IM	220600		HLAC	•		•	SBCR		•		

TABLE 3.

Designated Beneficial Uses of Surface Waters
Water Quality Management Basin 3, Upper Red River Basin

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Lake Texoma	311100 & 310800	PPWS	WWAC	2	•	•	PBCR		•		
Glasses Creek	310800	PPWS	WWAC	1		•	PBCR		•		
Tributary at Old Channel Washita, NE 1/4. Sec. 33, T5S, R7E, IM	310800	EWS	HLAC	•		•	SBCR		•		
Pennington Creek	310800	PPWS	CWAC	1		•	PBCR		•	HQW	
Mill Creek	310800	PPWS	WWAC	•		•	PBCR		•		
Tributary of Three Mile Creek at SW Sec. 7, T2S, R5E, IM to SE Sec. 12, T2S, R4E	310800		HLAC	•		•	SBCR		•		
Washita River upstream from the headwaters of Lake Texoma including Foss Reservoir	310800, 310810, 310820, 310830 & 310840	PPWS	WWAC	1		•	PBCR		•		
Oil Creek	310800	PPWS	WWAC	•		•	PBCR		•		
Caddo Creek	310800	PPWS	WWAC	•		•	PBCR		•		
Sand Creek	310800		WWAC	•		•	PBCR		•		
Unnamed tributary to Caddo Creek	310800		HLAC				SBCR				
Rock Creek downstream from Site #18 Dam	310800	PPWS	WWAC	•		•	PBCR		•		
SCS Site #18 including Watershed	310800	PPWS	WWAC	•		•	PBCR		•	SWS	
Hickory Creek downstream from Mountain Lake	310800	PPWS	WWAC	•		•	PBCR		•		
Mountain Lake and Watershed	310800	PPWS	WWAC	•		•	PBCR		•	SWS	
Rock Creek including Arbuckle Reservoir	310800	PPWS	WWAC	1		•	PBCR		•	SWS	
Guy Sandy Creek	310800	PPWS	WWAC	•		•	PBCR		•	HQW	
Dry Sandy Creek	310800	PPWS	WWAC	1		•	PBCR		•		
Tributary of Dry Sandy Creek at Sec. 7, T1S, R2E, IM	310800		HLAC	•		•	SBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Honey Creek	310800	PPWS	WWAC	•		•	PBCR		•	HQW	
Chigley Sandy Creek	310800	PPWS	WWAC	•		•	PBCR		•		
Wildhorse Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Sandy Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Rock Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Salt Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Black Bear Creek downstream from Fuqua Reservoir	310810	PPWS	WWAC	•		•	PBCR		•		
Fuqua Reservoir and Watershed	310810	PPWS	WWAC	•		•	PBCR		•	SWS	
Duncan Lake and Watershed	310810	PPWS	WWAC	•		•	PBCR		•	SWS	
Clear Creek downstream from Clear Creek Lake	310810	PPWS	WWAC	•		•	PBCR		•		
Clear Creek Lake and Watershed	310810	PPWS	WWAC	•		•	PBCR		•	SWS	
Humphreys Lake and Watershed	310810	PPWS	WWAC	•		•	PBCR		•	SWS	
Kickapoo Sandy Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Turkey Sandy Creek	310810		WWAC	•		•	PBCR		•		
Tributary of Turkey Sandy Creek at SE 1/4, Sec. 26, T2N, R1E, IM	310810		WWAC	•		•	PBCR		•		
W. Sandy Creek (upper) upstream from Sec. 34, T2N, R1E, IM	310810		HLAC	•		•	SBCR		•		
W. Sandy Creek (lower) downstream from Sec. 27, T2N, R1E, IM	310810		WWAC	•		•	PBCR		•		
Red Branch	310810		WWAC	•		•	SBCR		•		
Rush Creek downstream from U.S. Hwy. 77 near Pauls Valley	310810		HLAC	•		•	SBCR		•		
Rush Creek upstream from U.S. Hwy. 77 near Pauls Valley	310810		WWAC	•		•	PBCR		•		
Taylor (Marlow) Lake near Rush Springs	310810	PPWS	WWAC	•		•	PBCR		•		NLW

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Cherokee Sandy Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Peavine Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Washington Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Pauls Valley Reservoir and Watershed	310810	PPWS	WWAC	•		•	PBCR		•	SWS	
Owl Creek	310810		WWAC	•		•	PBCR		•		
Beef Creek	310810	EWS	HLAC	•		•	SBCR		•		
Tributary of Beef Creek at SE 1/4, Sec.15, T4N, R2W, IM	310810	EWS	HLAC	•		•	SBCR		•		
Finn Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Criner Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Colbert Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Roaring Creek	310810	PPWS	WWAC	•		•	PBCR		•		
East Roaring Creek	310810		WWAC				PBCR		•		
Laflin Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Winter Creek	310810	PPWS	WWAC	•		•	PBCR		•		
Little Washita River	310820	PPWS	WWAC	1		•	PBCR		•		
Gladys Creek downstream from U.S. Hwy. 277	310820		HLAC	•		•	SBCR		•		
Gladys Creek upstream from U.S. Hwy. 277	310820	PPWS	WWAC	•		•	PBCR		•		
Bitter Creek	310820	PPWS	WWAC	•		•	PBCR		•		
East Fork of Bitter Creek	310820	PPWS	WWAC	•		•	PBCR		•		
West Fork of Bitter Creek	310820	PPWS	WWAC	•		•	PBCR		•		
Tributary of Washita River at NE 1/4, Sec. 35, T7N, R7W, IM	310820		HLAC	•		•	SBCR		•		
Ionine Creek	310820	PPWS	WWAC	•		•	PBCR		•		
Jack Hollow Creek	310820	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Spring Creek including Chickasha Reservoir	310830	PPWS	WWAC	•		•	PBCR		•		
Stinking Creek	310830	PPWS	WWAC	•		•	PBCR		•		
Delaware Creek	310830		WWAC	•		•	SBCR		•		
Sugar Creek	310830		WWAC	•		•	SBCR		•		
Tributary of Sugar Creek at NW 1/4, Sec. 29, T11N, R11W, IM	310830		HLAC	•		•	SBCR		•		
Cobb Creek downstream from Fort Cobb Lake	310830	PPWS	WWAC	•		•	PBCR		•		
Fort Cobb Lake and Watershed including Crowder Lake and watershed	310830	PPWS	WWAC	•		•	PBCR		•	SWS	NLW
Lake Creek	310830	PPWS	WWAC	•		•	PBCR		•	SWS	
Stinking Creek	310830	PPWS	WWAC	•		•	PBCR		•		
Rainy Mountain Creek downstream from S.H. 9	310830		WWAC	•		•	PBCR		•		
Rainy Mountain Creek upstream from S.H. 9	310830		WWAC	•		•	SBCR		•		
Oak Creek	310830	PPWS	WWAC	•		•	PBCR		•		
Vanderwork Lake and watershed	310830		WWAC	•		•	PBCR		•		NLW
Two Baby Creek	310830		WWAC	•		•	PBCR		•		
Cavalry Creek	310830	PPWS	WWAC	•		•	PBCR		•		
N. Cavalry Creek	310830	EWS	HLAC	•		•	SBCR		•		
Tributary to N. Cavalry Creek at NW 1/4, Sec. 11, T9N, R17W, IM	310830	EWS	HLAC	•		•	SBCR		•		
Boggy Creek	310830		WWAC	•		•	PBCR		•		
Beaver Creek	310830		WWAC	•		•	SBCR		•		
Barnitz Creek	310830	PPWS	WWAC	•		•	PBCR		•		
East Barnitz Creek	310830	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
West Barnitz Creek	310830	PPWS	WWAC	•		•	PBCR		•		
Turkey Creek downstream from Clinton Lake	310830		WWAC	•		•	PBCR		•		
Clinton Lake	310830	PPWS	WWAC	•		•	PBCR		•	SWS	NLW
Oak Creek	310830	PPWS	WWAC	•		•	PBCR		•		
Panther Creek	310840	PPWS	WWAC	•		•	PBCR		•		
Quartermaster Creek	310840	PPWS	WWAC	•		•	PBCR		•		
Tributary of Quartermaster Creek at Sec. 17, T16N, R20W, IM	310840		HLAC	•		•	SBCR		•		
Hay Creek	310840	PPWS	WWAC	•		•	PBCR		•		
White Shield Creek	310840		HLAC	•		•	SBCR		•		
Sandstone Creek	310840	PPWS	WWAC	•		•	PBCR		•		
Dead Indian Creek	310840	PPWS	WWAC	•		•	PBCR		•		
Sergeant Major Creek	310840	PPWS	HLAC	•		•	SBCR		•		
Croton Creek	310840	PPWS	WWAC	•		•	PBCR		•		
Rush Creek	310840	PPWS	WWAC	•		•	PBCR		•		
Hickory Creek	311100	PPWS	WWAC	1		•	PBCR		•		
Anadarche Creek downstream from Lake Murray	311100	PPWS	WWAC	•		•	PBCR		•		
Lake Murray and Watershed	311100	PPWS	WWAC	1		•	PBCR		•	SWS	
Red River from headwaters of Lake Texoma to Cache Creek	311100 & 311120	PPWS	WWAC	•		•	PBCR		•		
Walnut Bayou	311100	PPWS	WWAC	•			PBCR		•		
Simon Creek	311100	PPWS	WWAC	•		•	PBCR		•		
Walnut Creek	311100	PPWS	WWAC	2		•	PBCR		•		
Tributary of Walnut Creek at Sec. 28, T4S, R2W, IM	311100		HLAC	•		•	SBCR		•		
Whiskey Creek	311100		HLAC	•		•	SBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Cottonwood Creek	311100	PPWS	WWAC	1		•	PBCR		•		
Tributary of Cottonwood Creek at Sec. 28, T4S, R1W, IM	311100		HLAC	•		•	SBCR		•		
Bull Creek	311100		HLAC	•		•	SBCR		•		
Mud Creek	311100	PPWS	WWAC	•		•	PBCR		•		
Clear Creek	311100	PPWS	WWAC	1		•	PBCR		•		
North Mud Creek	311100	PPWS	HLAC	1		•	PBCR		•		
Tributary of North Mud Creek at SW 1/4, Sec. 34, T4S, R4W, IM	311100		HLAC	•		•	SBCR		•		
West Mud Creek	311100	PPWS	WWAC	1		•	PBCR		•		
Negro Creek	311100	PPWS	WWAC	•		•	PBCR		•		
Willow Branch	311100	PPWS	WWAC	•		•	PBCR		•		
Crooked Creek	311100	PPWS	WWAC	•		•	PBCR		•		
Deer Creek	311100	PPWS	WWAC	•		•	PBCR		•		
Red Creek	311100	PPWS	WWAC	•		•	PBCR		•		
Fleetwood Creek	311100	PPWS	WWAC	•		•	PBCR		•		
Beaver Creek downstream from Waurika Reservoir	311200	PPWS	WWAC	1		•	PBCR		•		
Cow Creek	311200	EWS	WWAC	•		•	PBCR		•		
Dry Creek	311200	PPWS	WWAC	•		•	PBCR		•		
Cotton Creek	311200	PPWS	WWAC	•		•	PBCR		•		
Claridy Creek	311200	EWS	WWAC			•	PBCR		•		
East Cow Creek	311200	EWS	HLAC	•		•	SBCR		•		
Tributary of East Cow Creek SW 1/4, Sec. 15, T1S, R7W, IM	311200	EWS	HLAC	•		•	SBCR		•		
Beaver Creek upstream from and including Waurika Reservoir	311210	PPWS	WWAC	•		•	PBCR		•	SWS	

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Walker Creek	311210	PPWS	WWAC	1		•	PBCR		•	SWS	
Little Beaver Creek	311210	PPWS	WWAC	•		•	PBCR		•	SWS	
Stage Stand Creek	311210	PPWS	WWAC	•		•	PBCR		•	SWS	
Hell Creek	311210	PPWS	WWAC	•		•	PBCR		•	SWS	
Ninemile Beaver Creek	311210	PPWS	WWAC	1		•	PBCR		•		
Cache Creek	311300	PPWS	WWAC	•		•	PBCR		•		
West Cache Creek downstream from Panther Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Deep Red Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Little Deep Red Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Jack Creek	311310	PPWS	WWAC	•		•	PBCR		•		
East Jack Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Horse Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Deadman Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Blue Beaver Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Post Oak Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Crater Creek	311310	PPWS	WWAC	•		•	PBCR		•	HQW	
Panther Creek	311310	PPWS	WWAC	•		•	PBCR		•	HQW	
West Cache Creek upstream from Panther Creek	311310	PPWS	WWAC	•		•	PBCR		•	HQW	
East Cache Creek downstream from Lake Ellsworth	311300	PPWS	WWAC	1		•	PBCR		•		
Temple Lake and Watershed	311300	PPWS	WWAC	•		•	PBCR		•	SWS	
Walters Lake and Watershed	311300	PPWS	WWAC	•		•	PBCR		•	SWS	
Ninemile Creek	311300		WWAC	•		•	PBCR		•		
Tributary to Ninemile Creek within Sec. 23, T 1 N, R 11 WIM including Comanche Lake	311300		WWAC			•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Wolf Creek	311300	PPWS	WWAC	•		•	PBCR		•		
Medicine Creek downstream from Lake Lawtonka	311300	PPWS	WWAC	1		•	PBCR		•		
Elmer Thomas Lake and Watershed	311300	PPWS	WWAC	•		•	PBCR		•	SWS	
Lawtonka Lake and Watershed	311300	PPWS	WWAC	•		•	PBCR		•	SWS	
Ellsworth Lake and Watershed	311300	PPWS	WWAC	•		•	PBCR		•	SWS	
Red River from Cache Creek to North Fork of the Red River	311310	EWS	WWAC	•		•	PBCR		•		
Rabbit Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Tributary of Red River at Sec. 29, T4S, R13W, IM	311310		HLAC	•		•	SBCR		•		
Blue Creek	311310	PPWS	WWAC	•		•	PBCR		•		
Suttle Creek	311310		WWAC	•		•	SBCR		•		
Tributary of Suttle Creek at SW 1/4, Sec. 20, T3S, R17W, IM	311310		HLAC	•		•	SBCR		•		
North Fork of the Red River including Altus Reservoir	311500 & 311510	PPWS	WWAC	3		•	PBCR		•		
Stinking Creek	311500	PPWS	WWAC	•		•	PBCR		•		
Tributary of Stinking Creek at SE 1/4, Sec. 30, T2N, R19W, IM	311500	EWS	HLAC	•		•	SBCR		•		
Otter Creek	311500	PPWS	WWAC	•		•	PBCR		•		
West Otter Creek downstream from Tom Steed Reservoir	311500	PPWS	WWAC	•		•	PBCR		•		
Tom Steed Reservoir and Watershed	311500	PPWS	WWAC	•		•	PBCR		•	SWS	
Glen Creek	311500	PPWS	WWAC	•		•	PBCR		•	SWS	
Elk Creek downstream from the confluence with Little Elk Creek	311500	PPWS	WWAC	2			PBCR		•		
Elk Creek from headwaters to confluence with Little Elk Creek	311500		HLAC	2			SBCR		•		
Little Elk Creek downstream from Lake Hobart	311500	PPWS	WWAC	•		•	PBCR		•		
Hobart Lake	311500	PPWS	WWAC	•		•	PBCR		•	SWS	NLW

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Spring Creek	311500	PPWS	WWAC	•		•	PBCR		•		
Elk City Lake	311500		WWAC	•		•	PBCR		•		NLW
Elm Fork of the Red River	311800	PPWS	WWAC	3		•	PBCR		•		
Haystack Creek	311800	PPWS	WWAC	•		•	PBCR		•		
Deer Creek	311800	PPWS	WWAC	•		•	PBCR		•		
Fish Creek	311800	PPWS	WWAC	•		•	PBCR		•		
Bull Creek	311800	PPWS	WWAC	•		•	PBCR		•		
North Elm Creek	311800	PPWS	WWAC	•		•	PBCR		•		
Flat Creek	311510		WWAC	•		•	PBCR		•		
Timber Creek	311510	PPWS	WWAC	•		•	PBCR		•		
Sand Creek	311510	PPWS	WWAC	•		•	PBCR		•		
Long Creek	311510	PPWS	WWAC	•		•	PBCR		•		
Turkey Creek	311510	PPWS	WWAC	•		•	PBCR		•		
Starvation Creek	311510	PPWS	WWAC	•		•	PBCR		•		
Buffalo Creek	311510	PPWS	WWAC	•		•	PBCR		•		
Sweetwater Creek	311510	PPWS	WWAC	•		•	PBCR		•		
Red River from confluence of the North Fork of the Red River to Buck Creek	311600	EWS	WWAC	•		•	PBCR		•		
Salt Fork of the Red River to the Texas State Line	311600	PPWS	WWAC	3		•	PBCR		•		
Turkey Creek	311600	PPWS	WWAC	1		•	PBCR		•		
Bitter Creek downstream of the boundary of Sections 3 & 2, T1N, R21W, IM	311600	EWS	WWAC	1		•	SBCR		•		
Bitter Creek upstream of the boundary of Sections 3 & 2, T1N, R21W, IM	311600	EWS	HLAC	1		•	SBCR		•		
Gypsum Creek	311600	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Sandy Creek	311600	EWS	HLAC	1		•	SBCR		•		
Lebos Creek	311600		HLAC	•		•	SBCR		•		
Tributary of Lebos Creek at Sec. 2, T2N, R26W, IM	311600		HLAC	•		•	SBCR		•		
Prairie Dog Town Fork of the Red River from confluence of Buck Creek to 100 degree West Longitude	311600	EWS	WWAC	•		•	PBCR		•		

TABLE 4.

Designated Beneficial Uses of Surface Waters
Water Quality Management Basin 4, Lower Red River

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Red River from the Arkansas State Line to the Kiamichi River	410100	PPWS	WWAC	2		•	PBCR		•		
Norwood Creek	410100	PPWS	WWAC	•		•	PBCR		•		
Waterhole Creek	410100	PPWS	WWAC	•		•	PBCR		•		
Buzzard Creek	410100		WWAC	•		•	PBCR		•		
Tributary of Buzzard Creek at NW 1/4, Sec. 5, T7S, R22E, IM	410100		HLAC	•		•	SBCR		•		
Garland Creek	410100		WWAC			•	PBCR				
Tributary of Garland Creek at SE 1/4, Sec. 34, T6S, R21E, IM	410100		HLAC	•		•	SBCR		•		
Little River from the Arkansas State Line to Pine Creek Dam	410200 & 410210	PPWS	CWAC	1			PBCR		•	HQW	
Rock Creek	410200	PPWS	CWAC	•		•	PBCR		•		
Mountain Fork River downstream from U.S. Hwy 70 bridge	410210	PPWS	CWAC	1		•	PBCR		•		
Mountain Fork River upstream from U.S. Hwy 70 bridge to Broken Bow Dam	410210	PPWS	Trout	1			PBCR		•	HQW	
Upper Mountain Fork River from Broken Bow Dam including Broken Bow Reservoir to the 600 foot elevation level	410210	PPWS	CWAC	1	•		PBCR		•	SWS	
Egypt Creek	410210	PPWS	CWAC	•			PBCR		•	SWS	
Otter Creek	410210	PPWS	CWAC	•			PBCR		•	SWS	
Panther Creek	410210	PPWS	CWAC	•			PBCR		•	ORW	
Buffalo Creek	410210	PPWS	CWAC	•			PBCR		•	SWS	
Big Hudson	410210		CWAC				PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Mine Creek	410210		CWAC	•			PBCR		•		
Upper Mountain Fork River upstream from the 600 foot elevation level	410210	PPWS	CWAC	1			PBCR		•	ORW	Scenic River
Boktuklo Creek	410210	PPWS	CWAC	1			PBCR		•	ORW	
Blue Creek	410210	PPWS	CWAC	•			PBCR		•	ORW	
Big Eagle Creek	410210	PPWS	CWAC	1			PBCR		•	ORW	
Little Eagle Creek	410210	PPWS	CWAC	•			PBCR		•	ORW	
Dry Creek	410210		CWAC	•			PBCR		•		
Cucumber Creek	410210	PPWS	CWAC	1			PBCR		•	ORW	
Beech Creek	410210	PPWS	CWAC	1			PBCR		•	ORW	
Cow Creek	410210	PPWS	CWAC	1			PBCR		•	ORW	
Yanubbe Creek	410200	PPWS	CWAC	•		•	PBCR		•		
Tributary of Yanubbe Creek at NE 1/4, Sec. 29, T6S, R25E, IM	410200		HLAC	•		•	SBCR		•		
Mud Creek	410200	EWS	WWAC	•		•	SBCR		•		
Tributary of Mud Creek at SE 1/4, Sec. 31, T7S, R24E, IM	410100		HLAC	•		•	SBCR		•		
Yashau Creek	410200	PPWS	CWAC	1		•	PBCR		•		
Lukfata Creek	410210	PPWS	CWAC	•			PBCR		•	HQW	
Glover River	410210	PPWS	CWAC	1			PBCR		•	HQW	
Cedar Creek	410210	PPWS	CWAC	1			PBCR		•	HQW	
Carter Creek	410210	PPWS	CWAC	•			PBCR		•	HQW	
Pine Creek	410210	PPWS	CWAC	•			PBCR		•	HQW	
West Fork	410210	PPWS	CWAC	•		•	PBCR		•	HQW	

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Silver Creek	410210		CWAC	•			PBCR		•		
Bluff Creek	410210	PPWS	CWAC	•			PBCR		•	HQW	
East Fork	410210	PPWS	CWAC	•			PBCR		•	HQW	
Horse Head Creek	410210	PPWS	WWAC	1		•	PBCR		•		
Tributary of Horse Head Creek at Sec. 10, T6S, R22E, IM	410210		HLAC	•		•	SBCR		•		
Cypress Creek	410210	PPWS	CWAC	•		•	PBCR		•	HQW	
Little River upstream from and including Pine Creek Reservoir	410210	PPWS	CWAC	1	•		PBCR		•	HQW	
Pine Creek	410210	PPWS	CWAC	•			PBCR		•	HQW	
Terrapin Creek	410210	PPWS	CWAC	•			PBCR		•	HQW	
Houston Creek	410210	PPWS	CWAC	•			PBCR		•	HQW	
Caney Creek	410210		CWAC	•			PBCR		•		
Cloudy Creek	410210	PPWS	CWAC	•			PBCR		•	HQW	
Jack Creek	410210	PPWS	CWAC	•			PBCR		•	HQW	
Black Fork	410210	PPWS	CWAC	•			PBCR		•	HQW	
Red River upstream from the Kiamichi River to the Blue River	410400	PPWS	WWAC	•		•	PBCR		•		
Kiamichi River including Hugo Reservoir to U.S. Hwy. 271 Bridge near Clayton	410300	PPWS	WWAC	1		•	PBCR		•		
Gates Creek	410300	PPWS	CWAC	1		•	PBCR		•		
Negro Creek	410300		HLAC	•		•	SBCR		•		
Bird Creek	410300	PPWS	WWAC	•		•	PBCR		•		
Long Creek	410300	PPWS	WWAC	•		•	PBCR		•		
North Fork	410300	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Frazier Creek	410300	PPWS	CWAC	•		•	PBCR		•		
Rock Creek	410300	PPWS	CWAC	•		•	PBCR		•		
Cedar Creek	410300	PPWS	CWAC	•			PBCR		•	HQW	
Beaver Creek	410300	PPWS	WWAC	1		•	PBCR		•		
Tenmile Creek	410300	PPWS	WWAC	•		•	PBCR		•		
Buck Creek	410300	PPWS	WWAC	1		•	PBCR		•		
Clayton Lake and Watershed	410300	PPWS	WWAC	•		•	PBCR		•	SWS	
Kiamichi River upstream from U.S. Hwy 271 Bridge near Clayton	410310	PPWS	WWAC	1		•	PBCR		•		
Jackfork Creek including Sardis Reservoir	410310	PPWS	WWAC	•			PBCR		•	SWS	
Buffalo Creek	410310	PPWS	WWAC	•			PBCR		•	SWS	
Rock Creek	410310	PPWS	WWAC	•		•	PBCR		•		
Ozzie Cobb Lake and watershed	410300		WWAC	•		•	PBCR		•		NLW
Carl Albert Lake and Watershed	410310	PPWS	WWAC	•		•	PBCR		•	SWS	
Talihina Lake and Watershed	410310	PPWS	WWAC	•		•	PBCR		•	SWS	
Pigeon Creek	410310	PPWS	CWAC	1		•	PBCR		•		
Horse Creek downstream from the borders of Sections 10 & 15, T7S, R17E, IM	410400	PPWS	WWAC	1		•	PBCR		•		
Horse Creek upstream from the borders of Sections 10 & 15, T7S, R17E, IM	410400		WWAC	1		•	SBCR		•		
Tributary of Horse Creek at NE 1/4, Sec. 4, T7S, R17E, IM	410400		HLAC	•		•	SBCR		•		
Unnamed tributary of Red River at SW SE SE Sec. 22, T7S, R17E, IM	410400		HLAC	•		•	SBCR		•		
Muddy Boggy Creek	410400	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Tributary of Muddy Boggy Creek at NW 1/4, Sec. 12, T2S, R11E, IM	410400		HLAC	•			SBCR		•		
Lick Creek	410400	PPWS	WWAC	•		•	PBCR		•		
Clear Boggy Creek	410400	PPWS	WWAC	•		•	PBCR		•		
Mayhew Creek	410400		WWAC	•			PBCR		•		
Unnamed tributary to Mayhew Creek at sect. 7. T6S, R14E, IM	410400		HLAC				SBCR		•		
Caney Creek	410400		WWAC	•		•	SBCR		•		
Delaware Creek	410400	PPWS	WWAC	•		•	PBCR		•		
Sandy Creek	410400		WWAC	•		•	PBCR		•		
Tributary of Sandy Creek at SE 1/4, Sec. 14, T2S, R8E, IM	410400		HLAC	•		•	SBCR		•		
Bois D' Arc Creek	410400		WWAC				PBCR		•		
(Byrds) Mill Creek	410400	PPWS	WWAC	•		•	PBCR		•		
McGee Creek including McGee Creek Reservoir	410400	PPWS	WWAC	•			PBCR		•	SWS	
North Boggy Creek downstream from Atoka Reservoir	410400	PPWS	WWAC	•		•	PBCR		•		
Tributary of North Boggy Creek at NW1/4, Sec. 29, T1S, R12E, IM	410400		HLAC	•		•	SBCR		•		
North Boggy Creek upstream from and including Atoka Reservoir	410400	PPWS	WWAC	1			PBCR		•	SWS	
Coal Creek	410400	PPWS	WWAC	•			PBCR		•		
Tributary of Brier Creek at Sec. 35, T1N, R10E, IM	410400		HLAC	•		•	SBCR		•		
Caney Creek	410400	PPWS	WWAC	•		•	PBCR		•		
Coon Creek	410400	PPWS	WWAC	•		•	PBCR		•		
Coalgate Reservoir and Watershed	410400	PPWS	WWAC	•		•	PBCR		•	SWS	

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Caney Boggy Creek	410400	PPWS	WWAC	•		•	PBCR		•		
Little Sandy Creek	410400		HLAC	•		•	SBCR		•		
Town Branch	410400		HLAC	•		•	SBCR		•		
Whitegrass Creek	410400	PPWS	WWAC	•		•	PBCR		•		
Blue River downstream from the State Hwy. 48A Bridge	410600	PPWS	WWAC	1		•	PBCR		•		
Tributary of Bokchito Creek at Sec. 22, T6S, R11E, IM	410600		HLAC	•		•	SBCR		•		
Caddo Creek	410600		WWAC	•		•	PBCR		•		
Mineral Bayou	410600	EWS	WWAC	•		•	PBCR		•		
Sandy Creek	410600	PPWS	WWAC	•		•	PBCR		•		
Blue River upstream from State Hwy. 48A Bridge to State Hwy. 7 Bridge	410600	PPWS	Trout	1	•		PBCR		•	HQW	
Blue River upstream from State Hwy. 7 Bridge	410700	PPWS	CWAC	1	•	•	PBCR		•	HQW	
Red River upstream from the Blue River to Lake Texoma Dam	410700	PPWS	WWAC	•	•	•	PBCR		•		
Island Bayou	410700	EWS	WWAC	1		•	SBCR		•		
Sandy Creek	410700	PPWS	WWAC	•		•	PBCR		•		
Tributary of Sandy Creek at Sec. 20, T8S, R8E, IM	410700		HLAC	•		•	SBCR		•		

TABLE 5.

