

Volume 24  
Number 17  
May 15, 2007  
Pages 1151 - 1460

# The Oklahoma Register

---

Oklahoma  
Secretary of State  
Office of Administrative Rules



**Brad Henry, Governor**  
**M. Susan Savage,**  
**Secretary of State**  
**Peggy Coe, Managing Editor**

**THE OKLAHOMA REGISTER** is an official publication of the State of Oklahoma. It is published semi-monthly on the first working day of the month and on the first working day following the 14th day of the month under the authority of 75 O.S., Sections 250 et seq. and OAC 655:10-15-1. The rules of the State of Oklahoma are codified and published in the *Oklahoma Administrative Code*.

*The Oklahoma Register* and the documents accepted for publication are **AVAILABLE FOR PUBLIC INSPECTION** at the Office of Administrative Rules pursuant to the Oklahoma Open Records Act. Copies of the *Register* are also available for public inspection at many County Clerks' offices in Oklahoma, the Jan Eric Cartwright Memorial Law Library in the State Capitol, and the following depository libraries:

**Ada** - East Central University, Linscheid Library

**Alva** - Northwestern Oklahoma State University,  
J.W. Martin Library

**Bartlesville** - Bartlesville Public Library

**Chickasha** - University of Science and Arts of  
Oklahoma, Nash Library

**Clinton** - Clinton Public Library

**Durant** - Southeastern Oklahoma State University, H.G.  
Bennett Memorial Library

**Edmond** - University of Central Oklahoma, Chambers Library

**Enid** - Public Library of Enid and Garfield County

**Lawton** - Lawton Public Library

**McAlester** - McAlester Public Library

**Norman** - University of Oklahoma, Bizzell Memorial  
Library

**Oklahoma City** - Metropolitan Library System

**Oklahoma City** - Oklahoma Department of Libraries

**Stillwater** - Oklahoma State University, Edmon Low  
Library

**Tahlequah** - Northeastern State University, John  
Vaughan Library

**Tulsa** - Tulsa City-County Library System

**Tulsa** - University of Tulsa, McFarlin Library

**Weatherford** - Southwestern Oklahoma State  
University, Al Harris Library

**CITE MATERIAL PUBLISHED IN THE OKLAHOMA REGISTER** by the volume and the beginning page number of the document in the *Register*. For example: 24 Ok Reg 256.

**SUBSCRIPTION RATES** for the *Register* are \$500.00 per year for the printed issues and \$300.00 per year for the CD-ROM issues, payable in advance. When available, individual printed issues may be purchased for \$20.00 plus the cost of postage, payable in advance. Make checks payable to "Secretary of State." Send subscription requests, change of address notices, and undelivered copies to: Secretary of State, Office of Administrative Rules, P.O. Box 53390, Oklahoma City, OK 73152-3390.

**INFORMATION ABOUT THIS PUBLICATION** may be obtained by contacting the Oklahoma Secretary of State, Office of Administrative Rules, 2401 North Lincoln Boulevard, Will Rogers Building, Room 220, P.O. Box 53390, Oklahoma City, OK 73152-3390, or by calling (405) 521-4911 or faxing (405) 522-3555. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

This publication is issued and printed by the Secretary of State as authorized by 75 O.S., Section 255. 75 copies have been prepared and distributed at a cost of \$1054.77. Copies have been deposited with the Oklahoma Department of Libraries, Publications Clearinghouse.

ISSN 0030-1728

# Table of Contents

<b>Agency/Action/Subject Index</b> .....	iii
<b>Rules Affected Index</b> .....	v
<b>Agency Index (Title numbers assigned)</b> .....	xviii
<b>Notices of Rulemaking Intent</b>	
Alcohol and Drug Influence, Board of Tests for (Title 40) .....	1151, 1152
<b>Submissions for Review</b>	
Education, State Department of (Title 210) .....	1155, 1156
<b>Gubernatorial Approvals</b>	
Benefits Council, Oklahoma State Employees (Title 87) .....	1157
Construction Industries Board (Title 158) .....	1157
Corporation Commission (Title 165) .....	1157
Health Care Authority, Oklahoma (Title 317) .....	1158, 1159, 1160, 1161, 1162
Historical Society, Oklahoma (Title 320) .....	1163
Human Services, Department of (Title 340) .....	1163, 1164, 1165
Investigation, Oklahoma State Bureau of (Title 375) .....	1165
Juvenile Affairs, Office of (Title 377) .....	1166, 1167
Personnel Management, Office of (Title 530) .....	1168
Real Estate Appraiser Board (Title 600) .....	1168
Real Estate Commission, Oklahoma (Title 605) .....	1168
Regents for Higher Education, State (Title 610) .....	1169
Rehabilitation Services, State Department of (Title 612) .....	1169
Tax Commission, Oklahoma (Title 710) .....	1170, 1171, 1172, 1173
Teachers' Retirement System (Title 715) .....	1173
Tourism and Recreation Department, Oklahoma (Title 725) .....	1173
Wildlife Conservation, Department of (Title 800) .....	1174, 1175
<b>Emergency Adoptions</b>	
Education, State Department of (Title 210) .....	1177
Health, Oklahoma State Department of (Title 310) .....	1177, 1183, 1189
<b>Permanent Final Adoptions</b>	
Commerce, Oklahoma Department of (Title 150) .....	1201, 1202, 1207, 1208, 1209
Construction Industries Board (Title 158) .....	1210, 1211, 1212
Education, State Department of (Title 210) .....	1213, 1216, 1217, 1218, 1219, 1221, 1223, 1224, 1225, 1230
Employment Security Commission, Oklahoma (Title 240) .....	1232, 1233, 1244
Environmental Quality, Department of (Title 252) .....	1244, 1245, 1246, 1267, 1273, 1274, 1277, 1278, 1282, 1284, 1290, 1299
Human Services, Department of (Title 340) .....	1301, 1323, 1325, 1351
Juvenile Affairs, Office of (Title 377) .....	1389, 1392, 1398, 1401, 1409, 1414, 1416, 1417
Mental Health and Substance Abuse Services, Department of (Title 450) .....	1420, 1421, 1422, 1428
Nursing, Oklahoma Board of (Title 485) .....	1439
Tax Commission, Oklahoma (Title 710) .....	1449, 1452, 1454
<b>Executive Orders (Title 1)</b> .....	1457



# Agency/Action/Subject Index

## ALCOHOL and Drug Influence, Board of Tests for (Title 40)

### Notices of Rulemaking Intent

- Devices, Equipment, and Materials (Chapter 25) ..... 1151
- Analysis of Alcohol in Breath (Chapter 30) ..... 1151
- Analysis of Other Intoxicating Substances (Chapter 40) ..... 1152
- Ignition Interlock Devices (Chapter 50) ..... 1152

## BENEFITS Council, Oklahoma State Employees (Title 87)

### Gubernatorial Approvals

- Flexible Benefits Plan (Chapter 10) ..... 1157

## COMMERCE, Oklahoma Department of (Title 150)

### Permanent Final Adoptions

- General Rules of Practice and Procedures (Chapter 1) ... 1201
- Oklahoma Quality Jobs Program (Chapter 65) ..... 1202
- Community Services Block Grant Program (Chapter 90) ..... 1207
- RX for Oklahoma Program (Chapter 115) ..... 1208
- The Oklahoma Opportunity Fund (Chapter 125) ..... 1209

## CONSTRUCTION Industries Board (Title 158)

### Gubernatorial Approvals

- Plumbing Industry Regulations (Chapter 30) ..... 1157
- Mechanical Industry Regulations (Chapter 50) ..... 1157

### Permanent Final Adoptions

- Procedures of the Oklahoma Construction Industries Board (Chapter 1) ..... 1210
- Elevator Injury Reporting Regulations (Chapter 20) ..... 1211
- Electrical Industry Regulations (Chapter 40) ..... 1212

## CORPORATION Commission (Title 165)

### Gubernatorial Approvals

- Aboveground Storage Tanks (Chapter 26) ..... 1157

## EDUCATION, State Department of (Title 210)

### Submissions for Review

- School Administration and Instructional Services (Chapter 10) ..... 1155
- Curriculum and Instruction (Chapter 15) ..... 1155, 1156
- Grants and Programs-In-Aid (Chapter 40) ..... 1156

### Emergency Adoptions

- Standards for Accreditation of Elementary, Middle Level, Secondary, and Career and Technology Schools (Chapter 35) ..... 1177

### Permanent Final Adoptions

- School Administration and Instructional Services (Chapter 10) ..... 1213
- Curriculum and Instruction (Chapter 15) ... 1216, 1217, 1218
- Staff (Chapter 20) ..... 1219, 1221, 1223
- Finance (Chapter 25) ..... 1224
- School Facilities and Transportation (Chapter 30) ..... 1225
- Grants and Programs-In-Aid (Chapter 40) ..... 1230

## EMPLOYMENT Security Commission, Oklahoma (Title 240)

### Permanent Final Adoptions

- General Provisions (Chapter 1) ..... 1232
- Unemployment Insurance Program (Chapter 10) ..... 1233
- Board of Review Procedures (Chapter 15) ..... 1244

## ENVIRONMENTAL Quality, Department of (Title 252)

### Permanent Final Adoptions

- Rules of Practice and Procedure (Chapter 4) ..... 1244, 1245
- Air Pollution Control (Chapter 100) ..... 1246, 1267, 1273, 1274, 1277, 1278
- Hazardous Waste Management (Chapter 205) ..... 1282
- Laboratory Accreditation (Chapter 300) ..... 1284
- Radiation Management (Chapter 410) ..... 1290
- Management of Solid Waste (Chapter 515) ..... 1299

## GOVERNOR

### Executive Orders

- Ordering flags at half-staff to commemorate twelve-year anniversary of Murrah Building bombing (07-15) .... 1457
- Ordering flags at half-staff to honor shooting victims of Virginia Tech (07-16) ..... 1457
- Establishing Governor's Campus Life and Safety and Security Task Force (07-17) ..... 1457
- Amending EO 2007-17, establishing Governor's Campus Life and Safety and Security Task Force (07-17a) ..... 1458

## HEALTH, Oklahoma State Department of (Title 310)

### Emergency Adoptions

- Medical Micropigmentation (Chapter 234) ..... 1177
- Drug and Alcohol Testing Rules (Chapter 638) ..... 1183
- Hospital Standards (Chapter 667) ..... 1189

## HEALTH Care Authority, Oklahoma (Title 317)

### Gubernatorial Approvals

- SoonerCare Choice (Chapter 25) ..... 1158
- Medical Providers-Fee for Service (Chapter 30) ..... 1158, 1159, 1160, 1161
- Medical Assistance for Adults and Children-Eligibility (Chapter 35) ..... 1161, 1162
- Oklahoma Employer and Employee Partnership for Insurance Coverage (Chapter 45) ..... 1162

## HISTORICAL Society, Oklahoma (Title 320)

### Gubernatorial Approvals

- Oklahoma Art in Public Places Division (Chapter 10) ... 1163

## HUMAN Services, Department of (Title 340)

### Gubernatorial Approvals

- Child Support Enforcement Division (Chapter 25) ..... 1163
- Child Welfare (Chapter 75) ..... 1164
- Aging Services Division (Chapter 105) ..... 1165
- Licensing Services (Chapter 110) ..... 1165

### Permanent Final Adoptions

- Child Support Enforcement Division (Chapter 25) ..... 1301
- Child Welfare (Chapter 75) ..... 1323
- Aging Services Division (Chapter 105) ..... 1325
- Licensing Services (Chapter 110) ..... 1351

## INVESTIGATION, Oklahoma State Bureau of (Title 375)

### Gubernatorial Approvals

- Oklahoma Reward System (Chapter 15) ..... 1165

## JUVENILE Affairs, Office of (Title 377)

### Gubernatorial Approvals

- Function and Structure of the Office of Juvenile Affairs (Chapter 1) ..... 1166
- Administrative Services (Chapter 3) ..... 1166
- Division Office of the Parole Board (Chapter 5) ..... 1166
- Department of Juvenile Justice Office of Juvenile Affairs (Chapter 10) ..... 1166
- Community-Based Community-Based Youth Services (Chapter 15) ..... 1167
- Juvenile Services Unit (Chapter 25) ..... 1167
- Residential Services (Chapter 30) ..... 1167
- Institutional Services (Chapter 35) ..... 1167

### Permanent Final Adoptions

- Function and Structure of the Office of Juvenile Affairs (Chapter 1) ..... 1389
- Administrative Services (Chapter 3) ..... 1392
- Division Office of the Parole Board (Chapter 5) ..... 1398
- Department of Juvenile Justice Office of Juvenile Affairs (Chapter 10) ..... 1401
- Community-Based Community-Based Youth Services (Chapter 15) ..... 1409
- Juvenile Services Unit (Chapter 25) ..... 1414
- Residential Services (Chapter 30) ..... 1416

**Agency/Action/Subject Index – continued**

---

**JUVENILE Affairs, Office of – continued**

*Permanent Final Adoptions – continued*

Institutional Services (Chapter 35) ..... 1417

**MENTAL Health and Substance Abuse Services, Department of (Title 450)**

*Permanent Final Adoptions*

Consumer Rights (Chapter 15) ..... 1420

Standards and Criteria for Community Residential Mental

Health Facilities (Chapter 16) ..... 1421

Standards and Criteria for Programs of Assertive Community

Treatment (Chapter 55) ..... 1422

Standards and Criteria for Certified Eating Disorder Treatment

Programs (Chapter 60) ..... 1428

**NURSING, Oklahoma Board of (Title 485)**

*Permanent Final Adoptions*

Licensure of Practical and Registered Nurses

(Chapter 10) ..... 1439

**PERSONNEL Management, Office of (Title 530)**

*Gubernatorial Approvals*

Merit System of Personnel Administration Rules

(Chapter 10) ..... 1168

**REAL Estate Appraiser Board (Title 600)**

*Gubernatorial Approvals*

Licensure and Certification Requirements

(Chapter 10) ..... 1168

Disciplinary Procedures (Chapter 15) ..... 1168

**REAL Estate Commission, Oklahoma (Title 605)**

*Gubernatorial Approvals*

Administrative Operations (Chapter 1) ..... 1168

Requirements, Standards and Procedures

(Chapter 10) ..... 1168

**REGENTS for Higher Education, State (Title 610)**

*Gubernatorial Approvals*

Administrative Operations (Chapter 1) ..... 1169

Student Financial Aid and Scholarships (Chapter 25) .... 1169

**REHABILITATION Services, State Department of (Title 612)**

*Gubernatorial Approvals*

Administrative Operations (Chapter 1) ..... 1169

**REHABILITATION Services, State Department of – continued**

*Gubernatorial Approvals – continued*

Vocational Rehabilitation and Visual Services

(Chapter 10) ..... 1169

Special Schools (Chapter 20) ..... 1169

**TAX Commission, Oklahoma (Title 710)**

*Gubernatorial Approvals*

Administrative Operations (Chapter 1) ..... 1170

Ad Valorem Tax (Chapter 10) ..... 1170

Boats and Motors (Chapter 22) ..... 1170

Coin Operated Vending Devices (Chapter 25) ..... 1171

Income (Chapter 50) ..... 1171

Motor Vehicles (Chapter 60) ..... 1171

Sales and Use Tax (Chapter 65) ..... 1172

Tourism Promotion [REVOKED] (Chapter 75) ..... 1173

Various Tax Incentives (Chapter 85) ..... 1173

Miscellaneous Areas of Regulatory and Administrative

Authority (Chapter 95) ..... 1173

*Permanent Final Adoptions*

Tourism Promotion (Chapter 75) ..... 1449

Various Tax Incentives (Chapter 85) ..... 1452

Miscellaneous Areas of Regulatory and Administrative

Authority (Chapter 95) ..... 1454

**TEACHERS’ Retirement System (Title 715)**

*Gubernatorial Approvals*

General Operations (Chapter 10) ..... 1173

**TOURISM and Recreation Department, Oklahoma (Title 725)**

*Gubernatorial Approvals*

Division of State Parks (Chapter 30) ..... 1173

**WILDLIFE Conservation, Department of (Title 800)**

*Gubernatorial Approvals*

Sport Fishing Rules (Chapter 10) ..... 1174

Commercial Harvest Rules; Aquatic Species

(Chapter 15) ..... 1174

Wildlife Rules (Chapter 25) ..... 1174

Department of Wildlife Lands Management

(Chapter 30) ..... 1175

# Rules Affected Index

[(E) = Emergency action]

Rule	Register Page	Rule	Register Page
10:15-33-7. ....	[AMENDED] (E) ..... 25	55:10-3-3. ....	[AMENDED] ..... 818
25:20-1-1. ....	[REVOKED] (E) ..... 71	55:10-3-4. ....	[AMENDED] ..... 818
25:20-1-2. ....	[REVOKED] (E) ..... 71	55:10-3-6. ....	[AMENDED] ..... 818
25:20-1-3. ....	[REVOKED] (E) ..... 72	55:10-3-7. ....	[AMENDED] ..... 818
25:20-1-4. ....	[REVOKED] (E) ..... 72	55:10-3-8. ....	[AMENDED] ..... 819
25:20-1-5. ....	[REVOKED] (E) ..... 72	55:10-3-9. ....	[AMENDED] ..... 819
25:20-1-6. ....	[NEW] (E) ..... 72	55:10-3-10. ....	[AMENDED] ..... 819
25:20-1-7. ....	[NEW] (E) ..... 72	55:10-3-11. ....	[AMENDED] ..... 819
25:20-1-8. ....	[NEW] (E) ..... 73	55:10-3-12. ....	[AMENDED] ..... 819
25:20-1-9. ....	[NEW] (E) ..... 73	55:10-3-13. ....	[AMENDED] ..... 819
25:20-1-10. ....	[NEW] (E) ..... 73	55:10-5-2. ....	[AMENDED] ..... 820
35:10-7-15. ....	[AMENDED] (E) ..... 7	55:10-5-3. ....	[AMENDED] ..... 820
35:15-14-1. ....	[RESERVED] (E) ..... 575	55:10-5-4. ....	[AMENDED] ..... 820
35:15-14-2. ....	[NEW] (E) ..... 575	55:10-5-5. ....	[AMENDED] ..... 820
35:15-42-1. ....	[AMENDED] (E) ..... 8	55:10-5-6. ....	[AMENDED] ..... 820
35:15-42-34. ....	[AMENDED] (E) ..... 9	55:10-5-7. ....	[AMENDED] ..... 821
35:15-42-37. ....	[AMENDED] (E) ..... 9	55:10-5-8. ....	[AMENDED] ..... 821
35:15-42-39. ....	[AMENDED] (E) ..... 10	55:10-5-9. ....	[AMENDED] ..... 821
35:15-42-41. ....	[AMENDED] (E) ..... 10	55:10-5-10. ....	[NEW] ..... 822
35:15-42-43. ....	[AMENDED] (E) ..... 10	55:10-5-11. ....	[NEW] ..... 823
35:15-42-44. ....	[AMENDED] (E) ..... 11	55:10-7-1. ....	[AMENDED] ..... 824
35:15-42-51. ....	[AMENDED] (E) ..... 11	55:10-7-2. ....	[AMENDED] ..... 825
35:15-44-1. ....	[NEW] (E) ..... 373	55:10-7-3. ....	[AMENDED] ..... 825
35:15-44-2. ....	[NEW] (E) ..... 373	55:10-7-5. ....	[AMENDED] ..... 825
35:15-44-3. ....	[NEW] (E) ..... 373	55:10-7-6. ....	[AMENDED] ..... 825
35:15-44-4. ....	[NEW] (E) ..... 374	55:10-7-7. ....	[AMENDED] ..... 825
35:15-44-5. ....	[NEW] (E) ..... 374	55:10-7-8. ....	[AMENDED] ..... 825
35:15-44-6. ....	[NEW] (E) ..... 374	55:10-7-9. ....	[AMENDED] ..... 825
35:15-44-7. ....	[NEW] (E) ..... 375	55:10-9-1. ....	[AMENDED] ..... 826
35:15-44-8. ....	[NEW] (E) ..... 375	55:10-9-2. ....	[AMENDED] ..... 826
35:15-44-9. ....	[NEW] (E) ..... 375	55:10-9-3. ....	[AMENDED] ..... 826
35:15-44-10. ....	[NEW] (E) ..... 375	55:10-9-4. ....	[AMENDED] ..... 826
35:15-44-11. ....	[NEW] (E) ..... 375	55:10-9-5. ....	[AMENDED] ..... 826
35:15-44-12. ....	[NEW] (E) ..... 375	55:10-9-6. ....	[AMENDED] ..... 826
35:15-44-13. ....	[NEW] (E) ..... 376	55:10-9-7. ....	[AMENDED] ..... 826
35:15-44-14. ....	[NEW] (E) ..... 376	55:10-9-8. ....	[AMENDED] ..... 827
35:15-44-15. ....	[NEW] (E) ..... 376	55:10-9-9. ....	[AMENDED] ..... 827
35:15-44-16. ....	[NEW] (E) ..... 376	55:10-9-10. ....	[AMENDED] ..... 827
35:15-44-17. ....	[NEW] (E) ..... 376	55:10-9-11. ....	[NEW] ..... 828
35:15-44-18. ....	[NEW] (E) ..... 376	55:10-11-1. ....	[AMENDED] ..... 828
35:15-44-19. ....	[NEW] (E) ..... 376	55:10-11-2. ....	[AMENDED] ..... 828
35:15-44-20. ....	[RESERVED] (E) ..... 377	55:10-11-3. ....	[AMENDED] ..... 828
35:15-45-131. ....	[AMENDED] (E) ..... 809	55:10-11-4. ....	[AMENDED] ..... 828
35:15-45-132. ....	[AMENDED] (E) ..... 809	55:10-11-5. ....	[AMENDED] ..... 829
40:25-1-2. ....	[AMENDED] (E) ..... 285	55:10-11-6. ....	[AMENDED] ..... 829
40:25-1-3. ....	[AMENDED] (E) ..... 285	55:10-11-7. ....	[AMENDED] ..... 829
40:30-1-3. ....	[AMENDED] (E) ..... 286	55:10-11-8. ....	[AMENDED] ..... 830
40:50-1-1. ....	[AMENDED] (E) ..... 287	55:10-11-9. ....	[AMENDED] ..... 830
40:50-1-2. ....	[AMENDED] (E) ..... 292	55:10-11-10. ....	[AMENDED] ..... 830
40:50-1-3. ....	[AMENDED] (E) ..... 292	55:10-11-11. ....	[AMENDED] ..... 831
40:50-1-4. ....	[AMENDED] (E) ..... 293	55:10-11-12. ....	[AMENDED] ..... 831
40:50-1-5. ....	[AMENDED] (E) ..... 294	55:10-13-1. ....	[AMENDED] ..... 831
40:50-1-7. ....	[AMENDED] (E) ..... 294	55:10-13-2. ....	[AMENDED] ..... 831
40:50-1-8. ....	[AMENDED] (E) ..... 296	55:10-13-3. ....	[AMENDED] ..... 831
40:50-1-9. ....	[AMENDED] (E) ..... 296	55:10-13-4. ....	[AMENDED] ..... 831
40:50-1-11. ....	[AMENDED] (E) ..... 297	55:10-13-5. ....	[AMENDED] ..... 831
55:10-1-1. ....	[AMENDED] ..... 815	55:10-13-6. ....	[AMENDED] ..... 832
55:10-1-3. ....	[AMENDED] ..... 815	55:10-13-7. ....	[AMENDED] ..... 832
55:10-1-4. ....	[AMENDED] ..... 818	55:10-13-8. ....	[AMENDED] ..... 832
55:10-3-1. ....	[AMENDED] ..... 818	55:10-13-9. ....	[AMENDED] ..... 833
55:10-3-2. ....	[AMENDED] ..... 818	55:10-13-10. ....	[AMENDED] ..... 833

**Rules Affected Index – *continued***

55:10-13-11. .... [AMENDED] .....	833	85:15-11-5. .... [NEW] .....	851
55:10-13-12. .... [AMENDED] .....	833	85:15-11-6. .... [NEW] .....	852
55:10-13-13. .... [AMENDED] .....	833	92:10-1-4. .... [AMENDED] (E) .....	59
55:10-13-14. .... [AMENDED] .....	833	150:1-9-10. .... [NEW] .....	1201
55:10-13-15. .... [AMENDED] .....	833	150:1-19-3. .... [AMENDED] .....	1202
55:10-13-16. .... [AMENDED] .....	833	150:65-1-2. .... [AMENDED] .....	1203
55:10-13-17. .... [AMENDED] .....	834	150:65-1-3. .... [AMENDED] .....	1205
55:10-13-18. .... [AMENDED] .....	834	150:65-1-4. .... [AMENDED] .....	1205
55:10-13-19. .... [AMENDED] .....	834	150:65-5-2. .... [AMENDED] .....	1206
55:10-13-20. .... [AMENDED] .....	834	150:65-5-5. .... [AMENDED] .....	1206
55:10-13-21. .... [AMENDED] .....	834	150:65-6-4. .... [AMENDED] .....	1206
55:10-15-1. .... [AMENDED] .....	834	150:90-1-3. .... [AMENDED] .....	1207
55:10-15-2. .... [AMENDED] .....	835	150:90-1-4. .... [AMENDED] .....	1207
55:10-15-3. .... [AMENDED] .....	835	150:90-1-6. .... [AMENDED] .....	1208
55:10-15-4. .... [AMENDED] .....	835	150:90-1-7. .... [AMENDED] .....	1208
55:10-15-5. .... [AMENDED] .....	835	150:90-1-8. .... [AMENDED] .....	1208
55:10-15-6. .... [AMENDED] .....	836	150:115-1-2. .... [AMENDED] .....	1209
55:10-15-7. .... [AMENDED] .....	836	150:125-1-1. .... [NEW] .....	1210
55:10-15-8. .... [AMENDED] .....	836	150:125-1-2. .... [NEW] .....	1210
55:10-15-9. .... [AMENDED] .....	837	150:125-1-3. .... [NEW] .....	1210
55:10-15-11. .... [AMENDED] .....	837	150:125-1-4. .... [NEW] .....	1210
55:10-15-12. .... [AMENDED] .....	837	150:125-1-5. .... [NEW] .....	1210
55:10-15-13. .... [AMENDED] .....	837	158:1-1-2. .... [AMENDED] .....	1211
55:10-15-14. .... [AMENDED] .....	837	158:20-1-1. .... [REVOKED] .....	1211
55:10-15-15. .... [AMENDED] .....	837	158:20-1-2. .... [REVOKED] .....	1211
55:10-15-18. .... [AMENDED] .....	838	158:20-1-3. .... [REVOKED] .....	1212
55:10-15-19. .... [AMENDED] .....	838	158:20-3-1. .... [REVOKED] .....	1212
55:10-15-21. .... [AMENDED] .....	839	158:40-5-4. .... [AMENDED] .....	1213
55:10-15-22. .... [AMENDED] .....	839	158:40-7-6. .... [NEW] .....	1213
55:10-15-23. .... [AMENDED] .....	839	160:55-3-1.4. .... [AMENDED] (E) .....	181
55:10-15-24. .... [AMENDED] .....	839	165:10-12-1. .... [NEW] (E) .....	183
55:10-15-25. .... [AMENDED] .....	839	165:10-12-2. .... [NEW] (E) .....	183
55:10-17-1. .... [AMENDED] .....	840	165:10-12-3. .... [NEW] (E) .....	184
55:10-17-2. .... [AMENDED] .....	840	165:10-12-4. .... [NEW] (E) .....	184
55:10-17-3. .... [AMENDED] .....	840	165:10-12-5. .... [NEW] (E) .....	184
55:10-17-4. .... [AMENDED] .....	840	165:10-12-6. .... [NEW] (E) .....	184
55:10-17-5. .... [AMENDED] .....	840	165:10-12-7. .... [NEW] (E) .....	184
55:10-17-6. .... [AMENDED] .....	840	165:10-12-8. .... [NEW] (E) .....	185
55:10-17-7. .... [AMENDED] .....	841	165:10-12-9. .... [NEW] (E) .....	185
55:10-17-8. .... [AMENDED] .....	841	165:10-12-10. .... [NEW] (E) .....	185
55:10-17-9. .... [AMENDED] .....	842	175:10-3-16. .... [AMENDED] .....	852
55:10-17-10. .... [AMENDED] .....	842	175:10-3-31. .... [AMENDED] .....	853
55:10-17-11. .... [AMENDED] .....	842	175:10-3-34. .... [AMENDED] .....	853
55:10-17-12. .... [AMENDED] .....	842	175:10-3-37. .... [AMENDED] .....	855
85:15-1-1. .... [NEW] .....	844	175:10-3-38. .... [AMENDED] .....	855
85:15-1-2. .... [NEW] .....	844	175:10-3-41. .... [AMENDED] .....	856
85:15-1-3. .... [NEW] .....	845	175:10-3-43. .... [AMENDED] .....	857
85:15-3-1. .... [NEW] .....	846	175:10-3-55. .... [AMENDED] .....	857
85:15-3-2. .... [NEW] .....	846	175:10-3-56. .... [AMENDED] .....	857
85:15-3-3. .... [NEW] .....	847	175:10-3-60. .... [AMENDED] .....	858
85:15-3-4. .... [NEW] .....	847	175:10-7-28. .... [NEW] .....	858
85:15-3-5. .... [NEW] .....	847	175:10-9-1. .... [AMENDED] .....	858
85:15-3-6. .... [NEW] .....	848	175:10-9-25. .... [AMENDED] .....	859
85:15-5-1. .... [NEW] .....	848	175:10-9-26. .... [AMENDED] .....	860
85:15-5-2. .... [NEW] .....	848	175:10-11-2. .... [AMENDED] .....	860
85:15-7-1. .... [NEW] .....	848	175:10-13-1. .... [AMENDED] .....	860
85:15-7-2. .... [NEW] .....	848	210:10-1-13. .... [AMENDED] (E) .....	576
85:15-7-3. .... [NEW] .....	849	210:10-1-13. .... [AMENDED] .....	1213
85:15-7-4. .... [NEW] .....	849	210:15-3-51. .... [AMENDED] (E) .....	137
85:15-7-5. .... [NEW] .....	849	210:15-3-51. .... [AMENDED] .....	1216
85:15-7-6. .... [NEW] .....	850	210:15-11-3. .... [NEW] (E) .....	60
85:15-9-1. .... [NEW] .....	850	210:15-11-3. .... [NEW] .....	1218
85:15-9-2. .... [NEW] .....	850	210:15-19-6. .... [AMENDED] .....	1219
85:15-11-1. .... [NEW] .....	850	210:20-9-98. .... [AMENDED] (E) .....	139
85:15-11-2. .... [NEW] .....	851	210:20-9-98. .... [AMENDED] .....	1220
85:15-11-3. .... [NEW] .....	851	210:20-9-99.1. .... [NEW] (E) .....	578
85:15-11-4. .... [NEW] .....	851	210:20-9-99.1. .... [NEW] .....	1221

210:20-19-2. . . . . [AMENDED] (E) . . . . .	61	252:4-7-51. . . . . [AMENDED] (E) . . . . .	579
210:20-19-2. . . . . [AMENDED] . . . . .	1222	252:4-7-51. . . . . [AMENDED] . . . . .	1245
210:20-19-3. . . . . [AMENDED] (E) . . . . .	61	252:4-7-52. . . . . [AMENDED] (E) . . . . .	579
210:20-19-3. . . . . [AMENDED] . . . . .	1222	252:4-7-52. . . . . [AMENDED] . . . . .	1246
210:20-19-4. . . . . [AMENDED] (E) . . . . .	62	252:4-7-53. . . . . [AMENDED] (E) . . . . .	580
210:20-19-4. . . . . [AMENDED] . . . . .	1223	252:4-7-53. . . . . [AMENDED] . . . . .	1246
210:20-26-3. . . . . [AMENDED] (E) . . . . .	186	252:100-8-72. . . . . [NEW] (E) . . . . .	299
210:20-26-3. . . . . [AMENDED] . . . . .	1224	252:100-2-1. . . . . [NEW] . . . . .	1247
210:25-3-5. . . . . [AMENDED] . . . . .	1225	252:100-2-2. . . . . [RESERVED] . . . . .	1247
210:30-5-1. . . . . [AMENDED] . . . . .	1225	252:100-2-3. . . . . [NEW] . . . . .	1247
210:35-3-109. . . . . [NEW] (E) . . . . .	1177	252:100-4-1. . . . . [REVOKED] . . . . .	1247
210:40-87-1. . . . . [AMENDED] (E) . . . . .	140	252:100-4-2. . . . . [REVOKED] . . . . .	1247
210:40-87-1. . . . . [AMENDED] . . . . .	1231	252:100-4-3. . . . . [REVOKED] . . . . .	1247
210:40-87-2. . . . . [REVOKED] (E) . . . . .	140	252:100-4-4. . . . . [REVOKED] . . . . .	1247
210:40-87-2. . . . . [REVOKED] . . . . .	1231	252:100-4-5. . . . . [REVOKED] . . . . .	1248
210:40-87-3. . . . . [AMENDED] (E) . . . . .	140	252:100-5-1.1. . . . . [AMENDED] . . . . .	1267
210:40-87-3. . . . . [AMENDED] . . . . .	1231	252:100-5-2.1. . . . . [AMENDED] . . . . .	1273
210:40-87-4. . . . . [AMENDED] (E) . . . . .	141	252:100-7-1.1. . . . . [AMENDED] . . . . .	1268
210:40-87-4. . . . . [AMENDED] . . . . .	1232	252:100-8-70. . . . . [NEW] (E) . . . . .	298
235:10-13-10. . . . . [AMENDED] (E) . . . . .	27	252:100-8-70. . . . . [NEW] . . . . .	1275
235:10-13-10. . . . . [AMENDED] . . . . .	862	252:100-8-71. . . . . [NEW] (E) . . . . .	298
235:10-13-11. . . . . [AMENDED] (E) . . . . .	27	252:100-8-71. . . . . [NEW] . . . . .	1275
235:10-13-11. . . . . [AMENDED] . . . . .	862	252:100-8-72. . . . . [NEW] . . . . .	1276
235:10-13-12. . . . . [AMENDED] (E) . . . . .	27	252:100-8-73. . . . . [NEW] (E) . . . . .	299
235:10-13-12. . . . . [AMENDED] . . . . .	863	252:100-8-73. . . . . [NEW] . . . . .	1276
235:10-13-13. . . . . [AMENDED] (E) . . . . .	28	252:100-8-74. . . . . [NEW] (E) . . . . .	299
235:10-13-13. . . . . [AMENDED] . . . . .	863	252:100-8-74. . . . . [NEW] . . . . .	1276
235:10-13-14. . . . . [AMENDED] (E) . . . . .	28	252:100-8-75. . . . . [NEW] (E) . . . . .	300
235:10-13-14. . . . . [AMENDED] . . . . .	863	252:100-8-75. . . . . [NEW] . . . . .	1276
240:1-1-5. . . . . [AMENDED] . . . . .	1232	252:100-8-76. . . . . [NEW] (E) . . . . .	300
240:1-3-3. . . . . [AMENDED] . . . . .	1232	252:100-8-76. . . . . [NEW] . . . . .	1277
240:1-3-5. . . . . [AMENDED] . . . . .	1232	252:100-8-77. . . . . [NEW] (E) . . . . .	300
240:1-3-6. . . . . [AMENDED] . . . . .	1233	252:100-8-77. . . . . [NEW] . . . . .	1277
240:10-1-2. . . . . [AMENDED] . . . . .	1233	252:100-8-78. . . . . [NEW] (E) . . . . .	300
240:10-1-3. . . . . [AMENDED] . . . . .	1235	252:100-8-78. . . . . [NEW] . . . . .	1277
240:10-3-2. . . . . [AMENDED] . . . . .	1235	252:100-9-2. . . . . [AMENDED] . . . . .	1269
240:10-3-10. . . . . [AMENDED] . . . . .	1235	252:100-17-61. . . . . [AMENDED] . . . . .	1278
240:10-3-12. . . . . [AMENDED] . . . . .	1236	252:100-17-90. . . . . [NEW] . . . . .	1279
240:10-3-20. . . . . [AMENDED] . . . . .	1236	252:100-17-91. . . . . [NEW] . . . . .	1279
240:10-3-22. . . . . [AMENDED] . . . . .	1236	252:100-17-92. . . . . [NEW] . . . . .	1279
240:10-3-23. . . . . [AMENDED] . . . . .	1237	252:100-17-93. . . . . [NEW] . . . . .	1279
240:10-3-24. . . . . [AMENDED] . . . . .	1237	252:100-17-94. . . . . [NEW] . . . . .	1280
240:10-3-26. . . . . [AMENDED] . . . . .	1238	252:100-17-95. . . . . [NEW] . . . . .	1280
240:10-3-27. . . . . [AMENDED] . . . . .	1239	252:100-17-96. . . . . [NEW] . . . . .	1281
240:10-3-28. . . . . [AMENDED] . . . . .	1239	252:100-17-97. . . . . [NEW] . . . . .	1281
240:10-3-30. . . . . [AMENDED] . . . . .	1240	252:100-17-98. . . . . [NEW] . . . . .	1281
240:10-3-35. . . . . [AMENDED] . . . . .	1240	252:100-17-99. . . . . [NEW] . . . . .	1281
240:10-3-42. . . . . [AMENDED] . . . . .	1240	252:100-17-100. . . . . [NEW] . . . . .	1281
240:10-3-43. . . . . [AMENDED] . . . . .	1240	252:100-17-101. . . . . [NEW] . . . . .	1281
240:10-3-52. . . . . [AMENDED] . . . . .	1240	252:100-17-102. . . . . [NEW] . . . . .	1281
240:10-3-63. . . . . [AMENDED] . . . . .	1241	252:100-17-103. . . . . [NEW] . . . . .	1281
240:10-3-65. . . . . [AMENDED] . . . . .	1241	252:100-17-104. . . . . [NEW] . . . . .	1281
240:10-5-10. . . . . [AMENDED] . . . . .	1241	252:100-17-105. . . . . [NEW] . . . . .	1281
240:10-5-13. . . . . [REVOKED] . . . . .	1241	252:100-17-106. . . . . [NEW] . . . . .	1282
240:10-11-3. . . . . [AMENDED] . . . . .	1242	252:100-17-107. . . . . [NEW] . . . . .	1282
240:10-11-25. . . . . [AMENDED] . . . . .	1242	252:100-17-108. . . . . [NEW] . . . . .	1282
240:10-11-30. . . . . [AMENDED] . . . . .	1242	252:100-23-2. . . . . [AMENDED] . . . . .	1269
240:10-13-20. . . . . [AMENDED] . . . . .	1243	252:100-40-1. . . . . [NEW] . . . . .	1248
240:10-13-39. . . . . [AMENDED] . . . . .	1243	252:100-40-2. . . . . [RESERVED] . . . . .	1248
240:10-13-40. . . . . [AMENDED] . . . . .	1243	252:100-40-3. . . . . [NEW] . . . . .	1248
240:10-13-60. . . . . [AMENDED] . . . . .	1243	252:100-40-4. . . . . [RESERVED] . . . . .	1248
240:15-1-7. . . . . [AMENDED] . . . . .	1244	252:100-40-5. . . . . [NEW] . . . . .	1248
245:2-1-18. . . . . [AMENDED] (E) . . . . .	810	252:100-41-1. . . . . [AMENDED] . . . . .	1248
245:15-13-1. . . . . [AMENDED] . . . . .	863	252:100-41-1.1. . . . . [REVOKED] . . . . .	1248
245:15-13-2. . . . . [AMENDED] . . . . .	864	252:100-41-2. . . . . [REVOKED] . . . . .	1248
245:15-17-2. . . . . [AMENDED] . . . . .	866	252:100-41-13. . . . . [REVOKED] . . . . .	1250
252:4-3-1. . . . . [AMENDED] . . . . .	1245	252:100-41-14. . . . . [REVOKED] . . . . .	1250

## Rules Affected Index – *continued*

252:100-41-15. ....	[REVOKED]	1250	310:233-1-1. ....	[AMENDED] (E)	187
252:100-41-16. ....	[REVOKED]	1250	310:233-1-2. ....	[AMENDED] (E)	187
252:100-41-35. ....	[REVOKED]	1250	310:233-3-1. ....	[AMENDED] (E)	189
252:100-41-36. ....	[REVOKED]	1250	310:233-3-2. ....	[AMENDED] (E)	189
252:100-41-37. ....	[REVOKED]	1250	310:233-3-3. ....	[AMENDED] (E)	189
252:100-41-38. ....	[REVOKED]	1251	310:233-3-4. ....	[AMENDED] (E)	190
252:100-41-39. ....	[REVOKED]	1251	310:233-3-5. ....	[AMENDED] (E)	190
252:100-41-40. ....	[REVOKED]	1251	310:233-3-6. ....	[AMENDED] (E)	190
252:100-41-41. ....	[REVOKED]	1251	310:233-3-7. ....	[AMENDED] (E)	191
252:100-41-42. ....	[REVOKED]	1251	310:233-5-1. ....	[AMENDED] (E)	191
252:100-41-43. ....	[REVOKED]	1252	310:233-5-2. ....	[AMENDED] (E)	192
252:100-41-44. ....	[REVOKED]	1252	310:233-7-1. ....	[AMENDED] (E)	192
252:100, App. P. ....	[NEW]	1271	310:233-7-2. ....	[NEW] (E)	193
252:100, App. Q. ....	[NEW]	1253	310:233-9-1. ....	[AMENDED] (E)	193
252:205-3-1. ....	[AMENDED] (E)	581	310:233-9-2. ....	[AMENDED] (E)	193
252:205-3-1. ....	[AMENDED]	1282	310:233-9-3. ....	[AMENDED] (E)	195
252:205-3-2. ....	[AMENDED] (E)	581	310:233-9-4. ....	[NEW] (E)	195
252:205-3-2. ....	[AMENDED]	1283	310:233-9-5. ....	[NEW] (E)	195
252:210-1-1. ....	[NEW] (E)	582	310:233-9-6. ....	[NEW] (E)	195
252:210-1-2. ....	[NEW] (E)	582	310:233-9-7. ....	[NEW] (E)	195
252:210-1-3. ....	[NEW] (E)	583	310:233-9-8. ....	[NEW] (E)	196
252:210-1-4. ....	[NEW] (E)	583	310:233-11-1. ....	[AMENDED] (E)	196
252:210-1-5. ....	[NEW] (E)	583	310:233-11-2. ....	[AMENDED] (E)	196
252:210-1-6. ....	[NEW] (E)	584	310:233-11-3. ....	[AMENDED] (E)	197
252:210-1-7. ....	[NEW] (E)	584	310:233-11-4. ....	[AMENDED] (E)	197
252:210-1-8. ....	[NEW] (E)	584	310:234-1-2. ....	[AMENDED] (E)	1178
252:300-17-3. ....	[AMENDED]	1284	310:234-3-2. ....	[AMENDED] (E)	1179
252:300-19-3. ....	[AMENDED]	1284	310:234-3-3. ....	[AMENDED] (E)	1180
252:300, App. B. ....	[REVOKED]	1286	310:234-3-3.1. ....	[AMENDED] (E)	1180
252:300, App. B. ....	[NEW]	1286	310:234-3-4. ....	[AMENDED] (E)	1180
252:410-1-7. ....	[AMENDED]	1290	310:234-3-5. ....	[AMENDED] (E)	1181
252:410-10-1. ....	[AMENDED]	1290	310:234-7-1. ....	[AMENDED] (E)	1182
252:410-10-30. ....	[AMENDED]	1292	310:234-7-2. ....	[AMENDED] (E)	1182
252:410-10-31. ....	[AMENDED]	1292	310:234-11-4. ....	[NEW] (E)	1183
252:410-10-32. ....	[AMENDED]	1293	310:406-1-1. ....	[NEW] (E)	198
252:410-10-34. ....	[AMENDED]	1293	310:406-1-2. ....	[NEW] (E)	198
252:410-10-35. ....	[AMENDED]	1294	310:406-3-1. ....	[NEW] (E)	198
252:410-10-39. ....	[AMENDED]	1296	310:406-3-2. ....	[NEW] (E)	198
252:410-10-70. ....	[AMENDED]	1297	310:406-3-3. ....	[NEW] (E)	199
252:410-10-71. ....	[AMENDED]	1297	310:406-3-4. ....	[NEW] (E)	199
252:410-20-1. ....	[AMENDED]	1298	310:406-3-5. ....	[NEW] (E)	199
252:515-19-1. ....	[AMENDED]	1300	310:406-5-1. ....	[NEW] (E)	199
252:515-19-131. ....	[NEW]	1300	310:406-5-2. ....	[NEW] (E)	199
252:515-19-132. ....	[NEW]	1300	310:406-5-3. ....	[NEW] (E)	199
252:515-19-133. ....	[NEW]	1300	310:406-5-4. ....	[NEW] (E)	200
252:515-19-134. ....	[NEW]	1300	310:406-7-1. ....	[NEW] (E)	200
252:515-19-135. ....	[NEW]	1300	310:406-7-2. ....	[NEW] (E)	200
252:515-19-136. ....	[NEW]	1301	310:406-7-3. ....	[NEW] (E)	200
252:515-19-137. ....	[NEW]	1301	310:406-9-1. ....	[NEW] (E)	201
252:515-19-138. ....	[NEW]	1301	310:406-11-1. ....	[NEW] (E)	201
310:205-1-1. ....	[AMENDED] (E)	585	310:406-13-1. ....	[NEW] (E)	201
310:205-1-2. ....	[AMENDED] (E)	585	310:406-13-2. ....	[NEW] (E)	201
310:205-1-3. ....	[AMENDED] (E)	588	310:406-13-3. ....	[NEW] (E)	201
310:205-1-3.1. ....	[AMENDED] (E)	589	310:406-13-4. ....	[NEW] (E)	201
310:205-3-1. ....	[AMENDED] (E)	589	310:406-13-5. ....	[NEW] (E)	201
310:205-3-2. ....	[AMENDED] (E)	589	310:406-17-1. ....	[NEW] (E)	201
310:205-3-3. ....	[AMENDED] (E)	591	310:406-17-2. ....	[NEW] (E)	201
310:205-3-4. ....	[AMENDED] (E)	592	310:406-17-3. ....	[NEW] (E)	201
310:205-3-5. ....	[AMENDED] (E)	594	310:406-17-4. ....	[NEW] (E)	201
310:205-3-7. ....	[AMENDED] (E)	595	310:406-17-5. ....	[NEW] (E)	201
310:205-3-8. ....	[NEW] (E)	596	310:406-17-6. ....	[NEW] (E)	201
310:205-3-9. ....	[NEW] (E)	597	310:406-19-1. ....	[NEW] (E)	202
310:205-3-10. ....	[NEW] (E)	598	310:406-19-2. ....	[NEW] (E)	202
310:205-3-11. ....	[NEW] (E)	598	310:406-19-3. ....	[NEW] (E)	202
310:205-5-1. ....	[AMENDED] (E)	599	310:406-19-4. ....	[NEW] (E)	202
310:205-7-1. ....	[AMENDED] (E)	600	310:406-19-5. ....	[NEW] (E)	202
310:205-7-2. ....	[AMENDED] (E)	601	310:406-19-6. ....	[NEW] (E)	202

310:406-21-1. .... [NEW] (E) .....	202	310:667-40-11. .... [AMENDED] (E) .....	1198
310:406-21-2. .... [NEW] (E) .....	202	317:2-1-2. .... [AMENDED] (E) .....	301
310:406-21-3. .... [NEW] (E) .....	202	317:2-1-2. .... [AMENDED] .....	869
310:406-21-4. .... [NEW] (E) .....	202	317:2-1-5. .... [AMENDED] (E) .....	302
310:406-21-5. .... [NEW] (E) .....	202	317:2-1-5. .... [AMENDED] .....	870
310:406-21-6. .... [NEW] (E) .....	202	317:10-1-1. .... [AMENDED] .....	872
310:406-21-7. .... [NEW] (E) .....	202	317:10-1-2. .... [AMENDED] .....	872
310:406-21-8. .... [NEW] (E) .....	202	317:10-1-3. .... [AMENDED] .....	873
310:406-21-9. .... [NEW] (E) .....	203	317:10-1-4. .... [AMENDED] .....	873
310:406-21-10. .... [NEW] (E) .....	203	317:10-1-5. .... [AMENDED] .....	873
310:406-23-1. .... [NEW] (E) .....	203	317:10-1-7. .... [AMENDED] .....	874
310:406-23-2. .... [NEW] (E) .....	203	317:10-1-9. .... [AMENDED] .....	874
310:406-23-3. .... [NEW] (E) .....	203	317:10-1-10. .... [AMENDED] .....	874
310:406-23-4. .... [NEW] (E) .....	203	317:10-1-11. .... [AMENDED] .....	874
310:406-23-5. .... [NEW] (E) .....	203	317:10-1-12. .... [AMENDED] .....	875
310:406-23-6. .... [NEW] (E) .....	203	317:10-1-15. .... [AMENDED] .....	875
310:406-23-7. .... [NEW] (E) .....	203	317:10-1-16. .... [AMENDED] .....	876
310:406-23-8. .... [NEW] (E) .....	203	317:10-1-17. .... [AMENDED] .....	876
310:526-1-1. .... [NEW] (E) .....	204	317:10-1-18. .... [AMENDED] .....	876
310:526-1-2. .... [NEW] (E) .....	204	317:10-1-18.1. .... [AMENDED] .....	877
310:526-1-3. .... [NEW] (E) .....	204	317:10-1-18.2. .... [AMENDED] .....	877
310:526-3-1. .... [NEW] (E) .....	205	317:10-1-19. .... [AMENDED] .....	877
310:526-3-2. .... [NEW] (E) .....	205	317:10-1-20. .... [AMENDED] .....	878
310:526-3-3. .... [NEW] (E) .....	205	317:25-7-2. .... [AMENDED] (E) .....	74
310:526-3-4. .... [NEW] (E) .....	206	317:25-7-10. .... [AMENDED] (E) .....	74
310:526-3-5. .... [NEW] (E) .....	206	317:25-7-13. .... [AMENDED] (E) .....	76
310:526-3-6. .... [NEW] (E) .....	206	317:25-7-13. .... [AMENDED] .....	879
310:527-1-1. .... [NEW] (E) .....	206	317:30-3-40. .... [AMENDED] .....	880
310:527-1-2. .... [NEW] (E) .....	206	317:30-3-57. .... [AMENDED] (E) .....	303
310:527-1-3. .... [NEW] (E) .....	207	317:30-3-57. .... [AMENDED] (E) .....	655
310:527-1-4. .... [NEW] (E) .....	207	317:30-3-59. .... [AMENDED] (E) .....	142
310:527-1-5. .... [NEW] (E) .....	207	317:30-3-59. .... [AMENDED] .....	890
310:531-1-1. .... [NEW] .....	867	317:30-3-65.4. .... [AMENDED] (E) .....	76
310:531-1-2. .... [NEW] .....	867	317:30-3-65.4. .... [AMENDED] .....	893
310:531-1-3. .... [NEW] .....	867	317:30-5-2. .... [AMENDED] (E) .....	144
310:531-3-1. .... [NEW] .....	868	317:30-5-2. .... [AMENDED] (E) .....	312
310:531-3-2. .... [NEW] .....	868	317:30-5-2. .... [AMENDED] (E) .....	661
310:531-3-3. .... [NEW] .....	868	317:30-5-8. .... [AMENDED] (E) .....	148
310:531-5-1. .... [NEW] .....	868	317:30-5-8. .... [AMENDED] (E) .....	671
310:531-5-2. .... [NEW] .....	868	317:30-5-12. .... [AMENDED] (E) .....	306
310:531-5-3. .... [NEW] .....	869	317:30-5-12. .... [AMENDED] .....	896
310:638-1-2. .... [AMENDED] (E) .....	1183	317:30-5-13. .... [AMENDED] (E) .....	78
310:638-1-3. .... [AMENDED] (E) .....	1184	317:30-5-13. .... [AMENDED] .....	903
310:638-1-4. .... [AMENDED] (E) .....	1184	317:30-5-14. .... [AMENDED] (E) .....	316
310:638-1-5. .... [AMENDED] (E) .....	1184	317:30-5-14. .... [AMENDED] .....	904
310:638-1-6.2. .... [NEW] (E) .....	1185	317:30-5-22. .... [AMENDED] (E) .....	208
310:638-1-7.2. .... [NEW] (E) .....	1185	317:30-5-22. .... [AMENDED] .....	896
310:638-1-8.2. .... [NEW] (E) .....	1185	317:30-5-24. .... [AMENDED] (E) .....	209
310:638-1-10. .... [AMENDED] (E) .....	1186	317:30-5-24. .... [AMENDED] (E) .....	306
310:638-3-4. .... [AMENDED] (E) .....	1186	317:30-5-24. .... [AMENDED] .....	897
310:638-3-7. .... [AMENDED] (E) .....	1186	317:30-5-25. .... [AMENDED] (E) .....	79
310:638-5-2. .... [AMENDED] (E) .....	1186	317:30-5-25. .... [AMENDED] .....	894
310:638-5-3. .... [AMENDED] (E) .....	1187	317:30-5-40. .... [AMENDED] (E) .....	318
310:638-5-4. .... [AMENDED] (E) .....	1188	317:30-5-40. .... [AMENDED] .....	906
310:638-5-9. .... [AMENDED] (E) .....	1188	317:30-5-40.1. .... [NEW] (E) .....	318
310:638-5-10. .... [AMENDED] (E) .....	1189	317:30-5-40.1. .... [NEW] .....	906
310:667-15-6. .... [AMENDED] (E) .....	1190	317:30-5-40.2. .... [NEW] (E) .....	318
310:667-19-2. .... [AMENDED] (E) .....	1190	317:30-5-40.2. .... [NEW] .....	906
310:667-19-13. .... [AMENDED] (E) .....	1192	317:30-5-41. .... [AMENDED] (E) .....	318
310:667-21-7. .... [AMENDED] (E) .....	1193	317:30-5-41. .... [AMENDED] .....	906
310:667-21-8. .... [AMENDED] (E) .....	1193	317:30-5-41.1. .... [NEW] (E) .....	322
310:667-25-2. .... [AMENDED] (E) .....	1193	317:30-5-41.1. .... [NEW] .....	910
310:667-39-6. .... [AMENDED] (E) .....	1194	317:30-5-41.2. .... [NEW] (E) .....	322
310:667-39-9. .... [AMENDED] (E) .....	1194	317:30-5-42. .... [REVOKED] (E) .....	322
310:667-39-11. .... [AMENDED] (E) .....	1195	317:30-5-42. .... [AMENDED] .....	910
310:667-40-6. .... [AMENDED] (E) .....	1196	317:30-5-42.1. .... [NEW] (E) .....	323
310:667-40-9. .... [AMENDED] (E) .....	1197	317:30-5-42.1. .... [NEW] .....	911

## Rules Affected Index – *continued*

317:30-5-42.2. . . . .	[NEW] (E) . . . . .	323	317:30-5-180.4. . . . .	[NEW] (E) . . . . .	677
317:30-5-42.2. . . . .	[NEW] . . . . .	911	317:30-5-180.5. . . . .	[NEW] (E) . . . . .	678
317:30-5-42.3. . . . .	[NEW] (E) . . . . .	323	317:30-5-211. . . . .	[AMENDED] (E) . . . . .	658
317:30-5-42.3. . . . .	[NEW] . . . . .	911	317:30-5-226. . . . .	[AMENDED] (E) . . . . .	307
317:30-5-42.4. . . . .	[NEW] (E) . . . . .	323	317:30-5-226. . . . .	[AMENDED] . . . . .	898
317:30-5-42.4. . . . .	[NEW] . . . . .	911	317:30-5-335. . . . .	[AMENDED] (E) . . . . .	601
317:30-5-42.5. . . . .	[NEW] (E) . . . . .	324	317:30-5-335. . . . .	[AMENDED] . . . . .	921
317:30-5-42.5. . . . .	[NEW] . . . . .	911	317:30-5-335.1. . . . .	[NEW] (E) . . . . .	601
317:30-5-42.6. . . . .	[NEW] (E) . . . . .	324	317:30-5-335.1. . . . .	[NEW] . . . . .	921
317:30-5-42.6. . . . .	[NEW] . . . . .	911	317:30-5-336. . . . .	[AMENDED] (E) . . . . .	602
317:30-5-42.7. . . . .	[NEW] (E) . . . . .	324	317:30-5-336. . . . .	[NEW] (E) . . . . .	604
317:30-5-42.7. . . . .	[NEW] . . . . .	912	317:30-5-336. . . . .	[AMENDED] . . . . .	922
317:30-5-42.8. . . . .	[NEW] (E) . . . . .	324	317:30-5-336.1. . . . .	[NEW] (E) . . . . .	604
317:30-5-42.8. . . . .	[NEW] . . . . .	912	317:30-5-336.1. . . . .	[NEW] . . . . .	924
317:30-5-42.9. . . . .	[NEW] (E) . . . . .	324	317:30-5-336.2. . . . .	[NEW] (E) . . . . .	604
317:30-5-42.9. . . . .	[NEW] . . . . .	912	317:30-5-336.2. . . . .	[NEW] . . . . .	924
317:30-5-42.10. . . . .	[NEW] (E) . . . . .	324	317:30-5-336.3. . . . .	[NEW] (E) . . . . .	604
317:30-5-42.10. . . . .	[NEW] . . . . .	912	317:30-5-336.3. . . . .	[NEW] . . . . .	924
317:30-5-42.11. . . . .	[NEW] (E) . . . . .	324	317:30-5-336.4. . . . .	[NEW] (E) . . . . .	604
317:30-5-42.11. . . . .	[NEW] . . . . .	912	317:30-5-336.4. . . . .	[NEW] . . . . .	924
317:30-5-42.12. . . . .	[NEW] (E) . . . . .	324	317:30-5-336.5. . . . .	[NEW] . . . . .	924
317:30-5-42.12. . . . .	[NEW] . . . . .	912	317:30-5-336.6. . . . .	[NEW] (E) . . . . .	605
317:30-5-42.13. . . . .	[NEW] (E) . . . . .	324	317:30-5-336.6. . . . .	[NEW] . . . . .	924
317:30-5-42.13. . . . .	[NEW] . . . . .	912	317:30-5-336.7. . . . .	[NEW] (E) . . . . .	605
317:30-5-42.14. . . . .	[NEW] (E) . . . . .	325	317:30-5-336.7. . . . .	[NEW] . . . . .	924
317:30-5-42.14. . . . .	[NEW] . . . . .	912	317:30-5-336.8. . . . .	[NEW] (E) . . . . .	605
317:30-5-42.15. . . . .	[NEW] (E) . . . . .	325	317:30-5-336.8. . . . .	[NEW] . . . . .	924
317:30-5-42.15. . . . .	[NEW] . . . . .	913	317:30-5-336.9. . . . .	[NEW] (E) . . . . .	606
317:30-5-42.16. . . . .	[NEW] (E) . . . . .	325	317:30-5-336.9. . . . .	[NEW] . . . . .	925
317:30-5-42.16. . . . .	[NEW] . . . . .	913	317:30-5-336.10. . . . .	[NEW] (E) . . . . .	606
317:30-5-42.17. . . . .	[NEW] (E) . . . . .	326	317:30-5-336.10. . . . .	[NEW] . . . . .	925
317:30-5-42.17. . . . .	[NEW] . . . . .	914	317:30-5-336.11. . . . .	[NEW] (E) . . . . .	606
317:30-5-42.18. . . . .	[NEW] (E) . . . . .	326	317:30-5-336.11. . . . .	[NEW] . . . . .	926
317:30-5-42.18. . . . .	[NEW] . . . . .	914	317:30-5-336.12. . . . .	[NEW] (E) . . . . .	606
317:30-5-47. . . . .	[AMENDED] (E) . . . . .	326	317:30-5-336.12. . . . .	[NEW] . . . . .	926
317:30-5-47. . . . .	[AMENDED] . . . . .	914	317:30-5-336.13. . . . .	[NEW] (E) . . . . .	606
317:30-5-47.1. . . . .	[AMENDED] (E) . . . . .	327	317:30-5-336.13. . . . .	[NEW] . . . . .	926
317:30-5-47.1. . . . .	[AMENDED] . . . . .	915	317:30-5-337. . . . .	[AMENDED] (E) . . . . .	606
317:30-5-47.2. . . . .	[AMENDED] (E) . . . . .	327	317:30-5-337. . . . .	[AMENDED] . . . . .	926
317:30-5-47.2. . . . .	[AMENDED] . . . . .	915	317:30-5-339. . . . .	[AMENDED] (E) . . . . .	607
317:30-5-47.3. . . . .	[AMENDED] (E) . . . . .	328	317:30-5-339. . . . .	[AMENDED] . . . . .	926
317:30-5-47.3. . . . .	[AMENDED] . . . . .	916	317:30-5-355.1. . . . .	[AMENDED] (E) . . . . .	307
317:30-5-47.4. . . . .	[AMENDED] (E) . . . . .	329	317:30-5-355.1. . . . .	[AMENDED] . . . . .	898
317:30-5-47.4. . . . .	[AMENDED] . . . . .	917	317:30-5-361. . . . .	[AMENDED] (E) . . . . .	309
317:30-5-50. . . . .	[AMENDED] (E) . . . . .	330	317:30-5-361. . . . .	[AMENDED] . . . . .	900
317:30-5-50. . . . .	[AMENDED] . . . . .	918	317:30-5-391. . . . .	[AMENDED] (E) . . . . .	80
317:30-5-56. . . . .	[NEW] (E) . . . . .	330	317:30-5-391. . . . .	[AMENDED] . . . . .	927
317:30-5-56. . . . .	[NEW] . . . . .	918	317:30-5-392. . . . .	[AMENDED] (E) . . . . .	80
317:30-5-57. . . . .	[NEW] (E) . . . . .	331	317:30-5-392. . . . .	[AMENDED] . . . . .	927
317:30-5-57. . . . .	[NEW] . . . . .	919	317:30-5-393. . . . .	[AMENDED] (E) . . . . .	82
317:30-5-70.2. . . . .	[AMENDED] . . . . .	903	317:30-5-393. . . . .	[AMENDED] . . . . .	929
317:30-5-96.2. . . . .	[AMENDED] (E) . . . . .	679	317:30-5-410. . . . .	[AMENDED] . . . . .	881
317:30-5-134. . . . .	[AMENDED] (E) . . . . .	676	317:30-5-411. . . . .	[AMENDED] . . . . .	881
317:30-5-137. . . . .	[NEW] (E) . . . . .	142	317:30-5-412. . . . .	[AMENDED] . . . . .	881
317:30-5-137. . . . .	[NEW] . . . . .	891	317:30-5-466. . . . .	[AMENDED] (E) . . . . .	310
317:30-5-138. . . . .	[NEW] (E) . . . . .	142	317:30-5-466. . . . .	[AMENDED] . . . . .	901
317:30-5-138. . . . .	[NEW] . . . . .	891	317:30-5-467. . . . .	[AMENDED] (E) . . . . .	311
317:30-5-139. . . . .	[NEW] (E) . . . . .	143	317:30-5-467. . . . .	[AMENDED] . . . . .	902
317:30-5-139. . . . .	[NEW] . . . . .	892	317:30-5-480. . . . .	[AMENDED] . . . . .	883
317:30-5-140. . . . .	[NEW] (E) . . . . .	143	317:30-5-481. . . . .	[AMENDED] . . . . .	883
317:30-5-140. . . . .	[NEW] . . . . .	892	317:30-5-482. . . . .	[AMENDED] . . . . .	883
317:30-5-141. . . . .	[NEW] (E) . . . . .	143	317:30-5-545. . . . .	[AMENDED] (E) . . . . .	333
317:30-5-141. . . . .	[NEW] . . . . .	892	317:30-5-545. . . . .	[AMENDED] . . . . .	929
317:30-5-180. . . . .	[NEW] (E) . . . . .	677	317:30-5-556. . . . .	[AMENDED] (E) . . . . .	334
317:30-5-180.1. . . . .	[NEW] (E) . . . . .	677	317:30-5-556. . . . .	[AMENDED] . . . . .	930
317:30-5-180.2. . . . .	[NEW] (E) . . . . .	677	317:30-5-558. . . . .	[AMENDED] (E) . . . . .	334
317:30-5-180.3. . . . .	[NEW] (E) . . . . .	677	317:30-5-558. . . . .	[AMENDED] . . . . .	930

317:30-5-560. . . . .	[AMENDED] (E) . . . . .	334	317:45-9-1. . . . .	[AMENDED] (E) . . . . .	703
317:30-5-560. . . . .	[AMENDED] . . . . .	931	317:45-9-3. . . . .	[AMENDED] (E) . . . . .	105
317:30-5-560.1. . . . .	[AMENDED] (E) . . . . .	335	317:45-9-3. . . . .	[AMENDED] . . . . .	965
317:30-5-560.1. . . . .	[AMENDED] . . . . .	931	317:45-9-5. . . . .	[REVOKED] (E) . . . . .	105
317:30-5-560.2. . . . .	[AMENDED] (E) . . . . .	335	317:45-9-5. . . . .	[AMENDED] . . . . .	965
317:30-5-560.2. . . . .	[AMENDED] . . . . .	931	317:45-9-7. . . . .	[AMENDED] (E) . . . . .	105
317:30-5-566. . . . .	[AMENDED] (E) . . . . .	331	317:45-9-7. . . . .	[AMENDED] . . . . .	966
317:30-5-566. . . . .	[AMENDED] . . . . .	919	317:45-11-1. . . . .	[NEW] (E) . . . . .	105
317:30-5-567. . . . .	[AMENDED] (E) . . . . .	332	317:45-11-1. . . . .	[NEW] . . . . .	966
317:30-5-567. . . . .	[AMENDED] . . . . .	920	317:45-11-2. . . . .	[NEW] (E) . . . . .	105
317:30-5-676. . . . .	[AMENDED] (E) . . . . .	83	317:45-11-2. . . . .	[NEW] . . . . .	966
317:30-5-676. . . . .	[AMENDED] . . . . .	932	317:45-11-10. . . . .	[NEW] (E) . . . . .	106
317:30-5-695. . . . .	[AMENDED] (E) . . . . .	665	317:45-11-10. . . . .	[NEW] (E) . . . . .	701
317:30-5-696. . . . .	[AMENDED] (E) . . . . .	666	317:45-11-10. . . . .	[NEW] (E) . . . . .	811
317:30-5-696.1. . . . .	[NEW] (E) . . . . .	669	317:45-11-11. . . . .	[NEW] (E) . . . . .	107
317:30-5-698. . . . .	[AMENDED] (E) . . . . .	669	317:45-11-11. . . . .	[NEW] (E) . . . . .	702
317:30-5-763. . . . .	[AMENDED] (E) . . . . .	83	317:45-11-11. . . . .	[NEW] (E) . . . . .	813
317:30-5-763. . . . .	[AMENDED] . . . . .	933	317:45-11-20. . . . .	[NEW] (E) . . . . .	107
317:30-5-764. . . . .	[AMENDED] (E) . . . . .	91	317:45-11-20. . . . .	[NEW] (E) . . . . .	704
317:30-5-764. . . . .	[AMENDED] . . . . .	941	317:45-11-21. . . . .	[NEW] (E) . . . . .	108
317:30-5-901. . . . .	[AMENDED] (E) . . . . .	311	317:45-11-21. . . . .	[NEW] . . . . .	966
317:30-5-901. . . . .	[AMENDED] . . . . .	902	317:45-11-22. . . . .	[NEW] (E) . . . . .	108
317:30-5-951. . . . .	[AMENDED] (E) . . . . .	92	317:45-11-22. . . . .	[NEW] . . . . .	966
317:30-5-951. . . . .	[AMENDED] . . . . .	942	317:45-11-23. . . . .	[NEW] (E) . . . . .	108
317:30-5-952. . . . .	[AMENDED] (E) . . . . .	93	317:45-11-23. . . . .	[NEW] . . . . .	967
317:30-5-952. . . . .	[AMENDED] . . . . .	943	317:45-11-24. . . . .	[NEW] (E) . . . . .	109
317:30-5-953. . . . .	[AMENDED] (E) . . . . .	93	317:45-11-24. . . . .	[NEW] . . . . .	967
317:30-5-953. . . . .	[AMENDED] . . . . .	943	317:45-11-25. . . . .	[NEW] (E) . . . . .	109
317:30-5-1076. . . . .	[AMENDED] (E) . . . . .	678	317:45-11-25. . . . .	[NEW] . . . . .	967
317:35-3-2. . . . .	[AMENDED] (E) . . . . .	94	317:45-11-26. . . . .	[NEW] (E) . . . . .	109
317:35-3-2. . . . .	[AMENDED] . . . . .	943	317:45-11-26. . . . .	[NEW] . . . . .	967
317:35-5-41. . . . .	[AMENDED] (E) . . . . .	681	317:45-11-27. . . . .	[NEW] (E) . . . . .	109
317:35-7-48. . . . .	[AMENDED] (E) . . . . .	693	317:45-11-27. . . . .	[NEW] . . . . .	967
317:35-10-26. . . . .	[AMENDED] (E) . . . . .	694	317:45-11-28. . . . .	[NEW] (E) . . . . .	109
317:35-15-2. . . . .	[AMENDED] (E) . . . . .	96	317:45-11-28. . . . .	[NEW] . . . . .	968
317:35-15-2. . . . .	[AMENDED] . . . . .	946	320:10-1-1. . . . .	[NEW] (E) . . . . .	336
317:35-15-8. . . . .	[AMENDED] (E) . . . . .	96	320:10-1-2. . . . .	[NEW] (E) . . . . .	336
317:35-15-8. . . . .	[AMENDED] . . . . .	946	320:10-3-1. . . . .	[NEW] (E) . . . . .	337
317:35-15-8.1. . . . .	[AMENDED] (E) . . . . .	98	320:10-3-2. . . . .	[NEW] (E) . . . . .	337
317:35-15-8.1. . . . .	[AMENDED] . . . . .	948	320:10-3-3. . . . .	[NEW] (E) . . . . .	337
317:35-15-10. . . . .	[AMENDED] (E) . . . . .	99	320:10-3-4. . . . .	[NEW] (E) . . . . .	337
317:35-15-10. . . . .	[AMENDED] . . . . .	948	320:10-3-5. . . . .	[NEW] (E) . . . . .	338
317:35-15-13.1. . . . .	[AMENDED] (E) . . . . .	100	320:10-3-6. . . . .	[NEW] (E) . . . . .	338
317:35-15-13.1. . . . .	[AMENDED] . . . . .	950	320:10-3-7. . . . .	[NEW] (E) . . . . .	338
317:35-21-12. . . . .	[AMENDED] (E) . . . . .	152	320:10-3-8. . . . .	[NEW] (E) . . . . .	338
317:35-21-12. . . . .	[AMENDED] . . . . .	952	320:10-3-9. . . . .	[NEW] (E) . . . . .	338
317:40-5-3. . . . .	[AMENDED] . . . . .	953	320:10-3-10. . . . .	[NEW] (E) . . . . .	338
317:40-5-55. . . . .	[AMENDED] . . . . .	959	320:10-3-11. . . . .	[NEW] (E) . . . . .	338
317:40-5-103. . . . .	[AMENDED] . . . . .	961	320:10-3-12. . . . .	[NEW] (E) . . . . .	338
317:40-5-152. . . . .	[AMENDED] . . . . .	955	320:10-3-13. . . . .	[NEW] (E) . . . . .	339
317:40-7-8. . . . .	[AMENDED] . . . . .	957	320:10-3-14. . . . .	[NEW] (E) . . . . .	339
317:40-7-18. . . . .	[AMENDED] . . . . .	957	320:10-3-15. . . . .	[NEW] (E) . . . . .	339
317:45-1-2. . . . .	[AMENDED] (E) . . . . .	102	320:10-3-16. . . . .	[NEW] (E) . . . . .	339
317:45-1-2. . . . .	[AMENDED] . . . . .	963	320:10-3-17. . . . .	[NEW] (E) . . . . .	339
317:45-1-3. . . . .	[AMENDED] (E) . . . . .	103	320:10-3-18. . . . .	[NEW] (E) . . . . .	339
317:45-1-3. . . . .	[AMENDED] . . . . .	964	320:10-3-19. . . . .	[NEW] (E) . . . . .	340
317:45-1-4. . . . .	[NEW] (E) . . . . .	103	320:10-3-20. . . . .	[NEW] (E) . . . . .	340
317:45-1-4. . . . .	[NEW] . . . . .	965	320:10-3-21. . . . .	[NEW] (E) . . . . .	340
317:45-5-1. . . . .	[AMENDED] (E) . . . . .	104	320:10-5-1. . . . .	[NEW] (E) . . . . .	340
317:45-5-1. . . . .	[AMENDED] . . . . .	965	320:10-5-2. . . . .	[NEW] (E) . . . . .	340
317:45-7-1. . . . .	[AMENDED] (E) . . . . .	153	320:10-5-3. . . . .	[NEW] (E) . . . . .	340
317:45-7-1. . . . .	[AMENDED] (E) . . . . .	700	320:10-5-4. . . . .	[NEW] (E) . . . . .	340
317:45-7-2. . . . .	[AMENDED] (E) . . . . .	104	320:10-5-5. . . . .	[NEW] (E) . . . . .	340
317:45-7-2. . . . .	[AMENDED] (E) . . . . .	701	320:10-5-6. . . . .	[NEW] (E) . . . . .	340
317:45-7-8. . . . .	[AMENDED] (E) . . . . .	104	320:10-5-7. . . . .	[NEW] (E) . . . . .	340
317:45-7-8. . . . .	[AMENDED] (E) . . . . .	701	320:10-7-1. . . . .	[NEW] (E) . . . . .	340
317:45-9-1. . . . .	[AMENDED] (E) . . . . .	104	320:10-7-2. . . . .	[NEW] (E) . . . . .	341

**Rules Affected Index – *continued***

320:10-7-3. .... [NEW] (E) .....	341	340:10-10-4. .... [AMENDED] .....	1025
320:10-7-4. .... [NEW] (E) .....	341	340:10-10-6. .... [AMENDED] .....	1026
320:10-7-5. .... [NEW] (E) .....	341	340:25-1-1.1. .... [AMENDED] .....	1302
320:10-7-6. .... [NEW] (E) .....	341	340:25-1-1.2. .... [AMENDED] .....	1304
320:10-7-7. .... [NEW] (E) .....	341	340:25-1-2. .... [AMENDED] .....	1305
320:10-7-8. .... [NEW] (E) .....	341	340:25-1-2.1. .... [AMENDED] .....	1305
320:10-7-9. .... [NEW] (E) .....	341	340:25-1-3.1. .... [AMENDED] .....	1305
320:10-7-10. .... [NEW] (E) .....	342	340:25-3-3. .... [AMENDED] .....	1306
320:10-9-1. .... [NEW] (E) .....	342	340:25-5-55. .... [AMENDED] .....	1306
320:10-9-2. .... [NEW] (E) .....	342	340:25-5-67. .... [AMENDED] .....	1306
320:10-9-3. .... [NEW] (E) .....	342	340:25-5-67.1. .... [AMENDED] .....	1307
325:15-5-15. .... [AMENDED] .....	968	340:25-5-110. .... [AMENDED] .....	1308
325:15-5-21. .... [AMENDED] .....	968	340:25-5-110.1. .... [AMENDED] .....	1308
325:25-1-10. .... [AMENDED] .....	969	340:25-5-114. .... [AMENDED] .....	1308
325:25-1-17. .... [AMENDED] .....	970	340:25-5-117. .... [AMENDED] .....	1309
325:30-1-17. .... [AMENDED] .....	970	340:25-5-123. .... [AMENDED] .....	1310
325:35-1-5. .... [AMENDED] .....	971	340:25-5-124. .... [AMENDED] .....	1310
325:35-1-17. .... [AMENDED] .....	972	340:25-5-124.2. .... [AMENDED] .....	1311
325:35-1-38. .... [AMENDED] .....	972	340:25-5-124.3. .... [NEW] .....	1311
325:45-1-9. .... [AMENDED] .....	973	340:25-5-140. .... [AMENDED] .....	1312
325:45-1-28. .... [AMENDED] .....	974	340:25-5-168. .... [AMENDED] .....	1313
325:60-1-12. .... [AMENDED] .....	974	340:25-5-171. .... [AMENDED] .....	1313
325:75-1-7. .... [AMENDED] .....	975	340:25-5-176. .... [AMENDED] .....	1314
325:75-1-9. .... [AMENDED] .....	975	340:25-5-176.1. .... [NEW] .....	1315
340:1-1-17. .... [AMENDED] .....	976	340:25-5-178. .... [AMENDED] .....	1315
340:1-1-21. .... [AMENDED] .....	976	340:25-5-179.1. .... [AMENDED] .....	1316
340:2-1-32. .... [AMENDED] (E) .....	342	340:25-5-198.1. .... [AMENDED] .....	1316
340:2-1-32. .... [AMENDED] .....	977	340:25-5-198.2. .... [AMENDED] .....	1318
340:2-3-2. .... [AMENDED] .....	979	340:25-5-200. .... [AMENDED] .....	1318
340:2-3-33. .... [AMENDED] .....	983	340:25-5-214. .... [AMENDED] .....	1319
340:2-3-34. .... [AMENDED] .....	985	340:25-5-215.1. .... [AMENDED] .....	1320
340:2-3-35. .... [AMENDED] .....	986	340:25-5-235. .... [AMENDED] .....	1320
340:2-3-36. .... [AMENDED] .....	987	340:25-5-244. .... [AMENDED] .....	1320
340:2-3-37. .... [AMENDED] .....	991	340:25-5-305. .... [AMENDED] .....	1320
340:2-3-38. .... [AMENDED] .....	992	340:25-5-339. .... [AMENDED] .....	1321
340:2-3-45. .... [AMENDED] .....	995	340:25-5-340. .... [AMENDED] .....	1321
340:2-3-46. .... [AMENDED] .....	1002	340:25-5-340.1. .... [AMENDED] .....	1322
340:2-3-47. .... [AMENDED] .....	1002	340:25-5-350.3. .... [AMENDED] .....	1322
340:2-3-48. .... [AMENDED] .....	1003	340:40-3-1. .... [AMENDED] .....	1027
340:2-3-49. .... [AMENDED] .....	1003	340:40-5-1. .... [AMENDED] .....	1029
340:2-3-50. .... [AMENDED] .....	1003	340:40-7-1. .... [AMENDED] .....	1031
340:2-3-51. .... [AMENDED] .....	1004	340:40-7-13. .... [AMENDED] .....	1031
340:2-3-52. .... [AMENDED] .....	1005	340:40-9-1. .... [AMENDED] .....	1032
340:2-3-53. .... [AMENDED] .....	1006	340:40-9-2. .... [AMENDED] .....	1032
340:2-3-55. .... [AMENDED] .....	1007	340:40-9-3. .... [AMENDED] .....	1033
340:2-3-64. .... [AMENDED] .....	1007	340:40-10-4. .... [AMENDED] .....	1033
340:2-3-73. .... [AMENDED] .....	1009	340:40-13-1. .... [AMENDED] .....	1034
340:2-3-74. .... [AMENDED] .....	1010	340:40-13-2. .... [AMENDED] .....	1035
340:2-31-10. .... [AMENDED] .....	1012	340:40-13-3. .... [AMENDED] .....	1036
340:2-31-31. .... [AMENDED] .....	1013	340:40-13-5. .... [AMENDED] .....	1037
340:2-31-32. .... [AMENDED] .....	1013	340:50-9-5. .... [AMENDED] .....	1040
340:2-31-33. .... [AMENDED] .....	1014	340:65-3-4. .... [AMENDED] .....	1042
340:2-33-1. .... [AMENDED] .....	1015	340:65-3-8. .... [AMENDED] .....	1043
340:2-33-2. .... [AMENDED] .....	1015	340:65-5-6. .... [AMENDED] .....	1044
340:2-33-3. .... [AMENDED] .....	1015	340:75-1-12.2. .... [AMENDED] .....	1044
340:2-33-4. .... [REVOKED] .....	1015	340:75-1-12.8. .... [NEW] .....	1323
340:2-33-5. .... [REVOKED] .....	1015	340:75-1-16. .... [AMENDED] (E) .....	631
340:2-39-1. .... [NEW] .....	1016	340:75-1-16. .... [AMENDED] .....	1323
340:5-1-8. .... [AMENDED] .....	1017	340:75-1-18. .... [AMENDED] .....	1044
340:10-2-1. .... [AMENDED] (E) .....	344	340:75-1-18.1. .... [AMENDED] .....	1044
340:10-2-1. .... [AMENDED] .....	1018	340:75-1-44. .... [AMENDED] .....	1044
340:10-2-3. .... [AMENDED] .....	1021	340:75-3-2. .... [AMENDED] .....	1323
340:10-2-5. .... [AMENDED] .....	1022	340:75-3-4. .... [AMENDED] .....	1323
340:10-2-6. .... [AMENDED] .....	1022	340:75-3-5. .... [AMENDED] (E) .....	633
340:10-2-7. .... [AMENDED] .....	1023	340:75-3-5. .... [AMENDED] .....	1323
340:10-3-33. .... [AMENDED] (E) .....	28	340:75-3-6.1. .... [AMENDED] .....	1323
340:10-3-33. .... [AMENDED] .....	1020	340:75-3-7. .... [AMENDED] .....	1323