Designated Beneficial Uses of Surface Waters
Water Quality Management Basin 5, Canadian River

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
North Canadian River from Canadian River to S.H. 99 bridge	520500 & 520510	PPWS	WWAC	•		•	PBCR		•		
Deep Fork of Canadian River downstream from Arcadia Reservoir	520700	PPWS	WWAC	2		•	PBCR		•		
Wolf Creek downstream from Lake Henryetta	520700		WWAC	•		•	PBCR		•		
Coal Creek	520700	EWS	WWAC	•		•	SBCR		•		
Henryetta Lake and Watershed	520700	PPWS	WWAC	•		•	PBCR		•	SWS	
Moore Creek	520700		WWAC	•		•	PBCR		•		
Burgess Creek at Montezuma Creek NE 1/4, Sec. 8, T12N, R13E, IM	520700	EWS	WWAC	•		•	PBCR		•		
Cussetah Creek	520700		WWAC	•		•	PBCR		•		
Tributary of Cussetah at NE 1/4, Sec. 12, T13N, R13E, IM	520700		HLAC	•		•	SBCR		•		
Salt Creek downstream from Lake Okmulgee	520700	PPWS	WWAC	•		•	PBCR		•		
Okmulgee Lake and Watershed	520700	PPWS	WWAC	•		•	PBCR		•	SWS	
Adams Creek	520700	PPWS	WWAC				PBCR		•		
Flat Rock Creek	520700	PPWS	WWAC	•		•	PBCR		•		
Tributary of Adams Creek at NW1/4, Sec. 5, T14N, R12E, IM	520700	EWS	WWAC	•		•	PBCR		•		
Little Deep Fork Creek downstream from Sand Creek	520700		WWAC	•		•	PBCR		•		
Brown's Creek	520700	PPWS	WWAC				PBCR		•		
Little Deep Fork Creek upstream from Sand Creek to State Hwy. 48 Bridge	520700	PPWS	HLAC	•		•	SBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Little Deep Fork Creek upstream from State Hwy. 48 Bridge	520700	PPWS	WWAC	•		•	PBCR		•		
Catfish Creek	520700	PPWS	WWAC	•			PBCR		•		
Tributary of Little Deep Fork Creek at SE 1/4, Sec. 6, T15N, R8E, IM	520700		HLAC	•		•	SBCR		•		
Nuyaka Creek	520700	PPWS	WWAC	1		•	PBCR		•		
Buckeye Creek	520700	PPWS	WWAC	1		•	PBCR		•		
Okemah Lake and Watershed	520700	PPWS	WWAC	•		•	PBCR		•	SWS	
Salt Creek	520700	PPWS	WWAC	•		•	PBCR		•		
Camp Creek downstream from Stroud Lake	520700	PPWS	WWAC	•		•	PBCR		•		
Stroud Lake and Watershed	520700	PPWS	WWAC	•		•	PBCR		•	SWS	
Gray Horse Creek	520700		HLAC	•		•	SBCR		•		
Dry Creek	520700	PPWS	WWAC	•		•	PBCR		•		
West Beaver Creek	520700		WWAC	•		•	SBCR		•		
Deer Creek	520700	PPWS	WWAC	•		•	PBCR		•		
Robinson Creek	520700	PPWS	WWAC	•		•	PBCR		•		
Quapaw Creek	520700	PPWS	WWAC	•		•	PBCR		•		
Meeker Lake and Watershed	520700	PPWS	WWAC	•		•	PBCR		•	SWS	
Bellcow Creek	520700	PPWS	WWAC	•		•	PBCR		•		
Chandler Lake and Watershed	520700	PPWS	WWAC	•		•	PBCR		•	SWS	
Tributary of Bellcow Creek at Sec. 6, T15N, R3E, IM	520700		HLAC	•		•	SBCR		•		
Kickapoo Creek	520700	PPWS	WWAC	•		•	PBCR		•		
East Captain Creek	520700	PPWS	WWAC	•		•	PBCR		•		
Bear Creek	520700	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Smith Creek	520700	PPWS	HLAC	1		•	PBCR		•		
Coon Creek	520700		WWAC	1		•	PBCR		•		
Coffee Creek downstream from the boundaries of Sec. 22 & 23, T14N, R02W, IM	520710	PPWS	HLAC	1		•	PBCR		•		
Coffee Creek upstream from the boundaries of Sec. 22 & 23, T14N, R02W, IM	520710	PPWS	WWAC	1		•	PBCR		•		
Arcadia Reservoir and Watershed	520710	PPWS	WWAC	1		•	PBCR		•	SWS	
Bad Creek	520500	PPWS	WWAC	•		•	PBCR		•		
Alabama Creek	520500	PPWS	WWAC	•		•	PBCR		•		
Weleetka Lake and Watershed	520500	PPWS	WWAC	•		•	PBCR		•	SWS	
Wewoka Creek downstream from the boundaries of Secs. 27 & 28, T9N, R6E, IM	520500	EWS	HLAC	2		•	PBCR		•		
Fish Creek	520500	PPWS	WWAC	•		•	PBCR		•		
Tributary of Wewoka Creek at SE NE SW Sec. 27, T9N, R10E, IM	520500		HLAC	•		•	SBCR		•		
Graves Creek	520500	PPWS	WWAC	•		•	PBCR		•		
Little Wewoka Creek	520500	PPWS	WWAC	•		•	PBCR		•		
Tributary of Wewoka Creek at Sec. 20, T8N, R8E, IM	520500		HLAC	•		•	SBCR		•		
Wewoka Lake and Watershed	520500	PPWS	WWAC	•		•	PBCR		•	SWS	
Wewoka Creek upstream from the boundaries of Sec. 27 & 28, T9N, R6E, IM	520500	PPWS	HLAC	2		•	SBCR		•		
Tributary of Wewoka Creek at NW 1/4, Sec. 16, T9N, R5E, IM	520500		HLAC	•		•	SBCR		•		
Tributary of North Canadian River at Sec. 22, T10N, R11E, IM	520500		HLAC	•		•	SBCR		•		
Flat Rock Creek	520510	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Sand Creek	520510		HLAC	•		•	SBCR		•		
Tributary of Sand Creek at SW 1/4, Sec. 34, T11N, R8E, IM	520510		HLAC	•		•	SBCR		•		
Boley Creek	520510		HLAC	•			SBCR		•		
Turkey Creek	520510	PPWS	WWAC	•		•	PBCR		•		
Tecumseh Lake and Watershed	520510	PPWS	WWAC	•		•	PBCR		•	SWS	
Shan Creek	520510		HLAC	•		•	SBCR		•		
Shawnee Twin Lakes and Watershed	520510	PPWS	WWAC	•		•	PBCR		•	SWS	
North Deer Creek	520510	PPWS	WWAC	•		•	PBCR		•		
Tributary of the North Canadian River at NE 1/4, Sec. 36, T12N, R1E, IM	520510		HLAC	•		•	SCBR		•		
Horseshoe Lake	520520		WWAC			•	PBCR		•		
North Canadian River from State Hwy. 99 Bridge to Portland Street Bridge, Oklahoma City	520510 & 520520	EWS	WWAC	•		•	PBCR		•		
Choctaw Creek	520520	EWS	HLAC	•		•	SBCR		•		
Tributary of Choctaw Creek at NW 1/4, Sec. 27, T12N, R1W, IM	520520		HLAC	•		•	PBCR		•		
Crutcho Creek from North Canadian River to S.E. 15th Street, Del City	520520		WWAC	•		•	PBCR		•		
Soldier Creek	520520		WWAC	•		•	PBCR		•		
Tributary of Soldier Creek at NW 1/4, Sec. 13, T11N, R02W, IM	520520		WWAC	•		•	SBCR		•		
Crutcho Creek upstream from S.E. 15th Street, Del City	520520		HLAC	•		•	SBCR		•		
Tributary of Crutcho Creek at SW 1/4, Sec. 16, T11N, R2W, IM	520520		WWAC	•		•	PBCR		•		
Cherry Creek	520520		HLAC	•		•	SBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Crooked Oak Creek	520520	PPWS	WWAC	1		•	PBCR		•		
North Canadian River from Portland Street Bridge to Canton Reservoir Dam	520520 & 520530	PPWS	WWAC	•		•	PBCR		•		
Mustang Creek	520520		WWAC	•		•	PBCR		•		
Lake Overholser	520520		WWAC	•		•	PBCR		•		NLW
Shell Creek	520530	PPWS	WWAC	•		•	PBCR		•		
Purcell Creek	520530	PPWS	WWAC	•		•	PBCR		•		
Six Mile Creek	520530	PPWS	WWAC	•		•	PBCR		•		
Unnamed tributary of North Canadian River at Sec. 6, T13N, R6W, IM and NW SE NE 1/4 of Sec. 31, T14N, R10W, IM	520530		HLAC	•		•	SBCR		•		
Minnehaha Creek	520530	PPWS	WWAC	•		•	SBCR		•		
Canadian River from its confluence with Little River to Buckhead Creek	520600 & 520800	PPWS	WWAC	•		•	PBCR		•		
Little River	520800	PPWS	WWAC	1		•	PBCR		•		
Holdenville Reservoir and Watershed	520800	PPWS	WWAC	•		•	PBCR		•	SWS	
Bird Creek	520800		HLAC	•		•	SBCR		•		
Tributary of Bird Creek at NW 1/4, Sec. 6, T6N, R9E, IM	520800		WWAC	•		•	SBCR		•		
Salt Creek	520800	PPWS	WWAC	•		•	PBCR		•		
Tributary to Salt Creek at NW SW Sec. 33, T8N R5E, IM	520800		WWAC	•		•	PBCR		•		
Unnamed tributary of Little River at Sec. 33, T8N, R6E, IM	520800		HLAC	•		•	SBCR		•		
Thunderbird Lake and Watershed	520810	PPWS	WWAC	1			PBCR		•	SWS	NLW
Tributary of Canadian River at SE 1/4, Sec.18, T5N, R7E, IM	520600		HLAC	•		•	SBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Jumper Creek	520600	EWS	WWAC	1		•	PBCR		•		
Canadian Sandy Creek	520600	PPWS	WWAC	1		•	PBCR		•		
Little Sandy Creek	520600	PPWS	WWAC	1		•	PBCR		•		
Spring Brook Creek	520600	PPWS	WWAC	1		•	PBCR		•		
Tributary of Cat Creek at Sec. 7, T6N, R4E, IM	520600		HLAC	•		•	SBCR		•		
Pond Creek	520600	PPWS	WWAC	•		•	PBCR		•		
Canadian River upstream from its confluence with Buckhead Creek to the US Hwy. 81 bridge	520610		HLAC	2		•	SBCR		•		
Buckhead Creek	520610	PPWS	WWAC	•		•	PBCR		•		
Tributary of Canadian River at NE 1/4, Sec. 35, T6N, R1W, IM	520610		HLAC	•		•	SBCR		•		
Walnut Creek	520610		WWAC	1		•	PBCR		•		
Bridge Creek at Sec. 22, T9N, R5W, IM	520610		WWAC	•		•	PBCR		•		
Pond Creek (return flow, City of Newcastle)	520610	PPWS	WWAC	•		•	PBCR		•		
Tributary of Pond Creek at NE 1/4, Sec. 14, T9N, R4W, IM	520610		HLAC	•		•	SBCR		•		
Cow Creek	520610	PPWS	WWAC	•		•	PBCR		•		
Dry Creek	520610	PPWS	WWAC	•		•	PBCR		•		
Store Creek	520610	PPWS	WWAC	•		•	PBCR		•		
West Creek	520610		HLAC	•		•	SBCR		•		
Buggy Creek	520610	EWS	WWAC	•		•	PBCR		•		
Tributary of Canadian River at SW 1/4, Sec. 3, T10N, R7W, IM	520610		HLAC	•		•	SBCR		•		
Canadian River upstream from US Hwy. 81 bridge	520610 & 520620	EWS	WWAC	2		•	PBCR		•		
Deer Creek	520620	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Little Deep Creek	520620		HLAC	•		•	PBCR		•		
Little Deer Creek	520620	PPWS	WWAC	•		•	PBCR		•		
Horse Creek	520620	PPWS	WWAC	•		•	PBCR		•		
Tributary of Canadian River at SE 1/4, Sec. 4, T15N, R14W, IM	520620		HLAC	•		•	SBCR		•		
Squirrel Creek	520620	PPWS	WWAC	•		•	PBCR		•		
Tributary of Squirrel Creek at SE 1/4 of NW 1/4 of SW 1/4 of Sec. 6, T9N, R4E, IM	520620		WWAC	•			PBCR		•		
Lone Creek	520620	PPWS	WWAC	•		•	PBCR		•		
Trail Creek	520620	EWS	HLAC	•		•	SBCR		•		
Gyp Creek	520620	PPWS	WWAC	•		•	PBCR		•		
Red Creek	520620	PPWS	WWAC	•		•	PBCR		•		
Turkey Creek	520620	PPWS	WWAC	•		•	PBCR		•		
South Turkey Creek	520620	PPWS	WWAC	•		•	PBCR		•		
Hackberry Creek	520620	PPWS	WWAC	•		•	PBCR		•		
Mosquito Creek downstream from Sec. 31, T19N, R24W, IM	520620	PPWS	WWAC	•		•	PBCR		•		
Mosquito Creek upstream from Sec. 6, T18N, R24W, IM	520620	EWS	HLAC	•		•	SBCR		•		
Red Bluff Creek	520620	PPWS	WWAC	•		•	PBCR		•		
Commission Creek	520620	PPWS	WWAC	•		•	PBCR				

TABLE 6.

Designated Beneficial Uses of Surface Waters
Water Quality Management Basin 6, Upper Arkansas River

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Arkansas River upstream from and including Keystone Reservoir to Kaw Dam	621200	PPWS	WWAC	2		•	PBCR		•		
Cimarron River upstream from Keystone Reservoir to the Kansas State Line	620900 620910 & 620920	EWS	WWAC	3		•	PBCR		•		
Buckeye Creek	620900		WWAC				PBCR		•		
Tiger Creek	620900		WWAC	•		•	PBCR		•		
Euchee Creek downstream from Sec. 5, T17N, R6E, IM	620900	EWS	WWAC	•		•	PBCR		•		
Euchee Creek upstream from Sec. 5, T17N, R6E, IM	620900	EWS	WWAC	•		•	SBCR		•		
Cottonwood Creek	620900	EWS	WWAC	•		•	PBCR		•		
Wildhorse Creek	620900	EWS	WWAC	•		•	PBCR		•		
Skull Creek	620900	EWS	WWAC	•		•	PBCR		•		
Salt Creek	620900	PPWS	WWAC	•		•	PBCR		•		
Council Creek	620900	PPWS	WWAC	•		•	PBCR		•		
Big Creek downstream from Cushing Lake	620900	PPWS	WWAC	•		•	PBCR		•		
Cushing Lake and Watershed	620900	PPWS	WWAC	•		•	PBCR		•	SWS	
Stillwater Creek downstream from Little Stillwater Creek	620900	PPWS	WWAC	•		•	PBCR		•		
Little Stillwater Creek	620900	PPWS	WWAC	•		•	PBCR		•		
Stillwater Creek from Little Stillwater Creek to Sec. 32, T19N, R3E, IM	620900	EWS	HLAC	•		•	PBCR		•		
Stillwater Creek upstream from Sec. 33, T19N, R3E to the Lake Carl Blackwell Dam	620900	EWS	HLAC	•		•	SBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Brush Creek	620900		HLAC	•		•	SBCR		•		
Boomer Creek below Boomer Lake	620900	PPWS	WWAC	•		•	PBCR		•		
Boomer Lake and Watershed	620900	PPWS	WWAC	•		•	PBCR		•	SWS	
McMurtry Lake and Watershed	620900	PPWS	WWAC	•		•	PBCR		•	SWS	
Carl Blackwell Lake and Watershed	620900	PPWS	WWAC	•		•	PBCR		•	SWS	
Sand Creek	620900		HLAC	•		•	SBCR		•		
Dugout Creek	620900	PPWS	WWAC	•		•	PBCR		•		
Fitzgerald Creek	620900	PPWS	WWAC	•		•	PBCR		•		
Langston Lake and Watershed	620900	PPWS	WWAC	•		•	PBCR		•	SWS	
Beaver Creek	620900	PPWS	WWAC	•		•	PBCR		•		
Skeleton Creek downstream from Bitter Creek	620900	PPWS	WWAC	2		•	PBCR		•		
Wolf Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Otter Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Horse Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Bitter Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Skeleton Creek from Bitter Creek to Boggy Creek	620900	EWS	HLAC	•		•	SBCR		•		
Hackberry Creek	620910	EWS	WWAC	•		•	SBCR		•		
Tributary of Skeleton Creek at Sec. 27. T22N, R5W, IM	620910		HLAC	•		•	SBCR		•		
Skeleton Creek upstream from Boggy Creek	620900	PPWS	WWAC	1		•	PBCR		•		
Tributary of Boggy Creek at NW 1/4, Sec. 14, T22N, R6W, IM	621010		HLAC	•		•	SBCR		•		
Cottonwood Creek	620910	PPWS	WWAC	2		•	PBCR		•		
Guthrie Lake and Watershed	620910	PPWS	WWAC	•		•	PBCR		•	SWS	

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Liberty Lake and Watershed	620910	PPWS	WWAC	•		•	PBCR		•	SWS	
Chisholm Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Deer Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Bluff Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Kingfisher Creek	620910		WWAC	•		•	PBCR		•		
Uncle John Creek	620910		WWAC	•		•	PBCR		•		
Dead Indian Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Tributary of Dead Indian Creek at NE 1/4, Sec. 19, T15N, R8W, IM	620910	EWS	HLAC	•		•	SBCR		•		
Otter Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Turkey Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Unnamed tributary of Turkey Creek at Sec. 23, T19N, R7W, IM	620910		HLAC	•		•	SBCR		•		
Dry Salt Creek	620910		HLAC	•		•	SBCR		•		
Tributary of Dry Salt Creek at NW 1/4, Sec. 15, T21N, R8W, IM	620910		HLAC	•		•	SBCR		•		
Cooper Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Salt Creek downstream from the Blaine-Kingfisher County Line	620910	EWS	WWAC	2		•	SBCR		•		
Salt Creek upstream from the Blaine-Kingfisher County Line	620910	EWS	HLAC	2		•	SBCR		•		
Spring Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Tributary of Spring Creek at Sec. 19, T19N, R10W, IM	620910		HLAC	•		•	SBCR		•		
Tributary of Salt Creek at Sec. 11, T17N, R11W, IM	620910		HLAC	•		•	SBCR		•		
Hoyle Creek	620910	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Deep Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Elm Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Indian Creek	620910	PPWS	WWAC	•		•	PBCR		•		
Sand Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Gypsum Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Cottonwood Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Eagle Chief Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Tributary of Eagle Chief Creek at Sec. 36, T24N, R12W, IM	620920		HLAC	•		•	SBCR		•		
Lake Creek	620920		WWAC	•		•	PBCR		•		
Cheyenne Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Barney Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Griever Creek	620920	PPWS	WWAC	•		•	PBCR		•		
East Griever Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Main Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Ewers Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Dog Creek	620920	EWS	WWAC	2		•	PBCR		•		
Sand Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Chimney Creek	620920	PPWS	WWAC	•		•	PBCR		•		
White Horse Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Doe Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Long Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Red Horse Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Anderson Creek	620920	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Traders Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Moccasin Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Sand Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Buffalo Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Sleeping Bear Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Sand Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Day Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Keno Creek	620920	PPWS	WWAC	•		•	PBCR		•		
Cimarron River from Kansas State Line near Englewood, Kansas to the Kansas State Line near Forgan, Oklahoma	620930	PPWS	WWAC	•		•	PBCR		•		
Snake Creek	620930	PPWS	WWAC	•		•	PBCR		•		
Redoubt Creek	620930	PPWS	WWAC	•		•	PBCR		•		
Horse Creek	620930	EWS	WWAC	•		•	SBCR		•		
Crooked Creek	620930	PPWS	WWAC	•		•	PBCR		•		
Cottonwood Creek	620930	PPWS	WWAC	•		•	PBCR		•		
Bug Creek	621200	PPWS	WWAC	•		•	PBCR		•		
Black Bear Creek	621200	PPWS	WWAC	2		•	PBCR		•		
Camp Creek	621200	PPWS	WWAC	•		•	PBCR		•		
Pawnee Lake and Watershed	621200	PPWS	WWAC	1		•	PBCR		•	SWS	
Oak Creek	621200	PPWS	WWAC	•		•	PBCR		•		
Tributary of Oak Creek at SE 1/4, Sec. 27, T21N, R3E, IM	621200		WWAC	•		•	PBCR		•		
Cow Creek downstream from Perry Lake	621200	PPWS	WWAC	•		•	PBCR		•		
Perry Lake and Watershed	621200	PPWS	WWAC	•		•	PBCR		•	SWS	

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Salt Creek	621200	PPWS	WWAC	•		•	PBCR		•		
Fairfax Lake and Watershed	621200	PPWS	WWAC	•		•	PBCR		•	SWS	
Little Chief Creek	621200	PPWS	WWAC	•		•	PBCR		•		
Phillips Lake and Watershed	621200	PPWS	WWAC	•		•	PBCR		•	SWS	
Tributary of Salt Creek at SW 1/4, Sec. 34, T27N, R6E, IM	621200		HLAC	•		•	SBCR		•		
Elm Creek	621200	PPWS	WWAC	•		•	PBCR		•		
Doga Creek	621200	PPWS	WWAC	•		•	PBCR		•		
Greasy Creek	621200		WWAC	•		•	PBCR		•		
Red Rock Creek	621200		WWAC	2		•	PBCR		•		
Tributary of Red Rock Creek at NW 1/4, Sec. 7, T23N, R2E, IM	621200		HLAC	•		•	SBCR		•		
Salt Fork of the Arkansas River	621000 621010	PPWS	WWAC	3		•	PBCR		•		
Great Salt Plains Reservoir and watershed	621010	PPWS	WWAC	3		•	PBCR		•		NLW
Bois d'Arc Creek	621000	PPWS	WWAC	1		•	PBCR		•		
Spring Creek downstream from Sec. 3, T27N, R2E, IM	621000	EWS	WWAC	1		•	PBCR		•		
Spring Creek upstream from Sec. 10, T27N, R2E, IM to Sec. 27, T28N, R2E, IM	621000	EWS	HLAC	1		•	SBCR		•		
Spring Creek upstream from Sec. 34, T28N, R2E, IM	621000	EWS	WWAC	1		•	PBCR		•		
Chikaskia River	621100	PPWS	WWAC	1		•	PBCR		•		
Duck Creek	621100	PPWS	WWAC	•		•	PBCR		•		
Stink Creek	621100	PPWS	WWAC	•		•	PBCR		•		
Bitter Creek	621100	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Doe Creek	621100	PPWS	WWAC	•		•	PBCR		•		
Bluff Creek	621100	PPWS	WWAC	•		•	PBCR		•		
Deer Creek	621000	PPWS	WWAC	•		•	PBCR		•		
Pond Creek	621000	PPWS	WWAC	•		•	PBCR		•		
Polecat Creek	621000	PPWS	WWAC	•		•	PBCR		•		
Bullwacker Creek	621000	EWS	HLAC	•		•	SBCR		•		
Osage Creek	621000	PPWS	WWAC	•		•	PBCR		•		
Crooked Creek	621000	PPWS	WWAC	•		•	PBCR		•		
Sand Creek	621000	PPWS	WWAC	•		•	PBCR		•		
Wagon Creek	621000	PPWS	WWAC	•		•	PBCR		•		
Tributary of Wagon Creek at Sec. 10, T25N, R9W, IM	621000		HLAC	•		•	SBCR		•		
Clay Creek	621010	EWS	WWAC	•		•	PBCR		•		
East Clay Creek	621010	PPWS	WWAC	•		•	PBCR		•		
West Clay Creek	621010	PPWS	WWAC	•		•	PBCR		•		
Sandy Creek	621010	PPWS	WWAC	•		•	PBCR		•		
Little Sandy Creek	621010	PPWS	WWAC	•		•	PBCR		•		
Medicine Lodge River	621010	PPWS	WWAC	•		•	PBCR		•		
Driftwood Creek	621010	PPWS	WWAC	•		•	PBCR		•		
Turkey Creek	621010	PPWS	WWAC	•		•	PBCR		•		
Greenleaf Creek	621010	PPWS	WWAC	•		•	PBCR		•		
Yellowstone Creek	621010	PPWS	WWAC	•		•	PBCR		•		
Hoover Ditch	621200		HLAC	•		•	SBCR		•		
Ponca Lake and Watershed	621200	PPWS	WWAC	•		•	PBCR		•	SWS	

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Arkansas River upstream from Kaw Dam to Kansas State Line	621210	PPWS	WWAC	•		•	PBCR		•		
Beaver Creek	621210	PPWS	WWAC	•		•	PBCR		•		

TABLE 7.

Designated Beneficial Uses of Surface Waters
Water Quality Management Basin 7, Panhandle Region

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
North Canadian River upstream from and including Canton Reservoir to Hwy 50	720500	PPWS	WWAC	3		•	PBCR		•		
Cheyenne Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Deep Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Bent Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Camp Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Kizer Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Cottonwood Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Persimmon Creek	720500	PPWS	WWAC	•		•	PBCR		•		
North Persimmon Creek	720500	PPWS	WWAC	•		•	PBCR		•		
South Persimmon Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Indian Creek	720500	PPWS	WWAC	•		•	PBCR		•		
North Canadian (Beaver) River upstream from Hwy. 50 to Lake Optima	720500		WWAC	3		•	PBCR		•		
Wolf Creek	720500	PPWS	WWAC	•		•	PBCR		•	SWS	
Fort Supply Reservoir	720500	PPWS	WWAC	•		•	PBCR		•	SWS	NLW
Sixteenmile Creek	720500	PPWS	WWAC	•		•	PBCR		•	SWS	
Little Wolf Creek	720500	PPWS	WWAC	•		•	PBCR		•	SWS	
Buzzard Creek	720500	PPWS	WWAC	•		•	PBCR		•	SWS	
Twentyfive mile Creek	720500	PPWS	WWAC	•		•	PBCR		•	SWS	
Willow Creek	720500	PPWS	WWAC	•		•	PBCR		•	SWS	
Rock Creek	720500	PPWS	WWAC	•		•	PBCR		•	SWS	

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Otter Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Clear Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Kiowa Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Camp Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Sand Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Coon Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Mexico Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Duck Pond Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Camp Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Clear Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Cottonwood Creek	720500	PPWS	WWAC	•		•	PBCR		•		
South Fork of Clear Creek	720500	PPWS	WWAC	•		•	PBCR		•		
North Fork of Clear Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Home Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Sixmile Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Willow Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Sharp Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Jackson Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Bull Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Fulton Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Sand Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Palo Duro Creek	720500	PPWS	WWAC	•		•	PBCR		•		
Chiquita Creek	720500	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Hackberry Creek	720500	PPWS	WWAC	•		•	PBCR		•		
North Canadian (Beaver) River upstream from Lake Optima to Texas State Line	720510	PPWS	WWAC	1		•	PBCR		•		
Coldwater Creek	720510	PPWS	WWAC	•		•	PBCR		•		
Pony Creek	720510	PPWS	WWAC	•		•	PBCR		•		
Goff Creek	720510	PPWS	WWAC	•		•	PBCR		•		
Dry Sand Draw	720510										(1)
Tepee Creek	720510	PPWS	WWAC	•		•	PBCR		•		
Sand Creek	720510	PPWS	WWAC	•		•	PBCR		•		
North Canadian (Beaver) River upstream from Texas State Line to New Mexico State Line	720510	PPWS	WWAC	1		•	PBCR		•	HQW	
Cienequilla Creek from mouth to New Mexico State Line	720510	PPWS	WWAC	•		•	PBCR		•		
Cimarron River upstream from the Colorado State Line to the New Mexico State Line	720900	PPWS	WWAC	•		•	PBCR		•	HQW	
South Picket House Draw	720900	PPWS	WWAC	•		•	PBCR		•		
Cold Springs Creek	720900	PPWS	WWAC	•		•	PBCR		•		
Gallinas Cañon	720900	PPWS	WWAC	•		•	PBCR		•		
Water Canyon	720900	PPWS	WWAC	•		•	PBCR		•		
South Carrizo Creek	720900	PPWS	WWAC	•		•	PBCR		•		
Lake Carl Etling	720900	PPWS	WWAC	•		•	PBCR		•		NLW
Cottonwood Canyon Creek	720900	PPWS	WWAC	•		•	PBCR		•		
Tesesquite Creek	720900	PPWS	WWAC	•		•	PBCR		•		
North Carrizo Creek	720900	PPWS	WWAC	•		•	PBCR		•		

Waterbody Name and Sequence	WQM Segment	Water Supply	F&W Prop	Ag	HP	M&I	Rec	Nav	Aes	Limitations	Remarks
Carrizozo Creek	720900	PPWS	WWAC	•		•	PBCR		•		

APPENDIX C. SUITABILITY OF WATER FOR LIVESTOCK AND IRRIGATION USES [REVOKED]

(a) The intake of highly mineralized water by animals can cause physiological disturbances of varying degrees. Lactation and reproduction are distributed by continuous use of water of unfavorable mineral composition. In some cases, particular ions within total salinity such as nitrate, fluoride, selenium salts and molybdenum may be harmful to livestock.

(b) Sufficient supplies of good quality water have always been critically important in all forms of agricultural enterprise. Because of the vast number of agricultural uses made of water, this beneficial use is assigned to all Oklahoma streams. It is recognized, however, that many streams are less suitable for irrigation purposes than others. The classification set forth herein is intended only as a guide in using water for this beneficial use, not in limiting the allowable levels for a stream.

Class	Suitability	Salt Concentration (mg/L)*
I	Suitable under almost all conditions	Under 700
II	Suitability dependent on crop, soil, climate, etc.	700-2,100
III	Unsuitable under most conditions	Over 2,100

*Estimated as equivalent to total dissolved solids.

(c) These guidelines are applied to the irrigation beneficial use designation for the yearly mean standard of the dissolved solid concentration in Oklahoma streams. The resulting beneficial use designations are displayed in Appendix A.

(d) For the watering of livestock the limits of tolerance vary depending on the species of animal, kind of salt present, climate, etc. "Safe upper limits" vary from 2,860 mg/L for poultry to 15,600 mg/L for sheep. For temporary use, sheep can tolerate up to 18,600 mg/L. Therefore, no absolute limitation for this beneficial use is appropriate.

APPENDIX E. REQUIREMENTS FOR DEVELOPMENT OF SITE SPECIFIC CRITERIA FOR METALS [REVOKED]

APPENDIX E. REQUIREMENTS FOR DEVELOPMENT OF SITE-SPECIFIC CRITERIA FOR METALS [NEW]

A. General

Numerical criteria for total recoverable metals to protect aquatic life are referenced in OAC 785:45-5-12(f)(6)(G) and Table 2 of Appendix G of this Chapter. For permitting purposes, such criteria for total recoverable Arsenic, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, Silver, and Zinc may be translated into dissolved metals criteria using the conversion factors referenced in OAC 785:45-5-12(f)(6)(H) and Table 3 of Appendix G.

An additional alternative which may be utilized for permitting purposes is to determine site specific criteria from either the total recoverable or the dissolved criteria. However, federal regulations found at 40 CFR 122.45(C) require that permit limits must be expressed as total metals. Therefore, if dissolved criteria are implemented, they must be translated to site specific total metals criteria to be used in the issuance of permit limits consistent with OAC 785:46.

The permitting authority may issue a total recoverable permit limit if statewide total recoverable criteria are appropriate in the permitting authority's view, and/or satisfactory in the permittee's view. If permit limits obtained using total recoverable criteria are unsatisfactory to the permittee, the permittee may attempt to obtain different permit limits by developing site-specific criteria in accordance with the provisions of this Appendix.

Implementation of site-specific criteria may reduce the margin of safety afforded by implementation of criteria per 785:45-5-12(f)(6)(G) and Table 2 of Appendix G. Therefore, it is important that background concentration (which reduces the assimilation capacity of receiving water) be accounted for when site-specific criteria are implemented. Background concentration determination requires a minimum of twelve samples in Oklahoma.

In order to develop permissible site-specific criteria for the metals specified above, this Appendix must be followed to the satisfaction of the permitting authority and the OWRB. A work plan explaining sampling and analysis procedures and quality assurance/quality control must be approved by the OWRB prior to commencing the site-specific study. Upon completion, results must be submitted to OWRB and the permitting authority. Additional technical guidance is available through Appendices J and L of the "Water Quality Standards Handbook", EPA publication no. 823-B-94-005a (August 1995). Permittees are strongly encouraged to evaluate both the discharge and receiving water using clean sampling techniques.

Upon OWRB approval, site-specific criteria shall be promulgated as part of this Appendix following the next subsequent permanent rulemaking to amend OAC 785:45.

B. Site-Specific Criteria Applicability

Oklahoma's site-specific criteria apply where the maximum concentration on the chronic regulatory mixing zone boundary occurs under critical conditions for small and medium size streams. Oklahoma's site-specific criteria apply on the acute regulatory mixing zone boundary for large streams. Critical conditions include regulatory effluent and receiving stream flows. OAC 785:46-5-2(C) requires that effluent flow, Q_e, be the highest monthly averaged discharge if sufficient data is available, or the design flow otherwise. When chronic criteria implementation is appropriate, OAC 785:45-5-4 requires that the receiving stream flow, Q_u, be the larger of 7Q2 or 1 cfs. One cfs shall be used if the 7Q2 cannot be determined.

The maximum concentration on the mixing zone boundary may be simulated by mixing effluent and receiving water. Percent effluent in receiving water, PE, depends on dilution capacity and shall not exceed 100%. Dilution capacity $Q^* = Q_e/Q_u$ for streams.

The following formulas shall be used to determine PE for receiving streams:

For streams with large dilution capacities, PE equals (194Q*) divided by (1 + Q*), Q* < or equal to 0.1823.

For streams with intermediate dilution capacities, PE equals (100) divided by (6.17 - 15.51Q*), 0.1823 < Q* < 0.3333.

For streams with small dilution capacities, PE equals 100%, Q* > or equal to 0.3333.

PE equals Q_e, Q_e in cfs.
PE < or equal to 100%.

Site-specific criteria in Oklahoma lakes are also based on the maximum concentration on the mixing zone boundary. The following formulas shall be used to determine PE for lakes:

PE equals 4.96D, D > or equal to 3 feet where D is pipe diameter.

PE equals 23.8√W, W > or equal to 3 feet where W is canal width.

PE is less than or equal to 100% for streams and lakes.

If PE is less than 10%, then effluent water effect ratios shall use PE = 10%.

C. Sampling Procedures

The permittee shall collect both receiving water and effluent, and mix them together to obtain PE. Ambient water collections shall be representative of low stream flow events and collected at a location unaffected by the discharge being permitted. Twenty-four (24) hour composite effluent samples representative of normal operation shall be collected at the outfall such that any periodic toxic discharges are captured. Outfalls may be combined proportional to flow if in close proximity. Clean sampling techniques shall be used where possible and samples shall be analyzed by an Oklahoma certified laboratory utilizing generally accepted methods. Dilution water must be made in accordance with EPA's acute biomonitoring manual entitled "Methods for Measuring the Acute Toxicity of Effluents to Aquatic Organisms", EPA publication no. 600/4-90-027 (1991). The pH, hardness, conductivity and alkalinity must be similar to that of the receiving water.

Three options are available if the permittee decides to develop site specific metals criteria for permitting purposes instead of utilizing the total recoverable criteria referenced in 785:45-5-12(f)(6)(G) and Table 2 of Appendix G.

1. Option 1: Water Effects Ratio (WER)

The permittee may obtain a site-specific water effects ratio (WER) to translate a state wide total criterion to a site specific total criterion if the existing permit does not contain requirements for toxicity reduction evaluations or implementation of pollution prevention efforts. Toxicity tests using both laboratory dilution water and PE water must be performed. PE water is obtained by first determining the amount of water required for the toxicity test (e.g. 1L). Since PE ≡ 100Ve/(Ve + Vr), where Ve and Vr are volumes of effluent and receiving water required for the toxicity test, respectively, Ve = PE/100 (L). If PE = 25%, Ve = .25L. Given that Ve + Vr = 1 (L) in this example, Vr = 1 - PE/100, or .75L.

Toxicity tests using two different species are required. Acute 48-hour static renewal definitive toxicity tests shall be performed by the permittee in accordance with the EPA guidance for acute testing identified above. LC50 tests shall be used to determine WER's for both acute and chronic criteria. Toxicity tests require adding metal to both PE and dilution water. It shall not be acceptable to estimate

metal concentrations by measuring the amount added. Total recoverable concentrations must be used to obtain LC50's for both test species for PE and laboratory water in Option 1.

Multiple WER's must be performed. At a minimum, three tests in three different seasons must be performed for two test species. WER is computed as $LC50_{dilution}/LC50_{PE}$. A geometric mean of the WER's is the final water effect ratio, FWER. A minimum of four WER's must be used in the computation of FWER. An explanation of any WER's obtained but not used in computation of FWER must be provided to the permitting authority and OWRB. The total criterion specified in Table 2 of Appendix G is divided by FWER to obtain a site-specific total criterion. Background concentration must be determined to use with the site-specific criterion to develop permit limits.

2. Option 2: Dissolved To Total Fraction

Dissolved and total recoverable concentrations must be obtained to determine a dissolved to total fraction. Samples must be taken from the effluent, receiving water and PE water. The dissolved to total fraction must be successfully computed a minimum of ten times.

The dissolved to total fraction is defined as $f_i = C_{Di}/C_{Ti}$, where C_{Di} is the dissolved concentration in the ith PE sample, and C_{Ti} is the total recoverable concentration. The dissolved fraction for the site shall be determined as the geometric mean for the n samples.

$$\therefore f = \exp\left[\sum_{i=1}^{n} [\ln(f_i)]/n \right]$$

To develop a site-specific criterion from the dissolved fraction alone, divide the dissolved criterion determined from Table 3 of Appendix G by f. The result is a site-specific total recoverable criterion.

3. Option 3: Combining f And FWER

The most definitive method of developing a site specific criterion is to modify a dissolved criterion to account for both the fraction of the concentration biologically available and the difference between the toxicity of the metal in the laboratory dilution water and in PE water. In order to perform option 3, WER's must be obtained using dissolved concentrations. This accounts for differences between the toxicity of the dissolved metal in laboratory dilution water and dissolved metal in PE water.

A translator, T, is obtained as the product of f and dissolved FWER. T is divided into the dissolved criterion determined from Table 3 of Appendix G to obtain a site-specific total recoverable criterion.

D. Site-Specific Criteria Which Have Been Developed in Particular Cases

Subsequent to the initial promulgation of this Appendix, there have been cases in which interested persons have developed site-specific criteria for particular discharges or other circumstances in accordance with this Appendix. Such site-specific criteria are set forth below. These site-specific criteria shall be interpreted according to the following:

C_{ast} = acute statewide total criterion
C_{cst} = chronic statewide total criterion
C_{asd} = acute statewide dissolved criterion
C_{csd} = chronic statewide dissolved criterion
S_{ast} = acute site-specific total criterion
S_{cst} = chronic site-specific total criterion
$FWER_t$ = final total water effects ratio
$FWER_d$ = final dissolved water effect ratio
f = dissolved to total fraction

Acute site-specific criteria are appropriate for large streams and chronic site-specific criteria are appropriate for small and medium size streams.

Options Allowed In Appendix E

Option 1

$S_{ast} = C_{ast}/FWER_t$

$S_{cst} = C_{cst}/FWER_t$

Option 2

$S_{ast} = C_{csd}/f$

$S_{cst} = C_{csd}/f$

Option 3

$S_{ast} = C_{csd}/(f x FWER_d)$

$S_{cst} = C_{csd}/(f x FWER_d)$

1. City of Blackwell Discharge to Chikaskia River

A site-specific criteria modification study has been satisfactorily completed for cadmium for the City of Blackwell.

$FWER_t = 0.0989$
$FWER_d = 0.2905$
$f = 0.18$

The results of the study allow any of the four following criteria to be utilized.

$C_{cst} = 2.2$ µg/L	Statewide criterion
$S_{cst} = 22.24$ µg/L	Option 1
$S_{cst} = 10.68$ µg/L	Option 2
$S_{cst} = 36.76$ µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

2. AES Shady Point Discharge to Poteau River

A site-specific criteria modification study has been satisfactorily completed for copper for AES Shady Point.

$FWER_t = 0.0876$
$FWER_d = 0.1306$
$f = 0.5936$

The results of the study allow any of the four following criteria to be utilized.

$C_{cst} = 9.50$ µg/L	Statewide criterion
$S_{cst} = 65$ µg/L	Option 1
$S_{cst} = 15.3$ µg/L	Option 2
$S_{cst} = 74$ µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

3. City of Idabel Discharge to Mud Creek

A. Lead
A site-specific criteria modification study has been satisfactorily completed for lead for the City of Idabel.

$FWER_t = 2.5912$
$FWER_d = 0.2914$
$f = 0.7157$

The results of the study allow any of the four following criteria to be utilized.

$C_{cst} = 2.3492$ µg/L	Statewide criterion
$S_{cst} = 0.9066$ µg/L	Option 1
$S_{cst} = 2.7104$ µg/L	Option 2
$S_{cst} = 9.3036$ µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

B. Nickel
A site-specific criteria modification study has been satisfactorily completed for nickel for the City of Idabel.

$FWER_t = 1.1244$
$FWER_d = 0.9735$
$f = 0.5798$

The results of the study allow any of the four following criteria to be utilized.

$C_{cst} = 128.8834$ µg/L	Statewide criterion
$S_{cst} = 114.6242$ µg/L	Option 1
$S_{cst} = 221.6226$ µg/L	Option 2
$S_{cst} = 227.6697$ µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

C. Zinc
A site-specific criteria modification study has been satisfactorily completed for zinc for the City of Idabel.

$FWER_t = 0.6714$
$FWER_d = 0.7178$
$f = 0.6213$

The results of the study allow any of the four following criteria to be utilized.

$C_{cst} = 96.6161$ µg/L	Statewide criterion
$S_{cst} = 129.0082$ µg/L	Option 1
$S_{cst} = 137.4592$ µg/L	Option 2
$S_{cst} = 191.4874$ µg/L	Option 3

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

4. Oklahoma Gas & Electric Mustang Generating Station Discharge to North Canadian River at NE 1/4 of NE 1/4 of SE 1/4 of Section 36, T 12 N, R 5 WIM, Canadian County, Oklahoma

A site-specific criteria modification study has been satisfactorily completed for copper for the Oklahoma Gas & Electric Mustang Generating Station discharge to the North Canadian River.

$FWER_t = 0.053$
$FWER_d = 0.224$
$f = 0.368$ (0.37)

The results of the study allow any of the four following criteria to be utilized. All criteria are calculated at an in-stream hardness of 334 mg/L.

$C_{cst} = 35.9$ µg/L	Statewide criterion
$S_{cst} = 677$ µg/L	Option 1
$S_{cst} = 94.0$ µg/L	Option 2
$S_{cst} = 416.0$ µg/L	Option 3 (Recommended in OG&E study)

$C_{ast} = 59.8$ µg/L	Statewide criterion
$S_{ast} = 1128$ µg/L	Option 1
$S_{ast} = 156.0$ µg/L	Option 2
$S_{ast} = 692.0$ µg/L	Option 3 (Recommended in OG&E study)

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

5. City of Poteau Discharge to Poteau River at SE 1/4 of NW 1/4 of Section 30, T 7 N, R 26 EIM, LeFlore County, Oklahoma

A. Copper
A site-specific criteria modification study has been satisfactorily completed for copper for the City of Poteau discharge to the Poteau River.

$FWER_t = 0.1850$
$FWER_d = 0.1765$
$f = 0.2969$

The results of the study allow any of the four following criteria to be utilized. All criteria are calculated at an in-stream hardness of 25.75 mg/L.

$C_{cst} = 4.02$ µg/L	Statewide criterion
$S_{cst} = 21.73$ µg/L	Option 1
$S_{cst} = 13.0$ µg/L	Option 2
$S_{cst} = 73.66$ µg/L	Option 3 (Recommended in Poteau study)

$C_{ast} = 5.35$ µg/L	Statewide criterion
$S_{ast} = 28.92$ µg/L	Option 1
$S_{ast} = 17.31$ µg/L	Option 2
$S_{ast} = 98.09$ µg/L	Option 3 (Recommended in Poteau study)

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

B. Zinc
A site-specific criteria modification study has been satisfactorily completed for zinc for the City of Poteau discharge to the Poteau River.

$FWER_t = 0.4040$
$FWER_d = 0.4276$

The results of the study allow any of the four following criteria to be utilized. All criteria are calculated at an in-stream hardness of 25.75 mg/L. However, option 1 was deemed sufficient to provide relief from a zinc limit in the discharge permit.

C_{cst} = 33.59 µg/L	Statewide criterion
S_{cst} = 83.14 µg/L	Option 1 (Recommended in Poteau study)

C_{ast} = 37.08 µg/L	Statewide criterion
S_{ast} = 91.78 µg/L	Option 1 (Recommended in Poteau study)

6. City of Heavener Discharge to Morris Creek at SE 1/4 of NW 1/4 of Section 30, T 7 N, R 26 EIM, LeFlore County, Oklahoma: Copper

A site-specific criteria modification study has been satisfactorily completed for copper for the City of Heavener discharge to Morris Creek.

$FWER_f$ = 0.1294
$FWER_d$ = 0.1216
f = 0.8595

The results of the study allow any of the four following criteria to be utilized. All criteria are calculated at an in-stream hardness of 25.75 mg/L.

C_{cst} = 4.02 µg/L	Statewide criterion
S_{cst} = 31.07 µg/L	Option 1
S_{cst} = 4.68 µg/L	Option 2
S_{cst} = 38.50 µg/L	Option 3 (Recommended in Morris Ck. study)

C_{ast} = 5.35 µg/L	Statewide criterion
S_{ast} = 41.34 µg/L	Option 1
S_{ast} = 6.22 µg/L	Option 2
S_{ast} = 51.19 µg/L	Option 3 (Recommended in Morris Ck. study)

The discharger may choose the above criterion it wishes to use for discharge permit calculations.

APPENDIX F. STATISTICAL VALUES OF THE HISTORICAL DATA FOR MINERAL CONSTITUENTS OF WATER QUALITY (BEGINNING OCTOBER 1976 ENDING SEPTEMBER 1983, EXCEPT AS INDICATED) [REVOKED]

APPENDIX F. STATISTICAL VALUES OF THE HISTORICAL DATA FOR MINERAL CONSTITUENTS OF WATER QUALITY (BEGINNING OCTOBER 1976 ENDING SEPTEMBER 1983, EXCEPT AS INDICATED) [NEW]

The numbers in the "Segment" column on the far left of this Appendix refer to "WQM Segment" numbers which are described in the Introduction to Appendix A of this Chapter. Wherever a segment appears that is identified with an eight-digit segment number, such segment is a sub-watershed of the preceding six-digit WQM Segment. Details of the locations of these sub-watersheds are available from the Department of Environmental Quality 2002 Integrated Water Quality Assessment Report on file at the office of the Oklahoma Water Resources Board. The numbers in the "Monitoring Station" column refer to the abbreviated numbers of the monitoring stations administered by the U.S. Geological Survey ("USGS"); to change an abbreviated number to the complete number used by the USGS, add the prefix digits "07" and add suffix digits of zeroes in order to produce an eight-digit number. In some cases, "Ambient Trend Monitoring" ("ATM") stations were used from streams where no USGS gauge was located. Numbering of these ATM stations complied with the USGS numbering format. The ATM station data have been considered for all stations, including USGS gauges, where available and have been incorporated into the results for that segment where appropriate. The letters "AVG" in the "Monitoring Station" column indicate an average wherever there are multiple monitoring stations in a WQM Segment; the numbers to the right of the "AVG" represent the averages of the historical data for the various monitoring stations.

SEGMENT	MONITORING STATION	CHLORIDE (mg/l)		SULFATE (mg/L)		TOTAL DISSOLVED SOLIDS AT 180°C (mg/L)	
		YEARLY MEAN STANDARD	SAMPLE STANDARD	YEARLY MEAN STANDARD	SAMPLE STANDARD	YEARLY MEAN STANDARD	SAMPLE STANDARD
120400	1945	492	703	116	153	726	998
	1946	304	393	91	115		
	AVG	**398**	**548**	**104**	**134**	726	998
120410	16557	629	810	140	172	1419	1782
120420	1644	743	971	143	172	1608	2033
	1645	694	878	150	183	1482	1827
	(1)					1398	1743
	AVG	**719**	**925**	**147**	**178**	**1496**	**1868**
121300	1765	89	123	30	41	334	396
	17805	93	119	60	76		
	1784	85	109	60	78		
	(1)					440	544
	AVG	**89**	**117**	**50**	**65**	**387**	**470**
121400	1730	40	55	27	35	264	313
	1742	123	172	32	45	457	590
	1755	131	177	42	56	457	576
	(1)					461	585
	AVG	**98**	**135**	**34**	**45**	**410**	**516**
121500	1714	38	51	86	129	367	512
	1760	74	102	69	93		
	17862	62	81	64	80	332	399
	1788	56	72	67	90		
	1790	70	96	58	76		
	AVG	**60**	**80**	**69**	**94**	**350**	**456**
121510	1710	65	88	88	135	326	411
12151001(4)		194	287	745	963	1232	1572
121600	1850	29	41	126	183	442	547
	1880	19	27	62	82	283	324
	1905	15	20	43	57	184	205
	19122	18	24	29	48		
	1915	29	43	53	73	176	195
	19155	23	34	60	88	241	287
	1935	16	20	43	50	189	207
	AVG	**21**	**30**	**59**	**83**	**253**	**294**
121610	19156	100	148	121	162		
121700	1955	17	23	20	27	184	230
	1960	19	26	23	32	171	219
	1965	17	25	26	37	158	184
	1970	13	19	22	31	133	156
	1980	37	56	35	57	160	195
	AVG	21	30	25	37	161	197

220100	2485	13	19	21	29	104	125
	24944	41	67	48	69	171	228
	AVG	**27**	**43**	**35**	**49**	**138**	**177**

SEGMENT	MONITORING STATION	CHLORIDE (mg/l)		SULFATE (mg/l)		TOTAL DISSOLVED SOLIDS AT 180°C (mg/L)	
		YEARLY MEAN STANDARD	SAMPLE STANDARD	YEARLY MEAN STANDARD	SAMPLE STANDARD	YEARLY MEAN STANDARD	SAMPLE STANDARD
220200	2464	225	295	71	87	534	644
	(1)					490	596
	AVG	**225**	**295**	**71**	**87**	**512**	**620**
220300	2450	83	96	52	60	320	357
220600	2315	346	456	244	335	1062	1328
	2316	63	109	70	112		
	2317	281	371	232	317		
	(1)					612	777
	AVG	**230**	**312**	**182**	**255**	**837**	**1053**
310800	3310	134	184	521	702	1187	1524
310810	3281	109	142	788	983		
	3285	144	198	721	933	3008	4409
	AVG	**127**	**170**	**755**	**958**	**3008**	**4409**
31081001(4) 31081002(4) 31081003(4) 31081004(4) 31081005(4)		106	161	154	248		
310820							
31082001(4) 31082002(4)		137	200	720	997		
310830	3244	92	131	1196	1461	2010	2396
	3255	137	176	1190	1463	2237	2733
	3265	247	387	1004	1287	2457	3157
	AVG	**159**	**231**	**1130**	**1404**	**2235**	**2762**
310840	3242	115	173	1281	1654	2368	3042
311100	3155	1797	2464	866	1161	4746	6290
	3157	310	451	150	237		
	3159	328	447	172	253		
	3160	1594	2175	751	1013	3956	5154
	AVG	**1007**	**1384**	**485**	**666**	**4351**	**5722**
31110003(4) 31110004(4)		239	352	206	298		
311200	31272	2112	2834	948	1231		
	3135	142	195	221	307	904	1137
	3136	395	561	266	376		
	AVG	**883**	**1197**	**478**	**638**	**904**	**1137**
31120000(4)		92	130	248	358		
311210	3134	69	93	344	478		
31121000(4)		92	130	248	358		
311300	3090	65	92	135	173		
	3110	81	102	82	102	472	560
	AVG	**73**	**97**	**109**	**138**	**472**	**560**
311300 trib to Nine Mile Ck[2]		231	262	128	145	809	879