340:75-3-7.1. . . . . [AMENDED] . . . . .	1323	340:75-15-106. . . . . [AMENDED] . . . . .	1323
340:75-3-8.1. . . . . [AMENDED] . . . . .	1323	340:75-15-107. . . . . [AMENDED] . . . . .	1323
340:75-3-8.6. . . . . [AMENDED] . . . . .	1323	340:75-15-128.1. . . . [AMENDED] (E) . . . . .	210
340:75-3-10.1. . . . . [AMENDED] . . . . .	1323	340:75-15-128.1. . . . [AMENDED] . . . . .	1044
340:75-3-10.2. . . . . [AMENDED] . . . . .	1323	340:75-15-128.2. . . . [AMENDED] . . . . .	1044
340:75-3-13. . . . . [AMENDED] . . . . .	1323	340:75-15-128.3. . . . [AMENDED] . . . . .	1044
340:75-4-12.1. . . . . [AMENDED] . . . . .	1044	340:75-15-128.5. . . . [AMENDED] . . . . .	1044
340:75-4-12.2. . . . . [AMENDED] . . . . .	1044	340:75-15-128.6. . . . [AMENDED] . . . . .	1044
340:75-4-13. . . . . [AMENDED] . . . . .	1044	340:75-16-29. . . . . [AMENDED] . . . . .	1044
340:75-6-31. . . . . [AMENDED] . . . . .	1044	340:75-16-30. . . . . [AMENDED] . . . . .	1044
340:75-6-31.5. . . . . [AMENDED] . . . . .	1044	340:75-16-31. . . . . [AMENDED] . . . . .	1044
340:75-6-40.2. . . . . [AMENDED] . . . . .	1044	340:75-16-32. . . . . [AMENDED] . . . . .	1044
340:75-6-40.3. . . . . [AMENDED] . . . . .	1044	340:75-16-34. . . . . [AMENDED] . . . . .	1044
340:75-6-40.4. . . . . [AMENDED] . . . . .	1044	340:75-16-35. . . . . [AMENDED] . . . . .	1044
340:75-6-40.5. . . . . [AMENDED] . . . . .	1044	340:75-16-36. . . . . [AMENDED] . . . . .	1044
340:75-6-48. . . . . [AMENDED] . . . . .	1044	340:75-16-37. . . . . [AMENDED] . . . . .	1044
340:75-6-85. . . . . [AMENDED] . . . . .	1044	340:75-16-45. . . . . [AMENDED] . . . . .	1044
340:75-6-85.2. . . . . [AMENDED] . . . . .	1044	340:75-19-1. . . . . [AMENDED] . . . . .	1044
340:75-6-85.4. . . . . [AMENDED] . . . . .	1044	340:75-19-2. . . . . [AMENDED] . . . . .	1044
340:75-6-85.5. . . . . [AMENDED] . . . . .	1044	340:75-19-3. . . . . [AMENDED] . . . . .	1044
340:75-6-85.6. . . . . [AMENDED] . . . . .	1044	340:75-19-4. . . . . [AMENDED] . . . . .	1044
340:75-6-86. . . . . [AMENDED] . . . . .	1044	340:75-19-11. . . . . [AMENDED] . . . . .	1044
340:75-6-88. . . . . [AMENDED] . . . . .	1044	340:75-19-16. . . . . [AMENDED] . . . . .	1044
340:75-6-89. . . . . [AMENDED] . . . . .	1044	340:75-19-22. . . . . [AMENDED] . . . . .	1044
340:75-7-2. . . . . [AMENDED] . . . . .	1323	340:75-19-26. . . . . [AMENDED] . . . . .	1044
340:75-7-14. . . . . [AMENDED] . . . . .	1323	340:75-19-26.1. . . . [AMENDED] . . . . .	1323
340:75-7-15. . . . . [AMENDED] . . . . .	1323	340:75-19-28. . . . . [AMENDED] . . . . .	1044
340:75-7-18. . . . . [AMENDED] . . . . .	1323	340:75-19-29. . . . . [AMENDED] . . . . .	1044
340:75-7-19. . . . . [AMENDED] . . . . .	1323	340:75-19-30. . . . . [AMENDED] . . . . .	1044
340:75-7-24. . . . . [AMENDED] . . . . .	1323	340:75-19-31. . . . . [AMENDED] . . . . .	1044
340:75-7-37.1. . . . . [NEW] . . . . .	1323	340:75-19-33. . . . . [AMENDED] . . . . .	1044
340:75-7-52. . . . . [AMENDED] . . . . .	1323	340:100-1-2. . . . . [AMENDED] . . . . .	1047
340:75-7-52.1. . . . . [NEW] . . . . .	1323	340:100-3-1.1. . . . . [REVOKED] . . . . .	1053
340:75-7-65. . . . . [AMENDED] . . . . .	1323	340:100-3-5. . . . . [AMENDED] . . . . .	1054
340:75-7-94. . . . . [AMENDED] . . . . .	1323	340:100-3-5.1. . . . . [AMENDED] . . . . .	1056
340:75-8-1. . . . . [AMENDED] . . . . .	1044	340:100-3-5.2. . . . . [AMENDED] . . . . .	1058
340:75-8-6. . . . . [AMENDED] . . . . .	1044	340:100-3-33.2. . . . . [NEW] . . . . .	1060
340:75-8-7. . . . . [AMENDED] . . . . .	1044	340:100-3-34. . . . . [AMENDED] . . . . .	1060
340:75-8-8. . . . . [AMENDED] . . . . .	1044	340:100-3-37. . . . . [REVOKED] . . . . .	1061
340:75-8-9. . . . . [AMENDED] . . . . .	1044	340:100-3-39. . . . . [AMENDED] . . . . .	1062
340:75-8-10. . . . . [AMENDED] . . . . .	1044	340:100-5-15. . . . . [AMENDED] . . . . .	1068
340:75-8-11. . . . . [AMENDED] . . . . .	1044	340:100-5-19. . . . . [REVOKED] . . . . .	1068
340:75-8-36. . . . . [AMENDED] . . . . .	1044	340:100-5-22.6. . . . [AMENDED] . . . . .	1068
340:75-8-37. . . . . [AMENDED] . . . . .	1044	340:100-6-1. . . . . [REVOKED] . . . . .	1072
340:75-8-38. . . . . [AMENDED] . . . . .	1044	340:100-6-2. . . . . [AMENDED] . . . . .	1072
340:75-8-39. . . . . [AMENDED] . . . . .	1044	340:100-6-10. . . . . [AMENDED] . . . . .	1073
340:75-13-62. . . . . [AMENDED] . . . . .	1323	340:100-6-11. . . . . [AMENDED] . . . . .	1074
340:75-13-63. . . . . [AMENDED] . . . . .	1323	340:100-6-12. . . . . [AMENDED] . . . . .	1074
340:75-13-65. . . . . [AMENDED] . . . . .	1323	340:100-6-13. . . . . [AMENDED] . . . . .	1075
340:75-13-74. . . . . [AMENDED] . . . . .	1323	340:100-6-14. . . . . [AMENDED] . . . . .	1075
340:75-13-75. . . . . [AMENDED] . . . . .	1323	340:100-6-15. . . . . [AMENDED] . . . . .	1075
340:75-13-77. . . . . [AMENDED] . . . . .	1323	340:100-6-16. . . . . [REVOKED] . . . . .	1076
340:75-13-79. . . . . [AMENDED] . . . . .	1323	340:100-6-17. . . . . [REVOKED] . . . . .	1076
340:75-13-80. . . . . [AMENDED] . . . . .	1323	340:100-6-18. . . . . [AMENDED] . . . . .	1076
340:75-15-8. . . . . [AMENDED] . . . . .	1323	340:100-6-19. . . . . [AMENDED] . . . . .	1077
340:75-15-9. . . . . [AMENDED] . . . . .	1323	340:100-6-20. . . . . [AMENDED] . . . . .	1077
340:75-15-41. . . . . [AMENDED] . . . . .	1323	340:100-6-21. . . . . [AMENDED] . . . . .	1077
340:75-15-45. . . . . [AMENDED] . . . . .	1323	340:100-6-30. . . . . [AMENDED] . . . . .	1078
340:75-15-47. . . . . [AMENDED] . . . . .	1323	340:100-6-31. . . . . [REVOKED] . . . . .	1078
340:75-15-59. . . . . [AMENDED] . . . . .	1323	340:100-6-32. . . . . [REVOKED] . . . . .	1079
340:75-15-82. . . . . [AMENDED] . . . . .	1323	340:100-6-33. . . . . [REVOKED] . . . . .	1079
340:75-15-84. . . . . [AMENDED] . . . . .	1323	340:100-6-34. . . . . [REVOKED] . . . . .	1079
340:75-15-87. . . . . [AMENDED] . . . . .	1323	340:100-6-35. . . . . [REVOKED] . . . . .	1079
340:75-15-88. . . . . [AMENDED] . . . . .	1323	340:100-6-40. . . . . [REVOKED] . . . . .	1079
340:75-15-89. . . . . [AMENDED] . . . . .	1323	340:100-6-41. . . . . [AMENDED] . . . . .	1079
340:75-15-93. . . . . [AMENDED] . . . . .	1323	340:100-6-42. . . . . [REVOKED] . . . . .	1080
340:75-15-103. . . . . [AMENDED] . . . . .	1323	340:100-6-43. . . . . [REVOKED] . . . . .	1080

## Rules Affected Index – *continued*

---

340:100-6-44. .... [AMENDED] .....	1080	340:110-1-8.3. .... [AMENDED] .....	1358
340:100-6-45. .... [NEW] .....	1080	340:110-1-9. .... [AMENDED] .....	1366
340:100-6-50. .... [AMENDED] .....	1081	340:110-1-9.1. .... [AMENDED] .....	1367
340:100-6-55. .... [AMENDED] .....	1081	340:110-1-9.2. .... [AMENDED] .....	1369
340:100-6-56. .... [NEW] .....	1083	340:110-1-9.3. .... [AMENDED] .....	1370
340:100-6-60. .... [AMENDED] .....	1083	340:110-1-9.4. .... [AMENDED] .....	1372
340:100-6-61. .... [REVOKED] .....	1084	340:110-1-9.5. .... [AMENDED] .....	1373
340:100-6-62. .... [REVOKED] .....	1084	340:110-1-10. .... [AMENDED] .....	1373
340:100-6-70. .... [REVOKED] .....	1085	340:110-1-13. .... [AMENDED] .....	1374
340:100-6-75. .... [REVOKED] .....	1085	340:110-1-14. .... [AMENDED] .....	1375
340:100-6-76. .... [REVOKED] .....	1085	340:110-1-15. .... [AMENDED] .....	1376
340:100-6-85. .... [AMENDED] .....	1085	340:110-1-17. .... [AMENDED] .....	1376
340:100-6-86. .... [AMENDED] .....	1086	340:110-1-20. .... [AMENDED] .....	1378
340:100-6-87. .... [REVOKED] .....	1086	340:110-1-21. .... [AMENDED] .....	1378
340:100-6-88. .... [AMENDED] .....	1086	340:110-1-43. .... [AMENDED] .....	1378
340:100-6-95. .... [AMENDED] .....	1086	340:110-1-43.1. .... [AMENDED] .....	1379
340:100-6-96. .... [REVOKED] .....	1087	340:110-1-45. .... [AMENDED] .....	1380
340:100-6-97. .... [AMENDED] .....	1088	340:110-1-46. .... [AMENDED] .....	1380
340:100-6-98. .... [REVOKED] .....	1088	340:110-1-47. .... [AMENDED] .....	1381
340:100-17-30. .... [AMENDED] .....	1088	340:110-1-47.1. .... [AMENDED] .....	1382
340:105-1-2. .... [AMENDED] .....	1326	340:110-1-47.2. .... [AMENDED] .....	1384
340:105-1-3. .... [AMENDED] .....	1326	340:110-1-51. .... [AMENDED] .....	1385
340:105-1-5. .... [AMENDED] .....	1327	340:110-1-52. .... [AMENDED] .....	1387
340:105-1-6. .... [AMENDED] .....	1328	340:110-1-53. .... [AMENDED] .....	1388
340:105-1-8. .... [AMENDED] .....	1329	377:1-1-3. .... [AMENDED] .....	1389
340:105-1-10. .... [AMENDED] .....	1329	377:1-1-5. .... [AMENDED] .....	1390
340:105-7-1. .... [AMENDED] .....	1329	377:1-1-11. .... [AMENDED] .....	1391
340:105-7-2. .... [AMENDED] .....	1330	377:1-1-12. .... [AMENDED] .....	1391
340:105-7-4. .... [AMENDED] .....	1332	377:3-1-23. .... [AMENDED] .....	1392
340:105-7-7. .... [AMENDED] .....	1332	377:3-1-26. .... [AMENDED] .....	1393
340:105-7-8. .... [AMENDED] .....	1333	377:3-1-28. .... [AMENDED] .....	1393
340:105-7-9. .... [AMENDED] .....	1333	377:3-1-31. .... [AMENDED] .....	1394
340:105-10-17. .... [AMENDED] .....	1333	377:3-1-46. .... [AMENDED] .....	1394
340:105-10-31. .... [AMENDED] .....	1334	377:3-1-47. .... [AMENDED] .....	1394
340:105-10-33. .... [AMENDED] .....	1334	377:3-1-48. .... [AMENDED] .....	1395
340:105-10-40. .... [AMENDED] .....	1335	377:3-3-3. .... [AMENDED] .....	1396
340:105-10-45. .... [AMENDED] .....	1336	377:3-7-1. .... [AMENDED] .....	1396
340:105-10-51. .... [AMENDED] .....	1336	377:3-11-5. .... [AMENDED] .....	1396
340:105-10-59. .... [AMENDED] .....	1339	377:3-11-20. .... [AMENDED] .....	1396
340:105-10-70. .... [AMENDED] .....	1339	377:3-15-1. .... [AMENDED] .....	1397
340:105-10-72. .... [AMENDED] .....	1340	377:3-15-2. .... [AMENDED] .....	1397
340:105-10-74. .... [AMENDED] .....	1340	377:3-15-3. .... [AMENDED] .....	1397
340:105-10-75. .... [AMENDED] .....	1341	377:3-16-1. .... [REVOKED] .....	1397
340:105-10-79. .... [AMENDED] .....	1341	377:3-16-2. .... [REVOKED] .....	1397
340:105-10-85. .... [AMENDED] .....	1342	377:3-16-3. .... [REVOKED] .....	1397
340:105-10-86. .... [AMENDED] .....	1342	377:3-16-4. .... [REVOKED] .....	1397
340:105-10-91. .... [AMENDED] .....	1343	377:3-17-25. .... [AMENDED] .....	1397
340:105-10-92. .... [AMENDED] .....	1343	377:3-17-28. .... [AMENDED] .....	1398
340:105-10-93. .... [AMENDED] .....	1344	377:5-1-3. .... [AMENDED] .....	1398
340:105-10-101. .... [AMENDED] .....	1344	377:5-3-1. .... [AMENDED] .....	1398
340:105-10-112. .... [AMENDED] .....	1345	377:5-3-2. .... [AMENDED] .....	1398
340:105-10-114. .... [AMENDED] .....	1346	377:5-5-1. .... [AMENDED] .....	1399
340:105-10-116. .... [AMENDED] .....	1346	377:5-5-2. .... [AMENDED] .....	1399
340:105-11-234. .... [AMENDED] .....	1346	377:5-5-5. .... [AMENDED] .....	1400
340:105-11-235. .... [AMENDED] .....	1348	377:10-1-3. .... [AMENDED] .....	1402
340:105-11-240. .... [AMENDED] .....	1348	377:10-1-5. .... [AMENDED] .....	1402
340:105-11-245. .... [AMENDED] .....	1348	377:10-1-8. .... [AMENDED] .....	1403
340:105-11-246. .... [AMENDED] .....	1349	377:10-1-9. .... [AMENDED] .....	1403
340:105-11-248. .... [AMENDED] .....	1349	377:10-1-10. .... [AMENDED] .....	1404
340:105-11-252. .... [AMENDED] .....	1350	377:10-1-11. .... [AMENDED] .....	1404
340:105-11-253. .... [AMENDED] .....	1350	377:10-7-1. .... [AMENDED] .....	1405
340:110-1-3. .... [AMENDED] .....	1352	377:10-7-3. .... [AMENDED] .....	1405
340:110-1-4. .... [AMENDED] .....	1352	377:10-7-4. .... [AMENDED] .....	1408
340:110-1-4.1. .... [AMENDED] .....	1352	377:10-7-50. .... [AMENDED] .....	1408
340:110-1-6. .... [AMENDED] .....	1354	377:10-11-1. .... [AMENDED] .....	1408
340:110-1-8. .... [AMENDED] .....	1355	377:10-13-36. .... [AMENDED] .....	1408
340:110-1-8.1. .... [AMENDED] .....	1357	377:10-13-100. .... [AMENDED] .....	1409

377:15-1-1. . . . . [AMENDED] . . . . .	1410	380:70-5-8. . . . . [NEW] (E) . . . . .	38
377:15-1-2. . . . . [AMENDED] . . . . .	1410	380:70-5-9. . . . . [NEW] (E) . . . . .	38
377:15-1-3. . . . . [REVOKED] . . . . .	1410	380:70-7-1. . . . . [NEW] (E) . . . . .	38
377:15-1-4. . . . . [REVOKED] . . . . .	1410	380:70-7-2. . . . . [NEW] (E) . . . . .	38
377:15-1-5. . . . . [REVOKED] . . . . .	1410	380:70-7-3. . . . . [NEW] (E) . . . . .	39
377:15-1-6. . . . . [REVOKED] . . . . .	1410	380:70-9-1. . . . . [NEW] (E) . . . . .	39
377:15-1-7. . . . . [REVOKED] . . . . .	1411	380:70-9-2. . . . . [NEW] (E) . . . . .	39
377:15-3-1. . . . . [NEW] . . . . .	1411	380:70-9-3. . . . . [NEW] (E) . . . . .	40
377:15-5-1. . . . . [NEW] . . . . .	1411	380:70-9-4. . . . . [NEW] (E) . . . . .	40
377:15-5-2. . . . . [NEW] . . . . .	1411	380:70-11-1. . . . . [NEW] (E) . . . . .	40
377:15-5-3. . . . . [NEW] . . . . .	1411	380:70-11-2. . . . . [NEW] (E) . . . . .	40
377:15-5-4. . . . . [NEW] . . . . .	1411	380:70-11-3. . . . . [NEW] (E) . . . . .	40
377:15-5-5. . . . . [NEW] . . . . .	1412	380:70-11-4. . . . . [NEW] (E) . . . . .	40
377:15-5-6. . . . . [NEW] . . . . .	1412	380:70-11-5. . . . . [NEW] (E) . . . . .	41
377:15-7-1. . . . . [NEW] . . . . .	1413	380:70-11-6. . . . . [NEW] (E) . . . . .	41
377:15-7-2. . . . . [NEW] . . . . .	1413	380:70-11-7. . . . . [NEW] (E) . . . . .	41
377:15-7-3. . . . . [NEW] . . . . .	1413	380:70-11-8. . . . . [NEW] (E) . . . . .	41
377:15-7-4. . . . . [NEW] . . . . .	1413	380:70-11-9. . . . . [NEW] (E) . . . . .	41
377:15-7-5. . . . . [NEW] . . . . .	1413	380:70-11-10. . . . . [NEW] (E) . . . . .	42
377:15-7-6. . . . . [NEW] . . . . .	1414	380:70-11-11. . . . . [NEW] (E) . . . . .	42
377:15-7-7. . . . . [NEW] . . . . .	1414	380:70-11-12. . . . . [NEW] (E) . . . . .	42
377:15-7-8. . . . . [NEW] . . . . .	1414	380:70-11-13. . . . . [NEW] (E) . . . . .	42
377:15-7-9. . . . . [NEW] . . . . .	1414	380:70-11-14. . . . . [NEW] (E) . . . . .	42
377:15-7-10. . . . . [NEW] . . . . .	1414	380:70, App. A. . . . . [NEW] (E) . . . . .	43
377:15-7-11. . . . . [NEW] . . . . .	1414	429:1-1-3. . . . . [AMENDED] . . . . .	1089
377:15-7-12. . . . . [NEW] . . . . .	1414	429:10-1-2. . . . . [AMENDED] . . . . .	1092
377:15-7-13. . . . . [NEW] . . . . .	1414	429:10-1-3. . . . . [AMENDED] . . . . .	1095
377:15-9-1. . . . . [NEW] . . . . .	1414	429:10-1-4. . . . . [AMENDED] . . . . .	1095
377:25-1-2. . . . . [AMENDED] . . . . .	1415	429:10-1-6. . . . . [AMENDED] . . . . .	1095
377:25-3-15. . . . . [AMENDED] . . . . .	1415	429:10-1-7. . . . . [AMENDED] . . . . .	1095
377:25-7-2. . . . . [AMENDED] . . . . .	1415	429:10-1-8. . . . . [AMENDED] . . . . .	1096
377:25-7-50. . . . . [AMENDED] . . . . .	1415	429:10-1-10. . . . . [AMENDED] . . . . .	1096
377:25-9-1. . . . . [AMENDED] . . . . .	1416	429:15-1-2. . . . . [AMENDED] . . . . .	1097
377:25-13-1. . . . . [REVOKED] . . . . .	1416	429:15-1-11. . . . . [AMENDED] . . . . .	1099
377:25-13-2. . . . . [REVOKED] . . . . .	1416	429:20-1-2. . . . . [AMENDED] . . . . .	1100
377:30-1-1. . . . . [AMENDED] . . . . .	1417	429:20-1-12. . . . . [AMENDED] . . . . .	1102
377:35-1-1. . . . . [AMENDED] . . . . .	1418	435:10-4-6. . . . . [AMENDED] (E) . . . . .	213
377:35-3-3. . . . . [AMENDED] . . . . .	1418	435:10-4-7. . . . . [AMENDED] (E) . . . . .	214
377:35-3-8. . . . . [AMENDED] . . . . .	1418	435:10-21-1. . . . . [NEW] (E) . . . . .	214
377:35-7-2. . . . . [AMENDED] . . . . .	1419	435:15-3-1. . . . . [AMENDED] . . . . .	1103
377:35-9-1. . . . . [AMENDED] . . . . .	1419	435:15-3-18. . . . . [AMENDED] . . . . .	1103
377:35-11-5. . . . . [AMENDED] . . . . .	1419	435:15-11-1. . . . . [AMENDED] . . . . .	1103
377:35-17-1. . . . . [AMENDED] . . . . .	1420	435:30-1-4. . . . . [AMENDED] . . . . .	1104
380:70-1-1. . . . . [NEW] (E) . . . . .	30	435:30-1-5. . . . . [AMENDED] . . . . .	1105
380:70-1-2. . . . . [NEW] (E) . . . . .	30	435:45-5-1. . . . . [AMENDED] . . . . .	1107
380:70-3-1. . . . . [NEW] (E) . . . . .	31	450:15-3-6. . . . . [AMENDED] . . . . .	1420
380:70-3-2. . . . . [NEW] (E) . . . . .	32	450:15-3-45. . . . . [AMENDED] . . . . .	1421
380:70-3-3. . . . . [NEW] (E) . . . . .	32	450:16-5-1. . . . . [AMENDED] . . . . .	1422
380:70-3-4. . . . . [NEW] (E) . . . . .	32	450:16-21-4. . . . . [AMENDED] . . . . .	1422
380:70-3-5. . . . . [NEW] (E) . . . . .	32	450:55-1-2. . . . . [AMENDED] . . . . .	1423
380:70-3-6. . . . . [NEW] (E) . . . . .	33	450:55-3-2. . . . . [AMENDED] . . . . .	1424
380:70-3-7. . . . . [NEW] (E) . . . . .	33	450:55-3-3. . . . . [AMENDED] . . . . .	1425
380:70-3-8. . . . . [NEW] (E) . . . . .	33	450:55-3-5. . . . . [AMENDED] . . . . .	1425
380:70-3-9. . . . . [NEW] (E) . . . . .	33	450:55-3-6. . . . . [AMENDED] . . . . .	1425
380:70-3-10. . . . . [NEW] (E) . . . . .	34	450:55-3-7. . . . . [AMENDED] . . . . .	1426
380:70-3-11. . . . . [NEW] (E) . . . . .	34	450:55-3-8. . . . . [AMENDED] . . . . .	1426
380:70-3-12. . . . . [NEW] (E) . . . . .	34	450:55-5-6. . . . . [AMENDED] . . . . .	1427
380:70-3-13. . . . . [NEW] (E) . . . . .	34	450:55-5-7. . . . . [AMENDED] . . . . .	1427
380:70-3-14. . . . . [NEW] (E) . . . . .	35	450:55-5-9. . . . . [AMENDED] . . . . .	1427
380:70-3-15. . . . . [NEW] (E) . . . . .	35	450:55-11-2. . . . . [AMENDED] . . . . .	1428
380:70-5-1. . . . . [NEW] (E) . . . . .	35	450:60-1-1. . . . . [NEW] . . . . .	1428
380:70-5-2. . . . . [NEW] (E) . . . . .	36	450:60-1-2. . . . . [NEW] . . . . .	1429
380:70-5-3. . . . . [NEW] (E) . . . . .	36	450:60-1-3. . . . . [NEW] . . . . .	1429
380:70-5-4. . . . . [NEW] (E) . . . . .	37	450:60-1-4. . . . . [NEW] . . . . .	1430
380:70-5-5. . . . . [NEW] (E) . . . . .	37	450:60-1-5. . . . . [NEW] . . . . .	1430
380:70-5-6. . . . . [NEW] (E) . . . . .	37	450:60-3-1. . . . . [NEW] . . . . .	1430
380:70-5-7. . . . . [NEW] (E) . . . . .	37	450:60-3-2. . . . . [NEW] . . . . .	1430

**Rules Affected Index – *continued***

450:60-3-3.	[NEW]	1430	485:10-7-6.	[AMENDED]	1444
450:60-3-4.	[NEW]	1430	485:10-7-9.	[AMENDED]	1444
450:60-3-5.	[NEW]	1430	485:10-9-2.	[AMENDED] (E)	45
450:60-3-6.	[NEW]	1430	485:10-9-2.	[AMENDED]	1445
450:60-3-7.	[NEW]	1430	485:10-9-6.	[AMENDED]	1446
450:60-3-8.	[NEW]	1431	485:10-9-9.	[AMENDED]	1446
450:60-3-9.	[NEW]	1431	485:10-13-1.	[AMENDED]	1446
450:60-3-10.	[NEW]	1431	485:10-15-5.	[AMENDED]	1447
450:60-3-11.	[NEW]	1431	485:10-15-6.	[AMENDED]	1447
450:60-3-12.	[NEW]	1431	485:10-16-6.	[AMENDED]	1448
450:60-3-13.	[NEW]	1431	485:10-16-7.	[AMENDED]	1448
450:60-3-14.	[NEW]	1431	485:10-19-5.	[AMENDED]	1449
450:60-3-15.	[NEW]	1431	530:10-1-2.	[AMENDED]	1114
450:60-3-16.	[NEW]	1431	530:10-1-43.	[AMENDED]	1117
450:60-5-1.	[NEW]	1432	530:10-3-33.6.	[AMENDED]	1118
450:60-5-2.	[NEW]	1432	530:10-3-33.7.	[AMENDED]	1118
450:60-5-3.	[NEW]	1432	530:10-3-54.	[AMENDED]	1119
450:60-7-1.	[NEW]	1432	530:10-7-1.	[AMENDED]	1119
450:60-7-2.	[NEW]	1433	530:10-7-6.	[AMENDED]	1119
450:60-7-3.	[NEW]	1433	530:10-7-7.	[AMENDED]	1120
450:60-7-4.	[NEW]	1433	530:10-7-11.	[AMENDED]	1120
450:60-7-5.	[NEW]	1433	530:10-7-12.	[AMENDED]	1120
450:60-7-6.	[NEW]	1433	530:10-7-14.	[AMENDED]	1121
450:60-7-7.	[NEW]	1434	530:10-7-17.	[AMENDED]	1122
450:60-7-8.	[NEW]	1434	530:10-7-24.	[AMENDED]	1133
450:60-7-9.	[NEW]	1434	530:10-9-4.	[AMENDED]	1122
450:60-7-10.	[NEW]	1434	530:10-9-5.	[AMENDED]	1122
450:60-9-1.	[NEW]	1435	530:10-9-37.	[AMENDED]	1122
450:60-11-1.	[NEW]	1435	530:10-9-38.	[AMENDED]	1122
450:60-11-2.	[NEW]	1435	530:10-9-39.	[AMENDED]	1122
450:60-11-3.	[NEW]	1435	530:10-9-40.	[AMENDED]	1122
450:60-13-1.	[NEW]	1435	530:10-9-51.	[AMENDED]	1123
450:60-13-2.	[NEW]	1436	530:10-9-52.	[AMENDED]	1123
450:60-15-1.	[NEW]	1436	530:10-9-54.	[AMENDED]	1123
450:60-15-2.	[NEW]	1436	530:10-9-76.	[AMENDED]	1123
450:60-17-1.	[NEW]	1437	530:10-9-99.	[AMENDED]	1123
450:60-17-2.	[NEW]	1437	530:10-9-100.	[AMENDED]	1124
450:60-17-3.	[NEW]	1437	530:10-9-130.	[AMENDED]	1124
450:60-19-1.	[NEW]	1437	530:10-11-1.	[AMENDED]	1124
450:60-19-2.	[NEW]	1437	530:10-11-31.	[AMENDED]	1124
450:60-19-3.	[NEW]	1437	530:10-11-32.	[AMENDED]	1124
450:60-19-4.	[NEW]	1437	530:10-11-39.	[AMENDED]	1125
450:60-21-1.	[NEW]	1437	530:10-11-71.	[AMENDED]	1125
450:60-23-1.	[NEW]	1438	530:10-13-1.	[AMENDED]	1125
450:60-25-1.	[NEW]	1438	530:10-13-2.	[AMENDED]	1125
450:60-25-2.	[NEW]	1438	530:10-13-3.	[AMENDED]	1126
465:10-3-2.	[AMENDED]	1109	530:10-13-32.	[AMENDED]	1126
465:10-3-3.	[AMENDED]	1109	530:10-15-1.	[AMENDED]	1127
465:10-7-1.	[AMENDED]	1109	530:10-15-10.	[AMENDED]	1127
465:10-7-2.	[AMENDED]	1109	530:10-15-43.	[AMENDED]	1134
465:10-7-3.	[AMENDED]	1109	530:10-15-45.	[AMENDED]	1127
465:10-9-1.	[AMENDED]	1110	530:10-15-49.	[AMENDED]	1128
465:10-9-2.	[AMENDED]	1110	530:10-15-71.	[AMENDED] (E)	608
465:15-1-2.	[AMENDED]	1110	530:10-15-72.	[REVOKED] (E)	609
465:15-3-7.	[AMENDED]	1111	530:10-17-74.	[AMENDED]	1129
465:15-3-14.	[AMENDED]	1111	530:10-17-75.	[AMENDED]	1130
465:15-7-2.	[AMENDED]	1112	530:10-17-77.	[AMENDED]	1131
475:55-1-5.	[NEW] (E)	607	530:10-17-80.	[AMENDED]	1131
485:10-1-2.	[AMENDED]	1440	530:10-17-110.	[AMENDED]	1132
485:10-3-5.	[AMENDED]	1440	530:10-17-111.	[AMENDED]	1132
485:10-5-4.	[AMENDED]	1441	530:10-17-115.	[AMENDED]	1132
485:10-5-4.1.	[AMENDED]	1441	530:15-3-15.	[NEW]	1135
485:10-5-6.	[AMENDED]	1441	590:10-1-18.	[AMENDED]	1136
485:10-5-12.	[AMENDED]	1442	590:10-3-10.	[AMENDED]	1137
485:10-7-1.	[AMENDED]	1442	590:10-7-5.	[AMENDED] (E)	47
485:10-7-2.	[AMENDED] (E)	44	590:10-7-5.	[AMENDED]	1137
485:10-7-2.	[AMENDED]	1443	590:10-7-13.	[AMENDED]	1138

590:10-7-16. .... [AMENDED] .....	1138	710:75-1-9. .... [REVOKED] .....	1451
590:10-9-1. .... [AMENDED] .....	1139	710:75-1-10. .... [REVOKED] .....	1451
590:10-19-2. .... [AMENDED] .....	1139	710:85-1-2. .... [AMENDED] .....	1452
590:10-19-4. .... [AMENDED] .....	1139	710:85-1-3. .... [REVOKED] .....	1453
590:10-19-5. .... [AMENDED] .....	1140	710:85-1-8. .... [AMENDED] .....	1453
590:10-19-6. .... [AMENDED] .....	1140	710:85-5-3. .... [REVOKED] .....	1453
590:10-19-7. .... [AMENDED] .....	1140	710:85-5-10. .... [AMENDED] .....	1454
590:10-19-8. .... [AMENDED] .....	1140	710:95-6-1. .... [REVOKED] .....	1454
590:25-9-17. .... [AMENDED] .....	1141	710:95-6-2. .... [REVOKED] .....	1454
590:35-13-9. .... [AMENDED] .....	1142	710:95-6-3. .... [REVOKED] .....	1454
600:10-1-4. .... [AMENDED] (E) .....	215	710:95-6-4. .... [REVOKED] .....	1455
600:10-1-6. .... [AMENDED] (E) .....	215	710:95-6-5. .... [REVOKED] .....	1455
600:10-1-8. .... [AMENDED] (E) .....	215	715:10-5-4.1. .... [NEW] (E) .....	221
600:10-1-16. .... [AMENDED] (E) .....	216	715:10-5-32. .... [AMENDED] (E) .....	221
600:15-1-14. .... [AMENDED] (E) .....	218	715:10-5-35. .... [AMENDED] (E) .....	222
605:10-3-1. .... [AMENDED] (E) .....	219	715:10-13-3.1. .... [AMENDED] (E) .....	223
650:12-1-1. .... [NEW] (E) .....	429	715:10-15-7.2. .... [NEW] (E) .....	223
650:12-1-2. .... [NEW] (E) .....	430	725:20-7-11. .... [NEW] (E) .....	501
650:12-1-3. .... [NEW] (E) .....	430	730:10-23-1. .... [NEW] (E) .....	224
650:12-1-4. .... [NEW] (E) .....	430	730:10-23-2. .... [NEW] (E) .....	225
650:12-1-5. .... [NEW] (E) .....	430	730:10-23-3. .... [NEW] (E) .....	225
650:12-1-6. .... [NEW] (E) .....	430	730:10-23-4. .... [NEW] (E) .....	225
650:12-1-7. .... [NEW] (E) .....	430	730:10-23-5. .... [NEW] (E) .....	225
650:12-1-8. .... [NEW] (E) .....	430	730:10-23-6. .... [NEW] (E) .....	225
650:12-1-9. .... [NEW] (E) .....	431	730:10-23-7. .... [NEW] (E) .....	225
650:12-1-10. .... [NEW] (E) .....	431	730:10-23-8. .... [NEW] (E) .....	225
650:12-1-11. .... [NEW] (E) .....	431	730:10-23-9. .... [NEW] (E) .....	226
650:12-1-12. .... [NEW] (E) .....	431	775:10-3-8.1. .... [AMENDED] .....	1143
650:12-1-13. .... [NEW] (E) .....	432	775:10-3-8.2. .... [RESERVED] .....	1143
650:12-1-14. .... [NEW] (E) .....	432	775:10-3-8.3. .... [NEW] .....	1143
650:12-1-15. .... [NEW] (E) .....	432	775:10-3-12. .... [AMENDED] .....	1143
710:75-1-1. .... [REVOKED] .....	1450	800:10-1-3. .... [AMENDED] (E) .....	226
710:75-1-2. .... [REVOKED] .....	1450	800:10-1-4. .... [AMENDED] (E) .....	610
710:75-1-3. .... [REVOKED] .....	1450	800:10-1-5. .... [AMENDED] (E) .....	611
710:75-1-4. .... [REVOKED] .....	1450	800:10-5-2. .... [AMENDED] (E) .....	226
710:75-1-5. .... [REVOKED] .....	1451	800:10-5-3. .... [AMENDED] (E) .....	612
710:75-1-6. .... [REVOKED] .....	1451	800:15-7-3. .... [AMENDED] (E) .....	110
710:75-1-7. .... [REVOKED] .....	1451	800:25-7-120.3. .... [NEW] (E) .....	228
710:75-1-8. .... [REVOKED] .....	1451		

# Agency/Title Index

[Assigned as of 5-15-07]

Agency	Title	Agency	Title
Oklahoma <b>ACCOUNTANCY</b> Board	10	State <b>ELECTION</b> Board	230
State <b>ACCREDITING</b> Agency	15	Oklahoma <b>FUNERAL</b> Board ( <i>Formerly:</i> Oklahoma State Board of <b>EMBALMERS</b> and Funeral Directors)	235
<b>AD Valorem</b> Task Force ( <i>abolished 7-1-93</i> )	20	Oklahoma Department of <b>EMERGENCY</b> Management ( <i>Formerly:</i> Department of <b>CIVIL</b> Emergency Management) - <i>See</i> Title 145	
Oklahoma <b>AERONAUTICS</b> Commission	25	Oklahoma <b>EMPLOYMENT</b> Security Commission	240
Board of Regents for the Oklahoma <b>AGRICULTURAL</b> and Mechanical Colleges	30	Oklahoma <b>ENERGY</b> Resources Board	243
Oklahoma Department of <b>AGRICULTURE</b> , Food, and Forestry	35	State Board of Licensure for Professional <b>ENGINEERS</b> and Land Surveyors ( <i>Formerly:</i> State Board of Registration for Professional <b>ENGINEERS</b> and Land Surveyors)	245
Oklahoma Board of Licensed <b>ALCOHOL</b> and Drug Counselors	38	Board of Trustees for the <b>ENID</b> Higher Education Program	250
Board of Tests for <b>ALCOHOL</b> and Drug Influence	40	Department of <b>ENVIRONMENTAL</b> Quality	252
<b>ALCOHOLIC</b> Beverage Laws Enforcement Commission	45	State Board of <b>EQUALIZATION</b>	255
<b>ANATOMICAL</b> Board of the State of Oklahoma	50	<b>ETHICS</b> Commission ( <i>Title revoked</i> )	257
Board of Governors of the Licensed <b>ARCHITECTS</b> , Landscape Architects and Interior Designers of Oklahoma	55	<b>ETHICS</b> Commission	258
<b>ARCHIVES</b> and Records Commission	60	Office of State <b>FINANCE</b>	260
Board of Trustees for the <b>ARDMORE</b> Higher Education Program	65	State <b>FIRE</b> Marshal Commission	265
Oklahoma <b>ARTS</b> Council	70	Oklahoma Council on <b>FIREFIGHTER</b> Training	268
<b>ATTORNEY</b> General	75	Oklahoma <b>FIREFIGHTERS</b> Pension and Retirement System	270
State <b>AUDITOR</b> and Inspector	80	[RESERVED]	275
State <b>BANKING</b> Department	85	State Board of Registration for <b>FORESTERS</b>	280
Oklahoma State Employees <b>BENEFITS</b> Council	87	<b>FOSTER</b> Care Review Advisory Board	285
Council of <b>BOND</b> Oversight	90	Oklahoma <b>FUNERAL</b> Board ( <i>Formerly:</i> Oklahoma State Board of Embalmers and Funeral Directors) - <i>See</i> Title 235	
Oklahoma Professional <b>BOXING</b> Commission	92	Oklahoma <b>FUTURES</b>	290
State <b>BURIAL</b> Board ( <i>abolished 7-1-92</i> )	95	<b>GOVERNOR</b>	295
[RESERVED]	100	<b>GRAND</b> River Dam Authority	300
Oklahoma <b>CAPITAL</b> Investment Board	105	Group Self-Insurance Association <b>GUARANTY</b> Fund Board	302
Oklahoma <b>CAPITOL</b> Improvement Authority	110	Individual Self-Insured <b>GUARANTY</b> Fund Board	303
State <b>CAPITOL</b> Preservation Commission	115	<b>STATE</b> Use Committee ( <i>Formerly:</i> Committee on Purchases of Products and Services of the Severely <b>HANDICAPPED</b> )	304
<b>CAPITOL-MEDICAL</b> Center Improvement and Zoning Commission	120	Office of <b>HANDICAPPED</b> Concerns	305
Oklahoma Department of <b>CAREER</b> and Technology Education ( <i>Formerly:</i> Oklahoma Department of <b>VOCATIONAL</b> and Technical Education) - <i>See</i> Title 780		Oklahoma State Department of <b>HEALTH</b>	310
Board of Regents of <b>CARL</b> Albert State College	125	Oklahoma Basic <b>HEALTH</b> Benefits Board ( <i>abolished 11-1-97</i> )	315
Department of <b>CENTRAL</b> Services ( <i>Formerly:</i> Office of <b>PUBLIC</b> Affairs) - <i>See</i> Title 580		Oklahoma <b>HEALTH</b> Care Authority	317
<b>CEREBRAL</b> Palsy Commission	130	<b>HIGHWAY</b> Construction Materials Technician Certification Board	318
Commission on <b>CHILDREN</b> and Youth	135	Oklahoma <b>HISTORICAL</b> Society	320
Board of <b>CHIROPRACTIC</b> Examiners	140	Oklahoma <b>HORSE</b> Racing Commission	325
Oklahoma Department of <b>EMERGENCY</b> Management ( <i>Formerly:</i> Department of <b>CIVIL</b> Emergency Management)	145	Oklahoma <b>HOUSING</b> Finance Agency	330
Oklahoma Department of <b>COMMERCE</b>	150	Oklahoma <b>HUMAN</b> Rights Commission	335
<b>COMMUNITY</b> Hospitals Authority	152	Department of <b>HUMAN</b> Services	340
<b>COMPSOURCE</b> Oklahoma ( <i>Formerly:</i> State <b>INSURANCE</b> Fund) - <i>See</i> Title 370		Committee for <b>INCENTIVE</b> Awards for State Employees	345
Oklahoma <b>CONSERVATION</b> Commission	155	Oklahoma <b>INDIAN</b> Affairs Commission	350
<b>CONSTRUCTION</b> Industries Board	158	Oklahoma <b>INDIGENT</b> Defense System	352
Department of <b>CONSUMER</b> Credit	160	Oklahoma <b>INDUSTRIAL</b> Finance Authority	355
<b>CORPORATION</b> Commission	165	<b>INJURY</b> Review Board	357
Department of <b>CORRECTIONS</b>	170	Oklahoma State and Education Employees Group <b>INSURANCE</b> Board	360
State Board of <b>COSMETOLOGY</b>	175	<b>INSURANCE</b> Department	365
Oklahoma State <b>CREDIT</b> Union Board	180	<b>COMPSOURCE</b> Oklahoma ( <i>Formerly:</i> State <b>INSURANCE</b> Fund)	370
<b>CRIME</b> Victims Compensation Board	185	Oklahoma State Bureau of <b>INVESTIGATION</b>	375
Joint <b>CRIMINAL</b> Justice System Task Force Committee	190	Council on <b>JUDICIAL</b> Complaints	376
Board of <b>DENTISTRY</b>	195	Office of <b>JUVENILE</b> Affairs	377
Oklahoma <b>DEVELOPMENT</b> Finance Authority	200	Department of <b>LABOR</b>	380
Board of Regents of <b>EASTERN</b> Oklahoma State College	205	Department of the Commissioners of the <b>LAND</b> Office	385
State Department of <b>EDUCATION</b>	210		
<b>EDUCATION</b> Oversight Board	215		
Oklahoma <b>EDUCATIONAL</b> Television Authority	220		
[RESERVED]	225		

Agency	Title	Agency	Title
Council on <b>LAW</b> Enforcement Education and Training	390	Board of Regents of <b>REDLANDS</b> Community College	607
Oklahoma <b>LAW</b> Enforcement Retirement System	395	State <b>REGENTS</b> for Higher Education	610
Board on <b>LEGISLATIVE</b> Compensation	400	State Department of <b>REHABILITATION</b> Services	612
Oklahoma Department of <b>LIBRARIES</b>	405	Board of Regents of <b>ROGERS</b> State College	615
<b>LIEUTENANT</b> Governor	410	Board of Regents of <b>ROSE</b> State College	620
Oklahoma <b>LINKED</b> Deposit Review Board	415	Oklahoma <b>SAVINGS</b> and Loan Board ( <i>abolished 7-1-93</i> )	625
Oklahoma <b>LIQUEFIED</b> Petroleum Gas Board	420	<b>SCENIC</b> Rivers Commission	630
Oklahoma <b>LIQUEFIED</b> Petroleum Gas Research, Marketing and Safety Commission	422	Oklahoma Commission on <b>SCHOOL</b> and County Funds Management	635
<b>LITERACY</b> Initiatives Commission	425	Advisory Task Force on the Sale of <b>SCHOOL</b> Lands ( <i>functions concluded 2-92</i> )	640
<b>LONG-RANGE</b> Capital Planning Commission	428	The Oklahoma School of <b>SCIENCE</b> and Mathematics	645
Oklahoma State Board of Examiners for <b>LONG-TERM</b> Care Administrators ( <i>Formerly: Oklahoma State Board of Examiners for NURSING Home Administrators</i> ) - See Title 490		Oklahoma Center for the Advancement of <b>SCIENCE</b> and Technology	650
<b>LOTTERY</b> Commission, Oklahoma	429	<b>SECRETARY</b> of State	655
Board of Trustees for the <b>MCCURTAIN</b> County Higher Education Program	430	Department of <b>SECURITIES</b>	660
Commission on <b>MARGINALLY</b> Producing Oil and Gas Wells	432	Board of Regents of <b>SEMINOLE</b> State College	665
State Board of <b>MEDICAL</b> Licensure and Supervision	435	<b>SHEEP</b> and Wool Commission	670
<b>MEDICAL</b> Technology and Research Authority of Oklahoma	440	State Board of Licensed <b>SOCIAL</b> Workers	675
Board of <b>MEDICOLEGAL</b> Investigations	445	<b>SOUTHERN</b> Growth Policies Board	680
Department of <b>MENTAL</b> Health and Substance Abuse Services	450	Oklahoma <b>SOYBEAN</b> Commission ( <i>abolished 7-1-97</i> )	685
<b>MERIT</b> Protection Commission	455	Board of Examiners for <b>SPEECH-LANGUAGE</b> Pathology and Audiology	690
<b>MILITARY</b> Planning Commission, Oklahoma Strategic	457	<b>STATE</b> Employee Charitable Contributions, Oversight Committee for ( <i>Formerly: STATE Agency Review Committee</i> )	695
Department of <b>MINES</b>	460	<b>STATE</b> Use Committee ( <i>Formerly: Committee on Purchases of Products and Services of the Severely HANDICAPPED</i> ) – See Title 304	
Oklahoma <b>MOTOR</b> Vehicle Commission	465	Oklahoma <b>STUDENT</b> Loan Authority	700
Board of Regents of <b>MURRAY</b> State College	470	<b>TASK</b> Force 2000	705
Oklahoma State Bureau of <b>NARCOTICS</b> and Dangerous Drugs Control	475	Oklahoma <b>TAX</b> Commission	710
Board of Regents of <b>NORTHERN</b> Oklahoma College	480	Oklahoma Commission for <b>TEACHER</b> Preparation	712
Oklahoma Board of <b>NURSING</b>	485	<b>TEACHERS'</b> Retirement System	715
Oklahoma State Board of Examiners for <b>LONG-TERM</b> Care Administrators ( <i>Formerly: Oklahoma State Board of Examiners for NURSING Home Administrators</i> )	490	State <b>TEXTBOOK</b> Committee	720
Board of Regents of <b>OKLAHOMA</b> City Community College	495	Oklahoma <b>TOURISM</b> and Recreation Department	725
Board of Regents of <b>OKLAHOMA</b> Colleges	500	Department of <b>TRANSPORTATION</b>	730
Board of Examiners in <b>OPTOMETRY</b>	505	Oklahoma <b>TRANSPORTATION</b> Authority ( <i>Name changed to Oklahoma TURNPIKE Authority 11-1-05 - See Title 731</i> )	
State Board of <b>OSTEOPATHIC</b> Examiners	510	Oklahoma <b>TURNPIKE</b> Authority ( <i>Formerly: Oklahoma TRANSPORTATION Authority AND Oklahoma TURNPIKE Authority - See also Title 745</i> )	731
<b>PARDON</b> and Parole Board	515	State <b>TREASURER</b>	735
Oklahoma <b>PEANUT</b> Commission	520	Board of Regents of <b>TULSA</b> Community College	740
Oklahoma State <b>PENSION</b> Commission	525	Oklahoma <b>TURNPIKE</b> Authority ( <i>Name changed to Oklahoma TRANSPORTATION Authority 11-1-99 - no rules enacted in this Title - See Title 731</i> )	745
State Board of Examiners of <b>PERFUSIONISTS</b>	527	Board of Trustees for the <b>UNIVERSITY</b> Center at Tulsa	750
Office of <b>PERSONNEL</b> Management	530	<b>UNIVERSITY</b> Hospitals Authority	752
Oklahoma State Board of <b>PHARMACY</b>	535	<b>UNIVERSITY</b> Hospitals Trust	753
<b>PHYSICIAN</b> Manpower Training Commission	540	Board of Regents of the <b>UNIVERSITY</b> of Oklahoma	755
Board of <b>PODIATRIC</b> Medical Examiners	545	Board of Regents of the <b>UNIVERSITY</b> of Science and Arts of Oklahoma	760
Oklahoma <b>POLICE</b> Pension and Retirement System	550	Oklahoma <b>USED</b> Motor Vehicle and Parts Commission	765
State Department of <b>POLLUTION</b> Control ( <i>abolished 1-1-93</i> )	555	Oklahoma Department of <b>VETERANS</b> Affairs	770
<b>POLYGRAPH</b> Examiners Board	560	Board of <b>VETERINARY</b> Medical Examiners	775
Oklahoma Board of <b>PRIVATE</b> Vocational Schools	565	Oklahoma Department of <b>CAREER</b> and Technology Education ( <i>Formerly: Oklahoma Department of VOCATIONAL and Technical Education</i> )	780
State Board for <b>PROPERTY</b> and Casualty Rates ( <i>abolished 7-1-06; see also Title 365</i> )	570	Oklahoma <b>WATER</b> Resources Board	785
State Board of Examiners of <b>PSYCHOLOGISTS</b>	575	Board of Regents of <b>WESTERN</b> Oklahoma State College	790
Department of <b>CENTRAL</b> Services ( <i>Formerly: Office of PUBLIC Affairs</i> )	580	Oklahoma <b>WHEAT</b> Commission	795
<b>PUBLIC</b> Employees Relations Board	585	Department of <b>WILDLIFE</b> Conservation	800
Oklahoma <b>PUBLIC</b> Employees Retirement System	590	<b>WILL</b> Rogers and J.M. Davis Memorials Commission	805
Department of <b>PUBLIC</b> Safety	595		
<b>REAL</b> Estate Appraiser Board	600		
Oklahoma <b>REAL</b> Estate Commission	605		



# 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 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 25. DEVICES, EQUIPMENT, AND MATERIALS**

*[OAR Docket #07-755]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

40:25-1-1. Purpose [AMENDED]

40:25-1-2. Approved evidential breath-alcohol analyzers [AMENDED]

40:25-1-3. Alcoholic breath simulators [AMENDED]

### **SUMMARY:**

The proposed new rules permit the Board of Tests for Alcohol and Drug Influence (Board) to approve or disapprove breath alcohol testing instruments and simulators/reference methods, by resolution, without further rulemaking pursuant to the Administrative Procedures Act. It requires the Board to maintain the list of approved devices and methods for public review at the Administrative Offices of the Board during regular business hours.

### **AUTHORITY:**

47 O.S. §759, OAC 40:1-1-4 cf *Manning v. State ex rel. Dept. Of Public Safety* 2003 OK CIV APP 57; and Board of Tests for Alcohol and Drug Influence

### **COMMENT PERIOD:**

Persons may submit written and oral comments to J. Robert Blakeburn at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111 from May 15, 2007 to June 20, 2007.

### **PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303 (B) (9), "persons may demand a hearing" by contacting J. Robert Blakeburn at (405) 425-2460 no later than 5:00 p.m. on June 20, 2007.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The proposed changes will not affect business entities.

### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Board of Tests for Alcohol and Drug Influence's office located at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111. Copies may also be obtained by written request mailed to the attention of J. Robert Blakeburn at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., § 303 (D), a rule impact statement has been prepared and is available for review at the above address for the Board of Tests for Alcohol and Drug Influence's office.

### **CONTACT PERSON:**

J. Robert Blakeburn, (405) 425-2460.

*[OAR Docket #07-755; filed 4-12-07]*

## **TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 30. ANALYSIS OF ALCOHOL IN BREATH**

*[OAR Docket #07-754]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

40:30-1-3 [AMENDED]

### **SUMMARY:**

The rule change will define the proper operating and maintenance procedures to be followed with new breath testing devices and nitrogen/ethanol dry gas reference methods and clarify the procedures to be used with existing equipment and procedures.

### **AUTHORITY:**

47 O.S. §759 and OAC 40:1-1-4; Board of Tests for Alcohol and Drug Influence

### **COMMENT PERIOD:**

Persons may submit written and oral comments to J. Robert Blakeburn at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111 during the period from May 15, 2007 to June 20, 2007.

### **PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303 (B) (9), "persons may demand a hearing" by contacting J. Robert Blakeburn at (405) 425-2460 no later than 5:00 p.m. on June 20, 2007.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The proposed changes will not affect business entities.

### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Board of Tests for Alcohol and Drug Influence's office located at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111. Copies may also be obtained by written request mailed

## Notices of Rulemaking Intent

---

to the attention of J. Robert Blakeburn at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., § 303 (D), a rule impact statement has been prepared and is available for review at the above address for the Board of Tests for Alcohol and Drug Influence's office.

### **CONTACT PERSON:**

J. Robert Blakeburn, (405) 425-2460.

*[OAR Docket #07-754; filed 4-12-07]*

### **TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 40. ANALYSIS OF OTHER INTOXICATING SUBSTANCES**

*[OAR Docket #07-753]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

40:40-1-2 Analysis of other intoxicating substances in blood [AMENDED]

### **SUMMARY:**

The rule will allow for the testing for presence only of those drugs, not the analytes, restricted by the federal Controlled Dangerous Substances Act, 21 U.S.C. § 812. It does not forbid further testing for the quantity of those drugs. If further testing for quantity is undertaken, the rule retains the requirement that the testing be done by a different method than the initial, quantitative testing.

### **AUTHORITY:**

47 O.S. §759, 47 O.S. §752 and OAC 40:1-1-4; Board of Tests for Alcohol and Drug Influence

### **COMMENT PERIOD:**

Persons may submit written and oral comments to J. Robert Blakeburn at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111 during the period from May 15, 2007 to June 20, 2007.

### **PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303 (B) (9), "persons may demand a hearing" by contacting J. Robert Blakeburn at (405) 425-2460 no later than 4:00 p.m. on June 20, 2007.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The proposed changes will not affect business entities.

### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Board of Tests for Alcohol and Drug Influence's office located at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111. Copies may also be obtained by written request mailed to the attention of J. Robert Blakeburn at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., § 303 (D), a rule impact statement has been prepared and is available for review at the above address for the Board of Tests for Alcohol and Drug Influence's office.

### **CONTACT PERSON:**

J. Robert Blakeburn, (405) 425-2460.

*[OAR Docket #07-753; filed 4-12-07]*

### **TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 50. IGNITION INTERLOCK DEVICES**

*[OAR Docket #07-756]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

40:50-1-1. Explanation of terms and actions [AMENDED]

40:50-1-2. Procedure for device approval [AMENDED]

40:50-1-3. Technical requirements [AMENDED]

40:50-1-4. Miscellaneous requirements [AMENDED]

40:50-1-5. Maintenance and calibration requirements [AMENDED]

40:50-1-7. Certification and inspection of service centers [AMENDED]

40:50-1-8. Service representative [AMENDED]

40:50-1-9. Ignition interlock inspector [AMENDED]

40:50-1-11. Approved ignition interlock devices [AMENDED]

### **SUMMARY:**

The rule change(s) will allow the Board to implement the statutory requirements of the IID program. It provides for the certification and inspection of IID installers, as well as the process to remove substandard installers. It establishes the rights and responsibilities of installers and drivers. The rules establish a ten dollar (\$10.00) fee for the installation of a legally required IID, payable to the Board. Voluntary installations are not subject to the fee. The changes increase the annual approval fee for an IID device to be used in Oklahoma from seventy-five dollars (\$75.00) to one thousand dollars (\$1,000.00).

### **AUTHORITY:**

47 O.S. §759 and OAC 40:1-1-4; Board of Tests for Alcohol and Drug Influence

### **COMMENT PERIOD:**

Persons may submit written and oral comments to J. Robert Blakeburn at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111 during the period from May 15, 2007 to June 20, 2007.

### **PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303 (B) (9), 'persons may demand a hearing'

by contacting J. Robert Blakeburn at (405) 425-2460 no later than 5:00 p.m. on June 20, 2007.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The proposed changes may affect business entities that install IIDs. Therefore, the Board requests that such entities provide the Board, before June 20, 2007, with information, in dollar amounts if possible, about the increase in the level of direct costs, and indirect costs or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period ( June 20, 2007) at the State Election Board, Rm. 3B State Capitol Building P.O. Box 53156 Oklahoma City OK 73152

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Board of Tests for Alcohol and Drug Influence's office located

at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111. Copies may also be obtained by written request mailed to the attention of J. Robert Blakeburn at 3600 N. Martin Luther King Blvd., Oklahoma City, OK 73111.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., § 303 (D), a rule impact statement has been prepared and is available for review at the above address for the Board of Tests for Alcohol and Drug Influence's office.

**CONTACT PERSON:**

J. Robert Blakeburn, (405) 425-2460.

*[OAR Docket #07-756; filed 4-12-07]*

---



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

[OAR Docket #07-830]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 1. General Provisions  
210:10-1-9. Transfers [AMENDED]

### SUBMITTED TO GOVERNOR:

March 30, 2007

### SUBMITTED TO HOUSE:

March 30, 2007

### SUBMITTED TO SENATE:

March 30, 2007

[OAR Docket #07-830; filed 4-23-07]

---

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

[OAR Docket #07-831]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 13. Student Assessment  
210:10-13-11. Testing students with disabilities  
[AMENDED]

### SUBMITTED TO GOVERNOR:

March 30, 2007

### SUBMITTED TO HOUSE:

March 30, 2007

### SUBMITTED TO SENATE:

March 30, 2007

[OAR Docket #07-831; filed 4-23-07]

---

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

[OAR Docket #07-832]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 13. Student Assessment  
210:10-13-18. Oklahoma School Accountability System  
[AMENDED]

### SUBMITTED TO GOVERNOR:

March 30, 2007

### SUBMITTED TO HOUSE:

March 30, 2007

### SUBMITTED TO SENATE:

March 30, 2007

[OAR Docket #07-832; filed 4-23-07]

---

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

[OAR Docket #07-833]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 3. Priority Academic Student Skills  
Part 3. Kindergarten  
210:15-3-5.1. Definitions [AMENDED]  
210:15-3-5.3. Language arts [AMENDED]  
Part 5. Language Arts  
210:15-3-11.2. Definitions [AMENDED]  
210:15-3-12. Language arts for grade 1 [AMENDED]  
210:15-3-13. Language arts for grade 2 [AMENDED]  
210:15-3-14. Language arts for grade 3 [AMENDED]  
210:15-3-15. Language arts for grade 4 [AMENDED]  
210:15-3-16. Language arts for grade 5 [AMENDED]  
210:15-3-17. Language arts for grade 6 [AMENDED]  
210:15-3-18. Language arts for grade 7 [AMENDED]  
210:15-3-19. Language arts for grade 8 [AMENDED]  
210:15-3-20. Language arts for grade 9 [AMENDED]  
210:15-3-21. Language arts for grade 10 [AMENDED]  
210:15-3-22. Language arts for grade 11 [AMENDED]  
210:15-3-23. Language arts for grade 12 [AMENDED]

## Submissions for Review

---

**SUBMITTED TO GOVERNOR:**

March 30, 2007

**SUBMITTED TO HOUSE:**

March 30, 2007

**SUBMITTED TO SENATE:**

March 30, 2007

*[OAR Docket #07-833; filed 4-23-07]*

---

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

*[OAR Docket #07-834]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 13. Special Education

210:15-13-1. Purpose [AMENDED]

210:15-13-2. Special education assurances and  
certification (Part B) [AMENDED]

210:15-13-3. Special education assurances and  
certification (Part H) [AMENDED]

**SUBMITTED TO GOVERNOR:**

March 30, 2007

**SUBMITTED TO HOUSE:**

March 30, 2007

**SUBMITTED TO SENATE:**

March 30, 2007

*[OAR Docket #07-834; filed 4-23-07]*

---

**TITLE 210. STATE DEPARTMENT OF  
EDUCATION  
CHAPTER 40. GRANTS AND  
PROGRAMS-IN-AID**

*[OAR Docket #07-835]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 29. Oklahoma Special Education Assistance  
Fund

210:40-29-2. Reimbursement Claim and Funding Priorities  
[AMENDED]

**SUBMITTED TO GOVERNOR:**

March 30, 2007

**SUBMITTED TO HOUSE:**

March 30, 2007

**SUBMITTED TO SENATE:**

March 30, 2007

*[OAR Docket #07-835; filed 4-23-07]*

---

# 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 10. FLEXIBLE BENEFITS PLAN**

*[OAR Docket #07-791]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 17. Benefit Plan Election

87:10-17-3. [AMENDED]

### **GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-791; filed 4-16-07]*

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

*[OAR Docket #07-767]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 5. License Types, Bond Requirements and  
Display of License Number and Firm Name

158:30-5-1. License types [AMENDED]

158:30-5-3. Display of license number and firm name  
[AMENDED]

Subchapter 9. Examination Procedures, License and  
Registration Fees and Duration of Licenses

158:30-9-1. Examination procedures [AMENDED]

### **GUBERNATORIAL APPROVAL:**

April 6, 2007

*[OAR Docket #07-767; filed 4-13-07]*

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

*[OAR Docket #07-768]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 5. License Types, Limitations of Licenses,  
Contractor Special Requirements and Display of License  
Number and Firm Name

158:50-5-4. Display of license number and firm name  
[AMENDED]

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]

158:50-9-5. Apprentice registration [AMENDED]

### **GUBERNATORIAL APPROVAL:**

April 6, 2007

*[OAR Docket #07-768; filed 4-13-07]*

## **TITLE 165. CORPORATION COMMISSION CHAPTER 26. ABOVEGROUND STORAGE TANKS**

*[OAR Docket #07-790]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 10. Requirements for Aboveground Storage  
Tank Systems Utilized by Retail Facilities

Part 1. General Application and Compliance Provisions

165:26-10-2. Timeframes for registration and compliance  
with rules [AMENDED]

Subchapter 12. Requirements for Aboveground Storage  
Tank Systems Utilized at Fleet and Commercial  
Facilities

Part 1. General Application and Compliance Provisions

165:26-12-1. Application [AMENDED]

165:26-12-2. Timeframes for registration and compliance  
with rules [AMENDED]

### **GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-790; filed 4-16-07]*

## Gubernatorial Approvals

---

### **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 25. SOONERCARE CHOICE**

*[OAR Docket #07-855]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 7. SoonerCare Choice

Part 1. General Provisions

317:25-7-2. [AMENDED]

317:25-7-5. [AMENDED]

Part 3. Enrollment Criteria

317:25-7-10. [AMENDED]

(Reference APA WF # 06-10 and 06-59)

#### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-855; filed 4-24-07]*

---

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

*[OAR Docket #07-836]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 5. Individual Providers and Specialties

Part 75. Federally Qualified Health Centers

317:30-5-660. [AMENDED]

317:30-5-660.1. through 317:30-5-660.5. [NEW]

317:30-5-661. [AMENDED]

317:30-5-661.1. through 317:30-5-661.7. [NEW]

317:30-5-662. through 317:30-5-664. [REVOKED]

317:30-5-664.1. through 317:30-5-664.15. [NEW]

(Reference APA WF # 06-01)

#### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-836; filed 4-24-07]*

---

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

*[OAR Docket #07-837]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 3. General Provider Policies

Part 5. Eligibility

317:30-3-85. [AMENDED]

(Reference APA WF # 06-15A)

#### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-837; filed 4-24-07]*

---

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

*[OAR Docket #07-839]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 3. General Provider Policies

Part 3. General Medical Program Information

317:30-3-57. [AMENDED]

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-2. [AMENDED]

Part 3. Hospitals

317:30-5-41.2 [NEW]

(Reference APA WF # 06-30)

#### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-839; filed 4-24-07]*

---

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

*[OAR Docket #07-840]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317: 30-5-96.2. [AMENDED]

(Reference APA WF # 06-35)

#### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-840; filed 4-24-07]*

---

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

*[OAR Docket #07-841]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 17. Medical Suppliers  
317:30-5-211. [AMENDED]  
(Reference APA WF# 06-39)

**GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-841; filed 4-24-07]*

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

*[OAR Docket #07-842]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 12. The Oklahoma Prescription Drug Discount  
Program [NEW]  
317:30-5-180. through 317:30-5-180.5. [NEW]  
(Reference APA WF # 06-41)

**GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-842; filed 4-24-07]*

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

*[OAR Docket #07-843]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 79. Dentists  
317:30-5-695. [AMENDED]

317:30-5-696. [AMENDED]

317:30-5-696.1. [NEW]

317:30-5-698. [AMENDED]

(Reference APA WF # 06-42)

**GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-843; filed 4-24-07]*

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

*[OAR Docket #07-846]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 9. Long Term Care Facilities  
317:30-5-133.1. [AMENDED]  
Part 32. SoonerRide Non-Emergency Transportation  
317:30-5-326. [NEW]  
317:30-5-326.1. [NEW]  
317:30-5-327. [AMENDED]  
317:30-5-327.1. through 317:30-5-327.9. [NEW]  
(Reference APA WF # 06-45B)

**GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-846; filed 4-24-07]*

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

*[OAR Docket #07-847]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 9. Long Term Care Facilities  
317:30-5-134. [AMENDED]  
(Reference APA WF # 06-46)

**GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-847; filed 4-24-07]*

## Gubernatorial Approvals

---

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

*[OAR Docket #07-851]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 108. Nutrition Services  
317:30-5-1076. [AMENDED]  
(Reference APA WF # 06-54)

#### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-851; filed 4-24-07]*

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

*[OAR Docket #07-853]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 3. General Provider Policies  
Part 1. General Scope and Administration  
317:30-3-5.1. [NEW]  
(Reference APA WF # 06-57)

#### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-853; filed 4-24-07]*

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

*[OAR Docket #07-854]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 31. Room and Board Providers  
317:30-5-321. [AMENDED]  
317:30-5-322. [REVOKED]  
317:30-5-323. [REVOKED]  
(Reference APA WF # 06-58)

#### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-854; filed 4-24-07]*

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

*[OAR Docket #07-856]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 5. Individual Providers And Specialties  
Part 11. Maternity Clinic Services  
317:30-5-175. through 317:30-5-176. [REVOKED]  
317:30-5-178. [REVOKED]  
Part 13. High Risk Pregnant Women Case Management  
Services  
317:30-5-185. through 317:30-5-188. [REVOKED]  
Part 14. Targeted Case Management Services For First  
Time Mothers and Their Infants/Children  
317:30-5-190. through 317:30-5-193. [REVOKED]  
Part 15. Child Health Centers  
317:30-5-195. through 317:30-5-199. [REVOKED]  
317:30-5-201. [REVOKED]  
Part 91. Tuberculosis Clinic Services  
317:30-5-910. through 317:30-5-911. [REVOKED]  
317:30-5-913. [REVOKED]  
Part 93. Case Management Services for Persons Infected  
With Tuberculosis  
317:30-5-920. through 317:30-5-921. [REVOKED]  
317:30-5-923. through 317:30-5-924. [REVOKED]  
Part 112. Public Health Clinic Services [NEW]  
317:30-5-1150. through OAC 317:30-5-1161. [NEW]  
(Reference APA WF # 06-60)

#### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-856; filed 4-24-07]*

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

*[OAR Docket #07-857]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 37. Advanced Practice Nurse

317:30-5-375. [AMENDED]  
(Reference APA WF # 06-62)  
GUBERNATORIAL APPROVAL:  
April 1, 2007

[OAR Docket #07-857; filed 4-24-07]

---

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

[OAR Docket #07-858]

**RULEMAKING ACTION:**  
Gubernatorial approval of permanent rules  
**RULES:**  
Subchapter 5. Individual Providers and Specialties  
Part 1. Physicians  
317:30-5-23. [AMENDED]  
(Reference APA WF # 06-63)  
**GUBERNATORIAL APPROVAL:**  
April 1, 2007

[OAR Docket #07-858; filed 4-24-07]

---

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

[OAR Docket #07-838]

**RULEMAKING ACTION:**  
Gubernatorial approval of permanent rules  
**RULES:**  
Subchapter 5. Eligibility and Countable Income  
Part 3. Non-Medical Eligibility Requirements  
317:35-5-25. [AMENDED]  
Subchapter 7. Medical Services  
Part 5. Determination of Eligibility for Medical Services  
317:35-7-41. [AMENDED]  
Subchapter 21. Breast and Cervical Cancer Treatment  
Program  
317:35-21-1. [AMENDED]  
317:35-21-7. [AMENDED]  
317:35-21-11. [AMENDED]  
(Reference APA WF # 06-15B)  
**GUBERNATORIAL APPROVAL:**  
April 1, 2007

[OAR Docket #07-838; filed 4-24-07]

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

[OAR Docket #07-844]

**RULEMAKING ACTION:**  
Gubernatorial approval of permanent rules  
**RULES:**  
Subchapter 7. Medical Services  
Part 5. Determination of Eligibility for Medical Services  
317:35-7-48. [AMENDED]  
(Reference APA WF # 06-43)  
**GUBERNATORIAL APPROVAL:**  
April 1, 2007

[OAR Docket #07-844; filed 4-24-07]

---

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

[OAR Docket #07-845]

**RULEMAKING ACTION:**  
Gubernatorial approval of permanent rules  
**RULES:**  
Subchapter 3. Coverage and Exclusions  
317:35-3-2. [AMENDED]  
(Reference APA WF # 06-45A)  
**GUBERNATORIAL APPROVAL:**  
April 1, 2007

[OAR Docket #07-845; filed 4-24-07]

---

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

[OAR Docket #07-848]

**RULEMAKING ACTION:**  
Gubernatorial approval of permanent rules  
**RULES:**  
Subchapter 5. Eligibility and Countable Income  
Part 5. Countable Income and Resources  
317:35-5-41. [AMENDED]  
(Reference APA WF # 06-47)  
**GUBERNATORIAL APPROVAL:**  
April 1, 2007

[OAR Docket #07-848; filed 4-24-07]

## Gubernatorial Approvals

---

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

[OAR Docket #07-849]

#### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

#### RULES:

Subchapter 10. Medical Aid to Families with Dependent  
Children

Part 5. Income

317:35-10-26. [AMENDED]

(Reference APA WF# 06-53A)

#### GUBERNATORIAL APPROVAL:

April 1, 2007

[OAR Docket #07-849; filed 4-24-07]

---

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

[OAR Docket #07-859]

#### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

#### RULES:

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

Part 2. Medicaid Recovery Program

317:35-9-15. [AMENDED]

Part 7. Determination of Financial Eligibility

317:35-9-67. [AMENDED]

Subchapter 17. ADvantage Waiver Services

317:35-17-10. [AMENDED]

Subchapter 19. Nursing Facility Services

317:35-19-4. [AMENDED]

317:35-19-20. [AMENDED]

(Reference APA WF # 06-64)

#### GUBERNATORIAL APPROVAL:

April 1, 2007

[OAR Docket #07-859; filed 4-24-07]

---

### TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 45. OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE

[OAR Docket #07-850]

#### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

#### RULES:

Subchapter 9. O-EPIC PA Employee Eligibility

317:45-9-1. [AMENDED]

Subchapter 11. O-EPIC IP [NEW]

Part 5. O-EPIC Individual Plan Member Eligibility [NEW]

317:45-11-20. [NEW]

(Reference APA WF# 06-53B)

#### GUBERNATORIAL APPROVAL:

April 1, 2007

[OAR Docket #07-850; filed 4-24-07]

---

### TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 45. OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE

[OAR Docket #07-852]

#### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

#### RULES:

Subchapter 7. O-EPIC PA Employer Eligibility

317:45-7-1. through 317:45-7-2. [AMENDED]

317:45-7-8. [AMENDED]

(Reference APA WF # 06-55)

#### GUBERNATORIAL APPROVAL:

April 1, 2007

[OAR Docket #07-852; filed 4-24-07]

---

### TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 45. OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE

[OAR Docket #07-860]

#### RULEMAKING ACTION:

Gubernatorial approval of permanent rules

#### RULES:

Subchapter 11. O-EPIC IP [NEW]

Part 3. O-EPIC IP Member Health Care Benefits [NEW]

317:45-11-10. through 317:45-11-11. [NEW]

(Reference APA WF # 06-65)

**GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-860; filed 4-24-07]*

**TITLE 320. OKLAHOMA HISTORICAL SOCIETY  
CHAPTER 10. OKLAHOMA ART IN PUBLIC PLACES DIVISION**

*[OAR Docket #07-752]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. General Provisions [NEW]
- 320:10-1-1. Purpose [NEW]
- 320:10-1-2. Definitions [NEW]
- Subchapter 3. General Course and Method of Operating [NEW]
- 320:10-3-1. Division office [NEW]
- 320:10-3-2. Division office hours [NEW]
- 320:10-3-3. Communications with the Art in Public Places Division [NEW]
- 320:10-3-4. Meetings/quorum of the Art in Public Places Division [NEW]
- 320:10-3-5. Art in Public Places Guidelines [NEW]
- 320:10-3-6. Availability of Division records, guidelines and policies [NEW]
- 320:10-3-7. Copies of official records [NEW]
- 320:10-3-8. Officers of the Division [NEW]
- 320:10-3-9. Oversight Committee [NEW]
- 320:10-3-10. Powers and duties of the Oversight Committee [NEW]
- 320:10-3-11. Conflict of interest of Oversight Committee [NEW]
- 320:10-3-12. Resignation of Oversight Committee members [NEW]
- 320:10-3-13. Director [NEW]
- 320:10-3-14. Eligible projects [NEW]
- 320:10-3-15. Excluded projects [NEW]
- 320:10-3-16. Appeal procedure [NEW]
- 320:10-3-17. Project agency/duties [NEW]
- 320:10-3-18. Public notification of calls for entries [NEW]
- 320:10-3-19. Materials submitted to the Division become property of the State of Oklahoma [NEW]
- 320:10-3-20. Artwork becomes property of the State of Oklahoma [NEW]
- 320:10-3-21. Prohibition of statements on behalf of the Site Committees or Art in Public Places Oversight Committee [NEW]
- Subchapter 5. Site Committees [NEW]
- 320:10-5-1. Establishment of site committees [NEW]
- 320:10-5-2. Duties [NEW]

- 320:10-5-3. Composition of committee [NEW]
- 320:10-5-4. Conflict of interest [NEW]
- 320:10-5-5. Quorum [NEW]
- 320:10-5-6. Length of service [NEW]
- 320:10-5-7. Resignation [NEW]
- Subchapter 7. Financial Provisions [NEW]
- 320:10-7-1. Funding by state agencies [NEW]
- 320:10-7-2. Basis of allocation computation [NEW]
- 320:10-7-3. Maximum assessment [NEW]
- 320:10-7-4. Allocations to Commissioning of Art in Public Places Revolving Fund [NEW]
- 320:10-7-5. Art in Public Places Administrative and Maintenance Revolving Fund [NEW]
- 320:10-7-6. Monies donated from private sources [NEW]
- 320:10-7-7. Authority to make expenditures [NEW]
- 320:10-7-8. Monies for commissioning of art not spent [NEW]
- 320:10-7-9. Transfer of funds in excess of one million dollars [NEW]
- 320:10-7-10. Exclusion from the Oklahoma Central Purchasing Act [NEW]
- Subchapter 9. Management of the Collection [NEW]
- 320:10-9-1. Management and care of the collection [NEW]
- 320:10-9-2. Maintenance and conservation procedures [NEW]
- 320:10-9-3. Process for deaccessioning or relocating a work of art [NEW]

**GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-752; filed 4-11-07]*

**TITLE 340. DEPARTMENT OF HUMAN SERVICES  
CHAPTER 25. CHILD SUPPORT ENFORCEMENT DIVISION**

*[OAR Docket #07-873]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. Scope and Applicability
- 340:25-1-1.1 through 340:25-1-2.1 [AMENDED]
- 340:25-1-3.1 [AMENDED]
- Subchapter 3. Commissioned Peace Officers
- 340:25-3-3 [AMENDED]
- Subchapter 5. Operational Policies
- Part 7. The Case Record - Computer File Records and Case Folders
- 340:25-5-55 [AMENDED]
- Part 9. Disclosure of Information
- 340:25-5-67 through 340:25-5-67.1 [AMENDED]
- Part 15. Case Initiation, Case Management, and Case Closure

# Gubernatorial Approvals

---

340:25-5-110 through 340:25-5-110.1 [AMENDED]  
340:25-5-114 [AMENDED]  
340:25-5-117 [AMENDED]  
340:25-5-123 through 340:25-5-124 [AMENDED]  
340:25-5-124.2 [AMENDED]  
340:25-5-124.3 [NEW]  
Part 17. Past Support  
340:25-5-140 [AMENDED]  
Part 20. Medical Support  
340:25-5-168 [AMENDED]  
340:25-5-171 [AMENDED]  
Part 21. Establishment  
340:25-5-176 [AMENDED]  
340:25-5-176.1 [NEW]  
340:25-5-178 [AMENDED]  
340:24-5-179.1 [AMENDED]  
Part 22. Review and Modification  
340:25-5-198.1 through 340:25-5-198.2 [AMENDED]  
Part 23. Enforcement  
340:25-5-200 [AMENDED]  
340:25-5-214 [AMENDED]  
Part 25. Federal Offset Programs  
340:25-5-215.1 [AMENDED]  
Part 27. State Tax Refund Offset Program  
340:25-5-235 [AMENDED]  
340:25-5-244 [AMENDED]  
Part 37. Recovery  
340:25-5-305 [AMENDED]  
Part 38. IV-D and Non-IV-D Central Case Registry  
Information  
340:25-5-339 through 340:25-5-340.1 [AMENDED]  
Part 39. Accounting and Distribution  
340:25-5-350.3 [AMENDED]

**(Reference APA WF 06-27)**

## **GUBERNATORIAL APPROVAL:**

March 15, 2007

*[OAR Docket #07-873; filed 4-25-07]*

---

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

*[OAR Docket #07-877]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 1. General Provisions of Child Welfare Services  
Part 1. Scope and Applicability  
340:75-1-12.8 [NEW]  
340:75-1-16 [AMENDED]  
Subchapter 3. Child Protective Services  
340:75-3-2 [AMENDED]  
340:75-3-4 through 340:75-3-5 [AMENDED]

340:75-3-6.1 [AMENDED]  
340:75-3-7 through 340:75-3-7.1 [AMENDED]  
340:75-3-8.1 [AMENDED]  
340:75-3-8.6 [AMENDED]  
340:75-3-10.1 through 340:75-3-10.2 [AMENDED]  
340:75-3-13 [AMENDED]  
Subchapter 7. Foster Home Care  
Part 1. General Provisions  
340:75-7-2 [AMENDED]  
Part 2. Development of Resources  
340:75-7-14 through 340:75-7-15 [AMENDED]  
340:75-7-18 through 340:75-7-19 [AMENDED]  
340:75-7-24 [AMENDED]  
Part 4. ~~Foster Parents'~~ Roles and Responsibilities  
340:75-7-37.1 [NEW]  
Part 5. Eligibility and Payments  
340:75-7-52 [AMENDED]  
340:75-7-52.1 [NEW]  
Part 6. Foster Home Care Support Services  
340:75-7-65 [AMENDED]  
Part 8. Continuous Quality Assessment of a Resource  
Home  
340:75-7-94 [AMENDED]  
Subchapter 13. Other Child Welfare Services and Medical  
Services for Children in Out-of-Home Care  
Part 7. Medical Services  
340:75-13-62 through 340:75-13-63 [AMENDED]  
340:75-13-65 [AMENDED]  
340:75-13-74 through 340:75-13-75 [AMENDED]  
340:75-13-77 through 340:75-13-80 [AMENDED]  
Subchapter 15. Adoptions  
Part 2. Legal Base and Scope of the Adoption Program  
340:75-15-8 through 340:75-15-9 [AMENDED]  
Part 6. Adoption Process  
340:75-15-41 [AMENDED]  
340:75-15-45 [AMENDED]  
340:75-15-47 [AMENDED]  
Part 8. Adoptive Placement Process  
340:75-15-59 [AMENDED]  
Part 10. Adoptive Family Assessment and Preparation  
Process  
340:75-15-82 [AMENDED]  
340:75-15-84 [AMENDED]  
340:75-15-87 through 340:75-15-89 [AMENDED]  
340:75-15-93 [AMENDED]  
Part 12. Post Placement Services  
340:75-15-103 [AMENDED]  
340:75-15-106 through 340:75-15-107 [AMENDED]  
Subchapter 19. Working with Indian Children  
340:75-19-26.1 [AMENDED]

**(Reference APA WF 06-12 and 06-25)**

## **GUBERNATORIAL APPROVAL:**

March 15, 2007

*[OAR Docket #07-877; filed 4-25-07]*

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

*[OAR Docket #07-874]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. Aging Services Division
  - 340:105-1-2 through 340:105-1-3 [AMENDED]
  - 340:105-1-5 through 340:105-1-6 [AMENDED]
  - 340:105-1-8 [AMENDED]
  - 340:105-1-10 [AMENDED]
- Subchapter 7. Adult Day Services
  - 340:105-7-1 through 340:105-7-2 [AMENDED]
  - 340:105-7-4 [AMENDED]
  - 340:105-7-7 through 340:105-7-9 [AMENDED]
- Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
  - Part 3. State Agency
    - 340:105-10-17 [AMENDED]
  - Part 5. Area Agencies on Aging
    - 340:105-10-31 [AMENDED]
    - 340:105-10-33 [AMENDED]
    - 340:105-10-40 [AMENDED]
    - 340:105-10-45 [AMENDED]
  - Part 7. Program Standards for Services Funded Under Title III
    - 340:105-10-51 [AMENDED]
    - 340:105-10-59 [AMENDED]
    - 340:105-10-70 [AMENDED]
    - 340:105-10-72 [AMENDED]
    - 340:105-10-74 through 340:105-10-75 [AMENDED]
    - 340:105-10-79 [AMENDED]
    - 340:105-10-85 through 340:105-10-86 [AMENDED]
    - 340:105-10-91 through 340:105-10-93 [AMENDED]
  - Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
    - 340:105-10-101 [AMENDED]
    - 340:105-10-112 [AMENDED]
    - 340:105-10-114 [AMENDED]
    - 340:105-10-116 [AMENDED]
- Subchapter 11. ~~Statewide~~ State Long-Term Care Ombudsman Program
  - Part 37. ~~Statewide~~ State Long-Term Care Ombudsman Program
    - 340:105-11-234 through 340:105-11-235 [AMENDED]
    - 340:105-11-240 [AMENDED]
    - 340:105-11-245 through 340:105-11-246 [AMENDED]
    - 340:105-11-248 [AMENDED]
    - 340:105-11-252 through 340:105-11-253 [AMENDED]

(Reference APA WF 06-29)  
**GUBERNATORIAL APPROVAL:**  
March 15, 2007

*[OAR Docket #07-874; filed 4-25-07]*

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

*[OAR Docket #07-875]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. General Provisions
  - Part 1. Licensing Services - Child Care
    - 340:110-1-3 through 340:110-1-4.1 [AMENDED]
    - 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 340:110-1-9.5 [AMENDED]
    - 340:110-1-10 [AMENDED]
    - 340:110-1-13 through 340:110-1-15 [AMENDED]
    - 340:110-1-17 [AMENDED]
    - 340:110-1-20 through 340:110-1-21 [AMENDED]
  - Part 3. Licensing Services - Residential Care and Agencies
    - 340:110-1-43 through 340:110-1-43.1 [AMENDED]
    - 340:110-1-45 through 340:110-1-47.2 [AMENDED]
    - 340:110-1-51 through 340:110-1-53 [AMENDED]

(Reference APA WF 06-07 and 06-24)

**GUBERNATORIAL APPROVAL:**

March 15, 2007

*[OAR Docket #07-875; filed 4-25-07]*

**TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION  
CHAPTER 15. OKLAHOMA REWARD SYSTEM**

*[OAR Docket #07-793]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- 375:15-1-2. through 375: 15-1-4. [AMENDED]

**GUBERNATORIAL APPROVAL:**

March 15, 2007

*[OAR Docket #07-793; filed 4-17-07]*

# Gubernatorial Approvals

---

## **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS**

*[OAR Docket #07-774]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 1. Function and Structure of the Office of Juvenile Affairs

377:1-1-3. Description of the Office of Juvenile Affairs (OJA) [AMENDED]

377:1-1-5. Board of Juvenile Affairs [AMENDED]

377:1-1-11. Executive Director [AMENDED]

377:1-1-12. ~~Deputy Director~~ Chief of Staff of ~~DJJ~~ OJA [AMENDED]

### **GUBERNATORIAL APPROVAL:**

February 23, 2007

*[OAR Docket #07-774; filed 4-16-07]*

---

## **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES**

*[OAR Docket #07-775]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 1. Office of the Executive Director [AMENDED]

Subchapter 3. Office of General Counsel Services [AMENDED]

Subchapter 7. Finance Division [AMENDED]

Subchapter 11. Risk Management [AMENDED]

Subchapter 15. ~~Management Information System~~ Information Technology Department [AMENDED]

Subchapter 16. Office of Planning and Research [REVOKED]

Subchapter 17. Federal Funds Development Unit [AMENDED]

### **GUBERNATORIAL APPROVAL:**

February 23, 2007

*[OAR Docket #07-775; filed 4-16-07]*

---

## **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 5. ~~DIVISION OFFICE~~ OF THE PAROLE BOARD**

*[OAR Docket #07-776]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 1. General Provisions

377:5-1-3. Legal Basis [AMENDED]

Subchapter 3. Pre-release Planning

377:5-3-1. Pre-release Planning [AMENDED]

377:5-3-2. Scheduling of the tentative release date [AMENDED]

Subchapter 5. Hearings

377:5-5-1. Definitions [AMENDED]

377:5-5-2. Parole Hearing [AMENDED]

377:5-5-5. Conduct of Parole Revocation and Administrative Transfer Hearings [AMENDED]

### **GUBERNATORIAL APPROVAL:**

February 23, 2007

*[OAR Docket #07-776; filed 4-16-07]*

---

## **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. ~~DEPARTMENT OF~~ JUVENILE JUSTICE OFFICE OF JUVENILE AFFAIRS**

*[OAR Docket #07-777]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 1. General Provisions

377:10-1-3. Discipline [AMENDED]

377:10-1-5. Testing for research purposes [AMENDED]

377:10-1-8. Agency records [AMENDED]

377:10-1-9. Information sharing [AMENDED]

377:10-1-10. Disclosure of records pertaining to serious and habitual juvenile offenders without court order [AMENDED]

377:10-1-11. Documents and Records [AMENDED]

Subchapter 7. Contract Programs and Services

Part 1. General Provisions and Foster Care

377:10-7-1. Purpose [AMENDED]

377:10-7-3. Foster care [AMENDED]

377:10-7-4. Therapeutic foster care [AMENDED]

Part 9. Contracted Services

377:10-7-50. Legal ~~base~~ basis [AMENDED]

Subchapter 11. Child in Need of Mental Health Treatment

377:10-11-1. Child in Need of Mental Health Treatment [AMENDED]

Subchapter 13. Regimented Juvenile Training Programs Standards

Part 9. Physical Facility

377:10-13-36. Juvenile housing [AMENDED]

Part 19. Juvenile Services

377:10-13-100. Placement in RJTP [AMENDED]

**GUBERNATORIAL APPROVAL:**

February 23, 2007

*[OAR Docket #07-777; filed 4-16-07]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 15. COMMUNITY-BASED  
COMMUNITY-BASED YOUTH SERVICES**

*[OAR Docket #07-778]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. General Provisions [NEW]
- Subchapter 3. State Plan for Youth Services Agencies [NEW]
- Subchapter 5. Designation of Community-Based Youth Services Agency [NEW]
- Subchapter 7. Individual Proceedings: Application Denials, and Terminations of Designation as a Youth Services Agency [NEW]
- Subchapter 9. Community-Based Youth Services Purchasing Procedures [NEW]

**GUBERNATORIAL APPROVAL:**

February 23, 2007

*[OAR Docket #07-778; filed 4-16-07]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 25. JUVENILE SERVICES UNIT**

*[OAR Docket #07-779]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. General Provisions
- 377:25-1-2. Legal ~~base~~ basis, authority and scope [AMENDED]
- Subchapter 3. Pre-court
- Part 3. Intake/Preliminary Inquiry
- 377:25-3-15. Legal basis for intake/preliminary inquiry [AMENDED]
- Subchapter 7. Custody [AMENDED]
- Part 1. General Provisions
- 377:25-7-2. Grievance procedure [AMENDED]
- Part 9. Extended Custody
- 377:25-7-50. Retention of custody guideline [AMENDED]
- Subchapter 9. Casework Services
- Part 1. Services Provided by the JSU Worker
- 377:25-9-1. Financial support [AMENDED]

Subchapter 13. Military Mentor Screening and Training Standards [REVOKED]

377:25-13-1. Mentor screening criteria [REVOKED]

377:25-13-2. Mentor training standards [REVOKED]

**GUBERNATORIAL APPROVAL:**

February 23, 2007

*[OAR Docket #07-779; filed 4-16-07]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 30. RESIDENTIAL SERVICES**

*[OAR Docket #07-780]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. General Provisions
- 377:30-1-1. Legal ~~base~~ basis, scope and purpose [AMENDED]

**GUBERNATORIAL APPROVAL:**

February 23, 2007

*[OAR Docket #07-780; filed 4-16-07]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 35. INSTITUTIONAL SERVICES**

*[OAR Docket #07-781]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. General Provisions
- 377:35-1-1. Legal basis [AMENDED]
- Subchapter 3. Security and Control
- 377:35-3-3. Injuries, fires and assaults [AMENDED]
- 377:35-3-8. Searches and control of contraband/evidence [AMENDED]
- Subchapter 7. Medical and Health Care
- 377:35-7-2. Surgery [AMENDED]
- Subchapter 9. Juvenile Rights
- 377:35-9-1. Juvenile rights [AMENDED]
- Subchapter 11. Juvenile Rules/discipline
- 377:35-11-5. Juvenile correspondence [AMENDED]
- Subchapter 17. Ancillary Programs
- 377:35-17-1. Education [AMENDED]

**GUBERNATORIAL APPROVAL:**

February 23, 2007

*[OAR Docket #07-781; filed 4-16-07]*

# Gubernatorial Approvals

---

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

*[OAR Docket #07-766]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 15. Time and Leave  
Part 3. Annual and Sick Leave Policies  
530:10-15-11 [AMENDED]  
530:10-15-12 [AMENDED]  
Part 7. Leave When Offices Are Closed or Services  
Reduced  
530:10-15-71 [AMENDED]  
530:10-15-72 [REVOKED]

### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-766; filed 4-13-07]*

## **TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 10. LICENSURE AND CERTIFICATION REQUIREMENTS**

*[OAR Docket #07-794]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

600:10-1-4. Examination [AMENDED]  
600:10-1-6. Experience prerequisite [AMENDED]  
600:10-1-8. Course approval requirements [AMENDED]  
600:10-1-16. Supervision of trainee appraisers  
[AMENDED]

### **GUBERNATORIAL APPROVAL:**

March 15, 2007

*[OAR Docket #07-794; filed 4-18-07]*

## **TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 15. DISCIPLINARY PROCEDURES**

*[OAR Docket #07-795]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

600:15-1-14. Disciplinary alternatives [AMENDED]

### **GUBERNATORIAL APPROVAL:**

March 15, 2007

*[OAR Docket #07-795; filed 4-18-07]*

## **TITLE 605. OKLAHOMA REAL ESTATE COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #07-744]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 1. General Provisions  
605:1-1-4. Operational procedures [AMENDED]

### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-744; filed 4-10-07]*

## **TITLE 605. OKLAHOMA REAL ESTATE COMMISSION CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES**

*[OAR Docket #07-745]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 3. Education and Examination Requirements  
605:10-3-1. Prelicense education requirements  
[AMENDED]  
605:10-3-5. Examinations [AMENDED]  
Subchapter 5. Instructor and Entity Requirements and  
Standards  
605:10-5-1.1 Approval of postlicense course offerings  
[AMENDED]  
605:10-5-2. Approval of continuing education offerings  
[AMENDED]  
Subchapter 7. Licensing Procedures and Options  
605:10-7-1. License issuance [AMENDED]  
605:10-7-2. License terms and fees; renewals;  
reinstatements [AMENDED]  
Subchapter 9. Broker's Operational Procedures  
605:10-9-4. Advertising [AMENDED]

### **GUBERNATORIAL APPROVAL:**

April 1, 2007

*[OAR Docket #07-745; filed 4-10-07]*

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION  
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #07-868]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules.