311300 Nine Mile Ck[7]		232	279	124	150	830	950
311500	3045	243	353	781	1040	1777	2284
311310	3112	16	23	21	27	126	151
	311505	357	547	136	209		
	AVG	**187**	**285**	**79**	**118**	**126**	**151**
311510	3015	2328	3924	1413	1869		
	3030	5612	8948	1308	1703		
	(1)					2334	2815
	AVG	**3970**	**6436**	**1361**	**1786**	**2334**	**2815**

SEGMENT	MONITORING STATION	CHLORIDE (mg/l)		SULFATE (mg/l)		TOTAL DISSOLVED SOLIDS AT 180°C (mg/L)	
		YEARLY MEAN STANDARD	SAMPLE STANDARD	YEARLY MEAN STANDARD	SAMPLE STANDARD	YEARLY MEAN STANDARD	SAMPLE STANDARD
311600	3005	645	963	1720	2114		
	30111	690	856	1451	1755	3331	3969
	AVG	**668**	**910**	**1586**	**1935**	**3331**	**3969**
311800	3035	9875	13569	1939	2401		
	(1)					37568	58087
	AVG	**9875**	**13569**	**1939**	**2401**	**37568**	**58087**
410100	33682	285	397	200	277	913	1220
410200	3385	42	64	20	28	125	165
410210	3371	10	14	17	22	62	81
	3379	12	17	19	25	69	89
	AVG	**11**	**16**	**18**	**24**	**66**	**85**
410300	3362	16	24	21	28	1174	2023
410310	3357	7	10	13	18	31	38
410400	3340	38	53	44	65	235	283
	3350	106	149	59	90	427	537
	(1)					114	172
	AVG	**72**	**101**	**52**	**78**	**259**	**331**
410400 Red River Near Hugo[3]	3355	388	503	345	478	1080	1405
410600	3325	34	55	31	44	312	357
410700							
520500	2420	349	451	168	217	1030	1284
	2422	319	409	141	189		
	AVG	**334**	**430**	**155**	**203**	**1030**	**1284**
520510	2417	305	395	148	192		
520520	2399	219	261	260	317		
	24155	451	620	188	239	1196	1523
	AVG	**335**	**441**	**224**	**278**	**1196**	**1523**
520530	2390	270	318	369	469	1156	1240
	2395	267	337	475	640	1300	1552
	(1)					1145	1399
	AVG	**269**	**328**	**422**	**555**	**1200**	**1397**
520600	2294	259	342	309	414		
52060001(4) 52060002(4)		127	197	112	185		
520610	2292	255	353	433	570	1114	1410
520620	2285	336	488	568	724	1458	1849
52062002(4) 52062003(4) 52062006(4)		38	49	1612	1918		
520700	2424	211	276	127	175		
	2425	219	291	117	165		
	2435	222	292	98	134	721	926
	AVG	**217**	**286**	**114**	**158**	**721**	**926**
520710	24235	253	342	159	207	841	1085

520800	2300	104	130	50	73	486	581
	2310	765	1065	75	115	1538	2063
	(1)					1551	2083
	AVG	**435**	**598**	**63**	**94**	**1192**	**1576**
520810	(1)					265	294

SEGMENT	MONITORING STATION	CHLORIDE (mg/l)		SULFATE (mg/l)		TOTAL DISSOLVED SOLIDS AT 180°C (mg/L)	
		YEARLY MEAN STANDARD	SAMPLE STANDARD	YEARLY MEAN STANDARD	SAMPLE STANDARD	YEARLY MEAN STANDARD	SAMPLE STANDARD
620900	1610	4233	5650	519	650	7941	10357
62090001(4)		89	123	73	100		
62090003(4)		135	220	376	657		
620910	1584	12076	17506	1670	2171	18760	26005
	1591	7464	10162	729	921	14809	19580
	15972	174	218	255	304	901	1072
	15975	182	233	242	301	879	1091
	1600	4813	6431	633	799		
	1605	597	864	548	744	1834	2391
	AVG	**4218**	**5902**	**680**	**873**	**7437**	**10028**
62091003(4)		135	220	376	657		
620920	15795	8436	12508	1141	1740	16954	25129
	15796	423	604	2058	2616	3752	4781
	AVG	**4430**	**6556**	**1600**	**2178**	**10353**	**14955**
62092004(4)		158	230	1673	2446		
62092005(4)		349	467	2394	3129		
621000	1505	5658	8174	706	918	10577	14972
	15226	1089	1473	283	360		
	AVG	**3374**	**4824**	**495**	**639**	**10577**	**14972**
62100001(4) 62100003(4) 62100004(4) 62100005(4)		197	273	272	364		
621010	14845	288	388	936	1173	1886	2306
62101001(4)		158	230	1673	2446		
621100	1520	388	586	175	247	1091	1417
62110000(4)		1073	1690	817	1111		
621200	14814	252	321	115	157		
	1525	536	738	144	185	1111	1405
	1530	544	811	45	65		
	AVG	**444**	**623**	**101**	**136**	**1111**	**1405**
621210	(1)	482	728	132	182		
720500	2340	1455	1893	890	1192	3847	4938
	2375	450	562	597	785	1878	2359
	2380	300	379	681	955	1602	1732
	AVG	**735**	**945**	**723**	**977**	**2442**	**3010**
720900							

Notes:

(1) Indicates data obtained from Appendix B, OWQS 1982

(2) Data collected from June 1999 through September 2000

(3) Data collected from November 1959 through December 1982 AND November 1998 through August 2000

(4) Data collected 1998 through 2003

APPENDIX H. BENEFICIAL USE DESIGNATIONS FOR CERTAIN LIMITED AREAS OF GROUNDWATER [NEW]

A. Within Oklahoma there are some bodies or areas of groundwater the quality of which is not suitable for the beneficial uses that are designated on a default basis in OAC 785:45-7-3(b). In most cases this unsuitability is caused by natural conditions or irreversible human-induced impacts such as pollution. Consequently, it is necessary to provide for beneficial use designations for these limited areas of groundwater which are more accurate and appropriate than the default designations in 785:45-7-3(b).

B. The groundwater formations or portions thereof that require special designations are identified in the tables that follow in this Appendix. The groundwater formations or units are identified by their name (e.g., "Garber Wellington") and legal description (e.g., "2-4, 9-11, 13-16 T2N R20W " denoting section(s), Township and Range). The area identified may be localized and not necessarily inclusive of the entire hydrogeologic basin or groundwater formation. The tables also set forth a general description of the physical location above the groundwater formation or unit for use as a general point of reference. The tables also set forth columns to show the groundwater classifications and beneficial uses which are designated for each identified area of groundwater. A "Depth Zone" also is indicated, to which the beneficial uses and "Remarks" listed in following columns are applicable.

C. Designations of beneficial uses for an identified groundwater formation or portion thereof are reflected in the tables by the presence of a dot ("•") in the columns to the right of the groundwater name and location. An empty space in a column means that column's beneficial use or subcategory thereof is not designated for that groundwater. Groundwater not identified in this Appendix is subject to the default designations detailed in OAC 785:45-7-3.

D. The state environmental agency that requested the groundwater formation or unit to be so identified and designated with certain beneficial uses and/or limitations is shown in the column headed "Agency". A specific division within that agency may also be listed. Questions relating to the quality of the groundwater found in any particular formation or unit, or concerns related to any comment in the "Remarks" column, should be addressed to the agency denoted in the "Agency" column.

E. The presence of any comment in the "Remarks" column denotes special circumstances which are applicable only to the groundwater formation or unit so identified. These comments may refer to certain constituents of the groundwater at that location, special well construction requirements, or other information deemed pertinent by the agency that requested this listing.

Groundwater formation name (site name)	Location	Address	Depth Zone (upper-lower limit)	Class* (1-4)	Water Supply	Ag	M&I	Agency	Remarks
Garber Wellington (Thunderhead Hills)	W/2W/2 20 T14N-R2W; W/2 NW/4 and NW/4 SW/4 29 T14N R2W	Along and ¼ mile east of Coltrane from Danforth Rd to Sherrywood Rd, Edmond, Oklahoma County	85 - 200 feet deep; ¼ mile wide by at least 1 ¾ mile long	2		●		Corp Comm, Oil and Gas Div & ACOG	Brine plume moving south about 80 feet/year. Case/cement new wells through upper affected zone.
Garber Wellington (Double Eagle / 4th St superfund site)	S/4 35 T12N R4W	Oklahoma County	0-160 ft	2		●	●	DEQ	Brine, chlorinated solvents and hydrocarbons. Special well construction required.
Boone (Tar Creek superfund site)	13,14,23-26,35,36 T29N R22E 13-36 T29N R23E 17-19,W/2 20, W/2 29, 30-32 T29N R24E 1,E/2 2, E/2 11,12, N/2 13, NE/4 14 T28N R22E 1, W/2 5, 6, 7, W/2 8, NW/4 17, N/2 18 T28N R23E W/2 5, 6 T28N R24E	Ottawa County	0-350 ft	2	●	●	●	DEQ	Toxic metals, special well construction required

Groundwater formation name (site name)	Location	Address	Depth Zone (upper-lower limit)	Class* (1-4)	Water Supply	Ag	M&I	Agency	Remarks
Quaternary Terrace (Kingfisher Wellhead Protection Area)	33, SW/4 36 T18N R7W SW/4 1, NW/4 & S/2 2, N/2 3, N/2 4, NE/4 11, 12 T17N R7W	Kingfisher County	0-100 ft	1	●	●	●	DEQ	Zone 1 WHPA, no pollution sources
Southwestern Oklahoma (Altus AFB area)	34-36 T3N R20W 1-3, 10-15, 22-24 T2N R20W	North of US 62, eastern edge of City of Altus and entire AFB, Jackson County	0-60 ft	3		●	●	OWRB	TCE and by-products, remediation activity in-place

* See OAC 785:45-7-3 for details on classifications.

[OAR Docket #06-742; filed 4-25-06]

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

[OAR Docket #06-745]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
785:46-1-2. Definitions [AMENDED]
785:46-1-6. Determination of ~~7Q2 and seasonal 7Q2~~regulatory low flow [AMENDED]
Subchapter 9. Implementation of Criteria to Protect the Agriculture Beneficial Use
785:46-9-5. Reasonable potential [AMENDED]
Subchapter 15. Use Support Assessment Protocols
785:46-15-3. Data requirements [AMENDED]
Subchapter 19. Implementation of Dissolved Oxygen Criteria to Protect Fish and Wildlife Propagation
785:46-19-2. Regulatory flows [AMENDED]
785:46-19-3. Reasonable potential determination [AMENDED]
AUTHORITY:
Oklahoma Water Resources Board; 82 O.S., § 1085.30; 27A O.S., §§ 1-1-202 and 1-3-101; and 82 O.S., § 1085.2.
DATES:
Comment period:
November 15, 2005 through January 6, 2006
Public hearing:
January 6, 2006
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February 24, 2006
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Gubernatorial approval:
April 6, 2006
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 21, 2006
Final adoption:
April 21, 2006
Effective:
July 1, 2006
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
ANALYSIS:
Oklahoma Administrative Code ("OAC") Section 785:46-1-2, Definitions, has been amended to revise the definition of the term "background concentration". This amendment is needed because the definition of this same term in the related chapter of OAC 785:45, Oklahoma's Water Quality Standards, was recently amended in a related rulemaking proceeding. The intended effect of this amendment of OAC 785:46-1-2 is to avoid a discrepancy between the two definitions.

New language has been adopted in OAC 785:46-1-6, 785:46-19-2 and 785:46-19-3 in order to provide for determinations of regulatory low flow on a site-specific basis in stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, such as the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System. The circumstance which created the need for these amendments is that the existing regulatory flow rules are not designed for a hydrologically modified waterbody. The intended effect of these amendments is to provide flexibility to use appropriate regulatory flow in determination of waste discharge permit limits.

OAC 785:46-9-5, Reasonable potential, has been amended to add language to clarify the tests for reasonable potential to exceed the criteria to protect the Agriculture beneficial use. The circumstance which created the need for these amendments is that some interested persons have perceived an inconsistency between the application of the numeric criteria and the exemption to those criteria. The intended effect of these amendments is to clarify the exemption to the numeric criteria.

OAC 785:46-15-3, Data requirements, has been amended in two ways. First, language has been adopted which allows the utilization of data more than five years old for assessment of use support in streams, and more than 10 years old for assessment of use support in lakes, in certain circumstances. The circumstance which created the need for these amendments is that the Department of Environmental Quality ("DEQ") has encountered instances when assessments on beneficial use support could not be made because the available data did not satisfy the time requirements of the current language, yet the available data would have produced an appropriate assessment. The intended effect of these amendments is to allow older data to be used to augment more recent data and fulfill the minimum data requirements for use support decisions. Second, language pertaining to the Practical Quantitation Limit ("PQL") has been revised to address instances where the PQL is equal to the criterion value. The circumstance which created the need for this amendment is that it has come to the attention of OWRB staff that the current language has a gap which does not address situations where the criterion is equal to the PQL. The intended effect of this amendment is to allow for more precise beneficial use support decisions where the criterion is equal to the PQL.

The rules amendments adopted by the Oklahoma Water Resources Board in this rulemaking implement portions of 82 O.S., §§ 1085.2 and 1085.30, and 27A O.S., §§ 1-1-202 and 1-3-101. Rules related to these rules amendments are codified in OAC Title 785, Chapter 45.
CONTACT PERSON:
Derek Smithee, Water Quality Programs Division Chief, (405) 530-8800

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. GENERAL PROVISIONS

785:46-1-2. Definitions

In addition to definitions of terms found in OAC 785:45-1-2, which are incorporated herein by reference, the following words, terms and notations, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

"7T2" means the seven-day maximum temperature likely to occur with a 50% probability each year. The 7T2 is calculated using a moving average of seven consecutive days for each year in a given record. These seven day receiving stream temperature values are ranked in descending order. An order number, m, is calculated based on the number of years of record, n, with a recurrence interval of 2 years, as $m = (n+1)/2$. The mth highest average temperature is the 7T2.

"A" means mean annual average flow.

"ACR" means acute to chronic ratio.

"Acute to chronic ratio" means LC50/NOEC. The NOEC is the highest concentration at which no effect on test organisms is observed over a relatively long period. Quarterly biomonitoring over the life of the permit is sufficient to determine the ACR if the NOEC and LC50 may be determined. If the ACR is unknown, a default value of 10 may be used for implementation purposes.

"Background concentration" means the ambient concentration ~~not attributable to the effluent at the point of maximum concentration on the mixing zone boundary~~ of a given parameter upstream or upgradient from a facility, practice or activity which has not been affected by that facility, practice or activity.

"Beneficial use limitation" means a more stringent restriction than that required to protect the beneficial use. A prohibition on new point sources is an example of a beneficial use limitation.

"Board" means Oklahoma Water Resources Board.

"BOD" means biochemical oxygen demand.

"C" means maximum concentration on the mixing zone boundary.

"C95" means the 95th percentile maximum likelihood concentration.

"Cb" means background concentration.

"Ce" means effluent concentration.

"cfs" means cubic feet per second.

"Cmean" means the geometric mean of all effluent concentrations analyzed for the toxicant.

"Ct" means the appropriate criterion listed in OAC 785:45.

"CBOD" means carbonaceous biochemical oxygen demand.

"Coefficient of variation" means standard deviation divided by the mean.

"Continuing Planning Process (CPP)" means the most recent edition of the document produced annually by the Oklahoma Department of Environmental Quality which describes water quality programs implemented within the State.

"Continuing toxicity" means a tendency to be toxic.

"Control" means test organisms exposed to 0% effluent as part of the whole effluent toxicity testing procedure.

"Cooling water reservoir" means a privately owned reservoir used in the process of cooling water for industrial purposes.

"CPP" means the Continuing Planning Process document.

"CV" means coefficient of variation.

"D" means diameter of the discharge pipe in feet.

"df" means dilution factor.

"Dilution capacity" means a measure of the ability of the receiving stream to dilute effluent, defined as the ratio of the regulatory effluent flow to the regulatory receiving stream flow.

"Dilution factor" means a measure of the minimum dilution that occurs on the mixing zone boundary.

"Discharge to a lake" means a discharge within the lake's normal pool elevation as listed in the Oklahoma Water Atlas, Oklahoma Water Resources Board Publication 135, May 1990, excluding discharges to lock and dam reservoirs.

"Discharge to a stream" means (1) any discharge outside the normal pool elevation of a lake as such elevation is listed in the Oklahoma Water Atlas, Oklahoma Water Resources Board Publication 135, May 1990, and (2) any discharge to a lock and dam reservoir, such as Webbers Falls Reservoir and Robert S. Kerr Reservoir.

"DO" means dissolved oxygen.

"Drainage area" means the area above the discharge drained by the receiving stream.

"Event mean concentration" means the flow-weighted average for a given storm event. The flow-weighted average is represented as the sum of the loads calculated for a series of storm samples divided by the sum of the discharges calculated for each of the storm samples.

"EPA" means the United States Environmental Protection Agency.

"HQW" means high quality waters as defined in OAC 785:45-3-2(b).

"Implementation Plan" means a Water Quality Standards Implementation Plan developed and promulgated by a state environmental agency as required by 27A O.S. § 1-1-202.

"Increased load" means the mass of pollutant discharged which is greater than the permitted mass loadings and concentrations, as appropriate, in the discharge permit effective when the SWS, HQW, or ORW beneficial use limitation was assigned.

"Lake mixing zone" means a volume extending one hundred feet from the source for implementation purposes, unless otherwise specified in OAC 785:45.

"LC50" means the lethal concentration as defined in OAC 785:45-1-2.

"LMFO" means licensed managed feeding operation as defined in 2 O.S. 9-202.

"Mean annual average flow" means the annual mean flow found in "Statistical Summaries", USGS publication no. 87-4205, or most recent version thereof, or other annual mean flow as approved by the Oklahoma Water Resources Board or the permitting authority.

"Monthly average level" means the concentration of a toxicant in the permit which may not be exceeded by the observed effluent concentration averaged over a calendar month.

"Naturally occurring condition" means any condition affecting water quality which is not caused by human influence, including, but not limited to, soils, geology, hydrology, climate, wildlife, and water flow with specific consideration given to seasonal and other natural variations.

"NLW" means nutrient-limited watershed as defined in OAC 785:45-1-2.

"NOEC" means no observed effect concentration.

"NPDES" means National Pollutant Discharge Elimination System.

"Normal pool elevation" means the elevations listed in the "Oklahoma Water Atlas", Oklahoma Water Resources Board publication no. 135, or most recent version thereof.

"ORW" means Outstanding Resource Waters as defined in OAC 785:45-3-2(a).

"Outfall" means a point source which contains all the effluent being discharged to the receiving water.

"OWQS" means Oklahoma Water Quality Standards.

"Permitting authority" means state environmental agency as defined or provided in Title 27A of the Oklahoma Statutes having jurisdiction as provided by law.

"Persistent toxicity" means toxicity due to effluent constituents which are not subject to decay, degradation, transformation, volatilization, hydrolysis, or photolysis.

"Q*" means dilution capacity.

"Qe" means the regulatory effluent flow.

"Qel" means long term average effluent flow.

"Qes" means short term average effluent flow.

"Qn" means the regulatory receiving stream flow.

"Regulatory mixing zone" means the volume of receiving water described in 785:45-5-26.

"Reasonable potential factor" means the 95th percentile maximum likelihood estimator for a lognormal distribution.

"SS" means sample standard as defined in OAC 785:45-1-2.

"Storm event" means precipitation, after a minimum of 72 hours has elapsed since cessation of previous precipitation, in the watershed of a stream segment that produces a 30 percent rise in stream flow over the average flow of the preceding 72 hours resulting from surface run-off.

"SWS" means Sensitive Public and Private Water Supplies.

"T'" means maximum temperature difference at the edge of the mixing zone boundary.

"Ta" means regulatory ambient temperature.

"Tc" means the temperature criterion.

"Tf" means the 95th percentile maximum observed effluent temperature.

"TDS" means total dissolved solids at 180°C.

"TMDL" means total maximum daily load.

"Total maximum daily load" means the sum of individual wasteload allocations for point sources, safety reserves, and loads from nonpoint source and natural backgrounds.

"Trophic State Index" means a numerical quantification of lake productivity. The Trophic State Index shall be determined by TSI = 9.81 x Ln(chlorophyll-a) + 30.6.

"TSI" means Trophic State Index.

"TSS" means total suspended solids.

"USGS" means United States Geological Survey.

"W" means canal width in feet.

"WET" means whole effluent toxicity.

"YMS" means yearly mean standard as defined in OAC 785:45-1-2.

785:46-1-6. Determination of ~~7Q2 and seasonal 7Q2~~ regulatory low flow

(a) **General.**

(1) **7Q2.** The 7Q2 is calculated as a moving average of seven consecutive days for each year in a given record. These seven-day low flow values are ranked in ascending order. An order number (m) is calculated based upon the number of years of record (n), with a recurrence interval (R) of two years, as m = (n+1)/R, where R = two years. A value of flow corresponding to the mth order is taken as the seven-day, two-year low flow for those historical data.

(2) **Seasonal 7Q2.** The seasonal 7Q2 is calculated as a moving average of seven consecutive days for the applicable dates specified in Table 1 of Appendix G of OAC 785:45 in a given period of record. These seven-day low flow values are ranked in ascending order. An order number (m) is calculated based upon the number of seasons (n) specified in Table 1 of OAC 785:45 Appendix G during the period of record, with a recurrence interval (R) of two years, as m = (n+1)/R, where R = two years. A value of flow corresponding to the mth order is taken as the seasonal seven-day, two-year low flow for those historical data.

(b) **Primary method for determination.** If the 7Q2 or seasonal 7Q2 for a given stream or stream segment is determinable from the United States Geological Survey publications entitled "Statistical Summaries of Streamflow in Oklahoma through 1999" or "Statistical Summaries of Streamflow Records in Oklahoma and Parts of Arkansas, Kansas, Missouri and Texas Through 1984", or the latest version of the Water Quality Management Plan published by the Department of Environmental Quality, then that 7Q2 and seasonal 7Q2 shall be conclusive except as provided otherwise in this section.

(c) **Alternative methods for determination of 7Q2 or seasonal 7Q2.**

(1) In lieu of determining the 7Q2 or seasonal 7Q2 as provided in (b) of this Section, the 7Q2 for a given stream or stream segment may be determined by an affected person or the permitting authority if all of the following conditions are satisfied:

(A) A hydrological modification affecting the flow in the stream is documented to the satisfaction of the Oklahoma Water Resources Board and permitting authority;

(B) At least 10 years of daily flow data comporting with the requirements of this section are available; and

(C) Data from the entire period of record for the stream, unless a different time frame of record is approved by the Board and the permitting authority, are used in the calculation.

(2) If the 7Q2 or seasonal 7Q2 for a given stream or stream segment is not determinable as provided in (b) or (c)(1) of this Section, then the 7Q2 or seasonal 7Q2 for that stream or stream segment may be determined by an affected person or the permitting authority using the calculations provided in (a) of this Section, provided at least 10 years of daily flow data are available for that stream.

(3) If the flow is affected by contributions from gauged tributaries or other permitted discharges, then the 7Q2 or seasonal 7Q2 for a given stream or stream segment may be determined taking those contributions at 7Q2 or seasonal 7Q2, or both, into account on a case-by-case basis if approved by either the Board or the permitting authority.

(4) If the 7Q2 or seasonal 7Q2 for a given stream or stream segment is not determinable as provided in (b), (c)(1), (c)(2) or (c)(3) of this Section, then the 7Q2 or seasonal 7Q2 for that stream or stream segment may be determined by an affected person or the permitting authority using an estimate based upon limited data only if both the method for estimating, and the estimate itself, are approved by both the Board and permitting authority.

(d) **Additional rules for 7Q2 and seasonal 7Q2 determinations.**

(1) Any 7Q2 or seasonal 7Q2 determined with a period of record less than 20 years shall be invalid for any purpose except the issuance of the permit or establishment of the site specific criteria based upon and developed contemporaneously with such 7Q2 or seasonal 7Q2. Any subsequent renewal of such permit must be based upon a fresh determination of the 7Q2 or seasonal 7Q2 until the pertinent period of record equals or exceeds 20 years.

(2) Any subsequent renewal of a permit based upon a 7Q2 or seasonal 7Q2 determined pursuant to (c)(3) or (c)(4) of this Section must be based upon a fresh determination of the 7Q2 or seasonal 7Q2 that takes into account all discharge and flow data from the time the 7Q2 or seasonal 7Q2 was previously determined.

(3) Any subsequent renewal of a permit based upon a 7Q2 or seasonal 7Q2 determined pursuant to (c)(1) of this Section must be based upon a fresh determination of the 7Q2 or seasonal 7Q2 that takes into account whether the hydrological modification continues to exist.

(e) **Alternative method for determination of regulatory low flow.** In stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, including but not limited to the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System, on a site-specific basis a properly designed and implemented hydrologic study approved by the permitting authority and the Board may be used to determine the appropriate regulatory low flow.

SUBCHAPTER 9. IMPLEMENTATION OF CRITERIA TO PROTECT THE AGRICULTURE BENEFICIAL USE

785:46-9-5. Reasonable potential

(a) **General.** The need for a permit limit will be determined on a mineral constituent basis, after application of the reasonable potential equation specified in (b) of this Section, which considers assimilation capacity of the receiving water and effluent variability.

(b) **Reasonable potential equation.** OAC 785:45-5-13(d) requires that complete mixing of effluent and receiving water be taken into account in the reasonable potential equation. The use of mass balance to obtain wasteload allocations for complete mixing is codified at OAC 785:46-7-3(a). Therefore, the reasonable potential equation for mineral constituents is C = (QuBC + QeC95) / Qu + Qe), where C95 = 2.13 Cmean, where Cmean is the geometric mean of all effluent concentrations analyzed for the mineral. If the geometric mean cannot be determined, an arithmetic mean may be used. If sufficient effluent concentration observations exist as determined by the permitting authority, then the permitting authority may compute the 95th percentile concentration and use it as C95, in accordance with OAC 785:46-5-3(b)(1).

(c) **Reasonable potential to exceed yearly mean standard.** Qu = A and Qe = Qel in OAC 785:46-9-5(b) to obtain a long term average concentration in-stream after complete mixing. If C is greater than the higher of the YMS or 700 milligrams per liter for TDS or 200 milligrams per liter for chlorides and sulfates, there is a reasonable potential to exceed an Agriculture beneficial use criterion, ~~so~~ and a permit limit is required.

(d) **Reasonable potential to exceed sample standard.** Qu =0.68A and Qe = Qes in OAC 785:46-9-5(b) to obtain a short term average concentration in-stream after complete mixing. If C is greater than the higher of the SS or 700 milligrams per liter for TDS or 200 milligrams per liter for chlorides and sulfates, there is a reasonable potential to exceed an Agriculture beneficial use criterion, ~~so~~ and a permit limit is required.