**RULES:**

Subchapter 13. Minority Teacher Recruitment Center  
610:1-13-3. Programs and services

**GUBERNATORIAL APPROVAL:**

April 6, 2007

*[OAR Docket #07-868; filed 4-25-07]*

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION  
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS**

*[OAR Docket #07-869]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules.

**RULES:**

Subchapter 7. Oklahoma Tuition Aid Grant Program  
610:25-7-6. Eligibility; amount of grant; application procedures and deadlines; disbursement of funds [AMENDED]

Subchapter 23. Oklahoma Higher Learning Access Program (OHLAP)

610:25-23-3. Applications [AMENDED]

610:25-23-4. Program requirements [AMENDED]

610:25-23-5. Securing OHLAP benefits [AMENDED]

610:25-23-7. Payment of awards; policies and limitations [AMENDED]

Subchapter 27. Teacher Shortage Employment Incentive Program

610:25-27-2. Eligible student loans

610:25-27-4. Coursework requirements for participant eligibility

Subchapter 33. Regional University Baccalaureate Scholarship Program

610:25-33-3. General Provisions

**GUBERNATORIAL APPROVAL:**

April 6, 2007

*[OAR Docket #07-869; filed 4-25-07]*

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

*[OAR Docket #07-746]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 7. Relationships with Department Established by Law

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

**GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-746; filed 4-11-07]*

**TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES  
CHAPTER 10. VOCATIONAL REHABILITATION AND VISUAL SERVICES**

*[OAR Docket #07-747]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Chapter 10. Vocational Rehabilitation and Visual Services [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-747; filed 4-11-07]*

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

*[OAR Docket #07-748]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 1. General Provisions

612:20-1-3. Appendices [REVOKED]

Appendix A. Application for Admission [REVOKED]

Appendix B. Application for Services [REVOKED]

Appendix C. Authorization for Medical Care of a Minor - OSB [REVOKED]

Appendix D. Authorization for Medical Care of a Minor - OSD [REVOKED]

Appendix E. Notice of Right to File a Grievance [REVOKED]

# Gubernatorial Approvals

---

Appendix F. Student Dormitory Permission Sheet  
[REVOKED]

## **GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-748; filed 4-11-07]*

—————

### **TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #07-734]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 1. General Provisions

710:1-1-2 [AMENDED]

Subchapter 3. Public Policy

Part 1. General Provisions

710:1-3-2 [AMENDED]

Part 11. Public Records

710:1-3-72 [AMENDED]

Subchapter 5. Practice and Procedure

Part 5. Administrative Proceedings Related to Tax Protests

710:1-5-42 [AMENDED]

Part 8. Settlement of Tax Liability

710:1-5-88 [AMENDED]

710:1-5-89 [AMENDED]

710:1-5-91 [AMENDED]

#### **GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-734; filed 4-10-07]*

—————

### **TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 10. AD VALOREM TAX**

*[OAR Docket #07-735]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 3. Equalization Study

Part 1. General Provisions

710:10-3-1 [AMENDED]

710:10-3-10 [AMENDED]

710:10-3-18 [AMENDED]

710:10-3-20 [AMENDED]

Part 3. Data Collection

710:10-3-24 [AMENDED]

710:10-3-30 [AMENDED]

710:10-3-33 [AMENDED]

Part 5. Authorities and Methodology

710:10-3-61 [AMENDED]

710:10-3-63 [AMENDED]

Subchapter 4. Annual Valuation Mandate

710:10-4-2 [AMENDED]

710:10-4-3 [AMENDED]

710:10-4-6 [AMENDED]

710:10-4-7 [AMENDED]

710:10-4-8 [AMENDED]

710:10-4-9 [AMENDED]

Subchapter 7. Manufacturing Facilities

710:10-7-2 [REVOKED]

710:10-7-2.1 [REVOKED]

710:10-7-2.2 [NEW]

710:10-7-4 [AMENDED]

710:10-7-6 [AMENDED]

710:10-7-8 [AMENDED]

#### **GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-735; filed 4-10-07]*

—————

### **TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 22. BOATS AND MOTORS**

*[OAR Docket #07-736]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 1 General Provisions

710:22-1-6 [AMENDED]

710:22-1-7 [AMENDED]

710:22-1-8 [AMENDED]

710:22-1-10 [AMENDED]

710:22-1-11 [REVOKED]

710:22-1-18 [REVOKED]

710:22-1-19 [REVOKED]

710:22-1-20 [AMENDED]

710:22-1-21 [AMENDED]

Subchapter 5. Procedures for Registration

710:22-5-1 [AMENDED AND RENUMBERED TO  
710:22-7-4]

710:22-5-2 [AMENDED AND RENUMBERED TO  
710:22-7-5]

710:22-5-3 [AMENDED AND RENUMBERED TO  
710:22-7-6]

710:22-5-4 [AMENDED AND RENUMBERED TO  
710:22-7-7]

710:22-5-5 [AMENDED AND RENUMBERED TO  
710:22-7-8]

710:22-5-6 [AMENDED AND RENUMBERED TO  
710:22-7-10]

710:22-5-7 [REVOKED]

710:22-5-8 [AMENDED]  
710:22-5-9 [AMENDED]  
Subchapter 7. Titles  
710:22-7-1 [AMENDED AND RENUMBERED TO  
710:22-7-11]  
710:22-7-2 [AMENDED AND RENUMBERED TO  
710:22-7-12]  
710:22-7-3 [RENUMBERED TO 710:22-7-13]  
710:22-7-4 through 710:22-7-13 [NEW]  
Subchapter 9. Excise Tax  
710:22-9-1 [AMENDED]  
Subchapter 13. Affidavits and Forms [REVOKED]  
710:22-13-1 [REVOKED]

**GUBERNATORIAL APPROVAL:**  
April 2, 2007

*[OAR Docket #07-736; filed 4-10-07]*

**TITLE 710. OKLAHOMA TAX  
COMMISSION  
CHAPTER 25. COIN OPERATED VENDING  
DEVICES**

*[OAR Docket #07-737]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

710:25-1-9 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-737; filed 4-10-07]*

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

*[OAR Docket #07-738]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 3. Returns and Reports  
Part 7. Other Required Reporting  
710:50-3-53 [AMENDED]  
Subchapter 15. Oklahoma Taxable Income  
Part 5. Other Adjustments to Income  
710:50-15-48 [AMENDED]  
710:50-15-49 [AMENDED]  
710:50-15-50 [AMENDED]  
710:50-15-55 [AMENDED]  
710:50-15-66 [AMENDED]  
Part 7. Credits Against Tax  
710:50-15-76 [AMENDED]

710:50-15-86 [AMENDED]  
710:50-15-86.1 [NEW]  
710:50-15-87 [AMENDED]  
710:50-15-87.1 [NEW]  
710:50-15-92 [AMENDED]  
710:50-15-101 [AMENDED]  
710:50-15-103 [AMENDED]  
710:50-15-104 [AMENDED]  
710:50-15-108 [NEW]  
Subchapter 17. Oklahoma Taxable Income for  
Corporations  
Part 5. Determination of Taxable Corporate Income  
710:50-17-51 [AMENDED]  
Subchapter 19. Oklahoma Taxable Income for Partnerships  
710:50-19-1 [AMENDED]

**GUBERNATORIAL APPROVAL:**  
April 2, 2007

*[OAR Docket #07-738; filed 4-10-07]*

**TITLE 710. OKLAHOMA TAX  
COMMISSION  
CHAPTER 60. MOTOR VEHICLES**

*[OAR Docket #07-739]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 1. General Provisions  
710:60-1-3 [AMENDED]  
Subchapter 3. Registration and Licensing  
Part 1. General Provisions  
710:60-3-14 [AMENDED]  
710:60-3-17 [AMENDED]  
Part 7. Noncommercial Vehicles  
710:60-3-70 [AMENDED]  
Part 9. Commercial Vehicles  
710:60-3-93 [AMENDED]  
710:60-3-96 [AMENDED]  
Part 11. Other Vehicles  
710:60-3-111 [AMENDED]  
Part 14. All-Terrain Vehicles and Off-Road Motorcycles  
710:60-3-140 [AMENDED]  
710:60-3-141 [AMENDED]  
710:60-3-142 [AMENDED]  
Part 17. Special Permits  
710:60-3-203 [AMENDED]  
710:60-3-204 [AMENDED]  
Subchapter 5. Motor Vehicle Titles  
Part 1. General Provisions  
710:60-5-2 [AMENDED]  
710:60-5-3 [AMENDED]  
710:60-5-4 [AMENDED]  
Part 3. Application for Certificates of Title

710:60-5-30 [AMENDED]  
Part 5. Certificates of Title  
710:60-5-51 [AMENDED]  
710:60-5-53 [AMENDED]  
710:60-5-57 [AMENDED]  
Part 7. Transfer of Title  
710:60-5-71 [AMENDED]  
710:60-5-73 [AMENDED]  
710:60-5-77 [AMENDED]  
Part 9. Affidavits for Use in Titles  
710:60-5-91 [AMENDED]  
710:60-5-92 [AMENDED]  
710:60-5-96 [AMENDED]  
Part 11. Liens  
710:60-5-111 [AMENDED]  
710:60-5-113 [AMENDED]  
710:60-5-116 [AMENDED]  
710:60-5-117 [NEW]  
Part 13. Foreign Vehicles  
710:60-5-130 [AMENDED]  
Subchapter 7. Motor Vehicle Excise Tax  
710:60-7-5 [AMENDED]  
710:60-7-7 [AMENDED]  
Subchapter 9. Motor Vehicle License Agents/Agencies  
Part 5. Specific Recordkeeping Duties  
710:60-9-53 [AMENDED]  
710:60-9-54 [AMENDED]  
710:60-9-56 [NEW]  
Part 7. Specific Reporting Duties  
710:60-9-73 [AMENDED]  
Part 9. Specific Fiscal Duties  
710:60-9-90 [AMENDED]  
710:60-9-91 [AMENDED]  
710:60-9-92 [AMENDED]  
710:60-9-93 [AMENDED]  
710:60-9-94 [AMENDED]  
710:60-9-96 [AMENDED]  
710:60-9-97 [AMENDED]  
710:60-9-98 [AMENDED]  
Part 11. Agency Operation  
710:60-9-111 [AMENDED]  
710:60-9-120 [AMENDED]  
Part 13. Special Provisions for Application, Qualification,  
Appointment, and Agency Operation Applicable to  
Certain Motor License Agents and Agencies  
710:60-9-137 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-739; filed 4-10-07]*

---

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

*[OAR Docket #07-740]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 1. General Provisions  
710:65-1-7 [AMENDED]  
Subchapter 3. Reports and Returns; Payments and  
Penalties; Records  
Part 1. General Provisions  
710:65-3-1 [AMENDED]  
Subchapter 7. Duties and Liabilities  
710:65-7-13 [AMENDED]  
Subchapter 13. Sales and Use Tax Exemptions  
Part 7. Churches  
710:65-13-40 [AMENDED]  
Part 9. Computers; Data Processing; Telecommunications  
710:65-13-51 [AMENDED]  
710:65-13-52 [AMENDED]  
Part 23. Gas and Electricity  
710:65-13-124 [NEW]  
Part 29. Manufacturing  
710:65-13-153 [AMENDED]  
710:65-13-155 [AMENDED]  
710:65-13-156 [AMENDED]  
710:65-13-157 [NEW]  
Part 31. Medicine, Medical Appliances, and Health Care  
Entities and Activities  
710:65-13-170 [AMENDED]  
710:65-13-172 [AMENDED]  
Part 35. Newspapers; Periodicals; Programs; Media  
710:65-13-195 [NEW]  
Part 42. Disabled Veterans in Receipt of Compensation at  
the One Hundred Percent Rate  
710:65-13-275 [AMENDED]  
Part 43. Social, Charitable and Civic Organizations and  
Activities  
710:65-13-349 through 710:65-13-353 [NEW]  
Part 65. Web Portals [NEW]  
710:65-13-650 [NEW]  
Subchapter 19. Specific Applications and Examples  
Part 5. "C"  
710:65-19-56 [AMENDED]  
Part 15. "H"  
710:65-19-143 [AMENDED]  
Subchapter 21. Use Tax  
710:65-21-20 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-740; filed 4-10-07]*

---

**TITLE 710. OKLAHOMA TAX COMMISSION  
CHAPTER 75. TOURISM PROMOTION  
[REVOKED]**

*[OAR Docket #07-741]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- 710:75-1-1 [REVOKED]
- 710:75-1-2 [REVOKED]
- 710:75-1-3 [REVOKED]
- 710:75-1-4 [REVOKED]
- 710:75-1-5 [REVOKED]
- 710:75-1-6 [REVOKED]
- 710:75-1-7 [REVOKED]
- 710:75-1-8 [REVOKED]
- 710:75-1-9 [REVOKED]
- 710:75-1-10 [REVOKED]

**GUBERNATORIAL APPROVAL:**

March 15, 2007

*[OAR Docket #07-741; filed 4-10-07]*

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

*[OAR Docket #07-742]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. Oklahoma Quality Jobs Program
- 710:85-1-2 [AMENDED]
- 710:85-1-3 [REVOKED]
- 710:85-1-8 [AMENDED]
- Subchapter 5. Small Employer Quality Jobs Program
- 710:85-5-3 [REVOKED]
- 710:85-5-10 [AMENDED]

**GUBERNATORIAL APPROVAL:**

March 15, 2007

*[OAR Docket #07-742; filed 4-10-07]*

**TITLE 710. OKLAHOMA TAX COMMISSION  
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY**

*[OAR Docket #07-743]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 6. Oklahoma Safe Playground Surfaces Program [REVOKED]
- 710:95-6-1 [REVOKED]
- 710:95-6-2 [REVOKED]
- 710:95-6-3 [REVOKED]
- 710:95-6-4 [REVOKED]
- 710:95-6-5 [REVOKED]

**GUBERNATORIAL APPROVAL:**

March 15, 2007

*[OAR Docket #07-743; filed 4-10-07]*

**TITLE 715. TEACHERS' RETIREMENT SYSTEM  
CHAPTER 10. GENERAL OPERATIONS**

*[OAR Docket #07-773]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 5. Establishing Other Service Credits
- 715:10-5-4.1. [NEW]
- 715:10-5-32. [AMENDED]
- 715:10-5-35. [AMENDED]
- Subchapter 13. Contributions for Membership Service
- 715:10-13-3.1. [AMENDED]
- Subchapter 15. Service Retirement
- 715:10-15-7.2. [NEW]

**GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-773; filed 4-16-07]*

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

*[OAR Docket #07-792]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 26. Vehicles and Traffic Safety [AMENDED]

# Gubernatorial Approvals

---

725:30-26-14. Off-road vehicles  
**GUBERNATORIAL APPROVAL:**  
April 3, 2007

*[OAR Docket #07-792; filed 4-16-07]*

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

*[OAR Docket #07-769]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

- Subchapter 1. Harvest and Possession Limits
- 800:10-1-3. Additional definitions [AMENDED]
- 800:10-1-4. Size limits on fish [AMENDED]
- 800:10-1-5. Bag limits on fish [AMENDED]
- 800:10-1-7. Possession Limit [AMENDED]
- Subchapter 3. Methods of Taking
- 800:10-3-3. Additional definitions [AMENDED]
- 800:10-3-4. General: hook and line, rod and reel [AMENDED]
- Subchapter 5. Area Restrictions and Special Fees
- 800:10-5-2. Department fishing areas [AMENDED]
- 800:10-5-3. Designated trout areas [AMENDED]

### **GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-769; filed 4-16-07]*

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

*[OAR Docket #07-770]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

- Subchapter 7. Commercial Mussel Harvest
- 800:15-7-3. General; operating provisions [AMENDED]

### **GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-770; filed 4-16-07]*

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

*[OAR Docket #07-771]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

- Subchapter 3. Hunting on Corps of Engineers Lands
- 800:25-3-3. Areas open to archery only [AMENDED]
- Subchapter 7. General Hunting Seasons
- Part 13. Deer
- 800:25-7-50. General provisions for deer [AMENDED]
- 800:25-7-55. Deer-Youth Gun Season [AMENDED]
- Part 15. Furbearers
- 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
- 800:25-7-81. Altus-Lugert WMA [AMENDED]
- 800:25-7-81.3. Arcadia Conservation Education Area [NEW]
- 800:25-7-91. Cherokee GMA [AMENDED]
- 800:25-7-93. Cookson WMA [AMENDED]
- 800:25-7-94.7. Drummond Flats WMA [NEW]
- 800:25-7-120.3. Lower Illinois River Public Fishing and Hunting Area - Simp and Helen Watts Management Unit [NEW]
- 800:25-7-126. Mountain Park WMA [AMENDED]
- 800:25-7-131. Optima NWR [AMENDED]
- 800:25-7-131.2. Osage WMA - Wester Wall Unit [AMENDED]
- 800:25-7-133.2. Ozark Plateau NWR [NEW]
- 800:25-7-133.3. Ozark Plateau WMA [NEW]
- 800:25-7-145. Spavinaw GMA [AMENDED]
- 800:25-7-153. Washita NWR [AMENDED]
- 800:25-7-154. Waurika WMA [AMENDED]
- Part 21. Department Fishing Lake Areas
- 800:25-7-165. General provisions [REVOKED]
- 800:25-7-166. Dates and open and closed areas [REVOKED]
- Subchapter 9. Controlled Hunts
- Part 1. Guidelines
- 800:25-9-3. Applications and instructions [AMENDED]
- 800:25-9-5. Permit and fees [AMENDED]
- 800:25-9-7. Schedule of hunts [AMENDED]
- Subchapter 19. Oklahoma Endangered Species
- 800:25-19-6. Species listing [AMENDED]
- Subchapter 29. Oklahoma Deer Management Assistance Program

- 800:25-29-2. Qualifications and procedures [AMENDED]
- Subchapter 38. Wildlife Rehabilitation License and Rules [NEW]
- 800:25-38-1. Purpose [NEW]
- 800:25-38-2. Licensing and Possession of Wildlife [NEW]
- 800:25-38-3. License Fees and Renewals [NEW]
- 800:25-38-4. Endangered or Threatened Wildlife and Migratory Birds [NEW]
- 800:25-38-5. Cats and Bears [NEW]
- 800:25-38-6. Veterinarian of Record [NEW]
- 800:25-38-7. Facility Requirements [NEW]
- 800:25-38-8. Confining Wildlife [NEW]
- 800:25-38-9. Disposition of Wildlife [NEW]
- 800:25-38-10. Records [NEW]
- 800:25-38-11. Costs and Liability [NEW]
- 800:25-38-12. Revocation of License [NEW]

**GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-771; filed 4-16-07]*

---

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

*[OAR Docket #07-772]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. Use of Department Managed Lands
- 800:30-1-2. Use restrictions [AMENDED]
- 800:30-1-4. Camping [AMENDED]
- 800:30-1-8. Language, disorderly assemblage, noise or other disruptive act [AMENDED]
- 800:30-1-12. Landfills and disposal sites [REVOKED]
- 800:30-1-20. Restricted public use area [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 2, 2007

*[OAR Docket #07-772; filed 4-16-07]*

---



# 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 210. STATE DEPARTMENT OF EDUCATION CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

*[OAR Docket #07-804]*

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and  
Career And Technology Schools  
Part 11. Standard VI: Student Services  
210:35-3-109. Vision Screening [NEW]

### AUTHORITY:

70 O. S. § 3-104, State Board of Education

### DATES:

#### Adoption:

February 22, 2007

#### Approved by Governor:

April 1, 2007

#### Effective:

Immediately upon Governor's approval

#### Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

N/A

### FINDING OF EMERGENCY:

The proposed rules are mandated by 70 O. S. § 1210.284 pertaining to accreditation standards for elementary schools. The law requires the Oklahoma State Board of Education to adopt rules to establish a procedure for data collection from school districts in order to issue an annual report on the impact and effectiveness of school-based vision screening.

### ANALYSIS:

The rule provides for the reporting of vision screening of kindergarten, first, and third grade students in public schools and comprehensive eye examinations to the State Department of Education.

### CONTACT PERSON:

Connie Holland, 405-521-3308

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

## SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

### PART 11. STANDARD VI: STUDENT SERVICES

#### **210:35-3-109. Vision Screening**

All public school districts will report to the State Department of Education the number of Kindergarten, first and third grade students who submitted certification of a completed vision screening, and also the number of students who received a comprehensive eye examination from an optometrist or ophthalmologist. This report will be submitted annually by June 1<sup>st</sup>.

*[OAR Docket #07-804; filed 4-23-07]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 234. MEDICAL MICROPIGMENTATION

*[OAR Docket #07-749]*

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 1. General Provisions  
310:234-1-2 [AMENDED]  
Subchapter 3. Medical Micropigmentation Certification  
310:234-3-2 [AMENDED]  
310:234-3-3 [AMENDED]  
310:234-3-3.1 [AMENDED]  
310:234-3-4 [AMENDED]  
310:234-3-5 [AMENDED]  
Subchapter 7. Requirements for Premises  
310:234-7-1 [AMENDED]  
310:234-7-2 [AMENDED]  
Subchapter 11. Enforcement  
310:234-11-4 [NEW]

### AUTHORITY:

Oklahoma State Board of Health; Title 63 O.S. Section 1-104 et seq.; Title 63 O.S. Sections 1-104 and 1-1450 et seq.

### DATES:

#### Comment Period:

January 2, 2007 through March 8, 2007

#### Public Hearing:

February 1, 2007 and March 8, 2007

# Emergency Adoptions

---

**Adoption:**

March 8, 2007

**Approved by Governor:**

April 2, 2007

**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

**INCORPORATION BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

The State Board of Health finds that public interest requires seeking of emergency certification of amendments to rules in Chapter 233. Unless an emergency is declared and certified, the fees specified in Chapter 234 by the State Board of Health will not comply with Section 4(B) of Enrolled Senate Bill No. 806 of the 2nd Regular Session of the 50th Oklahoma Legislature, effective November 1, 2006. Also, the public will not have the benefit of experienced instructors, updated information on medical micropigmentation and sufficient investigations for medical micropigmentation, which will result in increased risk of infection.

**ANALYSIS:**

The purpose of the proposed rulemaking action is to update requirements for Medical Micropigmentation in Oklahoma. The subchapters are amended to update references to mechanical codes and require the medical micropigmentation person to provide an update to the Department of their attending physician. This proposal modifies definitions, amends requirements for medical micropigmentation instructor education and provides for joint investigation with the appropriate licensing board. Also, the proposed amendments will implement Enrolled Senate Bill No. 806 of the 2nd Regular Session of the 50th Oklahoma Legislature, effective November 1, 2006 that will decrease the certification fees.

**CONTACT PERSON:**

Tressa Madden, Director, Consumer Protection Division, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299,(405)271-5243,:tressam@health.ok.gov

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

## SUBCHAPTER 1. GENERAL PROVISIONS

### 310:234-1-2. Definitions

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

**"Aftercare"** means written instructions given to the client, specific to the micropigmentation procedure(s) rendered, on caring for the micropigmentation area and surrounding area.

**"Antiseptic"** means an agent that destroys disease-causing microorganisms on human skin or mucosa.

**"Autoclave bag"** means a bag for holding instruments or other items, which are to be put into an autoclave for sterilization.

**"Certification"** means written approval by the Department for a person to perform medical micropigmentation.

**"Clinical certification examination"** means the examination is a clinical scenario that tests the candidate's ability

to perform micropigmentation procedures. The candidate demonstrates technical competency by scoring 100% on the clinical certification examination. The clinical certification examination consists of one scenario with three skills components, one of which may be retaken two (2) times before retraining is required.

**"Committee"** MMAC means the Medical Micropigmentation Advisory Committee.

**"Contaminated waste"** means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood and other potentially infectious materials, as defined in the "Occupational Exposure to Blood-borne Pathogens." [29 CFR § 1910.1030]

**"Department"** OSDH means the Oklahoma State Department of Health.

**"Disinfection"** means the destruction of disease-causing microorganisms on inanimate objects or surface.

**"Equipment"** means all machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and all other apparatus and appurtenances used in connection with medical micropigmentation procedures.

**"Handsink"** means a lavatory equipped with hot and cold running water under pressure used solely for washing hands, arms or other portions of the body.

**"Hot water"** means water that attains and maintains a temperature as specified in OAC ~~310:310~~158:30.

**"Instruments used for medical micropigmentation"** means handpieces, needles, needle bars and other instruments that may contact a client's body or body fluids during medical micropigmentation.

**"Licensing board"** means the Oklahoma State Board of Medical Licensure and Supervision, the State Board of Osteopathic Examiners and/or the Board of Dentistry. [21:841.5]

**"Liquid chemical germicide"** means a disinfectant or sanitizer registered with the Environmental Protection Agency or an approximate 1:100 dilution of household chlorine bleach (500ppm,  $\frac{1}{4}$  cup/gal. or 2 tablespoons/quart of tap water) made fresh daily and dispensed from a spray bottle.

**"Medical micropigmentation"** means a medical procedure in which any color or pigment is applied with a needle or electronic machine:

(A) To produce a permanent mark visible through the skin;

(B) Above the jawline and anterior to the ear and frontal hairline including but not limited to application of eyeliner, eye shadow, lips, eyebrows, cheeks, and scars; and/or

(C) For regimentation of areas involving reconstructive surgery or trauma. [21:841.5]

**"Physician"** means a person licensed to practice:

(A) Allopathic medicine and surgery by the Oklahoma State Board of Medical Licensure and Supervision pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. [Title 59 O.S. Section 481 et seq.]

(B) *Osteopathic medicine by the State Board of Osteopathic Examiners pursuant to the Oklahoma Osteopathic Medicine Act, [Title 59 O.S.620 et seq.] or*

(C) *Dentistry by the Board of Dentistry pursuant to the State Dental Act. [Title 59 O.S. Section 328.1 et seq.].*

"**Procedure surface**" means any part of equipment designed to contact the client's unclothed body during a medical micropigmentation procedure.

"**Sanitize/sanitization procedure**" means a process of reducing the number of microorganisms on cleaned surfaces and equipment to a safe level as has been approved by the Department.

"**Sharps**" means any object (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucosa including, but not limited to, pre-sterilized, single use needles, scalpel blades and razor blades.

"**Sharps container**" means a puncture-resistant, leak-proof container that can be closed for handling, storage, transportation and disposal and is labeled with the International Biohazard Symbol.

"**Single use**" means products or items that are intended for one-time, one-person use and are disposed of after use on each client including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, and protective gloves.

"**Skills area evaluation**" means an evaluation given at the end of instruction for a particular skills area that consists of two parts: technique and theory. Mastery of technique shall be demonstrated by performing the skills on the job sheet(s) for that skills area in the presence of an approved evaluator (supervising physician or instructor) with 100% accuracy. A candidate shall demonstrate mastery of micropigmentation theory by scoring 85% or greater on a written test over the material in that skills area.

"**Skills Challenge**" means a mechanism that enables persons who are currently performing supervised micropigmentation to challenge the training requirement through previous training and experience. Candidates who satisfactorily challenge the training requirement by satisfactorily completing all skills area evaluations can take the written and clinical certification examinations. Candidates who do not satisfactorily challenge the training requirement must enroll in a medical micropigmentation training program.

"**Sterilization**" means a process resulting in the destruction of all forms of microbial life, including highly resistant bacterial spores.

"**Ultrasonic**" means ultrasonic sound, which is pertaining to acoustic frequencies above the range audible to the human ear, or, above approximately 20,000 cycles per second. There are several types of ultrasonic devices.

"**Universal precautions**" means a set of guidelines and controls, published by the Centers for Disease Control (CDC) as "Guidelines for prevention of transmission of human immunodeficiency virus and hepatitis B to health-care and public-safety workers" in Morbidity and Mortality Weekly

Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures" in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV and other blood pathogens. Precautions include hand washing, gloving, personal protective equipment, injury prevention, proper handling and disposal of needles, sharps disposal, and disposal of products contaminated with blood and body fluids.

"**Written certification examination**" means an examination taken upon satisfactory completion of all skills area evaluations. An applicant demonstrates written competency by scoring 70% or greater on the written certification examination. The written certification examination may be retaken up to two (2) times before retraining is required.

### SUBCHAPTER 3. MEDICAL MICROPIGMENTATION CERTIFICATION

#### 310:234-3-2. Certification requirements

(a) An individual shall be eligible to apply for a certificate to practice medical micropigmentation by satisfying all of the following criteria:

- (1) Applicant shall have received a high-school diploma or its equivalent;
- (2) Applicant shall be at least twenty-one years of age;
- (3) Applicant shall provide a notarized copy of his/her certificate of birth;
- (4) Applicant shall provide a notarized copy of his/her driver's license or other similar photo identification;
- (5) Applicant shall provide a notarized copy of his/her credentials and professional resume that documents years of practice and number of procedures performed (if applicable);
- (6) Applicant shall provide proof of satisfactory completion of an OSDH-approved medical micropigmentation training and testing program.

(b) The State Commissioner of Health shall not issue a certificate or renew a certificate to perform medical micropigmentation procedures to certain persons as specified in Title 63, Section 1-1454(b).

(c) **Certification fees.** Fees to obtain a certificate to practice medical micropigmentation in Oklahoma shall be as follows:

- (1) ~~\$1,000.00~~\$500.00 for a new application for certification, which does not include subsequent cost of exams and re-exams;
- (2) ~~\$500.00~~\$100.00 for a renewal of certification;
- (3) ~~\$750.00~~\$375.00 for reinstatement of certification if the renewal of the certification is 30 days or more after the expiration date; and/or
- (4) ~~\$250.00~~\$125.00 for the replacement of a certificate.
- (5) Applicant shall be responsible for the cost of the examination or re-examination and background checks relating to licensing or certification.

## Emergency Adoptions

(d) **Period of validity for certificate.** Certification is valid for one (1) year after date of issuance.

### 310:234-3-3. Training and testing

An individual shall satisfy the training and testing requirement for certification by meeting one (1) of the following criteria:

- (1) Satisfactory completion of an OSDH-approved medical micropigmentation training program and the certification testing process shall include ~~(skills area evaluations, and written certification test, and A clinical skills test); or~~ may be required if deemed necessary by the Oklahoma Department of Career and Technology Education.
- (2) Granted challenge status after being deemed by OSDH to have met requirements for preparedness through training and experience and satisfactory completion of all components of the certification testing process shall include ~~(Skills skills area evaluations, and written certification test, and A clinical skills test)~~ may be required if deemed necessary by the Oklahoma Department of Career and Technology Education.

### 310:234-3-3.1. Reciprocity

*The State Department of Health upon recommendation of the Medical Micropigmentation Advisory Committee may approve applicants for certification by reciprocity. An applicant shall qualify for certification by reciprocity if the applicant:*

- (1) *Has qualifications and training comparable to those required under the Oklahoma Medical Micropigmentation Regulation Act;*
- (2) *Provides documentation verifying two (2) years of experience and a minimum of two hundred (200) procedures; and*
- (3) *Has successfully completed the Oklahoma certification examination.* [63:1-1455(E)]
- (4) Provides documentation verifying possession of licensing or certification from another state in good standing.

### 310:234-3-4. Certificate by completion of medical micropigmentation training program and certification testing process

(a) Training in medical micropigmentation obtained through the Oklahoma Department of Career and Technology Education or other training course shall consist of at least 300 hours or equivalent of competency based instruction [63:1-1455] encompassing both theory and clinical training and is approved by the Department as meeting the training and curriculum requirements of this section.

(b) Medical Micropigmentation training shall be in the following skills area including theory and lab training:

- (1) Safety and Aseptic Technique;
- (2) Knowledge of Facial Anatomy, Physiology, and Disease;
- (3) Theory and Application of Micropigmentation;
- (4) Color Theory;

- (5) Client Consultation Services;
- (6) Professionalism; and
- (7) Micropigmentation procedures (eyeliner, lips, eyebrows, eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma, or repigmentation of the areola):

- (A) Basic procedures on clients (eyeliner, lips, and eyebrows),
- (B) Advanced procedures (eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma or repigmentation of the areola).

(c) The instructor for micropigmentation procedures and techniques shall be: ~~an Oklahoma Certified Micropigmentologist who has performed procedures for one (1) year or a physician as defined by OAC 310:234-1-2. Subject matter experts may be utilized to teach technique and theory in other skill areas.~~

- (1) An Oklahoma Certified Micropigmentologist who has performed procedures for three (3) years that shall include eye procedures, full lip procedures, and eyebrow procedures; or
- (2) A physician as defined by OAC 310:234-1-2. Subject matter experts may be utilized to teach technique and theory in other skill areas.

(d) **Skills area evaluations.**

- (1) During the training program, a candidate must satisfactorily complete an evaluation for each skills area. The evaluation verifies that micropigmentation concepts and/or techniques presented in that skills area have been mastered.
- (2) Mastery of medical micropigmentation technique in a skills area shall be demonstrated when the candidate performs all skills presented on all job sheets contained within that skills area to the instructor with 100% accuracy.
- (3) Mastery of medical micropigmentation theory in a skills area shall be demonstrated when the candidate scores 85% on the written test over material covered in that skills area (if applicable).

(e) **Written certification examination.**

(1) ~~Candidate~~Candidates shall be eligible to sit for the written certification examination upon satisfactory completion of training and skills area evaluations. The written certification examination for medical micropigmentation shall be offered at Health Certification Project testing sites located in Technology Centers. Documentation of satisfactory completion of the written certification exam shall be required before a candidate is permitted to take the clinical certification examination.

(2) A passing score of 70% shall be required to show competency. A candidate who does not meet this score can retest up to two (2) times. Candidates who do not pass the written certification examination must wait at least seven (7) days before retesting. Candidates who are unable to attain competency after three attempts shall be required to re-enroll in the medical micropigmentation training program.

(f) **Clinical certification examination.**

(1) Candidates shall be eligible to take the clinical certification examination upon satisfactory completion of the written certification examination. The clinical certification examination for medical micropigmentation shall be offered at selected Technology Center test sites and shall be offered two (2) times per year or as deemed necessary by the ~~Medical Micropigmentation Advisory Committee~~ Department. The clinical certification examination shall consist of three (3) components.

(2) Candidates shall provide all equipment and supplies for the clinical certification examination. Competency shall be verified by documentation of the clinical certification examination. A candidate must attain a score of 100% to pass the clinical certification examination. A candidate shall be permitted to retest one (1) clinical component up to two (2) times. Candidates who are unable to pass all three components within these guidelines shall be required to re-enroll in a medical micropigmentation program.

(g) **Application for certification.** Upon satisfactory completion of the medical micropigmentation training and certification testing process, the applicant is eligible to apply for a Medical Micropigmentation Certificate. In order to apply for a Certification, the candidate must submit the following to OSDH:

- (1) Completed application;
- (2) Notarized copy of the candidate's certificate of birth;
- (3) Notarized copy of the candidate's driver's license or other similar form of photo ID;
- (4) Notarized copy of the candidate's professional credentials; and
- (5) Completed Training and Testing Verification Form.

(h) **Issuance of certificates.** The State Commissioner of Health shall award a certificate to eligible applicants as set forth in Section 5 of the Act within thirty days of receipt of the completed application and required documents.

**310:234-3-5. Certificate by skills challenge and certification testing**

(a) A person who has received training in micropigmentation and has experience in performing micropigmentation procedures may be deemed to have met the Department-approved preparedness requirements. Attaining challenge status enables the applicant to bypass micropigmentation training if he/she is able to score 100% on the Skills area evaluations for each of the areas:

- (1) Safety and Aseptic Technique;
- (2) Knowledge of Facial Anatomy, Physiology, and Disease;
- (3) Theory and Application of Micropigmentation;
- (4) Color Theory;
- (5) Client Consultation Services;
- (6) Professionalism; and
- (7) Micropigmentation Procedures on Clients.
  - (A) Basic procedures (eyeliner, lips, and eye-brows),

(B) Advanced procedures (eye shadow, cheeks, scars, and/or reconstructive surgery, trauma, or repigmentation of the areola)

(b) **Application for certification by skills challenge and certification testing.**

(1) To apply for challenge status, the applicant must submit all of the following to OSDH:

- (A) Completed application for challenge status;
- (B) Notarized copy of the applicant's certificate of birth;
- (C) Notarized copy of the applicant's driver's license or other similar photo identification;
- (D) Notarized copy of his/her credentials and professional resume of satisfactory completion of Medical Micropigmentation procedures for a minimum of six months experience and 60 procedures performed;
- (E) Letter from supervising physician detailing the types of micropigmentation procedures that shall be performed under his/her supervision or letter of recommendation;

~~(F) \$1000 Application for Certification fee;~~

~~(2) Challenge status shall only be granted between January 1, 2002, and December 31, 2002, to those seeking to practice medical micropigmentation in Oklahoma.~~

~~(3) OSDH shall notify the applicant in writing of its decision to approve/disapprove the applicant's challenge status within 60 days of receipt of a completed application. Applicants who are not eligible to challenge must enroll in a micropigmentation training program before entering the certification testing process. Applicants who are eligible to challenge must present the letter of notification from OSDH upon enrolling in the skills challenge and certification testing process.~~

(c) **Skills area evaluations.**

(1) A skills challenge candidate must score 100% on each skills area evaluation. The evaluation verifies those micropigmentation concepts and/or techniques presented in the training program have been mastered through previous training and experience.

(2) Mastery of medical micropigmentation technique in a skills area shall be demonstrated when the candidate performs all skills presented on all job sheets contained within that competency area to the instructor with 100% accuracy. A skills challenge candidate shall perform all skills presented on a job sheet in the presence of his/her supervising physician. Each job sheet must document the procedure performed and include the signature of the supervising physician who witnessed and evaluated the procedure. In order to take the written portion of the skills area evaluation, the candidate must present signed and completed job sheets for each skill presented in that competency area.

(3) Mastery of medical micropigmentation theory in a skills area shall be demonstrated when the candidate scores 85% on the written test (if applicable). Candidates who fail to score 85% on the written portion of each skills

## Emergency Adoptions

---

area evaluation can re-test in no more than two (2) competency areas. Candidates who fail to score 85% after three (3) attempts shall be required to enroll in a micropigmentation program. Unsuccessful challenge candidates must remediate in all areas where they scored less than 85% through an approved micropigmentation program. Competency will be determined by successful completion of the associated written skill evaluation(s). Candidates who satisfactorily complete all skills area evaluations shall be eligible to register for the written certification examination.

(d) **Written certification examination.**

(1) Candidate shall be eligible to sit for the written certification examination upon satisfactory completion of training and skills area evaluations. The written certification examination for medical micropigmentation shall be offered at Health Certification Project testing sites located in Technology Centers. Documentation of satisfactory completion of the written certification exam shall be required before a candidate is permitted to take the clinical certification examination.

(2) A passing score of 70% shall be required to show competency. A candidate who does not meet this score can retest up to two (2) times. Candidates who do not pass the written certification examination must wait at least seven (7) days before retesting. Candidates who are unable to attain competency after three attempts shall be required to re-enroll in the medical micropigmentation training program.

(e) **Clinical certification examination.**

(1) Candidates shall be eligible to take the clinical certification examination upon satisfactory completion of the written competency examination. The clinical competency for medical micropigmentation shall be offered at selected Technology Center test sites and shall be offered two (2) times per year or as deemed necessary by the Medical Micropigmentation Advisory Committee Department. The clinical certification examination shall consist of three (3) components.

(2) Candidates shall provide all equipment and supplies for the clinical competency examination. Competency shall be verified by documentation of the clinical competency examination. A candidate must attain a score of 100% to pass the clinical certification examination. A candidate shall be permitted to retest one (1) clinical component up to two (2) times. Retesting a clinical component shall be available at the next clinical certification examination test date. Candidates who are unable to pass all three components within these guidelines shall be required to re-enroll in a medical micropigmentation program.

(f) **Application for certification.**

(1) Upon satisfactory completion of the medical micropigmentation training and certification testing process, the applicant is eligible to apply for a Medical Micropigmentation Certificate. In order to apply for a Certification, the candidate must submit the following to OSDH:

(A) Completed application for certification, and

(B) Completed Training and Testing Verification Form.

(2) The State Commissioner of Health shall award a certificate to eligible applicants as set forth in Section 5 of the Act within thirty days of receipt of the completed application and required documents.

### SUBCHAPTER 7. REQUIREMENTS FOR PREMISES

**310:234-7-1. Physical facilities**

Medical micropigmentation shall only be performed in a physician's office. The applicant or licensed medical micropigmentation person shall provide information to the Department in their application or renewal form stating who the supervising physician is with the dentist or physician(s) signature, address of the dentist or physician's office where the dentist or physician is supervising, and who the Certified Medical Micropigmentologist being supervised is performing medical micropigmentation.

**310:234-7-2. Physical construction and maintenance**

(a) All walls, floors, ceilings and all procedure surfaces where medical micropigmentation is performed shall be smooth, free of open holes or cracks, washable, in good repair, and clean. All procedure surfaces, including client chairs/benches shall be of such construction as to be easily cleaned and sanitized after each client.

(b) No animals of any kind shall be allowed in the area where medical micropigmentation is performed except service animals used by persons with disabilities.

(c) The facility shall comply with OAC ~~310:310~~ 158:40 (Plumbing Industry Regulations). In addition, a separate, readily accessible, handsink with hot and cold running water, under pressure, equipped with wrist or foot operated controls and supplied with liquid soap, and disposable paper towels shall be readily accessible to each individual performing medical micropigmentation.

(d) At least one covered waste receptacle shall be provided in each medical micropigmentation area and each toilet room. All refuse containers shall be lidded, cleanable and kept clean.

(e) All instruments and supplies shall be stored in clean, dry and covered containers.

(f) Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

(g) The facility shall comply with OAC ~~310:245~~ 158:40 (Electrical Industry Regulations). In addition, the medical micropigmentation room shall have 10-foot candles of light at 30 inches above the floor and 30-foot candles on surfaces where micropigmentation is performed.

(h) The facility shall comply with OAC ~~310:290~~ 158:50 (Mechanical Industry Regulations).

### SUBCHAPTER 11. ENFORCEMENT

**310:234-11-4. Inspection of Complaints**

Upon receipt of a complaint by the Department or upon receipt of notice relating to an alleged violation of the Oklahoma Medical Micropigmentation Regulation Act or rules promulgated there under, that involves the practice of micropigmentation in the office of a dentist or physician, the Department shall notify the appropriate licensing board of the complaint and request a joint inspection.

[OAR Docket #07-749; filed 4-11-07]

**TITLE 310. OKLAHOMA STATE  
DEPARTMENT OF HEALTH  
CHAPTER 638. DRUG AND ALCOHOL  
TESTING RULES**

[OAR Docket #07-750]

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 1. General Provisions

310:638-1-2 [AMENDED]

310:638-1-3 [AMENDED]

310:638-1-4 [AMENDED]

310:638-1-5 [AMENDED]

310:638-1-6.2 [NEW]

310:638-1-7.2 [NEW]

310:638-1-8.2 [NEW]

310:638-1-10 [AMENDED]

Subchapter 3. Administration

310:638-3-4 [REVOKED]

310:638-3-7 [AMENDED]

Subchapter 5. Drug Screen Testing Facilities

310:638-5-2 [AMENDED]

310:638-5-3 [AMENDED]

310:638-5-4 [AMENDED]

310:638-5-9 [AMENDED]

310:638-5-10 [AMENDED]

**AUTHORITY:**

Oklahoma State Board of Health; Standards for Workplace Drug and Alcohol Testing Act, 40 O.S. Sections 551 et seq.

**DATES:**

**Public Hearing:**

February 1, 2007 and March 8, 2007

**Adoption:**

March 8, 2007

**Approved by Governor:**

April 2, 2007

**Effective:**

Immediately upon Governor's approval

**Expiration:**

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

The State Board of Health finds that public interest requires seeking of emergency certification of amendments to rules in Chapter 638. Unless an emergency is declared and certified, there will be no standards in place to enforce the enhanced public health assurances authorized 40 O.S. Sections 551 et seq., as amended effective November 1, 2006.

**ANALYSIS:**

The amendments to OAC 310:638 modify the testing standards and procedures to include saliva as an appropriate body component sample for workplace drug testing and revokes obsolete provisions for an interim licensure

status. This rule implements the Standards for Workplace Drug and Alcohol Testing Act as amended effective November 1, 2006.

**CONTACT PERSON:**

Tom Welin, Chief, Medical Facilities, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-6576; electronic mail: tomw@health.ok.gov

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

**SUBCHAPTER 1. GENERAL PROVISIONS**

**310:638-1-2. Definitions**

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

**"Alcohol concentration"** means the amount of alcohol present in urine or blood expressed in terms of percent of the weight of alcohol per volume of urine or blood (w/v), or the amount of alcohol present in breath expressed in terms of grams of alcohol per two hundred ten (210) liters of breath, or the amount of alcohol present in saliva expressed in grams of alcohol per one hundred (100) milliliters of saliva.

**"Alcohol testing facility"** means any building, place, or facility in which operations, procedures, or examinations of materials derived from the human body are performed for the purpose of alcohol testing and if, as a result of such testing, mandatory or discretionary consequences may be rendered to the individual.

**"Approved drug screening procedure"** means a procedure approved by the Commissioner of Health to initially screen urine, ~~or~~ hair or saliva for the presence or absence of a drug or drugs.

**"Blind performance test specimen"** means a specimen submitted to a testing facility which is blank i.e., certified to contain no drug, or spiked with one or more drugs for which the testing facility is testing;

**"Department"** means the Oklahoma State Department of Health.

**"Drug screen testing facility"** means any building, place, or facility in which operations or procedures for the biological, serological, immunological, chemical, immunohematological, or other examinations of materials derived from the human body are performed for the purpose of drug testing and if, as a result of such testing, mandatory or discretionary consequences may be rendered to the individual.

**"Proficiency testing program"** means performance of testing on specimens containing those drugs and metabolites which each testing facility shall be prepared to assay in concentration ranges that allow detection of the analyte by commonly used immunoassay screening techniques. The proficiency testing program for drug testing facilities shall be approved for use by the Commissioner of Health.

## Emergency Adoptions

---

**"Saliva"** means mucosal transudate or a combination of oral fluids consisting of a mixture of gingival crevicular fluid and common saliva.

**"Screening device test"** means non-evidential breath testing apparatus such as tubes filled with materials that turn a certain color when alcohol-laden breath is blown into them or a small, hand-held electronic apparatus that registers the presence or absence of alcohol concentration in breath, or an apparatus which registers a particular alcohol concentration when a swab with saliva from the employee's mouth is inserted into it.

### 310:638-1-3. Qualifications of testing facilities

#### (a) Drug screen testing facilities.

(1) Drug screen testing facilities not certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists shall meet the provisions of this Chapter for the matrices for which they test for drugs of abuse in order to be eligible for licensure as a testing facility.

(2) Drug screen testing facilities certified for forensic urine drug testing by the United States Department of Health and Human Services, accredited for forensic urine drug testing by the College of American Pathologists, or licensed by a State acceptable to the Department shall be deemed to meet the requirements of OAC 310:638 Subchapter 5 and shall be eligible for licensure as a testing facility.

(b) **Drug confirmation testing facilities.** All facilities performing drug confirmation testing using urine or saliva as the testing matrix shall be certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists in order to be eligible for licensure as a testing facility. Facilities performing confirmation testing using hair as the testing matrix, shall have passed an inspection performed by the Department or be licensed by another State acceptable to the Department.

(c) **Notification requirements.** All testing facilities licensed by the Department based on certification by the United States Department of Health and Human Services, accreditation by the College of American Pathologists, or licensed by another State accepted by the Department shall notify the Department in writing within ten (10) days of the loss of such certification, accreditation, or licensure.

### 310:638-1-4. Body specimens appropriate for testing

#### (a) Drugs.

(1) **Initial tests.** Urine, saliva or hair shall be used for the initial test for all drugs.

(2) **Confirmation tests.** Urine, saliva or hair shall be used for the confirmation test for all drugs.

#### (b) Alcohol.

(1) **Initial tests.** Breath or saliva shall be used for the initial test for alcohol. Blood may be used for initial testing as described in OAC 310:638-7-4(b)(4).

(2) **Confirmation tests.** Breath or blood shall be used for the confirmation test for alcohol.

(3) **Rehabilitation/post-rehabilitation tests.** For alcohol testing which meets the criteria at 310:638-7-8(a), urine may be used as the specimen for initial and/or confirmation testing.

### 310:638-1-5. Drugs approved for testing in urine or saliva

(a) A licensed testing facility may test for any drug or class of drugs or their metabolites included in Schedule I, II, or III of the Controlled Substances Act (21 U.S.C. § 801, et seq.) provided testing for such substances has been approved by the Commissioner of Health.

(b) The following drugs or their metabolites have been approved for testing by the Commissioner of Health:

- (1) marijuana;
- (2) opiates:
  - (A) codeine;
  - (B) heroin;
  - (C) morphine;
- (3) semi-synthetic and synthetic narcotics:
  - (A) hydrocodone;
  - (B) hydromorphone;
  - (C) meperidine;
  - (D) methadone;
  - (E) oxycodone;
  - (F) propoxyphene;
- (4) cocaine;
- (5) phencyclidine;
- (6) amphetamines:
  - (A) amphetamines;
  - (B) methamphetamines;
  - (C) methylenedioxyamphetamine;
  - (D) methylenedioxymethamphetamine;
  - (E) phentermine;
- (7) barbiturates:
  - (A) amobarbital;
  - (B) butalbital;
  - (C) pentobarbital;
  - (D) secobarbital;
- (8) benzodiazepines:
  - (A) diazepam;
  - (B) chlordiazepoxide;
  - (C) alprazolam;
  - (D) clorazepate; and
- (9) methaqualone.

(c) If the United States Department of Health and Human Services has established an approved protocol and positive threshold for a substance not listed in (b) of this Section, testing for such a substance shall be deemed to be approved by the Commissioner of Health.

(d) Drugs other than those listed shall be tested by scientifically established methods at scientifically established detection levels.

**310:638-1-6.2. Saliva cutoff levels for initial drug screening tests**

The manufacturer of the saliva test system shall establish initial cutoff levels to be used when screening saliva specimens to determine whether they are negative for drugs or their metabolites. Such cutoffs shall be consistently applied for all saliva testing using that test system.

**310:638-1-7.2. Cutoff levels for drug confirmation testing in saliva**

- (a) All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS), or an equivalent accepted method of equal or greater accuracy as approved by the Commissioner of Health. The cutoff levels to be used when confirming saliva specimens that screen positive for a drug or its metabolite shall be established and validated by the laboratory conducting the confirmation testing. Such cutoffs shall be established at or below the cutoff levels used for the screening assay for each drug or metabolite and shall be consistently applied for all saliva testing using that test system. All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the testing facility record as "greater than the highest standard curve value."
- (b) All confirmation testing on saliva shall be performed on the same specimen that was identified as positive on the initial screen.

**310:638-1-8.2. Saliva specimen collection procedures**

- (a) **Designation of collection site.** Each saliva drug testing program shall have one (1) or more designated collection sites which have all necessary personnel, material, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and shipping or transportation of saliva specimens to a licensed drug testing facility.
- (b) **Security.** While security is important with any collection, in the case of saliva, only the temporary storage area in the designated collection site needs to be secure.
- (c) **Chain of custody.** Chain of custody standardized forms shall be properly executed by authorized collection site personnel upon receipt of specimens. Handling and transportation of saliva specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures. Every effort shall be made to minimize the number of persons handling specimens.
- (d) **Access to authorized personnel only.** The saliva collection site shall be off limits to unauthorized personnel during the actual collection of specimens.
- (e) **Privacy.** Procedures for collecting saliva shall be performed on one individual at a time to prevent substitutions or interference with the collection of reliable samples.
- (f) **Integrity and identity of specimen.** Saliva shall be collected in a device approved by the Federal Food and Drug Administration and according to the instructions provided by the manufacturer of the saliva collection device. The information on the saliva specimen container and on the chain of custody form shall identify the individual from whom the specimen was

collected. The following minimum precautions shall be taken when collecting a saliva specimen to ensure specimens are obtained and correctly identified.

- (1) When an individual arrives at the collection site, the collection site person shall request the individual to present photo identification. If the individual does not have proper photo identification, the collection site person shall contact the supervisor of the individual, the coordinator of the drug testing program, or any other employer official who can positively identify the individual. If the individual's identity cannot be established, the collection site person shall not proceed with the collection.
- (2) If the individual fails to arrive at the assigned time, the collection site person shall contact the appropriate authority to obtain guidance on the action to be taken.
- (3) The collection site person shall note any unusual behavior or appearance on the chain of custody form.
- (4) Both the individual being tested and the collection site person shall keep the specimen in view at all times prior to the specimen container being sealed with a tamper resistant seal and labeled with the individual's specimen number and other required information.
- (6) The collection site person shall label the container which contains the saliva with the date, the individual's specimen number, and any other identifying information provided or required by the drug testing program.
- (7) The individual shall initial the container for the purpose of certifying that it is the specimen collected from the individual.
- (8) The collection site person shall indicate on the chain of custody form all information identifying the specimen. The collection site person shall sign the chain of custody form next to the identifying information or the chain of custody on the specimen container.
- (9) The individual shall be asked to read and sign a statement certifying that the specimen identified as having been collected from the individual is in fact the specimen the individual provided.
- (10) The collection site person shall complete the chain of custody form.
- (g) **Collection control.** To the maximum extent possible, collection site personnel shall keep the individual's specimen container within sight both before and after collection. After the specimen is collected, it shall be properly sealed and labeled. An approved chain of custody form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on an approved chain of custody form each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of persons handling specimens.
- (h) **Transportation to the testing facility.** Collection site personnel shall arrange to transport the collected specimens to the drug testing facility. The specimens shall be placed in containers which shall be securely sealed to eliminate the possibility of undetected tampering. The collection site personnel shall ensure that the chain of custody documentation is sealed

## Emergency Adoptions

separately from the specimen and placed inside the container sealed for transfer to the drug testing facility.

### **310:638-1-10. Training and qualifications of collection site personnel**

(a) Collection procedures and training shall clearly emphasize that the collection site person is responsible for maintaining the integrity of the specimen collection and transfer process, carefully ensuring the modesty and privacy of the donor.

(b) A collection site person shall have successfully completed documented training to carry out this function or shall be a licensed medical professional or technician who acknowledges in writing he or she has been provided instructions for collection as described at OAC 310:638-1-8-~~or~~ 310:638-1-8.1, or 310:638-1-8.2.

(1) A non-medical collection site person shall receive appropriate training in collection procedures as described at OAC 310:638-1-8-~~or~~ 310:638-1-8.1, or 310:638-1-8.2 and shall demonstrate proficiency in the application of these collection procedures prior to serving as a collection site person. A medical professional, technologist, or technician licensed or otherwise approved to practice in the jurisdiction in which the collection takes place is not required to receive such training if that person acknowledges in writing the receipt of instructions for collection as described at OAC 310:638-1-8-~~or~~ 310:638-1-8.1, or 310:638-1-8.2.

(2) Collection site persons shall be provided with detailed, clear instructions on the collection of specimens in compliance with OAC 310:638-1-8-~~or~~ 310:638-1-8.1, or 310:638-1-8.2. Employer representatives and donors subject to testing shall also be provided standard written instructions setting forth their responsibilities.

## SUBCHAPTER 3. ADMINISTRATION

### **310:638-3-4. Interim licensure procedures**

~~(a) Upon adoption of this Chapter interim licensure may be granted to testing facilities until the initial application and inspection process is completed. Testing facilities requesting interim licensure shall indicate their intention in writing within sixty (60) days following the effective date of this Chapter. Requests for interim licensure shall include the following:~~

- ~~(1) Name and address of the testing facility;~~
- ~~(2) Name and qualifications of the testing facility director;~~
- ~~(3) Evidence of satisfactory performance on proficiency testing.~~

~~(b) Interim licensure shall be valid for a period not to exceed one hundred eighty (180) days. If the Department is in the process of evaluating a testing facility's application, the interim licensure shall be extended by the Department until a determination of approval or denial is made.~~

~~(c) Interim licensure may be granted to testing facilities performing drug and alcohol confirmation testing provided such~~

~~testing facilities submit evidence they have enrolled in appropriate proficiency testing and are in a mandatory pre application period prior to being granted certification for forensic urine drug testing by the United States Department of Health and Human Services or accreditation for forensic urine drug testing by the College of American Pathologists. Such interim licensure shall be granted until a determination of approval or denial is made by the certifying or accrediting body.~~

### **310:638-3-7. Inspections**

~~(a) Notice of intent for interim licensure and completed~~Completed applications received by the Department for initial licensure, licensure renewal, or for licensure reinstatement shall constitute consent for an on-site inspection during normal operating hours by representatives of the Department.

(b) Testing facilities as well as collection sites associated with a testing facility are subject to inspection during normal operating hours any time an on-site inspection is deemed necessary by the Commissioner of Health to protect the health and welfare of the public.

## SUBCHAPTER 5. DRUG SCREEN TESTING FACILITIES

### **310:638-5-2. Personnel**

The drug screen testing facility shall contract with, or employ, the following personnel to perform, supervise, and report ~~urine~~ drug screen tests:

(1) **Director.** The drug screen testing facility shall have a qualified individual to assume professional, organizational, educational, and administrative responsibility for the drug screen testing facility. The director shall possess the following minimum qualifications:

- (A) A bachelor's degree from an accredited institution in the chemical, biological, or physical sciences or medical technology; and
- (B) Subsequent to graduation have had two (2) or more years of full-time drug testing experience.

(2) **Director responsibilities.** The director shall be engaged in, and be responsible for, the management of the drug screen testing facility even where another individual has overall responsibility for an entire multispecialty testing facility.

(A) The director shall be responsible for ensuring that there are sufficient personnel with adequate training and experience to supervise and conduct the work of the drug screen testing facility. The director shall ensure the continued competency of drug screen testing facility personnel by documenting their inservice training, reviewing their work performance, and verifying their skills.

(B) The director shall be responsible for the drug screen testing facility having a procedure manual which is complete, up-to-date, available for personnel performing tests, and followed by those personnel. The procedure manual shall be reviewed, signed, and

dated by the director whenever procedures are first placed into use, or changed, or when a new individual assumes responsibility for direction of the drug screen testing facility. Copies of all procedures and dates on which they are in effect shall be maintained.

- (C) The director shall be responsible:
- (i) for maintaining a quality assurance program to ensure the proper performance and reporting of all test results;
  - (ii) for maintaining acceptable analytical performance for all controls and standards;
  - (iii) for maintaining quality control testing; and
  - (iv) for assuring and documenting the validity, reliability, accuracy, precision, and performance characteristics of each test and test system.
- (D) The director shall be responsible for assuring all necessary action is taken to maintain satisfactory operation and performance of the drug screen testing facility in response to quality control systems not being within performance specifications, errors in result reporting or in analysis of performance testing results. The director shall ensure that sample results are not reported until all corrective actions have been taken and he or she can ensure that the test results provided are accurate and reliable.

(3) **General supervisor.** A qualified general supervisor shall be on the premises during all hours in which tests are performed. The general supervisor shall be responsible for day-to-day operations and supervision of analysts. The general supervisor shall possess the following minimum qualifications:

- (A) A high school diploma or equivalent and documented training by the manufacturer, or other qualified person, in the operation and maintenance of the test system utilized, to include the instrumentation, test reagents, calibration and quality control materials, and any other equipment or supplies required in the performance of the drug screen testing procedure; and
- (B) Have training and experience in the theory and practice of the procedures used in the drug screen testing facility, resulting in a thorough understanding of:
  - (i) quality control practices and procedures;
  - (ii) the review, interpretation, and reporting of test results;
  - (iii) maintenance of chain of custody; and
  - (iv) proper remedial actions to be taken in response to test systems being out of control limits or detecting aberrant test or quality control results.

(4) **Test validation.** The drug screen testing facility shall have a qualified individual(s) who reviews all pertinent data and quality control results in order to attest to the validity of the drug screen testing facility's test reports. A drug screen testing facility may designate more than one person to perform this function. This individual(s) shall be any employee who is qualified as director or general supervisor.

(5) **Other personnel.** Other technical or nontechnical staff shall have the necessary training and skills for the tasks assigned, and shall perform only those procedures that require a degree of skill commensurate with their training, education, and technical ability.

(6) **Training.** The drug screen testing facility shall make available continuing education programs to meet the needs of facility personnel.

(7) **Personnel records.** Personnel records shall include at least the following:

- (A) verification of education;
- (B) initial skills orientation program;
- (C) resume of training and experience;
- (D) documentation of continuing education;
- (E) certification or license, if any;
- (F) references;
- (G) job descriptions;
- (H) records of performance evaluation and advancement;
- (I) incident reports; and
- (J) results of tests which establish employee competency.

**310:638-5-3. Security and chain of custody**

(a) Drug screen testing facilities shall be secure at all times. They shall have in place sufficient security measures to control access to the premises and to ensure that no unauthorized personnel handle specimens or gain access to testing facility processes or to areas where records are stored. Access to these secured areas shall be limited to specifically authorized individuals whose authorization is documented. With the exception of personnel authorized to conduct inspections on behalf of federal or state agencies, all authorized visitors and maintenance and service personnel shall be escorted at all times. Documentation of individuals accessing these areas, dates, time of entry, and purpose of entry shall be maintained.

(b) Drug screen testing facilities shall use internal chain of custody procedures to maintain control and accountability of specimens from receipt through completion of screening, reporting of results, during storage, and continuing until final disposition of specimens. The date and purpose shall be documented on an appropriate chain of custody form each time a specimen is handled or transferred, and every individual in the chain shall be identified. Authorized drug screen testing facility personnel shall be responsible for each ~~urine or hair~~ specimen or aliquot in their possession and shall sign and complete chain of custody forms for those specimens or aliquots as they are received.

(c) When specimens are received, drug screen testing facility personnel shall inspect each package for evidence of possible tampering and compare information on specimen bottles and containers within each package to the information on the accompanying chain of custody forms. Any direct evidence of tampering or discrepancies in the information on specimen bottles and containers and the agency's chain of custody forms shall be immediately reported to the employer and shall be noted on the drug screen testing facility's chain of

## Emergency Adoptions

custody form which shall accompany the specimens while they are in the drug screen testing facility's possession.

(d) Specimen bottles shall normally be retained within the drug screen testing facility's accession area until all analyses have been completed. Aliquots and the drug screen testing facility's chain of custody forms shall be used by drug screen testing facility personnel for conducting initial screening tests.

(e) Urine specimens shall be tested for adulteration.

(f) Testing facilities shall perform integrity checks on saliva specimens as required by facility policy.

### 310:638-5-4. Methods of analysis and specimen storage

#### (a) Methods of analysis.

(1) Licensed drug screen testing facilities shall have the capability of performing initial screening for the following classes of drugs or their metabolites: marijuana and cocaine, using an immunoassay which meets the requirements of the United States Food and Drug Administration for commercial distribution or another approved screening procedure or if prepared in-house by the testing facility, documented evidence shall exist indicating that the antibody meets acceptable performance criteria.

(2) Initial screening shall be completed within forty-eight (48) hours following receipt of the specimen by the testing facility. If the initial screening cannot be completed within forty-eight (48) hours, the specimen shall not be accepted or shall be sent to another testing facility for screening.

(3) If the drug screen testing facility is not certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists all specimens that do not test negative shall be forwarded to an appropriate testing facility for confirmation.

(4) All confirmatory urine or saliva drug testing shall be performed by a testing facility that is certified for forensic urine drug testing by the United States Department of Health and Human Services or accredited for forensic urine drug testing by the College of American Pathologists.

(5) No positive urine or saliva drug screen shall be reported to the Review Officer until the positive initial screen has been confirmed as required. If the employer operates a drug screen testing facility, the employer shall not base any employment decision on a positive urine drug screen until the positive initial test has been confirmed and reviewed.

(6) No positive hair drug screen shall be reported to the Review Officer until the positive initial screen has been decontaminated and confirmed by the same laboratory.

#### (b) Specimen storage.

(1) Urine specimens that do not receive an initial test within twenty-four (24) hours of arrival at the drug screen testing facility shall be placed in secure refrigeration units where the temperatures do not exceed 6°C. Urine testing facilities shall have emergency power equipment or other appropriate storage shall be available in case of a prolonged power failure.

(2) The drug screen testing facility shall log in the split specimen, with the split specimen bottle seal remaining intact. The drug screen testing facility shall store this sample securely as in 310:638-5-4(b)(1).

(3) If the result of the primary specimen is negative, the drug screen testing facility may discard the split specimen. If the result of the test of the primary specimen is positive, the drug screen testing facility shall forward the split specimen, using appropriate chain of custody procedures, to a qualified testing facility for confirmation testing. The drug screen testing facility shall ensure the confirmatory testing facility retains the split specimen in properly secured frozen storage (-20°C or less) for a minimum of one (1) year.

(4) Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

(5) Saliva specimens shall be stored and transported as required by the manufacturer of the collection device.

### 310:638-5-9. Quality assurance and quality control

(a) **Quality assurance.** Drug screen testing facilities shall have a quality assurance program which encompasses all aspects of the testing process including but not limited to specimen acquisition, chain of custody, security and reporting of results, initial and confirmatory testing, and validation of analytical procedures. Quality assurance procedures shall be designed, implemented, and reviewed to monitor the conduct of each step of the process of testing for drugs.

#### (b) Quality control.

(1) Each analytical run of specimens to be screened shall include:

(A) Urine ~~or hair~~ or saliva specimens certified to contain no drug;

~~(B) Urine or hair specimens fortified with known standards; and~~

~~(C) Positive~~ Urine or hair or saliva positive controls with the drug or metabolite at or near the threshold (cutoff).

~~(2) In addition, with each batch of samples a sufficient number of standards shall be included to ensure and document the linearity of the assay method over time in the concentration area of the cutoff. After acceptable values are obtained for the known standards, those values shall be used to calculate sample data. Implementation of procedures to ensure that carryover does not contaminate the testing of an individual's specimen shall be documented. A minimum of ten (10) percent of all test samples shall be quality control specimens. The drug screen testing facility's quality control samples, prepared from fortified urine or hair samples of determined concentration shall be included in the run and shall appear as normal samples to drug screen testing facility analysts. One (1) percent of each run, with a minimum of at least one sample, shall be the drug screen testing facility's own quality control samples.~~

**310:638-5-10. Proficiency testing**

**(a) Enrollment and performance.**

(1) Each drug ~~screen testing facility and each hair drug screening and/or~~ confirmation testing facility shall enroll and demonstrate satisfactory performance in a Department approved proficiency testing program established by an independent group which contains those drugs and metabolites for which ~~urine or~~ hair, or saliva is routinely screened.

(2) The drug testing facility shall satisfactorily perform in one proficiency testing event prior to initial licensure and demonstrate continued satisfactory performance to maintain licensure.

(3) The drug testing facility shall authorize the proficiency testing service to send results to the Oklahoma State Department of Health for review. The drug testing facility shall maintain records which shall document the handling, processing and examination of all proficiency testing samples for a minimum of two (2) years from the date of testing.

(4) The drug testing facility shall ensure that proficiency testing samples are analyzed at least three (3) times each year using the same techniques as those employed for screening unknown specimens.

(5) The proficiency testing samples shall be included with the routine sample run and tested with the same frequency as unknown samples by the individuals responsible for testing unknown specimens.

(6) The drug testing facility shall not engage in discussions or communications concerning proficiency testing results with other drug testing facilities nor shall they send proficiency testing samples or portions of the samples to another drug testing facility for analysis.

**(b) Satisfactory performance.**

(1) The drug testing facility shall maintain an overall testing event score of at least eighty (80) percent for proficiency testing performance to be considered satisfactory.

(2) Failure to participate in a proficiency testing event shall result in a score of zero (0) percent for the testing event.

**(c) Unsuccessful performance.** Failure to achieve satisfactory performance in two (2) consecutive testing events, or two (2) out of three (3) consecutive testing events, shall be determined to be unsuccessful performance.

*[OAR Docket #07-750; filed 4-11-07]*

**TITLE 310. OKLAHOMA STATE  
DEPARTMENT OF HEALTH  
CHAPTER 667. HOSPITAL STANDARDS**

*[OAR Docket #07-751]*

**RULEMAKING ACTION:**  
EMERGENCY adoption

**RULES:**  
Subchapter 15. Nursing Service

- 310:667-15-6 [AMENDED]  
Subchapter 19. Medical Records Department
- 310:667-19-2 [AMENDED]  
310:667-19-13 [AMENDED]  
Subchapter 21. Drug Distribution
- 310:667-21-7 [AMENDED]  
310:667-21-8 [AMENDED]  
Subchapter 25. Surgical services
- 310:667-25-2 [AMENDED]  
Subchapter 39. Critical Access Hospital
- 310:667-39-6 [AMENDED]  
310:667-39-9 [AMENDED]  
310:667-39-11 [AMENDED]  
Subchapter 40. Emergency Hospital
- 310:667-40-6 [AMENDED]  
310:667-40-9 [AMENDED]  
310:667-40-11 [AMENDED]

**AUTHORITY:**

Oklahoma State Board of Health; 63 O.S. Sections 1-104, 1-705, and 1-707.

**DATES:**

**Public Hearing:**  
March 8, 2007

**Adoption:**

March 8, 2007

**Approved by Governor:**

April 2, 2007

**Effective:**

Immediately upon Governor's approval.

**Expiration:**

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

The amendments to OAC 310:667 modify language in the licensure rules to establish consistent Federal and State standards for completion of patient history and physical examinations prior to admission, timelines for authentication of verbal orders, clarification of the requirement for certain drugs and biologicals to be maintained in locked storage in a secure area, and expanding and clarifying the individuals qualified to perform, and the requirements for completion of, post anesthesia follow up. This rule modifies hospital licensure standards to be consistent with Federal standards that became effective January 26, 2007.

**ANALYSIS:**

The amendments to OAC 310:667 modify language in the licensure rules to establish consistent Federal and State standards for completion of patient history and physical examinations prior to admission, timelines for authentication of verbal orders, clarification of the requirement for certain drugs and biologicals to be maintained in locked storage in a secure area, and expanding and clarifying the individuals qualified to perform, and the requirements for completion of, post anesthesia follow up. This rule modifies hospital licensure standards to be consistent with Federal standards that became effective January 26, 2007.

**CONTACT PERSON:**

Tom Welin, Chief, Medical Facilities, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-6576; electronic mail: tomw@health.ok.gov

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

**SUBCHAPTER 15. NURSING SERVICE**

## Emergency Adoptions

---

### 310:667-15-6. Evaluation and review of nursing care

- (a) There shall be a continuous review and evaluation of the nursing care provided for patients. There shall be written nursing care procedures and nursing care plans for patients.
- (b) Nursing care policies and procedures shall be written and be consistent with current standards of practice and be reviewed and revised as necessary.
- (c) A registered nurse shall assess, plan, supervise, and evaluate the nursing care for each patient.
- (d) Nursing care plans shall include assessment, planning, intervention, and evaluation. Nursing care plans shall be established for each inpatient and be revised as necessary.
- (e) Nursing notes shall be informative and descriptive of the nursing care given and include assessment, interventions, and evaluation.
- (f) Only the following shall be permitted to administer medications, and in all instances, in accordance with state and federal law:
  - (1) A licensed physician or licensed independent practitioner;
  - (2) A registered nurse;
  - (3) A licensed practical nurse; or
  - (4) Other practitioners, if designated by the medical staff and authorized by law.
  - (5) Facilities participating in a program for training nursing students may permit nursing students to administer medications to patients provided the facility has on file an agreement between the nursing school and the facility, outlining protocols for participation, scope of involvement, education levels of students, level of supervision, and a current roster of nursing students in the program. Specific details relating to the operation of the program shall be included in the facility's policies and procedures manual.
- (g) All medical orders shall be signed by the prescribing physician or practitioner. Telephone and verbal orders for medications shall be given only to the practitioner authorized by administration to receive these orders and be signed by the prescribing physician or practitioner as soon as possible within forty-eight (48) hours. Other orders may be accepted by staff as designated by medical staff policy, consistent with state and federal laws.
- (h) Verbal orders may be authenticated as described at OAC 310:667-19-2(c)(4).
- (i) Blood product transfusions and intravenous medications shall be administered as required by written hospital policy in accordance with state and federal law. Hospital staff administering blood products or intravenous medications shall be trained regarding hospital policies before they are allowed to carry out these responsibilities.
- (j) An effective hospital procedure shall be established for reporting transfusion reactions and adverse drug reactions.

### 310:667-19-2. Reports and records

- (a) Reports shall be made by each hospital to the appropriate agency, including but not limited to the following:
  - (1) Communicable disease.
  - (2) Births and deaths.
  - (3) Periodic reports to the Department on forms supplied for this purpose.
  - (4) Newborn hearing screening report.
    - (A) All hospital nurseries shall complete a newborn hearing screening report form on all live newborns discharged from their facility. For facilities with a two-year average annual birth census of 15 or greater, physiologic hearing screening results as well as "at risk" indicators must be recorded on the report form; for facilities with a two-year average annual birth census of fewer than 15, "at risk" indicators must be recorded and if physiologic hearing screening is conducted, those results also must be recorded on the report form. It shall be the responsibility of the hospital administrator to assure that the Newborn Hearing Screening Report Form is correctly completed and subsequently submitted to the Department. The hospital administrator may designate one individual, who shall then be responsible for review of all newborn discharge summaries to insure that a report form has been completed for each infant and that the report form is a permanent part of that infant's record. A copy of the hearing screening report form must be given to the infant's caregiver at discharge.
    - (B) If an infant is transferred from one hospital to another, the second hospital shall be responsible for providing physiologic hearing screening, "risk indicator" screening, and for completion of the report form.
    - (C) It shall be the responsibility of the hospital administrator to insure that all completed report forms are mailed to the Department within seven (7) days of an infant's birth.
    - (D) It shall be the responsibility of the attending physician or licensed independent practitioner to inform parents if their infant passed or was referred on the physiologic hearing screening and/or if the infant is to be considered "at risk" for hearing impairment. Prior to discharge, the attending physician or licensed independent practitioner shall review the completed report form and shall inform the parents of their infant's status. Infants who do not pass the physiologic screening shall be referred for a diagnostic audiological evaluation as soon as possible.
    - (E) It shall be the responsibility of the coordinator of the Newborn Hearing Screening Program at the Department to arrange for hospital in-service training for all hospital personnel involved in the process of completion of report forms. A manual of procedures shall be available in regard to processing of screening forms. The literature for distribution to parents shall be available from the Department.
  - (5) Newborn metabolic disorder screening.

## SUBCHAPTER 19. MEDICAL RECORDS DEPARTMENT

(A) **Testing of newborns.** All newborns in Oklahoma shall be tested for phenylketonuria, hypothyroidism, galactosemia and sickle cell diseases by a Certified Newborn Metabolic Disorder Screening Laboratory as defined in Chapter 550 of this Title; a parent or guardian may refuse metabolic disorder screening of their newborn on the grounds that such examination conflicts with their religious tenets and practices. A parent or guardian who refuses metabolic disorder screening of their newborn on the grounds that such examination conflicts with their religious tenets and practices shall also indicate in writing this refusal in the newborn's medical record with a copy sent to the Newborn Metabolic Disorder Screening Program, Maternal and Child Health Service, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, Oklahoma 73117-1299.

(B) **Specimen collection for hospital births.** For all live hospital births, the physician or licensed independent practitioner shall order the collection of a newborn metabolic disorder screening specimen on all newborns prior to transfusion, at three to five days of age or immediately prior to discharge, whichever comes first. Specimens shall be collected on the Newborn Metabolic Disorder Form Kit using capillary or venous blood. Cord blood is unacceptable. The hospital is responsible for collecting specimens on all infants.

(i) If the initial specimen for any infant is collected prior to 24 hours of age, the hospital and the physician or licensed independent practitioner are responsible for notifying the infant's parents that a repeat specimen is necessary at three to five days of age. The infant's physician or licensed independent practitioner is responsible for insuring that the repeat specimen is collected.

(ii) The hospital is responsible for submitting a satisfactory specimen and for documenting all requested information on the form kit including the parent/guardian's name, address, phone or contact phone number and the planned health care provider who will be providing well care for the infant after discharge, or if the infant is to be hospitalized for an extended period of time, the name of the infant's physician or licensed independent practitioner.

(iii) The hospital is responsible for documenting specimen collection and results in the infant's hospital record.

(iv) Infants transferred from one hospital to another during the newborn period shall have specimen collection documented in the infant's hospital record. It is the responsibility of the physician or licensed independent practitioner and the receiving hospital to insure a specimen is collected.

(v) It is the responsibility of the hospital and physician or licensed independent practitioner to insure that all infants are screened prior

to discharge. If an infant is discharged prior to specimen collection, the Newborn Metabolic Disorder Screening Program Coordinator shall be notified by contacting Maternal and Child Health Service, Oklahoma State Department of Health, 1000 NE Tenth Street, Oklahoma City, Oklahoma 73117-1299, (405) 271-6617, FAX (405) 271-4892, 1-800-766-2223, ext. 6617. The physician or licensed independent practitioner is responsible for insuring the specimen is collected at three to five days of age.