SUBCHAPTER 15. USE SUPPORT ASSESSMENT PROTOCOLS

785:46-15-3. Data requirements

(a) **General.** In order to determine whether a given beneficial use of a waterbody is supported, scientific data from the waterbody shall be used as prescribed in this Section. Data shall be collected and analyzed in a manner consistent with testing procedures provided in 785:45-1-4 or practices that are institutionally recognized and appropriate for the parameter of concern and documented in accordance with 785:46-15-3(g). All existing data available for a waterbody shall be used in the analysis, subject to the spatial, temporal and other requirements of this Section.

(b) **Spatial coverage.**

(1) **General for streams.** The spatial extent of assessment of use support in terms of stream miles shall be determined after taking into account existing data, spatial distribution of monitoring sites, sources of pollution and influence of tributaries. Major hydrological features, such as the confluence of a major tributary or a dam, may limit the spatial extent of an assessment based on one station.

(2) **Non-wadable streams.** Unless it is demonstrated to the contrary, a single monitoring site shall be considered representative of no more than 25 stream miles for non-wadable streams.

(3) **Wadable streams.** Unless it is demonstrated to the contrary, a single monitoring site shall be considered representative of no more than 10 stream miles for wadable streams.

(4) **Lakes.** The spatial extent of assessment of use support in terms of lake surface acres shall be estimated based on the spatial distribution of monitoring sites having the requisite number of samples, sources of pollution, influence of tributaries and best professional judgment. Arms or portions of a lake may be treated separately from the main body of a lake. Unless it is demonstrated to the contrary, a single site shall be considered representative of an entire lake or an arm of no more than two hundred and fifty surface acres in size.

(5) **Spatial limitation for sampling sites.** For purposes of this Subchapter, observations, samples, and other data shall not be taken within any regulatory mixing zone.

(c) **Temporal coverage.**

(1) **General.** Observations, samples or other data collected for purposes of assessing use support shall be taken to avoid temporal bias, and seasonality shall be represented in the sampling scheme.

(2) **Streams.** ~~Except for circumstances in which 785:46-15-4(b)(3) or 785:46-15-4(c)(3) applies, data more~~ Data no older than five years old shall ~~not~~ be utilized in assessing use support for a stream unless ~~no~~

(A) the data ~~exists for~~ available from the preceding five year period is insufficient to satisfy the requirements of 785:46-15-3(d) or other more specific minimum requirements provided in this Subchapter, in which case data older than five years old may be utilized, or

(B) the provisions of 785:46-15-4(b)(3) or 785:46-15-4(c)(3) apply.

(3) **Lakes.** ~~Except for circumstances in which 785:46-15-4(b)(3) or 785:46-15-4(c)(3) applies, data more~~ Data no older than ten years old shall ~~not~~ be utilized in assessing use support for a lake unless ~~no~~

(A) the data ~~exists for~~ available from the preceding ten year period is insufficient to satisfy the requirements of 785:46-15-3(d) or other more specific minimum requirements provided in this Subchapter, in which case data older than ten years old may be utilized, or

(B) the provisions of 785:46-15-4(b)(3) or 785:46-15-4(c)(3) apply.

(d) **Minimum number of samples.**

(1) **Streams.** Except when (f) of this Section or any of subsections (e), (h), (i), (j), (k), (l), or (m) of 785:46-15-5 applies, a minimum of 10 samples shall be required to assess beneficial use support due to field parameters including but not limited to DO, pH and temperature, and due to routine water quality constituents including but not limited to coliform bacteria, dissolved solids and salts. Analyses may be aggregated to meet the 10 sample minimum requirements in non-wadable stream reaches that are 25 miles or less in length, and in wadable stream reaches that are 10 miles or less in length, if water quality conditions are similar at all sites. Provided, a minimum of 10 samples shall not be necessary if the existing samples already assure exceedance of the applicable percentage of a prescribed screening level.

(2) **Lakes.** Except when (f) of this Section applies, a minimum of 20 samples shall be required on lakes of more than 250 surface acres to assess beneficial use support due to water quality parameters including but not limited to DO, pH and temperature. A minimum of 20 samples shall likewise be required on such lakes for other routine water quality constituents including but not limited to coliform bacteria, chlorophyll a, and dissolved solids. A minimum of 10 samples shall be required on lakes or arms of 250 surface acres or less. Samples may be aggregated to meet the minimum requirements of this paragraph.

(3) **Toxicants.** Notwithstanding any other provision of this Subchapter, a minimum of five samples shall be required to determine that a beneficial use is supported with respect to all toxicants in water. A determination that a beneficial use is partially supported or not supported with respect to toxicants may be made upon less than five samples. Samples may be aggregated consistent with the spatial and temporal requirements prescribed in (b) and (c) of this Section in order to satisfy the minimum sample requirement of this paragraph. Additional samples for the calculation of pH and hardness dependent acute and chronic criteria shall be collected as required by OAC 785:46-5-8.

(e) **Application of PQL.**

(1) **Criteria above PQL.**

(A) If sample values are below the PQL for a parameter whose criterion is above the PQL, appropriate nonparametric statistical measures shall be used to determine the reporting value.

(B) For waterbodies identified as impaired on the current 303(d) List or 305(b) Report, if sample values are nondetectable for a parameter whose criterion is above the PQL, then such value shall be deemed to be one-half (1/2) of the parameter PQL.

(C) All sample values that are above the PQL shall be the reported values.

(2) **Criteria equal to or below PQL.**

(A) If sample values are below the PQL for a criterion which is less than or equal to one-half (1/2) of the PQL, then the values shall be deemed to be zero (0) until the first test result above the PQL appears. After that time, sample values which are equal to or below the PQL shall be deemed to be equal to the criterion value until four (4) subsequent contiguous samples are shown to be below the PQL. Any subsequent sample values which are nondetectable may be treated as zero (0) until the next test result appears above the PQL.

(B) For those parameters whose criteria are at least two (2) orders of magnitude below the PQL, evidence considered with respect to assessment of use support shall include fish tissue analysis, biological community analysis, biological thresholds wherever available, or other holistic indicators which are appropriate for the beneficial use in question.

(C) If sample values are below the PQL for a criterion which is greater than or equal to one-half (1/2) of the PQL but less than the PQL, then the values shall be deemed to be one-half (1/2) of the criterion value until the first test result above the PQL appears. After that time, sample values which are below the PQL shall be deemed to be equal to the criterion value until four (4) subsequent contiguous samples are shown to be below the PQL. Any subsequent sample values which are nondetectable may be treated as equal to one-half (1/2) of the criterion value until the next test result appears above the PQL.

(D) For waterbodies identified as impaired on the current 303(d) List or 305(b) Report, if sample values are nondetectable for a parameter whose criterion is

below the PQL, then such value shall be deemed to be one-half (1/2) of the criterion value.

(E) All sample values that are above the PQL shall be the reported values.

(f) **Magnitude of criteria exceedance.**

(1) **General.** The magnitude of exceedance, as well as frequency of exceedances, shall be used in determining beneficial use support. Samples shall be taken only during conditions when criteria apply.

(2) **Toxicants.** If two or more concentrations of toxicants exceed criteria or screening levels to protect human health or aquatic life by two orders of magnitude or more, the associated beneficial use shall be deemed to be not supported.

(3) **Dissolved oxygen.** If more than two concentrations of DO in a stream are observed to be below 2 mg/L in any given year, the Fish and Wildlife Propagation beneficial use shall be deemed to be not supported.

(4) **Other parameters.** The magnitude and frequency of exceedances to be used for determining beneficial use support for parameters other than toxicants and DO shall be as prescribed in the rules elsewhere in this Subchapter.

(g) **Quality assurance.** On and after July 1, 2002, data collected for purposes of use support assessment shall be collected using documented programmatic quality assurance and quality control methods substantially in accordance with those required by "EPA Requirements for Quality Assurance Project Plans", EPA publication no. EPA/240/B-01/003 (March 2001). The sampling and testing methods used shall protect the integrity of the sample and provide detailed documentation of analysis.

SUBCHAPTER 19. IMPLEMENTATION OF DISSOLVED OXYGEN CRITERIA TO PROTECT FISH AND WILDLIFE PROPAGATION

785:46-19-2. Regulatory flows

(a) The flow in the receiving stream, Qu, shall be deemed to be the greater of the 7Q2 or 1 cfs. If the 7Q2 is unknown, then Qu shall be deemed to be 1 cfs.

(b) For industrial dischargers with adequate data as determined by the permitting authority, the effluent flow, Qe, shall be deemed to be the highest monthly averaged flow over the previous two years. For all other dischargers, the effluent flow shall be deemed to be the design flow.

(c) Provided, in stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, including but not limited to the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System, the appropriate regulatory low flow in the receiving stream, Qu, shall be as determined on a site-specific basis pursuant to properly designed and implemented hydrologic study approved by the permitting authority and the Board.

785:46-19-3. Reasonable potential determination

(a) A permit limit for oxygen demanding substances is required if there is a reasonable potential that the dissolved oxygen criteria will not be satisfied. Such a reasonable potential is demonstrated whenever an existing discharger proposes to increase the concentration of oxygen demanding substances, a new discharge of oxygen demanding substances is created, or a receiving waterbody is reclassified to a subcategory of the Fish and Wildlife Propagation beneficial use with a more stringent dissolved oxygen criterion.

(b) The permitting authority may base its determination of the reasonable potential upon meeting the dissolved oxygen standard at the applicable ~~seasonal 7Q2~~ regulatory low flow and at the applicable seasonal temperatures.

[OAR Docket #06-745; filed 4-25-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 1. OPERATIONS AND PROCEDURES

[OAR Docket #06-661]

RULEMAKING ACTION:
PERMANENT Final Adoption
RULES:
Subchapter 15. Hunter Education Rules
800:1-15-2. Hunter education certification requirements [AMENDED]
800:1-15-3. Instructors [AMENDED]
800:1-15-4. Administrative requirements [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103, 4-112A; House Concurrent Resolution 1010 (adopted 2005);Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
DATES:
Comment period:
December 1, 2005 through January 13, 2006.
Public Hearings:
Date:
January 9, 2006
Time:
7:00 p.m.
Ada - Pontotoc County Technology Center - 601 W. 33rd
Caddo - Durant Fish Hatchery -2021 Caddo Hwy
Lawton - Lawton Public Library - 410 SW 4th Street
Okmulgee - East Central Electric Cooperative - 2001 South Wood Drive
Tahlequah - Indian Capital Vo-Tech - Herb Roselle Seminar Center - 240 Vo-Tech Rd.
Date:
January 10, 2006
Time:
7:00 p.m.
Altus - Altus Public Library - 421 N. Hudson
Idabel - Kiamichi Technical Center - Intersection of Hwy 70 and 259 North of Idabel
Oklahoma City - Oklahoma Department of Wildlife Conservation - 1801 N. Lincoln Blvd.
Tulsa - Tulsa Technology Center Riverside Campus - Aud. Rm A150 - 801 E. 91st St
Woodward - Northwest Electric - 2925 Williams Ave.
Adoption:
February 6, 2006
Submitted to Governor:
February 9, 2006
Submitted to House:
February 9, 2006

Submitted to Senate:
February 9, 2006
Gubernatorial approval:
March 24, 2006
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 7, 2006.
Final adoption:
April 7, 2006
Effective date:
July 1, 2006
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed rule amendment will adjust hunter education class hours in accordance with House concurrent Resolution (adopted2006) and establish additional certification procedures. House Concurrent Resolution 1010 directed the Wildlife Commission to adopt the rule changing the length of traditional hunter education courses from 10 to 8 hours, and a process needed to be established by which hunters exempt from required hunter education certification in Oklahoma could be tested and, if qualifying, receive certification enabling them to be eligible to hunt in other states.
CONTACT PERSON:
Nels Rodefeld, Assistant Chief of I&E Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK 73105. Phone: 405/521-4635. Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 15. HUNTER EDUCATION RULES

800:1-15-2. Hunter education certification requirements

(a) While attending a hunter education course, students are required to meet a set of requirements.

(1) Students must have a minimum of ~~ten (10)~~ eight (8) hours of instruction per course, no more than 2 hours of which may be range instruction.

(2) Students must score at least 70% on all examinations.

(3) Students shall not exhibit disruptive classroom behavior or refuse to abide by hunter ~~safety~~education curriculum.

(4) The student examination(s) shall be written, except an oral examination may be given to those who have difficulty reading, or are unable to complete the examination due to mental or physical reasons.

(5) All students, regardless of age, shall receive their hunter education certification upon completing the course and passing the examination.

(6) Replacement or duplicate certification cards shall be issued by the Department.

(b) The course shall include, but is not limited to, the following topics: basic firearm safety and handling, firearms cleaning and storage, muzzle loading, bowhunting, wildlife management and conservation, hunter responsibility, survival and wilderness first aid, wildlife identification, laws and regulations.

(c) Requirements for students failing to pass the examination.

(1) Those students failing to pass the examination with a score of 70% or better or failing to demonstrate an attitude of responsibility toward hunting safety will be required to retake the entire ~~ten (10)~~ hour course and examination at a later date.

(2) However, if the volunteer instructor and/or Oklahoma Game Warden determine that the failing student(s) didn't understand the questions on the examination, the volunteer instructor or the Game Warden may elect to go over missed questions with the student. If the student can correctly answer the question(s) they missed, the student may be issued their student card so long as the total score equals or exceeds 70%.

(d) Students may ~~request~~ participate in a Home Study ~~Workbook for outside study~~version of the class. If the student completes the ~~workbook~~required material at home, they are given ~~six (6)~~ four (4) hours credit to apply toward the ~~ten~~ eight hour minimum certification requirement. Students must complete the remaining of four (4) hours under direct supervision of a certified instructor, and students who score at least 70% on the exam and comply with the requirements of paragraph (a), will receive their student certification.

(e) State residents (as verified by a valid driver's license) born before Jan. 1, 1972 and state residents 36 years of age and older, are eligible to receive hunter education certification through an on-line proficiency testing program administered through the Department's Web site. In addition, any resident who has an honorable discharge from the United State Armed Forces, currently on active duty in the United States Armed Forces or a member of the National Guard, is also eligible for this certification.

800:1-15-3. Instructors

(a) Game Wardens are the official Department Hunter Education representative in their assigned area. ~~The~~All Wildlife Department employees may serve as instructors and the Department may allow members of the general public to serve as volunteer instructors for the Hunter Education Certification courses at its discretion.

(b) Game Wardens conduct the ~~ten (10) hour~~ Hunter Education courses independently or they may request assistance from other Game Wardens or a volunteer instructor certified by the Department.

(c) Volunteer instructors may conduct Hunter Education courses without the assistance of a Game Warden so long as the county Game Warden or Warden Supervisor and the Program Coordinator are notified of the time and location of the course in advance. One Department certified instructor shall be present for the duration of all courses conducted by volunteer instructors.

(d) Volunteer instructors must be at least 21 years of age, possess a Hunter Education Certificate approved by the Department, ~~pass a written examination with a score of at least~~

~~ninety (90) percent,~~ be interviewed by a Game Warden or ~~the Program Coordinator~~other approved Department employee, and undergo a background investigation. ~~conducted by a Game Warden.~~

(1) The background investigation and interview will be completed within sixty (60). ~~days after the Game Warden receives an interview form from the Program Coordinator.~~

(2) After an interview and investigation is completed, the applicant will be notified of the Department's decision with thirty (30) days.

(e) Volunteers shall serve at the discretion of the Department, but in no event shall persons convicted of a felony, a misdemeanor crime of domestic violence, or fish and game violations be ~~allowed to volunteer to teach~~ certified as a Hunter Education ~~course.~~volunteer.

(1) Review of complaints shall be handled by the coordinator. If the complaint warrants review of volunteer status, the accused volunteer will be given notice of the allegation against him or her and an opportunity to be heard within a reasonable time.

(2) After investigation of a complaint, the coordinator will report findings to the Director. The Director will make the final decision regarding volunteer status.

(f) All volunteer instructors shall comply with the following requirements:

(1) Complete all Departmental report forms prior to conducting a Hunter Education course.

(2) Attend and complete the Orientation/Teaching Methods/Techniques Instructor Workshop or be recommended by a Game Warden or Department employee, who is an instructor, for certification prior to conducting a Hunter Education course.

(3) Report to the Program Coordinator of the Oklahoma Hunter Education Program and the Game Warden or Warden Supervisor in the county where the volunteer is teaching a course.

(4) Follow the procedures outlined in the Instructor's Procedures Manual while conducting a Hunter Education course.

(5) Within a two year period, either complete additional training through the
Department or outside courses approved by the Department or teach a minimum of one class per year, or submit a letter of support from a Game Warden.

(A) Volunteers who fail to meet this requirement will be classified as inactive and will be ineligible to conduct Hunter Education courses.

(B) Volunteers may be reactivated by notifying the Program Coordinator. ~~within two years after being classified as inactive and attending an instructor Orientation Teaching Workshop.~~

~~(B) To receive credit for a hunter education course, volunteers must teach at least one segment of the course curriculum.~~

800:1-15-4. Administrative requirements

Course report forms and rosters of students shall be submitted in writing to the Program Coordinator by the Game Warden or volunteer instructor of the course.

(1) The course report form shall include the following information: location, hours, dates, city, county and address of the course.

(2) The form shall also include the number of students attending the course, the number of students who failed and the number who were certified.

(3) Course report forms are to be dated and signed by the instructor(s) verifying that the course was conducted in compliance with program requirements. ~~A Game Warden must also sign the form verifying the course was conducted.~~

(4) Course report forms and rosters are to be submitted to the Program Coordinator office by the Game Warden or volunteer instructor of the course within 10 working days of completion of a course.

(5) An estimate of the ethnic background and gender of the students receiving certification shall also be included.

[OAR Docket #06-661; filed 4-17-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 10. SPORT FISHING RULES

[OAR Docket #06-662]

RULEMAKING ACTION:
PERMANENT Final Adoption
RULES:
Subchapter 1. Harvest and Possession Limits
800:10-1-4. Size limits on fish [AMENDED]
800:10-1-5. Bag limits on fish [AMENDED]
STATUTORY AUTHORITY:
Title 29 O.S., Section 3-103, 4-110, 4-120, 6-302, 6-303; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
DATES:
Comment period:
December 1, 2005 through January 13, 2006.
Public Hearings:
Date:
January 9, 2006
Time:
7:00 p.m.
Ada - Pontotoc County Technology Center - 601 W. 33rd
Caddo - Durant Fish Hatchery -2021 Caddo Hwy
Lawton - Lawton Public Library - 410 SW 4th Street
Okmulgee - East Central Electric Cooperative - 2001 South Wood Drive
Tahlequah - Indian Capital Vo-Tech - Herb Roselle Seminar Center - 240 Vo-Tech Rd.
Date:
January 10, 2006
Time:
7:00 p.m.
Altus - Altus Public Library - 421 N. Hudson
Idabel - Kiamichi Technical Center - Intersection of Hwy 70 and 259 North of Idabel
Oklahoma City - Oklahoma Department of Wildlife Conservation - 1801 N. Lincoln Blvd.
Tulsa - Tulsa Technology Center Riverside Campus - Aud. Rm A150 - 801 E. 91st St

Woodward - Northwest Electric - 2925 Williams Ave.

Adoption:
February 6, 2006

Submitted to Governor:
February 9, 2006

Submitted to House:
February 9, 2006

Submitted to Senate:
February 9, 2006

Gubernatorial approval:
March 24, 2006

Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 7, 2006.

Final adoption:
April 7, 2006

Effective date:
July 1, 2006

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATED BY REFERENCE:
n/a

ANALYSIS:
The proposed rule amendments will adjust bag limits and size limits on various fish species and lakes. Proposals include a rule to include Sooner Lake with a limit of twenty (20) striped bass hybrids and/or white bass, or twenty (20) in combination, of which only five (5) may be twenty (20) inches or longer; a current size limit on walleye and saugeye at Foss Lake from 16 inches to 14 inches; and on walleye, sauger and saugeye at Lake Murray from 18 inches to 14 inches.

CONTACT PERSON:
Kim Erickson, Chief of Fisheries Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK 73105. Phone: 405/521-3721. Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. HARVEST AND POSSESSION LIMITS

800:10-1-4. Size limits on fish

There are no length and/or size limit restrictions on any game or nongame fish, except as follows:

(1) All black bass (largemouth, spotted and smallmouth) less than fourteen (14) inches in total length must be returned to the water unharmed immediately after being taken from these waters:

(A) **Lakes and Reservoirs** - Adair Recreation Area, Altus-Lugert, Carl Albert, Carl Blackwell, Copan, Draper, Eufaula, Ft. Cobb, Ft. Gibson, Foss, Grand including all tributaries to state line, Greenleaf, Hefner (applies to largemouth and spotted bass only), Heyburn, Hudson, Hugo, Kaw, Keystone, Oologah, Optima, Overholser (including tailwaters and downstream to NW 10th St. bridge), Sardis, Sooner, Taft, Texoma, Thunderbird, Tom Steed, Waurika and Wister (Wister Lake boundaries are US Highway 271 bridge on Fourche Maline River, US Highway 59 bridge on Poteau River and the low water dam, one-half mile above county road bridge number 156, on Holson Creek).

(B) **McClellan-Kerr Arkansas River Navigation System -** All lakes, cutoffs and oxbows from the Oklahoma-Arkansas line to the Port of Catoosa, including R.S. Kerr, Webbers Falls, W.D. Mayo, Chouteau and Newt Graham Reservoir.

(C) **Department of Wildlife Conservation fishing areas -** Lakes Burtschi, Chambers, Elmer, Etling, Fugate, Jap Beaver, Ozzie Cobb, Schooler, Vincent, Watonga, Wayne Wallace, Dahlgren, and all the ponds and streams within the following Department WMA's, Atoka, Beaver River, Bolen Hollow, Gruber/Cherokee, Cookson, Ellis Co., Ft. Gibson, James Collins, Lexington, Okmulgee, (excluding the Deep Fork River), Pushmataha, Robbers Cave, Sandy Sanders, Spavinaw, Stringtown, the Blue River Public Fishing Area and all ponds and lakes in the Ouachita National Forest.

(2) All black bass (largemouth, spotted and smallmouth) between thirteen (13) and sixteen (16) inches in total length must be returned unharmed immediately after being taken from lakes Birch, Chimney Rock (W.R. Holway), Arbuckle, Lone Chimney, Okmulgee, Vanderwork and Hall.

(3) All largemouth and smallmouth bass between thirteen (13) and sixteen (16) inches in total length must be returned unharmed immediately after being taken from Broken Bow Lake (downstream from the slab at the Narrows), Tenkiller Lake (downstream from Horseshoe Bend boat ramp), and from Lake Elmer Thomas.

(4) All crappie (Pomoxis sp.) less than 10 inches in total length must be returned to the water unharmed immediately after being taken from Lakes Arbuckle, Tenkiller, Hudson, Texoma, Ft. Gibson, including all tributaries and upstream to Markham Ferry Dam and Grand Lake, including all tributaries to state line.

(5) All flathead catfish (Pylodictis olivaris) less than 20 inches in total length must be returned to the water unharmed immediately after being taken statewide.

(6) All walleye, sauger, and saugeye (sauger x walleye hybrid) less than 18 inches in total length must be returned to the water unharmed immediately after being taken statewide, except at ~~Foss Lake where walleye, sauger and saugeye less than 16 inches in total length must be returned to the water unharmed immediately, and at~~ Ellsworth, Foss, Fort Cobb, ~~and~~ Lawtonka and Murray lakes where walleye, sauger and saugeye less than 14 inches in total length must be returned to the water unharmed immediately and at Great Salt Plains Reservoir and tailwater where the size limit does not apply and in the Illinois River below Tenkiller Dam and the Arkansas River from Keystone Dam downstream to the Oklahoma state line where all sauger less than 16 inches must be returned to the water unharmed immediately.

(7) All black bass (largemouth, spotted, and smallmouth) less than twenty-two (22) inches in total length

must be returned to the water immediately after being taken from Lake Arcadia.

(8) All black bass (largemouth, spotted, and smallmouth) between sixteen (16) and twenty-two (22) inches in total length must be returned to the water immediately after being taken from McGee Creek Lake, Lake Nanih Waiya, Lake Raymond Gary, Dripping Springs Lake and Crowder Lake (Washita County).

(9) All largemouth and smallmouth bass less than fourteen (14) inches in total length must be returned to the water unharmed immediately after being taken from Skiatook Lake and Pine Creek Reservoir.

(10) All rainbow trout less than twenty (20) inches in total length must be returned to the water immediately after being taken from the Mountain Fork River from the State Park Dam downstream to the Re-regulation Dam. All brown trout less than twenty (20) inches in total length must be returned to the water immediately after being taken from the Mountain Fork River from Broken Bow Dam downstream to the U. S. Highway 70 bridge, and from the Illinois River from Tenkiller Dam downstream to the U. S. Highway 64 bridge.

(11) All blue catfish and channel catfish less than twelve (12) inches in total length must be returned to the water unharmed immediately after being taken from Texoma Lake.

(12) All smallmouth bass less than eighteen (18) inches in total length must be returned to the water unharmed immediately after being taken from Lake Hefner.

(13) All smallmouth bass between nine (9) and twelve (12) inches in total length must be returned to the water unharmed immediately after being taken from Baron Fork Creek, Flint Creek, Illinois River upstream from the Baron Fork Creek confluence, Lee Creek, and Little Lee Creek. Possession of smallmouth bass between nine (9) and twelve (12) inches in total length at these streams is prohibited.

(14) All smallmouth bass less than twelve (12) inches in total length must be returned to the water unharmed immediately after being taken from Glover River from the confluence with the Little River upstream to the "Forks of the Glover River". Possession of smallmouth bass less than twelve (12) inches in total length at this stream is prohibited.

800:10-1-5. Bag limits on fish

No person shall, during any one day, take, attempt to take, kill, or harvest more than:

(1) Six (6) largemouth, smallmouth, and/or spotted bass or six in aggregate, except at Lake Hefner where the limit on smallmouth bass is one (1) fish 18 inches or longer, in "Close To Home" fishing water where all largemouth bass caught must be returned to the water unharmed immediately after being taken (no harvest allowed), at Texoma Reservoir where the limit is five (5), at Lake Arcadia the limit is three (3), at Lake Konawa, McGee Creek Lake, Lake Nanih Waiya, Dripping Springs Lake, Lake Raymond Gary and Crowder Lake (Washita County) the limit is six (6) of which only one (1) may be twenty-two (22) inches or longer, at Broken Bow, Skiatook and Tenkiller lakes where the limit on spotted bass is fifteen (15) per day, in Baron Fork Creek, Flint Creek, Illinois River upstream from the Baron Fork Creek confluence, Lee Creek, and Little Lee Creek where the aggregate limit is six (6), of which only one (1) smallmouth bass may be twelve (12) inches or longer, and in the Glover River from the confluence with the Little River upstream to the "Forks of the Glover River" where the aggregate limit is six (6), of which only three (3) may be smallmouth bass.