(C) **Screening for premature/sick infants.** For all premature/sick infants, the physician or licensed independent practitioner shall order the collection of a newborn metabolic disorder screening specimen prior to red blood cell transfusion, at three to seven days of age, or immediately prior to discharge, whichever comes first. It is recommended that a repeat newborn metabolic disorder screening specimen be collected at 14 days of age. Specimens shall be collected on the Newborn Metabolic Disorder Form Kit using capillary or venous blood. The hospital is responsible for collecting specimens on all premature/sick infants.

(i) Premature/sick infants screened prior to 24 hours of age must be re-screened between 7-14 days of age.

(ii) Premature/sick infants who could not be screened prior to a red blood cell transfusion should be re-screened by the 7th day of life and a repeat specimen collected when plasma and/or red cells will again reflect the infant's own metabolic processes or phenotype. The accepted time period to determine hemoglobin type is 90 to 120 days after transfusion.

(iii) The recommended follow-up study for an abnormal thyroid screen in a premature infant is a serum free T4 (measured by direct dialysis or an equivalent method) at 7-14 days of age.

(D) **Hospital recording.** The hospital shall implement a procedure to assure that a newborn screening specimen has been collected on every newborn and mailed to the Newborn Metabolic Disorder Screening Laboratory within 24 - 48 hours of collection.

(i) The hospital shall immediately notify the infant's physician or licensed independent practitioner, and parents or guardians if an infant is discharged without a sample having been collected. This notification shall be documented in the infant's hospital record.

(ii) If no test results are received within fifteen (15) days after the date of collection, the hospital shall contact the Newborn Metabolic Disorder Screening Laboratory to verify that a specimen had been received. If no specimen has been received, the hospital shall notify the physician or licensed independent practitioner.

(iii) Any hospital or any other laboratory which collects, handles or forwards newborn metabolic

## Emergency Adoptions

---

disorder screening samples shall keep a log containing name and date of birth of the infant, name of the attending physician or licensed independent practitioner, name of the health care provider who will be providing well care for the infant after discharge, medical record number, serial number of the form kit used, date the specimen was drawn, date the specimen was forwarded, date the test results were received and the test results.

(iv) The hospital is responsible for assuring that employees who collect, handle or perform newborn metabolic screening tests are informed of their responsibilities with respect to screening procedures.

**(E) Parent and health care provider education.**

The hospital will be responsible or designate a responsible party to distribute the Newborn Metabolic Disorder Screening Program's written educational materials on newborn metabolic disorder screening provided by the Department to at least one of each newborn's parent or legal guardian.

**(F) Training.** Hospitals shall provide ongoing training programs for their employees involved with newborn screening procedures. These training programs shall include methods of collecting a Satisfactory Newborn Metabolic Disorder Screening Specimen.

(6) Birth defects. Each hospital shall maintain a list of patients up to six (6) years of age who have been diagnosed with birth defects, and all women discharged with a diagnosis of stillbirth or miscarriage. On request, each hospital shall make the medical records of these individuals available to the State Department of Health.

(7) Abortions. Attending physicians shall complete and submit to the Department a report form for each abortion performed or induced as required by 63 O.S. 1999, Section 1-738.

**(b) Record of patient admission.**

(1) All persons admitted to any institution covered by these standards shall be under the care of a doctor of medicine (M.D.) or osteopathy (D.O.) duly licensed to practice medicine and surgery in the State of Oklahoma or a licensed independent practitioner, whose name shall be shown on the admitting record.

(2) The hospital admitting record also shall show the following for each patient.

(A) Full name of patient with age, sex, address, marital status, birth date, home phone number, date of admission, and admitting diagnosis.

(B) Next of kin, with address, phone number, and relationship.

(C) Date and time of admission, the admission and final diagnoses, and the name of physician or licensed independent practitioner.

(D) Any advanced directive for health care as defined in the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act.

(3) Special clinical reports shall be kept, including the following:

(A) Obstetrical patients throughout labor, delivery, and post-partum.

(B) Newborn, giving the infant's weight, length, and other notes relative to physical examination.

(C) Surgical and operative procedures, including pathological reports.

(D) Record of anesthesia administration.

**(c) Orders for medications, treatments, and tests.**

(1) All medication orders shall be written in ink and signed by the ordering physician or practitioner authorized by law to order the medication, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment for contraindications. The order shall be preserved on the patient's chart.

(2) All orders shall be written in ink and signed by the ordering physician or practitioner. Orders received by resident physicians shall be co-signed if required by medical staff bylaws. The order shall be preserved on the patient's chart.

(3) All orders taken from the physician or practitioner, for entry by persons other than the physician or practitioner, shall be countersigned as soon as possible within forty-eight (48) hours.

(4) Verbal orders may be authenticated by an authorized physician or practitioner other than the ordering physician or practitioner when this practice is defined and approved in the medical staff bylaws. If allowed, medical staff bylaws must identify the physicians or practitioners who may authenticate another physician's or practitioner's verbal order, e.g. physician partners or attending physicians or practitioners, and define the circumstances under which this practice is allowed. The bylaws must also specify that when a covering or attending physician or practitioner authenticates the ordering physician's or practitioner's verbal order, such an authentication indicates that the covering or attending physician or practitioner assumes responsibility for his or her colleague's order and verifies the order is complete, accurate, appropriate, and final.

**310:667-19-13. Promptness of record completion**

(a) Current records and those on discharged patients shall be completed promptly.

(b) All dictated reports shall include the date of dictation and the date of transcription.

(c) Medical record transcription shall be timely. Current records; e.g. progress notes, consultation reports, operative notes, radiology reports, shall be transcribed and available for review in the medical record within forty-eight (48) hours of dictation.

(d) History and physical examinations shall be completed, signed, and placed in the medical record within forty-eight (48) hours following admission or not more than ~~seven (7)~~ thirty (30) days prior to admission.

(e) When the medical history and physical examination are completed within thirty (30) days before admission, the hospital must ensure that an updated medical record entry documenting an examination for any changes in the patient's condition is completed. A timely review of the prior history and physical examination or an updated examination must be completed and documented in the patient's medical record within forty-eight (48) hours.

(ef) Records of patients discharged shall be completed within thirty (30) days following discharge.

(fg) If a patient is readmitted within thirty (30) days for the same condition, reference to the previous history and physical examination with an interval note shall suffice.

**SUBCHAPTER 21. DRUG DISTRIBUTION**

**310:667-21-7. Access to pharmacy or drug room**

(a) All drugs and biologicals shall be kept in a secure area. Drugs listed in Schedules II, III, IV, and V of the Comprehensive Drug Abuse and Control Act of 1970 must be kept locked within a secure area.

(b) Provisions shall be made for obtaining drugs after the pharmacy or drug room is closed. The procedure shall specify the personnel permitted access to the drug storage area, method of maintaining drug control, and inventory and methods of record keeping of drugs and biologicals removed. Access to the drug room/pharmacy shall be restricted to authorized individuals.

**310:667-21-8. Drug handling**

(a) Drugs shall be given to hospital patients only upon written order of a physician or practitioner legally authorized to write a prescription, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment for contraindications. No change in an order shall be made without the approval of the prescriber. Verbal orders are discouraged but, when necessary, shall be written by an authorized employee and signed by the person legally authorized to write a prescription as soon as possible within 48 hours or meet the requirements at OAC 310:667-19-2(c)(4).

(b) Single use units of controlled substances shall be used in the hospital except in the pharmacy where multiple dose vials may be used for IV admixtures.

(c) All Schedule drugs in the hospital, except those in the pharmacy, shall be verified by actual count at the change of shift by two (2) licensed nurses and documented. Schedule drugs outside the pharmacy which are contained in, and controlled by, an automated dispensing device may be verified by actual count at the time of each access and documented. Adequate day-to-day accountability-of-use records shall be maintained and shall include the date and time of each check of a schedule drug substance supply, the balance on hand, the names of patients receiving drugs, the physician's or prescribing practitioner's name, quantity of medication used and wasted, and the signatures of the two persons making

the check. Wastage of schedule drugs shall be witnessed by at least two (2) persons, one (1) of which shall be a licensed health professional. Witnesses shall document wastage by signature.

(d) The medical staff shall establish a written policy that all toxic or dangerous drugs not specifically prescribed as to time or number of doses shall be automatically stopped after a reasonable time limit set by the staff. Examples of drugs ordinarily thought of as toxic or dangerous drugs include: controlled substances, sedatives, anticoagulants, antibiotics, oxytocics, and steroids.

(e) The administrator, or his or her authorized representative, shall inventory pharmacy controlled substances and alcohol at least annually.

(f) Drugs past the date of expiration shall be removed from stock and shall not be available for patient use.

**SUBCHAPTER 25. SURGICAL SERVICES**

**310:667-25-2. Anesthesia services**

(a) Anesthesia services may be provided through a separately organized department or as a service of the department of surgery. The service shall have effective policies and procedures regarding staff privileges, the administration of anesthetics, and the maintenance of strict safety controls.

(b) Each anesthesia service shall have written policies and procedures. These policies and procedures shall include, but not be limited to:

- (1) Pre-anesthesia evaluation.
- (2) Intraoperative anesthesia report.
- (3) Post-anesthesia follow-up report.
- (4) Approved anesthesia agents.
- (5) Drug accountability procedures in accordance with hospital policies.
- (6) Infection control in anesthesia procedures.
- (7) Safety procedures for oxygen and gas anesthetics.

(c) There shall be required for every patient:

- (1) Pre-anesthetic evaluation by a physician or other practitioner authorized to perform pre-anesthesia evaluations with findings recorded not more than forty-eight (48) hours before surgery.
- (2) Anesthetic record on a special form.
- (3) Post-anesthetic follow-up conducted during the post anesthesia recovery period by a person authorized to administer anesthesia to the patient, with findings recorded, ~~by the person responsible for administering the anesthesia to the patient~~ not more than forty-eight (48) hours after surgery.

(d) The anesthesia service shall be responsible for all anesthetics administered in the hospital.

(e) In hospitals where there is no department of anesthesia, the department of surgery shall be responsible for establishing general policies and supervision for the administration of anesthetics.

(f) If anesthetics are not administered by a qualified anesthesiologist, they shall be administered by a physician anesthetist, dentist, oral surgeon, podiatrist, or a certified registered nurse anesthetist under the supervision of the operating surgeon. The

## Emergency Adoptions

---

hospital medical staff shall designate in writing those persons qualified to administer anesthetics and delineate what the person is qualified to do.

(g) During all general anesthetics, regional anesthetics, and monitored anesthesia care, the patient's oxygenation, ventilation, circulation and temperature shall be continually evaluated.

(h) Safety precautions shall include where appropriate:

- (1) Shockproof and spark-proof equipment.
- (2) Humidity control.
- (3) Proper grounding.
- (4) Safety regulations posted.
- (5) Storage of oxidizing gases shall meet the standards of the National Fire Protection Association Code. The use of flammable anesthetics as anesthetic agents is forbidden.

### SUBCHAPTER 39. CRITICAL ACCESS HOSPITAL

#### 310:667-39-6. Medical and professional staff

(a) **General.** The CAH shall have an organized medical and professional staff responsible for the quality of care provided to all patients. The staff shall operate under bylaws approved by the governing body.

(b) **Composition.** The CAH shall have a medical and professional staff composed of one (1) or more physicians and which may also include one (1) or more licensed independent practitioners with privileges at the CAH. Privileges may also be extended to other health care professionals who are authorized by state law to provide treatment services.

(1) The staff shall periodically reexamine credentials and conduct appraisals of its members and make recommendations regarding reappointments and privilege delineations to the governing body. The staff shall also examine credentials of candidates for staff membership and make recommendations regarding appointments and privileges extended.

(2) Temporary staff privileges may be extended to qualified physicians, licensed independent practitioners and other professional staff as specified in the medical and professional staff bylaws.

(3) Patient admission quotas or revenue generation minimums shall not be a condition for appointment or reappointment.

(c) **Organization and accountability.** The medical and professional staff shall be well organized and accountable to the governing body for the quality of medical care provided to patients.

(1) The staff shall be organized and elect officers as required by approved medical staff bylaws. Officers of the staff shall hold active privileges and may include elected licensed independent practitioners. The chief of staff (or equivalent) shall be a physician who shall be responsible for organization and enforcement of the bylaws.

(2) The staff shall meet at least monthly as a committee of the whole to review the quality of medical care provided, fulfill committee functions specified in the staff

bylaws, and to consider and recommend actions to the governing body. Meetings may include staff from the affiliated general medical surgical hospital or other off-site physicians or practitioners who have privileges at the CAH and may be conducted by teleconference. Minutes of meetings shall be maintained and available for review at the CAH.

(d) **Medical and professional staff bylaws.** The medical and professional staff shall adopt and enforce bylaws to carry out their responsibilities. The medical staff bylaws shall:

(1) Be approved by the governing body.

(2) Include a statement of the duties and privileges of each category of the medical and professional staff. These categories shall include a category of licensed independent practitioner, and may include a category of supervised practitioner in addition to other categories; e.g. active, courtesy, consulting, etc.

(3) Describe the organization of the medical and professional staff.

(4) Describe the qualifications for each category of the medical and professional staff.

(5) Require each inpatient to have a history and physical examination performed no more than ~~seven (7)~~ thirty (30) days before, or forty-eight (48) hours after, admission by a physician or licensed independent practitioner. The examination shall be approved and signed by the physician or licensed independent practitioner. The approval and signature may be performed electronically or by facsimile.

(6) When the medical history and physical examination are completed within thirty (30) days before admission, the hospital must ensure that an updated medical record entry documenting an examination for any changes in the patient's condition is completed. A timely review of the prior history and physical examination or an updated examination must be completed and documented in the patient's medical record within forty-eight (48) hours.

~~(67)~~ Specify the procedure for determining the privileges to be granted to individual physicians and practitioners initially and on reappointment and the process for physicians and practitioners to request these privileges.

~~(78)~~ Specify the mechanism to withdraw privileges of staff members and the circumstances when privileges shall be withdrawn.

~~(89)~~ Specify the mechanism for appeal of decisions regarding staff membership and privilege delineations.

~~(910)~~ Specify the mechanism for monitoring and controlling the use of preventive antibiotics and the use of antibiotics in the presence of infection.

#### 310:667-39-9. Nursing service

(a) **General.** Each CAH shall have an organized nursing service which provides twenty-four (24) hour nursing services for patients. The nursing service shall be supervised by a registered nurse.

(b) **Organization.** The nursing service shall be well-organized with written policies delineating administrative and patient care responsibilities. The director of nursing shall be a registered nurse who shall be responsible for the operation

of the service, including determining the staff necessary to provide nursing care for all areas of the CAH. Nursing care shall be provided as specified by written procedures approved by the director of nursing and the governing body. All nursing procedures shall be consistent with state and federal law and current standards of practice. Procedures shall be reviewed and revised as necessary.

(c) **Staffing.** The nursing service shall have adequate numbers of licensed nurses and other nursing personnel available to provide nursing care to all patients as needed based on patient census and acuity. At least one (1) registered nurse shall be on duty on-site to furnish or supervise all nursing services whenever patient care is provided. If the CAH has no inpatients, the registered nurse may be available on an on-call basis provided he or she is available to return to the CAH in a period of time not to exceed twenty (20) minutes.

(d) **Qualifications.**

(1) Individuals selected for the nursing staff shall be qualified by education and experience for the positions they are assigned. The CAH shall verify current licensure of licensed nurses and maintain documentation of verification.

(2) The selection and promotion of nursing service personnel shall be based on their qualifications and capabilities. The director of nursing shall have input regarding the employment, promotion, evaluation and termination of all nursing service personnel.

(3) The qualifications required for each category of nursing staff shall be in written policy and job descriptions, and shall be available in the CAH for reference. The functions of all nursing service personnel shall be clearly defined by written policy.

(e) **Delivery of care.**

(1) A registered nurse shall assess, plan, supervise, and evaluate the nursing care for each patient.

(2) Each inpatient shall have a nursing care plan that includes assessment, planning, intervention, and evaluation. Nursing care plans shall be revised as necessary.

(3) Nursing notes shall be informative and descriptive of the nursing care given and include assessment, interventions, and evaluation.

(4) All drugs and biologicals shall be administered in accordance with state and federal laws by authorized individuals. Orders for drugs and biologicals shall be in writing and signed by the prescribing physician or practitioner who shall be authorized by law to write a prescription, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment for contraindications. When telephone or verbal orders for drugs or biologicals are used, they shall be given only to a practitioner authorized by administration to receive these orders and signed by the prescribing practitioner as soon as possible within forty-eight (48) hours or meet the requirements at OAC 310:667-19-2(c)(4).

(5) Blood products and intravenous medications shall be administered as required by CAH written policy in

accordance with state and federal law. CAH staff administering blood products or intravenous medications shall be trained regarding hospital policies before they are allowed to carry out these responsibilities.

(6) There shall be an effective procedure for reporting transfusion and adverse drug reactions to the attending physician or licensed independent practitioner and the prescribing physician or practitioner. Errors in drug administration and adverse reactions shall be compiled and reported through the quality assurance committee to the medical and professional staff.

(7) All nursing service personnel shall be trained and currently certified to perform cardio-pulmonary resuscitation (CPR) and shall be knowledgeable of all CAH emergency protocols.

(f) **Patient restraint.** If patients are physically restrained, the CAH shall comply with all requirements specified in OAC 310:667-15-8. If patients are chemically restrained, the CAH shall comply with all requirements specified in OAC 310:667-15-9.

### **310:667-39-11. Medical record services**

(a) **General.** The CAH shall have medical record services that ensure a medical record is maintained for every patient evaluated or treated in the facility. Medical record services shall be appropriate to the scope and complexity of the services performed and shall ensure prompt completion, filing, and retrieval of records. In general, services such as transcription, computer indexing and coding, and electronic storage may be performed off-site as a contracted service as long as the medical record remains under the control of the CAH. The CAH shall ensure that medical records maintained by a contracted service remain confidential and can be immediately accessed by CAH staff.

(b) **Reports to agencies and the Department.** The CAH shall comply with all requirements specified in OAC 310:667-19-2(a) regarding the reports made to agencies and the Department.

(c) **Content.** The medical record shall contain information to justify patient admission and treatment, support the diagnosis, and describe the patient's progress and response to treatment and services received. All entries shall be legible and complete, and shall be authenticated and dated promptly by the person, identified by name and discipline, who is responsible for ordering, providing or evaluating the service furnished.

(1) The author of each entry shall be identified and shall authenticate their entry. Authentication may include written signatures or computerized or electronic entries. If computerized or electronic authentications are used, the CAH shall comply with all requirements specified at OAC 310:667-19-10(e). Telephone and verbal orders shall be authenticated by the physician or practitioner giving the order as soon as possible within forty-eight (48) hours or meet the requirements at OAC 310:667-19-2(c)(4). Reports of history and physical examinations and discharge summaries shall be authenticated by the authorized physician or practitioner who performed the examination or produced the summary or meet the requirements at OAC

## Emergency Adoptions

---

310:667-19-10(e) if authenticated by another physician or practitioner. Signature stamps may be used to authenticate entries in the medical record provided the requirements at OAC 310:667-19-10(d) are met.

(2) All inpatient records shall document the following as appropriate:

(A) Patient identifying information including individuals to be contacted in case of an emergency.

(B) Evidence of a physical examination, including a health history, performed not more than ~~seven~~ ~~(7)~~ thirty (30) days prior to admission or within forty-eight (48) hours after admission. The history and physical examination shall be completed, signed and placed in the record within 48 hours of admission.

(C) Admitting diagnosis.

(D) Results of all consultative evaluations of the patient and appropriate findings by clinical and other staff involved in the care of the patient.

(E) Documentation of complications, hospital acquired infections, and unfavorable reactions to any drug or biological.

(F) Properly executed informed consent forms for procedures and treatments performed. The medical and professional staff shall establish which procedures or treatments require informed consent consistent with Federal and State law.

(G) All physicians' or practitioners' orders, nursing notes, reports of treatment, medication records, diagnostic reports, vital signs and other information necessary to monitor the patient's condition.

(H) Discharge summary with outcome of hospitalization, disposition of case, medications at the time of discharge, and provisions for follow-up care.

(I) Reports. All reports and records shall be completed and filed within a period consistent with good medical practice and not longer than thirty (30) days following discharge.

(J) Final diagnosis.

(d) **Maintenance of records.** The CAH shall maintain a medical record for each inpatient and outpatient. Medical records shall be accurately written, promptly completed, properly filed and retained, and accessible. The CAH shall use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries.

(1) Medical records shall be retained at least five (5) years after the date the patient was last seen or at least of three (3) years after the date of the patient's death. Records of newborns or minors shall be retained three (3) years past the age of majority. Medical records may be maintained in their original form or may be preserved by other means as specified by OAC 310:667-19-14(b).

(2) The CAH shall have, or provide, a system of coding and indexing medical records. The system shall allow for timely retrieval by diagnosis and procedure, in order to support medical care evaluation studies.

(3) Medical records shall be confidentially maintained. Information from, or copies of, records shall be released

only to authorized individuals in accordance with state law, and the CAH shall ensure that unauthorized individuals cannot gain access to, or alter medical records. Original medical records shall be released only in accordance with federal or state laws or by court order.

(4) Facsimile copies shall be acceptable as any portion of the medical record. If the facsimile is transmitted on thermal paper, that paper shall be photocopied to preserve its integrity in the record. Facsimile copies shall be considered the same as original copies.

(5) In the event of closure of the CAH, the CAH shall inform the Department of the disposition of the patient medical records. Disposition shall be in a manner to protect the integrity of the information contained in the medical record. These records shall be retained and disposed of as specified by OAC 310:667-19-14(b)(4).

### SUBCHAPTER 40. EMERGENCY HOSPITAL

#### 310:667-40-6. Medical and professional staff

(a) **General.** The EH shall have an organized medical and professional staff responsible for the quality of care provided to all patients. The staff shall operate under bylaws approved by the governing body. The medical and professional staff may function as a part of an affiliated hospital's organized staff as long as individual physician and practitioner privileges are independently recommended and approved by the EH governing body. If staff functions are combined with an affiliated hospital, EH functions required by the medical and professional staff bylaws shall be independently identified and reviewed during combined staff meetings.

(b) **Composition.** The EH shall have a medical and professional staff composed of one (1) or more physicians or licensed independent practitioners. Privileges may also be extended to other health care professionals who are authorized by state law to provide treatment services.

(1) The staff shall periodically reexamine credentials and conduct appraisals of its members and make recommendations regarding reappointments and privilege delineations to the governing body. The staff shall also examine credentials of candidates for staff membership and make recommendations regarding appointments and privileges extended.

(2) Temporary staff privileges may be extended to physicians and licensed independent practitioners and other professional staff as specified in the medical and professional staff bylaws.

(3) Patient admission quotas or revenue generation minimums shall not be a condition for appointment or reappointment.

(c) **Organization and accountability.** The medical and professional staff shall be well organized and accountable to the governing body for the quality of medical care provided to patients.

(1) The staff shall be organized and elect officers as required by approved medical staff bylaws.

(2) The staff shall meet at least quarterly as a committee of the whole to review the quality of medical care provided, fulfill committee functions specified in the staff bylaws, and to consider and recommend actions to the governing body. Meetings may include staff from the affiliated hospitals or other off-site physicians or practitioners who have privileges at the EH and may be conducted by teleconference. Minutes of meetings shall be maintained and available for review at the EH.

(d) **Medical and professional staff bylaws.** The medical and professional staff shall adopt and enforce bylaws to carry out their responsibilities. The medical staff bylaws shall:

- (1) Be approved by the governing body.
- (2) Include a statement of the duties and privileges of each category of the medical and professional staff. These categories shall include a category of licensed independent practitioner, and may include a category of supervised practitioner. All physicians and licensed independent practitioners with privileges may admit patients for stabilization or observational care.
- (3) Describe the organization of the medical and professional staff.
- (4) Describe the qualifications for each category of the medical and professional staff.
- (5) Require each inpatient to have a history and physical examination performed no more than ~~seven (7)~~ thirty (30) days before, or forty-eight (48) hours after, admission by a physician or licensed independent practitioner. The examination shall be approved and signed by the physician or licensed independent practitioner. The approval and signature may be performed electronically or by facsimile.
- (6) When the medical history and physical examination are completed within thirty (30) days before admission, the hospital must ensure that an updated medical record entry documenting an examination for any changes in the patient's condition is completed. A review of the prior history and physical examination or an updated examination must be completed immediately upon admission and documented in the patient's medical record within forty-eight (48) hours.
- ~~(67)~~ Specify the procedure for determining the privileges to be granted to individual physicians and practitioners initially and on reappointment and the process for physicians and practitioners to request these privileges.
- ~~(78)~~ Specify the mechanism to withdraw privileges of staff members and the circumstances when privileges shall be withdrawn.
- ~~(89)~~ Specify the mechanism for appeal of decisions regarding staff membership and privilege delineations.

### 310:667-40-9. Nursing service

- (a) **General.** Each EH shall have an organized nursing service which provides twenty-four (24) hour nursing services for patients. The nursing service shall be supervised by a registered nurse.
- (b) **Organization.** The nursing service shall be well-organized with written policies delineating administrative and

patient care responsibilities. The director of nursing shall be a registered nurse who shall be responsible for the operation of the service, including determining the staff necessary to provide nursing care for the EH. Nursing care shall be provided as specified by written procedures approved by the director of nursing and the governing body. All nursing procedures shall be consistent with state and federal law and current standards of practice. Procedures shall be reviewed and revised as necessary.

(c) **Staffing.** The nursing service shall have adequate numbers of licensed nurses and other nursing personnel available to provide nursing care to all patients as needed based on patient census and acuity. At least one (1) registered nurse shall be on duty on-site to furnish or supervise all nursing services whenever patient care is provided. If the EH has no inpatients, the registered nurse may be available on an on-call basis provided he or she is available to return to the EH in a period of time not to exceed twenty (20) minutes.

(d) **Qualifications.**

- (1) Individuals selected for the nursing staff shall be qualified by education and experience for the positions they are assigned. The EH shall verify current licensure of licensed nurses and maintain documentation of verification.
- (2) The selection and promotion of nursing service personnel shall be based on their qualifications and capabilities. The director of nursing shall have input regarding the employment, promotion, evaluation and termination of all nursing service personnel.
- (3) The qualifications required for each category of nursing staff shall be in written policy and job descriptions, and shall be available in the EH for reference. The functions of all nursing service personnel shall be clearly defined by written policy.

(e) **Delivery of care.**

- (1) A registered nurse shall assess, plan, supervise, and evaluate the nursing care for each patient.
- (2) Each inpatient shall have a nursing care plan that includes assessment, planning, intervention, and evaluation. Nursing care plans shall be revised as necessary.
- (3) Nursing notes shall be informative and descriptive of the nursing care given and include assessment, interventions, and evaluation.
- (4) All drugs and biologicals shall be administered in accordance with state and federal laws by authorized individuals. Orders for drugs and biologicals shall be in writing and signed by the prescribing physician or practitioner who shall be authorized by law to write a prescription, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment for contraindications. When telephone or verbal orders for drugs or biologicals are used, they shall be given only to a practitioner authorized by administration to receive these orders and signed by the prescribing physician or practitioner as soon as possible within forty-eight (48) hours or meet the requirements at OAC 310:667-19-2(c)(4).

## Emergency Adoptions

---

(5) Blood products and intravenous medications shall be administered as required by EH written policy in accordance with state and federal law. EH staff administering blood products or intravenous medications shall be trained regarding hospital policies before they are allowed to carry out these responsibilities.

(6) There shall be an effective procedure for reporting transfusion and adverse drug reactions to the attending physician or licensed independent practitioner and the prescribing physician or practitioner. Errors in drug administration and adverse reactions shall be compiled and reported through the quality assurance committee to the medical and professional staff.

(7) All nursing service personnel shall be trained and currently certified to perform cardio-pulmonary resuscitation (CPR) and shall be knowledgeable of all EH emergency protocols.

(f) **Patient restraint.** If patients are physically restrained, the EH shall comply with all requirements specified in OAC 310:667-15-8. If patients are chemically restrained, the EH shall comply with all requirements specified in OAC 310:667-15-9.

### 310:667-40-11. Medical record services

(a) **General.** The EH shall have medical record services that ensure a medical record is maintained for every patient evaluated or treated in the facility. Medical record services shall be appropriate to the scope and complexity of the services performed and shall ensure prompt completion, filing, and retrieval of records. In general, services such as transcription, computer indexing and coding, and electronic storage may be performed off-site as a contracted service as long as the medical record remains under the control of the EH. The EH shall ensure that medical records maintained by a contracted service remain confidential and can be immediately accessed by EH staff.

(b) **Reports to agencies and the Department.** The EH shall comply with all requirements specified in OAC 310:667-19-2(a) regarding the reports made to agencies and the Department.

(c) **Content.** The medical record shall contain information to justify patient admission and treatment, support the diagnosis, and describe the patient's progress and response to treatment and services received. All entries shall be legible and complete, and shall be authenticated and dated promptly by the person, identified by name and discipline, who is responsible for ordering, providing or evaluating the service furnished.

(1) The author of each entry shall be identified and shall authenticate their entry. Authentication may include written signatures or computerized or electronic entries. If computerized or electronic authentications are used, the EH shall comply with all requirements specified at OAC 310:667-19-10(e). Telephone and verbal orders shall be authenticated by the physician or practitioner giving the order as soon as possible within forty-eight (48) hours or meet the requirements at OAC 310:667-19-2(c)(4). Reports of history and physical examinations and discharge

summaries shall be authenticated by the authorized physician or practitioner who performed the examination or produced the summary or meet the requirements at OAC 310:667-19-10(e) if authenticated by another physician or practitioner. Signature stamps may be used to authenticate entries in the medical record provided the requirements at OAC 310:667-19-10(d) are met.

(2) All inpatient records shall document the following as appropriate:

(A) Patient identifying information including individuals to be contacted in case of an emergency.

(B) Evidence of a physical examination, including a health history, performed not more than ~~seven~~ thirty (30) days prior to admission or within forty-eight (48) hours after admission. The history and physical examination shall be completed, signed and placed in the record within 48 hours of admission.

(C) Admitting diagnosis.

(D) Results of all consultative evaluations of the patient and appropriate findings by clinical and other staff involved in the care of the patient.

(E) Documentation of complications, hospital acquired infections, and unfavorable reactions to any drug or biological.

(F) Properly executed informed consent forms for procedures and treatments performed. The medical and professional staff shall establish which procedures or treatments require informed consent consistent with Federal and State law.

(G) All physicians' and practitioners' orders, nursing notes, reports of treatment, medication records, diagnostic reports, vital signs and other information necessary to monitor the patient's condition.

(H) Discharge summary with outcome of hospitalization, disposition of case, medications at the time of discharge, and provisions for follow-up care.

(I) Reports. All reports and records shall be completed and filed within a period consistent with good medical practice and not longer than thirty (30) days following discharge.

(J) Final diagnosis.

(d) **Maintenance of records.** The EH shall maintain a medical record for each emergency, stabilization, or observational patient. Medical records shall be accurately written, promptly completed, properly filed and retained, and accessible. The EH shall use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries.

(1) Medical records shall be retained at least five (5) years after the date the patient was last seen or at least of three (3) years after the date of the patient's death. Records of minors shall be retained three (3) years past the age of majority. Medical records may be maintained in their original form or may be preserved by other means as specified by OAC 310:667-19-14(b).

(2) The EH shall have, or provide, a system of coding and indexing medical records. The system shall allow for

timely retrieval by diagnosis and procedure, in order to support medical care evaluation studies.

(3) Medical records shall be confidentially maintained. Information from, or copies of, records shall be released only to authorized individuals in accordance with state law, and the EH shall ensure that unauthorized individuals cannot gain access to, or alter medical records. Original medical records shall be released only in accordance with federal or state laws or by court order.

(4) Facsimile copies shall be acceptable as any portion of the medical record. If the facsimile is transmitted on thermal paper, that paper shall be photocopied to preserve

its integrity in the record. Facsimile copies shall be considered the same as original copies.

(5) In the event of closure of the EH, the EH shall inform the Department of the disposition of the patient medical records. Disposition shall be in a manner to protect the integrity of the information contained in the medical record. These records shall be retained and disposed of as specified by OAC 310:667-19-14(b)(4).

*[OAR Docket #07-751; filed 4-11-07]*

---



# 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 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 1. GENERAL RULES OF PRACTICE AND PROCEDURES

*[OAR Docket #07-760]*

### RULEMAKING ACTION:

PERMANENT Final Adoption

### RULES:

Subchapter 9. Records and Inspections

150:1-9-10 [NEW]

### AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the rules and regulations of the Archives and Records Commission.

### DATES:

#### Comment period:

November 16, 2006 through December 19, 2006

#### Public hearing:

December 20, 2006

#### Adoption:

December 20, 2006

#### Submitted to Governor:

December 22, 2006

#### Submitted to House:

December 22, 2006

#### Submitted to Senate:

December 22, 2006

#### Gubernatorial approval:

January 22, 2007

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007.

#### Final adoption:

March 27, 2007

#### Effective:

May 25, 2007

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

N/A

#### ANALYSIS:

The new rule clarifies the procedures used by the Oklahoma Department of Commerce to destroy records in its possession.

#### 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, 2007:**

## SUBCHAPTER 9. RECORDS AND INSPECTIONS

### 150:1-9-10. Destruction of records

The Director of Administrative Services and the Purchasing Officer, in consultation with Executive Director and the General Counsel, will develop a process for the destruction of records that is in compliance with the rules and requirements of the programs administered by the Oklahoma Department of Commerce. Financial records of the Oklahoma Department of Commerce shall be destroyed after five (5) to seven (7) years, depending upon the financial records and applicable rules and regulations, after the applicable audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies and provided no legal actions are pending. If legal action is pending the affected records are to be destroyed two (2) years after exhaustion of all legal remedies provided the records meet all stipulated retention requirements.

*[OAR Docket #07-760; filed 4-13-07]*

## TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 1. GENERAL RULES OF PRACTICE AND PROCEDURES

*[OAR Docket #07-761]*

### RULEMAKING ACTION:

PERMANENT Final Adoption

### RULES:

Subchapter 19. Actual and Necessary Travel Reimbursements

150:1-19-3 [AMENDED]

### AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and 74 O.S. § 500.18(B)(6) of the Travel Reimbursement Act.

### DATES:

#### Comment period:

October 17, 2006 through November 17, 2006

#### Public hearing:

November 20, 2006

#### Adoption:

December 12, 2006

#### Submitted to Governor:

December 13, 2006

#### Submitted to House:

December 13, 2006

#### Submitted to Senate:

December 13, 2006

#### Gubernatorial approval:

January 22, 2007

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007.

# Permanent Final Adoptions

**Final adoption:**

March 27, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

This amended rule clarifies the procedures used by the Oklahoma Department of Commerce as it relates to the expenses for lodging.

**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, 2007:**

## **SUBCHAPTER 19. ACTUAL AND NECESSARY TRAVEL REIMBURSEMENTS**

### **150:1-19-3. Review of expenses; criteria for reimbursement**

(a) Expenses claimed for actual and necessary reimbursement shall be reviewed by the Director of the Oklahoma Department of Commerce and individually approved or disapproved.

(b) In reviewing expenses claimed for actual and necessary reimbursement, the following criteria shall be applicable:

(1) The purpose for which the travel was intended and requested was a qualified one as set out in 150:1-19-2.

(2) The expense shall be a reimbursable expense under the provisions of 74 O.S., 500.2 et seq. and the guidelines provided by the Office of State Finance regarding reimbursable expenses.

~~(3) Expenses for lodging shall be supported by three (3) telephone bids from hotels within a reasonable distance of the activity for which the travel was approved. Except that such bids shall not be required in the following circumstances:~~

~~(A) if the hotel is the designated hotel for the purpose for which the travel is approved, or~~

~~(B) if the arrangements for travel have been made by another organization, or~~

~~(C) the travel is in conjunction with a trade mission or trade show, or~~

~~(D) if the travel involves international travel.~~

(43) Expenses for laundry and dry cleaning are reimbursable only if the employee is in travel status more than five (5) nights.

(54) Expenses for others must be verified by receipt. The receipt shall designate date of expense, to whom expense was paid (name of business or entity), for whom the expense was made, a brief explanation of the expenditure (i.e. lunch and tip, lodging, transportation charges), the business purpose of the expenditure (what was the nature

of the business involved), and the dollar amount of the expense.

(65) Expenses for meals or entertainment for others shall be reimbursable if they are ordinary and necessary expenses incurred by economic developers. As provided in 26 U.S.C. 274(a) (1) (A), expenses must be directly related to or associated with, the active conduct of business. Expenditures must be on behalf of the company or individuals in whose name the travel claim has been submitted. Documentation as required in paragraph (5) of this section must reflect that the expense was incurred for more than a general expectation of some specific business benefit at some future time; and that business was engaged in during the meal and the main purpose of the combined business and meal was the active conduct of business.

(c) Employees, submitting requests for reimbursement under actual and necessary expenses, shall be required to provide all information necessary to enable the Administrative Services Division of the Department to process the request.

*[OAR Docket #07-761; filed 4-13-07]*

## **TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE**

### **CHAPTER 65. OKLAHOMA QUALITY JOBS PROGRAM**

*[OAR Docket #07-762]*

**RULEMAKING ACTION:**

PERMANENT Final Adoption

**RULES:**

Subchapter 1. Quality Jobs Program

150:65-1-2 [AMENDED]

150:65-1-3 [AMENDED]

150:65-1-4 [AMENDED]

Subchapter 5. Former Military Facilities

150:65-5-2 [AMENDED]

150:65-5-5 [AMENDED]

Subchapter 6. Small Employer Quality Jobs Program

150:65-6-4 [AMENDED]

**AUTHORITY:**

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Quality Jobs Program.

**DATES:****Comment period:**

December 4, 2006 through January 3, 2007

**Public hearing:**

January 4, 2007

**Adoption:**

January 4, 2007

**Submitted to Governor:**

January 22, 2007

**Submitted to House:**

January 22, 2007

**Submitted to Senate:**

January 22, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007.

**Final adoption:**

March 28, 2007

**Effective:**

May 25, 2007

**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, 2007:**

**SUBCHAPTER 1. QUALITY JOBS PROGRAM**

**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.

**"Change in control event"** means the transfer to one or more unrelated establishments or unrelated persons, of either:

(A) beneficial ownership of more than fifty percent (50%) in value and more than fifty percent (50%) in voting power of the outstanding equity securities of the transferred establishment, or

(B) more than fifty percent (50%) in value of the assets of an establishment. A transferor shall be treated as related to a transferee if more than fifty percent (50%) of the voting interests of the transferor and transferee are owned, directly or indirectly, by the other or are owned, directly or indirectly, by the same person or persons, unless such transferred establishment has an outstanding class of equity securities registered under Sections 12(b) or 15(d) of the Securities Exchange Act of 1934, as amended, in which event the transferor and transferee will be treated as unrelated; provided, an establishment applying for the Oklahoma Quality Jobs Program Act as a result of a change of control event is required to apply within

one hundred eighty (180) days of the change in control event to qualify for consideration. An establishment entering the Oklahoma Quality Jobs Program Act as the result of a change of control event shall be required to maintain a level of new direct jobs as agreed to in its contract with the Department of Commerce and to pay new direct jobs an average annualized wage which equals or exceeds one hundred twenty-five percent (125%) of the average county wage as that percentage is determined by the Oklahoma State Data Center based upon the most recent U.S. Department of Commerce data for the county in which the new jobs are located. For purposes of this paragraph, healthcare premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage. Such establishment entering the Quality Jobs Program Act as the result of a change of control event shall be required to retain the contracted average annualized wage and maintain the contracted maintenance level of new direct jobs numbers as certified by the Oklahoma Tax Commission. If the required average annualized wage or the required new direct jobs numbers do not equal or exceed such contracted level during any quarter, the quarterly incentive payments shall not be made and shall not be resumed until such time as such requirements are met. An establishment described in this paragraph shall be required to repay all incentive payments received under the Quality Jobs Program Act if the establishment is determined by the Oklahoma Tax Commission to no longer have business operations in the state within three (3) years from the beginning of the calendar quarter for which the first incentive payment claim is filed. [68 O.S. § 3603 (A)(2)].

**"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

## Permanent Final Adoptions

---

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 as 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)]

**"Extraordinary adverse business circumstance"** is an unforeseen event or series of events that adversely impact a business' ability to participate in the Oklahoma Quality Jobs Program. Such events shall not include market, economic, or business factors, but be limited to Acts of God, acts of terrorism, and civil unrest.

**"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.

**"Negative economic event"** means (1) a man-made disaster or natural disaster as defined in 63 O.S. § 683.3, resulting in the loss of a significant number of jobs within a particular county of this state, or (2) an economic circumstance in which a significant number of jobs within a particular county of this state have been lost due to an establishment changing its structure, consolidating with another establishment, closing or moving all or part of its operations out of this state.

**"Net benefit rate"** is set forth at 68 O.S. § 3603(A)(6).

**"New direct jobs":**

(A) means full-time-equivalent employment in this state in an establishment which has qualified to receive an incentive payment pursuant to the provisions of Section 3601 et seq. of this title which employment did not exist in this state prior to the date of approval by the Department of the application of the establishment pursuant to the provisions of Section 3604 of this title; provided, that if an application of an establishment is approved by the Department of Commerce after a change in control event and the Director of the Department of Commerce determines that the jobs located at such establishment are likely to leave the state, "new direct job" shall include employment that existed in this state prior to the date of application which is retained in this state by the new establishment following a change in control event, if such job otherwise qualifies as a new direct job, and  
(B) shall include full-time-equivalent employment in this state of employees who are employed by an

employment agency or similar entity other than the establishment which has qualified to receive an incentive payment and who are leased or otherwise provided under contract to the qualified establishment, if such job did not exist in this state prior to the date of approval by the Department of the application of the establishment or the job otherwise qualifies as a new direct job following a change in control event. A job shall be deemed to exist in this state prior to approval of an application if the activities and functions for which the particular job exists have been ongoing at any time within six (6) months prior to such approval. With respect to establishments defined in division (10) of subparagraph a of paragraph 1 of this subsection, new direct jobs shall be limited to those jobs directly comprising the corporate headquarters of or directly relating to administrative, financial, engineering, surveying, geological or geophysical services performed by the establishment. Under no circumstances shall employment relating to drilling or field services be considered new direct jobs. [68 O.S. § 3603(3)] ~~means full-time equivalent employment by a qualified establishment b~~ 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.

**"Significant number of jobs"** means full-time-equivalent employment in a county equal to or in excess of three percent (3%) of the total amount of full-time-equivalent employment in that county for the calendar year, or most recent twelve-month period in which employment is measured, preceding the event.

**"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)~~ thirty (30) 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.

**150:65-1-4. Application**

(a) A project profile shall be prepared for establishments that meet the requirements of 150:65-1-3. In order to prepare a project profile the establishment shall be required to provide the following information:

- (1) The calendar year and quarter in which the project first starts,
- (2) The employment resulting from the project over ten (10) years,
- (3) The third year average salary of the new workers hired in the new direct jobs,
- (4) A description of the establishment's operations and the lines of business and operations of the project for which an application is being submitted, and
- (5) Such other information as may be required by the Department.

(b) A preliminary analysis and the estimate of the net benefit rate and the total possible incentive available to the establishment, will be sent to the eligible establishment for review.

(c) The establishment shall also provide a copy of its basic health benefits plan offered to employees or a description of the plan that will be offered within one hundred and eighty (180) days of the date ~~that it receives the first incentive payment of~~ application.

# Permanent Final Adoptions

---

## SUBCHAPTER 5. FORMER MILITARY FACILITIES

### 150:65-5-2. Project profile

(a) A quality jobs representative shall prepare a project profile for establishments that meet the requirements of 150:65-5-1. In order to prepare a profile the establishment shall be required to provide the following information:

- (1) The calendar year and quarter in which the project first starts;
- (2) The employment resulting from the project over ten (10) years;
- (3) The third year average salary of the new workers hired in the new direct jobs;
- (4) The former military facility at which the establishment plans to locate; and evidence that the facility meets the requirements of this subchapter;
- (5) An estimate of the percentage of non-Oklahoma workers likely to be hired. If an estimate is not provided, the Department shall use an average percentage determined by the Department based upon research conducted by the Department;
- (6) A description of the establishment's operations and the operations of the project for which an application is being submitted; and
- (7) Such other information as may be required by the quality jobs representative.

(b) The project profile, which includes the preliminary analysis and the estimate of the net benefit rate and the total possible incentive available to the establishment, will be sent to the eligible establishment for approval.

(c) Upon approval of the project profile, the establishment shall return the signed project profile to the quality jobs representative. The establishment shall also provide a copy of its basic health benefits plan offered to employees or a description of the plan that will be offered within one hundred and eighty (180) days of the date ~~that it receives the first incentive payment~~ of application.

(d) A project profile that has been approved, signed and returned to the Department by an establishment will serve as the application for the Former Military Facilities Development Program.

### 150:65-5-5. Required information

(a) The Oklahoma Department of Commerce may require establishments to provide any of the following information in order to determine eligibility under the provisions of the Former Military Facility Development Act, 68 O.S. Supp. 1994, Section 3801, et seq:

- (1) ~~SIC~~ NAICS code number;
- (2) County in which the establishment plans to locate;
- (3) Business plans;
- (4) Feasibility studies;
- (5) Financing proposals;
- (6) OESC Form 3 or its electronic equivalent;
- (7) OTC Income Tax Withholding form;

(8) Evidence that the property meets the requirements of 68 O.S. Supp. 1994, Section 3801 et seq. and this subchapter;

- (9) Industry trends;
- (10) Service contracts in place or anticipated;
- (11) Historical data on management in place;
- (12) Organization structure of the establishment and any related business or governmental entities and the nature of the relationships;
- (13) Likelihood of job shifting;
- (14) Expansion of existing markets;
- (15) Extension of existing product line;
- (16) Labor market;
- (17) Evidence that there is negotiation being conducted on property meeting the requirements of this subchapter;
- (18) Financial statements or sales contracts;
- (19) Marketing plans; and
- (20) Other relevant information.

(b) All such materials described in this section may be kept confidential by the Department pursuant to the Open Records Act.

(c) The Department may require establishments approved to receive incentive payments to provide any information necessary in order to administer the program and prepare program reports.

## SUBCHAPTER 6. SMALL EMPLOYER QUALITY JOBS PROGRAM

### 150:65-6-4. Approval of Application

(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 in a form prescribed by the Department which shall include the following information:

- (1) 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;
- (3) The baseline employment;
- (4) The number of new direct jobs threshold and the date by which such jobs must be in place;
- (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
- (6) 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 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.

[OAR Docket #07-762; filed 4-13-07]

**TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE  
CHAPTER 90. COMMUNITY SERVICES  
BLOCK GRANT PROGRAM**

[OAR Docket #07-763]

**RULEMAKING ACTION:**

PERMANENT Final Adoption

**RULES:**

Subchapter 1. Community Services Block Grant Program

150:90-1-3 [AMENDED]

150:90-1-4 [AMENDED]

150:90-1-6 [AMENDED]

150:90-1-7 [AMENDED]

150:90-1-8 [AMENDED]

**AUTHORITY:**

The authority is given to the Oklahoma Department of Commerce pursuant to 74 O.S. Sections 5003.6, 5017, 5017.1, 5035, 5036, 5037, 5038, 5039, and 5040.

**DATES:**

**Comment period:**

December 4, 2006 through January 3, 2007

**Public hearing:**

January 4, 2007

**Adoption:**

January 4, 2007

**Submitted to Governor:**

January 22, 2007

**Submitted to House:**

January 22, 2007

**Submitted to Senate:**

January 22, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007.

**Final adoption:**

March 28, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

This action is to clarify previously promulgated rules of the Community Services Block Grant 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, 2007:

**SUBCHAPTER 1. COMMUNITY SERVICES  
BLOCK GRANT PROGRAM**

**150:90-1-3. Scope**

The program provides financial assistance and technical assistance to eligible entities to provide a range of services and activities having a measurable and potential major impact on causes of poverty in communities or those areas of a community where poverty is an acute problem. Basic services considered are employment, education, nutrition, health, housing, ~~economic development, and living environments~~income management, emergency services, linkages and self-sufficiency.

**150:90-1-4. Definitions**

The following definitions shall be applicable to the program when used in context of this part unless otherwise indicated.

"Act" means Subtitle B of Title VI of the Omnibus Budget Reconciliation Act of 1981, Community Services Block Grant Act, as amended.

~~"Board of Directors" means the governing or administrative entity of an agency or organization, funded to carry out eligible activities under this program.~~

"Community Action Agency" ("CAA") means a non-profit agency, designated by the Department, pursuant to 74 O.S. Section 5037.

"Contract" means the agreement entered into ~~by~~between the Oklahoma Department of Commerce and ~~the Board of Directors of~~ an eligible entity which authorizes the expenditure of funds consistent with the intent of the program.

"Contract Period" means October 1 through September 30 of the succeeding year, or as specified by the contract document.

~~"Contractor" means the Board of Directors of an eligible entity who is a recipient of funds authorized under this program.~~

"Department" means the Oklahoma Department of Commerce.

"Director" means the Executive Director of the Oklahoma Department of Commerce 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 Activities" means those activities that are designed to carry out the intent of the program.

"Eligible Entity" means any nonprofit agency designated by the Department pursuant to 74 O.S. Sections 5036 and 5038.

"Low Income" means income related to family size that is at or below 100 percent of the income level established by the U.S. Office of Management and Budget.

## Permanent Final Adoptions

---

"**Poverty**" means the official poverty line defined by the U.S. Office of Management and Budget.

"**Request for ~~Qualifications~~Applications**" means the document that is to be completed by an eligible entity and accepted by the Department before financial assistance can be provided.

"**State Plan**" means the annual plan written by the Department and approved by the U.S. Department of Health and Human Services.

"**Work Program**" means the management plan of activities designed by an entity to address poverty related conditions or situations of low income persons.

### 150:90-1-6. Fund distribution

(a) Program funds will be distributed to eligible applicants in accordance with the State Plan. The funds distribution formula expressed in the State Plan will be in accordance with Federal program guidelines and appropriate State program requirements. The program funds shall be awarded to applicants through an application process developed annually by the Department. Each applicant will have an opportunity to submit an ~~in qualification application~~ statement in support of their request for financial assistance.

(b) Eligible entities selected as contractors will be awarded a base amount for program activities in each of the counties comprising their respective service area. The base amount will be contingent upon the state allocation from the U.S. Department of Health and Human Services. The amount of funds remaining after subtraction of the base amount will be allocated to contractors on the basis of (1) population below the poverty level (2) population of elderly persons below the poverty level, and (3) square miles of the service area.

(c) Eligible entities selected as contractors shall have on file with the Department a work plan of activities.

(1) The work plan shall describe how the contractor is to provide a range of services and activities to assist low-income persons

- (A) secure and retain meaningful employment
- (B) attain an adequate education
- (C) make better use of available income
- (D) obtain and maintain adequate housing and a suitable living environment
- (E) remove obstacles and solve problems which block the achievement of self-sufficiency
- (F) achieve greater participation in affairs of the community
- (G) make effective use of other programs related to the purpose of the act.

(2) Further, work activities may include on an emergency basis the provision of nutritious foodstuffs, supplies and services as may be necessary to counteract conditions of starvation and malnutrition among the poor; coordination and linkages between government and social service programs to assure effective delivery of such services; and, to encourage the use of entities in the private sector to provide assistance in addressing the conditions of poverty in their community.

(d) Funds may become available as a result of project cancellations, deobligation of funds, funds allocated but not utilized, or other circumstances that might arise that may cause funds to remain uncommitted. The Department reserves the right within its discretionary authority to redistribute such funds based on the most efficient and equitable utilization of such funds.

(e) Funds provided under this part shall be used in accordance with applicable state laws and regulations with regard to procurement of property and services, travel, political activity, and nondiscrimination and other terms specified in the funding agreement.

### 150:90-1-7. Application process

(a) For purposes of selecting contractors, the Department will submit a request for ~~qualification application~~ statement to eligible entities. The request for ~~qualifications applications~~ will identify minimum ~~qualification~~ requirements and other selection factors that will be used to review and evaluate potential contractors.

(b) The Department will forward request for ~~qualification applications~~ forms and guidelines to eligible entities by direct mailing upon notice of availability of funds from the U. S. Department of Health and Human Services. The guidelines will include all criteria, specific data requirements, and other pertinent instructions for the applicant to prepare a complete application for financial assistance.

(c) The Department shall establish annually a deadline for application for financial assistance under this part.

### 150:90-1-8. Selection process

(a) For purposes of selection of contractors, the Department will subject all ~~qualification application~~ statements to conform to requirements of the Act, subsequent amendments, and general requirements stated in the State Plan.

(b) Eligible entities shall have on file with the Department an approved and accepted ~~qualification application~~ statement.

[OAR Docket #07-763; filed 4-13-07]

---

## TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE

### CHAPTER 115. RX FOR OKLAHOMA PROGRAM

[OAR DOCKET #07-764]

#### RULEMAKING ACTION:

PERMANENT Final Adoption

#### RULES:

150:115-1-2 [AMENDED]

#### AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 o.s. §§ 5001 et seq., and 74 o.s. § 5040.4(e).

#### DATES:

##### Comment period:

December 4, 2006 through January 3, 2007

##### Public hearing:

January 4, 2007

Adoption: January 4, 2007
Submitted to governor: January 22, 2007
Submitted to house: January 22, 2007
Submitted to senate: January 22, 2007
Gubernatorial approval: February 23, 2007
Legislative approval: Failure of the legislature to disapprove the rules resulted in approval on March 28, 2007.
Final adoption: March 28, 2007
Effective: May 25, 2007
SUPERSEDED EMERGENCY ACTIONS: N/A
INCORPORATIONS BY REFERENCE: N/A
ANALYSIS: The amendment provides greater clarification to the administration of the Rx for Oklahoma 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, 2007:

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. [74 O.S. § 5040.4(D)]

"Manufacturer Sponsored Prescription Assistance Program" Means drug company programs that provide prescription drugs to physicians or programs for patients who could not otherwise afford them.

"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]

[Oar Docket #07-764; Filed 4-13-07]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 125. THE OKLAHOMA OPPORTUNITY FUND

[OAR Docket #07-765]

RULEMAKING ACTION: PERMANENT Final Adoption

- RULES:
150:125-1-1 [NEW]
150:125-1-2 [NEW]
150:125-1-3 [NEW]
150:125-1-4 [NEW]
150:125-1-5 [NEW]

AUTHORITY: The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and 62 O.S. § 48(D).

DATES: Comment period: December 4, 2006 through January 3, 2007

Public hearing: January 4, 2007

Adoption: January 4, 2007

Submitted to Governor: January 22, 2007

Submitted to House: January 22, 2007

Submitted to Senate: January 22, 2007

Gubernatorial approval: February 23, 2007

Legislative approval: Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007.

Final adoption: March 28, 2007

Effective: May 25, 2007

SUPERSEDED EMERGENCY ACTIONS: Superseded rules:

- 150:125-1-1 [NEW]
150:125-1-2 [NEW]
150:125-1-3 [NEW]
150:125-1-4 [NEW]
150:125-1-5 [NEW]

Gubernatorial approval: July 20, 2006

Register publication: 23 OkReg 3160

Docket number: 06-1240

# Permanent Final Adoptions

## INCORPORATIONS BY REFERENCE:

N/A

## ANALYSIS:

The proposed rules provide guidance to entities making application to the Oklahoma Opportunity Fund.

## 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, 2007:**

### **150:125-1-1. Purpose and scope**

The purpose of these rules is to implement the Oklahoma Opportunity Fund at the Oklahoma Department of Commerce.

### **150:125-1-2. 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.

"Contingency Review Board" means the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. The Director of State Finance shall be an ex officio nonvoting member of the Board.

"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 or interim director.

"Eligible Applicants" means for profit entities, nonprofit entities and state and local governmental entities.

"The Oklahoma Opportunity Fund" The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of:

(A) All monies apportioned or allocated to the fund pursuant to law;

(B) Any amounts appropriated by the Legislature to the fund;

(C) Interest earned on the investment of money in the fund; and

(D) Gifts, grants, and other donations received for the fund. [62 O.S. § 48(A)]

### **150:125-1-3. Application process**

For the purpose of evaluating the applications, the Department will require all applicants interested in the Oklahoma Opportunity Fund to submit an application in a form prescribed by departmental guidelines as provided in the application packet. All applications will be required to contain sufficient information to permit the Department to comprehensively review the project proposal.

(1) The Department will make available upon request application forms and application guidelines.

(2) The forms and guidelines will provide information that will assist applicants in their application preparation.

(3) The guidelines and forms set forth shall apply to all applications and awards made in the program year corresponding with the application and application guidelines packet.

### **150:125-1-4. Threshold and selection criteria**

Complete threshold requirements and selection criteria will be set forth in the application guide and shall include requirements for economic impact, local participation in the project and average wage thresholds.

### **150:125-1-5. Award process**

The Director shall make recommendations to the Contingency Review Board for expenditures whether by loan or grant, which meet the criteria set forth in 62 O.S. § 48 and are expected to result in substantial economic benefit to the State. Upon the unanimous approval of the Contingency Review Board the award shall be made. Any lien or security interest retained by the State shall follow the guidelines set forth in 62 O.S. § 48.

[OAR Docket #07-765; filed 4-13-07]

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

[OAR Docket #07-861]

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. Description of Organization  
158:1-1-2. Definitions [AMENDED]

### **AUTHORITY:**

Construction Industries Board; 59 O.S. § 1000.4

### **DATES:**

#### **Comment period:**

January 3, 2007 through February 2, 2007

#### **Public hearing:**

February 14, 2007

#### **Adoption:**

February 14, 2007

#### **Submitted to Governor:**

February 21, 2007

#### **Submitted to House:**

February 21, 2007

#### **Submitted to Senate:**

February 21, 2007

#### **Gubernatorial approval:**

March 15, 2007

#### **Legislative approval:**

Failure of the legislature to disapprove the rules resulted in the approval on April 18, 2007

#### **Final Adoption:**

April 18, 2007

#### **Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

"n/a"

**INCORPORATIONS BY REFERENCE:**

"n/a"

**ANALYSIS:**

This rule change is necessary to convert the contracting partner from the Department of Health to the Construction Industries Board pursuant to SB1211 which created the Construction Industries Board as a stand-alone agency.

**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, 2007:**

**SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION**

**158:1-1-2. Definitions**

Unless the context otherwise requires, singular words shall be deemed to include the plural, and masculine words to include the feminine, and vice versa. The following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Construction Industries Board Act as found at 59 O.S. § 1000.1 et seq.

"Administrator" means the Administrator of the Board as described in the Act.

"Administrative Law Judge" means a person appointed by the Construction Industries Board to conduct an individual hearing under the Administrative Procedures Act and may be a employee or a private attorney with whom the ~~Department of Health~~ Construction Industries Board has a contract for services.

"Board" means the Oklahoma Constructions Industries Board.

"Respondent" means the person(s) or legal entity(ies) named in a petition for an individual proceeding, against whom relief is sought.

[OAR Docket #07-861; filed 4-24-07]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD  
CHAPTER 20. ELEVATOR INJURY REPORTING REGULATIONS**

[OAR Docket #07-862]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions [REVOKED]

158:20-1-1. Purpose [REVOKED]

158:20-1-2. Definitions [REVOKED]

158:20-1-3. Injury reporting requirement [REVOKED]

Subchapter 3. Procedures of the Construction Industries Board [REVOKED]

158:20-3-1. Procedures of the construction industries board [REVOKED]

**AUTHORITY:**

Construction Industries Board; 59 O.S. § 1000.4

**DATES:**

**Comment period:**

January 3, 2007 through February 2, 2007

**Public hearing:**

February 14, 2007

**Adoption:**

February 14, 2007

**Submitted to Governor:**

February 21, 2007

**Submitted to House:**

February 21, 2007

**Submitted to Senate:**

February 21, 2007

**Gubernatorial approval:**

March 15, 2007

**Legislative approval:**

Failure of the legislature to disapprove the rules resulted in the approval on April 18, 2007

**Final Adoption:**

April 18, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

"n/a"

**INCORPORATIONS BY REFERENCE:**

"n/a"

**ANALYSIS:**

The purpose of these rules is to revoke the Administrative Rules of the Construction Industries Board, Chapter 20. Elevator Injury Reporting Regulations, which were placed under the authority of the Oklahoma Department of Labor, effective November 1, 2006.

**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 REVOKED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF MAY 25, 2007:**

**SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]**

**158:20-1-1. Purpose [REVOKED]**

~~The rules in this Chapter implement the Elevator Injury Reporting Act.~~

**158:20-1-2. Definitions [REVOKED]**

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

~~"Act" means the Elevator Injury Reporting Act as found at 59 O.S. Supp.2002, § 3009 et.seq.~~

~~"Administrator" means the Administrator of the Construction Industries Board as found at 59 O.S. 2001, § 1000.6.~~

~~"Board" means the Oklahoma Construction Industries Board 59 O.S. 2001, § 1000.2.~~

# Permanent Final Adoptions

**"Injury report"** means a reporting form approved by the Construction Industries Board.

**"Owner or lessee"** means the owner or lessee of every elevator in service in this state.

**"Elevator"** means any device for lifting or moving people, cargo, or freight within, or adjacent and connected to, a structure or excavation, and includes any escalator, power-driven stairway or stairway chair lift.

**"Elevator does not mean"** any amusement ride or device subject to inspection and regulation by the Oklahoma Department of Labor; Mining equipment subject to inspection and regulation by the Department of Mines; or Aircraft, railroad car, boat, barge, ship, truck, or other self propelled vehicle or component thereof.

**"Elevator in service"** means an elevator that is running and responding to haul and car call services to move people. Elevator in service also means an elevator undergoing service and repair.

**"Injury"** means any hurt or harm, including appreciable physical pain.

## 158:20-1-3. Injury reporting requirement [REVOKED]

Beginning January 1, 2003, the owner or lessee of every elevator in service in this state shall report to the Construction Industries Board any injury which is reported to the owner or lessee in which an individual sought medical treatment or attention due to the operation or malfunction of an elevator. This report is due to the Construction Industries Board within 10 working days of notification to the owner or lessee.

## SUBCHAPTER 3. PROCEDURES OF THE CONSTRUCTION INDUSTRIES BOARD [REVOKED]

### 158:20-3-1. Procedures of the construction industries board [REVOKED]

(a) The Construction Industries Board shall have available an accident reporting form for the owner or lessee of any elevator in the state of Oklahoma who reports an elevator injury.

(b) Beginning January 1, 2004 and annually thereafter, the Construction Industries Board shall collect elevator injury data and submit a report of the data collected pursuant to this section to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

[OAR Docket #07-862; filed 4-24-07]

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

[OAR Docket #07-863]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 5. Licensing Requirements, Display of License and Firm Name, and Bond Requirements

158:40-5-4. Display of license number and firm name [AMENDED]

Subchapter 7. License Classifications

158:40-7-6. Refinery electrical license [NEW]

### AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4

### DATES:

#### Comment period:

January 3, 2007 through February 2, 2007

#### Public hearing:

February 14, 2007

#### Adoption:

February 14, 2007

#### Submitted to Governor:

February 21, 2007

#### Submitted to House:

February 21, 2007

#### Submitted to Senate:

February 21, 2007

#### Gubernatorial approval:

March 15, 2007

#### Legislative approval:

Failure of the legislature to disapprove the rules resulted in the approval on April 18, 2007

#### Final Adoption:

April 18, 2007

#### Effective:

May 25, 2007

### SUPERSEDED EMERGENCY ACTIONS:

#### Superseded rules:

Subchapter 7. License Classifications

158:40-7-6. Refinery electrical license [NEW]

#### Gubernatorial approval:

March 29, 2006

#### Register publication:

23 Ok Reg 1148

#### Docket number:

06-692

### INCORPORATIONS BY REFERENCE:

"n/a"

### ANALYSIS:

158:40-5-4. This rule change excludes some promotional advertising media described from the requirement to provide the contractor license number. Media described is determined to not be a primary source of licensure verification for the citizens of Oklahoma. 158:40-7-6 This rule establishes the Refinery Electrical Journeyman License for all qualified individuals working exclusively in petroleum refineries. This rule makes permanent the emergency rule adopted during the second session of the Fiftieth Legislature.

### 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, 2007:**

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

158:40-5-4. Display of license number and firm name

(a) All electrical contractors or electrical firms shall, on all vehicles used to transport materials and tools in the operation of the business, display the firm name and the license number bearing the initials "OK" preceding that number issued by the Administrator. Such signs and license numbers shall be printed in letters and numerals at least two (2) inches high in conspicuous places on both sides of each vehicle in contrasting color to background surface.

(b) The Electrical Contractor State License Number must be displayed on all advertising, contracts, and bids. Advertising for the purposes of this section shall not include uniforms or promotional items including but not limited to pens, pencils, key chains, tape measures, and the like.

(c) The pocket license issued by the Administrator shall be on the electrician's person while on the job.

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 refinery 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) 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 #07-863; filed 4-24-07]

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

[OAR Docket #07-805]

RULEMAKING ACTION: PERMANENT final adoption

RULES: Subchapter 1. General Provisions 210:10-1-13. [AMENDED]

AUTHORITY: 70 O. S. § 3-104, State Board of Education

DATES:

Comment period: December 1, 2006 through January 24, 2007

Public hearing: January 25, 2007

Adoption: January 25, 2007

Submitted to Governor: February 1, 2007

Submitted to House: February 1, 2007

Submitted to Senate: February 1, 2007

Gubernatorial approval: February 23, 2007

Legislative approval: Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007

Final adoption: March 28, 2007

Effective: May 25, 2007

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules: Subchapter 1. General Provisions 210:10-1-13. [AMENDED]

Gubernatorial approval: December 31, 2006

Register Publication: 24 Ok Reg 575

Docket Number: 07-99

INCORPORATION BY REFERENCE:

N/A

ANALYSIS:

Rule amendments will provide direction to school districts on the provision of educational services to students under age eighteen (18) incarcerated in jails throughout Oklahoma.

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, 2007:

SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-13. Educational services for children in residential care, treatment, or emergency shelter facilities

(a) Purpose. These policies are for the purpose of establishing standards for the educational services for children placed in facilities which exist for the purpose of providing residential care, treatment (24-hour residential) or emergency shelter care.

(b) Facilities licensing/approval. The facilities should be licensed or approved by the appropriate oversight state agency (i.e., Department of Human Services, Office of Juvenile Affairs, Department of Health, and Department of Mental Health and Substance Abuse Services). Such residential care or treatment facilities as juvenile detention centers, group homes, and emergency youth shelters will be included for these programs.

(c) Residency.

## Permanent Final Adoptions

---

(1) Children placed in facilities such as an orphanage, eleemosynary (charitable) child care facility, in which a child is placed by the parent or guardian for full time residential care and attend a district school by joint agreement of the district or facility and are not placed in a facility through a state contract, are residents for school purposes of the school district where the facility is located. [70 O.S. Supp. 1998, 1-113]

(2) Children placed in facilities which are state operated institutions or who are temporarily in state-licensed or operated emergency shelters are residents for school purposes of the school district where the facility is located. [70 O.S. Supp. 1998, 1-113]

(3) Children placed in a foster home, as defined at 10 O.S. 402, except a therapeutic foster home or a specialized foster home voluntary placement, by the person or agency having legal custody pursuant to court order or by a state agency having legal custody are residents for school purposes of the school district where the foster home is located. [70 O.S. Supp. 1998, 1-113]

(4) For youth who are placed in juvenile detention facilities, the district of residence for school purposes shall be the school district in which the parents, guardians, or person having legal custody holds legal residence. [70 O.S. Supp. 1998, 1-113]

(5) When a child does not meet the criteria for residency provided in 70 O.S. Supp. 1998, 1-113, subsection A, and is placed in a residential care facility or treatment program or center, including J.D. McCarty Center (63 O.S. 485.1), which is out of the child's home and not in the school district in which the child legally resides, the facility or program shall, if the child contends he or she resides in a district other than the district where the facility or program is located, within seven (7) days of admittance, notify the district in which the out-of-home placement or treatment is located of the admittance.

(d) **Contractual agreement for educational services.** A contractual agreement for the provision of educational services will be developed and signed by the chief executive officer of each agency or organization, or by the chairman of the governing board or board of directors of each licensed public or private agency, operating or supervision of residential care, treatment, or emergency shelter facilities.

(1) Each individual or entity operating a residential facility or treatment program which requires provision of educational services from the school district, shall notify the local board of education of its anticipated educational needs, prior to location in a school district. No school district shall be required to provide educational services for residents of the facility or participants in the program until at least sixty (60) calendar days have elapsed from the time in which the local board of education was initially notified of the need unless the school district so agrees to provide the educational services sooner. [70 O.S. Supp. 1998, 1-113]

(2) Any state agency, letting grants or contracts for residential care or treatment facilities for children shall require as a condition of grants or contracts, documented

assurance of appropriate provision of educational services. [10 O.S. § 607 (C)]

(3) The contractual agreement for educational services shall include the following as a minimum:

(A) **Teacher certification requirements:** Teachers shall be appropriately certified by the Oklahoma State Department of Education. For teacher certification purposes, a certified teacher who is qualified to teach in an accredited school district's educational services for a residential care or treatment facility may teach subjects in which the teacher does not hold certification. This shall only be valid upon application of a school district, offering on-site educational services in a residential or treatment facility, and approved by the State Department of Education, only for those purposes. [70 O.S. Supp. 1996, 1210.567] The application for Accreditation or amended application shall serve as the district's application for these purposes. Original copies of the application and teacher certificates shall be on file at the school district administration office and copies maintained at the building site level.

(B) **Number of hours taught:** The State Department of Education shall authorize, upon application by a school district, an abbreviated day schedule for the education provided for students in a residential care or treatment facility located within the district. [70 O.S. Supp. 1996, 1210.567] The Application for Accreditation or amended application shall serve as the district's application for these purposes. Education services available shall be provided to children/youth no later than the tenth school day of admittance. Exception will be for cause in the interest of the child and documentation by recommendations of the attending licensed psychologists, psychiatrists, or physicians on the residential care or treatment staff.

(C) **Adequacy of facilities:** The residential care, treatment, or emergency shelter facilities shall provide and maintain areas appropriate for the school district to conduct the educational program pursuant to contractual agreement and shall be responsible for all services and costs associated with such services which are not directly related to education. Relevant safety and health standards shall be followed. Such facilities shall meet the accreditation standards of the State Board of Education for educational services and shall meet other existing standards which apply to facilities of residential care, treatment, or emergency shelter programs.

(D) **Educational plans, including plans for transition in to regular school setting:** Education plans for students shall describe the appropriate curriculum, instructional time, and setting for each child. The child should receive instruction in an appropriate setting based on the individual educational needs of the child and should progress toward a full school day (six hours) program.

(4) The State Department of Education shall provide a sample contract with standard or uniform provisions for use by school districts which provide education to students in such facilities or programs. Provision in the contract shall be designed to ensure an appropriate education to which a student is entitled in the most cost-efficient manner to the responsible school district and shall allow for local flexibility in funding and education arrangements. The cost for related services, therapies, treatments, or support services for eligible students shall be the responsibility of the facility unless otherwise agreed by the contractual parties or as otherwise specified in the IEP. Otherwise valid obligations to provide or pay for such services, such as Medicaid, shall remain in effect for children who are eligible from sources other than the school district. [70 O.S. Supp. 1998, 1-113]

**(e) Educational plans for residential care, treatment facilities, or emergency shelter facilities.**

(1) Each child/youth shall have his/her educational needs reviewed within five school days by a team of professionals to determine the educational needs of the student and to develop an educational plan which is consistent with state and federal laws and regulations. The education plan shall work toward integration of the student into the receiving school district.

(2) The professional team for the educational plan shall include a teacher or an appropriately qualified educator representative and be under the direction of personnel of the school district. A procedure must exist to permit team members to communicate their recommendations and other relevant information to the facility staff on a regular basis.

(3) The educational plan shall be periodically reviewed and adjustments by the professional team made to ensure that the child is receiving appropriate educational opportunities at all times.

(4) The educational plan shall describe the appropriate curriculum, instructional time, and setting for the child/youth. The child should receive instruction in an appropriate educational setting based on individual educational needs and should progress toward a full school day (six hours) program. The student's current grade level and/or ability should be considered.

(5) The educational plan shall be implemented within ten days of enrollment.

(6) The educational plans and educational services shall be provided under the supervision of a school district administrator.

(7) The educational plan and individual student records for the educational services shall be maintained by the school district with proper protections for disclosure, including a procedure for expeditious exchange of education records to properly authorized persons, in accordance with the Family Education Rights and Privacy Act, and other relevant state and federal laws.

(8) The educational plan shall be implemented in accordance with any procedural safeguards for eligible children with disabilities who require Individualized

Education Programs (IEPs) under the Individuals with Disabilities Education Act (IDEA). The eligible student's school district of residence shall be notified immediately by the providing district upon finding that the eligible student requires special education and related services and notified as to the time, date and location of meetings for the purpose of planning the student's IEP and subsequent reviews. The facility may have a representative present at the IEP conference to advise the IEP team of any concerns or information the facility has to offer regarding the eligible student's educational needs and eligibility for related services. The facility and the providing district shall coordinate with the eligible student's school district of residence as necessary for the development of the IEP. [70 O.S. Supp. 1998, 1-113]

(9) Teachers shall be assigned for provision of educational services in accordance with the appropriate class size and teacher/student ratio.

(10) The facility shall provide assistance in severe, disruptive situations and will provide supervision of out-of-classroom suspension, time-out, and detention during school and, when requested by the assigned education personnel, will intervene in matters of discipline, unless otherwise agreed to in the contract.

(f) **State licensed or operated emergency shelters.** The local school district is not required to enter into a contract with a residential care, treatment, or emergency shelter unless it is state licensed or state operated.

**(g) Education to Students in Jail.**

(1) Each school district in the state with a city, county, or state jail within the district's boundaries shall designate an employee or employees of the school district who will be responsible for overseeing the educational services to eligible juveniles identified by the facility. While incarcerated in a jail, the student shall be considered a resident of the school district where the jail is located.

(2) Once an employee is designated by the school district that person shall immediately contact the individual in charge of the operation of the jail or jails within the boundaries of the school district and provide them with information regarding the requirements of this rule.

(3) When a school district receives notification of the need for educational services from a facility incarcerating a juvenile, the school district shall provide the juvenile with an appropriate education plan designed for the possible reintegration of the student into school, which must include the core subjects. The education plan contemplated by this rule corresponds to the education plan referenced in the Oklahoma School Laws at 70 O.S. § 24-101.3(D) for students suspended from school. A copy of the education plan developed by the school district shall be provided to the facility and to the juvenile and a copy shall be kept on file by the school district. For purposes of this rule the core units shall consist of English, Math, Science, Social Studies, and Art units required by the State Board of Education.

(4) The education plan shall set out the procedure the school district and the facility will utilize for the provision

# Permanent Final Adoptions

of educational services to the juvenile and will address academic credit for work satisfactorily completed. These procedures and requirements apply to facilities which do not have in place, on the effective date of this rule, a plan for educational services of incarcerated juveniles.

(5) The provisions of residency law at 70 O.S. § 1-113 addressing responsibility for educational services to juveniles in facilities located within the boundaries of the school district prevail over the requirements set forth in this rule.

(gh) **Accreditation standards monitoring.** The educational program of each school district providing educational services for students placed in a facility located in the school district shall be monitored by the State Department of Education. The department shall determine if the educational program is in compliance with State Board of Education regulations. The recommended accreditation status shall be reported to the State Board of Education.

[OAR Docket #07-805; filed 4-23-07]

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

[OAR Docket #07-806]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 3. Priority Academic Student Skills  
Part 7. Mathematics  
210:15-3-51. [AMENDED]

### AUTHORITY:

70 O. S. § 3-104, State Board of Education

### DATES:

#### Comment period:

November 15, 2006 through January 24, 2007

#### Public hearing:

January 25, 2007

#### Adoption:

January 25, 2007

#### Submitted to Governor:

February 1, 2007

#### Submitted to House:

February 1, 2007

#### Submitted to Senate:

February 1, 2007

#### Gubernatorial approval:

February 23, 2007

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007

#### Final adoption:

March 28, 2007

#### Effective:

May 25, 2007

#### SUPERSEDED EMERGENCY ACTIONS:

#### Superseded rules:

Subchapter 3. Priority Academic Student Skills  
Part 7. Mathematics  
210:15-3-51. [AMENDED]

#### Gubernatorial approval:

October 8, 2006

#### Register Publication:

24 Ok Reg 137

#### Docket Number:

06-1341

#### INCORPORATION BY REFERENCE:

N/A

#### ANALYSIS:

The proposed rule provides reorganization and alignment to the Priority Academic Student Skills, Oklahoma's core curriculum. The changes will allow public school educators responsible for implementing the curriculum in Algebra I to pursue appropriate depths of content related to algebraic expressions, equations, and problem solving.

#### 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, 2007:**

## SUBCHAPTER 3. PRIORITY ACADEMIC STUDENT SKILLS

### PART 7. MATHEMATICS

#### 210:15-3-51. Mathematics content skills algebra I

(a) **Standard - number sense and algebraic operations.** The student will use expressions and equations to model number relationships.

(1) ~~Translate word phrases and sentences into expressions and equations and vice versa.~~

(1) Equations and formulas

(A) Translate word phrases and sentences into expressions and equations and vice versa.

(B) Solve literal equations involving several variables for one variable in terms of the others.

(C) Use the formulas from measurable attributes of geometric models (perimeter, circumference, area and volume), science, and statistics to solve problems within an algebraic context.

(D) Solve two-step and three-step problems using concepts such as rules of exponents, rate, distance, ratio and proportion, and percent.

(2) Expressions

(A) Simplify and evaluate linear, absolute value, rational and radical expressions.

(B) Simplify polynomials by adding, subtracting or multiplying.

(C) Factor polynomial expressions.

(b) **Standard - relations and functions.** The student will use relations and functions to model number relationships

(1) Relations and functions

(A) Distinguish between linear and nonlinear data.

(B) Distinguish between relations and functions.

(C) Identify dependent and independent variables, domain and range.

(D) Evaluate a function using tables, equations or graphs.

- (2) Recognize the parent graph of the functions  $y = k$ ,  $y = x$ ,  $y = |x|$ , and predict the effects of transformations on the parent graph (e.g.,  $y = |x| + 2$ , change slope, change intercepts, change slope and intercept).
- (3) Calculate the slope of a line using a graph, an equation, two points or a set of data points.
- (4) Develop the equation of a line and graph linear relationships given the following:
- (A) slope and y intercept
  - (B) slope and one point on the line
  - (C) two points on the line
  - (D) x intercept and y intercept
  - (E) a set of data points
- (5) Slope Interpretation
- (A) Use the slope to differentiate between lines that are parallel, perpendicular, horizontal, or vertical.
  - (B) Interpret the slope and intercepts within the context of everyday life (e.g., telephone charges based on base rate [y intercept] plus rate per minute [slope]).
- (6) Linear Equations and Inequalities
- (A) Solve linear equations by graphing or using properties of equality.
  - (B) Solve linear inequalities by graphing or using properties of inequalities.
  - (C) Match appropriate equations or inequalities (with 1 or 2 variables) to a graph, table, or situation and vice versa.
- (7) Solve a system of linear equations by graphing, substitution or elimination.
- (8) Problem Solving
- (A) Use the formulas from measurable attributes of geometric models (perimeter, circumference, area and volume), science, and statistics to solve problems within an algebraic context.
  - (B) Solve two-step and three-step problems using concepts such as rules of exponents, probability, rate, distance, ratio and proportion, measures of central tendency and percent.
- (9) Nonlinear functions
- (A) Match exponential and quadratic functions to a table, graph or situation and vice versa.
  - (B) Solve quadratic equations by graphing, factoring, or using the quadratic formula.
- (2) Linear equations and graphs
- (A) Solve linear equations by graphing or using properties of equality.
  - (B) Recognize the parent graph of the functions  $y = k$ ,  $y = x$ ,  $y = |x|$ , and predict the effects of transformations on the parent graph.
  - (C) Slope
    - (i) Calculate the slope of a line using a graph, an equation, two points or a set of data points.
    - (ii) Use the slope to differentiate between lines that are parallel, perpendicular, horizontal, or vertical.
    - (iii) Interpret the slope and intercepts within the context of everyday life (e.g., telephone

- charges based on base rate [y-intercept] plus rate per minute [slope]).
  - (D) Develop the equation of a line and graph linear relationships given the following: slope and y-intercept, slope and one point on the line, two points on the line, x-intercept and y-intercept, and a set of data points.
  - (E) Match appropriate equations to a graph, table, or situation and vice versa.
- (3) Linear inequalities and graphs
- (A) Solve linear inequalities by graphing or using properties of inequalities.
  - (B) Match appropriate inequalities (with 1 or 2 variables) to a graph, table, or situation and vice versa.
- (4) Solve a system of linear equations by graphing, substitution or elimination.
- (5) Nonlinear functions
- (A) Match exponential and quadratic functions to a table, graph or situation and vice versa.
  - (B) Solve quadratic equations by graphing, factoring, or using the quadratic formula.
- (c) Standard - data analysis, probability, and statistics. The student will use data analysis, probability, and statistics to formulate and justify predictions from a set of data.
- (1) Data analysis
- (A) Translate from one representation of data to another and understand that the data can be represented using a variety of tables, graph, or symbols and that different modes of representation often convey different messages.
  - (B) Make valid inferences, predictions, and/or arguments based on data shown on graphs, tables, and charts.
  - (C) Solve two-step and three-step problems using concept such as probability and measures of central tendency.
- (2) Collect data involving two variables and display on a scatter plot; interpret results using a linear model/equation and identify whether the model/equation is a line best fit for the data (e.g., given a scatter plot and several linear equations, which one is the best fit?).

[OAR Docket #07-806; filed 4-23-07]

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

[OAR Docket #07-807]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 11. Early Childhood Education Programs  
210:15-11-3. [NEW]

**AUTHORITY:**

70 O. S. § 3-104, State Board of Education

# Permanent Final Adoptions

**DATES:****Comment period:**

November 15, 2006 through January 24, 2007

**Public hearing:**

January 25, 2007

**Adoption:**

January 25, 2007

**Submitted to Governor:**

February 1, 2007

**Submitted to House:**

February 1, 2007

**Submitted to Senate:**

February 1, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007

**Final adoption:**

March 28, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:****Superseded rules:**

Subchapter 11. Early Childhood Education Programs  
210:15-11-3. [NEW]

**Gubernatorial approval:**

August 31, 2006

**Register Publication:**

24 Ok Reg 60

**Docket Number:**

06-1300

**INCORPORATION BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed rules are to establish a pilot early childhood program to consist of private donations and state funds that will serve at-risk children in at least one urban and one rural area of this state to be selected by the State Board 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, 2007:**

## SUBCHAPTER 11. EARLY CHILDHOOD EDUCATION PROGRAMS

### 210:15-11-3. Criteria for pilot early childhood program pursuant to Title 70 O.S. § 10-105.4

(a) Qualifying children are those children aged birth through three years, who are identified as at-risk as determined by Federal Poverty Guidelines.

(b) Qualifying programs must meet childcare licensing requirements as provided by the Oklahoma Department of Human Services for Children aged birth through three years.

(c) The adult child ratio shall meet minimum childcare licensing requirements as provided by the Oklahoma Department of Human Services for children aged birth through three years.

(d) The provider will ensure the operational schedule is a minimum of eight hours a day for 50 weeks a year. Children will be served 48 weeks, with two additional weeks for staff training.

(e) Staffing requirements are:

(1) The lead teacher must hold early childhood certification and a bachelor's degree.

(2) The assistant teacher must hold a minimum of an associate's degree (60 college credits) in child development or a related field.

(3) The classroom aide must hold a minimum of a high school diploma and a Child Development Associate (CDA) degree (120 clock hours).