(2) Fifteen (15) channel and/or blue catfish, or fifteen (15) in aggregate, except at all U.S. Forest Service and State Park lakes (not including Lake Murray) and Department of Wildlife Management Area ponds and all Department of Wildlife Conservation fishing areas, in "Close To Home" fishing waters and all waters within the Wichita Mountains National Wildlife Refuge, where the limit is six (6). For scuba divers with spearguns, the limit is three (3) per day or three (3) in aggregate from May 1 through August 31, annually.

(3) Thirty-seven (37) crappie (Pomoxis sp.) except at Blue River Public Fishing and Hunting Area where the limit is six (6) and at lakes Arbuckle, Tenkiller, Hudson, Ft. Gibson including all tributaries and upstream to Markham Ferry Dam and Grand Lake including all tributaries to state line where the limit is fifteen (15).

(4) Six (6) rainbow trout - possession limit of twelve (12) after first day, except in the Mountain Fork River from the State Park Dam downstream to the Re-regulation Dam where the limit is one (1) rainbow trout per day twenty (20) inches or longer in total length (no culling).

(5) Six (6) brown trout, except in the Mountain Fork River below Broken Bow dam downstream to the U. S. Highway 70 bridge, and in the Illinois River from Tenkiller Dam downstream to US Highway 64 bridge where the limit is one (1) fish per day twenty (20) inches or longer in total length.

(6) One (1) Northern pike.

(7) One (1) muskellunge.

(8) Five (5) walleye, sauger and/or saugeye, or five (5) in aggregate.

(9) Fifteen (15) striped bass of which only five (5) may be twenty (20) inches or longer, except in the discharge area of Sooner Reservoir where the daily bag limit is five (5) and at Great Salt Plains Reservoir where the daily bag is twenty (20) of which only five (5) may be twenty (20) inches or longer (no culling).

(10) Ten (10) striped bass and/or striped bass hybrids or ten (10) in aggregate of which only two (2) may be twenty (20) inches or longer in Texoma Reservoir and five (5) striped bass and/or striped bass hybrids or five (5) in aggregate in the Red River below Denison Dam (no culling). This paragraph shall become effective September 1, 1996.

(11) Ten (10) flathead catfish, except in Lake Texoma where the daily limit is five (5), and for noodlers and scuba divers the daily limit is three (3) from May 1 through August 31, annually.

(12) Twenty (20) striped bass hybrids and/or white bass, or twenty (20) in aggregate, of which only five (5) may be twenty (20) inches or longer in lakes Altus-Lugert, Birch, Canton (Canton Lake boundaries are from State Highway 281 to one thousand (1,000) feet below Canton Dam), Carl Blackwell, Foss, Ft. Cobb, Great Salt Plains, Konawa, Ft. Supply, Tom Steed, Sooner and Waurika, including tailwaters and Grand including all tributaries to stateline and below Grand River Dam (Pensacola Dam) downstream to State Highway 82 bridge and Oologah Lake including upstream on all tributaries to stateline and downstream below the dam to the mouth of the Caney River.

(13) Five (5) striped bass hybrids of which only two (2) may be 20 inches or longer in Skiatook Lake.

(14) Five (5) striped bass hybrids in Lake Carl Etling.

(15) Five (5) striped bass hybrid and/or white bass in Optima Reservoir and the discharge area of Sooner Reservoir.

(16) Twenty-five (25) white bass in Lake Texoma.

(17) One (1) paddlefish (Polydon spathula) per day, statewide. The catch and release of paddlefish is permitted year round by use of rod and reel, trotline and throwlines. Paddlefish must be released immediately unless kept for the daily limit. Paddlefish taken by bow and arrow, gigs, spears or spearguns shall not be released. Paddlefish caught and placed on a stringer or otherwise held in possession must be tagged immediately and cannot be released (no culling). Each person must keep their own paddlefish distinctly separate from paddlefish taken by other fishermen. Each cleaned paddlefish, or its meat, eggs, or carcass, must also be tagged and kept separate from all other cleaned paddlefish or its parts. Tagged means plainly labeled with the taker's first and last name, address, and fishing license number. Paddlefish or their parts must remain tagged until the person in possession of the paddlefish or paddlefish parts has reached their residence. Persons fishing trotlines or throwlines must release all paddlefish on their lines, except the one (1) paddlefish held in possession for their daily limit, before leaving the trotline or throwline. Fishermen must cease snagging when they have taken their daily limit of paddlefish into possession.

(18) Release of striped bass and/or striped bass hybrids caught and placed on a stringer, in a live well or otherwise held in possession is prohibited statewide (no culling).

(19) Other fish do not have bag or possession limits.

[OAR Docket #06-662; filed 4-17-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 10. SPORT FISHING RULES

[OAR Docket #06-663]

RULEMAKING ACTION:
PERMANENT Final Adoption
RULES:
Subchapter 5. Area Restrictions and Special Fees
800:10-5-3. Designated trout areas [AMENDED]

AUTHORITY:
Title 29 O.S., Section 3-103, 5-401 and 4-120(B); Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
DATES:
Comment period:
July 15, 2005 through August 15, 2005.
Public Hearings:
No public hearing was scheduled or requested. No comments were received.
Adoption:
September 6, 2005
Submitted to Governor:
September 13, 2005
Submitted to House:
September 13, 2005
Submitted to Senate:
September 13, 2005
Gubernatorial approval:
October 6, 2005
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006.
Final adoption:
March 31, 2006
Effective date:
July 3, 2006
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 5. Area Restrictions and Special Fees
800:10-5-3. Designated trout areas [AMENDED]
Gubernatorial approval:
March 23, 2005
Register publication:
22 Ok Reg 1432
Docket number:
05-773
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
This rule excludes a portion of the Mountain Fork River designated trout area from trout license requirements. However, certain rules regarding possession of trout and fishing restrictions would be retained while fishing in this area.
CONTACT PERSON:
Kim Erickson, Chief of Fisheries Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK 73105. Phone: 405/521-3721. Rhonda Hurst, APA Liaison, phone: 405/522-6279.

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 3, 2006:

SUBCHAPTER 5. AREA RESTRICTIONS AND SPECIAL FEES

800:10-5-3. Designated trout areas

(a) **Designated trout areas and seasons.** The following are the designated trout areas and trout seasons at each area:

(1) The Illinois River and its tributaries from the Tenkiller Ferry Reservoir Dam downstream to the Highway 64 Bridge near Gore, trout season is year-round.

(2) Blue River, within boundaries of the Blue River Public Fishing & Hunting Area (includes Landrum Wilderness Area and Plaster Wildlife Management Unit),

trout season is from November 1 through March 31 of the following year; season is annual.

(3) Lake Watonga located within the boundaries of Roman Nose State Park, trout season is from the November 1 through March 31 of the following year; season is annual.

(4) The Mountain Fork River and tributaries from Broken Bow Dam downstream to U.S. Highway 70 bridge, excluding that portion from the mouth of Rough Branch Creek downstream to the reregulation dam. However, while fishing in this portion of the Mountain Fork River, a valid annual trout license is required to have trout in possession. ~~trout~~Trout season is year-round.

(5) The North Fork of the Red River from Altus-Lugert Dam downstream to the low water dam at State Highway 44A, trout season is from November 1 through March 15 of the following year; season is annual.

(6) Lake Carl Etling located within the boundaries of Black Mesa State Park, trout season is from November 1 through April 30 of the following year; season is annual,

(7) The Fourche Maline River from Carlton Lake Dam downstream to the Robbers Cave State Park boundary a distance of approximately one and one-quarter (13) miles, trout season is from November 1 through March 15 of the following year; season is annual.

(8) Lake Pawhuska trout season is from November 1 through March 31 of the following year; season is annual.

(b) **Trout license requirement.** It shall be unlawful for any person, regardless of residency, age or disability, to fish in "Designated Trout Areas" during trout seasons without having secured from the Department of Wildlife Conservation or its authorized agent, a special, annual trout license. The special trout license shall be in addition to the regular fishing license requirements. The special trout license requirement shall apply only during the November 1 through March 31 special trout season on the Blue River, annually on the Illinois River and Mountain Fork River, from November 1 through March 31 on Lake Watonga, from November 1 through March 15 below Altus-Lugert Dam, from November 1 through April 30 on Lake Carl Etling, from November 1 through March 15 in the Fourche Maline River from Carlton Lake Dam downstream to the Robbers Cave State Park boundary, and from November 1 through March 31 on Lake Pawhuska. All persons possessing trout caught downstream of the Robbers Cave State Park boundary or in tributaries to the designated trout stream are also required to have a trout license during the season; no exceptions.

(c) **General; area restrictions.** The following rules apply to designated trout areas and that portion of the Mountain Fork River from the mouth of Rough Branch Creek downstream to the reregulation dam:

(1) It shall be unlawful to take or attempt to take fish from ~~"Designated Trout Areas"~~ these areas during trout seasons except with rod and reel or pole and line; only one (1) rod and reel or pole and line per person is allowed.

(2) Once a trout is reduced to possession by being placed on a stringer or in the creel of any type, said trout must count toward day's limit and cannot be released.

(3) Fishing in the Mountain Fork River below Broken Bow dam from the old Park dam downstream to the reregulation dam is restricted to artificial flies and lures only and barbless hooks only.

[OAR Docket #06-663; filed 4-17-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 15. COMMERCIAL HARVEST RULES; AQUATIC SPECIES

[OAR Docket #06-664]

RULEMAKING ACTION:
PERMANENT Final Adoption
RULES:
Subchapter 5. Commercial Shad Harvest
800:15-5-2. Licenses and fee requirements [AMENDED]
Subchapter 7. Commercial Mussel Harvest
800:15-7-3. General; operating provisions [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103, 4-103, 4-104, 4-105, 4-129(c); 6-201; 6-202; 7-102.1; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
DATES:
Comment period:
December 1, 2005 through January 13, 2006.
Public Hearings:
Date:
January 9, 2006
Time:
7:00 p.m.
Ada - Pontotoc County Technology Center - 601 W. 33rd
Caddo - Durant Fish Hatchery -2021 Caddo Hwy
Lawton - Lawton Public Library - 410 SW 4th Street
Okmulgee - East Central Electric Cooperative - 2001 South Wood Drive
Tahlequah - Indian Capital Vo-Tech - Herb Roselle Seminar Center - 240 Vo-Tech Rd.
Date:
January 10, 2006
Time:
7:00 p.m.
Altus - Altus Public Library - 421 N. Hudson
Idabel - Kiamichi Technical Center - Intersection of Hwy 70 and 259 North of Idabel
Oklahoma City - Oklahoma Department of Wildlife Conservation - 1801 N. Lincoln Blvd.
Tulsa - Tulsa Technology Center Riverside Campus - Aud. Rm A150 - 801 E. 91st St
Woodward - Northwest Electric - 2925 Williams Ave.
Adoption:
February 6, 2006
Submitted to Governor:
February 9, 2006
Submitted to House:
February 9, 2006
Submitted to Senate:
February 9, 2006
Gubernatorial approval:
March 24, 2006
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 7, 2006.
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April 7, 2006
Effective date:
July 1, 2006

SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 7. Commercial Mussel Harvest
800:15-7-3. General; operating provisions [AMENDED]
Gubernatorial approval:
February 17, 2006
Register publication:
23 Ok Reg 708
Docket number:
06-252
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed rule will remove duplicate language that is already stated in Title 29; 4-103 and correct misspelled words. The Commercial Mussel Harvest rule will require that any mussel shell harvester must notify the local game warden before the harvester goes to the water to harvest shells. This rule change would also require that any mussel buyers must purchase mussel shells using fair market value of the shells.
CONTACT PERSON:
Kim Erickson, Chief of Fisheries Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK 73105. Phone: 405/521-3721. Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1A(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 5. COMMERCIAL SHAD HARVEST

800:15-5-2. Licenses and fee requirements

The following provisions pertain to commercial fishing contracts for the harvest of gizzard shad:

(1) It shall be unlawful for any person, firm or corporation to harvest, attempt to harvest, assist in harvesting, possess, take, kill, catch, or transport for commercial purposes gizzard shad from any waters within this state without having secured from the Department of Wildlife Conservation a contract commercial fishing license, unless harvesting under provisions of 29 O.S., Sections 4-116, 6-401, and 7-102.1. ~~The fee for said license shall be $50.00 for residents and $100.00 for nonresidents.~~

(2) Each ~~license~~ licensee must retain said license on his/her person at all times while harvesting, transporting, and selling gizzard shad or parts thereof. Each licensee transporting or selling such fish outside of state must also have from the Director of the Oklahoma Department of Wildlife Conservation a special permit as prescribed in 29 O.S., Section 4-105.

(3) Prior to issuance of a commercial fishing license for commercial harvest of gizzard shad, the applicant shall file with the Department a good and sufficient surety bond by a surety company licensed to do business in this state in the sum of one thousand dollars ($1,000.00) which shall be subject to forfeiture upon conviction for the violation of any provisions of this subchapter or 29 O.S., Sections 4-103 and 6-201.

(4) Each licensee will be allowed to purchase John Doe helper's license as provided in 29 O.S., Section 4-104. Such license is valid only if the helper is working in the presence of the licensed commercial shad fisherman.

SUBCHAPTER 7. COMMERCIAL MUSSEL HARVEST

800:15-7-3. General; operating provisions

Operating provisions for commercial mussel harvesting shall be in accordance with 29 O. S., Section 4-129 and the following:

(1) **Harvest methods.** It shall be unlawful to take any mussels except by hand only, with or without, the use of diving equipment. No power dredge, crowfeet, common dredge, scrapes or rakes may be used in the taking of mussels.

(2) **Size limit.** It shall be unlawful for anyone to take or possess mussels or shells smaller than the size limits provided in 29 O.S., Section 4-129(D). All undersized mussels shall be immediately returned to the water from which they were taken.

(3) **Season and time of day.** The season shall be open throughout the year from January 1 through December 31. Commercial mussel pickers may harvest from daylight to dark on weekdays only. No mussels shall be harvested except during daylight hours, from sunrise until sunset, Monday through Friday. No mussels shall be harvested at any time on Saturdays or Sundays or the following state holidays: Memorial Day, Independence Day, or Labor Day.

(4) **Reporting.** Each Commercial Mussel Picker shall notify the local game warden in each area where he plans to harvest mussel shells at least one day prior to mussel harvest and shall give the game warden the day and area where he plans to harvest mussel shells. Each Commercial Mussel Dealer must keep accurate records of all mussels purchased within and exported from the State of Oklahoma. These records shall be available for inspection by any agent of the Department at any time. A copy of each mussel purchase transaction must be given to the seller (picker) by the buyer (dealer) at the time of sale on forms provided by the Department. A copy of all mussel purchase transactions and mussel exports shall be submitted to the Department as follows:

(A) Each Commercial Mussel Dealer shall complete and submit to the Department a true and accurate purchase record for each mussel purchase transaction. Each purchase record must contain:

(i) the buyer's name and license number;
(ii) seller's name and license number;
(iii) the pound of mussels purchased;
(iv) the total amount paid for these mussels; and
(v) the price per pound for the transaction.

(B) A copy of each transaction along with a monthly summary must be mailed to the Department by the 15th of each month by each Commercial Mussel Dealer.

(C) Each Commercial Mussel Dealer must supply to the Department shipping bills of lading of all mussels exported from the state during the monthly reporting period. A copy of the shipping bill of lading must accompany all mussel shell shipments from the state.

(D) The shipping bill of lading must contain:

(i) Person, firm or corporation's name transporting mussels out of Oklahoma;

(ii) Person, firm or corporation's name(s) that sold or otherwise provided the mussels to be transported out of Oklahoma;

(iii) Date of shipment;

(iv) Total pounds, live weight, of mussels in the shipment;

(v) Total pounds, dry weight, of mussels in the shipment;

(vi) The mussel harvest season, species legal for harvest and all mussel size restrictions in the state where the mussels were harvested;

(vii) Origin of shipment;

(viii) Destination of shipment; and

(ix) Total purchase price, live weight, of mussels in shipment.

(E) Each commercial mussel dealer must supply to the Department an annual summary report of all mussels purchased within and exported from the State of Oklahoma. This report shall contain:

(i) total pounds of mussels purchased;

(ii) total purchase value of mussels purchased;

(iii) total pounds of mussels exported from Oklahoma;

(iv) total sale price of mussels exported from Oklahoma during the year.

(5) **Severance fee.** Any person who purchases and/or exports mussels from the State of Oklahoma shall pay the Department a severance fee amount 1/8 (12.5%) of the dollar value of purchased shells. Payment shall be computed from the monthly purchase records ~~shipping bills of lading~~ (as described in (~~D~~A) of paragraph (4) of this subsection) and paid by the 15th of the following month. The purchase price of the mussel shells purchased by the Commercial Mussel buyer shall be based on fair market value at time of purchase.

[OAR Docket #06-664; filed 4-17-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 20. RESTRICTION ON AQUATIC SPECIES INTRODUCTION

[OAR Docket #06-665]

RULEMAKING ACTION:
PERMANENT Final Adoption
RULES:
Subchapter 3. Noxious Aquatic Plants
800:20-3-2. List of declared noxious aquatic plant species [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103 and 6-601; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
DATES:
Comment period:
December 1, 2005 through January 13, 2006.
Public Hearings:
Date:
January 9, 2006
Time:
7:00 p.m.
Ada - Pontotoc County Technology Center - 601 W. 33rd
Caddo - Durant Fish Hatchery -2021 Caddo Hwy
Lawton - Lawton Public Library - 410 SW 4th Street
Okmulgee - East Central Electric Cooperative - 2001 South Wood Drive
Tahlequah - Indian Capital Vo-Tech - Herb Roselle Seminar Center - 240 Vo-Tech Rd.
Date:
January 10, 2006
Time:
7:00 p.m.
Altus - Altus Public Library - 421 N. Hudson
Idabel - Kiamichi Technical Center - Intersection of Hwy 70 and 259 North of Idabel
Oklahoma City - Oklahoma Department of Wildlife Conservation - 1801 N. Lincoln Blvd.
Tulsa - Tulsa Technology Center Riverside Campus - Aud. Rm A150 - 801 E. 91st St
Woodward - Northwest Electric - 2925 Williams Ave.
Adoption:
February 6, 2006
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Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 7, 2006.
Final adoption:
April 7, 2006
Effective date:
July 1, 2006
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
This rule will add Savinia species to the "Prohibited Species List" and move alligatorweed from the "Species to Watch List" to the "Prohibited Species List" and add congeneric species and perform various housekeeping measures to correct misspelled words and formatting.
CONTACT PERSON:
Kim Erickson, Chief of Fisheries Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK 73105. Phone: 405/521-3721. Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 3. NOXIOUS AQUATIC PLANTS

800:20-3-2. List of declared noxious aquatic plant species

(a) Pursuant to 29 O. S., Section 6-601, the following plants, seeds or plant parts are hereby declared to be noxious:

(1) Azolla pinnata - Mosquito Fern (aka - Water Velvet, Water Fern)

(2) Caulerpa taxifolia - Caulerpa (aka - Mediterranean Clone of Caulerpa)

(3) Eichhornia azure - Anchored Water Hyacinth (aka - Rooted Water Hyacinth, Blue Water Hyacinth, Saw-petal Water Hyacinth)

(4) Hydrilla verticillata - Hydrilla (aka - Florida Elodea, Star Vine, Oxygen Plant, Oxygen Weed)

(5) Hygrophila polysperma - Hygro (aka - Miramar Weed, Green Hygro, Oriental Ludwigia, East Indian Hygrophila)

(6) Ipomoea aquatica - Water Spinach (aka - Swamp Morning Glory, Chinese Water Spinach, Water Bindweed, Aquatic Morning Glory)

(7) Lagarosiphon major - African Elodea (aka - Oxygen Weed)

(8) Limnophila species - Ambulia (aka - Asian Marshweed, Limno, Red Ambulia, Indian Ambulia)

(9) Lythrum salicaria - Purple Loosestrife (aka - Loosestrife)

(10) Marsilea quadrifolia - Marsilea (aka - European Waterclover, Four-leaf Clover Fern, Water Fern, Water Clover, Hairy Pepperwort)

(11) Marsilea mutica - Australian Waterclover (aka - Varigated Water-clover, Nardoo)

(12) Marsilea minuta - Waterclover

(13) Melaleuca quinquenervia - Paperbark Tree (aka - Melaleuca, Cajeput, Punk)

(14) Monochoria hastata - Cat's Claw (aka - Monochoria)

(15) Ottellia alismoides - Duck Lettuce

(16) Sagittaria sagittifolia - Japanese Arrowhead (aka - Hawaiian Arrowhead, Common Arrowhead, Chinese Arrowhead)

~~(17) Salvinia auriculata - Giant Salvinia (aka - Butterfly Fern, Water Fern, Water Moss)~~

~~(18) Salvinia biloba - Giant Salvinia (aka - Salvinia)~~

~~(19) Salvinia herzogii - Giant Salvinia (aka - Salvinia)~~

~~(20) Salvinia molesta - Giant Salvinia (aka - Salvinia, Water Velvet, Karibaweed, Koi Kandy)~~

(17) Salvinia spp. - all giant and common salvinia species - (aka - Salvinia, Butterfly Fern, Water Fern, Water Moss, Water Velvet, Karibaweed, Koi Kandy, Water Spangles, Floating Fern, South American Pond Fern)

(18) Alternanthera spp. - Alligatorweed and congeneric species (aka - Alligator-weed, Chaff Flower, lilacina, roseafolia)

(~~21~~19) Solanum tampicense - Wetland Nightshade

(~~22~~20) Sparganium erectum - Exotic Bur-reed

(~~23~~21) Glossostigma diandrum - Mud Mat

(b) The following species are classified as "Species to Watch" and are not currently listed as noxious aquatic plants. However, they are aquatic plants whose impact on the Oklahoma environment is presently unknown, and therefore, may be considered for inclusion on the noxious aquatic plant list (above) as additional information becomes available to, and as deemed necessary by, the Department of Wildlife Conservation:

~~(1) Alternanthera philoxeroides - Alligator Weed (aka - Alligator-weed, Chaff Flower)~~

(~~2~~1) Colocasia esculenta - Wild Taro (aka - Green Taro, Elephant Ear, Taro, Dasheen)

(~~3~~2) Egeria densa - Brazilian Waterweed (aka - Common Waterweed, Brazilian Elodea, Anacharis, Oxygen Weed, Elodea)

(~~4~~3) Eichhornia crassipes - Floating Water Hyacinth (aka - Water-hyacinth)

(~~5~~4) Hydrocleys nymphoides - Water-poppy (aka - Hydrocleys, Hydrocleis)

(~~6~~5) Iris pseudacorus - Yellow Iris (aka - Yellow Flag, Yellow Flag Iris)

(~~7~~6) Ludwigia hexapetala - Uruguay Seedbox (aka - Water Primrose)

(~~8~~7) Myriophyllum spicatum - Eurasian Watermilfoil (aka - European Watermilfoil, Watermilfoil, Fox Tail)

(~~9~~8) Myriophyllum aquaticum - Parrotfeather (aka - Parrot's Feather, Watermilfoil, Golden Myriophyllum)

(~~10~~9) Najas minor - Brittle Naiad (aka - Slender Naiad, Spiny leaf Naiad)

(~~11~~10) Nymphoides peltata - Yellow Floating Heart (aka - Floating Heart)

(~~12~~11) Panicum repens - Torpedo Grass (aka - Torpedograss)

(~~13~~12) Pistia stratiotes - Water Lettuce

~~(14) Salvinia minima - Common Salvinia (aka - Water Spangles, Water Fern, Floating Fern, Salvinia, South American Pond Fern)~~

(~~15~~13) Spirodela punctata - Dotted Duckweed (aka - Punctate Duckweed, Spotted Duckweed, Giant Duckweed)

(1~~16~~14) Trapa natans - Water Chestnut (aka - European Water Chestnut)

[OAR Docket #06-665; filed 4-17-06]

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

[OAR Docket #06-666]

RULEMAKING ACTION:
PERMANENT Final Adoption
RULES:
Subchapter 3. Hunting on Corps of Engineers Lands
800:25-3-1. Purpose [AMENDED]
Subchapter 7. General Hunting Seasons
Part 1. General Provisions
800:25-7-3. General Provisions [AMENDED]
Part 5. Upland Game
800:25-7-17. Wild turkey - Spring; dates, limits and open areas [AMENDED]
800:25-7-17.1. Wild Turkey - Spring Youth Season [NEW]
Part 13. Deer
800:25-7-55. Deer-Youth Gun Season [AMENDED]
Part 15. Furbearer
800:25-7-60. Dates and legal furbearers [AMENDED]
800:25-7-61. Bag limits [AMENDED]
800:25-7-62. Open areas [AMENDED]
800:25-7-63. License requirements and fees [AMENDED]
800:25-7-64. General provisions for furbearers [AMENDED]
Part 19. Seasons on Areas Owned or Managed by the Oklahoma Department of Wildlife Conservation and the U.S. Fish and Wildlife Service
800:25-7-86.1. Camp Gruber Maneuver Training Center (CGMTC) [AMENDED]
800:25-7-87. Candy WMA [REVOKED]
800:25-7-90. Cherokee PHA [AMENDED]
800:25-7-98. Fort Cobb WMA [AMENDED]
800:25-7-105.6 Hackberry Flat WRP [AMENDED]
800:25-7-131.2. Osage WMA - Western Wall ~~Primitive Area~~ Unit [AMENDED]
Subchapter 9. Controlled Hunts
Part 1. Guidelines
800:25-9-3. Applications and instructions [AMENDED]
Part 3. Antelope
800:25-9-10. Controlled antelope hunt application and instructions [REVOKED]
800:25-9-11. Cimarron and Texas County (west of Highway 136) landowner permits [AMENDED]
800:25-9-12. General Antelope Regulation [AMENDED]
Subchapter 13. Commercial Hunt Areas
800:25-13-6. Facility requirements [AMENDED]
800:25-13-9. Tagging requirements [AMENDED]
Subchapter 23. Imports/Export Permits
800:25-23-2. Application and fees [AMENDED]
Subchapter 26. Scientific Collector Permit
800:25-26-3. Use [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103 AND 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
DATES:
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December 1, 2005 through January 13, 2006.
Public Hearings:
Date: January 9, 2006
Time: 7:00 p.m.
Ada - Pontotoc County Technology Center - 601 W. 33rd
Caddo - Durant Fish Hatchery -2021 Caddo Hwy
Lawton - Lawton Public Library - 410 SW 4th Street
Okmulgee - East Central Electric Cooperative - 2001 South Wood Drive
Tahlequah - Indian Capital Vo-Tech - Herb Roselle Seminar Center - 240 Vo-Tech Rd.
Date: January 10, 2006
Time: 7:00 p.m.
Altus - Altus Public Library - 421 N. Hudson
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Oklahoma City - Oklahoma Department of Wildlife Conservation - 1801 N. Lincoln Blvd.
Tulsa - Tulsa Technology Center Riverside Campus - Aud. Rm A150 - 801 E. 91st St
Woodward - Northwest Electric - 2925 Williams Ave.
Adoption:
February 6, 2006
Submitted to Governor:
February 9, 2006
Submitted to House:
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Gubernatorial approval:
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Legislative approval:
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Final adoption:
April 7, 2006
Effective date:
July 1, 2006
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 13. Commercial Hunt Areas
800:25-13-6. Facility requirements [AMENDED]
800:25-13-9. Tagging requirements [AMENDED]
Gubernatorial approval:
November 16, 2005
Register publication:
23 Ok Reg 565
Docket number:
05-1616
Availability:
n/a
INCORPORATED BY REFERENCE:
n/a
ANALYSIS:
The proposed rules will clarify what regulations/rules the Department will be enforcing on Corps of Engineers nonlicensed property; include elk and antelope in the big game general provisions; change spring turkey rules to allow more than one tom turkey to be taken in one day; add a new youth only spring turkey season; allow limited harvest of red fox; allow an increase in the harvest limit of raccoons; various wildlife management area season adjustments; remove the once in a lifetime restriction form landowner antelope permits; adjust general antelope regulations; make minimum age restriction for McAAP the same as department areas; add exemptions to Commercial Hunt Areas; adjust application process for Import/Export permits and update various housekeeping measures.
CONTACT PERSON:
Alan Peoples, Chief of Wildlife Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK 73105. Phone: 405/521-3721. Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 3. HUNTING ON CORPS OF ENGINEERS LANDS

800:25-3-1. Purpose

This Subchapter provides for certain types of hunting during legal open seasons on U.S. Army Corps of Engineers

owned and managed lands. Corps of Engineers lands open to hunting, but not licensed to the Oklahoma Department of Wildlife Conservation are open during the same dates, bag limits, method of harvest, and shooting hours ~~dates and under the same regulations~~ as Department managed lands at the respective projects unless otherwise provided.