(4) Each staff member must undergo a Federal Bureau of Investigation (FBI) background check.

(5) The provider shall employ a family support worker whose caseload shall be approximately 50 families.

(f) All staff must participate in initial training and annual training in infant and toddler development, curriculum, and parent education.

(g) The curriculum shall be aligned with Oklahoma's Early Learning Guidelines for Infants and Toddlers.

(h) All programs must undergo an annual program evaluation.

[OAR Docket #07-807; filed 4-23-07]

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

[OAR Docket #07-808]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 19. Driver Education  
210:15-19-6. Reimbursements [AMENDED]

**AUTHORITY:**

70 O. S. § 3-104, State Board of Education

**DATES:****Comment period:**

December 1, 2006 through January 24, 2007

**Public hearing:**

January 25, 2007

**Adoption:**

January 25, 2007

**Submitted to Governor:**

February 1, 2007

**Submitted to House:**

February 1, 2007

**Submitted to Senate:**

February 1, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007

**Final adoption:**

March 28, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATION BY REFERENCE:**

N/A

**ANALYSIS:**

Obsolete language, once thought to have been adopted in the Oklahoma Administrative Code subsequent to August 1998, is now being deleted/cleaned up. The driver education reimbursement calculation is no longer subject to the actual expenses (cost) of the program and the computation thereof, but is based on set reimbursement rates outlined now in 70 O. S. § 19-122 and as previously found in Senate Bill 1429, effective July 1, 1999.

**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, 2007:**

**SUBCHAPTER 19. DRIVER EDUCATION**

**210:15-19-6. Reimbursements**

(a) Beginning with the reimbursement for the 1998-99 school year driver education program, and each year thereafter, the State Superintendent of Public Instruction shall allow to each school district the amount per pupil as stated in law, providing the driver education program was completed during the preceding fiscal year and is in accordance with 210:15-19-4 through 210:15-19-12. No fee shall be charged to the student if the driver education program is offered during the regular school day. Every public school qualifying for reimbursement shall, upon conclusion of a school year, submit a report showing the total students per program, and a statement that all of the minimum standards have been met. These reports must be filed on forms supplied by the State Department of Education.  
(b) No allowance shall be made under this act for the instruction of pupils in driver education unless the school district has complied with these rules and regulations governing the establishment, conduct, and scope of driver education.

~~(1) Each school district shall report annually to the State Aid Section of the State Department of Education the cost of instructing pupils during the preceding year in driver education, the number of pupils who actually enrolled, completed, and passed such course during the preceding year and such other information as may be required for the computation of the cost incurred therein.~~

~~(2) A determination of the cost of a driver education program in a secondary school shall include:~~

~~(B) gasoline, oil, maintenance and insurance costs, including medical payment coverage, on Driver and Traffic Safety Education vehicle related to teaching the Driver and Traffic Safety Education course(s);~~

[OAR Docket #07-808; filed 4-23-07]

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

[OAR Docket #07-804A]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 9. Professional Standards: Teacher Education and Certification  
Part 9. Teacher Certification  
210:20-9-98. [AMENDED]

**AUTHORITY:**

70 O. S. § 3-104, State Board of Education

**DATES:**

**Comment period:**

November 15, 2006, through December 18, 2006

**Public hearing:**

December 19, 2006

**Adoption:**

December 19, 2006

**Submitted to Governor:**

December 20, 2006

**Submitted to House:**

December 20, 2006

**Submitted to Senate:**

December 20, 2006

**Gubernatorial approval:**

January 22, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**

Subchapter 9. Professional Standards: Teacher Education and Certification  
Part 9. Teacher Certification  
210:20-9-98. [AMENDED]

**Gubernatorial approval:**

October 8, 2006

**Register Publication:**

24 Ok Reg 138

**Docket Number:**

06-1342

**INCORPORATION BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed rule change is to require any noncitizen of the United States to submit an unexpired United States Citizenship and Immigration Services (USCIS) employment authorization document when applying for an Oklahoma teaching credential. Any noncitizen seeking certification to teach in Oklahoma schools shall possess a legal work permit in order to receive a salary from the state of Oklahoma.

**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, 2007:**

**SUBCHAPTER 9. PROFESSIONAL STANDARDS:  
TEACHER EDUCATION AND CERTIFICATION**

# Permanent Final Adoptions

---

## PART 9. TEACHER CERTIFICATION

### 210:20-9-98. Administrative requirements of teacher certification

(a) **Evaluation of foreign credentials.** Foreign credentials must be either analyzed by a recognized translation service or an Oklahoma college before the State Department of Education will accept them.

(b) **Noncitizens of the United States.** Requirements for noncitizens seeking an Oklahoma teaching credential are as follows:

(1) Noncitizens of the United States will be required to submit an unexpired United States Citizenship and Immigration Services (USCIS) employment authorization document with the application before an Oklahoma teaching credential may be issued.

(2) The Oklahoma teaching credential may be issued/reissued for no longer than the validity of the employment authorization document.

(bc) **Privacy and access.** Any person, with proper identification, that makes a written or oral request, will be informed of the certification status of any individual subject to certification. No other information will be given to a third party without the written consent of the person about whom the information is sought.

(1) College transcripts and other supporting documents will neither be duplicated by nor released by the State Department of Education.

(2) An original out-of-state teaching certificate may be returned, upon written request, to the applicant.

(ed) **Multiple applications.** When application is made at the same time for two (2) or more certificates of the same class, only a single processing fee will be charged.

(1) Applications may be made for multiple classes of certificates on one (1) form. There is a fee for each class.

(2) When application is made at different times for two (2) or more certificates, a fee will be charged for each certificate requested.

(de) **Duplicate/update certificates.** A certificate/license may be duplicated or updated by submitting a written request and paying the fee.

(ef) **Change of name.** A legal change of last name on a certificate/license may be accomplished at any time upon written request and paying the fee.

(fg) **Refusal of certification.** No certificate/license will be issued unless all requirements for the certificate/license in question are fully met. In addition, no certificate/license will be issued if the attempt to become certified is based on misrepresentation, forgery, or fraud.

(gh) **Grounds for cancellation of certificates.** Any certificate/license, credential, or endorsement obtained by misrepresentation, forgery, fraud, or issued by error will be cancelled. Upon written request the holder must surrender the certificate/license in question to the State Department of Education.

(hi) **Felony as grounds for noncertification.** No person shall receive an Oklahoma certificate/license who has been

convicted of a felony, any crime involving moral turpitude, or a felony violation of the narcotics laws of the United States or the State of Oklahoma, provided the conviction was entered within the ten (10) year period immediately preceding application for teacher certification.

(ij) **Revocation of teaching certificate.** Teaching certificates/licenses issued by authority of the Oklahoma State Board of Education may be revoked by the board for willful violation of any rule or regulation of the board or any federal or state law or other proper cause. A certificate/license will be revoked only after a sufficient hearing has been given to the teacher before the State Board of Education.

(1) No person whose certificate/license has been revoked in Oklahoma or any other state shall be issued an Oklahoma certificate/license unless the revoked certificate/license has been fully reinstated by the revoking state and grounds for the revocation do not conflict with Oklahoma law.

(2) A person who has either voluntarily surrendered a teaching certificate in another state, been denied certification/licensure in another state or has had a certificate suspended in another state is not eligible for Oklahoma certification until an investigation has resolved the issues surrounding the surrender, denial, or suspension of certification.

(jk) **Extending provisional certificates.** A request for extension of validity of any expired provisional certificate will be presented to the State Board of Education only when extenuating circumstances seem to justify its consideration. These requests shall be submitted in writing by the employing superintendent. A superintendent who holds an expired provisional certificate needs to have the president of the local board of education make the written request.

(kl) **Degree/college credit accepted for certification regulations.** Only degrees conferred by state- or regionally accredited colleges and universities recognized by the Oklahoma State Board of Education will be accepted by the Professional Standards Section as part of the requirements for teacher certification. Only work completed in state and regionally accredited colleges and universities, or transfer credit validated by them, will be accepted as a basis for teacher certification. For purposes of Oklahoma certification, state-accredited colleges and universities are considered to be colleges and universities accredited by the Oklahoma State Regents for Higher Education or their counterpart in other states (a statewide higher education coordinating board/agency of control). Regionally accredited colleges and universities are considered to be colleges and universities accredited by regional institutional accrediting bodies recognized by the United States Department of Education.

(lm) **Fee for duplicate licenses and certificates.** The State Board of Education shall charge and collect reasonable fees for the issuance and duplication of licenses and certificates.

[OAR Docket #07-804A; filed 4-23-07]

TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 20. STAFF

[OAR Docket #07-809]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 9. Professional Standards: Teacher Education and Certification  
Part 9. Teacher Certification  
210:20-9-99.1. [NEW]

**AUTHORITY:**

70 O. S. § 3-104, State Board of Education

**DATES:**

**Comment period:**

December 15, 2006 through January 24, 2007

**Public hearing:**

January 25, 2007

**Adoption:**

January 25, 2007

**Submitted to Governor:**

February 1, 2007

**Submitted to House:**

February 1, 2007

**Submitted to Senate:**

February 1, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007

**Final adoption:**

March 28, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**

Subchapter 9. Professional Standards: Teacher Education and Certification  
Part 9. Teacher Certification  
210:20-9-99.1. [NEW]

**Gubernatorial approval:**

December 21, 2006

**Register Publication:**

24 Ok Reg 578

**Docket Number:**

07-100

**INCORPORATION BY REFERENCE:**

N/A

**ANALYSIS:**

The purpose of the rule is to define provisions for classes of persons who are eligible to receive a bonus and define procedures for documentation of eligibility for the bonus as stipulated in 70 O. S. § 6-206. The bonus must be awarded by January 31. Classes of persons eligible to receive a state appropriated bonus are nationally certified school psychologists certified by the National School Psychology Certification Board, and speech-language pathologists or audiologists who hold a Certificate of Clinical Competence awarded by the American Speech-Language Hearing Association and are currently serving children in Oklahoma public school districts.

**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, 2007:**

SUBCHAPTER 9. PROFESSIONAL STANDARDS:  
TEACHER EDUCATION AND CERTIFICATION

PART 9. TEACHER CERTIFICATION

**210:20-9-99.1. National certification bonus for school psychologists, speech-language pathologists, and audiologists.**

(a) Subject to availability of funds, a bonus in the amount prescribed in 70 O.S. § 6-206, shall be provided to individuals currently providing service to children and who are an Oklahoma school psychologist who has been designated as a nationally certified school psychologist by the National School Psychology Certification Board, or a speech-language pathologist or audiologist who holds a Certificate of Clinical Competence awarded by the American Speech-Language Hearing Association.

(b) If adequate funding is not available for a full bonus to be provided, the bonus amount may be prorated.

(c) Psychologists, speech-language pathologists, or audiologists eligible for the bonus are those individuals currently employed full-time in the public schools of Oklahoma and are carried on the school personnel report submitted to the State Department of Education.

(d) To document having a current national certificate, being employed full-time by a public school district, and are currently providing services to children as a psychologist, speech-language pathologist, or audiologist, as of January 1 of the year the bonus is to be awarded, a verification form will be sent to each nationally certified person to be signed by the psychologist, speech-language pathologist, or audiologist and the superintendent of the local school district and returned to the State Department of Education before the bonus is awarded.

(e) Verification of national certification shall be provided to the State Department of Education prior to the bonus being awarded.

[OAR Docket #07-809; filed 4-23-07]

TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 20. STAFF

[OAR Docket #07-802]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 19. Local Professional Development Programs  
210:20-19-2. [AMENDED]  
210:20-19-3. [AMENDED]  
210:20-19-4. [AMENDED]

**AUTHORITY:**

70 O. S. § 3-104, State Board of Education

**DATES:**

**Comment period:**

November 15, 2006, through December 18, 2006

**Public hearing:**

December 19, 2006

# Permanent Final Adoptions

## Adoption:

December 19, 2006

## Submitted to Governor:

December 20, 2006

## Submitted to House:

December 20, 2006

## Submitted to Senate:

December 20, 2006

## Gubernatorial approval:

January 22, 2007

## Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

## Final adoption:

March 27, 2007

## Effective:

May 25, 2007

## SUPERSEDED EMERGENCY ACTIONS:

### Superseded rules:

Subchapter 19. Local Professional Development Programs

210:20-19-2. [AMENDED]

210:20-19-3. [AMENDED]

210:20-19-4. [AMENDED]

### Gubernatorial approval:

August 31, 2006

### Register Publication:

24 Ok Reg 60

### Docket Number:

06-1301

### INCORPORATION BY REFERENCE:

N/A

### ANALYSIS:

Effective July 1, 2006, 70 O. S. § 6-194 adds special education and teacher training in the recognition and reporting of child abuse and neglect to program requirements, deletes obsolete language, deletes certain professional development delivery methods, removes requirement to submit plan to the State Board of Education and requires districts to report certain information 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, 2007:**

## SUBCHAPTER 19. LOCAL PROFESSIONAL DEVELOPMENT PROGRAMS

### 210:20-19-2. Professional development plan within the Comprehensive Local Education Plan program

(a) The local board of education shall be responsible for the organization and implementation of the local professional development program.

(b) The professional development plan program shall focus on supporting effective instruction developing competencies in the core curriculum areas.

(c) Each adopted plan shall address:

- (1) A component in outreach to parents, guardians or custodians of students is defined as a program to promote the participation of parents in the education of their children. The component in outreach to parents, guardians or custodians of students includes:

(A) Understanding the value of parental participation in the educational process.

(B) Developing awareness of the needs and characteristics of their parent population in order to plan effective outreach activities.

(C) Developing methods for communicating with parents, designing parental involvement activities, and determining the effectiveness of the outreach program.

(D) Identifying appropriate resources to support and/or supplement the outreach program.

(2) A component in racial and ethnic education is defined as a program to assist teachers to function effectively with all students in a culturally diverse society. The component in racial and ethnic education includes:

(A) Understanding their own and their students' environment and culture, including - but not limited to - needs, abilities, attitudes, and world views.

(B) Recognizing that different cultures exist as separate and distinct entities; acknowledging the contribution of all cultural and linguistic groups to society; and promoting a culturally sensitive curriculum representative of our diverse national population.

(C) Developing strategies for the integration of cultural and linguistic teaching tools and methods in the school environment.

~~(d) Local districts should review various resources when assessing needs; such as:~~

- ~~(1) existing programs and practices,~~
- ~~(2) district requirements,~~
- ~~(3) site school improvement plans, and~~
- ~~(4) needs of licensed and certified teachers and administrators.~~

### 210:20-19-3. Professional development program management

~~(a) The local professional development plan shall identify and provide for alternative activities and delivery systems which respond to the needs identified in the local professional development plan.~~

~~(b) The professional development plan shall include a set of guidelines for considering alternative activities. Such guidelines shall include, but may not be limited to, the following:~~

- ~~(1) Alternative activities shall show clear relationship to the identified needs.~~
- ~~(2) Alternative activities shall have direct application to increasing professional performance in a work assignment.~~

~~(ea) Professional development points shall not be given for a routine job-related assignment.~~

~~(db) The local professional development committee shall develop and recommend to the local board of education a professional development point system to account for all professional development activities.~~

~~(ec) All certified and licensed teachers and administrators shall accrue at least seventy-five (75) professional development points within a five (5) year period with at least some points completed each year. The five (5) year period for accruing~~

points begins on an individual's date of employment in an accredited school in Oklahoma. If an individual changes school districts within the five (5) year period, the points accrued are transferred to the receiving district and the five (5) year period continues

(1) If an individual is employed full time for 120 days or more, the local professional development points requirement must be fulfilled.

(2) A person employed one-half time or less shall be required by the local district to meet at least half of the local district's annual point requirements, not less than two (2) points, and to count such year toward the accrual of seventy-five (75) professional development points over a five (5) year period.

(3) If employed less than 120 days, a minimum of two (2) professional development points are required to fulfill the regulation of "some points completed each year." This person shall begin or continue his or her professional development five-year cycle the following July 1. The local professional development committee will recommend, subject to the approval of the local board of education, the number of points required of such an employee.

(4) Points shall conform to the conditions specified in subparagraphs (A) through (D) of this paragraph:

(A) One point shall be equivalent to one clock hour of professional development activities.

(B) One semester hour of approved college credit shall be equivalent to 15 professional development points.

(C) Those professional development activities which cannot be appropriately specified by a particular time period shall be assigned a point value by the local professional development committee and recommended to the local board of education.

(D) Each local professional development committee shall include within the local professional development plan/program a timeframe based on the fiscal year, July 1 - June 30, for completion of earned professional development points during a given school year.

~~(f) All certified and licensed teacher and administrator shall participate in continuing education and/or inservice training in outreach to parents, guardians or custodians of students and in racial and ethnic education periodically during the four years district Comprehensive Local Education Plan.~~

~~(gd)~~ The district shall maintain in the personnel file of each certified and licensed teacher and administrator those records deemed necessary to fully document their participation in the professional development program.

~~(he)~~ School districts shall annually inform certified and licensed teacher and administrator in writing of their point status on a date recommended by the local professional development committee.

**210:20-19-4. Local professional development committee; appointment of members, composition, duties and responsibilities**

(a) The membership of the local professional development committee shall be headed by a chairperson to be elected by the full committee.

~~(b) These rules and regulations~~Local board of education policies shall not be inconsistent with the law or rules and regulations of the State Board of Education.

~~(e) The duties of the local professional development committee in designing the local education agency professional development plan include:~~

~~(1) Annually review the guidelines for the professional development plan established by the State Department of Education and make recommendations to the local board of education for the implementation of the plan.~~

~~(2) Annually submit a professional development budget proposal on or before May 10 each year.~~

~~(3) The annual budget proposal shall itemize proposed funding for:~~

~~(A) core curriculum areas and effective instruction.~~

~~(B) racial and ethnic education that reflects the racial, religious, ethnic, and cultural diversity of the United States of America.~~

~~(C) outreach to parents, guardians, or custodians of students.~~

~~(D) health and safety training such as CPR, first aid, and bloodborne pathogens.~~

~~(4) Annually submit a professional development expenditure report on or before September 15 each year.~~

~~(5) Once every four (4) years, plan and write the local professional development plan to be included in the district Comprehensive Local Education Plan.~~

~~(c) Annually submit a report to the State Department of Education.~~

~~(6d)~~ When it becomes necessary to amend the professional development program, the local professional development committee shall develop and recommend such amendment(s) to the local board of education for approval.

[OAR Docket #07-802; filed 4-23-07]

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

[OAR Docket #07-803]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 26. Academic Achievement Award Program  
210:20-26-3. Qualified employees [AMENDED]

**AUTHORITY:**

70 O. S. § 3-104, State Board of Education

**DATES:**

**Comment period:**

November 15, 2006, through December 18, 2006

**Public hearing:**

December 19, 2006

# Permanent Final Adoptions

---

**Adoption:**

December 19, 2006

**Submitted to Governor:**

December 20, 2006

**Submitted to House:**

December 20, 2006

**Submitted to Senate:**

December 20, 2006

**Gubernatorial approval:**

January 22, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**

Subchapter 26. Academic Achievement Award Program  
210:20-26-3. Qualified employees [AMENDED]

**Gubernatorial approval:**

October 31, 2006

**Register Publication:**

24 Ok Reg 185

**Docket Number:**

06-1428

**INCORPORATION BY REFERENCE:**

N/A

**ANALYSIS:**

Rules are being clarified for the Academic Achievement Award program. Clarifying language has been added related to the required periods of time that a school district employee must be employed for award qualification purposes: (1) by the district, and (2) by a specific district site.

**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, 2007:**

## **SUBCHAPTER 26. ACADEMIC ACHIEVEMENT AWARD PROGRAM**

### **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. Any certified employee who remains employed with the district for one-half of the school year in which the award is given and employed at the site for one-half of the school year from which the student test data was derived shall qualify for the award. 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 #07-803; filed 4-23-07]*

## **TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 25. FINANCE**

*[OAR Docket #07-810]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 3. Funding Criteria  
210:25-3-5. Calculating Transportation Aid [AMENDED]

**AUTHORITY:**

70 O. S. § 3-104, State Board of Education

**DATES:**

**Comment period:**

December 1, 2006 through January 24, 2007

**Public hearing:**

January 25, 2007

**Adoption:**

January 25, 2007

**Submitted to Governor:**

February 1, 2007

**Submitted to House:**

February 1, 2007

**Submitted to Senate:**

February 1, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007

**Final adoption:**

March 28, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATION BY REFERENCE:**

N/A

**ANALYSIS:**

The rule amendments would eliminate paperwork for local school districts in calculating the density figure which is a component of the transportation supplement to the state aid formula. The rule change will eliminate language that requires local school districts to biannually submit bus route maps to calculate the area served by school bus routes.

**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, 2007:**

## **SUBCHAPTER 3. FUNDING CRITERIA**

**210:25-3-5. Calculating Transportation Aid**

~~(a) **Density figure.** Every school biannually submits a school bus route map to the State Department of Education. The map has the boundary of the school's assigned transportation area. Bus routes are inscribed on the map. In calculating the area served by a transportation district the school receives credit for the total area within two (2) miles of the approved bus route on normal terrain and two and one half miles (2 1/2) in mountainous or hilly terrain. Totaling the square miles within two (2) or two and one half (2 1/2) miles of all the bus routes will give the factor of area served.~~

(a) **Area served.** For purposes of calculating the transportation supplement, the area served shall be the total square miles in each district. For independent districts with an elementary transportation area, the area served shall be the total square miles in the district plus the total square miles in the assigned transportation area outside the independent district.

(b) **Formula.** The average daily haul (ADH) of the preceding year, divided by the area served will give a density figure. Multiplying the Per Capita Allowance (PCA) times the Average Daily Haul (ADH), times the Transportation Factor (appropriation level set by the Legislature) will give the amount of transportation aid for that school.

(c) **Adjustments in transportation allocation.**

(1) Change Due to Annexations or Area Served: If annexation or annexations or area served make necessary an additional unit of transportation, adjustments may be made upon the basis of the average daily haul and area served during the first one-half (1/2) of the current school year.

(2) School districts becoming eligible for transportation aid for the first time will be calculated on the basis of an adjustment at midterm.

[OAR Docket #07-810; filed 4-23-07]

**TITLE 210. STATE DEPARTMENT OF EDUCATION  
CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION**

[OAR Docket #07-811]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Transportation  
210:30-5-1. District operation and management [AMENDED]

**AUTHORITY:**

70 O. S. § 3-104, State Board of Education

**DATES:**

**Comment period:**

December 1, 2006 through January 24, 2007

**Public hearing:**

January 25, 2007

**Adoption:**

January 25, 2007

**Submitted to Governor:**

February 1, 2007

**Submitted to House:**

February 1, 2007

**Submitted to Senate:**

February 1, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007

**Final adoption:**

March 28, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS**

N/A

**INCORPORATION BY REFERENCE:**

N/A

**ANALYSIS:**

The rule amendments will reduce unnecessary paperwork for local school district administrators. The rule changes will streamline the recertification process for school bus drivers and align the visual acuity requirements for school bus drivers with the requirements for obtaining a Commercial Drivers License (CDL).

**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, 2007:**

**SUBCHAPTER 5. TRANSPORTATION**

**210:30-5-1. District operation and management**

~~(a) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.~~

~~(1) **"Transportation equipment"** means any vehicle or conveyance used for transportation of pupils when the cost of rent, lease, purchase, maintenance, or operation of the equipment is paid for in whole or part from public school funds.~~

~~(2) **"Type A school bus"** means a conversion or body constructed upon a van type compact truck or a front-section vehicle, and has a gross weight rating of 10,000 pounds or less, designed for carrying more than ten (10) persons.~~

~~(3) **"Type B school bus"** means a conversion or body constructed and installed upon a van or front section vehicle chassis, and has a vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten (10) persons. Most of the engine is beneath and/or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels.~~

~~(4) **"Type C school bus"** means a body installed upon a flat back cowl chassis and has a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten (10) persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels.~~

~~(5) **"Type D school bus"** means a body installed upon a chassis, with the engine mounted in the front, midship,~~

## Permanent Final Adoptions

---

or rear, and has a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten (10) persons. The engine may be behind the windshield and beside the driver's seat; it may be at the rear of the bus, behind the rear wheels; or midship between front and rear axles.

(ba) **Administration.** The local superintendent and board of education shall be held responsible for applying these regulations to all pupil transportation under their administration and supervision. In keeping with this responsibility, each local board of education shall examine and periodically review the school district's bus fleet liability insurance coverage and its tort liability insurance coverage to assure such coverages are coordinated to protect the interest of the students, general public, and school district. Any school district maintaining a school may provide transportation with the approval of the State Board of Education.

(eb) **Students.**

(1) **Legally transported.**

(1A) A student must live in a school district authorized by law to furnish transportation.

(2B) A student must live one and one-half (1 1/2) miles or more by commonly traveled road from the school attended. Students living less than one and one-half (1 1/2) miles from school may be transported, but shall not be counted in determining state aid.

(3C) A normal school day consists of not less than six (6) hours, exclusive of lunch period, with the exception of the first and kindergarten grades. Transportation may be provided for kindergarten age students to and from school during the normally scheduled morning and evening bus operation. Districts desiring to provide additional transportation for kindergarten students at midday may do so at local district expense but it is not required.

(4D) The local school district is responsible for providing transportation for an eligible special education student when transportation has been identified as "related service" necessary to enable the student to receive the educational services outlined in his/her Individualized Education Program (IEP).

(5E) Students living in a school district not offering the grade which they are entitled to pursue are entitled to transportation to a school authorized by law to provide transportation to and from school provided they have been legally transferred and reside in the transportation area.

(2) **Transfers.** Out of District transfers are governed by the following:

(A) ~~Students living in a school district not offering the grade which they are entitled to pursue are entitled to transportation to a school authorized by law to provide transportation to and from school provided they have been legally transferred and reside in the transportation area.~~

(B) ~~Students may be transferred from one district to another when their grade is taught in the home school if such transfer has the approval of the boards of education of the sending and receiving districts,~~

~~provided, however, if the grade is not offered the transfer must be approved.~~

(C) ~~A legally transferred or tuition student residing outside a transporting district's approved area may be transported to and attend the transporting school, provided she/he meets and boards the bus of the transporting school within the area approved for that school by the State Board of Education. When a bus stop is located in an area that may be considered hazardous, the boards of education of the school districts involved may concur and request the State Board of Education to approve an area outside the transporting district's area for the current school year.~~

(D) ~~Tuition students may not be counted for the transportation reimbursement.~~

(E) ~~School District "A" may provide transportation for its resident or transferred children outside its transportation area into School District "B" transportation area for tuition children attending School District "B's" Area Vocational Technical School or Center if requested by School District "A's" Board of Education and approved by the State Board of Education. School District "A" will not receive state aid funds for transporting tuition pupils.~~

(F) ~~Provided further, School District "A" may provide transportation for a neighboring school district's tuition pupils who attend School District "B's" Area Vocational Technical School or Center on a cooperative basis.~~

(4c) **Activities.**

(1) **Purpose.** ~~The use of school buses for purposes other than the transportation of children to and from school should be strictly limited. Nevertheless, there are some purposes which necessitate transporting pupils some distance from schools that justify the use of a school bus. A school bus used for auxiliary purposes should be driven by its regular operator, who should be cautioned against over crowding and speeding. The bus should be accompanied by an appropriately designated school official. School buses whether privately or publicly owned shall not be used to haul livestock, commodities, or anything that will render them unsuitable for student use.~~

(2) **Uses.** ~~A district owned bus (or a school bus with district owned body) may be used:~~

(A) ~~For group movements within the State, for participants to and from contests, athletic games, or other school functions under the direct auspices of the board of education.~~

(B) ~~The following uses of school buses are approved by State Board of Education:~~

(i) ~~Activity trips for children participating in regularly scheduled school activities within the State.~~

(ii) ~~Activity trips for children participating in educational contests and activities with neighboring out of state schools for normally scheduled inter school functions.~~

- (iii) FFA and FHA trips in the State for children participating in regularly scheduled activities.
- (iv) 4-H trips in the State, for children in regularly scheduled activities, if under the supervision of a member of the local school faculty.
- (v) Transportation for school children participating in educational contests and activities outside the State of Oklahoma or outside the districts in which they reside upon request therefore by the State Director of Cooperative Extension Work in Agriculture and Home Economics (Service), or the State Director of Vocational Education, or the State Supervisor of Vocational Agriculture.
- (vi) Trips, in State, for purposes connected with summer youth activities, upon approval of the school board governing said school district.
- (vii) Transportation for adults enrolled in adult and community education class.
- (viii) Other uses for adult community education activities as approved by the local board of education as defined in 70 O.S. § 1883. The local school district may charge a reasonable fee for the use of such transportation equipment.

(C) The following uses of school buses are prohibited:

- (i) Out of state excursions.
- (ii) Transportation for pupils to and from night programs, contests, athletic games, or other school functions at the local schools.
- (iii) Transportation for adults to and from programs, contests, athletic games, or other non supervised school functions.
- (iv) Transportation for nonparticipating pupils to and from contests, athletic games, or other school functions.
- (v) Any Oklahoma school district which transports pupils in a district owned bus or a district owned body on out of state excursions, or permits it to be done, shall be violating the transportation regulations of the State Board of Education and shall forfeit its State Aid for the time of noncompliance. All Oklahoma school districts shall develop policies and procedures authorizing transportation for extracurricular activities and community involvement purposes as authorized by 70 O.S. § 5-130.

(ed) **Routes and boundaries.**

(+) **Routes.**

- (A) The beginning of the route shall be the place where the first student is picked up on the morning trip.
- (B) The length of the route shall constitute the entire distance from where the first student is picked up to the school facility.
- (C) Route numbers shall be assigned on the basis of the number of vehicles operated. If any vehicle operates two routes, the first trip in the morning shall be distinguished by the addition of the letter "A" and

the second trip by the addition of the letter "B". Thus, vehicle number one (1) might operate route "1-A" and "1-B".

(D) Geographical barriers whose location in a school district would inhibit the school district from consolidation or annexation shall be defined as rivers, mountains, lakes, forests, wildlife refuges, turnpikes and federal reservations or plants.

(E) School districts having geographical barriers whose location in the school district would inhibit the district from consolidation or annexation may make application for additional square miles for the purpose of calculations used for the weighted district sparsity isolation formula. A school district may make a written application to the State Aid Section of the State Department of Education. Such application shall state that consolidation or annexation has been considered and the geographical barriers inhibit action. Recommendation will be presented to the State Board of Education to determine if school district qualifies for additional square miles to be used for the purpose of calculating the weighted district sparsity isolation factor. All school bus routes shall be evaluated annually for safety and efficiency by the local school district supervisor of transportation or designee.

(±) **Boundaries.**

(A) A change in transportation area made after July 1, will not become effective until the next July 1, unless all boards of education affected agree to the proposed change.

(B) An elementary area that has been assigned to a high school transportation area may be changed to another high school transportation area by mutual agreement, in writing, by the three (3) boards of education affected and the approval of the State Board of Education.

(C) A part or all of an elementary school district that is isolated from the remainder of the school district's transportation area because of topography or previous annexations to another high school district, may be changed from one high school district's transportation area to another high school district's transportation area if the State Board of Education determines the change should be made on the basis of good administration.

(D) When a dependent school district is surrounded by an independent school district, that district must be designated as the transportation area for the high school students.

(E) ~~No independent school district's route may extend into another independent school district's territory.~~

(FE) An independent school district's transportation route may extend into a dependent school district's territory to pick up students whose grade is not offered in the dependent district, if the area is within its transportation area.

## Permanent Final Adoptions

---

- (G) Upon mutual agreement of two (2) school districts, a school district may cross a portion of another district provided the doors of the school bus are kept closed.
- (3) **Routes inside transportation area.**
- (A) ~~Insofar as possible, buses will be approved to go within one half (1/2) mile of a pupil's home. School buses may operate nearer than one half (1/2) mile of the home of any child whose residence is not within one and one half (1 1/2) miles of the school attended by such child if the board of education of the school district in whose transportation area the child resides determines that the additional transportation operation should be provided.~~
- (B) ~~In districts where buses are owned by school district, the buses should be kept at the closest possible place to the beginning of the route.~~
- (C) ~~An elementary school district that has been authorized to provide transportation may transport transferred children in their district from one high school district's transportation area to another high school district's transportation area, if the transportation is approved by the State Board of Education.~~
- (4) **Changes After Bus Routes Have Been Approved.**
- (A) Further changes in school bus routes may be made only by:
- Submitting statement of request by the local board of education.
  - Submitting statement signed by the County Commissioner showing willingness to include the proposed change in the county road program.
  - Approval by the State Board of Education.
- (B) ~~Changing routes that do not require a request:~~
- ~~Driver moves to a new home in the district's transportation area.~~
  - ~~Change will shorten route.~~
  - ~~Backtracking within the area to serve children living in the district's transportation area or to safeguard the health of a child.~~
  - ~~School districts near federal impact areas that are required to operate school buses over roads that carry an unusually heavy motoring traffic, shortly before the opening of school of a morning and shortly after school in the afternoon, may reverse a school bus route if, by so doing, it will greatly reduce the traffic hazards for a greater number of the children.~~
- (5) **Petition for changing boundary lines.**
- (A) Seventy percent (70%) of the legal voters residing in a district who have children eligible to attend a public school (grades K through 12) or who have children under the age of five (5) may petition the State Board of Education for an election to change any part or all of a district from one transportation area to another.
- (B) The State Board of Education will approve a convenient date for an election, supply ballots, and send a representative to assist with the election.
- (C) If fifty-one percent (51%) of all such legal voters in the district vote for the change, the election makes a good recommendation to the State Board of Education.
- (6) **Changing areas, high school districts discontinued.** High school districts and/or elementary school districts that must be placed in one or more high school transportation area or areas because a high school has been discontinued may be placed in a transportation area or areas on the following basis:
- (A) All or part of District "A" may be placed in the transportation area of high school District "B", whose transportation area is not adjacent to District "A", provided high school District "C", which has transportation area that separates District "A" from District "B" transportation area, appears to be in jeopardy of being discontinued itself, and provided the number of people in District "A", who want to be placed in the transportation area of District "B", justifies such an arrangement. People in District "A" requesting these arrangements to enable them to annex to District "B" will be given much more consideration than those desiring to transfer only.
- (B) No portion of a school district that is adjacent to a high school district's transportation area, but is separated from the high school area by a natural barrier, will be placed in the high school district's transportation area unless or until there is a road connecting the two (2) areas that is maintained in a manner that will justify the operation of a school bus over the road across the barrier.
- (7) **School bus.**
- (1) **Equipment.**
- (A) Transportation equipment used to transport ten (10) or more public school children at one time shall meet all the minimum standards required for Types A, B, C, and D buses.
- (B) Vehicles having a seating capacity of fewer than (10) passengers, excluding the operator, are not required to meet the State minimum standards for school buses.
- (2) **School bus inspections.**
- (A) A driver shall perform a daily pre-trip safety inspection of the vehicle. The inspection shall include brakes, lights, tires, exhaust system, gauges, windshield wipers, steering and fuel. The driver shall make a daily written report describing the condition of the bus and listing any deficiencies. This report is to remain on file with the local Chief Administrative Officer or designee for a period of ninety (90) days.
- (B) A school district shall have each school bus mechanically inspected annually by an inspector approved by the Oklahoma State Department of Education.
- (C) At least twice during each school year, each pupil who is transported in a school vehicle shall be instructed in safe riding practices, and participate in emergency evacuation drills. This instruction should

be conducted during the first two weeks of each semester.

(3) **School bus inspector qualifications.**

(A) Any person licensed to inspect school buses by the Department of Public Safety under the Motor Vehicle Laws of Oklahoma prior to July 1, 2001, may be qualified to perform annual school bus inspections.

(B) Any person not meeting the qualifications as prescribed in (A) may be qualified to perform the annual school bus inspection by submitting proof to the Oklahoma State Department of Education that they meet the following qualifications:

(i) Two years experience as an automotive technician and certification by the Association for Automotive Service Excellence (ASE), or

(ii) Any person qualified to perform inspections under the Federal Motor Carrier Safety Act, appendix G.

(iii) Any person successfully completing an Inspector's Training Course approved by the Oklahoma State Department of Education.

(4) **Standards and school bus specifications.**

(A) The NATIONAL MINIMUM STANDARDS FOR SCHOOL BUSES applies to school bus construction and equipment. The Oklahoma State Board of Education has accepted the various methods bus manufacturers use to meet the requirements of these standards and all requirements under the Federal Motor Vehicle Safety Standards. (P.L. 89-563) The responsibility for compliance with Federal and State bus specifications rests with dealers and manufacturers.

(B) State Standards in addition to Federal Requirements also apply as follows:

(i) The seller of any used or previously owned school bus shall certify to the local board of education that any such transportation equipment meets all Oklahoma and National Standards required for the date of its manufacture.

(ii) School buses converted for purposes other than transporting pupils to or from school shall be painted a color other than national school bus yellow with loading lights disconnected.

(iii) A church bus transports persons including school-age children to and from religious services. The words "church bus" in letters not less than eight (8) inches in height shall be contained on the front and rear of the bus. Visual signals shall be used when the vehicle is stopped on the highway receiving or discharging passengers. Church buses used for the purpose of transporting children to and from school shall be painted national school bus yellow.

(iv) A copy of the invoice on all purchases of new chassis and/or bodies shall be submitted to the Transportation Officer of the State Department of Education.

(C) School districts that convert or have converted school buses to Liquefied Petroleum Gas (LPG) shall comply with safety standards prescribed by the National Fire Protection Association, Standard No. 58 (NFPA-58) and the Oklahoma Liquefied Petroleum Gas Administration. In order to insure safe installation and proper maintenance of equipment, all personnel must also meet the following existing requirements of the Oklahoma Liquefied Petroleum Gas Administration: "No person, firm, corporation, association, or other entity shall engage in the manufacturing, assembling, fabrication, installing, or selling of any system, container, or apparatus to be used in this State in or for the transportation, storing, dispensing, or utilization of LPG, nor shall any transporter, distributor, or retailer of LPG store, dispense and/or transport over the highways of this State any LPG for use in this State in any system, container, apparatus, or appliance without having first obtained a permit to do so as provided..."

(gf) **Special education.**

(1) **Loading responsibility.** The local school district is responsible for the special education child from the time the student is loaded at the "home curb" until returned and unloaded at the "home curb". The parent or their designee is responsible for "door-to-curb", "curb-to-door", and "street crossing" of the child to the designated loading and unloading point.

(2) **Extended boundaries.** Based upon mutual agreement between two participating school districts, a school district offering special education classes may extend its transportation program to include the transportation of students qualifying for special education in an adjacent school district which does not offer special education classes.

(hg) **School bus driver certification.**

(1) **General criteria.**

(A) No board of education shall have authority to enter into any written contract with a school bus driver who does not hold a valid certificate issued by the State Board of Education authorizing said bus driver to operate a school bus.

(B) The State Board of Education requires all public school bus drivers to complete a school bus drivers training course approved by the State Department of Education to obtain a standard certificate.

(C) All school bus drivers must have not less than 20-5040 vision (Snellen) in each eye and not less than 20-3040 vision (Snellen) with both eyes and a minimum field of vision of 70 degrees horizontal median vision in each eye.

(D) Any person with diabetes requiring insulin by injection shall not be eligible for a school bus certificate.

(E) The use of tobacco by a school bus driver is not permitted during the operation of the bus while hauling pupils. The use of any intoxicating or non-intoxicating alcoholic beverage by the driver eight

## Permanent Final Adoptions

(8) hours prior to or during the operation of a school bus is strictly prohibited. The use of any controlled dangerous substance seventy-two (72) hours prior to or during the operation of a school bus is strictly prohibited. The possession of any controlled dangerous substance on a school bus is strictly prohibited.

(F) All school bus drivers shall have an annual health certificate signed by a physician licensed by this state filed in the office of the local Chief Administrative Officer or designee attesting that such physician has examined the applicant and that the applicant has no sign or symptoms of ill health, and is otherwise, from the observation of such physician, physically and mentally capable of safely operating a school bus. As an alternative to the annual physical examination requirements for school bus drivers, school districts may adopt a policy that utilizes a biannual physical examination, provided the examination is in compliance with the physical qualifications and examination requirements of the Federal Motor Carrier Safety Act, Subpart E 391.41 to 391.50.

(G) Substitute and activity school bus drivers shall meet all the requirements prescribed for regular bus drivers.

(H) At a minimum, the Chief Administrative Officer or designee shall conduct an annual driving record check of all school bus drivers, including substitute and activity drivers. The Oklahoma State Department of Education shall be immediately notified of any violation(s) that make a school bus driver ineligible to hold an Oklahoma School Bus Driver's Certificate.

### (2) Certificate requirements.

(A) The Chief Administrative Officer or designee shall certify to the State Department of Education that each applicant submitted for Standard Five-Year Certification:

- (i) Is at least 18 years of age.
- (ii) Has successfully completed a twenty-five~~four~~ hour special school bus drivers' course approved by the State Department of Education.
- (iii) Holds a valid Commercial Drivers license (CDL) appropriate for the type of vehicle driven with the proper endorsements required by the Department of Public Safety.
- (iv) Has not been convicted, plead guilty, or nolo contendere to a felony during the last ten years.
- (v) Has passed a driving record check, and no certificate shall be issued to any person who, within the preceding three years:

(I) Has had a license suspended or revoked, canceled or withdrawn pursuant to the Implied Consent Laws at 47 O.S. §751 et seq.

(II) Has a conviction for a violation of 47 O.S. §11-902 which includes driving, operating or being in actual physical control of a vehicle while under the influence of alcohol or any intoxicating drug.

(III) Has been convicted or plead guilty to a violation of 47 O.S. §761, operating a motor vehicle while impaired by consumption of alcohol.

(IV) Has been convicted of any municipal violation of driving under the influence of alcohol or drugs or operating a motor vehicle while impaired or being in actual physical control of a motor vehicle while impaired.

(V) Has had four or more traffic violations. (excluding parking violations)

(B) The Chief Administrative Officer or designee shall certify to the State Department of Education that the applicant for an Emergency One-Year School Bus Driver Certificate (Not Renewable).

(i) Is at least 18 years of age.

(ii) Holds a valid Commercial Drivers License with the proper endorsements required by the Department of Public Safety.

(C) Requirements for Renewal of the Standard Five-Year Certificate include:

(i) Every five years, each driver shall have successfully completed ~~Session II of a school bus driver workshop (5 hour refresher course), and or completed~~ 4 hours per year of inservice training approved by the State Department of Education.

(ii) The local Chief Administrative Officer or designee shall certify to the State Department of Education that the applicant meets all requirements for standard certification, [47 O.S. § 15-109]

(iii) Each applicant has a health certificate on file signed by a licensed physician and meets all vision requirements and is not dependent upon insulin by injection,

(iv) Each applicant has not been convicted or plead guilty of a felony in the last ten years, and

(v) A driving record has been checked and meets State Board of Education requirements for certification.

[OAR Docket #07-811; filed 4-23-07]

## TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 40. GRANTS AND PROGRAMS-IN-AID

[OAR Docket #07-812]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 87. Rules for Payment to Charter Schools

210:40-87-1. [AMENDED]

210:40-87-2. [REVOKED]

210:40-87-3. [AMENDED]

210:40-87-4. [AMENDED]

### AUTHORITY:

70 O. S. § 3-104, State Board of Education

**DATES:**

**Comment period:**

November 15, 2006 through January 24, 2007

**Public hearing:**

January 25, 2007

**Adoption:**

January 25, 2007

**Submitted to Governor:**

February 1, 2007

**Submitted to House:**

February 1, 2007

**Submitted to Senate:**

February 1, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007

**Final adoption:**

March 28, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**

Subchapter 87. Rules for Payment to Charter Schools

210:40-87-1. [AMENDED]

210:40-87-2. [REVOKED]

210:40-87-3. [AMENDED]

210:40-87-4. [AMENDED]

**Gubernatorial approval:**

October 8, 2006

**Register Publication:**

24 Ok Reg 140

**Docket Number:**

06-1343

**INCORPORATION BY REFERENCE:**

N/A

**ANALYSIS:**

The purpose of the rule change is to delete language in the rules pursuant to Senate Bill 1493 passed during the 2006 Legislative Session. Deleted language relates to the receipt of state-dedicated and county revenue (local and county) revenue by Charter schools. Charter schools do not receive local and county revenue; they do receive state aid formula and state-appropriated-revenue. Minor clarifying language has been added and obsolete language has been deleted.

**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, 2007:**

**SUBCHAPTER 87. RULES FOR PAYMENT TO CHARTER SCHOOLS**

**210:40-87-1. Purpose**

Pursuant to 70 O.S. Supp. 1999, § 3-142, the State Board of Education shall adopt rules to implement the policies and procedures relating to payments to charter schools of local and county revenue, state dedicated revenue, and state appropriated funds.

**210:40-87-2. Definition [REVOKED]**

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

(a) **"Average student expenditure"** as the term is used in 70 O.S. Supp. 1999, § 3-142(b), means the quotient obtained by dividing the sum of the sponsoring school district's General Funds' expenditures by its average daily membership.

(b) **"School Year"** means the period of instruction from the commencement of classes through June 30. In the event the first year of operation of a charter school is not a complete school year, the funding for the first year of operation shall be prorated in proportion to the number of days that the charter school is in session during the first year of operation.

**210:40-87-3. Guidelines for payment**

(a) During the first year of a charter school's operation, a sponsoring school district shall disburse funding to a charter school in as-equal-as-practicable monthly installments as possible from the effective date of its contract with the sponsoring school district, provided that the first payment shall not be made more than thirty (30) days prior to the commencement of instruction or July 1, whichever shall first occur.

(b) For fiscal years subsequent to a charter school's first year of operation, a sponsoring school district shall disburse funding to a charter school in as-equal-as-practicable monthly installments as possible. ~~Each charter school shall receive, for each student enrolled in or attending the charter school, a portion of the local school district's local and county revenue chargeable in the State Aid Formula, state dedicated revenue, and state appropriated funds. The portion paid to each charter school for each funding source shall be calculated in the same manner as generated by the district in total, consistent for all charter schools within the district, and shall be based on the same fiscal year information used by the State Department of Education to calculate the district's allocation. Funding sources not generated by a formula shall be apportioned by Average Daily Membership. The home district shall provide the calculations used to determine such payments to the charter school.~~ Each charter school shall receive the State Aid Formula and state-appropriated funds generated by their students. The State Department of Education shall provide the calculations used to determine such payments to the charter school.

(c) By the 15th of the following month, the district shall disburse to each charter school site the generated amount of state-appropriated, state dedicated and state aid formula funds.

(d) ~~By the 15th of the following month, the district shall disburse to the charter school the county 4 mill levy funds and ad valorem funds counted as chargeables in the state aid formula.~~

(e) Home districts receiving federal funds will disburse to the charter school by the identified student population the charter school's proportionate share of the federal funds. These funds will be disbursed by the 15th of the month following receipt of the reimbursement funds by the home district. However, if the home district and the charter school can agree for the district to provide services, no transfer of funds will occur.

# Permanent Final Adoptions

(f) Disbursement shall result in each charter school having fiscal control over the funds received.

## 210:40-87-4. Penalty for noncompliance

Upon notice of noncompliance and verification by the charter school, the State Department of Education may make a recommendation to the State Board of Education to withhold future payments of funds until the district disburses payments to the charter school in accordance with 70 O.S. ~~Supp. 1999~~ § 3-142 and these policies. In the event such a recommendation is made, the local school board shall be notified in writing and given an opportunity to appear and provide information prior to any decision by the State Board of Education to invoke the penalty within these rules.

[OAR Docket #07-812; filed 4-23-07]

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

[OAR Docket #07-799]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

240:1-1-5. Offices of Commission [AMENDED]

Subchapter 3. Records and Inspections

240:1-3-3. Confidential records [AMENDED]

240:1-3-5. Charges [AMENDED]

240:1-3-6. Search fees [AMENDED]

### AUTHORITY:

40 O.S. §4-302; 51 O.S. §24A.5; and the Oklahoma Employment Security Commission.

### DATES:

#### Comment period:

October 2, 2006 through November 2, 2006

#### Public hearing:

None held or requested

#### Adoption:

November 7, 2006

#### Submitted to Governor:

November 17, 2006

#### Submitted to House:

November 17, 2006

#### Submitted to Senate:

November 17, 2006

#### Gubernatorial approval:

December 21, 2006

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

#### Final adoption:

March 27, 2007

#### Effective:

May 25, 2007

#### SUPERSEDED EMERGENCY ACTIONS:

None

#### INCORPORATIONS BY REFERENCE:

None

#### ANALYSIS:

The amendments to these rules will set out the current offices maintained by the Commission and will conform the rules regarding the retrieval and reproduction of agency records with requirements of the Oklahoma Open Records Act.

### CONTACT PERSON:

John Miley, Deputy General Counsel or Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. E-Mail: [Melissa.Copenhaver@oesc.state.ok.us](mailto:Melissa.Copenhaver@oesc.state.ok.us) or [John.Miley@oesc.state.ok.us](mailto:John.Miley@oesc.state.ok.us). Telephone number 405/557-7146.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2007:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 240:1-1-5. Offices of the Commission

The public may obtain information by contacting any of the Commission's local offices located throughout the State, a UI Service Center, or its administrative office located in the Will Rogers Office Building, 2401 North Lincoln Boulevard, P. O. Box 52003, Oklahoma City, OK 73152-2003, telephone number (405) 557-7200.

## SUBCHAPTER 3. RECORDS AND INSPECTIONS

### 240:1-3-3. Confidential records

(a) Employer and unemployment insurance claimant records made confidential under Title 40 O.S., Section 4-508, may be released upon receipt of an administrative subpoena, court order or a notarized waiver of confidentiality signed by the person with the authority to waive the confidentiality of the records.

(b) The administrative subpoena, court order or waiver of confidentiality form shall be served on the Commission's legal division or the custodian of records twenty (20) days prior to the date on which the records are to be produced. The records requested shall be described as specifically as possible and the administrative subpoena, court order or waiver of confidentiality form shall set out the employer account number or social security number of the employer or claimant whose records are being requested.

(c) An employer or unemployment insurance claimant with proper identification can ~~personally review~~ request a copy of his or her records at the Commission's local office where the claimant filed his or her claim or at the administrative office located in the Will Rogers Memorial Office Building in Oklahoma City ~~depending on where the records are located~~.

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

(a) The Commission shall charge for copies of records, as set out in this rule, and a search fee for staff time spent in obtaining the records, pursuant to 240:1-3-6, except no charge will be made for requests in furtherance of a claim for unemployment benefits or if disallowed by the provisions of 51 O.S. §24A.5.

(b) The document copying fee is twenty-five cents (\$0.25) per page or One Dollar (\$1.00) per page for a certified copy. This fee is to be paid prior to the release of the requested records.

(c) The reproduction fee for an audio recording of a hearing shall be Ten Dollars (\$10.00).

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

The search fee shall be applicable to all materials confidential records requested for comercial purposes, unless it is determined by the Director, in his or her discretion, that the public inte- rest is served to such an extent that no charge should be applicable. The search fee will be \$10.00 for each account or claimant record requested. No search fee will be charged for the production of nonconfidential record.

*[OAR Docket #07-799; filed 4-23-07]*

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

*[OAR Docket #07-800]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

- Subchapter 1. General Provisions
  - 240:10-1-2. Definitions [AMENDED]
  - 240:10-1-3. Time computation [AMENDED]
- Subchapter 3. Benefits
  - Part 1. General Provisions
    - 240:10-3-2. Claimant's notification of change of address [AMENDED]
  - Part 3. Computations
    - 240:10-3-10. Approved training [AMENDED]
    - 240:10-3-12. Payment of benefits [AMENDED]
  - Part 5. Eligibility
    - 240:10-3-20. Instructions to secure work [AMENDED]
    - 240:10-3-22. Claims for benefits [AMENDED]
    - 240:10-3-23. Claims for total unemployment benefits [AMENDED]
    - 240:10-3-24. Claims for partial unemployment benefits [AMENDED]
    - 240:10-3-26. Payment of benefits to interstate claimants [AMENDED]
    - 240:10-3-27. Social Security account numbers or claim ID number [AMENDED]
    - 240:10-3-28. Application of payments made to repay an overpayment of benefits [AMENDED]
  - Part 7. Protection of Rights and Benefits
    - 240:10-3-30. Notice to claimants of income tax withholding program [AMENDED]
    - 240:10-3-35. Personal identification numbers [AMENDED]
  - Part 9. Disqualification
    - 240:10-3-42. Labor disputes [AMENDED]
    - 240:10-3-43. Performed service and earned remuneration; reemployed and has earned wages [AMENDED]
  - Part 11. Filing Claims - Notice
    - 240:10-3-52. Information to separated workers [AMENDED]
  - Part 12. Interest Waiver for Benefit Overpayments
    - 240:10-3-63. Request letter [AMENDED]
    - 240:10-3-65. Appeal of initial determination [AMENDED]
- Subchapter 5. Contributions
  - Part 3. Rates
    - 240:10-5-10. Payment of contributions [AMENDED]
    - 240:10-5-13. Experience rating contribution rates - appeal [REVOKED]
- Subchapter 11. Assessment Board Procedure Procedures
  - Part 1. General Provisions

- 240:10-11-3. Organization [AMENDED]
- Part 5. Hearings
  - 240:10-11-25. Motion to reopen after failure to appear [AMENDED]
- Part 7. Witnesses and Subpoenas
  - 240:10-11-30. Subpoenas [AMENDED]
- Subchapter 13. Appeal Tribunal Procedure Procedures
  - Part 3. Appeals to Appeal Tribunal
    - 240:10-13-20. Filing an appeal [AMENDED]
  - Part 5. Hearings
    - 240:10-13-39. Nonappearance [AMENDED]
    - 240:10-13-40. Reopen [AMENDED]
  - Part 7. Witnesses and Subpoenas
    - 240:10-13-60. Subpoenas [AMENDED]

**AUTHORITY:**

40 O.S. §§ 1-224, 2-203, 2-503, 2-603, 2-604, 3-102, 4-302, 4-504; and the Oklahoma Employment Security Commission.

**DATES:**

**Comment period:**

October 2, 2006 through November 2, 2006

**Public hearing:**

None held or requested

**Adoption:**

November 7, 2006

**Submitted to Governor:**

November 17, 2006

**Submitted to House:**

November 17, 2006

**Submitted to Senate:**

November 17, 2006

**Gubernatorial approval:**

December 21, 2006

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

May 25, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

None

**INCORPORATIONS BY REFERENCE:**

None

**ANALYSIS:**

The amendments to these rules will provide necessary clean up, clarification of word usage, and correct statutory citations. Obsolete language is being deleted. The rules will provide for the Commission to utilize the Internet and telecommunication technology to provide faster and more efficient service to unemployment benefit claimants and employers in Oklahoma.

**CONTACT PERSON:**

John Miley, Deputy General Counsel or Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. E-Mail: [Melissa.Copenhaver@oescc.state.ok.us](mailto:Melissa.Copenhaver@oescc.state.ok.us) or [John.Miley@oescc.state.ok.us](mailto:John.Miley@oescc.state.ok.us). Telephone number 405/557-7146.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2007:**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**240:10-1-2. Definitions**

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

## Permanent Final Adoptions

---

**"Good cause"** means reasons beyond the control of the party seeking relief.

**"Independent contractor"** means:

(A) Any person who performs services according to their own methods and without control except as to results is an independent contractor, if they are:

- (i) Customarily engaged in an independently-established trade, occupation, profession or business; or
- (ii) Performing service outside the usual course of the contractor's business and outside the places of such business.

(B) In order to be considered "without control" the individual providing the service shall:

- (i) Provide their own tools and equipment;
- (ii) Pay their own ordinary and customary business expenses;
- (iii) Risk losing money from the contract;
- (iv) Be free to hire their own assistants; and
- (v) Be responsible for obtaining and maintaining all business, tax registrations and all business occupational licenses required by federal, state, or local laws or ordinances.

(C) A written contract relating to such services shall be considered under 40 O.S. Section 1-210 (14), along with all other pertinent evidence in determining employment status and shall not be accorded any greater weight than any other evidence.

(D) This definition shall not be interpreted or construed as conflicting with Section 3304 (a) (6) (a) of the Federal Unemployment Tax Act.

**"Interested Party"** means:

(A) In an unemployment claim appeal - the Commission, a claimant who files a claim for unemployment benefits with the Commission, and any employer who properly files a written objection to the claim pursuant to 40 O.S. §2-503 (E).

(B) In an unemployment tax protest - the Commission and the employer with an account that is directly affected by a decision made by the Commission or its representative.

(C) In a supplemental unemployment benefit plan appeal - the Commission, the employer that made application for approval of the plan, and the collective bargaining agent of the employees, if any exists.

**"Leases"** and **"Rents"** [40:1-210(15)] mean a contract between an owner of a business, building, or property and a leasee, in which:

(A) Space is leased, sublet, or rented for the purpose of operating or conducting a trade or business by the leasee;

(B) The lease or rental fee is set at a fixed amount per month, that remains constant for the term of the lease, sublease, or rental contract; and

(C) Is not based upon a percentage of income or revenue earned in the trade or business.

**"Mail"**, **"Mailed"**, and **"Mailing"**, as used in 40 O.S. §1-224, shall mean the mailing of a document through the

United States Postal Service or a private delivery service designated by the United States Secretary of the Treasury pursuant to 26 U.S.C. §7520(f), as a delivery service that may deliver returns, claims, statements, or other documents to the Internal Revenue Service.

**"Profiling"** means:

(A) A systematic computer generated process that:

- (i) Identifies those claimants most likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;
- (ii) Refers identified claimants to reemployment services; and
- (iii) Collects follow-up information relating to the services received.

(B) Data elements which may be used in the identification process for profiling are:

- (i) Recall status;
- (ii) Union hiring hall agreement;
- (iii) Education;
- (iv) Job tenure;
- (v) Industry;
- (vi) Occupation; ~~and~~
- (vii) Unemployment rate;
- (viii) Number of prior UI claims; and
- (ix) Maximum weekly benefit amount.

(C) Data elements prohibited for usage in profiling are:

- (i) Age;
- (ii) Race or ethnic group;
- (iii) Sex;
- (iv) Color;
- (v) National origin;
- (vi) Disability;
- (vii) Religion;
- (viii) Political affiliation; and
- (ix) Citizenship.

**"Reasonable cash value"** [40:1-218] means an amount estimated and determined by consideration of the position held, type of work performed, duration of the work, and customary compensation of like providers in like industries.

**"Reemployment Services"** means those services which provide job search assistance and job placement services, which are counseling, testing, and providing occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

**"Temporary Layoff"** means a short term cessation of work or employment in which the employer maintains an attachment to an employee by means of a recall date.

**"Wages"**

(A) **"Gratuities or Tips"** The employer shall include as wages all monies paid as gratuities or tips actually *received by an individual in the course of his work* [40:1-218] or, if actual information is not available, gratuities and tips shall be allocated to the employer in the amount of 8% of gross receipts.

(B) **"Noncash remuneration"** Noncash remuneration means meals, lodging or any other payment in

kind received by a worker from the employing unit in addition to or in lieu of cash payments for services unless such *meals and lodging are furnished on the business premises of the employer for the convenience of the employer.* [40:1-218(4)]

**"Wages paid"**

(A) The term "wages paid" [40:1-219] shall include both wages actually received by the worker and wages constructively paid. Wages shall be considered constructively paid when they are credited to the account of or set apart for a worker so that they may be drawn upon by the worker at any time although not then actually in the worker's possession. A mere crediting of the wages to the worker's account, without actually making them available to the worker so that they may be drawn upon by him/her at any time, does not constitute constructive payment.

(B) In the case of an employer who terminates his/her coverage as of January 1st of some year, the term **"wages paid"** shall include all wages earned for all pay periods up to and including the last payroll period ending in that year, at the end of which, the employer's coverage is terminated.

(C) **"Wages paid"** to the worker are to be reported in the calendar quarter in which they were actually paid.

**"Week"**

(A) For the purpose of paying benefits and for the purpose of this Chapter, a **"week"** [40:1-220] shall consist of a calendar week which begins at 12:01 A.M. Sunday and ends at midnight the following Saturday.

(B) Provided that the Commission, upon its own initiative or upon application by any employer, may prescribe that with regard to individuals involved in a temporary layoff with a specified date to return to work and whose assigned work week consists of consecutive work days within two different calendar weeks, the definition of a **"week"** shall be the work week as assigned by the employer.

(C) For the purposes of determining full time work, **"week"** means a period of seven consecutive days that is established by an employer as its regular work week.

**240:10-1-3. Time computation**

In computing any period of time prescribed or allowed by the Employment Security Act of 1980, by these rules, or by order of a hearing officer, the day of the act, event, or default from which the designated period of time begins to run shall not be included. All intervening days falling between the beginning and end of the time period shall be counted, including Saturdays, Sundays, holidays and any day the offices of the Oklahoma Employment Security Commission are closed for part or all of the day. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes or any other day when the offices of the Oklahoma Employment Security

Commission do not remain open for public business until 4:00 p.m., in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes or any other day when the offices of the Oklahoma Employment Security Commission do not remain open for public business until 4:00 p.m.

**SUBCHAPTER 3. BENEFITS**

**PART 1. GENERAL PROVISIONS**

**240:10-3-2. Claimant's notification of change of address**

It is the responsibility of the claimant to keep the Commission informed of his or her current mailing address at all times relevant to the claimant's claim for benefits. If the claimant has a change of mailing address, he or she must inform the Commission of this change in writing, ~~or by contacting an OESC claims adjudicator by telephone telecommunication,~~ or via the Internet. A written notice of change of address may be mailed or delivered to any ~~State Employment Service local~~ office, and a notice by ~~telephone telecommunication~~ may be accomplished by calling the ~~OESC Call Center~~ UI Service Center.

**PART 3. COMPUTATIONS**

**240:10-3-10. Approved training**

(a) **Definition of approved training.** "Approved training" means any training program:

- (1) authorized and financed by ~~he~~ the United States Congress and under the control of the United States Department of Labor, Employment and Training Administration, or other suitable training program approved by the Commission; and
- (2) in which the trainee would not receive, or be entitled to receive, an educational or training allowance financed under any Act of the United States Congress other than the allowance authorized for the approved training; and
- (3) in which the total duration in weeks is similar to that which is offered by the State Department of Vocational Technical Education; and
- (4) in which the total hours of training, on a weekly basis, are not less than those required for similar training offered by the State Department of Vocational Technical Education; provided that remedial or training related education may be considered "hours of training" if offered in conjunction with skill training, when so approved by the Executive Director of the Commission.

(b) **Requirements for approval of training.** Approval of an individual for training will be determined by the Commission through consideration of all of the factors set out in 40 O.S. Section 2-108 (1), (2), (3) and (4). In keeping with Section 2-108, the following definitions of terms are to be followed:

# Permanent Final Adoptions

(1) **"Continued attendance and satisfactory progress"** [40:2-108 (4)] as used in 40 O.S. Section 2-108 (B) shall be evidenced by continued enrollment at the training facility.

(2) **"Recurring demand"** [40:2-108 (2)] as used in 40 O.S. Section 2-108 (A)(2) means that the demand for workers in such occupation is projected to continue for the foreseeable future.

(3) **"Substantial demand"** [40:2-108 (2)] as used in 40 O.S. Section 2-108 (A)(2) means that for any occupation:

(1 ~~A~~) ~~there shall be twice as many jobs available or projected to be available, as there will be individuals trained for those respective jobs the projected percentage rate of growth in the most recent state wide long-term or short-term Commission employment forecast is at least 150% of the overall occupational growth rate; and or~~

(2 ~~B~~) ~~there must be at least an unmet demand for 300 workers in those occupations statewide or a demand for 50 workers in a given labor market as a result of a new industry or expansion projected to occur within a twelve (12) month period. "A local labor market" shall be defined as the metropolitan statistical area or county in which the new industry or expanding facility is located. Labor Market Information (LMI) will be that obtained under contract with the Bureau of Labor Statistics or that LMI obtained by utilizing methodology developed by the Bureau of Labor Statistics, Oklahoma State Occupational Information Coordinating Committee (SOICC) and/or Research Department Any occupation so identified by the Director of the Economic Research and Analysis Division of the Oklahoma Employment Security Commission.~~

(c) **Authority of Executive Director.** The Executive Director of the Oklahoma Employment Security Commission is authorized to issue operating procedures as necessary to implement OAC 240:10-3-10.

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

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

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

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

(1) Claimant's bank account number

(2) Claimant's bank routing number

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

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

## PART 5. ELIGIBILITY

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

(a) **Able and available to accept employment.** When a claimant files an initial claim for benefits, the Commission shall instruct the claimant that, in addition to registering with ~~and reporting to the State Employment Service for work, that he/she the claimant~~ must diligently search for suitable employment. [40:2-408(2)]

(b) **Seek and accept work.** The Commission shall direct and require that in diligently searching for work the claimant must do those things that a reasonably prudent individual would be expected to do to secure work using any means that are appropriate and customary each week. Special circumstances:

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

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

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

### 240:10-3-22. Claims for benefits

Claims for unemployment insurance benefits are to be filed ~~through the local employment offices established by the Commission throughout the state or at other itinerant service locations, via Internet or by telecommunication. Service at an itinerant location shall be available for the filing of claims on such day(s) and at such hours of the day as designated by the Commission. Initial and continued claims will be accepted at these offices and itinerant locations under the terms and conditions in OAC 240:10-3-23 and 240:10-3-24.~~ Initial claims, additional initial claims, and continued claims shall be deemed to cover "total unemployment" or "partial unemployment."

**240:10-3-23. Claims for total unemployment benefits**

(a) **Definition.** An individual shall be defined as in "total unemployment" during a week whenever:

- (1) the individual has been separated from employment with his/her last regular employer; and
- (2) the individual has not during the week performed services in employment for any employer; or
- (3) the individual has worked less than full time for some employer and earned less than his/her weekly benefit amount plus \$100.00. [40:1-217]

(b) **Initial claim.** The initial claim may serve as a registration for work.

(c) **Effective date.** The effective date of an initial claim or additional initial claim shall be the first day of the calendar week in which the individual first files the initial claim or additional initial claim.

~~(d) **Eligibility.** To establish eligibility for weeks of unemployment, the claimant shall thereafter report to the local employment office or itinerant service location as directed by the Commission representative. A Commission representative may waive or alter this Subsection (d) in cases falling within the purview of 40 O. S. Section 2-204.~~

(e) **Failure to report/good cause.** When the Commission representative determines that a claimant had good cause for failure to report as directed, a claim may be accepted at a later date, not to exceed seven (7) days from the date originally specified for his/her reporting.

(f) **Continued claim.**

~~(1) A claimant who is unable to report as directed because of obtaining regular work may file a continued claim by mail or telecommunication provided a request to file in such manner is made on or before the next scheduled reporting date, and provided further that the claimant mails or delivers to the local employment office continued claim form provided within fourteen (14) days after the date the continued claim is furnished.~~

~~(2) A claimant who is filing for benefits under the mail claim system, or that files by an Interactive Voice Response System, or the Internet may file a continued claim provided the claimant files the continued claim within fourteen (14) days from the week ending date of the claim or within fourteen (14) days from the date the continued claim is furnished to the claimant.~~

(g) **Itinerant service.**

~~(1) **Itinerant point not serviced every week.** If an itinerant point is not serviced every week, a claimant who is unemployed during a week in which service is not rendered may, on the next day that itinerant service is available:~~

- ~~(A) have his/her claim back dated to the effective date of the week he/she became unemployed; and~~
- ~~(B) complete appropriate continued claims.~~

~~(2) **Late claims.** When the Commission representative determines that a claimant filing at an itinerant service location had good cause for failure to report and file claims on his/her last reporting date, the claimant may file such~~

~~claims at the itinerant service location or at a local employment office no later than his/her next regular reporting date for that itinerant point.~~

~~(h) **Determination of eligibility for benefits.** The OES Act prescribes the following requirements:~~

~~(1) Local Office A Commission representative shall determine claimant's eligibility for benefits.~~

~~(2) Local Office A Commission representative shall accept written and verbal statements from the claimant and the employer.~~

~~(3) Local Office A Commission representative shall take any action necessary to determine the facts and to determine the rights of both the employer and claimant.~~

~~(4) Local Office A Commission representative shall write a determination which must include the following:~~

- ~~(A) An explanation of the parties' appeal rights;~~
- ~~(B) A summary of pertinent facts;~~
- ~~(C) The reasons for allowing or denying benefits; and~~
- ~~(D) The conclusion or legal results of the decision.~~

~~(5) Any interested party ~~desiring to~~ may appeal a determination ~~will do so in writing~~. The appeal shall be filed with the Commission. When the appeal is filed, all interested parties shall be notified.~~

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

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

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

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

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

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

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

- (1) the individual has not been separated from employment with his/her last regular employer; and
- (2) the individual has during the week performed services in employment for his/her regular employer; but

## Permanent Final Adoptions

- (A) because of lack of work was reduced to less than his/her normal, customary, full-time work hours; and
- (B) has earnings from such reduced work schedule for that week of less than his/her weekly benefit amount plus \$100.00.
- (c) **Partial continued claims.**
- (1) A worker who filed a partial initial claim, or who has been receiving benefits for partial unemployment, may continue to file partial continued claims as if he/she were a partially unemployed worker for not more than the first ~~four (4)~~ six (6) consecutive weeks of total unemployment (no earnings) or part-total unemployment (some earnings from another employer) immediately following the period of partial unemployment so long as he/she remains attached to his/her regular employer.
- (2) A worker who files such partial claims for ~~four (4)~~ six (6) consecutive weeks during which he/she has no wages payable from his/her regular employer shall file an initial claim, additional initial claim, or continued claim, as appropriate, under OAC 240:10-3-23 "Claims for Total Unemployment Benefits" for subsequent weeks.
- (d) **Effective date.** The effective date of an initial claim or additional initial claim for partial unemployment shall be the first day of the calendar week during which the individual was employed less than his/her normal customary, full-time work because of lack of work and in which earnings from such reduced work is less than his/her weekly benefit amount plus One Hundred Dollars (\$100.00).
- (e) **Filing partial claims.** A worker who is "partially unemployed" may, with the assistance of his/her employing unit, claim partial benefits under the following conditions:
- (1) The employing unit shall, immediately following the calendar week in which the worker first performed work on a reduced work schedule, execute the Commission's "Claim for Partial Benefits," Form OES-526P, for each worker who has worked during the week in such reduced work schedule of less than full-time. Upon proper execution, the Form OES-526P will be delivered to the worker together with a copy of the Commission's booklet entitled, "Information for Workers Who Are Unemployed."
- (2) Not later than fourteen (14) days after receiving such Form OES-526P, the worker shall complete the portion denoted as "Claimant's Report of Other Earnings" ~~and deliver it in person, or by mail if working hours will not permit, to the nearest local state employment office and return it to his or her employer to submit or the claimant may mail the completed form to the address listed on the form.~~ Such form Form OES-526P, properly completed, shall constitute the worker's claim for benefits and registration for work within the meaning of 40 O.S. Section 2-203 and 2-204. The form will also constitute the waiting period, required by 40 O.S. Section 2-206, providing the total earnings reported by the regular employing unit plus "other earnings," if any, as reported by the worker does not equal or exceed the "weekly benefit amount of the

newly established benefit year plus OneHundred Dollars (\$100.00)."

- (3) Upon receipt of the first Form OES-526P, properly completed, the Commission will compute a weekly benefit amount for the worker-claimant. Such computation shall be made effective as of the first day of the calendar week for which the claim was filed that the claimant was partially unemployed. The Commission will furnish the employing unit a "Notice of Partial Benefits," Form OES-532, setting forth the claimant's weekly benefit amount and his/her benefit year ending date. The Commission will also mail the monetary eligibility for benefits form to the worker-claimant.
- (4) Upon receipt of an allowed "Notice of Determination of Partial Benefits," Form OES-532, the employing unit shall execute and deliver to the worker-claimant concerned a "Continued Claim for Partial Benefits," Form OES-527P, immediately for each prior calendar week of partial unemployment applicable and each subsequent calendar week of partial unemployment for further completion by the worker and submission to the Commission for payment processing.
- (f) **Late claims.** If a Commission representative determines that a worker-claimant filed no claims due to the failure of the employing unit to comply with the ~~requirement contained herein requirements of the Commission Rules, or due to coercion to prevent~~ if the claimant was coerced to refrain from the prompt filing of ~~such the~~ such the claim(s), the Commission representative shall extend the period during which ~~such the~~ such the claims may be filed to a date which shall not be less than one (1) nor more than four (4) weeks after such determination. ~~In such case, the~~ The Commission shall notify the employing unit and the worker-claimant in writing that the arrangement to execute "Partial Claims for Benefits" has been terminated. Claimants will file claims for subsequent weeks ~~at the local employment office under the rules and statutes for total unemployment benefits.~~

### 240:10-3-26. Payment of benefits to interstate claimants

- (a) **Interstate agreement.** This Section shall govern the Commission in its administrative cooperation with other states adopting a similar rule for the payment of benefits to interstate claimants.
- (b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:
- (1) **"Agent state"** means any state in which an individual files a claim for benefits from another state.
- (2) **"Benefits"** ~~mean~~ means the compensation payable to an individual, with respect to his/her unemployment, under the unemployment insurance law of any state.
- (3) **"Interstate benefit payment plan"** means the plan approved by the ~~Interstate Conference of Employment Security Agencies~~ National Association of State Workforce Agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

(4) **"Interstate claimant"** means an individual who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state. The term "interstate claimant" shall not include any individual who customarily commutes from a residence in an agent state to work in a liable state unless the Commission finds that this exclusion would create undue hardship on such claimants in specified areas.

(5) **"Liable state"** means any state against which an individual files, through another state, a claim for benefits.

(6) **"States"** include *the United States, the District of Columbia, Puerto Rico and the Virgin Islands.* [40:1-216]

(7) **"Week of unemployment"** includes any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

(c) **Registration for work.**

(1) Each interstate claimant shall be registered for work, through any public employment office in the agent state when and as required by the law and procedures of the agent state. Such registration shall be accepted as meeting the registration requirements of the liable state.

(2) Each agent state shall duly report, to the liable state in question, whether each interstate claimant meets the registration requirements of the agent state.

(d) **Benefit rights of interstate claimants.** ~~If a claimant files a claim against any state, and it is determined by such state that the claimant has available benefit credits in such state, then claims shall be filed only against such state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits. For the purposes of OAC 240:10-3-26, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction.~~

(e) **Claims for benefits.**

(1) **Initial interstate claims.** ~~Claims for benefits or waiting period shall be filed by interstate claimants on uniform interstate claim forms and in accordance with uniform procedures developed pursuant to the Interstate Benefit Payment Plan. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.~~

(2) **Continued interstate claim.** ~~Claims shall be filed in accordance with agent state rules for intrastate claims in local employment offices or at itinerant point or by mail.~~

(A) ~~With respect to claims for weeks of unemployment in which an individual was not working for his/her regular employer, the liable state shall, under circumstances which it considers good cause, accept a continued claim filed up to one week, or one reporting period, late. If a claimant filed more than one reporting period late, an initial claim must be used to begin a claim series and no continued claim for a past period shall be accepted.~~

(B) ~~With respect to weeks of unemployment during which an individual is attached to his/her regular employer, the liable state shall accept any claim which is filed within the time limit applicable to such claims under the law of the agent state.~~

(f) **Determinations of claims.**

(1) ~~The agent state shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.~~

(2) ~~The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent state shall not refuse to take an interstate claim.~~

(g) **Appellate procedure.**

(1) ~~The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearing in connection with appealed interstate benefit claims.~~

(2) ~~With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified officer of the agent state.~~

(h) **Canadian claims.** Extension of interstate benefit payments will include claims taken in and for Canada. OAC 240:10-3-26 shall apply in all its provisions to claims taken in and for Canada.

**240:10-3-27. Social Security account numbers or claim ID number**

(a) **Submittal by employing unit.** Each employing unit shall submit the name and Social Security account number of a worker when communicating with the Commission in connection with any report, claim, or proceeding under the OES Act with respect to such worker.

(b) **Submittal by individual.** Any individual shall submit his/her name and Social Security account number or a claim ID number when communicating with the Commission in connection with any report, claim, or proceeding under the OES Act with respect to such individual.

**240:10-3-28. Application of payments made to repay an overpayment of benefits**

When a person makes a payment to the Commission to repay an indebtedness created by a previous overpayment of unemployment benefits, the payment shall be applied in the following manner:

(1) First to any fees that have been charged to the debtor until all fees are paid to the accrued interest until all interest is paid.

(2) Second to the accrued interest until all interest is paid principal amount of the overpayment.

(3) Third to the principal amount of the overpayment.

# Permanent Final Adoptions

## PART 7. PROTECTION OF RIGHTS AND BENEFITS

### 240:10-3-30. Notice to claimants of income tax withholding program

All claimants of unemployment insurance benefits will be notified of the program in which state and federal income taxes may be deducted from the claimant's weekly benefit amount. The notice shall advise each claimant that:

- (1) Unemployment insurance benefits are subject to state and federal income tax;
- (2) State and federal requirements exist pertaining to estimated tax payments;
- (3) The claimant may elect to have state and federal income taxes deducted and withheld from the claimant's payment of unemployment benefits at the percentages specified in 40 O.S. Section 2-305;
- (4) Participation by the claimant in the income tax withholding program is voluntary; and
- (5) The claimant shall be permitted to change a previously elected withholding status one time each benefit year. A change in withholding status must be requested by the claimant in writing or ~~by contacting an OESC claims adjudicator by telephone telecommunication.~~

### 240:10-3-35. Personal identification numbers

At the claimant's option, the weekly filings for a continued unemployment claim can be made by ~~telephone telecommunication~~ through the Commission's automated voice response system or via the Internet. ~~If a claimant chooses to use this system to file his or her continued claim for unemployment benefits, In order to utilize these methods,~~ the claimant will establish a personal identification number (PIN). It is the responsibility of the claimant to keep his or her personal identification number confidential at all times. A third party may not utilize a claimant's personal identification number to file a continued claim on behalf of, or in place of, the claimant. If a third party uses a claimant's personal identification number to obtain benefits, this will be considered unemployment compensation fraud.

## PART 9. DISQUALIFICATION

### 240:10-3-42. Labor disputes

- (a) **Initial notice to Commission.** In cases of unemployment due to a strike, lockout or other labor dispute, the employing unit shall mail to the Oklahoma Employment Security Commission, ~~Benefit Division Benefits~~, P. O. Box 52003, Oklahoma City, Oklahoma 73152-2003, a notice setting forth the existence of such dispute and the approximate number of workers affected.
- (b) **List of participants.** Upon request by the Commission, such employing unit shall furnish to the Commission the names and Social Security account numbers of workers ordinarily attached to the department or the establishment where unemployment is caused by strike, lockout, or labor dispute.

(c) **Status report of labor dispute.** After the Appeal Tribunal has determined that a labor dispute exists, the Commission shall, once a month, send a request to the employer and the union representative or employee representative asking for the status of the labor dispute.

(d) **Claim processing.** In order to expedite the determination of whether or not a labor dispute exists, once the Appeal Tribunal has received notice that a possible labor dispute exists, and it has received the names and Social Security account numbers of workers ordinarily attached to the department or the establishment where the dispute exists (OAC 240:10-3-42 (a) and (b)), the Appeal Tribunal may accept a stipulation from any claimant, on a form to be designated by the Commission, that said claimant will be represented in his/her claim before the Appeal Tribunal as to the existence or not of a labor dispute by a named agent or representative. Said form shall enable the Appeal Tribunal to rule on the existence of a labor dispute, which determination shall be binding on all claimants who have stipulated to the representation by the agent.

(e) **Interim employment.** Any claimant for unemployment benefits who has been determined to be ineligible to receive benefits because he/she is involved in a labor dispute may become eligible for benefits if he/she has accepted other employment and has earned wages equal to or in excess of ten (10) times his/her weekly benefit amount, provided he/she otherwise qualifies. Provided further, that the base period employer or employers shall not be charged for any benefits paid.

### 240:10-3-43. Performed service and earned remuneration; reemployed and has earned wages

(a) The terms *performed service and earned remuneration* ~~[40:2-109]~~ as used in 40 O.S. Section 2-109, and *reemployed and has earned wages* ~~[40:2-404; 2-406; 2-407]~~ as used in 40 O.S. Sections 2-404, 2-406, and 2-418 shall mean that the individual has performed service *in employment and earned wages for such that service and employment.* ~~[40:2-109]~~

(b) Wages (or remuneration) as used and applied in 40 O.S. Sections 2-109, 2-404, 2-406 and ~~2-407~~ 2-418 in conjunction with the term *ten (10) times his weekly benefit amount* shall be those wages that are subject to coverage by the OES Act and subject to Federal Social Security Taxes and/or Federal and State Income Tax laws.

(c) **"Earned remuneration"** ~~[40:2-109]~~ means reasonable compensation derived from the providing of a service, declared or undeclared, based upon the average remuneration paid to like service providers in like industries.

## PART 11. FILING CLAIMS

### 240:10-3-52. Information to separated worker

(a) Each employing unit shall upon request furnish each worker separated from its employ (permanently or for an indefinite period, or for an expected duration of seven (7) or more days) at the time of such separation, or if delivery is impossible or impracticable, then by mail:

- (1) a copy of the Commission's booklet entitled "~~Information for Workers Who are Unemployed;~~" "Rights and Responsibilities of the Unemployed Workers (OES-341);" and
  - (2) sufficient identification of the employer's name, address and account number under which the worker's wages were, or will be, reported to the Commission.
- (b) Mailing shall be to the last known address of the employee as recorded in the employer's personnel records.

**PART 12. INTEREST WAIVER FOR BENEFIT OVERPAYMENTS**

**240:10-3-63. Request letter**

- (a) The request letter prepared by the claimant must contain the following information:
- (1) Claimant's name, address and telephone number
  - (2) Claimant's Social Security number or claim ID number
  - (3) The time period for which interest is requested to be waived or the amount of interest requested to be waived.
  - (4) A statement of all reasons the claimant will rely on to explain why interest should be waived.
- (b) The request letter must be signed by the claimant.
- (c) If the claimant is represented by an attorney, the name, address, telephone number and Oklahoma Bar Association number of the attorney must also be included in the request letter.
- (d) The claimant must attach to the request letter a copy of all notices, statements, determinations, correspondence, or any other documents relevant to the request for waiver.

**240:10-3-65. Appeal of initial determination**

- (a) In order to appeal the determination of the Oklahoma Employment Security Commission, the claimant must file an appeal ~~letter~~ within 10 days of the date the determination letter was mailed to the claimant pursuant to 40 O.S. Section 2-603.
- (b) The appeal ~~letter~~ document or communication must contain the following:
- (1) The name, address and telephone number of the claimant.
  - (2) The claimant's Social Security number or claim ID.
  - (3) The date of the determination letter issued by the ~~Benefit Payment Control Unit Oklahoma Employment Security Commission.~~
  - (4) Signature of the claimant.
- (c) The appeal ~~must~~ may be filed by ~~mailing or delivering the appeal letter to the Oklahoma Employment Security Commission at the address set forth in the determination letter any method allowed in 40 O.S. Section 1-224 or by telecommunication.~~
- (d) ~~An appeal is deemed filed on the date the appeal letter is postmarked, or, if hand delivered, the date it is received by the Commission.~~
- (e) If any claimant fails to file his or her appeal letter within the 10 days provided for in subsection (a) of this Section, then the determination of the Oklahoma Employment Security

Commission shall be final, and no appeal shall thereafter be allowed.