SUBCHAPTER 7. GENERAL HUNTING SEASONS

PART 1. GENERAL PROVISIONS

800:25-7-3. General provisions

(a) Any person hunting any wildlife in open areas during the deer gun, deer primitive, elk or antelope season with a shotgun and rifled slug, or any rifle or handgun larger than a .22 caliber long rifle, must possess a valid deer, elk or antelope license appropriate for that season unless otherwise exempt. Any person hunting feral hogs in open areas during the deer gun, deer primitive, elk or antelope season with a shotgun and rifled slug, or any rifle or handgun larger than a .22 caliber rimfire, must possess a filled or unfilled deer, elk or antelope license appropriate for that season unless otherwise exempt.

(b) No person while in the field may possess or attempt to harvest any wildlife, except waterfowl and crane, with shotgun utilizing shot larger than conventional BB.

(c) ~~All~~ Any person participating in primitive firearms season, ~~and~~ deer gun seasons, elk season, and antelope season ~~hunters~~ must conspicuously wear both a head covering and an outer garment above the waistline, both totaling 500 square inches or more of clothing, both consisting of daylight fluorescent orange color totaling not less than 400 square inches [Title 29 O.S., Section 5-205, Part A]. All other hunters, except those hunting waterfowl, crow or crane, or while hunting furbearing animals at night must wear either a head covering or upper garment of fluorescent orange clothing during the deer primitive firearms season, ~~and~~ deer gun seasons, elk season and antelope season in areas where these season are open. Persons hunting prairie chickens on John Dahl Wildlife Management Area are exempt.

(d) For purposes of pheasant, turkey, ~~and~~ deer, elk and antelope regulations, "final destination" shall be the hunter's residence or place of consumption.

(e) No person may possess any game bird, animal or other wildlife, or portions thereof that have been taken by another person unless such game bird, animal or other wildlife, contain information giving the taker's name, address, license number, date taken and the number and kind of game bird, animal or wildlife. In addition, information on deer, elk, antelope and turkey must include location of the check station where checked. The person's name and address receiving said wildlife must also appear on the written information.

(f) No person shall concentrate, drive, molest, hunt, take, capture or kill; or attempt to take any wildlife by the aid of any fire or smoke whether man-made or natural.

(g) No person may hunt, chase, capture, shoot at, wound or kill any bear, moose or Rocky Mountain bighorn sheep, except as otherwise provided by statute or Commission rule.

(h) Private landowner regulations regarding any items covered by these rules may be more restrictive, but not less restrictive than these rules.

(i) Dogs may be used in taking all game species in these rules except deer, elk, antelope and turkey.

(j) Except as otherwise provided for by law or Commission rule, nothing shall prohibit the year round pursuit of game, which may be lawfully hunted with the use of hunting dogs, for dog training or sport only. However unless otherwise provided, no person in pursuit of game with hunting dogs outside of the regular harvest season shall have in their possession the means to harvest such game.

PART 5. UPLAND GAME

800:25-7-17. Wild turkey - Spring; dates, limits and open areas

(a) The following hunting dates, bag limits and areas open to hunting apply to spring turkey hunting in counties listed in paragraph (3) of this Section:

(1) **Dates.** The dates for spring turkey hunting shall be April 6 through May 6.

(2) **Daily, season and possession limit.** The season bag limit is three tom turkeys statewide. ~~No more than one tom may be taken in one day.~~ No more than one tom may be taken in any county with a one tom bag limit; no more than two toms may be taken in any county with a two tom bag limit.

(3) **Bag limit and open areas.** The following is a listing of counties open to hunting and the bag limit for those counties:

(A) All counties statewide except Atoka, Choctaw, Coal, Latimer, LeFlore, McCurtain, Pittsburg, and Pushmataha. County bag limits will be determined annually and published in the current Oklahoma Hunting Guide and Regulations.

(b) The following hunting dates, bag limits and areas open to hunting apply to spring turkey hunting in Southeast Oklahoma.

(1) **Dates.** The dates for spring turkey hunting shall be April 6 through May 6.

(2) **Daily, season and possession limit.** The season bag limit is two tom turkeys for the spring season in the Southeast Oklahoma region, comprising the following counties: Atoka, Choctaw, Coal, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha.

(3) **Bag limit and open areas.** Southeast Oklahoma counties only - Atoka, Choctaw, Coal, Latimer, LeFlore, McCurtain, Pittsburg, and Pushmataha. County bag limits will be determined annually and published in the current Oklahoma Hunting Guide and Regulations.

800:25-7-17.1. Wild Turkey - Spring Youth Season

(a) Age Requirements: All youth under 18 years of age. All participants, while hunting, are required to be accompanied by

an adult, 18 years or older. The adult accompanying the youth hunter shall not possess a firearm or bow.
(b) Dates: The dates for the youth season shall be the Saturday and Sunday prior to the opening day of the regular statewide Spring Turkey Season.
(c) Open Areas: The season is open statewide.
(d) Bag Limit. One tom turkey. An unfilled Spring turkey license shall be valid during the regular statewide Spring Turkey Season.

PART 13. DEER

800:25-7-55. Deer-Youth Gun Season

(a) **Age Requirements.** All youth under 18 years of age ~~on the first day of the calendar year~~ and eligible to purchase an antlerless youth deer gun permit. All participants, while hunting, are required to be accompanied by an adult, 18 years or older. The adult shall not hunt, except that the adult may archery hunt with valid licenses while accompanying the youth hunter. The adult hunter accompanying the youth hunter shall not possess any rifle, shotgun, or pistol.
(b) **Dates.** The dates for the youth season shall be a Friday, Saturday, and Sunday as published in the current Oklahoma Hunting Guide and Regulations.
(c) **Open Areas.** The season is open statewide.
(d) **Bag Limit.** One (1) antlerless deer. An unfilled antlerless youth deer gun permit shall be valid during the regular deer gun season in designated antlerless zones.
(e) **Legal means of taking.** All rifles (conventional or muzzleloader), handguns, shotguns or bows legal during the deer gun season shall also be legal during the youth deer season.

PART 15. FURBEARERS

800:25-7-60. Dates and legal furbearers

The following dates apply to the taking of legal furbearers:
(1) **Dates and legal furbearers.** The dates for the taking of furbearers shall be December 1 - January 31 [Title 29 O.S., Section 5-405], except bobcat which season is December 1 - February 28, and those legal furbearers are as follows: Badger, bobcat, gray fox, mink, muskrat, opossum, raccoon, red fox and weasel.
(2) **Open year-round.** The season for taking beaver, striped skunk, nutria and coyote is open year-round.

800:25-7-61. Bag limits

The following daily and season bag limits apply to the taking of legal furbearers:
(1) Daily bag limits:
(A) Bobcat - no bag limit.
(B) Gray fox - 2 per licensee.
(C) Raccoon - ~~6~~10 per licensee.
(D) Red fox - 1 per licensee.
(~~D~~E) Badger, beaver, coyote, mink, muskrat, nutria, opossum, spotted skunk, striped skunk, and weasel - no bag limit.
(2) Season bag limits:
(A) Bobcat - 20 per licensee.
(B) Gray fox/Red fox combined - 6 per licensee, no more than 2 may be red fox.
(C) Raccoon - ~~30~~40 per licensee.
(D) Badger, beaver, coyote, mink, muskrat, nutria, opossum, striped skunk and weasel - no bag limit.

800:25-7-62. Open areas

The following provisions apply to areas which furbearers can be legally taken or are closed to harvest:
(1) **Open statewide.** Badger, beaver, bobcat, coyote, mink, muskrat, nutria, opossum, raccoon, red fox, striped skunk and weasel are open to harvest statewide.
(2) **Closed statewide.** Black bear, mountain lion, ~~red fox,~~ river otter [Title 29 O.S., Section 5-405, Part B], ringtail, spotted skunk, and swift fox are closed to harvest statewide.
(3) **Open East of Interstate 35.** Gray fox can be taken East of I-35 only.

800:25-7-63. License requirements and fees

A special Bobcat-Raccoon-Gray/Red Fox License is required for all who take these species by any means. Holders of an Oklahoma Department of Wildlife Conservation lifetime hunting or lifetime combination license, senior citizen hunting or senior citizen combination license are exempt. No individual may purchase more than one special license. This license is valid through seasons currently in effect for bobcat, raccoon, ~~and~~ gray fox and red fox. Said fee for Oklahoma resident is $9.00 plus $1.00 vendor fee, non-resident is $50.00 plus $1.00 vendor fee.

800:25-7-64. General provisions for furbearers

The following general provisions apply to the taking of furbearers:
(1) **Sale of carcass.** ~~No~~The skinned carcass of any legal furbearer or predator ~~shall~~ may be sold, offered or displayed for sale or bartered at any time. The sale of scent glands from furbearers or predators is permitted.
(2) **Bobcat export tag.**
(A) No bobcat pelt may be held in possession after 10 working days after the close of furbearer season by the taker or buyer, sold, purchased or bartered within Oklahoma, nor taken out of Oklahoma without having first affixed a permanent tag to the pelt, and no one may possess any Oklahoma bobcat pelt without a permanent tag affixed to the pelt. This tag shall serve as an export tag.
(B) The tag must be affixed by an authorized employee of the Oklahoma Department of Wildlife Conservation, a designated agent, or a private tagging station. Private tagging station may charge $0.75 per tag fee.

(C) It is the responsibility of the possessor of the bobcat pelt, not the Department, to ensure that the pelt is legally tagged.

(D) No untagged bobcat harvested in another state may be possessed in Oklahoma.

(3) **Possession of carcasses or hides.**

(A) It shall be illegal to possess live animals, carcasses or raw furs of ~~red fox,~~ swift fox, river otter, mountain lion, bear, ringtail, or spotted skunk, unless proven that each carcass or hide was taken legally outside of the State of Oklahoma.

(B) Proof of legality or origin for carcasses or green hides shall be a tag or other marking device attached to or imprinted on each and every hide in such a way that it cannot be removed intact. The tag or marking must be the official method used by the issuing agency. If any identification is not required by the issuing agency, a hunting or trapping license appropriate to the species taken is required as proof.

(4) **Night hunting of coyotes.** It shall be unlawful to hunt, take or attempt to take coyotes within the period of dark to daylight with the aid of any artificial light and/or any sight dog. Persons hunting at night must first obtain permission from the County Game Ranger. Anyone hunting at night must use a shotgun, utilizing size 6 shot or smaller.

PART 19. SEASONS ON AREAS OWNED OR MANAGED BY THE OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION AND THE U.S. FISH AND WILDLIFE SERVICE

800:25-7-86.1. Camp Gruber Maneuver Training Center (CGMTC)

The following hunting and trapping seasons apply to designated open areas on Camp Gruber MTC.

(1) Quail: Open the Monday following the close of deer gun season, closes same as statewide date.

(2) Pheasant: Closed season.

(3) Prairie chicken: Closed season.

(4) Turkey-Fall:

(A) Archery: Same as statewide season dates, either-sex.

(B) Gun: Closed season.

(5) Turkey-Spring: Same as statewide season dates, 1 tom limit.

(6) Squirrel: Same as statewide season dates, except closed from opening day of deer archery season through deer gun season.

(7) Rabbit: Same as statewide season dates, except closed from opening day of deer archery season through deer gun season.

(8) Crow: Same as statewide season dates, except closed from opening day of deer archery season through deer gun season.

(9) Dove: Same as statewide season dates, except closed from opening day of deer archery season through deer gun season.

(10) Rail and gallinule: Same as statewide season dates, except closed from opening day of deer archery season through deer gun season.

(11) Common snipe: Open the Monday following the close of deer gun season, closes same as statewide date.

(12) Woodcock: Open the Monday following the close of deer gun season, closes same as statewide date.

(13) Deer-archery: Same as statewide season dates.

(14) Deer-primitive firearms: Same as statewide season dates, except open to antlerless hunting the first ~~2 days only.~~and second weekends only.

(15) Deer-gun: Same as statewide dates, except closed to antlerless deer hunting.

(16) Trapping: Same as statewide season dates.

(17) Pursuit with hounds: Same as statewide dates, except closed from opening day of deer archery season through deer gun season. In addition, closed during spring turkey season.

(18) Predator/furbearer calling: Same as statewide dates, except closed from opening day of deer archery season through deer gun season. In addition, closed during spring turkey season.

(19) Waterfowl: Same as statewide season dates except closed opening day of deer archery season through deer gun season.

800:25-7-87. Candy WMA [REVOKED]

~~The following hunting and trapping seasons apply to the Candy WMA:~~

~~(1) Quail: Same as statewide dates, except closed during deer gun season.~~

~~(2) Pheasant: Closed season.~~

~~(3) Prairie chicken: Closed season.~~

~~(4) Turkey - Fall:~~

~~(A) Archery: Same as statewide season dates, either sex.~~

~~(B) Gun: Same as statewide season dates, either-sex.~~

~~(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.~~

~~(6) Squirrel: Same as statewide dates, except closed during deer gun season.~~

~~(7) Rabbit: Same as statewide season dates, except closed during deer gun season.~~

~~(8) Crow: Same as statewide season dates.~~

~~(9) Dove: Same as statewide season dates.~~

~~(10) Rail and gallinule: Same as statewide season dates.~~

~~(11) Common snipe: Same as statewide dates, except closed during deer gun season.~~

~~(12) Woodcock: Same as statewide season dates, except closed during the deer gun season.~~

~~(13) Deer - archery: Same as statewide season dates.~~

~~(14) Deer - primitive firearms: Same as statewide season dates.~~

~~(15) Deer - gun: Controlled hunts opening weekend with remainder of season buck only hunting.~~
~~(16) Trapping:Open to water sets and live box traps only.~~
~~(17) Pursuit with hounds: Same as statewide dates.~~
~~(18) Predator/furbearer calling: Same as statewide season dates, except closed during deer gun season.~~
~~(19) Waterfowl: Same as statewide season dates, except closed during deer gun season.~~

800:25-7-90. Cherokee PHA

The following hunting and trapping seasons apply to the Cherokee PHA:

(1) Quail: Same as statewide season dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey-Fall:
(A) Archery: Same as statewide season dates, either-sex.
(B) Gun: Closed season.
(5) Turkey-Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed from opening day of archery season through first nine days of deer gun season.
(7) Rabbit: Same as statewide dates, except closed from opening day of archery season through first nine days deer gun season.
(8) Crow: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
(9) Dove: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
(10) Rail and gallinule: Same as statewide dates except closed from opening day of archery season through first nine days of deer gun season.
(11) Common snipe: Same as statewide dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(12) Woodcock: Same as statewide dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(13) Deer-archery: Same as statewide season dates.
(14) Deer-primitive firearms: Same as statewide season dates, except open to antlerless hunting the first ~~2 days only.~~and second weekends only.
(15) Deer-gun: Same as statewide dates, except closed to antlerless deer hunting.
(16) Trapping: Same as statewide season dates, except closed first nine days of deer gun season.
(17) Pursuit with hounds: Same as statewide dates, except closed from opening day of archery season through first nine days of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed from opening day of archery season through first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates, except closed from opening day of archery season through first nine days of deer gun season.

800:25-7-98. Fort Cobb WMA

The following hunting and trapping seasons apply to the Fort Cobb WMA: Unless otherwise provided, hunting is restricted to shotgun or bow and arrow only.

(1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey-Fall:
(A) Archery: Same as statewide season dates.
(B) Gun: Closed season.
(5) Turkey-Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates, ~~steel shot only.~~federally approved nontoxic shot only.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
(13) Deer-archery: Same as statewide season dates.
(14) Deer-primitive firearms: Controlled hunts only.
(15) Deer-gun: Same as statewide season dates, except closed last seven days. ~~Shotgun only.~~
(16) Trapping: Open to water sets and live box traps only.
(17) Pursuit with hounds: Same as statewide season dates.
(18) Predator/furbearer calling: Same as statewide season dates.
(19) Waterfowl: Same as statewide season dates.

800:25-7-105.6. Hackberry Flat WRP

The following hunting and trapping seasons apply to the Hackberry Flat WRP:

(1) Quail: Same as statewide season dates except closed October 15 - January 31.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Closed season.
(B) Gun: Closed season
(5) Turkey - Spring: Closed season.
(6) Squirrel: Closed season.
(7) Rabbit: Same as statewide season dates except closed October 15-January 31.
(8) Crow: Same as statewide season dates except closed October 15-January 31.

(9) Dove: Same as statewide season dates except closed October 15-January 31.
(10) Rail and gallinule: Same as statewide season dates except closed October 15-January 31.
(11) Common snipe: Same as statewide season dates except closed October 15-January 31.
(12) Woodcock: Closed season.
(13) Deer-archery: Same as statewide season dates except closed October 15 - January 31.
(14) Deer-primitive firearms: Closed season.
(15) Deer-gun: Closed season.
(16) Trapping: Closed season.
(17) Pursuit with hounds: Same as statewide season dates except closed October 15-January 31.
(18) Predator/furbearer calling: Same as statewide season dates except closed October 15-January 31.
(19) Waterfowl: Same as statewide season dates except closed at 1:00 p.m. daily and closed October 15-January 31.
(20) All shotgun hunting is restricted to federally approved nontoxic shot.

800:25-7-131.2. Osage WMA - Western Wall ~~Primitive Area~~Unit

The following hunting and trapping seasons apply to the Osage WMA Western Wall Primitive Area. Unless otherwise provided, firearms are restricted to .22 rimfire and shotguns with pellets.

(1) Quail: Same as statewide season dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates, except closed from the opening day of deer primitive season through deer gun season.
(B) Gun: Closed season.
(5) Turkey - Spring: Same as statewide season dates, one (1) tom limit.
(6) Squirrel: Same as statewide season dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(8) Crow: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
(9) Dove: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
(10) Rail and gallinule: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
(11) Common snipe: Same as statewide season dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(13) Deer - archery: Same as statewide season dates, except closed from the opening day of deer primitive season through the first nine (9) days of deer gun season.
(14) Deer - primitive firearms: Controlled hunts only.
(15) Deer - gun: ~~Closed season.~~Controlled hunts only.
(16) Trapping: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
(17) Pursuit with hounds: Same as statewide season dates, except closed from opening day of deer archery season through deer gun season and spring turkey season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
(19) Waterfowl: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.

SUBCHAPTER 9. CONTROLLED HUNTS

PART 1. GUIDELINES

800:25-9-3. Applications and instructions

The following is the application and instructions for participating in controlled hunts:

(1) The number of names allowed per application will be determined for each hunt annually.
(2) Those persons who are drawn for elk hunts in 1985 or any year thereafter shall be disqualified from participating in elk hunts for a period of ten (10) years from the year of selection. Those persons who are drawn for antelope hunts in 1992 and any year thereafter shall be disqualified from participating in antelope hunts for a period of ten (10) years from the year of selection. Those persons drawn for an elk hunt or antelope hunt in 2002 or any year thereafter shall be disqualified from participating in the elk or antelope hunt for the remainder of their lifetime, except for Cimarron and Texas County landowners antelope permits.
(3) Minimum age for participating in controlled hunts ~~on Wildlife Management Areas~~ unless otherwise specified is 14 years (except special youth hunts) with Hunter Safety Certification. Minimum age shall be 18 years for hunts on the ~~McAlester AAP and~~ Wichita Mountains NWR. Proof of certification and age are required at check-in upon entering hunt areas.
(4) Applications and instructions for permits will be available annually from hunting and fishing license dealers throughout the state, or by writing the Oklahoma Department of Wildlife Conservation, P.O. Box 53465, Oklahoma City, Oklahoma 73152.
(5) Applicants must provide the personal data requested and specifying the category and hunt numbers desired.

(6) Persons may enter each category once. Any applicants appearing on more than one application in any one category may be disqualified from all current hunts and may be barred from participating in all hunt drawings for a period of five (5) years.

(7) Nonambulatory hunt applicants must provide certification of a medical doctor that the applicant has single or double amputation of legs or have paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord.

PART 3. ANTELOPE

800:25-9-10. Controlled antelope hunt application and instructions [REVOKED]

~~The following is the application and instructions for participating in the controlled antelope hunts:~~

~~(1) One (1) applicant per application~~

~~(2) Those persons who were drawn for antelope hunts in 1992 and any year thereafter shall be disqualified from participating in any antelope hunts for a period of ten (10) years from the year of selection. This regulation does not apply for landowner permits.~~

~~(3) Minimum age for participating in the antelope controlled hunt is 14 years of age and hunter safety certification requirements apply.~~

~~(4) Applications and instructions for permits will be available at license dealers throughout the state or by contacting the Oklahoma Department of Wildlife conservation, P.O. Box 53465, Oklahoma City, OK 73152.~~

800:25-9-11. Cimarron and Texas County (west of Highway 136) landowner permits

(a) Minimum acreage per application shall be 160 acres and must be located in Cimarron and/or Texas County (west of Highway 136). ~~Acreage~~ Properties may not be split to increase number of entries.

(b) Application may only be filled out and submitted by the owners or operators of the lands contained within the application. Claimants of "hunting leases" do not qualify as either owners or operators. Applicants qualifying for drawing are owner, operators, or immediate family residing in Cimarron and/or Texas County. Immediate family members attending college out of county may apply. General farm and ranch employees do not qualify as operators.

(c) Federal lands (Rita Blanca) are excluded from application.

(d) ~~Landowners~~ Landowner either sex permits are valid only on the lands submitted on the application for the ~~early season buck hunt~~ September season. However, any unfilled permit automatically becomes valid for a doe for the December and January doe season~~hunts~~ in Cimarron and/or Texas County (west of Highway 136) with written landowner permission. Landowner doe only permits are valid anywhere in Cimarron and/or Texas County (west of Highway 136) with written landowner permission.

(e) Landowner permits are transferable one time only. If a landowner chooses to transfer the permit, it must be transferred no later than 14 days prior to the opening date of the ~~buck antelope hunt~~September season. Upon transfer, the landowner must mail transfer information to Oklahoma Department of Wildlife Conservation, 3014 Lakeview, Woodward, OK 73801, Attn: Wildlife Division. Transfer information must include the hunters' name, hunting license number, mailing address, telephone number and additional fees if applicable.

(f) Landowner permits are not once in a lifetime.

800:25-9-12. General Antelope Regulation

(a) General regulations for antelope shall be the same as those established for deer gun season.

(b) Any antelope or any portion of any antelope transferred to another person must have the hunter's name, address, hunting license number and date harvested attached to the animal. The person's name and address receiving said wildlife must also appear on the written information.

(c) Private landowner regulations regarding any items covered by these rules may be more restrictive, but not less restrictive than these rules.

(d) The following provisions apply to the tagging and checking of antelope.

(1) Persons taking an antelope shall immediately attach their name and license number to the carcass.

(2) Persons taking an antelope must directly take the antelope to the ~~Boise City~~ check station in Cimarron or Texas County where it will be tagged with a carcass tag that shall remain with the carcass through processing, transportation and storage.

(3) Evidence of sex (head) must not be removed until the carcass has been checked.

(e) The yearly statewide bag limit for antelope is ~~one~~ two (2) antelope, which may include no more than one (1) buck. Antelope taken on controlled hunts are not bonus antelope and count towards the statewide bag limit. ~~of one antelope.~~

(f) A buck antelope is any antelope, regardless of sex, with a black cheek patch.

(g) All antelope hunters are required to have written permission on property that they are hunting and must carry this permission on their person while hunting. However, landowners, lessee, or immediate family hunting on their own property are exempt.

(h) Hunter fluorescent orange clothing requirements are the same as those required for deer gun season.

SUBCHAPTER 13. COMMERCIAL HUNT AREAS

800:25-13-6. Facility requirements

The facility requirements on a Commercial Hunting Area for wildlife are as follows:

(1) **Birds only.** The minimum requirement for fencing a bird area is a four strand barb wire fence.

(2) **Wildlife other than birds hunted for sport.** The minimum requirements for wildlife is at least eight foot of welded or woven wire or cyclone fence and the top two feet of the eight foot fence can be barbed wire, and must be fenced in a way to prevent licensed wildlife from escaping and big game animals belonging to the state from entering and be capable of retaining animals within the specified area, or other similar or suitable approved fence.

(3) **Type of signs.** The type of signs to be used on a Commercial Hunting Area must be metal signs, or other weather- proof material and these signs must be posted at all corners and entrances and along the boundary at 1/3 mile intervals. If a licensee chooses not to renew their Commercial Hunting Area license, then the signs shall be removed from the area by October 1st of the same year. No person shall post or cause to be posted Commercial Hunting Area signs unless the area posted has been licensed by the Department as a Commercial Hunting Area.

(4) **Size of signs.** The size of signs to be used on a Commercial Hunting Area should be 24" x 12" and the signs must be placed facing outside on boundary lines.

(5) **Wording of signs.** The signs on a Commercial Hunting Area must contain the wording, "Commercial Hunting Area Licensed by Oklahoma Department of Wildlife Conservation". The signs must also display the Commercial Hunting Area license number for the area on the same side of the sign as the mandated wording.

(6) **Final Enclosure.** Prior to final enclosure of areas for the hunting of wildlife other than birds a drive must be made throughout the area in the presence of designated Department employees to make a reasonable effort to ensure that any wild whitetail or mule deer, elk, antelope, or other big game, are not present on the area. No wild whitetail or mule deer, elk, antelope, or other big game are to be reintroduced into the area after the final enclosure.