**SUBCHAPTER 5. CONTRIBUTIONS**

**PART 3. RATES**

**240:10-5-10. Payment of contributions**

- (a) **Date payment due.** Contributions shall become due and be paid on or before the last day of the month following the calendar quarter to which they relate, provided that:
- (1) If, under the provisions of 40 O.S. Section 3-306, the Commission shall declare the period for which any contribution may become due to have terminated for an employer, and assesses the contributions for such period, such contributions shall immediately become due and be paid by such employer; and
  - (2) If an employing unit has not previously qualified as an employer under the OES Act and first qualifies as an employer during a calendar year, the employing unit shall pay contributions for all past periods of that year for which said employer is liable for the payment of contributions, on or before the due date for that quarter in which such employing unit becomes an employer subject to the OES Act. [40:3-102]

(b) **Date of receipt defined.**

- (1) Payments of contributions received through the mail shall be deemed to have been received as of the date shown by the postmark on the envelope properly addressed to the Commission's office and containing such payment.
- (2) Payment of contributions received through an electronic fund transfer system shall be deemed to have been received by the Commission on the date on which the electronic payment was authorized for immediate payment to the Oklahoma Employment Security Commission.
- (3) All other payments of contributions shall be deemed to have been received on the date on which payments are received by a representative of the Commission.

**240:10-5-13. Experience rating contribution rates - appeal [REVOKED]**

- (a) ~~Notice of contribution rate and request for review.~~ Each employer whose contribution rate is determined by experience rating as provided by 40 O.S., Article 3, Part I, shall be notified of such determination on Notice of Employer Contribution Rate, Form OES 48, before March 31 of each year. Such rate shall become conclusive and binding upon the employer unless within twenty (20) days after the mailing of the notice of the contribution rate, to the last known address, the employer files a written request for a review and redetermination setting forth his/her reason therefor. The Commission shall provide for such review and issue a determination to the employer.
- (b) ~~Appeal to Assessment Board.~~ The employer may appeal the Commission's determination to the Assessment Board

# Permanent Final Adoptions

~~within fourteen (14) days of the mailing to the employer's last known address under the procedure provided by 40 O.S. Section 3-305 with reference to assessment of contributions. [40:3-102(4)]~~

~~(e) **Appeal to district court.** The employer may appeal the determination of the Assessment Board to District Court in accordance with Assessment Board Rules and 40 O.S. Section 3-401.~~

## SUBCHAPTER 11. ASSESSMENT BOARD PROCEDURE PROCEDURES

### PART 1. GENERAL PROVISIONS

#### 240:10-11-3. Organization

~~(a) The Assessment Board shall consist of persons selected by the Commission.~~

~~(b) The Commission may appoint as many people as necessary to serve on the Assessment Board to assure all hearings will be conducted in a timely manner.~~

~~(c) The Director of the Appeal Tribunal Appellate Division of the Oklahoma Employment Security Commission shall administer the Assessment Board. The Director shall have supervisory authority over the chief hearing officer, hearing officers, and support staff of the Assessment Board. The Director, or designee, may reschedule hearings upon notice to the parties, administratively vacate decisions for good cause, grant or deny requests for continuances, and issue subpoenas in Assessment Board cases.~~

~~(b) All hearing officers appointed to the Appeal Tribunal shall also be hearing officers for the Assessment Board.~~

### PART 5. HEARINGS

#### 240:10-11-25. Motion to reopen after failure to appear

~~(a) If a party does not appear for a scheduled hearing, the decision rendered by the Assessment Board will become final and binding unless within five (5) days after the hearing, a written communication from the party who failed to appear is received by the Assessment Board the party may move to reopen the hearing within five (5) days after the mailing of the Assessment Board's Order of Decision. The communication motion shall provide the reasons for the party's failure to appear and will become a part of the record. Upon receipt of the communication motion, the Assessment Board shall set the case for hearing. All interested parties shall be notified of the hearing.~~

~~(b) If the hearing officer finds good cause as the basis for failure to appear at the previously scheduled hearing, the case will proceed to be heard on the merits.~~

~~(c) If the hearing officer does not find good cause for the party's failure to appear at the originally scheduled hearing, a decision will be rendered reinstating the original decision.~~

### PART 7. WITNESSES AND SUBPOENAS

#### 240:10-11-30. Subpoenas

~~(a) **Right to present witnesses.** Each party to an appeal to the Board shall be entitled to call witnesses to testify in support of his/her position. If a witness will not voluntarily appear, the following process shall be available to aid any party in compelling attendance of the witness.~~

~~(b) **Requesting a subpoena.** The requesting party shall furnish the Assessment Board with the name and home address of each witness prior to the issuance of the subpoena. The request must be in writing and must state a reason or need for the documents requested or the testimony of the person being required to appear. The request for subpoena must be received by the Assessment Board at least six (6) days prior to the date of the scheduled hearing.~~

~~(c) **Issuance of subpoenas.** Upon receipt of a timely request, the Assessment Board shall issue a subpoena for each witness by certified mail at least six (6) days before the scheduled hearing. The Assessment Board shall have the power to issue a subpoena for the production of books, papers, correspondence, memoranda and other records necessary as evidence in connection with a disputed claim or in the administration of the Oklahoma Employment Security Act. Each party to an appeal shall be entitled to present documents and witnesses in support of the presenting party's position.~~

~~(1) If a witness will not voluntarily appear, or if documents are not voluntarily tendered to a requesting party, the party may request that a subpoena be issued to compel the witness to appear and testify or to compel the production of documents.~~

~~(2) The request shall be made in writing and the requesting party shall furnish the Clerk of the Assessment Board the name and home address of the witness. The requesting party may furnish the work address of the witness if the home address is unknown and not reasonably ascertainable. The requesting party may request a subpoena for a witness to appear at the Assessment Board hearing or at a deposition to be held prior to the hearing. For a document subpoena, the requesting party shall furnish the clerk of the Assessment Board the name or title of the person with possession of the documents, the address of that person, and a description of the documents.~~

~~(3) The request for a subpoena must be filed with the Assessment Board not less than five (5) days prior to the scheduled hearing and the requesting party must justify the need for the witness' testimony, the deposition or the documents requested.~~

~~(4) The Director or designee will review the subpoena request for approval or denial. Requests for subpoenas can be denied if:~~

~~(A) The subpoena would be unduly burdensome or oppressive to the witness or person possessing the documents requested.~~

~~(B) The subpoena requests witnesses or documents that are irrelevant to the claim for unemployment benefits.~~

~~(5) Subpoenas will be served by certified mail at least five (5) days prior to the scheduled date of hearing.~~

SUBCHAPTER 13. APPEAL TRIBUNAL  
PROCEDURE PROCEDURES

PART 3. APPEALS TO APPEAL TRIBUNAL

240:10-13-20. Filing an appeal

The appeal should be filed with the Commission in any manner set forth in 40 O.S. §1-224 or by telephone through the Commission's interactive voice response system or by speaking with one of the Commission's claim representatives. A Commission representative will then forward the appeal, along with available documentation, to the Benefit Division. The Benefit Division will immediately assure that two copies of the entire file is included and forwarded to the Appeal Tribunal.

PART 5. HEARINGS

240:10-13-39. Nonappearance

- (a) If an interested party the appellee fails to appear after having been duly notified of the hearing, the hearing officer will proceed with the hearing. Testimony and evidence will be received from the parties in attendance and a decision rendered.
- (b) If the appellee wishes to stand on the record, the hearing officer will accept the request on record. If the appellant fails to appear after having been duly notified of the hearing, the hearing officer shall review the documentation upon which the Commission based its determination. If the hearing officer's review of the documentation demonstrates that the determination is not incorrect as a matter of law and that it is supported by some evidence in the documentation, the hearing officer shall enter a default judgment or order favoring the appellee. If the hearing officer's review of the documentation demonstrates that the determination is incorrect as a matter of law or that it is wholly unsupported by evidence in the documentation, the hearing officer shall proceed with the hearing. Testimony and evidence will then be received from the parties in attendance and a decision rendered.

240:10-13-40. Reopen

- (a) ~~The decision rendered will become final and binding unless within five (5) days after the hearing, a written communication from the party who failed to appear is received in the Appeal Tribunal. If a party does not appear for a scheduled hearing, the party may move to reopen the hearing within five (5) days after the mailing of the Appeal Tribunal's Order of Decision. The communication motion shall provide reasoning for failure to appear and will become a part of the record. Upon receipt of the communication motion, the Chief Hearing Officer shall set the case for hearing on the issue of good cause for the nonappearance. All interested parties shall be notified of the newly scheduled hearing.~~
- (b) If the hearing officer finds good cause as the basis for failure to appear at the previously scheduled hearing, the case will proceed to be heard on its merits.

- (c) If the hearing officer does not find good cause for the party's failure to appear at the originally scheduled hearing, a decision will be rendered reinstating the original decision.
- (d) If the party who failed to appear at the originally scheduled hearing appears for the new hearing and the party who appeared at the originally scheduled hearing does not appear, testimony and evidence from the party present will be taken, the tape made at the original hearing played, and the decision shall be rendered based upon the sworn testimony and other evidence submitted at both the first hearing and the second hearing.

PART 7. WITNESSES AND SUBPOENAS

240:10-13-60. Subpoenas

Each party to an appeal shall be entitled to ~~call witnesses to testify in support of his/her position~~ present documents and witnesses in support of the presenting party's position.

- (1) If a witness will not voluntarily appear, or if documents are not voluntarily tendered to a requesting party, the party may request that a subpoena be issued to compel the witness to appear and testify or to compel the production of documents.
- (2) The request shall be made in writing and the requesting party shall furnish the Clerk of the Appeal Tribunal the name and home address of the witness not less than five (5) days prior to the scheduled hearing. The requesting party may furnish the work address of the witness if the home address is unknown and not reasonably ascertainable. The requesting party may request a subpoena for a witness to appear at the Appeal Tribunal hearing or at a deposition to be held prior to the hearing. For a document subpoena, the requesting party shall furnish the clerk of the Appeal Tribunal the name or title of the person with possession of the documents, the address of that person, and a description of the documents.
- (3) The request for a subpoena must be filed with the Appeal Tribunal not less than five (5) days prior to the scheduled hearing and the requesting party must justify the need for the witness' testimony, the deposition or the documents requested.
- (4) The Director or designee will approve review the subpoena request for approval or denial. Requests for subpoenas can be denied if:
  - (A) The subpoena would be unduly burdensome or oppressive to the witness or person possessing the documents requested.
  - (B) The subpoena requests witnesses or documents that are irrelevant to the claim for unemployment benefits.
- (5) Subpoenas will be served by certified mail at least five (5) days prior to the scheduled date of hearing.
- (6) ~~Duces Tecum subpoena request must provide a description of documentation requested for evidence and name an individual who could be reasonably expected to have the documentation in their possession. That same individual will be subpoenaed to carry the documentation~~

# Permanent Final Adoptions

~~to the hearing. The individual should have knowledge of the documentation.~~

~~(7) Deposition subpoena request must include reasonable justification. The requesting party shall furnish the name and address of the witness to the Clerk of the Appeal Tribunal not less than five (5) days prior to the date of hearing.~~

*[OAR Docket #07-800; filed 4-23-07]*

## TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 15. BOARD OF REVIEW PROCEDURES

*[OAR Docket #07-801]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

240:15-1-7. Attorney fees - approval [AMENDED]

### **AUTHORITY:**

40 O.S. §§2-302, 4-202, 4-302; and the Oklahoma Employment Security Commission.

### **DATES:**

#### **Comment period:**

October 2, 2006 through November 2, 2006

#### **Public hearing:**

None held or requested

#### **Adoption:**

November 15, 2006

#### **Submitted to Governor:**

November 17, 2006

#### **Submitted to House:**

November 17, 2006

#### **Submitted to Senate:**

November 17, 2006

#### **Gubernatorial approval:**

December 21, 2006

#### **Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

#### **Final adoption:**

March 27, 2007

#### **Effective:**

May 25, 2007

### **SUPERSEDED EMERGENCY ACTIONS:**

None

### **INCORPORATIONS BY REFERENCE:**

None

### **ANALYSIS:**

The amendment to this rule will set a time limit of one year after the final disposition of the claim for an attorney of the claimant to request approval of attorney fees by the Board of Review.

### **CONTACT PERSON:**

John Miley, Deputy General Counsel or Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. E-Mail: [Melissa.Copenhaver@oesc.state.ok.us](mailto:Melissa.Copenhaver@oesc.state.ok.us) or [John.Miley@oesc.state.ok.us](mailto:John.Miley@oesc.state.ok.us). Telephone number 405/557-7146.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2007:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### **240:15-1-7. Attorney fees - approval**

When a claimant for unemployment benefits is represented by an attorney at law, the Board of Review must approve the fee of the attorney. Upon final disposition of the claim, the attorney for the claimant shall make a motion to the Board of Review for approval of the attorney fee. The motion must be filed with the Board of Review within one (1) year of the final disposition of the claim. The approval of the attorney fee will be on a quantum meruit basis, provided that the maximum amount of the fee shall not exceed 20% of the claimant's maximum benefit amount. No attorney fee will be approved unless the claimant is ultimately awarded benefits. It shall be the responsibility of the claimant to pay all attorney fees approved by the Board of Review.

*[OAR Docket #07-801; filed 4-23-07]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 4. RULES OF PRACTICE AND PROCEDURE

*[OAR Docket #07-816]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Meetings and Public Forums

252:4-3-1 [AMENDED]

### **AUTHORITY:**

Environmental Quality Board powers and duties; 27A O.S., § 2-2-101; also 75 O.S., § 302

### **DATES:**

#### **Comment period:**

July 17, 2006 through August 22, 2006

#### **Public hearing:**

August 22, 2006

#### **Adoption:**

August 22, 2006

#### **Submitted to Governor:**

August 29, 2006

#### **Submitted to House:**

August 29, 2006

#### **Submitted to Senate:**

August 29, 2006

#### **Gubernatorial approval:**

October 8, 2006

#### **Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

#### **Final adoption:**

March 27, 2007

#### **Effective:**

June 15, 2007

### **SUPERSEDED EMERGENCY ACTIONS:**

None

### **INCORPORATIONS BY REFERENCE:**

None

### **ANALYSIS:**

The proposed amendment to OAC 252:4-3-1 reduces the number of meetings the Environmental Quality Board is required to hold each year. The current rules require the Board to hold quarterly meetings. The amendment would require at least three meetings per year.

**CONTACT PERSON:**

Jimmy Givens at jimmy.givens@deq.state.ok.us or (405)702-7100 (phone) or (405)702-7101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

**SUBCHAPTER 3. MEETINGS AND PUBLIC FORUMS**

**252:4-3-1. Meetings**

- (a) **Board.** The Board shall hold ~~quarterly meetings at least~~ three regularly scheduled meetings per calendar year and may hold other meetings as it deems necessary.
- (b) **Council.** Each council shall hold at least one regularly scheduled meeting per calendar year, except the Air Quality Advisory Council which shall hold at least two regularly scheduled meetings.
- (c) **Location.** The Board or a Council may meet at any location convenient and open to the public in this state to encourage public participation in the environmental rulemaking process.
- (d) **Agenda.** The proposed agenda of a meeting may be developed with the advice of members and modified by the Chair. Time permitting, a copy of the proposed agenda shall be sent to each Board or Council member at least ten (10) calendar days before a regularly scheduled meeting. The Board or Council may, by majority vote during a meeting, continue an agenda item to or specify a new agenda item for another meeting or forum.
- (e) **Public comment.** The agenda shall reserve time during the meeting for public comment on agenda action items. The DEQ shall provide sign-in sheets at each meeting for persons who wish to present written or oral comment on an agenda action item. The Chair reserves the right to rearrange the agenda items during the meeting to accommodate public comment. The Chair may set reasonable time limits on oral comment and may accept written submittals on behalf of the Council or the Board.

*[OAR Docket #07-816; filed 4-23-07]*

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

*[OAR Docket #07-817]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 7. Environmental Permit Process  
Part 5. Land Protection Division Tiers and Time Lines

252:4-7-51 through 252:4-7-53 [AMENDED]

**AUTHORITY:**

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201, 2-2-104, 2-7-105 and 2-7-106

**DATES:**

**Comment period:**

September 1 through October 5, 2006 and November 14, 2006

**Public hearing:**

October 5, 2006 and November 14, 2006

**Adoption:**

November 14, 2006

**Submitted to Governor:**

November 21, 2006

**Submitted to House:**

November 21, 2006

**Submitted to Senate:**

November 21, 2006

**Gubernatorial Approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

June 15, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**

Subchapter 7. Environmental Permit Process  
Part 5. Land Protection Division Tiers and Time Lines  
252:4-7-51 [AMENDED]  
252:4-7-52 [AMENDED]  
252:4-7-53 [AMENDED]

**Gubernatorial Approval:**

January 4, 2007

**Register publication:**

24 Ok Reg 579

**Docket number:**

07-1211

**INCORPORATION BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed amendments are to modify the rules related to hazardous waste permitting requirements to include provisions for the new RCRA standardized permit.

**CONTACT PERSON:**

Jon Roberts (405) 702-5184, 707 North Robinson, Fifth Floor, Oklahoma City, Oklahoma 73102. Mailing address is P. O. Box 1677, Oklahoma City, OK 73101-1677. E-mail address is jon.roberts@deq.state.ok.us.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

**SUBCHAPTER 7. ENVIRONMENTAL PERMIT PROCESS**

**PART 5. LAND PROTECTION DIVISION TIERS AND TIME LINES**

**252:4-7-51. Waste management time lines**

The Land Protection Division shall technically review applications and issue or deny permits within the following periods of time:

## Permanent Final Adoptions

- (1) ~~Hazardous~~—Except as identified in paragraph (4), hazardous waste applications, including new RCRA permits or renewals, new state recycling permits, Class 3 modifications, closure and post-closure plans, transfer station plans and plan modifications - 300 days;
- (2) Brownfields applications and each submittal or resubmittal - 60 days;
- (3) Solid waste applications and each submittal or resubmittal - 90 days;
- (4) New RCRA standardized permits and modifications to standardized permits - 150 days.

### 252:4-7-52. Hazardous waste management applications - Tier I

The following hazardous waste management authorizations require Tier I applications.

- (1) Class 1 modification of any hazardous waste permit requiring prior Department approval as specified in 40 CFR § 270.42.
- (2) Modification to a recycling permit in accordance with 27A O.S. § 2-7-118(A).
- (3) Class 2 permit modification as defined in 40 CFR § 270.42.
- (4) Emergency hazardous waste disposal plan approval.
- (5) Hazardous waste generator disposal plan approval.
- (6) Technical plan approval.
- (7) Hazardous waste transporter license.
- (8) Hazardous waste transfer station plan modification which is not related to capacity.
- (9) Emergency permit issued in accordance with 40 CFR § 270.61.
- (10) Interim status closure plan approval in accordance with 40 CFR § 265.113(d)(4).
- (11) Minor administrative modification of all permits and other authorizations.
- (12) Renewal of disposal plan approval and transporter license.
- (13) New, modified or renewed authorization under a general permit.
- (14) Approval of temporary authorizations in accordance with 40 CFR § 270.42.
- (15) Routine changes to RCRA standardized permits and routine changes to RCRA standardized permits with prior DEQ approval in accordance with 40 CFR 124.211.

### 252:4-7-53. Hazardous waste management applications - Tier II

The following hazardous waste management authorizations require Tier II applications.

- (1) On-site hazardous waste treatment, storage or disposal permit.
- (2) Mobile recycling permit.
- (3) Research & Development permit.
- (4) Class 3 modification of any hazardous waste permit as specified in 40 CFR § 270.42.

- (5) Modification of an on-site hazardous waste facility permit for a fifty percent (50%) or greater increase in permitted capacity for storage, treatment, and/or disposal, including incineration.
- (6) Modification of an on-site hazardous waste facility permit for an expansion of permitted boundaries.
- (7) Modification of on-site hazardous waste facility permit in which the application is for new treatment, storage, or disposal methods or units which are significantly different from those permitted.
- (8) Renewal of a hazardous waste treatment, storage or disposal permit.
- (9) Hazardous waste transfer station plan approval.
- (10) Hazardous waste transfer station plan modification involving increase in approved capacity.
- (11) Variance which is not part of a permit application.
- (12) Variance which is part of a Tier II permit application.
- (13) New RCRA standardized permits or significant changes to existing RCRA standardized permits in accordance with 40 CFR 124.211.

[OAR Docket #07-817; filed 4-23-07]

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

[OAR Docket #07-818]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

- Subchapter 2. Incorporation by Reference [NEW]  
252:100-2-1 through 252:100-2-3[NEW]
- Subchapter 4. New Source Performance Standards [REVOKED]  
252:100-4-1 through 252:100-4-5 [REVOKED]
- Subchapter 40. Control of Emission of Friable Asbestos During Demolition and Renovation Operations [NEW]  
252:100-40-1 through 252:100-40-5 [NEW]
- Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]  
Part 1. General Provisions [REVOKED]  
252:100-41-1 through 252:100-41-2 [REVOKED]  
Part 3. Hazardous Air Pollutants [REVOKED]  
252:100-41-13 through 252:100-41-16 [REVOKED]  
Part 5. Toxic Air Contaminants [REVOKED]  
252:100-41-35 through 252:100-41-44 [REVOKED]  
Appendix Q. Incorporation by Reference [NEW]

### AUTHORITY:

Environmental Quality Board; 27A O.S. 2005, §§ 2-2-101, and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. 2005 § 2-5-101, *et seq.*

### DATES:

#### Comment period:

June 15, 2006, through October 18, 2006, and November 14, 2006

#### Public hearing:

July 19, October 18, and November 14, 2006

#### Adoption:

November 14, 2006

#### Submitted to Governor:

November 21, 2006

#### Submitted to House:

November 21, 2006

#### Submitted to Senate:

November 21, 2006

**Gubernatorial approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

June 15, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

**Incorporated standards:**

Federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP)

**Incorporating Rule:**

Subchapter 2. Incorporation by Reference [NEW]

252:100-2-1 through 252:100-2-3 [NEW]

252:100-40-3 [NEW]

252:100-40-5 [NEW]

**Availability:**

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.

**ANALYSIS:**

These proposed amendments are being undertaken to assure that all references to the Code of Federal Regulations in Chapter 100 have incorporation dates. To this end, Subchapter 2, Incorporation by Reference and Appendix Q, Incorporation by Reference, is being added to Chapter 100. Subchapter 4, New Source Performance Standards, is being revoked as the proposed Subchapter 2 and Appendix Q supplant its requirements. Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants, is being revoked because its provisions with the exception of OAC 252:100-41-16, Asbestos, are rendered redundant with the adoption of Appendix Q and the adoption of Subchapter 42, Control of Toxic Air Contaminants. The provisions of OAC 252:100-41-16 are replicated in the new Subchapter 40, Control of Emission of Friable Asbestos During Demolition and Renovation Operations.

**CONTACT PERSON:**

Max Price, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

**SUBCHAPTER 2. INCORPORATION BY REFERENCE**

**252:100-2-1. Purpose**

The purpose of this Subchapter is to incorporate by reference applicable provisions of Title 40 of the Code of Federal Regulations (see OAC 252:100, Appendix Q).

**252:100-2-2. [RESERVED]**

**252:100-2-3. Reference to Title 40, Code of Federal Regulations (40 CFR)**

**(a) Inclusion of CFR citations and definitions.** When a provision of 40 CFR is incorporated by reference, all citations contained therein are also incorporated by reference.

**(b) Inconsistencies or duplications.**

**(1) In the event that there are inconsistencies or duplications between the requirements of this Chapter and the requirements of those provisions incorporated by reference in Appendix Q or in a specific subchapter of this Chapter, the more stringent requirements shall apply.**

**(2) In the event that a specific date of incorporation is indicated in a specific subchapter of this Chapter, the date of incorporation specified in the specific subchapter shall apply.**

**(c) Terminology related to 40 CFR.** For purposes of interfacing with 40 CFR and unless the context clearly indicates otherwise, the following terms apply.

**(1) "Administrator" is synonymous with Executive Director.**

**(2) "EPA" is synonymous with Department of Environmental Quality (DEQ).**

**SUBCHAPTER 4. NEW SOURCE PERFORMANCE STANDARDS [REVOKED]**

**252:100-4-1. Purpose [REVOKED]**

~~The purpose of this Subchapter is to establish state standards for certain new or modified facilities in accordance with the authority delegated by the EPA under Section 111(b) of the federal Clean Air Act.~~

**252:100-4-2. [REVOKED]**

**252:100-4-3. Reference to 40 CFR [REVOKED]**

~~**(a) Inclusion of CFR citations and definitions.** When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.~~

~~**(b) Inconsistencies or duplications.** In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference in OAC 252:100-4-5 and the regulations in this Chapter, the provisions incorporated by reference shall prevail, except where the regulations in this Chapter are more stringent.~~

~~**(c) Terminology related to 40 CFR.** For purposes of interfacing with 40 CFR, the following terms apply~~

~~**(1) "Administrator" is synonymous with Executive Director.**~~

~~**(2) "EPA" is synonymous with Department of Environmental Quality (DEQ).**~~

**252:100-4-4. [REVOKED]**

# Permanent Final Adoptions

**252:100-4-5. Incorporation by reference [REVOKED]**  
40 CFR Part 60 is hereby incorporated by reference, as it exists on September 1, 2005, except for the following:

- (1) ~~Sections 60. 4, 60.9, 60.10 and 60.16 of Subpart A. General Provisions.~~
  - (2) ~~Subpart B. Adoption and Submittal of State Plans for Designated Facilities.~~
  - (3) ~~Subpart C. Emission Guidelines and Compliance Times.~~
  - (4) ~~Subpart Cb. Emissions Guidelines and Compliance Times for Municipal Waste Combustors That Are Constructed on or Before September 20, 1994.~~
  - (5) ~~Subpart Ce. Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills.~~
  - (6) ~~Subpart Cd. Emissions Guidelines and Compliance Times for Sulfuric Acid Production Units.~~
  - (7) ~~Subpart Ce. Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators.~~
  - (8) ~~Subpart AAA. Standards of Performance for New Residential Wood Heaters.~~
  - (9) ~~Subpart BBBB. Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or before August 30, 1999.~~
  - (10) ~~Subpart DDDD. Emission Guidelines and Compliance Times for Commercial and Industrial Hazardous Waste Incineration Units that Commenced Construction on or Before November 30, 1999.~~
  - (11) ~~Subpart HHHH. Emission Guidelines and Compliance Times for Coal Fired Electric Steam Generating Units.~~
  - (12) ~~Appendix G. Provisions for an Alternative Method of Demonstrating Compliance with 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service.~~
- [Agency note: see OAC 252:100-2]

## **SUBCHAPTER 40. CONTROL OF EMISSION OF FRIABLE ASBESTOS DURING DEMOLITION AND RENOVATION OPERATIONS**

### **252:100-40-1. Purpose**

The purpose of this Subchapter is to control the release of friable asbestos to the ambient air during demolition and renovation operations.

### **252:100-40-2. [RESERVED]**

### **252:100-40-3. Definitions**

See 40 CFR 61.141.

### **252:100-40-4. [RESERVED]**

### **252:100-40-5. Additional provisions for handling, storing, and transporting of friable asbestos during demolition or renovation operations**

In addition to the requirements set forth for the handling of asbestos found in 40 CFR Part 61, Subpart M, the following provisions shall also apply to owners, operators and other persons.

(1) Before being handled, stored or transported in or to the outside air, friable asbestos from demolition/renovation operations shall be:

- (A) wetted,
- (B) double bagged in six-mil plastic bags, or,
- (C) single bagged in one six-mil plastic bag and placed in a disposable drum, or,
- (D) contained in any other manner approved in advance, by the Division Director.

(2) When demolition/renovation operations must, of necessity take place in the outdoor air, friable asbestos removed in such operations shall be immediately bagged or contained in accordance with paragraph (1) of this Section.

(3) Friable asbestos materials used on pipes or other outdoor structures shall not be allowed to weather or deteriorate and become exposed to, or dispersed in the outside air.

(4) Friable asbestos materials shall, in addition to other provisions concerning disposal, be disposed of in a facility approved for asbestos by the Oklahoma Department of Environmental Quality, Land Protection Division.

## **SUBCHAPTER 41. CONTROL OF EMISSION OF HAZARDOUS AIR POLLUTANTS AND TOXIC AIR CONTAMINANTS [REVOKED]**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **252:100-41-1. Purpose**

~~The purpose of this Subchapter is to control the routine emission of hazardous and toxic air contaminants from stationary sources, not to include accidental, or catastrophic releases.~~

#### **252:100-41-1.1. Supersession by Subchapter 42 [REVOKED]**

(a) ~~This Subchapter, with the exception of Part 3, shall remain effective so long as it is not superseded by Subchapter 42 of this Chapter.~~

(b) ~~Part 3 of this Subchapter shall not be superseded by any other subchapter of this Chapter.~~

#### **252:100-41-2. Definitions [REVOKED]**

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

**"Affected area"** means any area in which the MAAC is being exceeded as the result of emissions from two or more area sources.

**"Area source"** means any source which, in combination with one or more other sources, emits a toxic air contaminant in sufficient quantities as to cause or contribute to a violation of the MAAC.

**"Best available control technology (BACT)"** means the best control technology that is available for each contaminant. This determination will be made by the Executive Director on a case-by-case basis taking into account energy, environmental, health risk, costs and economic impacts of alternative control systems.

**"Confirmed human carcinogen"** means substances recognized to have carcinogenic or cocarcinogenic potential in humans.

**"Dose response assessment"** means the determination of the relation between the magnitude of exposure and the probability of occurrence of the health effects in question.

**"Exposure assessment"** means the determination of the extent of human exposure.

**"Hazard identification"** means the determination of whether a particular chemical is or is not causally linked to particular health effects.

**"Hazardous air contaminant"** means any hazardous air pollutant regulated under Section 112 of the federal Clean Air Act, 42 U.S.C. Section 7412, and subject to national emission standards (NESHAP).

**"Maximum acceptable ambient concentration (MAAC)"** means the maximum allowable twenty four hour average concentration, in ambient air, of a toxic air contaminant.

**"Median lethal concentration (LC<sub>50</sub>)"** means the atmospheric concentration found to be lethal to 50 percent of a group of test animals exposed for the specified time period.

**"Median lethal dose (LD<sub>50</sub>)"** means the dose found to be lethal in 50 percent of a group of test animals when administered by the specified route, e.g., oral or dermal.

**"NESHAP"** means the National Emission Standards for Hazardous Air Pollutants as published by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412.

**"Occupational exposure limit (OEL)"** means the most restrictive eight hour time weighted average concentration specified for workroom air selected from either the 1986-1987 Threshold Limit Values and Biological Exposure Indices as adopted by the American Conference of Governmental Industrial Hygienists; the Recommended Standards for Occupational Exposure set forth in the July, 1985 summary of National Institute for Occupational Safety and Health Recommendations for Occupational Health Standards; or the 1986 Workplace Environmental Exposure Levels set forth by the American Industrial Hygiene Association.

**"Risk characterization"** means the description of the nature and often the magnitude of human risk, including a description of the attendant uncertainty.

**"Stationary source"** means any building, structure, facility or installation which emits or may emit any toxic air contaminant.

**"Substances of high toxicity"** means those chemicals having an acute toxicity of either:

- (A) median lethal dose, single oral dose, rat, less than or equal to 50 mg/kg, or
- (B) median lethal concentration, four hour inhalation exposure, rat, less than or equal to 100 ppm, or,
- (C) median lethal dose, dermal exposure, rabbits, less than or equal to 100 mg/kg.

**"Substances of low toxicity"** means those substances which have been shown to produce low toxicity or irritation, or those chemicals having an acute toxicity of either:

- (A) median lethal dose, single oral dose, rat, greater than 500 mg/kg but less than 5 g/kg, or
- (B) median lethal concentration, four hour inhalation exposure, rat, greater than 1,000 ppm but less than 10,000 ppm, or,
- (C) median lethal dose, dermal exposure, rabbits, greater than 500 mg/kg but less than 3,000 mg/kg.

**"Substances of moderate toxicity"** means those substances which have been shown to produce moderate toxicity following exposure or have been demonstrated to produce carcinogenic, mutagenic, or teratogenic action in a single animal species with little or no human evidence of carcinogenic, mutagenic, or teratogenic action, or those chemicals having an acute toxicity of either:

- (A) median lethal dose, single oral dose, rat, greater than 50 mg/kg but less than 500 mg/kg, or
- (B) median lethal concentration, four hour inhalation exposure, rat, greater than 100 ppm but less than 1,000 ppm, or,
- (C) median lethal dose, dermal exposure, rabbits, greater than 100 mg/kg but less than 500 mg/kg.

**"Suspect human carcinogen"** means a substance suspected of inducing cancer based on human evidence or demonstration by appropriate methods, or carcinogenesis in two or more animal species or strains.

**"Threshold limit value (TLV)"** means airborne concentrations of substances established by the American Conference of Governmental Industrial Hygienists which represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effect.

**"Toxic air contaminant"** means any substance determined to be a category "A" (High Toxicity), category "B" (Moderate Toxicity) or category "C" (Low Toxicity) pollutant under the criteria set forth in 252:100-41-40.

**"Workplace environmental exposure level"** means workplace exposure levels set forth by the American Industrial Hygiene Association to which, it is believed, nearly all employees could be repeatedly exposed without adverse effects.

### PART 3. HAZARDOUS AIR POLLUTANTS [REVOKED]

# Permanent Final Adoptions

## 252:100-41-13. Purpose [REVOKED]

The purpose of this Part is to establish emission control technology, performance criteria and work practice standards for achieving emission standards from existing, new or modified sources that emit or have the potential to emit hazardous air pollutants in accordance with the authority delegated by the EPA under Section 111(b) of the federal Clean Air Act.

## 252:100-41-14. Reference to 40 CFR [REVOKED]

(a) Inclusions of CFR citations and definitions. When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.

(b) Inconsistencies or duplications. In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference in OAC 252:100-41-15 and the regulations in this Chapter, the provisions incorporated by reference shall prevail, except where the regulations in the Chapter are more stringent.

(c) Terminology related to 40 CFR. For purposes of interfacing with 40 CFR, the following terms apply

- (1) "Administrator" is synonymous with "Executive Director".
- (2) "EPA" is synonymous with "Department of Environmental Quality (DEQ)".

## 252:100-41-15. National emission standards for hazardous air pollutants (NESHAP) [REVOKED]

(a) NESHAP, as found in 40 CFR Part 61, are hereby incorporated by reference as they exist on September 1, 2004, with the exception of Subparts B, H, I, K, Q, R, T, W and Appendices D and E, all of which address radionuclides. These standards shall apply to both existing and new sources of hazardous air pollutants (HAPs).

(b) General Provisions as found in 40 CFR Part 63, Subpart A, and the Maximum Achievable Control Technology (MACT) standards as found in 40 CFR Part 63, Subparts F, G, H, I, J, L, M, N, O, Q, R, S, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, LL, KK, MM, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBB, CCCC, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, LLLL, MMMM, NNNN, PPPP, QQQQ, RRRR, SSSS and TTTT are hereby incorporated by reference as they exist on September 1, 2004. These standards shall apply to both existing and new sources of HAPs.

[Agency note: see OAC 252:100-2]

## 252:100-41-16. Asbestos [REVOKED]

In addition to the requirements set forth for the handling of asbestos found in 40 CFR Part 61 and adopted by reference

in Section 252:100-41-15, the following provisions shall also apply to owners, operators and other persons:

(1) Before being handled, stored or transported in or to the outside air, friable asbestos from demolition/renovation operations shall be:

- (A) double bagged in six mil plastic bags, or,
- (B) single bagged in one six mil plastic bag and placed in a disposable drum, or,
- (C) contained in any other manner approved in advance, by the Division Director.

(2) When demolition/renovation operations must, of necessity take place in the outdoor air, friable asbestos removed in such operations shall be immediately bagged or contained in accordance with paragraph (1) of this Section.

(3) Friable asbestos materials used on pipes or other outdoor structures shall not be allowed to weather or deteriorate and become exposed to, or dispersed in the outside air.

(4) Friable asbestos materials shall, in addition to other provisions concerning disposal, be disposed of in a facility approved for asbestos by the Oklahoma Department of Environmental Quality, Waste Management Division.

## PART 5. TOXIC AIR CONTAMINANTS [REVOKED]

## 252:100-41-35. Applicability [REVOKED]

This Part applies to any new or existing stationary source which emits any toxic air contaminant.

## 252:100-41-36. General prohibition; scope [REVOKED]

(a) Except as otherwise provided, upon the effective date of this Part no person shall cause or permit the emission of any toxic air contaminant in such concentration as to cause or contribute to a violation of the MAAC.

(b) All new sources which emit or may emit a toxic air contaminant are subject to the requirements of OAC 252:100-7.

## 252:100-41-37. New sources [REVOKED]

(a) New sources emitting any category "A" pollutant shall be required, as a minimum, to install Best available control technology (BACT).

(b) New sources unable to demonstrate compliance with 252:100-41-36(a) because of the unavailability of economic or technically feasible controls and upon presentation of adequate proof of same, or can show that the MAAC is clearly unreasonable, may otherwise obtain a permit by:

- (1) installing, at a minimum, BACT; and,
- (2) submitting toxicological and other data sufficient to demonstrate that the resultant ground level concentrations will not create a condition of air pollution. Such demonstration may include any or all of the following:

- (A) hazard identification,
- (B) dose response assessment,
- (C) exposure assessment, and,

(D) risk characterization.

**252:100-41-38. Existing sources [REVOKED]**

(a) Existing sources not emitting a confirmed human carcinogen and unable to demonstrate compliance with 252:100-41-36(a) shall install appropriate abatement equipment to meet the MAAC requirement. However, upon presentation of adequate proof of the unavailability of economic or technically feasible control, or a showing that the MAAC is clearly unreasonable, existing sources may otherwise obtain authority to operate:

- (1) by submitting:
  - (A) proof that reasonable control measures are being used or will be installed; and,
  - (B) toxicological and other data sufficient to demonstrate that the resultant ground level concentrations off site will not create a condition of air pollution. Such demonstration may include any or all of the following:
    - (i) hazard identification,
    - (ii) dose response assessment,
    - (iii) exposure assessment, and,
    - (iv) risk characterization; and,
- (2) upon obtaining written approval of the Executive Director.

(b) In the case of a confirmed human carcinogen, an existing source unable to demonstrate compliance with 252:100-41-36(a) may otherwise obtain authority to operate by installing BACT, or:

- (1) by submitting:
  - (A) proof that reasonable control measures are being used; and,
  - (B) a demonstration that maximum ground level concentrations off site are:
    - (i) below analytical detection limits using gas chromatograph/mass spectrometer analysis or the equivalent, or,
    - (ii) below that concentration which has been determined to be associated with a lifetime cancer risk of one in one million (10<sup>6</sup>) using standard cancer risk assessment techniques and assuming seventy (70) years of exposure, or,
    - (iii) below the threshold level divided by 100, provided that a threshold effect is known and accepted by the National Toxicology Program, the National Cancer Institute, or the International Agency for Research on Cancer; and,
- (2) upon obtaining written approval of the Executive Director.

**252:100-41-39. Area sources [REVOKED]**

In the event that it can be shown by monitoring data that the MAAC for any toxic air pollutant is being exceeded in an affected area, any area source shall be considered an existing source and shall be subject to the requirements of 252:100-41-36 and 252:100-41-38.

**252:100-41-40. Maximum acceptable ambient concentrations (MAAC) [REVOKED]**

(a) ~~Toxics classification.~~ The following categories, consistent with the definitions in 252:100-41-2 comprise the basis for determination of the MAAC:

- (1) category A—highly toxic substances, including:
  - (A) suspect and confirmed human carcinogens, and,
  - (B) substances of high toxicity;
- (2) category B—substances of moderate toxicity;
- (3) category C—substances of low toxicity.

(b) ~~Maximum acceptable ambient concentrations.~~ For those substances in each category having a prescribed occupational exposure limit, the maximum acceptable ambient concentration shall be as follows:

- (1) for category A substances, one one hundredth of the OEL (MAAC = OEL/100);
- (2) for category B substances, one fiftieth of the OEL (MAAC = OEL/50);
- (3) for category C substances, one tenth of the OEL (MAAC = OEL/10).

(c) ~~Case-by-case determinations.~~ For substances in all categories not having a prescribed OEL, the MAAC will be determined on a case by case basis using the best scientific data available. Any MAAC so determined will be in accordance with the intent and purpose of the Oklahoma Clean Air Act and as determined necessary to prevent air pollution and protect the health, safety and welfare of the public. The applicant shall be responsible for providing information and data sufficient for staff review.

**252:100-41-41. Emissions inventories [REVOKED]**

(a) All existing sources shall conduct an emissions inventory of toxic air contaminants. Said inventory shall be registered in accordance with OAC 252:100-5.

(b) Inventories will be submitted or updated upon request of the Executive Director and upon forms provided for that purpose. Emission inventory forms will generally consist of four data sets:

- (1) physical information which will include but is not limited to process unit size, stack diameter and stack flow rates;
- (2) process information, e.g., tons used, tons produced;
- (3) control equipment and their efficiencies; and,
- (4) emission rates based on best information available from
  - (A) actual test,
  - (B) material balance,
  - (C) emission factors, or
  - (D) engineering estimates.

(c) All inventories shall be due in the offices of the Air Quality Division no later than three months from the date of request.

**252:100-41-42. Compliance requirements [REVOKED]**

It shall be the responsibility of the Department to obtain routine modeling and/or monitoring data. However, upon the showing of the need for more extensive or more precise data,

## Permanent Final Adoptions

---

the source may be required to furnish additional modeling, using the most appropriate EPA approved model for the source, and/or monitoring:

- (1) Said modeling and/or monitoring shall be required only upon a showing that the source may cause or contribute to the violation of the MAAC; all modeling, monitoring and testing shall be accomplished in accordance with a pre-test plan approved by the Executive Director.
- (2) Failure, or denial by the source to provide the requested modeling, monitoring or testing shall be a violation of this subsection and subject to the order and hearing requirements under the Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 *et seq.*

### 252:100-41-43. Exemptions [REVOKED]

(a) This Part does not apply to the following:

- (1) any pollutant for which an Oklahoma Air Quality primary and secondary standard exists and has been set forth under OAC 252:100-3, to the extent of the criteria for which it was listed; or,
- (2) application of pesticides and fertilizers; or,
- (3) any source operation for which an emission standard is in effect under 252:100-41-15; or,
- (4) any substance which would be considered to be a toxic air contaminant by virtue of its radioactivity; or
- (5) sources with de minimis emissions as provided below:

- (A) for category "C" (low toxicity) substances, six tons per year not to exceed 5.6 pounds per hour,
- (B) for category "B" (moderate toxicity) substances, 1.2 tons per year, not to exceed 1.1 pounds per hour, or,
- (C) for category "A" (highly toxic) substances, 1,200 pounds per year, not to exceed .57 pounds per hour.

(b) Provided further that de minimis exemptions under this Section shall not apply to any source which can be shown to cause or contribute to a violation of 252:100-41-36(a).

### 252:100-41-44. Compliance date [REVOKED]

- (a) Permits for all new sources shall be required upon the effective date of this Subchapter.
- (b) Existing sources shall be in full compliance with the requirements of this Subchapter within one year of its effective date.
- (c) For the purposes of this Subchapter, any source under construction on the effective date of this Subchapter shall be considered an existing source, provided that a permit to construct has been granted.
- (d) Any existing source not currently in operation, and not under construction or modification, shall be in full compliance within one year of the start up of operations.

**APPENDIX Q. INCORPORATION BY REFERENCE [NEW]**

Except as provided under OAC 252:100-2-3(b)(2), the following provisions of Title 40 of the Code of Federal Regulations are hereby incorporated by reference as they existed on September 1, 2006.

<b>PART</b>	<b>SUBPART</b>	<b>DESCRIPTION</b>
50	NA	Appendix J to Part 50 - Reference Method for the Determination of Particulate Matter as PM in the Atmosphere.
50	NA	Appendix B to Part 50 - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements.
51	NA	Appendix S to Part 51 - Emission Offset Interpretative Ruling.
51	X	Appendix P to Part 51 - Minimum Emission Monitoring Requirements.
58	NA	Appendix B to Part 58 - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.
60	A	General Provisions. [Except 60.4, 60.9, 60.10 and 60.16]
60	AA	Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983.
60	AAa	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.
60	AAAA	Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001.
60	BB	Standards of Performance for Kraft Pulp Mills.
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry.
60	CC	Standards of Performance for Glass Manufacturing Plants.

## Permanent Final Adoptions

---

60	CCCC	Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.
60	D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
60	Da	Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
60	Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.
60	Dc	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.
60	DD	Standards of Performance for Grain Elevators.
60	DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
60	E	Standards of Performance for Incinerators.
60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994.
60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
60	EE	Standards of Performance for Surface Coating of Metal Furniture.
60	EEEE	Standards of Performance for Other Solid Waste Incineration Units for Which Construction Is Commenced After December 9, 2004, or for Which Modification or

		Reconstruction Is Commenced on or After June 16, 2006.
60	F	Standards of Performance for Portland Cement Plants.
60	FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
60	G	Standards of Performance for Nitric Acid Plants.
60	GG	Standards of Performance for Stationary Gas Turbines.
60	GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
60	H	Standards of Performance for Sulfuric Acid Plants.
60	HH	Standards of Performance for Lime Manufacturing Plants.
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities.
60	I	Standards of Performance for Hot Mix Asphalt Facilities.
60	III	Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
60	IIII	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines
60	J	Standards of Performance for Petroleum Refineries.
60	JJJ	Standards of Performance for Petroleum Dry Cleaners.
60	K	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.
60	Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.

## Permanent Final Adoptions

---

60	Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.
60	KK	Standards of Performance for Lead-Acid Battery Manufacturing Plants.
60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	L	Standards of Performance for Secondary Lead Smelters.
60	LL	Standards of Performance for Metallic Mineral Processing Plants.
60	LLL	Standards of Performance for Onshore Natural Gas Processing: SO <sub>2</sub> Emissions.
60	M	Standards of Performance for Secondary Brass and Bronze Production Plants.
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
60	N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
60	Na	Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
60	NA	Appendix A to Part 60 - Test Methods.
60	NA	Appendix B to Part 60 - Performance Specifications.
60	NN	Standards of Performance for Phosphate Rock Plants.
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
60	O	Standards of Performance for Sewage Treatment Plants.

60	OOO	Standards of Performance for Nonmetallic Mineral Processing Plants.
60	P	Standards of Performance for Primary Copper Smelters.
60	PP	Standards of Performance for Ammonium Sulfate Manufacture.
60	PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.
60	Q	Standards of Performance for Primary Zinc Smelters.
60	QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
60	QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
60	R	Standards of Performance for Primary Lead Smelters.
60	RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
60	RRR	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
60	S	Standards of Performance for Primary Aluminum Reduction Plants.
60	SS	Standards of Performance for Industrial Surface Coating: Large Appliances.
60	SSS	Standards of Performance for Magnetic Tape Coating Facilities.
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
60	TT	Standards of Performance for Metal Coil Surface Coating.
60	TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
60	U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
60	UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.

## Permanent Final Adoptions

---

60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries.
60	V	V-Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
60	VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry.
60	WWW	Standards of Performance for Municipal Solid Waste Landfills.
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
60	XX	Standards of Performance for Bulk Gasoline Terminals.
60	Y	Standards of Performance for Coal Preparation Plants.
60	Z	Standards of Performance for Ferroalloy Production Facilities.
61	A	General Provisions.
61	BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations.
61	C	National Emission Standard for Beryllium.
61	D	National Emission Standard for Beryllium Rocket Motor Firing.
61	E	National Emission Standard for Mercury.
61	F	National Emission Standard for Vinyl Chloride.
61	FF	National Emission Standard for Benzene Waste Operations Mar. 7, 1990.
61	J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.
61	L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery

		Plants.
61	M	National Emission Standard for Asbestos.
61	N	National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants.
61	O	National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters.
61	P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.
61	V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources).
61	Y	National Emission Standard for Benzene Emissions From Benzene Storage Vessels.
63	A	General Provisions.
63	AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants.
63	AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
63	AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
63	B	Sections 63.41, 63.43 and 63.44 only of Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j).
63	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants.
63	BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
63	CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries.
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of

## Permanent Final Adoptions

---

		Nutritional Yeast.
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
63	DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
63	DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
63	DDDD	National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.
63	DDDDD	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.
63	EE	National Emission Standards for Magnetic Tape Manufacturing Operations.
63	EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).
63	EEEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
63	F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry.
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
63	FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.
63	G	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
63	GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities.

63	GGG	National Emission Standards for Pharmaceuticals Production.
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation.
63	H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
63	HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities.
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
63	I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
63	II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating).
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
63	IIII	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.
63	IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
63	JJ	National Emission Standards for Wood Furniture Manufacturing Operations.

## Permanent Final Adoptions

---

63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
63	JJJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
63	JJJJJ	National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.
63	KK	National Emission Standards for the Printing and Publishing Industry.
63	KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
63	KKKKK	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.
63	L	National Emission Standards for Coke Oven Batteries.
63	LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
63	LLLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
63	M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
63	MM	National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.
63	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
63	MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.

63	N	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
63	NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities.
63	OO	National Emission Standards for Tanks—Level 1.
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
63	PP	National Emission Standards for Containers.
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
63	PPPP	National Emission Standards for Hazardous Air Pollutants of Plastic Parts and Products.
63	PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
63	QQ	National Emission Standards for Surface Impoundments.
63	QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.

## Permanent Final Adoptions

---

63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
63	RR	National Emission Standards for Individual Drain Systems.
63	RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
63	RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
63	S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
63	SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
63	SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
63	SSSSS	National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
63	T	National Emission Standards for Halogenated Solvent Cleaning.
63	TT	National Emission Standards for Equipment Leaks.
63	TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
63	TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.
63	U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.

63	UU	National Emission Standards for Equipment Leaks—Control Level 2 Standards.
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
63	UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
63	VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators.
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
63	WW	National Emission Standards for Storage Vessels (Tanks)—Control Level 2.
63	WWWW	National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
63	X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.
63	XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
63	XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
63	XXXX	National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
63	Y	National Emission Standards for Marine Tank Vessel Loading Operations.
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
63	YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.

## Permanent Final Adoptions

---

63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
72	ALL	Permits Regulation.

*[OAR Docket #07-818; filed 4-23-07]*

---

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

[OAR Docket #07-819]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1 [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-1.1 [AMENDED]

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-2 [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins

252:100-23-2 [AMENDED]

Appendix P. Regulated Air Pollutants [NEW]

**AUTHORITY:**

Environmental Quality Board; 27A O.S. 2005, §§ 2-2-101, and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. 2005 § 2-5-101, *et seq.*

**DATES:**

**Comment period:**

March 15, 2006, through July 19, 2006

**Public hearing:**

April 19, July 19, and November 14, 2006

**Adoption:**

November 14, 2006

**Submitted to Governor:**

November 21, 2006

**Submitted to House:**

November 21, 2006

**Submitted to Senate:**

November 21, 2006

**Gubernatorial approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

June 15, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed amendments to the definition sections OAC 252:100-5-1.1, OAC 252:100-7-1.1 and OAC 252:100-9-2 will add a new definition for Aregulated air pollutant@. A new Appendix P, Regulated Air Pollutants, is being added to Chapter 100 as part of these amendments. This is being done to more strictly define what is and what is not a regulated air pollutant. The terms AActual emissions@, AAllowable emissions@ and ARegulated pollutant (for fee calculation)" are being amended in OAC 252:100-5-1.1 to clarify these terms. In addition, Section 5-1.1 is being amended by the addition of a new definition for AGross particulate matter@ or AGPM@ which replaces the term ATSP@ in the section. The term Afor TSP@ in OAC 252:100-23-2 is being deleted and the definition for AActual emissions@ in OAC 252:100-7-1.1 is being amended.

**CONTACT PERSON:**

Max Price, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,**

**SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES**

**252:100-5-1.1. Definitions**

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

**"Actual emissions"** means the total amount of any regulated air ~~pollutants~~ pollutant actually emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

**"Allowable emissions"** means:

(A) The total amount of any regulated air pollutant emitted based on limits contained in a ~~an~~ federally-enforceable permit or potential to emit, or

(B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

**"Consumer Price Index"** means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

**"Date of billing"** means the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

**"Emission inventory"** means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

**"Error"** means, with regard to fees, a fee overpayment made as a result of a mistake on the part of the DEQ in invoicing or the part of the owner or operator in calculating emissions. It does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

**"Grandfathered source"** means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

**"Gross particulate matter" or "GPM"** means particulate matter with an aerodynamic diameter greater than 10 micrometers.

**"Minor facility"** means a facility which is not a Part 70 source.

**"Part 70 source"** means any source subject to the permitting requirements of Part 5 of Subchapter 8 of this Chapter as provided in 252:100-8-3(a) and 252:100-8-3(b).

**"Process Fugitive Emissions"** means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and

# Permanent Final Adoptions

could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

**"Regulated air pollutant"** means:

~~(A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.~~

~~(B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.~~

~~(C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.~~

~~(D) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.~~

~~(E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule. any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given authority, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.~~

**"Regulated pollutant (for fee calculation)"**, which is used only for purposes of this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide.

~~(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.~~

~~(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.~~

~~(D) Total suspended particulates (TSP)Gross particulate matter (GPM).~~

## SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

### PART 1. GENERAL PROVISIONS

#### 252:100-7-1.1. Definitions

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

**"Actual emissions"** means the total amount of any regulated air pollutants-pollutant actually emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).

**"Best Available Control Technology"** or **"BACT"** means the best control technology that is currently available as determined by the Director on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs.

**"Commence"** means, as applied to the construction or modification of a minor facility to which neither a NSPS or NESHAP applies, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

**"De minimis facility"** means a facility that meets the requirements contained in paragraphs (A) and (B) of this definition.

(A) All the air pollutant emitting activities at the facility are on the de minimis list contained in Appendix H or the facility meets all of the following de minimis criteria:

(i) The facility has actual emissions of 5 tpy or less of each regulated air pollutant, except that fraction of particulate matter that exhibits an aerodynamic particulate diameter of more than 10 micrometers ( $\mu\text{m}$ ).

(ii) The facility is not a major source as defined in OAC 252:100-8-2.

(iii) The facility is not a major stationary source as defined in OAC 252:100-8-31 for facilities in attainment areas.

(iv) The facility is not a major stationary source as defined in OAC 252:100-8-51 for facilities in nonattainment areas.

(v) The facility is not operated in conjunction with another facility or source that is subject to air quality permitting.

(vi) The facility has not opted to obtain or retain an Air Quality Division permit.

(B) The facility is not subject to the Federal NSPS (40 CFR Part 60) or the Federal NESHAP (40 CFR Parts 61 and 63).

**"Facility"** means all of the pollutant-emitting activities that meet all the following conditions:

(A) Are under common control.

(B) Are located on one or more contiguous or adjacent properties.

(C) Have the same two-digit primary SIC Code (as described in the Standard Industrial Classification Manual, 1987).

**"Hazardous Air Pollutant"** or **"HAP"** means any hazardous air pollutant regulated under Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412, and subject to NESHAP.

**"Minor facility"** means a facility which is not a Part 70 source.

**"National Emission Standards for Hazardous Air Pollutants"** or **"NESHAP"** means those standards as published by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412.

**"New portable source"** means a portable source that has never operated within the State of Oklahoma. This includes sources that are initially constructed and existing facilities that are relocating into Oklahoma from another state.

**"New Source Performance Standards"** or **"NSPS"** means those standards found in 40 CFR Part 60.

"Permit exempt facility" means a facility that:

- (A) has actual emissions in every calendar year that are 40 tpy or less of each regulated air pollutant;
- (B) is not a de minimis facility as defined in OAC 252:100-7-1.1;
- (C) is not a "major source" as defined in OAC 252:100-8-2 for Part 70 sources;
- (D) is not a "major stationary source" as defined in OAC 252:100-8-31 for PSD facilities in attainment areas;
- (E) is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas;
- (F) is not operated in conjunction with another facility or source that is subject to air quality permitting;
- (G) is not subject to an emission standard, equipment standard, or work practice standard in the Federal NSPS (40 CFR Part 60) or the Federal NESHAP (40 CFR Parts 61 and 63); and
- (H) is not subject to the requirements of OAC 252:100-39-47.

"Portable source" means a source with design and intended use to allow disassembly or relocation.

"Relocate" means to move a source from one geographical location to another. The term does not include minimal moves within the facility boundaries.

"Regulated air pollutant" means:

- ~~(A) Any Volatile Organic Compound (VOC), as that term is defined in OAC 252:100-1-3, 252:100-37-2, or 252:100-39-2.~~
- ~~(B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.~~
- ~~(C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.~~
- ~~(D) Any Toxic Air Contaminant as defined and regulated under OAC 252:100-41-2.~~
- ~~(E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.~~ any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given authority, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.

**SUBCHAPTER 9. EXCESS EMISSION REPORTING REQUIREMENTS**

**252:100-9-2. Definitions**

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

"Bypass" means intentionally avoiding the use of air pollution control equipment.

"Excess emissions" means the emission of regulated air pollutants in excess of an applicable limitation or requirement as specified in the applicable limiting Subchapter, permit, or order of the DEQ. This term does not include fugitive VOC emissions covered by an existing leak detection and repair program that is required by a federal or state regulation.

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

"Regulated air pollutant" means:

- ~~(A) Any Volatile Organic Compound (VOC), as defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.~~
- ~~(B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.~~
- ~~(C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.~~
- ~~(D) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.~~
- ~~(E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.~~ any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given authority, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.

"Shutdown" means the cessation of operation of any air pollution control equipment, process or process equipment.

"Startup" means the setting into operation of any air pollution control equipment, process or process equipment.

"Technological limitation" means operating constraints deliberately and necessarily designed into a piece of pollution control equipment or process equipment to prevent damage to the equipment and/or to prevent hazards to operating or maintenance personnel.

"Working day" means 8:00 a.m. to 4:30 p.m. each day except Saturday, Sunday, or a legal holiday for state employees as proclaimed by the Governor.

**SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS**

**252:100-23-2. Definitions**

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

"Cotton gin" means any facility that removes seed, lint, and trash from raw cotton and bales of lint cotton for further processing. Each equipment exhaust, including the trash and burr hopper, located at a cotton gin shall be considered an individual process emission source.

"Existing gin" means a gin which was in existence and had submitted current emission inventories to the Division for

## Permanent Final Adoptions

---

the most recent two ginning seasons and was in possession of a valid annual renewable fee receipt prior to May 1, 1993. All other gins shall be considered "new".

**"Gin site"** means the land upon which a cotton gin is located and all contiguous land having common ownership or use.

**"High efficiency cyclone"** means any cyclone type collector of the 2D-2D or 1D-3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would

exhibit a cylinder length of 2 x D and a cone length of 2 x D (90 percent collection efficiency ~~for TSP~~). A 1D-3D cyclone would exhibit a cylinder length of 1 X D and a cone length of 3 x D (95 percent collection efficiency ~~for TSP~~).

**"High pressure exhausts"** means the exhaust cotton handling air systems located at a cotton gin which are not defined as "low pressure exhausts".

**"Low pressure exhausts"** means the exhaust air systems at a cotton gin which handle air from the cotton lint handling system and battery condenser.

APPENDIX P. REGULATED AIR POLLUTANTS [NEW]

REGULATED AIR POLLUTANT	DESCRIPTION
Acid gas expressed as SO <sub>2</sub> and HCl	As defined in OAC 252:100-17.
Acid mist expressed as H <sub>2</sub> SO <sub>4</sub>	As defined in 40 CFR 60.81 and OAC 252:100-31.
Arsenic, inorganic	NESHAP
Asbestos	NESHAP
Benzene	NESHAP
Beryllium	NESHAP
Cadmium	NSPS
Carbon Monoxide or CO	Criteria pollutant
Dioxins/furans	NSPS: Tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
Fluorides	NSPS: Elemental fluorine and all fluoride compounds.
Hazardous Air Pollutants or HAP(s)	Listed in 42 U.S.C. 7412(b)(1) and as modified in 40 CFR Part 63, Subpart C, List of Hazardous Air Pollutants, Petitions Process, Lesser Quantity Designations, Source Category List.
Hydrogen chloride or HCl	NSPS
Hydrogen sulfide or H <sub>2</sub> S	NSPS
Lead	Criteria pollutant
Mercury	NSPS and NESHAP
Nitrogen dioxide or NO <sub>2</sub>	Criteria pollutant
NonMethane Organic Compounds or NMOC expressed as hexane	As defined in 40 CFR 60.754.
Oxides of nitrogen or NO <sub>x</sub>	NSPS: Ozone precursors
Oxides of sulfur or SO <sub>x</sub>	NSPS: PM-2.5 precursors
Ozone	Criteria pollutant
Particulate Matter or PM	As defined in OAC 252:100. (criteria pollutant)
Reduced sulfur compounds	As defined in 40 CFR 60.101.
Reduced Sulfur, Total or TRS	As defined in OAC 252:100-31.
Sulfur dioxide or SO <sub>2</sub>	Criteria pollutant
Toxic Air Contaminates or TAC(s)	As listed in OAC 252:100, Appendix O.

## Permanent Final Adoptions

---

Vinyl chloride	NESHAP
Volatile Organic Compounds or VOC(s)	As defined in OAC 252:100. (ozone precursors)

**NOTES:**

1. The Department does not have authority over Class I and II stratospheric ozone depleting substances or CFCs as listed under 40 CFR, Part 82. These substances are RAP, however, under the Federal Clean Air Act.

2. The Department does not have authority over Section 112(r) substances as listed in 40 CFR 68.130, Tables 1-4. These substances are, however, RAP under the Federal Clean Air Act.

3. The Department does not have the authority over radionuclides as listed in 40 CFR, Part 61. These substances are RAP, however, under the Federal Clean Air Act.

*[OAR Docket #07-819; filed 4-23-07]*

---

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

[OAR Docket #07-820]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULE:**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.1 [AMENDED]

**AUTHORITY:**

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201, and 2-5-101, *et seq.*

**DATES:**

**Comment period:**

March 15, 2006 through April 19, 2006  
June 15, 2006 through July 19, 2006  
September 15, 2006 through October 18, 2006

**Public hearings:**

April 19, July 19, October 18, and November 14, 2006

**Adoption:**

November 14, 2006

**Submitted to Governor:**

November 21, 2006

**Submitted to House:**

November 21, 2006

**Submitted to Senate:**

November 21, 2006

**Gubernatorial approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

June 15, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed amendments will change the annual due date and modify the requirement to submit certain documentation for relatively minor changes in annual emissions unless that documentation is requested by the Department of Environmental Quality. The annual due date will now be April 1 and any extension for submittal beyond that date must be approved by the Director. The submittal of documentation for emission changes exceeding thirty percent per year will be necessary only if requested by the Department.

**CONTACT PERSON:**

Morris Moffett, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-4100, fax (405) 702-4101, e-mail morris.moffett@deq.state.ok.us.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES**

**252:100-5-2.1. Emission inventory**

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions contaminants shall submit a complete emission inventory annually on forms obtained from the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted prior to ~~March~~ April 1 of the following year. Upon receiving a written demonstration of good cause the Director may grant an extension for submittal beyond the April 1 deadline, unless the Division has granted a 30-day extension. An additional 30-day extension may be granted for good cause shown.

(2) **Permit by rule.** The owner or operator of a facility registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated air pollutant is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) **Permit exempt facilities and de minimis facilities.** The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory.

(4) **Special inventories.** Upon request by the Director, the owner or operator of a facility that emits or has the potential to emit any regulated air pollutant shall file an emission inventory with the Division. The Director is authorized to request this inventory when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements.

(b) **Content.** All inventories submitted to the Division shall include, but shall not be limited to, the following:

(1) For those emissions subject to a permit, the permit number and the permitted allowable emissions as set forth therein.

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

~~(3)~~ If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous year's actual by more than 30%, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.

~~(34)~~ For those emissions not the subject of a permit and when requested by the AQD, a list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data

## Permanent Final Adoptions

utilized in accordance with OAC 252:100-5-2.1(d),—below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.

(d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under OAC 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. Acceptable methods of calculation for determining actual emissions are:

- (1) Emission factors utilized in the issuance of a currently applicable Oklahoma Air Quality permit(s) for the facility.
- (2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Division.
- (3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:
  - (A) Tests are performed by persons qualified by training and experience to perform said tests.
  - (B) Copies of the tests results and methods are available for review by the Division.
- (4) Continuous emissions monitoring data, when supported by required certification and calibration data.
- (5) Current AP-42 factors or other factors acceptable to the Division.
- (6) Manufacturer's test data, when approved by the Division as reliable.
- (7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Division.
- (8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Division.
- (9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Division.

(e) **Methods of verification.** Emission inventories determined by the Division to be substantially incomplete or substantially incorrect shall, upon the request of the Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Division.

(f) **Certification.** The emission inventory shall contain certification by a responsible official of the truth, accuracy, and completeness of the document. This certification shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

[OAR Docket #07-820; filed 4-23-07]

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

[OAR Docket #07-821]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 8. Permits for Part 70 Sources  
Part 11. Visibility Protection Standards [NEW]  
252:100-8-70 [NEW]  
252:100-8-71 [NEW]  
252:100-8-72 [NEW]  
252:100-8-73 [NEW]  
252:100-8-74 [NEW]  
252:100-8-75 [NEW]  
252:100-8-76 [NEW]  
252:100-8-77 [NEW]  
252:100-8-78 [NEW]

### AUTHORITY:

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201 and 2-5-101, *et seq.*

### DATES:

#### Comment period:

September 15, 2005 through October 19, 2005  
December 15, 2005 through January 18, 2006  
February 24, 2006  
March 15, 2006 through April 19, 2006  
August 22, 2006

#### Public hearing:

October 19, 2005  
January 18, 2006  
February 24, 2006  
April 19, 2006  
August 22, 2006

#### Adoption:

August 22, 2006

#### Submitted to Governor:

August 29, 2006

#### Submitted to House:

August 29, 2006

#### Submitted to Senate:

August 29, 2006

#### Gubernatorial approval:

October 8, 2006

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

#### Final adoption:

March 27, 2007

#### Effective:

June 15, 2007

### SUPERSEDED EMERGENCY ACTIONS:

#### Superseded rules:

Subchapter 8. Permits for Part 70 Sources  
Part 11. Visibility Protection Standards [NEW]  
252:100-8-70 [NEW]  
252:100-8-71 [NEW]

252:100-8-72 [NEW]  
 252:100-8-73 [NEW]  
 252:100-8-74 [NEW]  
 252:100-8-75 [NEW]  
 252:100-8-76 [NEW]  
 252:100-8-77 [NEW]  
 252:100-8-78 [NEW]

**Gubernatorial approval:**  
 October 8, 2006

**Register publication:**  
 24 Ok Reg 297

**Docket number:**  
 06-1478

**INCORPORATIONS BY REFERENCE:**

**Incorporated standards:**  
 40 CFR 51 Appendix Y

**Incorporating rules:**  
 252:100-8-72  
 252:100-8-73. Availability:  
 From the contact person

**ANALYSIS:**

The Department is proposing to add new Part 11, Visibility Protection Standards, to Subchapter 8. This new Part incorporates the Federal Best Available Retrofit Technology (BART) requirements into Chapter 100. States are required to implement the Federal BART requirements as part of a Regional Haze Implementation Plan no later than December 2007. Stationary sources that were not in operation prior to August 7, 1962, and were in existence on August 7, 1977, that have the potential to emit 250 tpy or more of any air pollutant, are BART-eligible sources if they belong to one of the 26 categories listed in the definition of "existing stationary facility" contained in proposed OAC 252:100-8-71. BART-eligible sources that cause visibility impairment in any Class I Area are subject to BART and must establish emissions limitations by the application of BART. Owners or operators of BART-eligible sources who wish to obtain an exemption or a waiver from BART must submit an application for an exemption or a waiver to the Director by December 1, 2006. The owner or operator of any BART-eligible source that has not applied for an exemption or a waiver for that source shall submit a BART determination to the Director by March 30, 2007. BART must be installed and operated at the sources subject to BART no later than five years after EPA approves the Oklahoma Regional Haze SIP.

**CONTACT PERSON:**

Joyce D. Sheedy, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 794-6800, fax (405) 702-4101, e-mail joyce.sheedy@deq.state.ok.us.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

**SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES**

**PART 11. VISIBILITY PROTECTION STANDARDS**

**252:100-8-70. Applicability**

This Part applies to any BART-eligible source (existing stationary facility as defined in OAC 252:100-8-71) which may reasonably be anticipated to cause or contribute to visibility impairment at any mandatory Class I Federal area.

**252:100-8-71. Definitions**

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise. All terms used in this Part that are not defined in this Subsection shall have the meaning given to them in OAC 252:100-1-3, 252:100-8-1.1, 252:100-8-31, or in the Oklahoma Clean Air Act.

**"BART-eligible source"** means an existing stationary facility as defined in this Section.

**"Best Available Retrofit Technology" or "BART"** means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by a BART-eligible source. The emission limitation must be established on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

**"Deciview"** means a measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements):  $Deciview\ haze\ index = 10 \ln_e (b_{ext}/10\ Mm^{-1})$ ; where  $b_{ext}$  = the atmospheric light extinction coefficient, expressed in inverse megameters ( $Mm^{-1}$ ).

**"Existing stationary facility"** means any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 TPY or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

- (A) Fossil-fuel fired steam electric plants of more than 250 million Btu/hr input,
- (B) Coal cleaning plants (thermal dryers),
- (C) Kraft pulp mills,
- (D) Portland cement plants,
- (E) Primary zinc smelters,
- (F) Iron and steel mill plants,
- (G) Primary aluminum ore reduction plants,
- (H) Primary copper smelters,
- (I) Municipal incinerators capable of charging more than 250 tons of refuse per day,
- (J) Hydrofluoric, sulfuric, and nitric acid plants,
- (K) Petroleum refineries,
- (L) Lime plants,
- (M) Phosphate rock processing plants,
- (N) Coke oven batteries,
- (O) Sulfur recovery plants,
- (P) Carbon black plants (furnace process),
- (Q) Primary lead smelters,

## Permanent Final Adoptions

- (R) Fuel conversion plants,
- (S) Sintering plants,
- (T) Secondary metal production facilities,
- (U) Chemical process plants,
- (V) Fossil-fuel boilers of more than 250 million Btu per hour heat input,
- (W) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels,
- (X) Taconite ore processing facilities,
- (Y) Glass fiber processing plants, and
- (Z) Charcoal production facilities

**"In existence"** means that the owner or operator has obtained all necessary preconstruction approvals or permits required by the Department and EPA and either has:

- (A) begun, or caused to begin, a continuous program of physical on-site construction of the facility; or
- (B) entered into binding agreements or contractual obligations which cannot be cancelled or modified without substantial loss to the owner or operator to undertake a program of construction of the facility to be completed in a reasonable time.

**"In operation"** means engaged in activity related to the primary design function of the source.

**"Integral vista"** means a view perceived from within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal area.

**"Mandatory Class I Federal area"** means any area identified in 40 CFR part 81, subpart D.

**"Potential to emit"** means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

**"Reasonably attributable"** means attributable by visual observation or any other technique the Department deems appropriate.

**"Secondary emissions"** means emissions which occur as a result of the construction or operation of a BART-eligible source but do not come from the BART-eligible source. Secondary emissions may include, but are not limited to, emissions from ships or trains coming to or from the BART-eligible source.

**"Visibility in any mandatory Class I Federal area"** includes any integral vista associated with that area.

### **252:100-8-72. Incorporation by reference**

Appendix Y, Guidelines for BART Determinations Under the Regional Haze Rule, of 40 CFR 51 is hereby incorporated by reference as it exists July 6, 2005.

### **252:100-8-73. BART applicability**

(a) Each BART-eligible source that emits any air pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area is subject to BART. This shall be determined using the criteria in Section III of Appendix Y of 40 CFR 51 in effect on July 6, 2005. Thresholds for visibility impairment are set forth in OAC 252:100-8-73(a)(1) and (2).

(1) A source that is responsible for an impact of 1.0 deciview or more is considered to cause visibility impairment.

(2) A source that causes an impact greater than 0.5 deciviews contributes to visibility impairment.

(b) Air pollutants emitted by sources in Oklahoma which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area are NO<sub>x</sub>, SO<sub>2</sub>, PM-10, and PM-2.5.

(c) The owner or operator of a BART-eligible source may request and obtain a waiver from the Department that a BART determination is not required:

(1) for SO<sub>2</sub> or for NO<sub>x</sub> if the BART-eligible source has the potential to emit less than 40 TPY of such pollutant(s),

(2) for PM-10 if the BART-eligible source has the potential to emit less than 15 TPY of such pollutant, or

(3) if the owner or operator of the BART-eligible source demonstrates by modeling, in accordance with a protocol approved by the Director, that a source does not emit any air pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area.

### **252:100-8-74. Exemption from BART requirements**

(a) The owner or operator of any BART-eligible source subject to the requirements of this Part to install, operate, and maintain BART may apply to the Administrator for exemption from that requirement.

(b) Should the owner or operator of a BART-eligible source wish to apply for exemption as provided for in 40 CFR 51.303, such application must be accompanied by a written concurrence from the Director.

### **252:100-8-75. Visibility standards for existing stationary facilities**

(a) The owner or operator of a BART-eligible source that emits any air pollutant which causes or contributes to visibility impairment in any mandatory Class I Federal area shall establish emissions limitations by the application of BART.

(1) The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reduction achievable for each BART-eligible source that is subject to BART.

(2) After the level of control that represents BART is determined, an emission limit representing this level of control must be established.

(3) BART may be established as design, equipment, work practice, or other operational standards or combination thereof, when limitations on measurement technologies make emission standards infeasible, if such application achieves equivalent results. Such standard, to the degree possible, shall set forth the emission reduction to be achieved and must provide for compliance by means which achieve equivalent results.

(b) The determination of BART shall be made pursuant to the guidelines in Appendix Y of 40 CFR 51 in effect on July 6, 2005.

(c) The owner or operator of a BART-eligible source shall submit to the Director by December 1, 2006:

(1) an application for a waiver pursuant to OAC 252:100-8-73, or

(2) an application for an exemption pursuant to OAC 252:100-8-74.

(d) A BART-eligible source that has not applied for a waiver pursuant to OAC 252:100-8-73 or an exemption pursuant to OAC 252:100-8-74 shall submit to the Director a BART determination by March 30, 2007.

(e) The owner or operator of each BART-eligible source subject to BART shall install and operate BART no later than five years after EPA approves the Oklahoma Regional Haze SIP.

(f) The owner or operator of each source subject to BART shall maintain the control equipment required by this Part and establish procedures to ensure such equipment is properly and continuously operated and maintained.

(g) The owner or operator of any BART-eligible source that might cause or contribute to visibility impairment in any mandatory Class I Federal area must provide a BART analysis at such times, as determined by the Administrator, as new technology for control of the pollutant becomes reasonably available if:

(1) the pollutant is emitted by that BART-eligible source;

(2) controls representing BART for the pollutant have not previously been required under this Part; and

(3) the visibility impairment in any mandatory Class I Federal area is reasonably attributable to the emissions of that pollutant.

**252:100-8-76. Permit requirements**

The BART requirements for any BART-eligible source that is subject to BART shall be submitted to the Director in an application for a permit modification pursuant to OAC 252:100-8-7.2 no later than March 30, 2007.

**252:100-8-77. Cap and/or trade program**

Nothing in this rule precludes the establishment of a cap and/or trade program that will achieve greater reasonable progress than would be achieved through the installation and operation of BART.

**252:100-8-78. Modeling**

All modeling required by this Part shall be performed in accordance with a protocol approved by the Director.

[OAR Docket #07-821; filed 4-23-07]

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

[OAR Docket #07-822]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 17. Incinerators  
Part 9. Commercial and Industrial Solid Waste Incineration Units  
252:100-17-61 [AMENDED]

**AUTHORITY:**

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201 and 2-5-101, *et seq.*

**DATES:**

**Comment period:**

March 15, 2006 through April 19, 2006  
August 22, 2006

**Public hearing:**

April 19, 2006  
August 22, 2006

**Adoption:**

August 22, 2006

**Submitted to Governor:**

August 29, 2006

**Submitted to House:**

August 29, 2006

**Submitted to Senate:**

August 29, 2006

**Gubernatorial approval:**

October 8, 2006

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

June 15, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

None

**INCORPORATIONS BY REFERENCE:**

**Incorporated standards:**

40 CFR 60.2265

**Incorporating rules:**

252:100-17-61

**Availability:**

From the contact person

**ANALYSIS:**

The Department is proposing to amend OAC 252:100-17-61 (Definitions) of Subchapter 17 (Incinerators) to update the incorporation by reference to include modifications promulgated by EPA in the Federal Register on September 22, 2005. The modifications to 40 CFR 60.2265 include: 1) Deleting the definition of "commercial and industrial waste" and replacing it with the definition of "commercial or industrial waste" in alphabetical order; and 2) Revising the definitions of "commercial and industrial solid waste incineration (CISWI) unit" and "solid waste".

**CONTACT PERSON:**

Joyce D. Sheedy, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 794-6800, fax (405) 702-4101, e-mail joyce.sheedy@deq.state.ok.us.

# Permanent Final Adoptions

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:

## SUBCHAPTER 17. INCINERATORS

### PART 9. COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

#### 252:100-17-61. Definitions

The definitions in 40 CFR 60.2265 are hereby incorporated by reference, as they exist on ~~July 1, 2002~~ September 22, 2005.

[OAR Docket #07-822; filed 4-23-07]

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

[OAR Docket #07-823]

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

Subchapter 17. Incinerators

Part 11. Other Solid Waste Incineration Units [NEW]

252:100-17-90 through 252:100-17-108 [NEW]

#### AUTHORITY:

Environmental Quality Board; 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S., §§ 2-5-101 *et. seq.*

#### DATES:

##### Comment period:

March 15, 2006 through April 19, 2006

June 15, 2006 through July 17, 2006

November 14, 2006

##### Public hearing:

April 19, July 17, and November 14, 2006

##### Adoption:

November 14, 2006

##### Submitted to Governor:

November 21, 2006

##### Submitted to House:

November 21, 2006

##### Submitted to Senate:

November 21, 2006

##### Gubernatorial approval:

January 4, 2007

##### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

##### Final adoption:

March 27, 2007

##### Effective:

June 15, 2007

##### SUPERSEDED EMERGENCY ACTIONS:

n/a

##### INCORPORATIONS BY REFERENCE:

###### Incorporated standards:

The following portions of 40 CFR Part 60, Subparts EEEE and FFFF, are incorporated by reference:

(1) 40 CFR 60.2969

- (2) Table 1 of 40 CFR 60, Subpart EEEE
- (3) 40 CFR 60.2916 except for 4. CFR 60.2916(b)
- (4) 40 CFR 60.2917
- (5) 40 CFR 60.2918
- (6) Table 2 of 40 CFR 60, Subpart EEEE
- (7) 40 CFR 60.2905
- (8) 40 CFR 60.2907
- (9) 40 CFR 60.2908
- (10) 40 CFR 60.2909
- (11) 40 CFR 60.2910 except for 60.2910(b)(1)
- (12) 40 CFR 60.2911
- (13) 40 CFR 60.2899
- (14) 40 CFR 60.2901
- (15) 40 CFR 60.2922
- (16) 40 CFR 60.2923
- (17) 40 CFR 60.2932
- (18) 40 CFR 60.2933
- (19) 40 CFR 60.2934
- (20) 40 CFR 60.2935
- (21) 40 CFR 60.2940 except for 40 CFR 60.2940(b)
- (22) 40 CFR 60.2941
- (23) 40 CFR 60.2942
- (24) 40 CFR 60.2943
- (25) 40 CFR 60.2944
- (26) 40 CFR 60.2945
- (27) 40 CFR 60.2949
- (28) 40 CFR 60.2950
- (29) 40 CFR 60.2951
- (30) 40 CFR 60.2954
- (31) 40 CFR 60.2955
- (32) 40 CFR 60.2956
- (33) 40 CFR 60.2957
- (34) 40 CFR 60.2958
- (35) 40 CFR 60.2959
- (36) 40 CFR 60.2960
- (37) 40 CFR 60.2961
- (38) 40 CFR 60.2962
- (39) 40 CFR 60.2969
- (40) 40 CFR 60.2970
- (41) 40 CFR 60.2971 except for 40 CFR 60.2971(a)
- (42) 40 CFR 60.2972
- (43) 40 CFR 60.2973 except for 40 CFR 60.2073(a)
- (44) 40 CFR 60.2974
- (45) 40 CFR 60.1975

##### Incorporating rule:

252:100-17-90 through 252:100-17-105

252:100-17-108

##### Availability:

The rule is on file at the Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and is available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.

##### ANALYSIS:

The Department is proposing to amend Subchapter 17, Incinerators, by the addition of a new Part 11 which incorporates the Federal OSWI requirements as outlined in 40 CFR 60, Subparts EEEE and FFFF into Chapter 100. OAC 252: 100-17, Part 11, is being submitted in preparation for the State 111(d)/129 Plan. The state rule implements the provisions of the emissions guidelines and is at least as protective as the guidelines promulgated by the EPA.

An OSWI is defined in 40 CFR 60.2977 as either a very small municipal waste combustion unit or an institutional waste incineration unit. A Very small@ refers to units which burn less than 35 tons of waste per day. Units for which construction was commenced on or before December 9, 2004 must comply with the rule unless reconstruction or modification was commenced on or after June 16, 2006. Sixteen exemptions for compliance can be found in OAC 252: 100-17-93. EPA published the Emission Guidelines for OSWI Units in the Federal Register on December 16, 2005. The guidelines create requirements for OSWI which include waste management plans, operator training, performance testing, recordkeeping, and emissions limits.

##### CONTACT PERSON:

Heather Bragg, Oklahoma Department of Environmental Quality, Air Quality Division, 707 North Robinson, Oklahoma City, Oklahoma, 73102, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:

SUBCHAPTER 17. INCINERATORS

PART 11. OTHER SOLID WASTE INCINERATION UNITS

**252:100-17-90. Effective date; applicability**

- (a) This Part applies to each individual existing other solid waste incineration (OSWI) unit or air curtain incinerator for which construction was commenced on or before December 9, 2004.
- (b) OSWI units for which construction was commenced after December 9, 2004 are subject to 40 CFR 60, Subpart EEEE.
- (c) If the owner or operator of an OSWI unit makes changes that meet the definition of modification or reconstruction on or after June 16, 2006, the OSWI unit or air curtain incinerator is no longer subject to this Part and becomes subject to 40 CFR 60, Subpart EEEE.
- (d) If the owner or operator of an OSWI unit makes physical or operational changes to an existing OSWI unit or air curtain incinerator primarily to comply with this Part, such changes do not qualify as a modification or reconstruction.
- (e) Applicability of this Part to air curtain incinerators is in 40 CFR 60.2888, which is incorporated by reference as it exists on December 16, 2005.

**252:100-17-91. Definitions**

The definitions in 40 CFR 60.2977 are hereby incorporated by reference, as they exist on December 16, 2005.

**252:100-17-92. Terminology related to 40 CFR**

For purposes of interfacing with 40 CFR, the following terms apply:

"Affected facility" is synonymous with "other solid waste incinerator (OSWI)" or "OSWI unit" or "air curtain incinerator."

"Existing OSWI" is any unit or air curtain incinerator for which construction was commenced on or before December 9, 2004.

"Final compliance" means that an owner/operator has completed all process changes and retrofit of control devices so that, when the incineration unit begins operation, all process changes and air pollution control devices necessary to meet the emission limitations operate as designed.

**252:100-17-93. Exemptions**

This Part does not apply to the types of units described in OAC 252:100-17-93(1) through (16) if the owner or operator meets the requirements of this Section.