(7) **Inspection.** The Commercial Hunting Area to be hunted must be inspected and approved by personnel of the Department and all records, and facilities, of such areas shall be available for inspection at all reasonable times by authorized representatives of the Department, and/or authorized representatives of the Department of Agriculture. The Department of Agriculture may request blood and/or meat samples be collected from all deer and elk killed and sent to their Department.

(8) **Exemptions:** Any area that has been enclosed by a fence deemed suitable for containing big game animals for a minimum of 10 years prior to applying for this license shall be exempt from conducting a drive throughout the area to ensure no wild deer, elk, antelope or other big game are present on the area, as required in paragraph (6) above.

800:25-13-9. Tagging requirements

(a) All wildlife must be tagged with tags available from the Oklahoma Department of Wildlife Conservation before being transported from the commercial hunting area [29 O.S., Sections 5-101 through 5-103].

(b) Any elk, mule deer, whitetail deer, pronghorn antelope or turkey must be tagged or otherwise permanently marked with appropriate commercial tags prior to the release and harvest of such animals. However, this tagging requirement does not apply to any elk, mule deer, whitetail deer, pronghorn antelope or turkey harvested during the appropriate regular hunting seasons for such animals for that specific area of the state. After the third consecutive year of being licensed for such animals and inspection by a designated Department employee that wild elk, deer, or antelope are not gaining access to the Commercial Hunting Area the tagging of the licensed elk, deer, or antelope before harvest will not be mandatory.

(c) Licensee must sign a written invoice which shall accompany such wildlife to final destination. These invoices shall be evidence of rightful possession and ownership for a period of twenty days from the date of said invoice. A copy of such invoices must be permanently kept for at least one year from date of expiration of license by the commercial propagator and must also include whether the birds were shipped alive or dead. Such invoice should contain the following:

(1) The propagator's permit number.

(2) The kind and number of each species killed, sold, given away, transported or shipped.

(3) The name and address of the recipient.

(4) The date received from licensee.

(d) Exemptions: Any area that has been enclosed by a fence deemed suitable for containing big game animals for a minimum of 10 years prior to applying for this license shall be exempt from the requirements of paragraph (b) above.

SUBCHAPTER 23. IMPORTS/EXPORT PERMITS

800:25-23-2. Application and fees

(a) Unless otherwise provided for in State Statute or administrative rules, anyone shipping or otherwise transporting wildlife, other than raptors, into or out of the State of Oklahoma must first have authorization from the Department. A fee will be changed to cover the costs of processing and handling the issuance of the permit. The issuance of an import or export authorization number shall constitute written authority from the Department for such import or export.

(b) The following are the procedures for obtaining a permit number.

(1) Applicant may obtain a permit number by appearance at Department Headquarters in person free of charge.

(2) All permit numbers issued by mail or fax may be charged a five dollar ($5.00) fee. A prepaid account may be established by persons wishing to fax or mail requests.

(3) Applicant shall provide all information required by the Department or permission for import or export may be denied.

(4) Licensed breeders may submit monthly export reports on forms prescribed by the Department in-lieu of individual shipment requests for export. Licensed breeders must submit annual reports of previous activity when reviewing the license. The annual report shall cover the wildlife acquisitions that occurred since their last annual report and must contain all wildlife that was held at the beginning of the reporting period. If this is the breeder's

first year of operation then the reporting period will be from when the initial inspection was conducted up to the renewal of the license. ~~from the previous year by January 31.~~If the license is not going to be renewed the annual report of previous activity must be submitted within thirty (30) days following the expiration date of the license.

(5) Licensed breeders may ship or otherwise transport to export from the confines of the State any wildlife lawfully bred or propagated without a permit.

(6) The applicant must list the Department authorization number on all health papers required by the State Agriculture Department.

~~(7) Any person wishing to import a cat or bear that may grow to reach 50 lbs or more and will be maintained within the State of Oklahoma for more than 7 days, must have a current Oklahoma Commercial Breeders license and facility inspection form on file at Department Headquarters, prior to issuance of an authorization number. Persons exempted from this are: bona fide zoos, circuses, and educational facilities. However, all persons bringing into the State or maintaining within the state any said cat or bear must meet the minimum caging requirements established by the Department.~~

SUBCHAPTER 26. SCIENTIFIC COLLECTOR PERMITS

800:25-26-3. Use

(a) A copy of the approved application must be carried with the collector permit when sampling or collecting in the field.

(b) The permit holder must notify the Law Enforcement Division at least twenty-four hours prior to the time of sampling or collecting in any county. Notification must be made prior to each trip, unless prior arrangements to the contrary have been made with the Game Warden(s) in the counties involved.

(c) Instructors in charge of educational classes may take classes into the field and allow students to collect in their presence under their permit. If students collect or sample fish or wildlife when the instructor is not present, they must have their own permit. Students collecting or sampling in the field, under the permit of an instructor, and in the presence of an instructor, are not required to have a hunting or fishing license, or individual permit except as provided in (5).

(d) Except as stipulated in (~~5~~e), persons who sample or collect fish or wildlife under a scientific collector permit are not required to possess a fishing or hunting license.

(e) The permit does not authorize the holder to collect game, furbearing, or predatory species with firearms, bows and arrows, or fish with any hook and line method without a valid Oklahoma hunting and/or fishing license. The following species may not be taken under a scientific collector permit: deer, bear, elk, antelope, or wild turkey.

(f) This permit does not authorize sampling or collecting on State or Federal Refuge or Wilderness Areas.

(g) Only those specific species, areas, and methods approved by the Department will be covered by the permit. Any variations from the above rules must be covered by specific written approval by the Director and said approval shall be attached to and carried with the permit.

(h) A Scientific Collector's permit shall not be used to collect those species of wildlife for which a statewide closed season has been established by the Oklahoma Wildlife Commission, unless specifically authorized.

(i) A Federal Permit is required in addition to the state permit, if migratory birds, threatened or endangered species are to be collected.

[OAR Docket #06-666; filed 4-17-06]

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

[OAR Docket #06-667]

RULEMAKING ACTION:
PERMANENT Final Adoption

RULES:
Subhchapter 1. Use of Department Managed Lands
800:30-1-5. Vehicles [AMENDED]
Subchapter 3. Mineral Exploration and Production
800:30-3-1. Purpose [AMENDED]
800:30-3-2. General provisions [AMENDED]
800:30-3-3. Site development [AMENDED]
800:30-3-4. Site preparation [AMENDED]
800:30-3-5. Regulations for producing wells [AMENDED]
800:30-3-6. Regulations for non-producing wells [AMENDED]
800:30-3-7. Damage and use charges [AMENDED]
800:30-3-8. Disposal wells [AMENDED]

AUTHORITY:
Title 29 O.S., Section 3-103, 3-304 and 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

DATES:
Comment period:
December 1, 2005 through January 13, 2006.
Public Hearings:
Date:
January 9, 2006
Time:
7:00 p.m.
Ada - Pontotoc County Technology Center - 601 W. 33rd
Caddo - Durant Fish Hatchery -2021 Caddo Hwy
Lawton - Lawton Public Library - 410 SW 4th Street
Okmulgee - East Central Electric Cooperative - 2001 South Wood Drive
Tahlequah - Indian Capital Vo-Tech - Herb Roselle Seminar Center - 240 Vo-Tech Rd.
Date:
January 10, 2006
Time:
7:00 p.m.
Altus - Altus Public Library - 421 N. Hudson
Idabel - Kiamichi Technical Center - Intersection of Hwy 70 and 259 North of Idabel
Oklahoma City - Oklahoma Department of Wildlife Conservation - 1801 N. Lincoln Blvd.
Tulsa - Tulsa Technology Center Riverside Campus - Aud. Rm A150 - 801 E. 91st St
Woodward - Northwest Electric - 2925 Williams Ave.
Adoption:
February 6, 2006
Submitted to Governor:
February 9, 2006

Submitted to House:
February 9, 2006
Submitted to Senate:
February 9, 2006
Gubernatorial approval:
March 24, 2006
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 7, 2006.
Final adoption:
April 7, 2006
Effective date:
July 1, 2006
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 1. Use of Department Managed Lands
800:30-1-5. Vehicles [AMENDED]
Gubernatorial approval:
October 6, 2005
Register publication:
23 Ok Reg 662
Docket number:
06-177
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
These rules will change the rules for ATV use on the Ouachita and Rita Blanca WMA's to be the same as the U.S. Forest Service rules and will update policy and charges for oil and gas activity/exploration on department lands.
CONTACT PERSON:
Alan Peoples, Chief of Wildlife Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK 73105. Phone: 405/521-3721. Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2006:

SUBCHAPTER 1. USE OF DEPARTMENT MANAGED LANDS

800:30-1-5. Vehicles

(a) Except as otherwise provided, all motorized vehicles are required to stay on roads designated as open for public or hunter use. There are no exceptions for motorcycles, four-wheel drive vehicles, snowmobiles or all terrain vehicles. Travel on roads which are gated and locked or designated as closed is prohibited, unless otherwise specified in annual regulations for nonambulatory persons holding valid permits.

(b) Only those vehicles registered as legal to operate on Oklahoma public roadways may be used or parked on lands owned or managed by the Oklahoma Department of Wildlife Conservation, except on specified areas designated for off-road use; unless otherwise provided for nonambulatory persons holding valid permits. All vehicles used by nonambulatory permittees must conspicuously display a sticker designating the vehicle is being used by a nonambulatory permittee and motor vehicle permittees must conspicuously display a sticker designating the vehicle is being used by a motor vehicle hunt permittee.

(c) Maximum speed limit shall be 25 mph unless otherwise posted.

(d) Off-highway ~~Off-road~~ vehicle ~~(ORV)~~ (OHV) ~~and All-Terrain vehicle (ATV)~~ use on the Ouachita WMA shall be the same as U.S. Forest Service rules and regulations for the Ouachita National Forest. ~~regulated by the following:~~

~~(1) ORV/ATVs may not be ridden or parked on any open or closed forest service roads except for agricultural purposes.~~

~~(2) ORVs/ATVs must comply with state laws insofar as licensing is concerned on Forest Service roads.~~

~~(3) ORVs/ATVs are permitted only in the general forest areas except in wilderness or botanical areas and in other areas marked Aclosed@.~~

(e) Off-highway ~~Off-road~~ vehicle (OHV) use on the Black Kettle and Rita Blanca WMAs ~~(Cibola National Forest)~~ shall be the same as ~~is regulated by the~~ U.S. Forest Service rules and regulations for the Cibola National Forest.

(f) Off-road vehicle use on the Honobia Creek WMA and Three Rivers WMA shall be regulated by the following:

(1) Off-Road Vehicles (ORV) and All-Terrain Vehicles (ATV) may be ridden on roads owned and maintained by John Hancock Mutual Life Insurance Company or Weyerhaeuser Company and managed by the Oklahoma Department of Wildlife as the Honobia Creek WMA and Three Rivers WMA. ORV/ATV use on county or state roads within the confines of the Honobia Creek WMA and Three Rivers WMA must comply with state requirements for street legal vehicles.

(2) Off-road travel by any motor vehicle, including ORVs and ATVs is prohibited.

(3) Motor vehicle travel, including ORVs and ATVs, on roads which are gated and locked, closed by an earthen mound, or otherwise designed as closed is prohibited.

(g) It is unlawful for any person to hunt, chase, capture, shoot, attempt to shoot, wound or kill any wildlife from a motor driven vehicle on any Department managed areas, except as provided for persons holding a nonambulatory motor vehicle hunting permit.

(h) It is unlawful for any person to transport a loaded firearm on any Department managed area. Crossbow permittees may not transport a cocked crossbow nor may the bolt be loaded while being transported in a motor vehicle. In addition, no person may take, catch, capture, kill or pursue wildlife or otherwise attempt to use for any purpose a vehicle mounted spotlight or other powerful light at night for any purpose on Department managed lands, except as otherwise provided for hunting of furbearers and predators, taking of frogs, or for navigational purposes while in a water conveyance.

(i) Grassy Slough WMA, Hackberry Flat WMA, Red Slough WMA, Washita Arm WDU and Whitegrass Flats WMA are closed to all air driven water craft.

(j) It shall be unlawful for any person to use, transport, park, or unload any personal watercraft within the land and/or water boundaries of the Fort Gibson Wildlife Management Area.

SUBCHAPTER 3. MINERAL EXPLORATION AND PRODUCTION

800:30-3-1. Purpose

The following rules of this Subchapter were established to set guidelines for oil, gas and other mineral exploration and production on Department owned or managed lands. The Department has the right to grant or deny any or all sections of Subchapter 3.

800:30-3-2. General provisions

At least ~~14~~30 days prior to entering to drill or moving any equipment onto Department property~~.~~ the operator will:

(1) Enter into a written surface agreement on forms as provided by the Commission with the Department of Wildlife, [52 O.S., Section 318.2 - 318.9].

(2) Provide the Department a copy of the approved notice of intent to drill (Corporation Commission Form 1000), an estimate of drilling time and an area plat map generally showing the proposed locations and dimension of the:

(A) Roads.

(B) Drilling Pad.

(C) Reserve Pit.

(D) Service Area (including pumps, flowlines, separator, meter house, pulsation bottle, compressor, storage tanks and water tanks).

(E) Water Source (pumping of water from Department ponds or lakes will be allowed only when a surplus is available.)

(3) Provide the Department a list of the names, addresses and telephone numbers of responsible personnel involved with the drilling, subsequent operation and restoration.

(4) Obtain approval from the Oklahoma Archeological Survey Office (OASO) and State Historic Preservation Office (SHPO). Operator must provide a copy of the approved notice of intent to drill (Corporation Commission Form 1000), and an area plat map showing the proposed locations and dimensions of all sites involved. Approval from the OASO and SHPO must be provided to the Department.

800:30-3-3. Site development

(a) **Roads.** Existing management area roads will be used for mineral exploration and production whenever possible. If additional roads must be constructed by the operator, they shall:

(1) Follow the natural land contour if reasonable and possible.

(2) Be a maximum of 24 feet wide, including shoulders and ditches.

(3) Possess a base sufficient to support vehicles and equipment using it.

(4) Be sufficiently ditched with culverts, water bars, and turnoffs that will provide adequate drainage and prevent erosion.

(5) After completion of drilling, all roads not a part of the management area system will be gated, locked and, if necessary, bermed to exclude all unauthorized personnel. Locks and nonreproducible keys may be provided by the Department at cost. Such measures shall not be necessary when the operator's roads are secured by existing Department gates.

(b) **Drilling pads.**

(1) Drilling pad shall not exceed 300 feet x 300 feet. Deviations are negotiable when justified by special conditions such as well depth and necessary equipment.

(2) When directed by the Department, drilling pad must be enclosed within a berm to prevent escape of any deleterious substance from the drilling operation.

(c) **Reserve pit.**

(1) Reserve pit will not exceed 160 feet x 160 feet unless justified by special conditions, such as wells over 14,000 feet deep may have a pit 200 feet x 200 feet.

(2) If drilling mud will not provide an immediate water seal, the pit must be lined with a manufactured liner not less than 30 mils thick or with soil seal not less than 12 inches thick and a coefficient of permeability not greater than 10 -7 CM/SEC.

(3) Pits must be constructed and maintained to not receive water from the surrounding watershed and the fluid level in each pit must be at least 18 vertical inches below the lowest point of the embankment.

(4) After the drilling rig is moved from the site, or during activity on areas with grazing leases, pits shall be enclosed in a woven wire perimeter fence on steel posts and no less than 4 feet high.

(5) If deleterious fluids other than fresh water drilling fluids are used in drilling or work over operations, these fluids shall be stored as required by Corporation Commission Rule 3-104 (b) in pits lined with 30 mil liner or in metal tanks.

(6) A self contained system may be required.

800:30-3-4. Site preparation

(a) If any trees and shrubs are removed by road construction, pad preparation, pit construction or any other site preparation for mineral exploration or production, they will be piled at nearby locations for wildlife shelter as recommended by the area biologist.

(b) Unless otherwise directed by the Department, a minimum of 6 inches of topsoil will be removed for road construction or any site preparation and it will be stored in topsoil stockpiles for later restoration. When topsoils are less than 6 inches, the available topsoil will be stockpiled.

(c) During site preparation, the road and site will be kept free of trash and litter. Litter blown or thrown out of the work area will be picked up and removed from the area.

(d) Disposal of solid waste will be in accordance with provisions of the "Oklahoma Solid Waste Management Act" and "Rules and Regulations" of the State Board of Health promulgated thereto.

800:30-3-5. Regulations for producing wells

(a) Within thirty days after completion of the well, the operator will provide the Department a copy of the completion notice (Corporation Commission Form 1002A).

(b) A service area of 150 feet ~~By~~x 150 feet will be allowed around the well head unless special conditions justify a larger area.

(1) The remainder of the area will be covered with topsoil and restored by tilling, fertilizing (at rate and formula recommended by the nearest ~~SCS~~NRCS office), and seeding with a seed mixture and rate recommended by the Department.

(2) Where livestock grazing occurs, the service area will be fenced with four strands of barb wire on steel posts. If the well is located within 300 feet of a residence, camping area, shooting range, or other high use area, the service area and tank batteries will be enclosed with a six foot chain link fence.

(3) All pumps, storage tanks and other containers containing potential pollutants will be surrounded by a berm of sufficient height to contain 1 2 times the entire volume of the largest container inside. These berms must be graveled or fertilized and seeded as authorized by the Department.

(4) Any valves and equipment that could cause pollution to the surrounding area will be secured to prevent discharge. All leaks from tanks, ~~liens,~~ lines, pipes and stuffing boxes must be stopped immediately upon detection or notification and repaired as soon as possible.

(5) All permanent equipment must be powered electrically or equipped with "hospital zone" or buried ~~mufflers~~muffler systems that are maintained in good working condition.

(6) All equipment in the service area must be kept painted and maintained regularly. ~~Silver or natural color paint may be used.~~An earthtone paint color as authorized by the Department must be used.

(7) Pipelines outside of the immediate service area must be buried at least ~~30~~36 inches below the surface unless prohibited by rocks ~~or other conditions.~~as authorized by the Department.

(8) The service area shall be kept clean of trash, debris, empty barrels, old pipes and any other equipment or materials not being used. Spilled salt water and hydrocarbons shall be promptly cleaned up ~~promptly.~~ and removed from the areas as prescribed by the Corporation Commission and Wildlife Department.

(9) Unused topsoil in stockpile shall be fertilized and seeded to preserve it.

(c) **Reserve Pits.** In no instance will pits be allowed to remain more than 12 months after completion notice ~~data~~date. Remaining contents of reserve pits will be pumped into tank trucks and hauled off. In instances where test results show that the pit content is only fresh water, disposal will be as prescribed by the Corporation Commission and Wildlife Department. Where pit ~~contents contain~~ content contains a substance deleterious to vegetation or wildlife, pit restoration must be accomplished within 60 days of ~~complete~~completion date.

(1) Reserve pit will be backfilled with material from its embankments, and the remaining embankment may be used to elevate the service area.

(2) Pit area will be covered with topsoil from the topsoil stockpile and fertilized and revegetated as described in (b), (1) above.

(d) **Roads.** Roads constructed by the operator, including culverts ditches, turnouts, water bars, gates and cattle guards will be maintained at operators's expense.

(1) All locks and keys issued by the Department will be at cost and the operator will provide the area biologist a list of names of persons with keys.

(2) Operator will repair any excessive damage to area roads at his expense.

(3) Operators will pay a portion of the annual maintenance of wildlife area roads used by the operator, his employees, or anyone working for the operator or anyone hauling oil, gas, salt water, or equipment to or from the well.

(4) Roads not needed for access to the producing well and not part of the wildlife area road system will be obliterated by tilling compacted surfaces, restored to approximate original contour, reterraced, covered with topsoil, and revegetated as described in (b), (1) above at operator's expense.

800:30-3-6. Regulations for non-producing wells

(a) If a well is declared dry or abandoned, the operator will plug the well as required by the Corporation Commission and will supply the Department a copy of the plugging record (Corporation Commission Form 1003) within 30 days from the plugging date.

(b) Restoration of the drilling area, roads and reserve pit will be accomplished within 180 days of plugging date.

(1) Drilling pad fill material will be removed within 2 feet ~~or~~of original contour and the area will be covered with topsoil and revegetated as described in Section 800:30-3-5 (b), (1) above.

(2) Reserve pit and roads will be restored as described in Section 800:30-3-5 (c) and (d) (4).

800:30-3-7. Damage and use charges

(a) Basic damage and use charges for mineral exploration and production are as follows:

(1) Oil or gas well location~~: $2,000.00 per acre.~~and reserve pit:

(A) $7,000.00 per acre for well location site.

(B) $10,000.00 per acre for reserve pit site.

(2) Pipelines:

(A) ~~$2,000.00~~$3,000.00 per acre right-of-way for buried pipeline for gas or freshwater.

(B) ~~$5,000.00~~$10,000.00 per acre right-of-way for buried pipeline for oil or salt water.

(C) Pipelines placed upon the surface will not be allowed, except temporary fresh water lines during drilling or well servicing - $500.00 per mile.

(3) Power lines:

(A) ~~$20.00 per rod.~~$7,000.00 per acre for above ground electric lines if approved.

(B) ~~$50.00 per single post.~~$3,500.00 per acre for buried electric lines.

~~(C) $65.00 per double post.~~

~~(D) $55.00 per guy wires.~~

(4) Seismograph:

(A) ~~Shot Hole: $150.00 per hole.~~$10.00 per acre for all Seismograph activity, including but not limited to the following methods: Shot Hole, Mini-Hole, Hydropulse, and Vibrosies. Charges based on quarter section legals.

(B) ~~Mini Hole Method: $150.00 per cluster of 5 holes.~~On lands where the Department owns mineral interest, a Mineral Bonus will be assessed. The Mineral Bonus will be based on a two year average for that county, provided by the Commissioners of the Land Office.

~~(C) Hydroplulse: $1,000.00 per mile.~~

~~(D) Vibrosies: $1,500.00 per mile.~~

~~(E) Access Fee: $500.00 per mile.~~

(5) Tank batteries, lact unit, separators:

(A) ~~$2,000.00~~$7,000.00 per acre if location is different from well.

(B) $500.00 per acre if at same location as well.

(6) Use of water out of ponds or lakes if approved: $100.00 per day or $2.00 per thousand gallons.

(7) Drilling water well if approved: $1,000.00.

(8) Roadways:

(A) ~~$2,000.00~~$7,000.00 per acre if new road.

(B) $1,000.00 per mile per year if existing Department road.

(C) Pipelines proposed in new or existing roadways will be subject to pipeline damage and use charges.

(9) Permit Fee: $500.00.

(10) Monitoring Fee: ~~$200~~ $500.00.

(11) If any oil or gas activity damages Department crops, wildlife or improvements, such damage will be taken into consideration and will be in addition to the minimum charges listed above in 1-10 of this Subsection.

(12) Crop damage: Any oil or gas activity resulting in damages to a Department agriculture or grazing lease must be negotiated separately with the lessee. All negotiations must be completed prior to beginning any work activity. The Department will provide the name and a contact number for any lessees involved.

(13) Oil and Gas Leases: $200.00 advertising fee.

(b) At no time will personnel involved in oil and gas activities (except authorized security personnel) be permitted to carry firearms or other hunting or trapping equipment onto an area unless the equipment is appropriate to a season open on the area at the time and the individual(s) would otherwise be authorized to hunt.

(c) In addition to the damage costs in (a), the full value of any merchantable timber (as determined by the Department) removed from roads, drilling pads and pit sites shall also be paid by the operator.

~~(d) Consideration may be given to recovering damage compensation as services on the area in lieu of cash payment with such services rendered prior to or during drilling. Examples of compensation include clearing, fertilizing, and seeding perimeter and interior firebreaks or upgrading the road system.~~

(~~e~~d) Oil and gas activities will be avoided in or near any previously identified fragile or unique areas. However, fragile or unique areas will not preclude utilization if damage to said fragile or unique areas can be prevented. Examples of fragile and unique areas include but are not limited to:

(1) Red-cockaded woodpecker colonies.

(2) Potential red-cockaded woodpecker restoration sites.

(3) Fragile environments such as natural lakes and bogs.

(4) Turkey roosts.

(5) Wetlands.

(6) Wintering bald eagle roost.

(7) Populations of endangered plants.

(e) Exploration may proceed if directional drilling from adjacent areas is feasible. On Department owned leases, such areas shall be identified prior to leasing and any area with substantial quantities of such habitats will not be leased for drilling.

(f) ~~Major well reworking and servicing are extremely undesirable during the above periods and routine checking or trucking will be discouraged during the time from two hours before sunset to two hours after sunrise.~~All oil and gas construction, development and/or well reworking and servicing is extremely undesirable during high public access periods, unless otherwise approved by the Department. Routine checking or trucking will be strongly discouraged during the time from two hours before sunset to two hours after sunrise.

(g) Oil and gas exploration and development activities will not prevent hunters and anglers from using wildlife resources or from freely pursuing their activities in the Wildlife Management Area.

(h) Each Operator will deposit with the Department a performance surety bond of Ten Thousand Dollars ($10,000) from a surety company licensed to do business in this state. Only one ~~bound~~ bond will be required from each operator if the operator has ten or fewer wells on Department property. If the operator has more than ten wells on Department property, an additional One Thousand Dollars ($1,000) bonding per well will be required. This bond will be conditioned on the observances and compliance with the terms of the surface agreement. This bond will be maintained at Ten Thousand Dollars ($10,000) and it shall remain in effect as long as the operator is drilling or operating a well on Department lands, or until released by the Department.

800:30-3-8. Disposal wells

(a) Salt water~~, more than that~~ not produced on Department lands may not be disposed of in wells on Department land, unless otherwise approved by the Department.

(b) Operator requesting salt water disposal well agreements must supply the Department in advance a plat showing the location of all wells from which the salt water is produced. Operator will conform with Oklahoma Corporation Commission Underground Injection Control rules.

[OAR Docket #06-667; filed 4-17-06]

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

1:2006-11.

EXECUTIVE ORDER 2006-11

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Monday, May 1, 2006, to honor Lonnie Wright, Director of the Oklahoma Bureau of Narcotics, who died on Thursday, April 27, 2006.

Director Lonnie Wright graduated from the University of Oklahoma in 1976 where he played on two National Championship teams. Wright joined the Oklahoma Bureau of Narcotics in 1977, and worked his way up through the ranks. In 1988, he was named Chief Agent of the bureau's Intelligence Division, overseeing the Statewide Intelligence Network Project and the Gang Enforcement Project. He helped pioneer the highly successful Wire Intercept Project designed to identify and target some of the largest drug organizations operating in this part of the United States. In 2003, Wright was named Director. As Director, he worked tirelessly on legislation regulating pseudoephedrine that has drastically reduced methamphetamine labs in Oklahoma and has become model legislation for the entire country.

This executive order shall be forwarded to the Director of Central Services 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 28th day of April, 2006.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #06-783; filed 4-28-06]