- (1) **Cement kilns.** The unit is excluded if it is regulated under 40 CFR 63, subpart LLL (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry).
- (2) **Co-fired combustors.** The unit, that would otherwise be considered a very small municipal waste combustion unit, is excluded if the owner or operator of the unit meets the five requirements specified in OAC 252:100-17-93(2)(A) through (E).
  - (A) Has a Federally enforceable permit limiting the combustion of municipal solid waste to 30% of the total fuel input by weight.
  - (B) Notifies the Director that the unit qualifies for the exclusion.
  - (C) Provides the Administrator with a copy of the federally enforceable permit.
  - (D) Records the weights, each calendar quarter, of municipal solid waste and of all other fuels combusted.
  - (E) Keeps each report for 5 years. These records must be kept on site for at least 2 years, but may be kept off site for the remaining 3 years.
- (3) **Cogeneration facilities.** The unit is excluded if it meets the three requirements specified in OAC 252:100-17-93(3)(A) through (C).
  - (A) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).
  - (B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.
  - (C) The owner or operator of the unit notifies the Director that the unit meets all of these criteria.
- (4) **Commercial and industrial solid waste incineration units.** The unit is excluded if it is regulated under 40 CFR 60, subparts CCCC or DDDD or 40 CFR 62, subpart III and is required to meet the emission limitations established in those subparts.
- (5) **Hazardous waste combustion units.** The unit is excluded if it meets either of the two criteria specified OAC 252:100-17-93(5)(A) or (B).
  - (A) The owner/operator of the unit is required to get a permit for the unit under section 3005 of the Solid Waste Disposal Act.
  - (B) The unit is regulated under 40 CFR part 63, subpart EEE (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors).
- (6) **Hospital/medical/infectious waste incinerators.** The unit is excluded if it is regulated under 40 CFR 60, subparts Ce or Ec (New Source Performance Standards and Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators) or 40 CFR 62, subpart HHH (Federal Plan for Hospital/Medical/ Infectious Waste Incinerators constructed on or before June 20, 1996).
- (7) **Rural institutional waste incinerators.** The incineration unit is excluded if it is an institutional waste

## Permanent Final Adoptions

---

incinerator, as defined in OAC 252:100-17-91, and the application for exclusion described in OAC 252:100-17-93(7)(A) and (B) has been approved by the Director.

(A) Prior to 1 year before the final compliance date, an application and supporting documentation demonstrating that the institutional waste incineration unit meets the two requirements specified in OAC 252:100-17-93(7)(A)(i) and (ii) must be submitted to the Director for approval.

(i) The unit is located more than 50 miles from the boundary of the nearest Metropolitan Statistical Area.

(ii) Alternative disposal options are not available or are economically infeasible.

(B) The application described in OAC 252:100-17-93(7)(A) must be revised and resubmitted to the Director for approval every 5 years following the initial approval of the exclusion for the unit.

(C) If the owner or operator re-applied for an exclusion pursuant to OAC 252:100-17-93(7)(B) and was denied exclusion by the Director, the owner or operator has 3 years from the expiration date of the current exclusion to comply with the emission limits and all other applicable requirements of this subpart.

(8) **Institutional boilers and process heaters.** The unit is excluded if it is regulated under 40 CFR part 63, subpart DDDDD (National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters).

(9) **Laboratory Analysis Units.** The unit is excluded if it burns samples of materials only for the purpose of chemical or physical analysis.

(10) **Materials recovery units.** The unit is excluded if it combusts waste for the primary purpose of recovering metals. Examples include primary and secondary smelters.

(11) **Pathological waste incineration units.** The institutional waste incineration unit or very small municipal waste combustion unit is excluded from this subpart if it burns 90% or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in OAC 252:100-17-91 and the owner or operator of the unit notifies the Director that the unit meets these criteria.

(12) **Small or large municipal waste combustion units.** The unit is excluded if it is regulated under 40 CFR 60, AAAA, BBBB, Ea, Eb, or Cb, 40 CFR 62, subparts FFF or JJJ and is required to meet the emission limitations established in those subparts.

(13) **Small power production facilities.** The unit is excluded if it meets the three requirements specified in OAC 252:100-93(13)(A) through (C).

(A) The unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) The owner or operator of the unit notifies the Director that the unit meets all of these criteria.

(14) **Temporary-use incinerators and air curtain incinerators used in disaster recovery.** The incineration unit is excluded if it is used on a temporary basis to combust debris from a disaster or emergency such as a tornado, hurricane, flood, ice storm, high winds, or act of bioterrorism and complies with the requirements in 40 CFR 60.2969.

(15) **Units that combust contraband or prohibited goods.** The incineration unit is excluded if the unit is owned or operated by a government agency such as police, customs, agricultural inspection, or a similar agency to destroy only illegal or prohibited goods such as illegal drugs, or agricultural food products that can not be transported into the country or across state lines to prevent biocontamination. The exclusion does not apply to items either confiscated or incinerated by private, industrial, or commercial entities.

(16) **Incinerators used for national security.** The incineration unit is excluded if it meets the requirements specified in either OAC 252:100-17-93(A) or (B).

(A) The incineration unit is used solely during military training field exercises to destroy national security materials integral to the field exercises.

(B) The incineration unit is used solely to incinerate national security materials, its use is necessary to safeguard national security, the owner or operator follows the exclusion request requirements in OAC 252:100-17-93(16)(B)(i) and (ii), and the Director has approved the request for exclusion.

(i) The request for exclusion and supporting documentation must demonstrate both that the incineration unit is used solely to destroy national security materials and that a reliable alternative to incineration that ensures acceptable destruction of national security materials is unavailable, on either a permanent or temporary basis.

(ii) The request for exclusion must be submitted to the Director prior to 1 year before the final compliance date.

### **252:100-17-94. Emission limits**

On and after the date on which the initial performance test is completed or is required to be completed, whichever date comes first, no OSWI subject to this Part shall discharge into the atmosphere from that facility any gases that contain stack emissions in excess of the emission limits in Table 1 of 40 CFR 60, EEEE. Table 1 of 40 CFR 60, Subpart EEEE is hereby incorporated by reference as it exists on December 16, 2005.

### **252:100-17-95. Operating limits**

(a) Except for 40 CFR 60.2916(b), an OSWI shall comply with all of the requirements specified in 40 CFR 60.2916, 60.2917 and 60.2918 and Table 2 of 40 CFR 60, subpart EEEE, which are hereby incorporated by reference, as they exist on December 16, 2005.

(b) The OSWI must be operated within the operating limits established during initial performance test beginning on the date 180 days after final compliance date.

(c) The final compliance date can be no later than 3 years after the effective date of State plan approval or December 16, 2010, whichever is earlier.

**252:100-17-96. Standards for OSWI operator training and qualification requirements**

(a) The OSWI operator training and qualification requirements in 40 CFR 60.2905, 60.2907, 60.2908, 60.2909, 60.2910 except for 60.2910(b)(1), and 60.2911 are hereby incorporated by reference, as they exist on December 16, 2005.

(b) The operator training course must be completed by the latest of the three dates specified in OAC 252:100-17-96(b)(1) through (3).

- (1) Final Compliance date.
- (2) Six months after OSWI unit startup.
- (3) Six months after an employee of the owner/operator assumes responsibility for operating the OSWI unit or assumes responsibility for supervising the operation of the OSWI unit.

(c) The initial review of documentation required to be kept on site as required in 40 CFR 60.2910 must be conducted by the latest of three dates specified in OAC 252:100-17-96(c)(1) through (3).

- (1) Final Compliance date.
- (2) Six months after OSWI unit startup.
- (3) Six months after an employee assumes responsibility for operating the OSWI unit or assumes responsibility for supervising the operation of the OSWI unit.

**252:100-17-97. Waste Management Plans**

Unless otherwise exempted, the owner or operator of an OSWI unit subject to this Part shall submit a waste management plan, as specified in 40 CFR 60.2899 and 60.2901, to the Director no later than 60 days following the initial performance test as specified in OAC 252:100-17-98 and 252:100-17-99. Parts 60.2899 and 60.2901 of Title 40 of CFR are hereby incorporated by reference as they exist on December 16, 2005.

**252:100-17-98. Performance testing**

Parts 60.2922 and 60.2923 of Title 40 of CFR are hereby incorporated by reference as they exist on December 16, 2005.

**252:100-17-99. Initial compliance requirements**

(a) The owner or operator must conduct an initial performance test, as required under 40 CFR 60.8, to determine compliance with the emission limitations in Table 1 of 40 CFR 60 subpart EEEE and to establish operating limits using the procedure in 40 CFR 60.2916 or 60.2917 except for 60.2916(b). The initial performance test must be conducted using the test methods listed in Table 1 of 40 CFR 60 subpart EEEE and the procedures in 40 CFR 60.2922.

(b) The initial performance test must be conducted no later than 180 days after the final compliance date.

**252:100-17-100. Continuous compliance requirements**

Parts 60.2932, 60.2933, 60.2934, and 60.2935 of Title 40 of CFR are hereby incorporated by reference, as they exist on December 16, 2005.

**252:100-17-101. Monitoring**

(a) Except for 2940(b), an OSWI shall comply with 40 CFR 60.2939, 60.2940, 60.2941, 60.2942, 60.2943, 60.2944, and 60.2945, which are hereby incorporated by reference as they exist on December 16, 2005.

(b) The initial evaluation of the CEMS shall be completed within 180 days after the final compliance date in OAC 252:100-17-106(a)

**252:100-17-102. Reporting and recordkeeping requirements**

(a) Parts 60.2949, 60.2950, 60.2951, 60.2954, 60.2955, 60.2956, 60.2957, 60.2958, 60.2959, 60.2960, 60.2961, and 60.2962 of Title 40 of CFR are hereby incorporated by reference as they exist on December 16, 2005.

(b) The owner or operator of an OSWI must also submit a waste management plan as specified in OAC 252:100-17-97.

**252:100-17-103. Part 70 permits**

The owner or operator of an OSWI that does not meet requirements for exemption as listed in 252:100-17-92 must submit to the Director a complete application for a Part 70 operating permit on or before December 1, 2008.

**252:100-17-104. Requirements for temporary-use incinerators and air curtain incinerators used in disaster recovery**

Part 60.2969 of Title 40 of CFR is hereby incorporated by reference as it exists on December 16, 2005.

**252:100-17-105. Air curtain incinerators that burn only wood waste, clean lumber, and yard waste**

(a) Parts 60.2970, 60.2971 except for 60.2971(a), 60.2972, 60.2973 except for 60.2973(a), and 60.2974 of Title 40 of CFR are hereby incorporated by reference as they exist on December 16, 2005.

(b) Within 180 days after the final compliance date, the two limitations specified in paragraphs OAC 252:100-17-105(b)(1) and (2) must be met.

(1) The opacity limitation is 10 percent (6 minute Method 9 block average), except as described in paragraph (b)(2) of this section.

(2) The opacity limitation is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(c) Except during malfunctions, the requirements of OAC 252:100-17-105(b) apply at all times, and each malfunction must not exceed 3 hours.

# Permanent Final Adoptions

## **252:100-17-106. Compliance schedules**

(a) The final compliance date can be no later than 3 years after the effective date of State plan approval or December 16, 2010, whichever is earlier.

(b) The owner or operator must submit a notification to the Director stating whether final compliance has been achieved, postmarked within 10 business days after the final compliance date.

## **252:100-17-107. OSWI closure**

(a) If the OSWI unit is closed but will be restarted prior to final compliance date as contained in OAC 252:100-17-106(a), the owner or operator shall meet the final compliance date.

(b) If the OSWI unit is closed but will be restarted on or after the final compliance date specified in OAC 252:100-17-106(a), the owner or operator shall complete emission control retrofits and meet the emission limitations and operating limits on the date the OSWI unit restarts operations. An initial performance test must be conducted within 30 days of restarting an OSWI unit.

(c) If the OSWI unit is permanently closed, it must be closed before the final compliance date specified in OAC 252:100-17-106(a) and the owner or operator shall submit a closure notification, including the date of closure, to the Director by the final compliance date.

## **252:100-17-108. Equations**

Equations to use when calculations are required to comply with this Part are contained in 40 CFR 60.1975, which is hereby incorporated by reference as it exists on December 16, 2005.

*[OAR Docket #07-823; filed 4-23-07]*

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

*[OAR Docket #07-824]*

**RULEMAKING ACTION:**  
PERMANENT final adoption

**RULES:**  
Subchapter 3. Incorporation by Reference  
252:205-3-1 [AMENDED]  
252:205-3-2 [AMENDED]

**AUTHORITY:**  
Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201, 2-2-104, 2-7-105 and 2-7-106

**DATES:**  
**Comment period:**  
September 1 through October 5, 2006, and November 14, 2006

**Public hearing:**  
October 5, 2006, and November 14, 2006

**Adoption:**  
November 14, 2006

**Submitted to Governor:**  
November 21, 2006

**Submitted to House:**  
November 21, 2006

**Submitted to Senate:**  
November 21, 2006

**Gubernatorial Approval:**  
January 4, 2007

**Legislative approval:**  
Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**  
March 27, 2007

**Effective:**  
June 15, 2007

### **SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**  
Subchapter 3. Incorporation by Reference  
252:205-3-1 [AMENDED]  
252:205-3-2 [AMENDED]

**Gubernatorial approval:**  
December 21, 2006

**Register publication:**  
24 Ok Reg 584

**Docket number:**  
07-102

### **INCORPORATION BY REFERENCE:**

**Incorporated standards:**  
Title 40 of the Code of Federal Regulations, Parts 124, 260 through 266, 268, 270, 273, and 279 as amended through July 1, 2006, the amendment to 40 CFR promulgated at 71 FR 40254-40280, and the amendment to 40 CFR promulgated at 71 FR 42928-42949.

**Incorporating rules:**  
Subchapter 3. Incorporation by Reference  
252:205-3-1  
252:205-3-2

**Availability:**  
From the contact person listed below

**ANALYSIS:**  
The proposed amendments are to: (1) incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2006; and (2) incorporate amendments to 40 CFR that took effect after July 1, 2006.

**CONTACT PERSON:**  
Jon Roberts (405) 702-5184, 707 North Robinson, Fifth Floor, Oklahoma City, Oklahoma 73102. Mailing address is P. O. Box 1677, Oklahoma City, OK 73101-1677. E-mail address is jon.roberts@deq.state.ok.us.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

## **SUBCHAPTER 3. INCORPORATION BY REFERENCE**

### **252:205-3-1. Reference to 40 CFR**

When reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified):

- (1) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through ~~July 1, 2005, and the amendment to 40 CFR promulgated at 70 FR 45508-45522, July 1, 2006;~~
- (2) the amendment to 40 CFR promulgated at 71 FR 40254-40280, "Hazardous Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations;" and

(3) the amendment to 40 CFR promulgated at 71 FR 42928-42949, "Modification of the Hazardous Waste Program: Cathode Ray Tubes."

**252:205-3-2. Incorporation by reference**

(a) **Part 124.** Procedures For Decision Making, those sections required by 40 CFR 271.14, with the following additions:

- (1) § 124.19(a) through (c) and (e);
- (2) §§ 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from paragraph (a) of each section: "~~Hazardous~~" "For the purposes of this section only, 'hazardous' waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR Part 271-"; and

(3) Subpart G.

(b) **Part 260.** Hazardous Waste Management System: General, except 260.21.

- (1) In 260.20, "Federal Register" is synonymous with "The Oklahoma Register."
- (2) In 260.20(e), strike the words "or a denial."
- (3) In 260.22, references to the lists in Subpart D of Part 261 and the reference to § 261.3(a)(2)(ii) or (c) shall mean the lists in Subpart D of Part 261 and §261.3(a)(2)(ii) or (c) as adopted by reference and applicable in Oklahoma.
- (4) In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements:

- (A) interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)];
- (B) leak detection requirements for all new underground tank systems [3004(o)(4)]; and
- (C) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987.

(c) **Part 261.** Identification and Listing of Hazardous Waste except 261.4(b)(18) which pertains to Utah only, thus should be excluded.

- (1) In 261.4(e)(3)(iii) delete "in the Region where the sample is collected".
- (2) In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State".

(d) **Part 262.** Standards Applicable to Generators of Hazardous Waste except Subpart E and Subpart H. In 262.42(a)(2) and 262.42(b) delete "for the Region in which the generator is located".

(e) **Part 263.** Standards Applicable to Transporters of Hazardous Waste.

(f) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The

following sections and subsections are not adopted by reference: 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g).

(1) In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

(2) In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.

(3) In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.

(4) In 264.570(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(g) **Part 265.** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.1(c)(4), 265.1(g)(12), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g).

(1) In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

(2) In 265.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.

(3) In 265.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.

(4) In 265.440(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(h) **Part 266.** Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. Due to an early incorporation by reference, for purposes of Part 266 only, HSWA and non-HSWA dates are the same. In 266.325, the reference to 10 CFR 1.5 is changed to 10 CFR 71.5.

(i) **Part 267.** Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit. This permit option shall only be available to:

(1) those persons who generate hazardous waste on-site through, or as a result of, industrial production processes;

(2) wholly owned subsidiaries, owners, or sister companies of those persons specified in paragraph (1); and

(3) agencies, departments, or units of the federal government or the State of Oklahoma.

(j) **Part 268.** Land Disposal Restrictions, except 268.5, 268.6, 268.13, 268.42(b) and 268.44(a) through (g). In 268.7

# Permanent Final Adoptions

(a)(9)(iii) exclude D009 from the list of alternative treatment standards for lab packs.

(jk) **Part 270.** The Hazardous Waste Permit Program, except 270.1(c)(2)(ix), and 270.14(b)(18).

(kl) **Part 273.** Standards for Universal Waste Management.

(lm) **Part 279.** Standards for the Management of Used Oil, except that 279.82 is revised to read in its entirety, "The use of used oil as a dust suppressant is prohibited."

(mn) **Excepted CFR Regulations.** Authority for carrying out excepted CFR regulations remains with EPA.

[OAR Docket #07-824; filed 4-23-07]

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 300. LABORATORY ACCREDITATION

[OAR Docket #07-825]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 17. Quality Assurance/Quality Control

Part 1. Quality Assurance/Quality Control General Criteria

252:300-17-3 [AMENDED]

Subchapter 19. Classifications

252:300-19-3 [AMENDED]

Appendix B. Analytes for General Water Quality Laboratory Categories [REVOKED]

Appendix B. Analytes for General Water Quality Laboratory Categories [NEW]

### AUTHORITY:

Environmental Quality Board and Laboratory Services Advisory Council powers and duties: 27A O.S., §§ 2-2-101, 2-2-201, and 2-4-101 *et seq.*

### DATES:

#### Comment period:

August 1, 2006, through September 1, 2006, October 4, 2006, and November 14, 2006

#### Public hearing:

October 4, 2006, and November 14, 2006

#### Adoption:

November 14, 2006

#### Submitted to Governor:

November 21, 2006

#### Submitted to House:

November 21, 2006

#### Submitted to Senate:

November 21, 2006

#### Gubernatorial approval:

January 4, 2007

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

#### Final adoption:

March 27, 2007

#### Effective:

June 15, 2007

#### SUPERSEDED EMERGENCY ACTIONS:

None

#### INCORPORATIONS BY REFERENCE:

##### Incorporated standards:

40 CFR, Part 503

##### Incorporating rules:

252:300-19-3

##### Availability:

From the contact person listed below

### ANALYSIS:

Salmonella bacteria cause people to develop diarrhea, fever and abdominal cramps lasting from 4 - 7 days, with more severe symptoms occurring in the elderly, infants and those with impaired immune systems. The DEQ is requiring several municipalities to perform salmonella testing as a condition of its OPDES permit. Laboratory analyses must be performed by certified laboratories. Therefore, salmonella testing was added to Appendix B, category VII-Microbiology.

Daphnia magna life-cycle toxicity measures the toxicity level of effluent from a municipal water treatment plant as an indicator of other acute toxic compounds entering into water bodies. The DEQ is requiring several municipalities to perform daphnia magna life-cycle toxicity tests as a condition of its OPDES permit. Laboratory analyses must be performed by certified laboratories. Therefore, daphnia magna life-cycle toxicity testing was added to OAC 252:300-19-3.

One type of sludge is the solid matter from wastewater treatment plants. Sludge is often land applied under an OPDES permit issued by the DEQ. Therefore, the federal CFR reference to sampling and analytical requirements for sludge was incorporated by reference at OAC 252:300-19-3.

An inconsistency in rules in this chapter has caused confusion for the regulated laboratories about which edition of the EPA Manual for the Certification of Laboratories Analyzing Drinking Water is required for laboratory certification, inspection and enforcement. A reference to the EPA manual in OAC 252:300-17-3 needs to be updated to make it the same as other references in this chapter.

### CONTACT PERSON:

David Caldwell, Customer Services Division, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at david.caldwell@deq.state.ok.us, phone 405-702-1000, or fax 405-702-1001.

**PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

## SUBCHAPTER 17. QUALITY ASSURANCE/QUALITY CONTROL

### PART 1. QUALITY ASSURANCE/QUALITY CONTROL GENERAL CRITERIA

#### 252:300-17-3. Drinking water accredited laboratories

A laboratory accredited in drinking water classifications shall conform to the requirements established by the EPA for laboratories which analyze drinking water. Refer to the Manual for the Certification of Laboratories Analyzing Drinking Water, ~~4<sup>th</sup> Edition, March, 1997~~ 5<sup>th</sup> Edition, January 2005.

## SUBCHAPTER 19. CLASSIFICATIONS

#### 252:300-19-3. Methods

(a) Laboratories accredited by the DEQ shall use EPA approved methodologies, or methods specifically approved by the DEQ. As the EPA or the Board promulgates new rules, methodologies, or quality assurance/quality control requirements, accredited laboratories shall incorporate these procedures for all accredited analytes. Drinking water sampling and analytical requirements for inorganic chemicals are found at 40

CFR 141.23 and for organic chemicals at 40 CFR 141.24 (July, 2002), which are hereby incorporated by reference. Sampling and analytical requirements for sludge are found at 40 CFR Part 503 (2005), which are hereby incorporated by reference.

(b) Approved methodologies for general water quality laboratories are listed in the following:

(1) "Test Methods for Evaluating Solid Waste, November 1986, Laboratory Manual Physical/Chemical Methods," SW-846, 3rd edition, Volume 1A through 1C, as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996) and IIIA (April 1998), hereinafter referred to as SW-846.

(2) "Guidelines Establishing Test Procedures for the Analysis of Pollutants", 40 CFR Part 136 and Appendices A, B, and C thereof, Volume dated July 1, 2002.

(3) "Identification and Listing of Hazardous Waste" 40 CFR Part 261 and Appendices I through X thereof inclusive, Volume dated July 1, 2002.

(4) "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine

Organisms," 5<sup>th</sup> Edition, EPA 821-R-02-012 (October 2002).

(5) "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms," 4<sup>th</sup> Edition, EPA 821-R-02-013 (October 2002).

(6) "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms," 3<sup>rd</sup> Edition, EPA 821-R-02-014 (October 2002).

(7) "Standards Methods for the Examination of Water and Wastewater", (American Public Health Association [APHA] 1992), (APHA 1995), and (APHA 1998).

(8) TNRCC Method 1005 Total Petroleum Hydrocarbons (>nC<sub>6</sub> to nC<sub>35</sub>).

(9) "Aromatic and Halogenated Volatiles by Gas Chromatography" EPA 8021B.

(10) Oklahoma GRO 8020/8015(Modified).

(11) Oklahoma DRO 8000/8100 (Modified).

(12) Testing Method ASTM E-1193-97 conducting Daphnia magna Life-Cycle Toxicity Test.

# Permanent Final Adoptions

---

## APPENDIX B. ANALYTES FOR GENERAL WATER QUALITY LABORATORY CATEGORIES [REVOKED]

## APPENDIX B. ANALYTES FOR GENERAL WATER QUALITY LABORATORY CATEGORIES [NEW]

**NOTE TO READER:** See "(F) salmonella" in Category VII - Microbiology.

Analytes considered for general water quality laboratory accreditation include the following:

### Category I - Metals.

- (A) Flame atomic absorption (AA)
- (B) Furnace (AA)
- (C) Inductively coupled plasma (ICP)
- (D) Cold vapor
- (E) Hydride
- (F) Colorimetric

### Category II - Nutrients.

- (A) Ammonia-nitrogen
- (B) Total Kjeldahl-nitrogen
- (C) Nitrate-nitrogen
- (D) Nitrate-nitrite-nitrogen
- (E) Nitrite-nitrogen
- (F) Organic-nitrogen
- (G) Orthophosphate phosphorus
- (H) Total phosphorus

### Category III - Demands.

- (A) Five day biochemical oxygen demand
- (B) Five day carbonaceous biochemical oxygen demand
- (C) Chemical oxygen demand
- (D) Total organic carbon

### Category IV - Extractable Organics.

- (A) Methods by Gas Chromatography (GC) and Liquid Chromatography (LC) analysis include the following:
  - (i) EPA method 604 (phenols)
  - (ii) EPA method 605 (benzidines)
  - (iii) EPA method 606 (phthalic esters)
  - (iv) EPA method 607 (nitrosoamines)
  - (v) EPA method 609 (nitroaromatics and isophorone)
  - (vi) EPA method 610 - (polynuclear aromatic hydrocarbons)
  - (vii) GC or LC analysis)
  - (viii) EPA Method 611 (haloethers)
  - (ix) EPA method 612 (chlorinated hydrocarbons)
- (B) Methods by Gas Chromatography-Mass Spectroscopy (GC-MS)

analysis include the following:

- (i) EPA method 613 (dioxin)
- (ii) EPA method 625 (base-neutrals and acids)
- (iii) EPA method 1625 (semi-volatiles, revision B).

**Category V - General Chemistry I.**

- (A) Acidity
- (B) Alkalinity
- (C) Bromine
- (D) Bromide
- (E) Bromates
- (F) Calcium
- (G) Chloride
- (H) Color
- (I) Copper
- (J) Fluoride
- (K) Hardness
- (L) Hydrogen ion (pH)
- (M) Iron
- (N) Magnesium
- (O) Manganese
- (P) Total residue
- (Q) Total dissolved solids (Filterable residue)
- (R) Total suspended solids (Non-filterable residue)
- (S) Settleable residue
- (T) Volatile residue
- (U) Sulfate
- (V) Nitrate
- (W) Turbidity
- (X) Zinc

**Category VI - General Chemistry II.**

- (A) Residual chlorine
- (B) Total cyanide
- (C) Cyanide amenable to chlorination
- (D) Oil & grease
- (E) Dissolved oxygen
- (F) Total phenols
- (G) Elemental phosphorus
- (H) Dissolved silica
- (I) Specific conductance
- (J) Sulfide
- (K) Sulfite
- (L) Surfactants
- (M) Total dissolved gases
- (N) Hexavalent chromium
- (O) Corrosivity-calcium carbonate stability

**Category VII - Microbiology.**

# Permanent Final Adoptions

---

Specific methods are listed in 40 C.F.R. Part 136, Table 1A.

- (A) Fecal coliform bacteria
- (B) Fecal coliform bacteria in the presence of chlorine
- (C) Total coliform bacteria
- (D) Total coliform bacteria in the presence of chlorine
- (E) Fecal streptococci
- (F) Salmonella

## Category VIII - Pesticides - Herbicides - PCB's.

- (A) Methods by GC analysis.
  - (i) Methods 608, 608.1, 608.2, 509A - Organochlorine pesticides
  - (ii) methods 614, 614.1, 622, 622.1 - Organophosphorus pesticides
  - (iii) EPA method 617 - Organohalide pesticides and PCB's
  - (iv) EPA method 618 - Volatile pesticides
  - (v) EPA method 619 - Triazine
  - (vi) EPA method 627 - Dinitroaniline
  - (vii) EPA method 633 - Organonitrogen compounds
  - (viii) EPA method 645 - Amine and lethane
  - (ix) Methods 509B, 615 - Chlorinated herbicides
- (B) Methods by GC-MS analysis.
  - (i) EPA method 625 - GC-MS
  - (ii) EPA method 1625 - GC-MS
- (C) Methods by High Performance Liquid Chromatography (HPLC) analysis
  - (i) EPA method 629 - Cyanazine
  - (ii) EPA method 631 - Benomyl
  - (iii) EPA method 632, 632.1 - Carbamates
  - (iv) EPA method 612 - Biphenyl and o-Phenyl phenol
  - (v) EPA method 643 - Bentazon
  - (vi) EPA method 644 - Picloram

## Category IX - Purgeable Organics.

- (A) Methods by GC analysis
  - (i) EPA method 601 - Purgeable halocarbon
  - (ii) EPA method 602 - Purgeable aromatics
  - (iii) EPA method 603 - Acrolein and acrylonitrile
- (B) Methods by GC-MS analysis
  - (i) EPA method 624 - Purgeable by GC-MS
  - (ii) EPA method 1624 Revision B - Volatile organics
  - (iii) EPA method 8260 Revision C - Volatile organics

## Category X - Radiological.

- (A) Total alpha, including alpha-counting error
- (B) Total beta, including beta-counting error
- (C) Total radium

(D) Radium-226

**Category XI - Bioassay.**

- (A) Acute - Freshwater organisms
- (B) Acute - Saltwater organisms
- (C) Chronic - Freshwater organisms
- (D) Chronic - Saltwater organisms

**Category XII - Hazardous Waste Characterization.**

- (A) Waste ignitability
- (B) Waste corrosivity
- (C) Waste reactivity
- (D) Toxicity Characteristic Leaching Procedure (TCLP)

*[OAR Docket #07-825; filed 4-23-07]*

---

# Permanent Final Adoptions

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

[OAR Docket #07-826]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

- Subchapter 1. General Provisions  
252:410-1-7 [AMENDED]
- Subchapter 10. Radioactive Materials Program
  - Part 1. General Provisions  
252:410-10-1 [AMENDED]
  - Part 30. Byproduct Material Licensing in General  
252:410-10-30 [AMENDED]
  - Part 31. Byproduct Material: General Licenses  
252:410-10-31 [AMENDED]
  - Part 32. Byproduct Material: Specific Licenses for Manufacturing and Transferring Certain Items  
252:410-10-32 [AMENDED]
  - Part 34. Industrial Radiographic Operations  
252:410-10-34 [AMENDED]
  - Part 35. Medical Use of Byproduct Material  
252:410-10-35 [AMENDED]
  - Part 39. Well Logging  
252:410-10-39 [AMENDED]
  - Part 70. Special Nuclear Material  
252:410-10-70 [AMENDED]
  - Part 71. Packaging and Transporting Radioactive Material  
252:410-10-71 [AMENDED]
- Subchapter 20. Standards for Protection Against Radiation  
252:410-20-1 [AMENDED]

### AUTHORITY:

Environmental Quality Board and Radiation Management Advisory Council powers and duties: 27A O.S., Sections 2-2-101, 2-2-201, and 2-9-104.

### DATES:

#### Comment Period:

July 17, 2006, through August 29, 2006, and October 2, 2006, through November 2, 2006

#### Public Hearing:

August 29, 2006, and November 14, 2006

#### Adoption:

November 14, 2006

#### Submitted to Governor:

November 21, 2006

#### Submitted to House:

November 21, 2006

#### Submitted to Senate:

November 21, 2006

#### Gubernatorial approval:

January 4, 2007

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

#### Final adoption:

March 27, 2007

#### Effective:

June 15, 2007

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

##### Incorporated standards:

Title 10 of the Code of Federal Regulations, Parts 20, 30, 31, 32, 34, 35, 39, 70 and 71 as amended through January 1, 2005; 70 Fed. Reg. 2001-2009 (January 12, 2005); 70 Fed. Reg. 16361-16367 (March 30, 2005); and 71 Fed. Reg. 1926 (January 12, 2006)

##### Incorporating rules:

252:410-1-7, 252:410-10-1, 252:410-10-30, 252:410-10-31, 252:410-10-32, 252:410-10-34, 252:410-10-35, 252:410-10-39, 252:410-10-70, 252:410-10-71, and 252:410-20-1

#### Availability:

Copies of the incorporated standards may be examined during regular business hours at the Oklahoma City offices of the Department of Environmental Quality.

#### ANALYSIS:

Subchapter 1, Section 7 amendments: (1) update the reference to the Nuclear Regulatory Commission (NRC) regulations in Title 10 of the Code of Federal Regulations (10 CFR) to incorporate by reference the 10 CFR regulations as they existed on January 1, 2005, with the addition of three later-promulgated NRC regulations covering the recognition of specialty boards for the medical use of byproduct material, a correction to the medical use of byproduct material changes with respect to the training of Radiation Safety Officers, and increased security requirements for portable gauges; and clarify that when a provision of CFR is incorporated by reference all referenced citations are also incorporated by reference. Subchapter 10 changes include revisions to subsection 1(b) to correct the list of NRC rules that are not incorporated by reference and remain enforced by NRC. Subsection 1(c) is revised, and subsection 1 (d) is deleted. These two subsections contain explanatory material regarding the effect of the State of Oklahoma becoming an agreement state, which language was significant in 2000 but is no longer needed. The proposed amendments to Parts 30, 31, 32, 34, 35, 39, 70, and 71 and Subchapter 20 contain conforming changes resulting from updated incorporations by reference, correct scrivener's errors, and make minor formatting changes to simplify reading.

#### CONTACT PERSON:

Mike Broderick, Radiation Management Section, Land Protection Division, Department of Environmental Quality, P. O. Box 1677, Oklahoma City, OK 73101-1677, phone 405-702-5100 and FAX 405-702-5101.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 252:410-1-7. Incorporation of federal regulations by reference

(a) **10 CFR.** References in this Chapter to Title 10 of the Code of Federal Regulations (10 CFR) mean the January 1, ~~2004~~2005 publication of 10 CFR and 70 Fed. Reg. 2001-2009 (January 12, 2005), 70 Fed. Reg. 16361-16367 (March 30, 2005), and 71 Fed. Reg. 1926 (January 12, 2006).

(b) **40 CFR.** References in this Chapter to Title 40 of the Code of Federal Regulations (40 CFR) mean the July 1, 1998 publication of 40 CFR and 64 Fed. Reg. 5574 (February 3, 1999).

(c) **Citations incorporated.** When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference.

### SUBCHAPTER 10. RADIOACTIVE MATERIALS PROGRAM

#### PART 1. GENERAL PROVISIONS

#### 252:410-10-1. Radioactive Materials Program

(a) **Scope.**

(1) The rules in this Subchapter establish license requirements for the following categories of radioactive materials: byproduct material, radium sealed sources, accelerator-produced material, source material and special nuclear material.

(2) License requirements incorporated by reference from 10 CFR are applicable requirements for all categories of radioactive materials within the scope of this Subchapter. Requirements for byproduct material are applicable requirements for accelerator-produced material and radium sealed sources as well as byproduct material.

(b) **Exclusions.** Responsibility for the following regulatory requirements remains with the NRC:

(1) **In 10 CFR 20.** Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits at nuclear power plants, § 20.2203(c); Reports of individual monitoring, § 20.2206(a)(1), (a)(3), (a)(4) and (a)(5);

(2) **In 10 CFR 30.** Terms and conditions of licenses, § 30.34 (d), (e)(1) and (e)(3); Transfer of byproduct material, § 30.41 (b)(6); Tritium reports, § 30.55;

(3) **In 10 CFR 32.** Subpart A, Exempt concentrations and items, §§ 32.14, 32.15, 32.16, 32.18 through 32.23, 32.25 through 32.29, and 32.40; Subpart D, Specifically licensed items, § 32.210;

(4) **In 10 CFR 40.** General Provisions, §§ 40.2a and 40.3; Exemptions, §§ 40.11, 40.12 and 40.13 (a), (b), (c)(1) through (5), (c)(7) through (9), 40.14; General Licenses, §§ 40.20 through 40.24; 40.26 through 40.28; License Applications, §§ 40.31 (f) through (l), §§ 40.32 (d) through (g), and §§ 40.33 through 40.38; Licenses, §§ 40.41 (d), (e)(1) and (3), (f) and (g), § 40.42 and § 40.46; Transfer of Source Material, § 40.51 (b)(6); Records, Reports, and Inspections, § 40.60 (c)(3), §§ 40.64 through 40.67; Appendix A;

(5) **In 10 CFR 61.** Other information, § 61.16; Standards for issuance of a license, § 61.23 (i) and (j) regarding physical security information and criticality safety procedures for special nuclear material possessed prior to disposal;

(6) **In 10 CFR 70.** Regulation of special nuclear material for spent fuel, high level radioactive waste and uranium enrichment facilities, §§ 70.1(c),(d) and (e); Department of Defense, § 70.13; Foreign military aircraft, § 70.14; Strategic General license to possess special nuclear material for transport, § 70.20a; General license for Carriers-carriers of transient shipments of formula quantities of strategic special nuclear material of moderate strategic significance, special nuclear material of low strategic significance, and irradiated reactor fuel regulated under 10 CFR 73, § 70.20b; Application requirements for uses specified in Section 274(e) of the Atomic Energy Act Subpart D - License Applications, §§ § 70.21(a)(1),(c),(f),(g) and (h); § 70.22 (b),(c) and (f) through (n); § 70.23 (a)(6) through (12) and (b); § 70.23a; § 70.24; and § 70.25; Subpart E - Licenses, § 70.31 (c), (d), and (e), § 70.32 (a)(1), (a)(4) through (7), (b)(1), (b)(3), (b)(4), (c) through (k); and § 70.37; § 70.40; Subpart F - Acquisition, Use

and Transfer of Special Nuclear Material, Creditor's Rights, § 70.42(b)(6);, and § 70.44; Subpart G - Special Nuclear Material Control, Records, Reports and Inspections, § 70.51(c),(d) and (e);, § 70.52 through § 70.54; § 70.55(c);, § 70.56, and (e) and (d); 70.57 through §70.59; and § 70.62; Subpart H - Additional Requirements for Certain Licensees Authorized to Possess a Critical Mass of Special Nuclear Material, § 70.60 through 70.76; Subpart I - Modification and Revocation of Licenses, § 70.81 and § 70.82; Subpart J - Enforcement, §§ 70.91 and 70.92;

(7) **In 10 CFR 71.** Jurisdiction over package approvals and fissile material, § 71.13 (e) and (d); § 71.24; Subpart A - General Provisions, § 71.10; Subpart B - Exemptions, § 71.14(b); Subpart D - Application for Package Approvals, §§ 71.31 through 71.39; Subpart E - Package Approval Standards, §§ 71.41 through 71.45 and §§ 71.51 through 71.65; Subpart F - Package, Special Form, and LSA-III Tests, §§ 71.71 through 71.77; and § 71.83; and Subpart H - Quality Assurance, §§ 71.107 through 71.125;

(8) **In 10 CFR 150.** Exemptions and continued NRC authority in Agreement States Persons in offshore waters not exempt, § 150.7; Persons in agreement states exempt, § 150.10; and Commission regulatory authority for physical protection in agreement states, § 150.14; through Persons in agreement states not exempt, Continued Commission authority pertaining to byproduct material in agreement states, § 150.17; Compliance with requirements of US/IAEA safeguards agreement for source material under state agreement license; Submission to Commission of reports for tritium in agreement states, § 150.19; Recognition of Agreement State licenses, § 150.20(e) and (d); § 150.20; Transportation by aircraft of special nuclear material by agreement state licensee, § 150.21; Violations, § 150.30; Requirements for Agreement State regulation of byproduct material, § 150.31; Funds for reclamation or maintenance of byproduct material, and §150.32; and Criminal penalties, § 150.33.

(c) **Effective date.**

(1) Except for those sources listed in paragraph (2) of this subsection, the incorporations by reference and fee schedules requirements of this Subchapter shall become became effective September, 29, 2000, the date upon which jurisdiction over all unrevoked and unexpired NRC licenses and plan approvals was transferred to DEQ.

(2) For accelerator-produced material and radium sealed sources the effective date for requirements of this Subchapter is August 1, 2004.

(d) **Transfer of licenses.** Effective September 29, 2000, all unrevoked and unexpired NRC licenses and plan approvals over which jurisdiction is transferred to DEQ shall remain valid and become subject to the laws and rules of DEQ.

## PART 30. BYPRODUCT MATERIAL LICENSING IN GENERAL

# Permanent Final Adoptions

## 252:410-10-30. 10 CFR 30 incorporations

The following provisions are hereby incorporated by reference from 10 CFR 30, Rules of General Applicability to Domestic Licensing of Byproduct Material:

- (1) **General Provisions.**
  - (A) 30.1 - Scope
  - (B) 30.2 - Resolution of conflict
  - (C) 30.3 - Activities requiring license
  - (D) 30.4 - Definitions
  - (E) 30.7 - Employee protection
  - (F) 30.9 - Completeness and accuracy of information
  - (G) 30.10 - Deliberate misconduct
- (2) **Exemptions.**
  - (A) 30.11 - Specific exemptions
  - (B) 30.12 - Persons using byproduct material under certain Department of Energy and ~~NRC~~ Nuclear Regulatory Commission contracts
  - (C) 30.13 - Carriers
  - (D) 30.14 - Exempt concentrations
  - (E) 30.15 - Certain items containing byproduct material
  - (F) 30.16 - Resins containing Scandium-46 and designed for sand-consolidation in oil wells
  - (G) 30.18 - Exempt quantities
  - (H) 30.19 - Self luminous products containing tritium, krypton-85 or promethium-147
  - (I) 30.20 - Gas and aerosol detectors containing byproduct material
  - (J) 30.21 - Radioactive drug: Capsules containing carbon-14 urea for "~~in vitro~~ *in vivo*" diagnostic use for humans
- (3) **Licenses.**
  - (A) 30.31 - Types of licenses
  - (B) 30.32 (a) through (d) and (g) through (i) - Application for specific licenses
  - (C) 30.33 - General requirements for issuance of specific licenses
  - (D) 30.34(a), (b), (c), (e)(2), (e)(4), (f), (g), (h), and (i) - Terms and conditions of licenses, ~~except (d), (e)(1) and (e)(3)~~
  - (E) 30.35 - Financial assurance and recordkeeping for decommissioning
  - (F) 30.36 - Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas, except (a)(2)
  - (G) 30.37 - Application for renewal of licenses
  - (H) 30.38 - Application for amendment of licenses
  - (I) 30.39 - Commission action on applications to renew or amend
  - (J) 30.41 - Transfer of byproduct material, except (b)(6)
- (4) **Records, inspections, tests and reports.**
  - (A) 30.50 - Reporting requirements
  - (B) 30.51 - Records
  - (C) 30.52 - Inspections
  - (D) 30.53 - Tests
- (5) **~~Administrative procedures.~~ Enforcement.**

- (A) 30.61 - Modification and revocation of licenses
  - (B) 30.62 - Right to cause the withholding or recall of byproduct material
- (6) **Schedules.**
    - (A) 30.70 - Schedule A - Exempt concentrations
    - (B) 30.71 - Schedule B - ~~Exempt quantities~~
    - (C) 30.72 - Schedule C - Quantities of radioactive materials requiring consideration of the need for an emergency plan for responding to a release.
  - (7) **Appendices.**
    - (A) Appendix A - Criteria relating to use of financial tests and parent company guarantees for providing reasonable assurance of funds for decommissioning.
    - (B) Appendix B - Quantities of licensed material requiring labeling.
    - (C) Appendix C - Criteria relating to use of financial tests and self guarantees for providing reasonable assurance of funds for decommissioning.
    - (D) Appendix D - Criteria relating to use of financial tests and self-guarantee for providing reasonable assurance of funds for decommissioning by commercial companies that have no outstanding rated bonds.
    - (E) Appendix E - Criteria relating to use of financial tests and self-guarantee for providing reasonable assurance of funds for decommissioning by nonprofit colleges, universities, and hospitals.

## PART 31. BYPRODUCT MATERIAL: GENERAL LICENSES

### 252:410-10-31. 10 CFR 31 incorporations by reference

The following provisions are hereby incorporated by reference from 10 CFR 31, General Domestic Licenses for Byproduct Material:

- (1) **General provisions.**
  - (A) 31.1 - Purpose and scope
  - (B) 31.2 - Terms and conditions
- (2) **General licenses.**
  - (A) 31.3(a) and (d) - Certain devices and equipment
  - (B) 31.5 - Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere
  - (C) 31.6 - General license to install devices generally licensed in 31.5
  - (D) 31.7 - Luminous safety devices for use in aircraft
  - (E) 31.8 - Americium-241 in the form of calibration or reference sources
  - (F) 31.9 - General license to own byproduct material.
  - (G) 31.10 - General license for strontium 90 in ice detection devices
  - (H) 31.11 - General license for use of byproduct material for certain *in vitro* clinical or laboratory testing.
- (3) **Recordkeeping.** 31.12 - Maintenance of records.

**PART 32. BYPRODUCT MATERIAL: SPECIFIC LICENSES FOR MANUFACTURING AND TRANSFERRING CERTAIN ITEMS**

**252:410-10-32. 10 CFR 32 incorporations by reference**

The following provisions are hereby incorporated by reference from 10 CFR 32, Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material:

- (1) **General provisions.**
  - (A) 32.1 - Purpose and scope, excluding issuance of certificates of registration
  - (B) 32.2 - Definitions
  - (C) 32.3 - Maintenance of records
- (2) **Subpart A; - Exempt concentrations and items.**
  - (A) 32.11 - Introduction of byproduct material in exempt concentrations into products or materials and transfer of ownership or possession: Requirements for license
  - (B) 32.12 - Same: Records and material transfer reports
  - (C) 32.13 - Same: Prohibition of introduction
  - (D) 32.17 - Resins containing scandium-46 and designed for sand-consolidation in oil wells: Requirements for license to manufacture, or initially transfer for sale or distribution
  - (E) 32.24 - ~~Organ doses table~~ Same: Table of organ doses
- (3) **Subpart B; - Generally licensed items.**
  - (A) Byproduct material contained in devices for use under 31.5:
    - (i) 32.51 - Requirements for license to manufacture or initially transfer
    - (ii) 32.51a - Conditions of licenses
    - (iii) 32.52 - Material transfer reports and records
  - (B) Luminous safety devices for use in aircraft:
    - (i) 32.53 - Requirements for license to manufacture, assemble, repair or initially transfer
    - (ii) 32.54 - Labeling of devices
    - (iii) 32.55 - Quality assurance; prohibition of transfer
    - (iv) 32.56 - Material transfer reports
  - (C) Calibration or reference sources containing americium 241:
    - (i) 32.57 - Requirements for license to manufacture or initially transfer
    - (ii) 32.58 - Labeling of devices
    - (iii) 32.59 - Leak testing of each source
  - (D) Ice detection devices containing strontium-90:
    - (i) 32.61 - Requirements for license to manufacture or initially transfer
    - (ii) 32.62 - Quality assurance; prohibition of transfer
  - (E) 32.71 - Manufacture and distribution of byproduct material for certain *in vitro* clinical or laboratory testing under general license

- (F) 32.72 - Manufacture, preparation or transfer for commercial distribution of radioactive drugs containing byproduct material for medical use under part 35
- (G) 32.74 - Manufacture and distribution of sources or devices containing byproduct material for medical use

- (4) **Subpart B Schedules.**
  - (A) 32.101 - Schedule B, prototype tests for luminous safety devices for use in aircraft
  - (B) 32.102 - Schedule C, prototype tests for calibration or reference sources ~~with~~ containing americium-241
  - (C) 32.103 - Schedule D, prototype tests for ice detection devices ~~with~~ containing strontium 90
- (5) **Subpart C; - Quality control sampling procedures.** 32.110 - Acceptance sampling procedures under certain specific licenses.

**PART 34. INDUSTRIAL RADIOGRAPHIC OPERATIONS**

**252:410-10-34. 10 CFR 34 incorporations**

The following provisions are hereby incorporated by reference from 10 CFR Part 34, Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations:

- (1) **Subpart A; General provisions.**
  - (A) 34.1 - Purpose and scope
  - (B) 34.3 - Definitions
- (2) **Subpart B; Specific licensing provisions.**
  - (A) 34.11 - Application for a specific license
  - (B) 34.13 - Specific license for industrial radiography
- (3) **Subpart C; Equipment.**
  - (A) 34.20 - Performance requirements for industrial radiography equipment
  - (B) 34.21 - Limits on external radiation levels from storage containers and source changers
  - (C) 34.23 - Locking of radiographic exposure devices, storage containers and source changers
  - (D) 34.25 - Radiation survey instruments
  - (E) 34.27 - Leak testing and replacement of sealed sources
  - (F) 34.29 - Quarterly inventory
  - (G) 34.31 - Inspection and maintenance of radiographic exposure devices, transport and storage containers, associated equipment, source changers and survey instruments
  - (H) 34.33 - Permanent radiographic installations
  - (I) 34.35 - Labeling, storage and transportation
- (4) **Subpart D; Radiation safety requirements.**
  - (A) 34.41 - Conducting industrial radiographic operations
  - (B) 34.42 - Radiation safety officer for industrial radiography
  - (C) 34.43 - Training
  - (D) 34.45 - Operating and emergency procedures
  - (E) 34.46 - Supervision of radiographers' assistants

## Permanent Final Adoptions

- (F) 34.47 - Personnel monitoring
- (G) 34.49 - Radiation surveys
- (H) 34.51 - Surveillance
- (I) 34.53 - Posting
- (5) **Subpart E; Recordkeeping requirements.**
  - (A) 34.61 - Records of the specific license for industrial radiography
  - (B) 34.63 - Records of the receipt and transfer of sealed sources
  - (C) 34.65 - Records of radiation survey instruments
  - (D) 34.67 - Records of leak testing of sealed sources and devices containing depleted uranium
  - (E) 34.69 - Records of quarterly inventory
  - (F) 34.71 - Utilization logs
  - (G) 34.73 - Records of inspection and maintenance of radiographic exposure devices, transport and storage containers, associated equipment, source changers and survey instruments
  - (H) 34.75 - Records of alarm system and entrance control checks at permanent radiographic installations
  - (I) 34.79 - Records of training and certification
  - (J) 34.81 - Copies of operating and emergency procedures
  - (K) 34.83 - Records of personnel monitoring procedures
  - (L) 34.85 - Records of radiation surveys
  - (M) 34.87 - Form of records
  - (N) 34.89 - Location of documents and records
- (6) **Subpart F; Notifications** - 34.101
- (7) **Appendix** - Appendix A to 10 CFR 34 - Radiographer Certification.

### PART 35. MEDICAL USE OF BYPRODUCT MATERIAL

#### 252:410-10-35. 10 CFR 35 incorporations by reference

(a) **Incorporations by reference.** The following provisions are hereby incorporated by reference from 10 CFR 35, Medical Use of Byproduct Material:

- (1) **Subpart A; General Information.**
  - (A) 35.1 - Purpose and scope
  - (B) 35.2 - Definitions
  - (C) 35.5 - Maintenance of records
  - (D) 35.6 - Provisions for the protection of human research subjects
  - (E) 35.7 - FDA, other Federal and State requirements
- (2) **Licensing.**
  - (~~A~~) 35.11 - License required
  - (~~B~~) 35.12 - Application for license, amendment or renewal
  - (~~C~~) 35.13 - License amendments
  - (~~D~~) 35.14 - Notifications
  - (~~E~~) 35.15 - Exemptions regarding Type A specific licenses of broad scope
  - (~~F~~) 35.18 - License issuance

- (~~G~~) 35.19 - Specific exemptions
- (3) **Subpart B; General Administrative Requirements.**
  - (A) 35.24 - Authority and responsibilities for the radiation protection program
  - (B) 35.26 - Radiation protection program changes
  - (C) 35.27 - Supervision
  - (D) 35.40 - Written directives
  - (E) 35.41 - Procedures for administrations requiring a written directive
  - (F) 35.49 - Suppliers for sealed sources or devices for medical use
  - (G) 35.50 - Training for Radiation Safety Officer
  - (H) 35.51 - Training for an authorized medical physicist
  - (I) 35.55 - Training for an authorized nuclear pharmacist
  - (J) 35.57 - Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized user and nuclear pharmacist
  - (K) 35.59 - Recentness of Training
- (4) **Subpart C; General Technical Requirements.**
  - (A) 35.60 - Possession, use, and calibration of instruments used to measure the activity of unsealed byproduct material
  - (B) 35.61 - Calibration of survey instruments
  - (C) 35.63 - Determination of dosages of unsealed byproduct material for medical use
  - (D) 35.65 - Authorization for calibration, transmission, and reference sources
  - (E) 35.67 - Requirements for possession of sealed sources and brachytherapy sources
  - (F) 35.69 - Labeling of vials and syringes
  - (G) 35.70 - Surveys of ambient radiation exposure rate
  - (H) 35.75 - Release of individuals containing unsealed byproduct material or implants containing byproduct material
  - (I) 35.80 - Provision of mobile medical service
  - (J) 35.92 - Decay-in-storage
- (5) **Subpart D; Unsealed Byproduct Material-Written Directive Not Required.**
  - (A) 35.100 - Use of unsealed byproduct material in uptake, dilution, excretion studies for which a written directive is not required
  - (B) 35.190 - Training for uptake, dilution, and excretion studies
  - (C) 35.200 - Use of unsealed byproduct material for imaging and localization studies for which a written directive is not required
  - (D) 35.204 - Permissible molybdenum-99 concentration
  - (E) 35.290 - Training for imaging and localization studies
- (6) **Subpart E; Unsealed Byproduct Material - Written Directive Required.**
  - (A) 35.300 - Use of unsealed by product material for which a written directive is required

- (B) 35.310 - Safety instruction
- (C) 35.315 - Safety precautions
- (D) 35.390 - Training for use of unsealed byproduct material for which a written directive is required
- (E) 35.392 - Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries)
- (F) 35.394 - Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries)
- (G) 35.396 - Training for the parenteral administration of unsealed byproduct material requiring a written directive

**(76) Subpart F; Manual Brachytherapy.**

- (A) 35.400 - Use of sources for manual brachytherapy
- (B) 35.404 - Surveys after source implant and removal
- (C) 35.406 - Brachytherapy sources accountability
- (D) 35.410 - Safety instruction
- (E) 35.415 - Safety precautions
- (F) 35.432 - Calibration measurements of brachytherapy sources
- (G) 35.433 - Decay of strontium-90 sources for ophthalmic treatments
- (H) 35.457 - Therapy related computer systems
- (I) 35.490 - Training for use of manual brachytherapy sources
- (J) 35.491 - Training for ophthalmic use of strontium-90

**(87) Subpart G; Sealed Sources for diagnosis.**

- (A) 35.500 - Use of sealed sources for diagnosis
- (B) 35.590 - Training for use of sealed sources for diagnosis

**(98) Subpart H; Photon Emitting Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units.**

- (A) 35.600 - Use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit
- (B) 35.604 - Surveys of patients and human research subjects treated with a remote afterloader unit
- (C) 35.605 - Installation, maintenance, adjustment, and repair
- (D) 35.610 - Safety procedures and instructions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units
- (E) 35.615 - Safety precautions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units
- (F) 35.630 - Dosimetry equipment
- (G) 35.632 - full calibration measurements on teletherapy units
- (H) 35.633 - Full calibration measurements on remote afterloader units

- (I) 35.635 - Full calibration measurements on gamma stereotactic radiosurgery units
- (J) 35.642 - Periodic spot-checks for ~~gamma stereotactic radiosurgery~~ teletherapy units
- (K) 35.643 - Periodic spot-checks for remote afterloader units
- (L) 35.645 - Periodic spot-checks for gamma stereotactic radiosurgery units
- (M) 35.647 - Additional technical requirements for mobile remote afterloader units
- (N) 35.652 - Radiation surveys
- (O) 35.655 - Five year inspection for teletherapy and gamma stereotactic radiosurgery units
- (P) 35.657 - Therapy-related computer systems
- (Q) 35.690 - Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units

**(409) Subpart I.**

**(410) Subpart J; Training and experience requirements.**

- (A) 35.900 - Radiation Safety Officer
- (B) 35.910 - Training for uptake, dilution, excretion studies
- (C) 35.920 - Training for imaging and localization studies
- (D) 35.930 - Training for therapeutic use of unsealed byproduct material
- (E) 35.932 - Training for treatment of hyperthyroidism
- (F) 35.934 - Training for treatment of thyroid carcinoma
- (G) 35.940 - Training for use of brachytherapy sources
- (H) 35.941 - Training for ophthalmic use of strontium-90
- (I) 35.950 - Training for use of sealed sources for diagnosis
- (J) 35.960 - Training for use of therapeutic medical devices
- (K) 35.961 - Training for authorized medical physicist
- (L) 35.980 - Training for an authorized nuclear pharmacist
- (M) 35.981 - Training for experienced nuclear pharmacists

**(421) Subpart K; Other Medical Uses of Byproduct Material or Radiation From Byproduct Material.**

- 35.1000 - Other medical uses of byproduct material or radiation from byproduct material

**(432) Subpart L; Records.**

- (A) 35.2024 - Records of authority and responsibilities for radiation protection programs
- (B) 35.2026 - Records of radiation protection program changes
- (C) 35.2040 - Records of written directives
- (D) 35.2041 - Records for procedures for administration requiring a written directive

## Permanent Final Adoptions

---

- (E) 35.2060 - Records of calibrations of instruments used to measure the activity of unsealed byproduct materials
  - (F) 35.2061 - Records of radiation survey instrument calibrations
  - (G) 35.2063 - Records of dosages of unsealed byproduct material for medical use
  - (H) 35.2067 - Records of leaks tests and inventory of sealed sources and brachytherapy sources
  - (I) 35.2070 - Records of survey for ambient radiation exposure rate
  - (J) 35.2075 - Records of the release of individuals containing unsealed byproduct material or implants containing byproduct material
  - (K) 35.2080 - Records of mobile medical services
  - (L) 35.2092 - Records of decay-in-storage
  - (M) 35.2204 - Records of molybdenum-99 concentrations
  - (N) 35.2310 - Records of safety instruction
  - (O) 35.2404 - Records of surveys after source implant and removal
  - (P) 35.2406 - Records of brachytherapy source accountability
  - (Q) 35.2432 - Records of calibration measurements of brachytherapy sources
  - (R) 35.2433 - Records of decay of strontium-90 sources for ophthalmic treatments
  - (S) 35.2605 - Records of installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units
  - (T) 35.2610 - Records of safety procedures
  - (U) 35.2630 - Records of dosimetry equipment used with remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units
  - (V) 35.2632 - Records of teletherapy, remote afterloader, and gamma stereotactic radiosurgery full calibrations
  - (W) 35.2642 - Records of periodic spot-checks for teletherapy units
  - (X) 35.2643 - Records of periodic spot-checks for remote afterloader units
  - (Y) 35.2645 - Records of periodic spot checks for gamma stereotactic radiosurgery units
  - (Z) 35.2647 - Records of additional technical requirements for mobile remote afterloader units
  - (AA) 35.2652 - Records of surveys of therapeutic treatment units
  - (BB) 35.2655 - Records of 5-year inspection for teletherapy and gamma stereotactic radiosurgery units
- (4413) Subpart M; Reports.**
- (A) 35.3045 - Report and notification of a medical event
  - (B) 35.3047 - Report and notification of a dose to an embryo/fetus or a nursing child
  - (C) 35.3067 - Report of a leaking source

(b) **Exceptions.** The provisions for communication with NRC of 10 CFR § 30.6 referenced in §§ 35.12, and 35.14, 35.32, 35.59 and 35.645 are not incorporated by reference. All correspondence regarding license requirements, and any notifications or reports required by this Part, shall be directed to DEQ.

### PART 39. WELL LOGGING

#### **252:410-10-39. 10 CFR 39 incorporations by reference**

(a) **Incorporations by reference.** The following provisions are hereby incorporated by reference from 10 CFR 39, Licenses and Radiation Safety Requirements for Well Logging:

- (1) **Subpart A; General provisions.**
  - (A) 39.1 - Purpose and scope
  - (B) 39.2 - Definitions
- (2) **Subpart B; Specific licensing requirements.**
  - (A) 39.11 - Application for a specific license
  - (B) 39.13 - Specific licenses for well logging
  - (C) 39.15 - Agreement with well owner or operator
  - (D) 39.17 - Request for written statements
- (3) **Subpart C; Equipment.**
  - (A) 39.31 - Labels, security and transportation precautions
  - (B) 39.33 - Radiation detection instruments
  - (C) 39.35 - Leak testing of sealed sources
  - (D) 39.37 - Physical inventory
  - (E) 39.39 - Records of material use
  - (F) 39.41 - Design and performance criteria for ~~sealed~~ sources
  - (G) 39.43 - Inspection, maintenance and opening of source or source holder
  - (H) 39.45 - Subsurface tracer studies
  - (I) 39.47 - Radioactive markers
  - (J) 39.49 - Uranium sinker bars
  - (K) 39.51 - Use of a sealed source in a well without surface casing
  - (L) 39.53 - Energy compensation source
  - (M) 39.55 - Tritium neutron generator target source
- (4) **Subpart D; Radiation safety requirements.**
  - (A) 39.61 - Training
  - (B) 39.63 - Operating and emergency procedures
  - (C) 39.65 - Personnel monitoring
  - (D) 39.67 - Radiation surveys
  - (E) 39.69 - Radioactive contamination control
- (5) **Subpart E; Security, Records, Notifications.**
  - (A) 39.71 - Security
  - (B) 39.73 - Documents and records required at field stations
  - (C) 39.75 - Documents and records required at temporary job-sites
  - (D) 39.77 - Notification of incidents and lost sources; abandonment procedures for irretrievable sources

(b) **Exceptions.** The provisions to apply for exemption from the requirements of this Part contained in § 39.91 are not

incorporated by reference. Applications for exemption should be addressed to DEQ as authorized in 252:410-1-3.

**PART 70. SPECIAL NUCLEAR MATERIAL:  
LICENSING**

**252:410-10-70. 10 CFR 70 incorporations by reference**

The following provisions are hereby incorporated by reference from 10 CFR 70, Domestic Licensing of Special Nuclear Material:

- (1) **Subpart A; General provisions.**
  - (A) 70.1 - Purpose, except (c),(d) and (e)
  - (B) 70.2 - Scope
  - (C) 70.3 - License requirements
  - (D) 70.4 - Definitions
  - (E) 70.7 - Employee protection
  - (F) 70.9 - Completeness and accuracy of information
  - (G) 70.10 - Deliberate misconduct
- (2) **Subpart B; Exemptions.**
  - (A) 70.11 - Persons using special nuclear material under certain Department of Energy and Nuclear Regulatory Commission contracts
  - (B) 70.12 - Carriers
  - (C) 70.17 - Specific exemptions
- (3) **Subpart C; General licenses.**
  - (A) 70.18 - Types of licenses
  - (B) 70.19 - General license for calibration or reference sources
  - (C) 70.20 - General license to own special nuclear material
- (4) **Subpart D; License applications.**
  - (A) 70.22 (a), (d) and (e) - Contents of applications
  - (B) 70.23 (a)(1) through (5) - Requirements for the approval of applications
  - (C) 70.25 - Financial assurance and recordkeeping for decommissioning.
- (5) **Subpart E; Licenses.**
  - ~~(A)~~ 70.31 (a) and (d) - Issuance of licenses
  - ~~(B)~~ 70.32 (a)(2), (a)(3),(a)(8), (a)(9), (b)(2) and (b)(5) - Conditions of licenses
  - ~~(C)~~ 70.33 - Renewal of licenses
  - ~~(D)~~ 70.34 - Amendment of licenses
  - ~~(E)~~ 70.35 - Commission action on applications to renew or amend
  - ~~(F)~~ 70.36 - Inalienability of licenses
  - ~~(G)~~ 70.38 - Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.
  - ~~(H)~~ 70.39 - Specific licenses for the manufacture or initial transfer of calibration or reference sources.
- (56) **Subpart F; Acquisition, use and transfer of special nuclear material; Creditor's rights.**
  - (A) 70.41 - Authorized use of special nuclear material
  - (B) 70.42 - Transfer of special nuclear material, except (b)(6)

(67) **Subpart G; Special nuclear material control, records, reports and inspections.**

- (A) 70.50 (a), (b) and (c)(1) and (2) - Reporting requirements.
- (B) 70.51 (a) and (b) - Material balance, inventory, and records requirements
- (C) 70.55 (a) and (b) - Inspections
- (D) 70.56 (a) and (b) - Tests

(78) **Subpart I; Modification and revocation of licenses.** 70.81 - Modification and revocation of licenses

**PART 71. PACKAGING AND TRANSPORTING  
RADIOACTIVE MATERIAL**

**252:410-10-71. 10 CFR 71 incorporations by reference**

The following provisions are hereby incorporated by reference from 10 CFR 71, Packaging and Transportation of Radioactive Material:

- (1) **Subpart A; General provisions.**
  - (A) 71.0 - Purpose and scope
  - (B) 71.1(b) - ~~Records~~ Communications and records
  - (C) 71.3 - Requirement for license
  - (D) 71.4 - Definitions
  - (E) 71.5 - Transportation of licensed material
  - (F) 71.7 - Completeness and accuracy of information
  - (G) 71.8 - Deliberate misconduct
  - (H) 71.9 - Employee protection
- (2) **Subpart B; Exemptions.**
  - ~~(A)~~ 71.7 - Completeness/accuracy of information
  - ~~(B)~~ 71.8-71.12 - Specific exemptions
  - ~~(C)~~ 71.9-71.13 - Exemptions of physicians
  - ~~(D)~~ 71.10-71.14 - Exemption for low-level materials
  - ~~(E)~~ 71.15 - Exemption from classification as fissile material
- (3) **Subpart C; General licenses.**
  - (A) ~~71.12-71.17~~ - General license: NRC-approved package
  - ~~(B)~~ 71.13 - Previously approved package, except (e) and (d)
  - ~~(C)~~ 71.14-71.20 - General license: DOT specification container
  - ~~(D)~~ 71.16-71.21 - General license: Use of foreign approved package
  - ~~(E)~~ 71.22 - General license: Fissile material
  - ~~(F)~~ 71.23 - General license: Plutonium-beryllium special form material
- (4) **Subpart E; Package Approval Standards.** 71.47 - External radiation standards for all packages
- (45) **Subpart G; Operating controls and procedures.**
  - (A) 71.81 - Applicability of operating controls and procedures
  - (B) 71.83 - Assumptions as to unknown properties
  - ~~(C)~~ 71.85 - Preliminary determinations
  - ~~(D)~~ 71.87 - Routine determinations

# Permanent Final Adoptions

- (~~DE~~) 71.88 - Air transport of plutonium
- (~~EF~~) 71.89 - Opening instructions
- (~~FG~~) 71.91 - Records
- (~~GH~~) 71.93 - Inspection and tests
- (~~HI~~) 71.95 - Reports
- (~~IJ~~) 71.97 - Advance notice of shipment of irradiated reactor fuel and nuclear waste
- (~~56~~) **Subpart H; Quality assurance.**
  - (A) 71.101 - Quality assurance requirements
  - (B) 71.103 - Quality assurance organization
  - (C) 71.105 - Quality assurance program
  - (~~D~~) ~~71.107 - Package design control~~
  - (~~E~~) ~~71.109 - Procurement document control~~
  - (~~F~~) ~~71.111 - Instructions, procedures and drawings~~
  - (~~G~~) ~~71.113 - Document control~~
  - (~~H~~) ~~71.115 - Control of purchased material, equipment and services~~
  - (~~I~~) ~~71.117 - Identification and control of materials, parts and components~~
  - (~~J~~) ~~71.119 - Control of special processes~~
  - (~~K~~) ~~71.121 - Internal inspection~~
  - (~~L~~) ~~71.123 - Test control~~
  - (~~M~~) ~~71.125 - Control of measuring and test equipment~~
  - (~~ND~~) 71.127 - Handling, storage and shipping control
  - (~~OE~~) 71.129 - Inspection, test and operating status
  - (~~PF~~) 71.131 - Nonconforming materials, parts or components
  - (~~QG~~) 71.133 - Corrective action
  - (~~RH~~) 71.135 - Quality assurance records
  - (~~SI~~) 71.137 - Audits
- (~~67~~) Appendix A to Part 71--Determination of A<sub>1</sub> and A<sub>2</sub>.

## SUBCHAPTER 20. STANDARDS FOR PROTECTION AGAINST RADIATION

### 252:410-20-1. Standards for protection against radiation

- (a) **Scope and applicability.** This Subchapter applies to all persons possessing source(s) of ionizing radiation subject to DEQ jurisdiction. Incorporated exposure limits do not apply to doses an individual has received due to background radiation or any medical administration or from his voluntary participation in medical research programs. Nothing in these rules shall be interpreted as limiting the intentional exposure of patients to radiation for the purpose of medical diagnosis or therapy.
- (b) **Terms.** For purposes of this Subchapter:
  - (1) "**Licensed material**" means any radioactive material under DEQ jurisdiction.
  - (2) "**Licensee**" means the holder of any DEQ radiation management authorization.
- (c) **10 CFR 20 incorporations.** The following provisions of 10 CFR 20, Standards for Protection Against Radiation, are hereby incorporated by reference.
  - (1) **Subpart A, General Provisions.**

- (A) 20.1001(b) - Purpose
- (B) 20.1002 - Scope
- (C) 20.1003 - Definitions
- (D) 20.1004 - Units of radiation dose
- (E) 20.1005 - Units of radioactivity
- (F) 20.1008 (b) through (e) - Implementation
- (2) **Subpart B, Radiation Protection Programs.** - 20.1101
- (3) **Subpart C, Occupational Dose Limits.**
  - (A) 20.1201 - Occupational dose limits for adults
  - (B) 20.1202 - Compliance with requirements for summation of external and internal doses
  - (C) 20.1203 - Determination of external dose from airborne radioactive material
  - (D) 20.1204 - Determination of internal exposure
  - (E) 20.1206 - Planned special exposures
  - (F) 20.1207 - Occupational dose limits for minors
  - (G) 20.1208 - Dose to embryo/fetus
- (4) **Subpart D, Radiation Dose Limits for Individual Members of the Public.**
  - (A) 20.1301 (a), (b), (c) and (e) - Dose limits for individual members of the public
  - (B) 20.1302 - Compliance with dose limits for individual members of the public
- (5) **Subpart E, Radiological Criteria for License Termination.**
  - (A) 20.1401 - General provisions and scope
  - (B) 20.1402 - Radiological criteria for unrestricted use
  - (C) 20.1403 - Criteria for license termination under restricted conditions
  - (D) 20.1404 - Alternate criteria for license termination
  - (E) 20.1405 - Public notification and public participation
  - (F) 20.1406 - Minimization of contamination
- (6) **Subpart F, Surveys and Monitoring.**
  - (A) 20.1501 - General
  - (B) 20.1502 - Conditions requiring individual monitoring of external and internal occupational dose
- (7) **Subpart G, Control of Exposure From External Sources in Restricted Areas.**
  - (A) 20.1601 - Control of access to high radiation areas
  - (B) 20.1602 - Control of access to very high radiation areas
- (8) **Subpart H, Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas.**
  - (A) 20.1701 - Use of process or other engineering controls
  - (B) 20.1702 - Use of other controls
  - (C) 20.1703 - Use of individual respiratory protection equipment
  - (D) 20.1704 - Further restrictions on the use of respiratory protection equipment
  - (E) 20.1705 - Application for use of higher assigned protection factors

- (9) **Subpart I, Storage and Control of Licensed Material.**
  - (A) 20.1801 - Security of stored material
  - (B) 20.1802 - Control of material not in storage
- (10) **Subpart J, Precautionary Procedures.**
  - (A) 20.1901 - Caution signs
  - (B) 20.1902 - Posting requirements
  - (C) 20.1903 - Exceptions to posting requirements
  - (D) 20.1904 - Labeling containers
  - (E) 20.1905 - Exemptions to labeling requirements
  - (F) 20.1906 - Procedures for receiving and opening packages
- (11) **Subpart K, Waste Disposal.**
  - (A) 20.2001 - General requirements
  - (B) 20.2002 - Method for obtaining approval of proposed disposal procedures
  - (C) 20.2003 - Disposal by release into sanitary sewerage
  - (D) 20.2004(a)(2) and (3) - Treatment or disposal by incineration
  - (E) 20.2005 - Disposal of specific wastes
  - (F) 20.2006 - Transfer for disposal and manifests
  - (G) 20.2007 - Compliance with environmental and health protection regulations
- (12) **Subpart L, Records.**
  - (A) 20.2101 - General provisions
  - (B) 20.2102 - Records of radiation protection programs
  - (C) 20.2103 - Records of surveys
  - (D) 20.2104 - Determination of prior occupational dose
  - (E) 20.2105 - Records of planned special exposures
  - (F) 20.2106 - Records of individual monitoring results
  - (G) 20.2107 - Records of dose to individual members of the public
  - (H) 20.2108 - Records of waste disposal
  - (I) 20.2110 - Form of records
- (13) **Subpart M, Reports.**
  - (A) 20.2201 - Reports of theft or loss of licensed material
  - (B) 20.2202 - Notification of incidents
  - (C) 20.2203 (a), (b) and (d) - Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the limits
  - (D) 20.2204 - Reports of planned special exposures
  - (E) 20.2205 - Reports to individuals of exceeding dose limits
- (14) **Subpart N, Exemptions and Additional Requirements.**
  - (A) 20.2301 - Applications for exemptions
  - (B) 20.2302 - Additional requirements
- (15) **Appendices to Part 20.**
  - (A) Appendix A. Protection Factors for Respirators
  - (B) Appendix B.

- (i) Table 1. Annual limits on intake (ALIs) and derived air concentration (DACs) of radionuclides for occupational exposure
- (ii) Table 2. Effluent concentrations
- (iii) Table 3. Concentrations for release to sewerage
- (C) Appendix C. Quantities of Licensed Material Requiring Labeling
- ~~(D) Appendix F. Requirements for low-level waste transfer for disposal at land disposal facilities and manifests~~
- (E) Appendix G. Requirements for transfers of low-level radioactive waste intended for disposal at licensed land disposal facilities and manifests.

[OAR Docket #07-826; filed 4-23-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 515. MANAGEMENT OF SOLID WASTE**

[OAR Docket #07-827]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 19. Operational Requirements  
Part 1. General Provisions  
252:515-19-1 [AMENDED]  
Part 13. Wheel Washes [NEW]  
252:515-19-131 through 252:515-19-138 [NEW]

**AUTHORITY:**

Environmental Quality Board and Solid Waste Management Advisory Council powers and duties; 27A O.S., §§ 2-2-101, 2-2-201, and 2-10-101 *et seq.*

**DATES:**

**Comment period:**

August 14 to September 14, 2006

**Public hearing:**

September 14, 2006, and November 14, 2006

**Adoption:**

February 23, 2007

**Submitted to Governor:**

November 21, 2006

**Submitted to House:**

November 21, 2006

**Submitted to Senate:**

November 21, 2006

**Gubernatorial approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

June 15, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

None

**INCORPORATIONS BY REFERENCE:**

None

**ANALYSIS:**

The proposed amendments to 252:515, Subchapter 19, arise from legislation enacted in 2006, effective July 1, 2006. A new Part 13, wheel washes, was added to Subchapter 19 which contains an applicability section, eligibility deadlines, definitions, approved costs, disapproved costs, the

# Permanent Final Adoptions

recoupment process, limitation on funds, and water management and control. The rule, if passed by the Solid waste Advisory Council and Environmental Quality Board, will go into effect June 2007. The legislative act, which the proposed rule reflects, contains a deadline that requires anyone who wants to participate to notify the DEQ of their intent to claim allowance no later than June 30, 2007. The wheel washer system must be installed and operational no later than June 30, 2008.

## CONTACT PERSON:

Dee Ready, Land Protection Division, Solid Waste Management Section, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at d.ready@deq.state.ok.us, phone 405-702-5218, or fax 405-702-5101.

**PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2007:**

## SUBCHAPTER 19. OPERATIONAL REQUIREMENTS

### PART 1. GENERAL PROVISIONS

#### 252:515-19-1. Applicability

- (a) **Active land disposal facilities.** Parts ~~3 and 5~~ and 13 of this Subchapter apply to all active land disposal facilities.
- (b) **Active MSWLFs.** Parts 3, 5, and 7 of this Subchapter apply to all active MSWLFs.
- (c) **Active solid waste processing facilities.** Parts 3 and 9 of this Subchapter apply to all active solid waste transfer stations and processing facilities, except waste tire facilities, regulated medical waste processing facilities, and solid waste composting facilities.
  - (1) **Waste tire facilities.** Waste tire facilities are subject to the requirements of Part 3 of this Subchapter, except OAC 252:515-19-33, as well as Parts 3 and 5 of OAC 252:515-21.
  - (2) **Regulated medical waste processing facilities.** Regulated medical waste processing facilities are subject to the requirements of Part 3 of this Subchapter as well as Parts 3 and 5 of OAC 252:515-23, as applicable.
  - (3) **Solid waste composting facilities.** Parts 3 and 11 of this Subchapter apply to all active solid waste composting facilities, including composting facilities at land disposal facilities.
- (d) **Borrow areas.** Off-site soil borrow areas of land disposal facilities are only subject to the operational requirements of OAC 252:515-19-32, 35, 36, and 55.

### PART 13. WHEEL WASHES

#### 252:515-19-131. Applicability

This part applies to owners and operators of active land disposal facilities who purchase and install a wheel wash system for use at the land disposal facility.

#### 252:515-19-132. Eligibility deadlines

To be eligible for recoupment of costs under this Part, the owner/operator must comply with the following statutory deadlines.

- (1) **June 30, 2007.** The owner/operator must submit a notice of intent to claim allowance to the DEQ no later than June 30, 2007.
- (2) **June 30, 2008.** The system must be installed and operational no later than June 30, 2008.

#### 252:515-19-133. Definitions

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

"Proper invoice" means one which is complete in all requirements for processing for payment in accordance with 27A O.S. § 2-10-802 and the rules in this Part, including but not limited to such documentation as may be required.

"Recoupment" means the process of reimbursement of approved capital investment costs incurred by the owner/operator for the purchase and installation of a wheel wash system for use at the land disposal facility by retaining ten cents (\$0.10) per ton from the solid waste fee.

"Wheel wash system" means a permanent installation that uses an immersion bath or spray of water to clean mud, soil, rock, debris and other extraneous material from the tires and undercarriage of vehicles.

#### 252:515-19-134. Approved costs

Capital investment costs directly attributable to the purchase and installation of the wheel wash system that may be approved for recoupment may include but not be limited to the following:

- (1) materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- (2) rental costs of machinery and equipment necessary for installation and start-up, exclusive of hand tools;
- (3) premiums for all bonds and insurance, permit fees and sales, use or similar taxes related to the installation and start-up;
- (4) labor, including social security and unemployment insurance, for installation and start-up; fringe benefits required by agreement or custom, and workers' compensation insurance; and
- (5) additional costs of supervision and field office personnel directly attributable to the installation and start-up.

#### 252:515-19-135. Disapproved costs

Operating costs (electricity, water, flocculent, labor, and other miscellaneous recurring operating expenses) repair costs, general maintenance, and replacement of parts and equipment are not capital investment costs and are not approved for recoupment.

**252:515-19-136. Recoupment process**

(a) **Installed and operational.** Once the wheel wash system is installed and operational, the owner/operator shall:

(1) **DEQ inspection.** Notify the DEQ. The DEQ may inspect the wheel wash to ensure that it meets the definition of "wheel wash system" in this Part and the water management and control standards in OAC 252:515-19-138; and

(2) **Proper invoice.** Provide the DEQ with a proper invoice and supporting documentation of the approved costs incurred.

(b) **DEQ review.** If the invoice is not a proper invoice or if costs submitted are not capital costs approved for recoupment, the owner/operator shall be notified accordingly. The owner/operator may resubmit the invoice and documentation until the information submitted is acceptable.

(c) **Recoupment notice.** Within 45 days after receipt of a proper invoice for approved costs, including required documentation, the DEQ shall notify the owner/operator that the invoice as submitted is approved in an amount certain and that recoupment may begin at the rate of ten cents (\$0.10) per ton from the solid waste fee.

(d) **Quarterly report.** The amount retained shall be recorded on the quarterly report required by 27A O.S. § 2-10-802.

(e) **Discontinuance.** When the approved capital investment costs have been recouped, the owner/operator shall discontinue retention of ten cents (\$0.10) per ton from the solid waste fee and shall remit the payment to the DEQ.

**252:515-19-137. State fiscal limitation on funds**

(a) **\$300,000.00 total.** If the total amount retained from solid waste permit fees by all eligible owners and operators reaches Three Hundred Thousand Dollars (\$300,000.00) within any state fiscal year (July 1 - June 30), the owner/operator shall not be entitled to retain further funds until the next state fiscal year.

(b) **Limitation notices.** If it appears that the total amount retained will reach the \$300,000.00 cap before the end of the fiscal year, limitation notices shall be sent to all eligible owner/operators. Notices of limitation may include pro rata recoupment methods.

**252:515-19-138. Water management and control**

(a) **Run-off of wash water prohibited.** There shall be no run-off of wash water from this system.

(b) **Recirculation.** Water used in the wheel wash system may be recaptured for recirculation within the system.

(c) **Modify plans.** If necessary, the owner/operator shall modify and update the stormwater pollution prevention plan to include the wheel wash system and to demonstrate compliance with Subchapter 17.

(d) **Recycled liquid.** Recycled liquid and settled solids shall be managed as solid waste.

(e) **Settled solids.** The settled solids may be put back in the landfill if they meet the requirements of OAC 252:515-19-71.

[OAR Docket #07-827; filed 4-23-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES  
CHAPTER 25. CHILD SUPPORT ENFORCEMENT DIVISION**

[OAR Docket #07-870]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

- Subchapter 1. Scope and Applicability
    - 340:25-1-1.1 through 340:25-1-2.1 [AMENDED]
    - 340:25-1-3.1 [AMENDED]
  - Subchapter 3. Commissioned Peace Officers
    - 340:25-3-3 [AMENDED]
  - Subchapter 5. Operational Policies
    - Part 7. The Case Record - Computer File Records and Case Folders
      - 340:25-5-55 [AMENDED]
    - Part 9. Disclosure of Information
      - 340:25-5-67 through 340:25-5-67.1 [AMENDED]
    - Part 15. Case Initiation, Case Management, and Case Closure
      - 340:25-5-110 through 340:25-5-110.1 [AMENDED]
      - 340:25-5-114 [AMENDED]
      - 340:25-5-117 [AMENDED]
      - 340:25-5-123 through 340:25-5-124 [AMENDED]
      - 340:25-5-124.2 [AMENDED]
      - 340:25-5-124.3 [NEW]
    - Part 17. Past Support
      - 340:25-5-140 [AMENDED]
    - Part 20. Medical Support
      - 340:25-5-168 [AMENDED]
      - 340:25-5-171 [AMENDED]
    - Part 21. Establishment
      - 340:25-5-176 [AMENDED]
      - 340:25-5-176.1 [NEW]
      - 340:25-5-178 [AMENDED]
      - 340:24-5-179.1 [AMENDED]
    - Part 22. Review and Modification
      - 340:25-5-198.1 through 340:25-5-198.2 [AMENDED]
    - Part 23. Enforcement
      - 340:25-5-200 [AMENDED]
      - 340:25-5-214 [AMENDED]
    - Part 25. Federal Offset Programs
      - 340:25-5-215.1 [AMENDED]
    - Part 27. State Tax Refund Offset Program
      - 340:25-5-235 [AMENDED]
      - 340:25-5-244 [AMENDED]
    - Part 37. Recovery
      - 340:25-5-305 [AMENDED]
    - Part 38. IV-D and Non-IV-D Central Case Registry Information
      - 340:25-5-339 through 340:25-5-340.1 [AMENDED]
    - Part 39. Accounting and Distribution
      - 340:25-5-350.3 [AMENDED]
- (Reference APA WF 06-27)

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections (§§) 453, 454, 454A, and 454B of the Social Security Act, codified in §§ 653, 654, 654a and 654b of Title 42 of the United States Code (U.S.C.); 42 U.S.C. §§ 652 and 666, the federal Deficit Reduction Act of 2005; 28 U.S.C. § 1738B; United States House Resolution 3130, Public Law 105-200; §§ 302.31, 302.32, 302.38, 303.6, 307.11, 307.13, and Part 310 of Title 45 of the Code of Federal Regulations (CFR); 45 CFR § 303.32, National Medical Support Notice Parts A and B; §§ 83 and 7700-101 through 7700-902 of Title 10 of the Oklahoma Statutes (O.S.), House Bill (HB) 2967, Uniform Parentage Act; 10 O.S. § 7003-8.8; 21 O.S. § 852; 43 O.S. §§ 112 and

# Permanent Final Adoptions

118, HB 1908; 43 O.S. §§ 112, 118, 118.1, and 120, HB 2598; 43 O.S. §§ 112, 139, and 139.1; 56 O.S. § 238.6B, HB 2967; 56 O.S. §§ 237, 240.1, 240.3, and 240.12, SB 648; 56 O.S. §§ 237 and 240.20; and 63 O.S. §§ 1-311.3 and 1-321, HB 2967.

## **DATES:**

### **Comment period:**

January 16, 2007 through February 16, 2007

### **Public hearing:**

None requested.

### **Adoption:**

February 27, 2007

### **Submitted to Governor:**

February 27, 2007

### **Submitted to House:**

February 27, 2007

### **Submitted to Senate:**

February 27, 2007

### **Gubernatorial approval:**

March 15, 2007

### **Legislative approval:**

Failure of the Legislature to disapprove the rule(s) resulted in approval on April 24, 2007.

### **Final adoption:**

April 24, 2007

### **Effective:**

July 1, 2007

## **ANALYSIS:**

The revisions to Subchapters 1 and 5 of Chapter 25 update and clarify Child Support Enforcement Division (CSED) rules to bring them into compliance with state and federal laws and regulations and provide staff with clear guidance in implementation procedures, in order to: (1) provide improved child support services that meet or exceed customer needs and expectations, positioning CSED to be sought out as a family's counsel of choice; (2) address needs identified in the CSED annual review of rules; (3) respond to legislative changes; (4) improve the establishment of paternity and child support orders; (5) improve the collection and distribution of support payments; (6) update legal citations; (7) reconcile all CSED officially numbered Oklahoma Department of Human Services (OKDHS) forms, per the OKDHS Enterprise Document Generation System; (8) codify federal and state legislation, including the provisions of 42 U.S.C. §§ 652 and 666, the federal Deficit Reduction Act, effective October 1, 2005 and 10 O.S. §§ 7700-101 through 7700-902, HB 2967, the Uniform Parentage Act, effective November 1, 2006; and (9) improve the clarity of the rules, correct punctuation and syntax, and conform to current OKDHS language and usage.

## **CONTACT PERSON:**

Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2007:**

## **SUBCHAPTER 1. SCOPE AND APPLICABILITY**

### **340:25-1-1.1. Definitions**

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

**"Address of record"** means an address for a party or a custodial person in the Central Case Registry of the Child Support Enforcement Division (CSED) that is used for service of process in support, custody, and visitation actions. An address of record may be different from the party's or custodial person's physical address.

**"Alleged father"** means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined. [10 O.S. § 7700-102]

**"Annual notice"** means the yearly notice provided for in Section 237A of Title 56 of the Oklahoma Statutes to notify the noncustodial parent and custodial person of the amount due, actions that may be taken to enforce the child support obligation, actions required of the noncustodial parent and custodial person, and other related information and instructions.

**"Arrears," "arrearage," or "past-due support"** means the total amount of unpaid support obligations that has accrued under a support order. See also the definition for "~~Delinquency delinquency~~" in this Section.

**"Assignment"** means any transfer of rights to support to the State of Oklahoma under Sections 608 and 671 of Title 42 of the United States Code or any transfer of rights to medical support and to payment of medical care from any third party under Section 433.146 of Title 42 of the Code of Federal Regulations.

**"Authorized representative"** means a person designated by a custodial person, noncustodial parent, or biological parent according to OAC 340:25-1-3.1.

**"Biological parent"** means the natural parent of a child.

**"Case"** means the relationship of a particular group of people bound by legal rights and duties for the support of a child(ren) who is receiving or has received child support services and all of the records and actions associated with the group.

**"Central Case Registry"** means Oklahoma's repository for Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code (IV-D) cases and child support orders established or modified in Oklahoma after October 1, 1998. It includes, but is not limited to, information required to be transmitted to the Federal Case Registry under Section 654a of Title 42 of the United States Code. CSED maintains the Central Case Registry under Section 112A of Title 43 of the Oklahoma Statutes.

**"Centralized Support Registry"** means a repository maintained by CSED to receive, allocate, and distribute support payments, including child support, spousal support when paid in conjunction with child support, and related support payments under Section 413 of Title 43 of the Oklahoma Statutes. It serves as Oklahoma's State Disbursement Unit under Section 654b of Title 42 of the United States Code. The Centralized Support Registry processes payments:

(A) *in all cases in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes* until all monies owed for child support are no longer owed;

(B) *in all other cases in which support is being paid by income withholding;* and

(C) when a court orders payments to be made through the Centralized Support Registry. [43 O.S. § 413]

**"CSED"** means the Child Support Enforcement Division of the Oklahoma Department of Human Services. CSED

includes a central state office, district offices, and other offices that may be administered through contract or cooperative agreements with district attorneys, Community Action Program (CAP) agencies, Native American tribal organizations, and others. CSED includes all of these offices and their employees and agents.

**"Custodial person"** or **"custodian"** means the person who has primary physical custody of the child(ren).

**"Delinquency"** means *any payment under an order for support which becomes due and remains unpaid.* [12 O.S. § 1170 and 56 O.S. § 237.7]

~~**"DHHS"** means the federal Department of Health and Human Services.~~

**"District office"** means a child support enforcement office operated by OKDHS or through contract or agreement with OKDHS to serve a specific area of the state.

**"Family violence"** means domestic abuse or child abuse, including physical or emotional harm.

~~**"FPLS"** means the Federal Parent Locator Service.~~

**"Full-service case"** means a child support case for which CSED provides all appropriate IV-D services as described in OAC 340:25-1-1.2.

**"High-volume administrative enforcement cases in interstate actions"** means, on request of another state, the identification by a state, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other states, and the seizure of such assets by the state through levy or other appropriate processes. [42 U.S.C. § 666]

**"Income assignment"** means an assignment, by operation of law or by court or administrative order, of a portion of the monies, income, or periodic earnings due and owing by the noncustodial parent to the person entitled to the support or to another person designated by the support order or assignment. An income assignment may be for payment of current support, arrearages, or both. [12 O.S. § 1170 and 56 O.S. § 237.7]

**"Interstate case"** means a case in which at least one party resides in another state or country, or a support order was entered in another state or country.

**"IV-A"** means Title IV, Part A, of the Social Security Act, codified in Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, covering the federal-state Temporary Assistance for Needy Families (TANF) Program.

**"IV-B"** means Title IV, Part B, of the Social Security Act, codified in Part B of Subchapter IV of Chapter 7 of Title 42 of the United States Code, covering child welfare services.

**"IV-D"** means Title IV, Part D, of the Social Security Act, codified in Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code, generally relating to child support.

**"IV-D case"** means a child support case receiving IV-D services.

**"IV-D programs and services"** means programs and services under Title IV, Part D, of the Social Security Act, codified in Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

**"IV-E"** means Title IV, Part E, of the Social Security Act, codified in Part E of Subchapter IV of Chapter 7 of Title 42 of the United States Code, covering foster care.

**"IV-E foster care"** means federal and state funded placement of a child(ren) removed from a home whose family members meet the eligibility criteria for federal participation for IV-E foster care.

**"Medicaid"** or **"Title XIX"** means medical assistance provided under a state plan approved under Title XIX of the Social Security Act, codified in Subchapter XIX of Chapter 7 of Title 42 of the United States Code.

**"Medical enforcement only case"** or **"MEO case"** means a child support case for which CSED provides only IV-D services related to securing medical support to non-TANF Medicaid recipients.

**"Medical support"** means health or dental insurance coverage or health benefits ordered to be paid by a parent(s) for the benefit of a minor child(ren).

**"Member of military service"** or **"servicemember"** means any member of the uniformed service on active duty, including the Army, Navy, Air Force, Marine Corps, and Coast Guard. Also included are members of the National Guard called to active service, certain members of the Public Health Service, and the National Oceanic and Atmospheric Administration, members of the Reserves when ordered to report for active military duty, and United States citizens serving with the military of other countries if their service is similar to military service. [50A U.S.C. §§ 511, 514, and 516] A servicemember may be a noncustodial parent or a custodial person.

**"Noncustodial parent"** means a parent who does not have primary physical custody of the child(ren).

**"Non-IV-D case"** means a private child support case not receiving IV-D services.

**"Non-IV-E foster care"** means state funded placement of a child(ren) removed from a home where the child(ren) does not meet federal IV-E participation requirements.

**"OAH"** means the OKDHS Office of Administrative Hearings: Child Support, which conducts child support enforcement administrative hearings. [56 O.S. § 237.7]

**"Obligee"** or **"person entitled"** means:

- (A) *a person to whom a support debt or support obligation is owed;*
- (B) *the Department of Human Services or a public agency of another state that has the right to receive current or accrued support payments or that is providing support enforcement services; or*
- (C) *a person designated in a support order or as otherwise specified by the court.* [56 O.S. § 237.7]

**"Obligor"** means the person who is required to make payments under an order for support. [12 O.S. § 1170 and 56 O.S. § 237.7]

~~**"OCSE"** means the federal Office of Child Support Enforcement.~~

**"Offset"** means an amount of money intercepted from a noncustodial parent's state or federal tax refund, or from an administrative payment such as federal retirement benefits, to satisfy a child support debt.

**"OKDHS"** means the Oklahoma Department of Human Services. OKDHS is the state agency designated to administer the Child Support Enforcement Program for the State of Oklahoma.

## Permanent Final Adoptions

**"Overpayment"** means a payment to a custodial person, noncustodial parent, or other entity by CSED to which the entity or person is not entitled.

**"Participant in a case"** means a child, parent or ~~putative~~ alleged father, or custodial person associated with a child support enforcement case.

**"Past support"** means past-due support or support for a prior period. See the definition for "~~Arrears~~ arrears" in this Section.

**"Payment plan"** includes, but is not limited to, a plan approved by the court or the support enforcement entity that provides sufficient security to ensure compliance with a support order or that incorporates voluntary or involuntary income assignment or a similar plan for periodic payment of past-due support and, if applicable, current and future support. [43 O.S. § 139.1 and 56 O.S. § 237.7] A payment plan is intended to incrementally reduce arrears.

**"Payor"** means *any person or entity paying monies, income, or earnings to an obligor. In the case of a self-employed person, the "payor" and "obligor" may be the same person.* [12 O.S. § 1170 and 56 O.S. § 237.7]

**"Presumed father"** means *a man who, by operation of law under 10 O.S. § 7700-204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.* [10 O.S. § 7700-102]

**"Putative father"** means ~~an alleged biological father of a child.~~

**"Social Security Act"** means Public Law 74-271, approved August 14, 1935, as currently in effect.

~~"SPLS" means the CSED State Parent Locator Service.~~

**"Support"** means all payments or other obligations due and owing to the custodial person or person entitled by the non-custodial parent under a support order, and may include, but is not limited to, child support, medical insurance or other health benefit plan premiums or payments, child care obligations, support alimony payments, and other obligations as specified in Section 118 of Title 43 of the Oklahoma Statutes. [56 O.S. § 237.7]

**"Support for a prior period"** means the amount of child support ordered under the child support guidelines in Sections 118 and 119 of Title 43 of the Oklahoma Statutes in paternity orders and in TANF notice of support debt orders for past months when no child support order was in effect.

**"Support order"** means *a judgment, decree, order or directive, whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.* [43 O.S. § 601-101]

**"TANF"** means Temporary Assistance for Needy Families. TANF ~~has replaced~~ replaces Aid to Families with Dependent Children (AFDC).

**"Tribal office"** means the Chickasaw Nation Tribal Child Support Enforcement Office.

**"Tribal office case"** means a child support case assigned to the Chickasaw Nation Tribal Child Support Enforcement Office under OAC 340:25-5-124.2.

**"Tribunal"** means a court or administrative agency authorized to establish, enforce, or modify support orders, or determine parentage. [43 O.S. § 601-101]

**"UIFSA"** means the Uniform Interstate Family Support Act. In Oklahoma, UIFSA is codified at Sections 601-100 through 601-901 of Title 43 of the Oklahoma Statutes.

**"Unreimbursed public assistance"** means money paid as cash assistance from IV-A and IV-E programs that has not yet been recovered.

"UPA" means the Uniform Parentage Act. In Oklahoma, the UPA is codified in Sections 7700-101 through 7700-902 of Title 10 of the Oklahoma Statutes.

### 340:25-1-1.2. Structure and services

#### (a) Structure.

(1) Under Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, every state must designate a single state agency to administer a statewide plan for child support enforcement. The Oklahoma Department of Human Services is the designated agency in Oklahoma. The Child Support Enforcement Division (CSED) administers the plan.

(2) CSED provides services through a state office and other offices throughout the state ~~which that~~ may be administered through service agreements or contracts with district attorneys and other entities, such as Community Action Program agencies and Native American tribal organizations, to provide legal child support enforcement services.

(3) The primary function of CSED is to provide child support enforcement services in all IV-A TANF, IV-E foster care, and non-TANF Medicaid cases where eligibility is due to the absence of one or both parents, and in other cases for persons who have applied for services. CSED also provides these services in cases forwarded by:

(A) IV-D agencies of other states; and

(B) Native American tribes and foreign jurisdictions, as appropriate.

(4) CSED complies with the standards for an effective program and the organization and staffing requirements prescribed by Part 303 of Title 45 of the Code of Federal Regulations.

#### (b) Services. CSED services include, but are not limited to:

(1) establishment of paternity, child support obligations, and medical support obligations through administrative and court actions;

(2) enforcement of child support, fixed sums and judgments for medical support, health care coverage, judgments for child care costs, and in some instances spousal support obligations;

(3) location of noncustodial parents and their assets by establishing intrastate and interstate links with local, state, and federal agencies, private sources, and international central authorities;

(4) review of cases for modification of support orders as appropriate;

(5) collection and distribution of support payments in accordance with state and federal law; and

- (6) establishment and maintenance of accounting and other records in accordance with state and federal law.
- (c) **Excluded services.** CSED services do not include:
  - (1) establishment or modification of spousal support, visitation, or custody; and
  - (2) establishment of judgment for unreimbursed medical expenses or child care costs that are not included in the fixed monthly child support obligation.
- (d) **Limited services.** CSED provides limited services only at the request of an initiating interstate IV-D agency or an international central authority under Sections 601-101 through 901 of Title 43 of the Oklahoma Statutes and Section 303.7 of Title 45 of the Code of Federal Regulations. CSED provides limited services, when appropriate, even if no individual noncustodial parent or custodial person resides in Oklahoma.

**340:25-1-2. Legal base**

- (a) **Federal law.** Sections 651 through 669b of Title 42 of the United States Code is the primary basis in federal law for Oklahoma's Child Support Enforcement Program. The program is also governed by Chapter III of Title 45 of the Code of Federal Regulations. The Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code, applies to servicemembers. Other federal laws and regulations are followed to the extent they apply to Oklahoma's Child Support Enforcement Program.
- (b) **State law.** Oklahoma Statutes covering child support enforcement include, but are not limited to:
  - (1) Sections ~~1 through 3, 70 through 90.5, 504 through 505, 78, 80, 83, 84, 90.4, 90.5, and 7005-1.4, and 7700-101 through 7700-902~~ of Title 10;
  - (2) Sections 1170 and 1171.2 through 1171.4 of Title 12;
  - (3) Sections 566, 567, and 852 of Title 21;
  - (4) Sections 109.2 through 110, 112, 112A, 114 through 120, 135 through 139.1, 410 through 413, and 601-100 through 601-901 of Title 43;
  - (5) Sections 166.1, 183, 230.60 and 231 through 240.23 of Title 56;
  - (6) Sections 1-311.2 and 1-311.3 of Title 63; and
  - (7) Sections 205.2 and 205.3 of Title 68.
- (c) **Applicability.** The Child Support Enforcement Division (CSED) uses federal or state statutes, as appropriate, in specific situations to establish and enforce child support orders. CSED follows applicable state and federal laws to which it is subject in carrying out its responsibilities and providing services regardless of whether a statute, regulation, final order, or other legal obligation is specifically referenced in this Chapter.

**340:25-1-2.1. Location for information**

- (a) **Mailing address.** The mailing address of the state office of Child Support Enforcement Division (CSED) is: Child Support Enforcement Division, Capitol Station Box 53552, Oklahoma City, OK 73152-3552.
- (b) **Telephone CSED telephone information.** Addresses of district child support offices throughout Oklahoma and other

information may be requested by telephoning 405-522-2273 in the Oklahoma City calling area, 918-295-3500 in the Tulsa calling area, or ~~tollfree~~ toll-free at 1-800-522-2922.

(c) **Tribal telephone information.** Inquiries regarding child support cases with Chickasaw Nation Tribal Child Support Services may be made by telephoning toll-free at 1-866-431-3419.

(ed) **Internet access.** Information about the Child Support Enforcement Program is available from the CSED Internet at <http://www.okdhs.org/childsupport/>.

- (1) A customer who has an active child support case(s) and an Oklahoma Department of Human Services customer identification number may use the Internet to access information about the customer's case(s).
- (2) A customer may contact CSED as described in this Section to request a child support customer personal identification number (PIN) and instructions for accessing case information on the Internet.

**340:25-1-3.1. Designation of an authorized representative**

- (a) A custodial person, noncustodial parent, or biological parent may designate ~~an individual a~~ a person who is not the attorney of record as an authorized representative to:
  - (1) obtain child support case information and documents from the Child Support Enforcement Division (CSED) on his or her behalf; or
  - (2) both obtain case information and documents and, when permitted by law, to negotiate, compromise, or settle the child support case by signing releases, agreements, and documents.
- (b) The information and documents an authorized representative may obtain are limited to that which the person represented may obtain under OAC 340:25-5-67.
- (c) Nothing in this Section allows an authorized representative to appear before the Oklahoma Department of Human Services Office of Administrative Hearings: Child Support or the district court on behalf of the person represented unless specifically allowed by law. Further, nothing in this Section prevents CSED from requesting the court to enter a default order based on the person's failure to appear, even when the person's authorized representative is present.
- (d) The authorized representative does not have to be an attorney.
- (e) A person must complete and submit to CSED Form CSED-10 03EN010E, Special Power of Attorney, ~~to CSED~~ before the representative may act or receive information orally or in writing on behalf of the person represented. A person may have only one authorized representative at any time.
- (f) Once Form ~~CSED-10 03EN010E~~ is received by CSED, CSED considers the designation in effect until CSED receives:
  - (1) a new Form ~~CSED-10 03EN010E~~ designating another ~~individual person~~ person as the authorized representative; ~~or~~
  - (2) written notice that the special power of attorney is revoked; or
  - (3) written notice that the designator has died.

# Permanent Final Adoptions

## SUBCHAPTER 3. COMMISSIONED PEACE OFFICERS

### 340:25-3-3. ~~Personal service~~ Service of process

(a) Authority. ~~The Oklahoma Department of Human Services Child Support Enforcement Division (CSED) follows the provisions of Section 2004 of Title 12 of the Oklahoma Statutes for service of process.~~

(ab) Personal service. ~~Personal~~ CSED uses personal service ~~is used~~ when:

- (1) ~~a person has not accepted service by mail; or~~
- (2) ~~service to the address of record is not appropriate;~~
- (3) ~~case history indicates a low probability of acceptance of service; or~~
- (4) ~~it is more expedient to serve the person personally.~~

(1) ~~The Child Support Enforcement Division provides address and employer information to the process server.~~

(2) ~~Service of process is ordinarily performed at reasonable hours of the day unless a residence address is unknown. Service of process may be attempted at the workplace.~~

(c) Diligent efforts. Diligent efforts means repeated attempts to serve the person, at least three times, and at different times of day or on different days of the week, before declaring inability to serve. CSED:

(1) attempts to serve process in the manner and at the time and place most reasonably calculated to result in completion of service of process in the most efficient and cost effective manner;

(2) makes diligent efforts to serve process utilizing all information:

- (A) provided by CSED staff;
- (B) documented in the case record; or
- (C) gathered from other locate resources;

(3) provides address and employer information to the process server;

(4) attempts to serve the person at:

- (A) work;
- (B) home;
- (C) other locations based on information gathered on the person's hobbies or lifestyle; and

(5) documents in the case record all facts about attempts to serve process.

(d) Minor noncustodial parent. CSED serves a minor non-custodial parent who is:

(1) 15 years of age or older according to Section 2004 of Title 12 of the Oklahoma Statutes; or

(2) under 15 years of age through a parent, guardian, or other appropriate adult as the "next friend" of the minor noncustodial parent.

## SUBCHAPTER 5. OPERATIONAL POLICIES

### PART 7. THE CASE RECORD - COMPUTER FILE RECORDS AND CASE FOLDERS

### 340:25-5-55. Case records

The Oklahoma Department of Human Services Child Support Enforcement Division (CSED) establishes, maintains, and closes case records under Sections 302.15, 303.2, 303.11, and 307.11 of Title 45 of the Code of Federal Regulations and Sections 652, 653, 654a, and 666 of Title 42 of the United States Code. CSED maintains information in case records through a combined use of ~~an~~ the statewide automated data processing and information retrieval system and paper documents. The information in case records includes, but is not limited to:

(1) ~~names and addresses~~ of custodial persons, biological parents, ~~putative alleged~~ fathers, noncustodial parents, and children;

(2) ~~addresses of custodial persons, biological parents, putative fathers, noncustodial parents, and children;~~

(3) ~~name~~ names and ~~address~~ addresses of employers of custodial persons, biological parents, ~~putative alleged~~ fathers, and noncustodial parents;

(4) Social Security numbers of custodial persons, biological parents, ~~putative alleged~~ fathers, noncustodial parents, and children;

(5) paternity records and related information;

(6) records of all legal and collection actions on cases;

(7) records of all accruals, payments, and distribution of payments;

(8) location, asset, employment, insurance, and financial information for custodial persons, biological parents, and noncustodial parents; and

(9) case log, correspondence, personal notes, work products, records of contacts, communications, and other actions, and other information concerning the case.

## PART 9. DISCLOSURE OF INFORMATION

### 340:25-5-67. Information disclosure

(a) Confidentiality. *All applications, information and records concerning any applicant or recipient obtained pursuant to law or as authorized by law by the Department of Human Services or any other public or private entity shall be confidential.* [56 O.S. § 183]

(1) All files and records concerning the assistance or services provided under the Child Support Enforcement Program or concerning a ~~putative an alleged~~ father of a child born out of wedlock are confidential except as otherwise authorized by law. [56 O.S. § 237]

(2) Any information the Child Support Enforcement Division (CSED) obtains from federal or state agencies is subject to limitations on disclosure imposed by laws governing the information received from those agencies. CSED does not disclose or use the contents of any child support records, files, papers, or communications for purposes other than those directly connected to the administration of the Child Support Enforcement Program.

(3) Nothing in this Section authorizes disclosure of the location of a case participant with a family violence indicator set under OAC 340:25-5-67.1.

(b) **Authorized disclosure.** Information, when requested per OAC 340:25-5-68, may be shared with:

(1) persons duly authorized by the United States in connection with the performance of their official duties, [56 O.S. § 183] including, but not limited to:

(A) exchange of information to the extent necessary to carry out the state agency IV-D program responsibilities directly and through statewide automated data processing and information retrieval networks within the Oklahoma Department of Human Services (OKDHS), with authorized representatives of OKDHS divisions and other agencies of the state of Oklahoma and other states, and with federal and tribal agencies and other countries;

(B) exchange of information directly and through statewide automated data processing and information retrieval networks with representatives of OKDHS and other state agencies administering programs under Titles IV-A, IV-E, and XIX of Subchapter IV of Chapter 7 of Title 42 of the United States Code, to the extent necessary to carry out state agency Titles IV-A, IV-E, and XIX responsibilities;

(C) release of information received from the Federal Parent Locator Service, through the State Parent Locator Service, to an authorized person under Section 663 of Title 42 of the United States Code representing:

(i) agencies administering or enforcing programs under Titles IV-B and IV-E of Subchapter IV of Chapter 7 of Title 42 of the United States Code to the extent necessary to carry out state agency Titles IV-B and IV-E responsibilities; and

(ii) the United States or the State of Oklahoma for purposes of enforcing or prosecuting any federal or state law with respect to the unlawful taking or restraint of a child, or any court or agent of such court having jurisdiction to make or enforce a child custody or visitation determination; and

(D) release of Social Security numbers for child support enforcement purposes, such as locating the parents, submitting cases for federal administrative and income tax refund offset, state income tax refund offset, financial institution data match, enrolling children as beneficiaries of health insurance coverage, and processing interstate child support enforcement;

(2) parties to a child support case, their attorneys, interpreters, and authorized representatives, who may only access:

(A) pay records and payment calculations;

(B) documents, exhibits, worksheets, and supporting documents filed with the court and any administrative documents that are part of the order, such as guideline worksheets and financial affidavits;

(C) specific case activity in the course of providing child support enforcement services, such as the number and dates of locate attempts, and establishment and enforcement of child support or medical support orders;

(D) information required by Titles 43 or 56 of the Oklahoma Statutes to be disclosed for the purpose of reviewing, establishing, or modifying a support order; and

(E) information necessary to enroll children as beneficiaries of health insurance coverage;

(3) parents or custodial persons requesting disclosure of address of record under Section 112A of Title 43 of the Oklahoma Statutes and OAC 340:25-5-340.1; and

(4) persons as directed by court order or by a subpoena that has been approved by a child support attorney.

**340:25-5-67.1. Family violence**

(a) A family violence indicator is a designation placed on a ~~participant(s)~~ participant in a IV-D or non-IV-D case by the Oklahoma Department of Human Services (OKDHS) Child Support Enforcement Division (CSED) that indicates the ~~participant(s)~~ participant is associated with child abuse or domestic violence. The family violence indicator is used to restrict disclosure of the location of a participant who is reported to CSED as being at risk of family violence.

(b) CSED considers as reasonable evidence of family violence, and enters a family violence indicator on appropriate persons, when:

(1) a parent or custodian states that he or she or the child(ren) is at risk of emotional or physical harm from another person in the same child support case; or

(2) OKDHS has knowledge of a court-ordered protective order or other information that family violence exists.

(c) CSED makes available to custodial persons and non-custodial parents Form ~~CSED-8-03EN008E~~, Family Violence - Address of Record Statement, to collect address of record information and explain how the information is used. The custodial person or noncustodial parent may use Form ~~CSED-8-03EN008E~~ to:

(1) request that his or her home address, or location information, not be released to another parent or party in a child support case because release could result in family violence to the requesting person or the requesting person's children; or

(2) designate an address of record under OAC 340:25-5-340. CSED may release the address of record under OAC 340:25-5-340.1.

(d) The presence or absence of a family violence indicator on a case does not guarantee the safety of anyone. CSED is not liable for harm arising from the use or non-use of a family violence indicator.

(e) CSED may remove a family violence indicator from a case participant when CSED receives:

(1) a written request from the participant;

(2) information that the family violence indicator was entered in error;

(3) a court order to remove the family violence indicator; or

(4) information that OKDHS has denied a claim from a case participant under OAC 340:10-10-6 for a good cause exception for refusing to cooperate in obtaining child support.

# Permanent Final Adoptions

(f) Upon order of a court having the authority to make or enforce child custody or visitation determinations under Section 663 of Title 42 of the United States Code, CSED may:

- (1) request the federal Office of Child Support Enforcement (OCSE) to override a family violence indicator in a single instance; and
- (2) authorize release of the person's home address or location to the court.

(g) Interstate cases follow OAC 340:25-5-270.

## PART 15. CASE INITIATION, CASE MANAGEMENT, AND CASE CLOSURE

### 340:25-5-110. Scope and applicability

(a) The Oklahoma Department of Human Services, through its Child Support Enforcement Division (CSED), opens, or initiates, and closes child support enforcement cases to provide appropriate IV-D services. In initiating and closing cases, CSED is governed by Sections 302.33, 303.2, and 303.11 of Title 45 of the Code of Federal Regulations; Title IV, Part D, of Subchapter IV of Chapter 7 of Title 42 of the United States Code; and Section 237 of Title 56 of the Oklahoma Statutes.

~~(b) CSED does not initiate action to disestablish paternity when:~~

- ~~(1) there has been an acknowledgment of paternity executed in Oklahoma or another state and not rescinded within the allowable time, which is 60 days in Oklahoma; [10 O.S. § 70(B)(1)]~~
- ~~(2) the child is born during the course of the marriage and is reared by the husband and wife as a member of their family without disputing the child's legitimacy for a period of at least two years; [10 O.S. § 3(B)] or~~
- ~~(3) paternity has been established by a district or administrative court order. [10 O.S. § 70(B)(3)]~~

~~(c) In the absence of a court order, CSED does not conduct genetic tests or request the court to order genetic tests after the 60-day rescission period has expired on an acknowledgment of paternity, or after a court order has been entered establishing paternity.~~

### 340:25-5-110.1. Applications

(a) To apply for child support enforcement services, a person must submit a completed and signed application form to the address on the form. A one cent application fee is paid by the Child Support Enforcement Division (CSED) for each application received. Form ~~CSED 1-03EN001E~~, Application for Child Support Services, is submitted in every circumstance, including applications received by:

- (1) former Temporary Assistance for Needy Families (TANF), Aid to Families with Dependent Children (AFDC), or non-TANF Medicaid recipients with the Oklahoma Department of Human Services (OKDHS);
- (2) former participants in IV-D cases;
- (3) noncustodial parents listed on an existing medical enforcement only case, if the noncustodial parent is requesting a review and adjustment or to open a new case per OAC 340:25-5-198.1; or

(4) persons receiving child support payments from the Centralized Support Registry and not currently receiving child support services through CSED.

(b) Application forms are obtained at any child support or other OKDHS office or by writing or telephoning the Child Support Enforcement Division.

(1) The mailing address to obtain an application form is P.O. Box 53552, Oklahoma City, Oklahoma, 73152-3552.

(2) The customer service toll-free telephone number is 1-800-522-2922.

(3) Printable application forms are available from the CSED Internet at <http://www.okdhs.org/childsupport/>.

(c) CSED sends outreach letters to noncustodial parents who have filed Form ~~CSED 209-03PA309E~~, ~~Affidavit Acknowledging Acknowledgment~~ of Paternity, with the Oklahoma State Department of Health, Division of Vital Records. Outreach letters provide information about OKDHS services and invite noncustodial parents to participate in these services. These noncustodial parents may apply for child support services through this outreach process.

(d) An applicant who is a custodial person must give OKDHS authority to endorse and negotiate payments related to child support and to spousal support on behalf of the custodial person and child(ren).

(e) CSED accepts an application and opens a case when:

(1) the child is a minor or the application is to enforce a child support order for an adult with disabilities under Section 112.1A of Title 43 of the Oklahoma Statutes;

(2) paternity must be established for a minor child against a deceased noncustodial parent consistent with OAC 340:25-5-176; and

(3) the former custodial person's parental rights have been terminated, then the child was adopted, and the application to collect past-due support owed to the former custodial person was received before the adoption.

(f) CSED does not accept applications for collection of past-due support when:

(1) all children on the application have reached the age of majority and none is an adult with disabilities with an established child support order;

(2) the child is deceased; or

(3) the child is a minor but no longer ~~lives~~ resides with the custodial person.

### 340:25-5-114. Procedures for determining and processing noncooperation on TANF and non-TANF Medicaid cases

(a) **Cooperation of custodial persons.** The custodial person must cooperate with the Child Support Enforcement Division (CSED) in establishing paternity or in establishing, modifying, or enforcing a support order under Section 654 of Title 42 of the United States Code and Section 264.30 of Title 45 of the Code of Federal Regulations. A custodial person receiving:

(1) Temporary Assistance for Needy Families (TANF) must assign any rights to support to the Oklahoma Department of Human Services (OKDHS) under Section 608 of Title 42 of the United States Code; and

(2) non-TANF Medicaid must assign to OKDHS any rights to medical support under Section 433.146 of Title 42 of the Code of Federal Regulations.

(b) **Noncooperation of custodial persons.** When a custodial person fails to cooperate, CSED reviews the case to determine noncooperation. If CSED determines noncooperation, CSED notifies OKDHS Family Support Services (FSS) staff in the county office. OKDHS FSS staff in the county office update the computer document for noncooperation with CSED and a computer-generated notice under OAC 340:65-5-1 is sent to advise the recipient of any decrease in benefits due to noncooperation.

(1) For CSED to make a noncooperation determination, the cooperation must be essential for the next step in providing child support enforcement services, per OAC 340:10-10-5 and 340:10-10-7.

(2) Noncooperation is indicated when the custodial person:

(A) fails to appear at a district office to provide information or evidence relevant to the case;

(B) refuses to complete and sign documents necessary to take legal action against the noncustodial parent(s) when requested to do so by the district office;

(C) fails to comply with an order to submit oneself and the child(ren) to genetic testing to determine paternity;

(D) fails to appear as a witness at an administrative or district court hearing or other proceeding;

(E) fails to provide information, or attest to lack of information, under penalty of perjury;

(F) fails to forward to CSED all child support payments received from the noncustodial parent(s);

(G) refuses to make a repayment agreement or to comply with a repayment plan when child support receipts are retained; or

(H) pursues private legal action affecting paternity, child support, medical support, or child care without giving CSED notice and fails to keep CSED informed of the status of the case.

(3) OKDHS FSS staff in the county office determine whether good cause for noncooperation with CSED exists based on OAC 340:10-10-6.

**340:25-5-117. Initiation of IV-D cases**

(a) **IV-A, IV-E foster care, non-TANF Medicaid, and child care subsidy referrals.**

(1) The Child Support Enforcement Division (CSED) automatically initiates child support enforcement cases without additional application for certified IV-A, IV-E foster care, non-TANF (Temporary Assistance for Needy Families) Medicaid, and child care subsidy referrals.

(2) Custodial persons who apply for non-TANF Medicaid on behalf of themselves and their child(ren) must assign medical support rights to the state under Section 1396k of Title 42 of the United States Code.

(A) These custodial persons must cooperate in establishing paternity and obtaining medical support unless an exception exists under Sections 1396a(1)(1)(A), 1396k, or 1396r-6 of Title 42 of the United States Code.

(B) CSED must open a IV-D medical enforcement only case as described in OAC 340:25-5-169. CSED may open a full-service case to provide all appropriate IV-D services as described in OAC 340:25-1-1.2 at the custodial person's request.

(3) When CSED receives a referral from the Family Support Services (FSS) worker, CSED must open a full-service case if any child in the household is certified for a child care subsidy-~~under OAC 340:40-7-9.~~

(4) When CSED receives a non-TANF Medicaid referral from the FSS worker in which assigned court-ordered child support is owed, CSED must open a full-service case under OAC 340:25-5-169.

(5) Custodial persons who apply for non-TANF Medicaid on behalf of their child(ren) only are not required to assign medical support rights or cooperate in establishing paternity and obtaining medical support. Therefore, except when (a)(3) of this Section applies, CSED does not provide child support services unless the custodial person requests services for the child(ren). The custodial person may request a full-service case or a medical enforcement only case.

(b) **Termination of IV-A, IV-E foster care, and non-TANF Medicaid benefits.** When a family is no longer eligible for assistance under IV-A, IV-E foster care, or Medicaid programs, all appropriate IV-D services continue without application under Section 302.33 of Title 45 of the Code of Federal Regulations. Non-TANF Medicaid cases previously limited to medical support continue as full-service cases. If a custodial person refuses continued IV-D services and subsequently requests services, the person must submit a completed and signed Form ~~CSED 4-03EN001E~~, Application for Child Support Services, even if CSED has an active case because of unreimbursed assistance owed to the state.

(c) **Referrals from other jurisdictions.** CSED accepts cases referred:

(1) by any state or tribal IV-D agency and from other countries when the noncustodial parent ~~lives~~ resides in Oklahoma. CSED does not require an application for cases referred from another IV-D agency;

(2) by interstate referrals for judgment only collections if the case was opened in the initiating state during the minority of any child on the case; and

(3) when Oklahoma is an appropriate jurisdiction to establish, enforce, modify, or determine the controlling order under the Uniform Interstate Family Support Act in Sections 601-101 through 601-901 of Title 43 of the Oklahoma Statutes, whether or not the noncustodial parent resides in Oklahoma.

(d) **Responses from noncustodial parents who sign an acknowledgment of paternity.** CSED opens full-service cases for noncustodial parents who have filed Form ~~CSED 209-03PA209E, Affidavit Acknowledging Acknowledgment of~~

## Permanent Final Adoptions

Paternity, with the Oklahoma State Department of Health, Division of Vital Records, and requested child support services in response to outreach letters sent to them as described in OAC 340:25-5-110.1.

(e) **Other IV-D cases.** Except as provided in (a), (c), and (d) of this Section, an applicant must submit a completed and signed Form ~~CSED-1 03EN001E~~ to receive all appropriate child support enforcement services or to receive locate only services.

### 340:25-5-123. Case closure system

(a) Except as provided in (b) and (c) of this Section, the Child Support Enforcement Division (CSED) closes cases eligible for closure under Section 303.11 of Title 45 of the Code of Federal Regulations.

(b) A child support case may not be closed when:

- (1) court-ordered support is owed to the state; and
- (2) current child support is being collected by income assignment.

(c) A child support case may be closed when any of the criteria in (1) through (4) of this subsection applies:

(1) ~~less~~ Less than \$500 in court-ordered support is owed to the state, unless there has been:

- (A) a collection during the past six months; or
- (B) a federal or state income tax refund intercept in the past 18 months;

(2) ~~the~~ The custodial person is participating in the Oklahoma Department of Human Services (OKDHS) child care subsidy program, is not receiving Temporary Assistance for Needy Families (TANF) or non-TANF Medicaid, requests closure, and (A) and (B) of this paragraph apply:

- (A) ~~there~~ There is a child support order; ~~and,~~
- (B) ~~the~~ The custodial person is receiving the full amount of the current monthly child support obligation and has reported to Family Support Services receipt of this child support income;

(3) ~~the~~ The custodial person is receiving non-TANF Medicaid benefits for a child(ren) only, requests closure, and (A) and (B) of this paragraph apply:

- (A) ~~the~~ The custodial person later contacts CSED to decline child support services; ~~and,~~
- (B) ~~no~~ No legal action court hearing has been ~~initiated~~ held to enforce the child support order, ~~including the medical support portion; or,~~

(4) ~~the~~ The custodial person is participating in the OKDHS child care subsidy program, is receiving non-TANF Medicaid benefits for a child(ren) only, requests closure, and all the criteria in paragraphs (2) and (3) of this subsection apply.

(d) When CSED closes a non-public assistance child support case because the parties to a case reunite or the child(ren) is adopted, CSED terminates the Order/Notice to Withhold Income for Child Support with the employer.

(e) When CSED closes a non-public assistance child support case for reasons other than reunification, CSED keeps the Order/Notice to Withhold Income for Child Support with the employer in effect unless ordered by district or administrative court to terminate the notice with the employer.

(1) The income assignment order remains in effect as long as support is owed under 12 O.S. § 1171.3(B)(14). If the district or administrative court orders that the Order/Notice to Withhold Income for Child Support be terminated, CSED sends a termination notice to the employer.

(2) Income assignment child support payments continue to be processed in a non-IV-D child support case through the Centralized Support Registry under 43 O.S. § 413(A)(2) and OAC 340:25-5-350.3.

(f) Under Section 302.33 of Title 45 of the Code of Federal Regulations, when IV-A TANF, IV-E foster care, and non-TANF Medicaid services are discontinued, CSED notifies the recipient that CSED maintains a full-service child support case unless the custodial person affirmatively declines services in writing. If the custodial person declines services in writing, CSED closes the case. If the custodial person fails to respond, CSED maintains a full-service child support case.

### 340:25-5-124. Assignment and transfer of cases to child support offices

In assigning cases to child support offices, the Child Support Enforcement Division (CSED) ~~staff consider if~~ considers whether the case is eligible for assignment to the tribal office under OAC 340:25-5-124.2. CSED treats an order registered in Oklahoma under Sections 601-601 through 601-614 of Title 43 of the Oklahoma Statutes as an Oklahoma order for purposes of OAC 340:25-5-124(1) and (2). If the case is not a tribal office case, CSED assigns cases under this Section.

(1) Oklahoma child support cases are assigned to a district office serving the county where the Oklahoma order for current child support was entered or docketed in district court. Child support orders from another state, or federal or tribal child support orders are assigned to a district office serving the county in which the order is registered under Sections 601-601 through 601-614 of Title 43 of the Oklahoma Statutes. If there are multiple Oklahoma support orders, cases are assigned to a district office serving the county where the presumed controlling order for current child support was entered or docketed in district court.

(2) Cases are assigned to a district office serving the county where the custodian of the child(ren) resides when there is:

- (A) no Oklahoma child support order;
- (B) a federal or tribal child support order; or
- (C) a child support order from another state.

(3) Except in cases where a child support order is registered in Oklahoma, if the custodian of the child(ren) does not reside in Oklahoma, cases are assigned to the district office serving the county where the noncustodial parent or ~~putative~~ alleged father resides.

(4) When there is no Oklahoma order and no party resides in Oklahoma, cases are assigned to the district office serving the county with significant contacts with the case. When more than one county has significant contacts with the case, the case is assigned to the district office having the most recent significant contact.

(5) ~~If the child(ren) is in a deprived or delinquent juvenile court action, and there is:~~

~~(A) no existing child support order, the case is assigned to a district office serving the county in which the district court has jurisdiction over the juvenile court action; or~~

~~(B) an existing child support order, the case is assigned to a district office serving the county in which the order was entered or docketed.~~

(65) CSED does not transfer cases docketed or registered under Sections 601-601 through 601-614 of Title 43 of the Oklahoma Statutes in district court because the custodial person or noncustodial parent moves to a county outside of the original district office's service area.

(76) CSED reassigns a case to another district office to avoid a conflict of interest under OAC 340:2-1-8.

**340:25-5-124.2. Tribal case assignments and transfer of cases to the tribal office**

(a) **Jurisdictional requirements.** ~~The~~ Chickasaw Nation Tribal Child Support ~~Office~~ Services (tribal office):

(1) provides child support services in tribal and federal courts within their service area under the Court of Indian Offenses civil jurisdiction requirements in Section 11.103 of Title 25 of the Code of Federal Regulations, the Full Faith and Credit for Child Support Orders Act (FFCCSOA) in Section 1738B of Title 28 of the United States Code, and the jurisdictional requirements in Sections 101.2 and 101.3 of Title 6 of the Chickasaw Nation Code ~~Sections 101.0 and 101.3; and~~

(2) does not provide child support services when the child(ren) is in a deprived or delinquent state juvenile court action; and

(3) may be contacted by telephone as described in OAC 340:25-1-2.1 to obtain information about child support cases with the tribal office.

(b) **New tribal case assignments and transfers from CSED.**

(1) Under the requirements of OAC 340:25-5-124, Oklahoma's Interstate Central Registry and Oklahoma's Centralized Support Registry, also known as the State Disbursement Unit, assign to a child support office incoming interstate referrals and Form ~~CSED 1-03EN001E~~, Application for Child Support Services, with a:

- (A) Native American noncustodial parent;
- (B) tribal child support order; or
- (C) tribal employer.

(2) The assigned district child support office processes the case and transfers to the tribal office cases that meet the requirements under subsection (d) of this Section ~~to the tribal office.~~

(3) The Child Support Enforcement Division (CSED) retains cases with noncustodial parent tribal members and tribal child support orders unless:

(A) the custodial person or noncustodial parent requests a transfer of the tribal case to the tribal office, and the tribal case meets the eligibility requirements

of the tribal office under subsection (d) of this Section; or

(B) the tribal or federal courts within the tribal office service area have exclusive jurisdiction over the tribal case.

(c) **Transfers from the tribal office and CSED registration of tribal child support orders.** CSED accepts cases returned to CSED from the tribal office due to the lack of jurisdiction to proceed in the tribal court system. CSED registers tribal child support orders in state courts under FFCCSOA in Section 1738B of Title 28 of the United States Code and may establish and enforce a child support order in tribal or federal courts that are outside the tribal office's service area.

(d) **Tribal office case eligibility requirements.**

(1) **Establishment.** A person may receive services from the tribal office for paternity establishment and establishment of a child support order when the noncustodial parent or ~~putative~~ alleged father is an enrolled member of one of the tribes in the tribal office's service area and ~~lives~~ resides within the boundaries of that tribe.

(2) **Enforcement.** A person may receive services from the tribal office for enforcement of a child support order when any one of (A) through (C) of this paragraph applies.

(A) The order is a tribal order from one of the tribes in the tribal office's service area.

(B) The order is issued by a state court, either district or administrative, and the noncustodial parent is an enrolled member of one of the tribes in the tribal office's service area and ~~lives~~ resides within the boundaries of that tribe. The tribal office staff notifies the state district court, the Office of Administrative Hearings: Child Support, or, if necessary, both courts of the intention of the tribal office to proceed with the case in tribal court.

(C) The order is issued by a state court, either district or administrative, and the noncustodial parent is a non-Native American tribal employee of one of the tribes in the tribal office's service area. Within 30 days of case assignment to the tribal office, the tribal office registers the state order in tribal court only for enforcement of the child support order. If the noncustodial parent leaves tribal employment, the tribal office transfers the case to CSED.

(e) **Definitions.** The following words and terms, when used in this Section, shall have the following meanings unless the context clearly indicates otherwise:

(1) **"Native American"** means a person who is an enrolled member of a federally recognized Indian tribe.

(2) **"Tribal case"** means a child support case with a Native American noncustodial parent, tribal child support order, tribal employer, or any combination.

**340:25-5-124.3. Assignment and management of deprived cases**

When a case includes a child(ren) in a deprived court action, the Child Support Enforcement Division (CSED) assigns cases under this Section.

# Permanent Final Adoptions

(1) **No existing child support order.** When there is no existing child support order, the case is assigned to a district office serving the county in which the district court has jurisdiction over the deprived action.

(2) **Existing child support order.** When there is an existing child support order, the case is assigned to a district office serving the county in which the order was entered or docketed.

(3) **Split jurisdiction.** When the case involves split jurisdiction, the district offices coordinate paternity and child support order establishment and child support order enforcement procedures with the district courts.

(4) **No prior child support order.** When no prior child support order exists, the deprived action closes, and the child(ren) is in a permanent placement, the child support case is assigned and transferred according to (A) through (C), as applicable.

(A) When a child(ren) is permanently placed within the state of Oklahoma, the child support case is assigned to the district office serving the county where the minor child(ren) resides.

(B) When a child(ren) is permanently placed outside the state of Oklahoma, the child support case is assigned to the district office serving the county where the noncustodial parent resides.

(C) When there are multiple noncustodial parents residing in different areas, the district offices within whose jurisdiction the noncustodial parents reside reach an agreement regarding district office assignment.

(5) **Prior child support order.** When a prior child support order exists and after final adjudication and dismissal of the deprived action from the juvenile court, the office with the existing child support order docketed any juvenile child support or paternity order in its district court and proceeds with both judicial and non-judicial enforcement of the child support order.

(6) **Adoption.** When the child(ren) is adopted and the deprived action terminates, the child support case is assigned as described in (A) and (B).

(A) When there is an existing child support order prior to the child(ren) entering foster care, the case is assigned to the district office serving the county where the order was established.

(B) When there is no existing child support order prior to the child(ren) entering foster care, and a child support order is established during the deprived action, the case is assigned to the district office serving the county where the noncustodial parent resides.

## PART 17. PAST SUPPORT

### 340:25-5-140. Past support

(a) **Authority.** The Oklahoma Department of Human Services Child Support Enforcement Division (CSED) takes appropriate action to collect support and secure compliance with support orders.

(1) When a support order does not specify an effective date, a payment is due on the first day of the month following the entry of the child support order, and on the first day of each month thereafter except when another state's law governs the due date.

(2) CSED bases its determination of past-due support and support for a prior period on information in available records from courts, IV-D and other public and private agencies, custodial persons, noncustodial parents, and others.

(3) CSED may require sworn written statements and supporting documents from custodial persons, noncustodial parents, and others pertaining to support payments. The primary legal foundations for determination and collection of past-due support and support for a prior period are applicable provisions of:

(A) Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code;

(B) Section 1738B of Title 28 of the United States Code;

(C) Chapters 302 and 303 of Title 45 of the Code of Federal Regulations; and

(D) ~~Chapters 1 and 3~~ Sections 83, 84, and 7700-636 of Title 10, Chapters 3 and 21 of Title 12, Title 43, and Sections 231 through 240.23 of Title 56 of the Oklahoma Statutes.

#### (b) **Enforcement.**

(1) CSED takes action to enforce past-due support and support for a prior period under OAC 340:25-5, Part 23 of this Subchapter.

~~(e)2~~ Past-due child support remains due to the custodial person with whom a child resided during the month the past support was due.

~~(e)3~~ When CSED takes action to enforce past-due support and support for a prior period for a child of a noncustodial parent or a custodial person who is a servicemember, CSED applies the provisions of the Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code.

#### (c) **Settlement of past support.**

(1) Settlements of past support may include:

(A) a noncustodial parent's lump sum partial payment or a series of payments made toward the total amount of past support. ~~Settlements may include:~~

(B) an agreement for the noncustodial parent to pay a specified number of current child support payments in the future ~~or; and~~

(C) acceptance of in-kind payments goods or services in exchange for waiving a certain amount of past child support.

(2) Settlements of past support must be memorialized in a court order and the custodial person must sign the court order when the past support is owed to the custodial person.

(3) In accordance with Section 112 of Title 43 of the Oklahoma Statutes, CSED:

~~(4)A~~ acknowledges the rights of the custodial person and noncustodial parent to mutually agree to

waive, with approval of the court, all or a portion of the past child support due to the custodial person; or (2B) may negotiate the right to collect all or part of past support owed to the State of Oklahoma.

(fd) **Annual notice.** CSED uses the annual notice to the noncustodial parent under Section 237A of Title 56 of the Oklahoma Statutes to confirm the amount of past-due support and remaining balances on previously confirmed judgments. Past-due support and remaining balances on judgments for support for a prior period may also be confirmed during other enforcement actions as provided in OAC 340:25-5, Part 23 of this Subchapter.

(ge) **Death of custodial person.** If the custodial person dies and no past support is owed to any state, CSED refunds child support payments to the decedent's estate when notified in writing by the administrator of the estate. CSED does not file a forced probate court action to determine heirs and distribute past support to heirs. When:

- (1) CSED does not receive notice from the administrator of the estate within six months of the custodial person's death, CSED refunds child support payments to the payor.
- (2) the payor's address is unknown, or payments are returned due to the inability to distribute, support payments are returned to the noncustodial parent.
- (3) past support is owed to any state, CSED distributes the payments according to OAC 340:25-5-351.

(hf) **Jurisdiction.** When an Oklahoma tribunal has personal and subject matter jurisdiction and can obtain service of process on the noncustodial parent, CSED uses the annual notice, notice of support debt, contempt, or other appropriate proceedings to determine past support and interest before requesting a tribunal of another state to enforce the child support orders.

## PART 20. MEDICAL SUPPORT

### 340:25-5-168. Establishment of medical support

(a) The Child Support Enforcement Division (CSED) establishes medical support under:

- (1) Section 666 of Title 42 of the United States Code;
- (2) Sections 302.33, 302.56, 303.7, 303.30, and 303.31 of Title 45 of the Code of Federal Regulations; and
- (3) Section 6058A of Title 36, Sections 112, 118, 118.2, and 119 of Title 43, and Section 237 of Title 56 of the Oklahoma Statutes.

(b) A child support order established by CSED must contain a provision for medical support. The medical support provision must include one of the provisions in (1) ~~through (3)~~ or (2) of this subsection.

- (1) ~~The noncustodial parent~~ Either or both parents must secure health insurance for the minor child(ren) when it is available through an employer or other group health insurance plan.
- (2) Neither parent is required to secure health insurance for the minor child(ren) because alternative health

coverage is available. Alternative health coverage includes, but is not limited to, Indian Health Services and military dependent benefits.

~~(3) The custodial person is providing health insurance other than Medicaid for the minor child(ren).~~

(c) A child support order that provides for the enrollment of a child(ren) in Indian Health Services may be considered sufficient to satisfy the requirement of subsection (b) of this Section. CSED seeks an order for either or both parents to secure health insurance for the minor child(ren) when it is available through an employer or other group plan, in addition to Indian Health Services, upon request of the custodial person or non-custodial parent.

(ed) The noncustodial parent and the custodial person must notify CSED in writing within 30 days after:

- (1) health insurance becomes available;
- (2) the cost of existing health insurance changes; or
- (3) other provisions of existing health insurance change.

(de) When a child support order exists, CSED considers a request to establish a medical support order as a request for modification of the order under Section 118.1 of Title 43 of the Oklahoma Statutes. CSED seeks a medical support order in a tribunal that has jurisdiction to modify the child support order.

### 340:25-5-171. National Medical Support Notice

(a) When the noncustodial parent has been ordered to provide health insurance for the child(ren) and has failed to voluntarily enroll the child(ren), the Oklahoma Department of Human Services (OKDHS) Child Support Enforcement Division (CSED) uses the National Medical Support Notice (NMSN) to aid in enrolling the child(ren) in the group health plans for which the noncustodial parent is eligible. CSED sends the NMSN to the noncustodial parent's employer as required by Section 666 of Title 42 of the United States Code, Section 609 of the Employee Retirement Income Security Act of 1974, Section 303.32 of Title 45 of the Code of Federal Regulations, and Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.

(b) When a child is eligible for enrollment in the United States Department of Defense's managed health care program, TRICARE, (a) of this Section does not apply. CSED notifies the custodial person to contact the Defense Manpower Data Center Support Office at 1-800-538-9552 to enroll the child, using the Defense Enrollment Eligibility Reporting System registration process.

~~(bc)~~ CSED issues a non-compliance letter to the employer when the employer:

- (1) has not returned the NMSN within 20 business days after the date of the NMSN notifying CSED that:
    - (A) the employer does not offer group dependent health coverage;
    - (B) the employee is among a class of employees that is not eligible for family coverage under the employer's plans;
    - (C) the employee is not employed by the employer;
- or

# Permanent Final Adoptions

- (D) state or federal withholding limitations or prioritization of withholding prevent the required employee contribution to obtain coverage;
  - (2) has not forwarded the NMSN to the insurer within 20 business days after the date of the NMSN; or
  - (3) is the insurer and has not returned the NMSN within 20 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected.
- (de) CSED issues a non-compliance letter to the insurer when the insurer has not returned the NMSN within 40 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected.
- (de) CSED may initiate legal proceedings to request the court to fine employers and insurers when there is no response indicating full compliance with the requirements of the NMSN within ten business days after the date of the non-compliance letter. Fines may be imposed by the court for up to \$200 a month per child for each failure to comply with the requirements of the NMSN under Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.
- (ef) If the employer or insurer complies with the requirements of the NMSN, CSED may dismiss the case against the employer or insurer.
- (eg) Employers and insurers must send any fine(s) imposed by the court, under Section 225 of Title 56 of the Oklahoma Statutes, by check or money order to CSED, Attn: Finance, P.O. Box 53552, Oklahoma City, Oklahoma 73125-3552.

## PART 21. ESTABLISHMENT

### 340:25-5-176. Establishment of paternity

- (a) In cases where paternity has not been legally established, the Oklahoma Department of Human Services Child Support Enforcement Division (CSED) establishes paternity and recovers costs advanced for genetic testing under:
- (1) Sections 653, 654, and 666 of Title 42 of the United States Code;
  - (2) Parts 302 and 303 of Title 45 of the Code of Federal Regulations; and
  - (3) ~~Chapters 1, 3, and 22~~ Sections 83, 84, 90.4, and 7700-101 through 7700-902 of Title 10, Sections 601-201, 601-401, and 601-701 of Title 43, Sections 230.60 and 231 through 240.23 of Title 56, and ~~Section~~ Sections 1-311 and 1-321 of Title 63 of the Oklahoma Statutes.
- (b) CSED does not initiate a paternity action if:
- (1) paternity has been voluntarily acknowledged in Oklahoma or another state and not rescinded within ~~the allowable time~~ 60 days; [10 O.S. §§ ~~70(B)(1)~~ 7700-301 through 7700-314]
  - (2) ~~the child is born during the course of the marriage and is reared by the husband and wife as a member of their family without disputing the child's legitimacy for a period of at least~~ has a presumed father and a party initiates

a challenge more than two years after the child's birth; or [10 O.S. §§ ~~3(B)~~ 7700-204 and 7700-607] or

- (3) paternity has been established by a district or administrative court order. [10 O.S. § ~~70(B)(3)~~ 7700-636]
- (c) If no other conclusive presumption of paternity or court determination of paternity exists for a child, the parents may complete and sign Form ~~CSED-209-03PA209E, Affidavit Acknowledging Acknowledgment of Paternity.~~ CSED provides Form ~~CSED-209-03PA209E~~ for voluntary acknowledgment of paternity under Section ~~70~~ 7700-312 of Title 10 and ~~Section~~ Sections 1-311 and 1-311.3 of Title 63 of the Oklahoma Statutes. CSED also provides several companion forms described in (1) through ~~(3)~~ (4) of this subsection. The forms include instructions for completion. Signed and witnessed forms must be filed with the Oklahoma State Department of Health (OSDH), Division of Vital Records.
  - (1) When parents of an adult child, age 18 years or older, complete Form ~~CSED-209-03PA209E~~, the adult child must give consent to add the natural father's name to the birth certificate. The child indicates consent by signing Form ~~CSED-209-C-03PA212E, Adult Child's (18 Years or Older) Consent Form.~~
  - (2) Form ~~CSED-209-D-03PA210E, Husband's Denial of Paternity~~, must accompany Form ~~CSED-209-03PA209E~~ if the mother of a child is married to someone other than the natural father ~~at the time of conception or birth and the child is born within 300 days after the marriage is terminated under Section 7700-204 of Title 10 of the Oklahoma Statutes.~~ The mother and the natural father may complete and sign Form ~~CSED-209-03PA209E~~ if:
    - (A) ~~the mother is married at the time of conception or birth there is a presumed father;~~
    - (B) the mother and ~~her husband~~ the presumed father agree he is not the natural father of the child; and
    - (C) the child is under two years ~~old of age.~~
  - (3) Under ~~Section 70~~ Sections 7700-307 and 7700-312 of Title 10 of the Oklahoma Statutes, CSED provides Form ~~CSED-209-R-03PA211E, Rescission of Affidavit Acknowledging Acknowledgment of Paternity~~, for a person to use to cancel the legal finding of paternity created by having previously signed Form ~~CSED-209-03PA209E~~. This form must be completed, signed, and filed with the ~~Oklahoma State Department of Health, OSDH~~ Division of Vital Records, within 60 days ~~from~~ after the date of the last signature on Form ~~CSED-209-03PA209E~~.
    - (A) When a person submits Form ~~CSED-209-R-03PA211E~~ within 60 days ~~from~~ after the date of the last signature on Form ~~CSED-209-03PA209E~~, CSED sends notice of the rescission to all other signatories on ~~Form~~ Forms ~~CSED-209-03PA209E~~ and ~~Form~~ Forms ~~CSED-209-D-03PA210E~~. Notice is given by mailing a copy of the rescission to the address of the signatories as shown on ~~Form~~ Forms ~~CSED-209-03PA209E~~ and ~~Form~~ Forms ~~CSED-209-D-03PA210E~~ and to the last-known address of the signatories, if different.
    - (B) When rescissions are submitted to CSED past the 60-day time period, CSED sends a letter to the person who submitted Form ~~CSED-209-R-03PA211E~~

informing the person that the rescission is invalid because it was not timely submitted.

(4) Under Sections 7700-307 and 7700-312 of Title 10 of the Oklahoma Statutes, CSED provides Form 03PA213E, Rescission of Denial of Paternity, for a person to use to cancel the legal finding of paternity created by having previously signed Form 03PA210E. Form 03PA213E must be completed, signed, and filed with the OSDH Division of Vital Records within 60 days after the date of the last signature on Forms 03PA209E and 03PA210E.

(A) When a person submits Form 03PA213E to CSED within 60 days after the date of the last signatures on Forms 03PA209E and 03PA210E, CSED sends notice of the rescission to all other signatories of Forms 03PA209E and 03PA210E. Notice is given by mailing a copy of the rescission to the address of the signatories as shown on Forms 03PA209E and 03PA210E and to the last known addresses of the signatories, if different.

(B) When a rescission of denial is submitted to CSED past the 60-day time period, CSED sends a letter to the person who submitted Form 03PA213E informing the person that the rescission of denial is invalid because it was not timely submitted.

(d) When CSED establishes paternity against a putative an alleged father or with a custodial person who, either of whom is a servicemember, CSED applies the provisions of the Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code.

(e) When CSED has the cooperation of a deceased putative alleged father's relatives, CSED establishes paternity of the child(ren) through genetic testing of the relatives as necessary according to the standards and provisions of the Genetic Testing to Determine Paternity Act, Sections 501 through 508 Uniform Parentage Act, Sections 7700-501 through 7700-511 of Title 10 of the Oklahoma Statutes.

(f) CSED establishes paternity against an alleged father who is disabled and receiving monthly Supplemental Security Income before reviewing the case for possible closure under OAC 340:25-5-123.

**340:25-5-176.1. Challenges to paternity establishment**

(a) CSED defends a paternity establishment when:

(1) there has been an acknowledgment of paternity executed in Oklahoma or another state and not rescinded within the allowable time, which is 60 days; [45 CFR § 303.5 and 10 O.S. §§ 7700-301 through 7700-307]

(2) the child has a presumed father and a party initiates a challenge more than two years after the child's birth; or [10 O.S. §§ 7700-204 and 7700-607]

(3) paternity has been established by a district or administrative court order. [10 O.S. § 7700-636]

(b) In the absence of a court order, CSED does not conduct genetic tests or request the court to order genetic tests after:

(1) the 60-day rescission period has expired on the acknowledgment of paternity;

(2) the two-year time period has expired on a presumed father; or

(3) a court order has been entered establishing paternity. [10 OS. §§ 7700-307, 7700-502, 7700-608, and 7700-609]

**340:25-5-178. Establishment of current child support**

(a) The Oklahoma Department of Human Services (OKDHS) Child Support Enforcement Division (CSED) establishes current child support under:

(1) Sections 654, 656 and 666 of Title 42 of the United States Code;

(2) Parts 302 and 303 of Title 45 of the Code of Federal Regulations; and

(3) ~~Chapters 1 and 3~~ Section 83 of Title 10; Title 43; and Sections 231 through 240.23 of Title 56 of the Oklahoma Statutes.

(b) CSED uses the child support guidelines in Sections 118 and 119 of Title 43 of the Oklahoma Statutes to:

(1) establish the amount of current support; and

(2) prepare a child support computation form prescribed by OKDHS CSED and published by the Administrative Office of the Courts on the Oklahoma State Courts Network Web site under Section 120 of Title 43 of the Oklahoma Statutes.

(c) To establish the amount of current support, CSED considers "actual" child care expenses to be the amount paid to the child care provider by the custodial person except when subsection (d) applies. CSED determines the amount of prospective annual child care costs and allocates this amount between the parents in the same proportion as their adjusted gross income. The amount allocated to the noncustodial parent becomes part of the fixed monthly child support obligation.

(d) When the custodial person is participating in the OKDHS child care subsidy program under Section 230.50 of Title 56 of the Oklahoma Statutes, CSED uses OKDHS Appendix C-4, Page 1, Child Care Eligibility/Rates Schedule to determine the family share co-payment amount to be considered as actual child care costs on the child support computation form. [43 O.S. § 118]

(1) CSED considers the noncustodial parent's share of the base monthly obligation for child support and the custodial person's gross monthly income as the custodial person's monthly income when applying Appendix C-4. Upon selecting the applicable income level on Appendix C-4, Page 1, CSED uses the corresponding family share co-payment amount based on the number of children in OKDHS subsidized child care. CSED allocates the family share co-payment amount indicated on Appendix C-4, Page 1, in the same proportion as base child support. Child support staff perform a separate child support guidelines calculation for each noncustodial parent.

(2) If the custodial person has a child(ren) in OKDHS subsidized child care other than a child(ren) included in the child support case being established, CSED uses the proportionate share of the family share co-payment for the child(ren) included in the case.

## Permanent Final Adoptions

(e) CSED establishes child support orders in deprived court actions under Section 7003-8.8 of Title 10 of the Oklahoma Statutes and prepares the child support order on the standard child support order form prescribed by CSED and published by the Administrative Office of the Courts on the Oklahoma State Courts Network Web site.

(f) CSED establishes child support orders for a ~~minor~~ child(ren) only for whom child support is imposable under applicable law.

(g) When the noncustodial parent is a minor, CSED establishes paternity under OAC 340:25-5-176 if necessary and establishes a child support order. If a minor noncustodial parent or a custodial person is under 16 years of age, CSED does not impute gross income for the minor parent in the child support computation unless there is evidence of actual income. If a minor noncustodial parent or custodial person is between 16 and 18 years of age and regularly and continuously attending high school, CSED does impute gross income for the minor parent(s) based on minimum wage at 20 hours per week, unless:

- (1) there is evidence of actual income; or
- (2) it is otherwise inappropriate.

(h) CSED enforces child support orders for ~~disabled~~ adults with disabilities under Section 112.1A of Title 43 of the Oklahoma Statutes.

(i) CSED establishes or modifies child support orders to continue after the child reaches the age of majority under Section 112.1A of Title 43 of the Oklahoma Statutes if the application or referral for IV-D services is received during the period when child support is due under Section 112 of Title 43 of the Oklahoma Statutes.

(j) CSED establishes a child support order on an incarcerated noncustodial parent and requests the court to enter the effective date of the child support obligation as the first day of the second month following release from incarceration.

(k) When CSED establishes a child support order for a child of a noncustodial parent or a custodial person who is a servicemember, CSED applies the provisions of the Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code.

(l) CSED does not impute gross income to a person who has been determined disabled by the Social Security Administration.

### **340:25-5-179.1. Establishment of support for a prior period**

(a) The Child Support Enforcement Division (CSED) establishes support for a prior period.

(1) When paternity is being established by court order or when paternity has been previously established by a signed Form ~~CSED-209 03PA209E, Affidavit Acknowledging Acknowledgment of Paternity,~~ CSED establishes current support and support for a prior period at the same time under Sections ~~70 and 83 and 7700-636~~ of Title 10, Sections 118 and 119 of Title 43, and Section 238.6B of Title 56 of the Oklahoma Statutes.

(2) When a child(ren) is born during a marriage and no order addressing support for a prior period exists, CSED

establishes support for a prior period under Sections 118 and 119 of Title 43 and Section 238.1 of Title 56 of the Oklahoma Statutes.

(A) CSED establishes support for a prior period under this subsection only when:

- (i) current child support is sought; and
- (ii) Temporary Assistance for Needy Families (TANF) has been expended in any month during the past five years.

(B) CSED may issue a Notice of Support Debt or file a district court action to establish support for a prior period. CSED limits this prior period to the number of months on TANF during the five years immediately before the date CSED issues the Notice of Support Debt, or files the district court action.

(b) When a child support order is entered against a minor noncustodial parent, CSED establishes support for a prior period under the criteria for establishing current child support described in OAC 340:25-5-178. CSED establishes a monthly payment plan amount of at least \$1 a month.

(c) CSED does not establish an order for support for a prior period on an incarcerated noncustodial parent. Adjudication for support for a prior period is reserved until release from incarceration.

(d) When CSED establishes an order for support for a prior period for a child of a noncustodial parent or a custodial person who is a servicemember, CSED applies the provisions of the Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code.

## **PART 22. REVIEW AND MODIFICATION**

### **340:25-5-198.1. Review of a support order**

(a) **Purpose.** The purpose of the review process is to determine whether a child support order should be modified to ensure substantial compliance with the child support guidelines in Section 118 of Title 43 of the Oklahoma Statutes and OAC 340:25-5-178.

(b) **Notification requirements.** At least once every three years after a support order is established, reviewed, or modified, the Child Support Enforcement Division (CSED) notifies all parties in a full-service case of the right to request a review of the order and the process for requesting a review.

(c) **Initiation of review.** ~~When CSED receives a request to review~~ reviews an order upon written request in a full-service case, CSED conducts a review every three years in cases with a Temporary Assistance for Needy Families (TANF) assignment. CSED determines the tribunal with jurisdiction under subsection (e) of the Full Faith and Credit for Child Support Orders Act (FCCSOA), codified in Section 1738B(e) of Title 28 of the United State Code and the Uniform Interstate Family Support Act (UIFSA) in Sections 601-101 through 601-901 of Title 43 of the Oklahoma Statutes to modify the order. If another tribunal has jurisdiction to modify the order, CSED follows the provisions of ~~(h)(g)~~ of this Section. If Oklahoma has jurisdiction to modify the order, CSED follows the provisions of this subsection. CSED completes the review and

modification process within 180 days after a request is received or the non-requesting party is located, whichever is later.

(1) CSED reviews a support order on the written request of any party in a full-service case when the criteria described in (A) ~~and (B)~~ through (C) of this paragraph are met.

(A) It has been more than 12 months since the support order was established, reviewed, or modified. CSED uses the date the order was entered to compute time periods. If an order is not entered after the review or modification process, CSED uses the completion date of the review to compute time periods. The 12-month time period does not apply when a military reservist custodial person or noncustodial parent is called to active duty, per the Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code.

(B) The non-requesting party is located.

(C) There has been a material change in circumstances pursuant to Section 118 of Title 43 of the Oklahoma Statutes.

(2) Within 15 days after receiving a request for a review, CSED determines if the criteria described in paragraph (1) of this subsection are met. CSED notifies the requesting person if the criteria for review are not met. If the criteria are met, CSED sends notice to all parties with instructions for submitting financial and other information needed for the review.

(3) CSED may initiate reviews of orders in full-service cases on its own initiative for any reason, at any time, without a request, under Section 118.1 of Title 43 of the Oklahoma Statutes. CSED notifies the parties of the review with instructions for submitting financial and other information required for the review.

(4) When medical insurance becomes available or the cost of existing medical insurance changes, a party in a currently active non-TANF ~~(Temporary Assistance for Needy Families)~~ Medicaid case where CSED is providing medical enforcement only services may request a review of the support order.

(A) If either the custodial person or the noncustodial parent requests a review, CSED conducts the review as a full-service case. CSED notifies the parties of the intended action before changing the case from a medical enforcement only case to a full-service case.

(B) If the noncustodial parent requests the review, the noncustodial parent must complete Form ~~CSED-403EN001E~~, Application for Child Support Services, described in OAC 340:25-5-110.1.

(5) Each party must submit any requested financial and other information as instructed within 20 days after the date the notice is sent under paragraphs (2) or (3) of this subsection.

(d) **Review.** Within 30 days after the deadline for the parties to submit requested financial and other information to CSED under (c)(5) of this Section, CSED completes the review

process and notifies parties of its determination as to whether or not the support order should be modified.

~~(1) If CSED finds the existing support order deviates in excess of ten percent from the child support guidelines, CSED makes a determination that the support order should be modified.~~

~~(2) The notice of determination includes instructions for contesting the determination.~~

~~(e) **Contest of review determination.** Any person aggrieved by the review determination may contest the determination by submitting new or additional information within 15 days after the date on the notice of determination. CSED considers any new or additional information that is timely submitted, and within 15 days makes a final determination whether or not the support order should be modified.~~

~~(f) **Modification after review.** When CSED proceeds with the modification of finds the existing child support order when:~~

~~(1) there is no contest within 15 days after a CSED determination that deviates in excess of ten percent from the child support order should be modified; or guidelines, CSED seeks a modification.~~

~~(2) the final determination after contest of review is to modify the support order.~~

~~(g) **Termination of the review process.**~~

~~(1) The person requesting a review may withdraw the request after the review process begins, upon approval by CSED. CSED does not accept requests to withdraw the review after making a determination that the child support order should be modified.~~

~~(2) If the requesting person fails to supply information requested by CSED as instructed, CSED may terminate the review process, unless CSED or the non-requesting party requests the process continue.~~

~~(3) When the review is initiated by CSED, failure of the parties to return requested information does not stop the review process. CSED proceeds, using the best information available.~~

~~(h) **Interstate cases.**~~

~~(1) When a tribunal other than an Oklahoma district or administrative court has jurisdiction under UIFSA to modify an order, CSED obtains the information necessary for the review.~~

~~(A) CSED transmits the documents to the IV-D agency in the other state within 20 days after receipt of the request to modify the order and of the completed documents from the person requesting the modification.~~

~~(B) CSED issues and enforces a subpoena to compel compliance with the request for documents if the non-requesting party fails to return the required documents or CSED is unable to obtain the necessary information to proceed and an Oklahoma tribunal has personal jurisdiction over the non-requesting party.~~

~~(C) CSED may terminate the review process in an interstate case as provided in subsection (g) under Sections 601-611 and 601-613 of Title 43 of the Oklahoma Statutes.~~

# Permanent Final Adoptions

(2) If Oklahoma has jurisdiction to modify the order of another state, Native American tribe, territory, or foreign country as defined by subsection (b) of the ~~Full Faith and Credit for Child Support Orders Act (FCCSOA)~~, codified in Section 1738B(b) of Title 28 of the United States Code, the order ~~shall be~~ is registered in Oklahoma for modification under Section 1738B(i) and Sections 601-609 through 601-613 of Title 43 of the Oklahoma Statutes.

## 340:25-5-198.2. Modification

(a) The Child Support Enforcement Division (CSED) may initiate modification of a child support order under Sections 112, 601-611, 601-613, and 601-615 of Title 43 of the Oklahoma Statutes in the appropriate tribunal when facts indicate modification is warranted under applicable state or federal law or regulation.

(1) If there is no existing order for ~~the noncustodial either~~ parent to provide dependent health care coverage, CSED initiates a modification of a support order to require ~~the noncustodial parent either or both parents~~ to provide dependent health care coverage when CSED obtains information that the child(ren) is not covered under an existing health care plan other than Medicaid, regardless of whether the coverage is currently available to ~~the non-custodial either~~ parent.

(2) When CSED participates in the modification of a child support order, CSED requests that the court order contain a provision for medical support consistent with OAC 340:25-5-168.

(3) OAC 340:25-5-201.1 describes when modification of a child support order is appropriate after a noncustodial parent obtains physical or legal custody of the child(ren).

(4) CSED initiates a modification of the child support order when there is:

(A) no existing order for either parent to provide a portion of child care expenses;

(B) a change in how child care is being provided;  
or

(C) a change in whether the Oklahoma Department of Human Services provides child care subsidy to a child(ren) in the order.

(b) When a child support order exists, CSED considers a request to establish a medical support order as a request for modification of the order under Section 118.1 of Title 43 of the Oklahoma Statutes. CSED seeks a medical support order in a tribunal that has jurisdiction to modify the child support order and follows procedures in OAC 340:25-5-198.1.

## PART 23. ENFORCEMENT

### 340:25-5-200. Scope and applicability

(a) **Enforcement.** The Oklahoma Department of Human Services Child Support Enforcement Division (CSED) follows Part D of Subchapter IV of Chapter 7 of Title 42 and Section 1738B of Title 28 of the United States Code, Section 303.6 of Title 45 of the Code of Federal Regulations, and Section 240.1

of Title 56 of the Oklahoma Statutes in initiating enforcement proceedings.

(1) Orders for current and past child and spousal support, health care coverage, fixed amounts of medical support, judgments, and delinquencies may be enforced through expedited and judicial processes, or through other collection efforts.

(2) Past-due child support is a judgment by operation of law and may be enforced in the same manner as any other money judgment. [43 O.S. § 137]

(3) Post-judgment remedies do not require an adjudicated judgment by a district or administrative court.

(4) Each missed support payment is a judgment; thus, a judgment increases with each missed payment. This total judgment becomes a lien on the real and personal property of the noncustodial parent.

(b) **Non-Oklahoma support order.** CSED registers a support order from another state, Native American tribe, territory, or foreign country, as defined by subsection (b) of the Full Faith and Credit for Child Support Orders Act (~~FCCSOA~~), codified in Section 1738B(b) of Title 28 of the United States Code and Section ~~601-102(21)~~ 601-101(21) of Title 43 of the Oklahoma Statutes when enforcement of the order is sought.

(c) **Multiple support orders.** When multiple child support orders have been entered in the same or different tribunals involving the same noncustodial parent and child, CSED seeks a determination of controlling order under Sections 601-207, 601-307, and 601-601 through 601-603 of Title 43 of the Oklahoma Statutes and OAC 340:25-5-270.

(d) **Legal remedies.** CSED determines appropriate enforcement actions and may use any legal remedy to enforce support obligations. Remedies CSED may use include but are not limited to:

(1) annual notice to noncustodial parents as provided in Section 237A of Title 56 of the Oklahoma Statutes and OAC 340:25-5-213;

(2) income assignment, garnishment, and levy as provided in Chapter 21 of Title 12, Sections 115 and 601-501 through 601-507 of Title 43, Sections 237, 240.2, and 240.23 of Title 56 of the Oklahoma Statutes, and Section 666 of Title 42 of the United States Code;

(3) hearing on assets as provided in Section 842 of Title 12 of the Oklahoma Statutes;

(4) intercept of federal tax refunds as provided in Section 664 of Title 42 of the United States Code, Sections 285.3 of Title 31 and 303.72 of Title 45 of the Code of Federal Regulations, and OAC 340:25-5, Part 25 of this Subchapter, and intercept of state tax refunds as provided in Section 303.102 of Title 45 of the Code of Federal Regulations, Sections 205.2 and 205.3 of Title 68 of the Oklahoma Statutes, and OAC 340:25-5, Part 27 of this Subchapter;

(5) administrative offsets as provided in Section 3716 of Title 31 of the United States Code, Section 285.1 of Title 31 of the Code of Federal Regulations, and Executive Order 13019;

(6) denial, revocation, or suspension of United States ~~Passports~~ passports as provided in Section 240.1 of Title

56 of the Oklahoma Statutes and Sections 652 and 654 of Title 42 of the United States Code;

(7) revocation, suspension, non-renewal, and non-issuance of various licenses, including, but not limited to, revocations of certificates of motor vehicle titles, as provided in Sections 139 and 139.1 of Title 43, Sections 1-153, 6-201, 6-201.1, and 6-211 of Title 47, and Sections 237.1 and 240.15 through 240.21A of Title 56 of the Oklahoma Statutes;

(8) imposing liens and executing and levying on personal and real property, including, but not limited to, Workers' Compensation, personal injury, wrongful death, and probate actions, as provided in Section 135 of Title 43, Section 240.23 of Title 56, and Titles 12 and 58 of the Oklahoma Statutes;

(9) registration of foreign support orders under the Uniform Interstate Family Support Act as provided in Sections 601-100 through 601-901 of Title 43 of the Oklahoma Statutes;

(10) credit bureau referrals as provided in Sections 666 of Title 42 and 1681b of Title 15 of the United States Code, Section 240.7 of Title 56 of the Oklahoma Statutes, and OAC 340:25-5, Part 31 of this Subchapter;

(11) financial institution data match as provided in Sections 666 and 669A of Title 42 of the United States Code, Sections 240.22 through 240.22G of Title 56 of the Oklahoma Statutes, and OAC 340:25-5-212;

(12) seek work orders as provided in Section 240.10 of Title 56 of the Oklahoma Statutes;

(13) contempt as provided in Sections 566 and 567 of Title 21, Section 137 of Title 43, and Section 234 of Title 56 of the Oklahoma Statutes;

(14) action to void the transfer or obtain favorable settlement in cases in which a debtor transferred income or property to avoid payment to a child support creditor under the Uniform Fraudulent Transfer Act, Sections 112 through 123 of Title 24 of the Oklahoma Statutes and Section 666 of Title 42 of the United States Code;

(15) registration of foreign judgments under the Uniform Enforcement of Foreign Judgments Act, Sections 719 through 726 of Title 12 of the Oklahoma Statutes;

(16) criminal actions brought under Section 852 of Title 21 of the Oklahoma Statutes;

(17) civil actions brought under Section 660 of Title 42 of the United States Code;

(18) transfer of child support obligation to another custodian under Section 237 of Title 56 of the Oklahoma Statutes;

(19) referral to the United States Attorney for federal prosecution under Section 228 of Title 18 of the United States Code;

(20) full collection services by the Secretary of the Treasury under Section 6305 of the Internal Revenue Code of 1954; and

(21) attachment of lottery prize winnings from the Oklahoma Lottery Commission under Section 724.1 of Title 3A of the Oklahoma Statutes.

(e) **Servicemember.** When CSED initiates proceedings to enforce a child support order for a child of a noncustodial parent or a custodial person who is a servicemember, CSED applies the provisions of the Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code.

**340:25-5-214. Passport denial, revocation, restriction, or limitation**

(a) Section 652 of Title 42 of the United States Code provides for the United States Secretary of State to refuse to issue a passport to a person certified as owing child support ~~arrears~~ debt. It also provides for action to revoke, restrict, or limit a passport already issued. If the amount of arrears owed by a person exceeds the threshold amount for certification set by federal law or regulation, the Child Support Enforcement Division (CSED) may certify the person under Section 654 of Title 42 of the United States Code and Section 240.1 of Title 56 of the Oklahoma Statutes.

(b) Before issuing a certification as described in (a) of this Section, CSED provides notice to the noncustodial parent of CSED's determination that the noncustodial parent owes child support ~~arrears~~ debt, the consequences of the determination, and the opportunity to contest the determination through either:

(1) the annual notice process as established in Section 237A of the Title 56 of the Oklahoma Statutes and ~~Section~~ OAC 340:25-5-213; or

(2) notice of federal offset under Section 303.72 of Title 45 of the Code of Federal Regulations and OAC 340:25-5, Part 25 of this Subchapter.

(c) If CSED finds a request for certification was submitted in error or in life and death situations, CSED requests immediate withdrawal of a noncustodial parent from the process described in (a) of this Section.

(d) CSED may request withdrawal of a noncustodial parent from the process described in (a) of this Section if the noncustodial parent pays the entire child support debt or:

~~(1) the noncustodial parent owes:~~  
~~(A) pays the entire child support debt down to the threshold amount for certification or less, and pays the entire debt; or~~

~~(B) more than the threshold amount for certification, and pays the threshold amount, plus at least 10 percent of the additional amount owed; and~~

~~(2) CSED sends an income assignment to the noncustodial parents' payor, if possible, or requires the noncustodial parent by enters into a repayment agreement or order to make continued retire the remaining child support debt in not more than 36 equal monthly payments; and~~

(3) provides CSED with a verified source of future income for which an income assignment may be issued for payment of all current support and arrears.

(e) After requesting withdrawal of a case from the passport referral process, CSED may at any time recertify the case as described in (a) of this Section.

# Permanent Final Adoptions

## PART 25. FEDERAL OFFSET PROGRAMS

### 340:25-5-215.1. Collection of past-due support from federal administrative offsets

The Oklahoma Department of Human Services Child Support Enforcement Division may collect child support debts through administrative offsets of federal benefit programs unless a payment is exempt from offset by federal law or by action of the Secretary of the Treasury. ~~Federal retirement payments, vendor and travel reimbursement payments, and federal salaries are examples of payments subject to administrative offset.~~ Administrative offsets are governed by:

- (1) the Debt Collection Improvement Act of 1996, Public Law 104-134;
- (2) Executive Order 13019, Supporting Families: Collecting Delinquent Child Support Obligations; and
- (3) Section 285.1 of Title 31 of the Code of Federal Regulations.

## PART 27. STATE TAX REFUND OFFSET PROGRAM

### 340:25-5-235. Collection of past support and overpayments from state tax offset

The Oklahoma Department of Human Services through its Child Support Enforcement Division requests collection of overpayments and past child and spousal support from state tax offset that are due noncustodial parent(s). The state tax offset program is governed by:

- (1) Section 303.102 of Title 45 of the Code of Federal Regulations;
- (2) Sections 205.2 and 205.3 of Title 68 of the Oklahoma Statutes; and
- (3) Sections ~~710:50-11-1 through 710:50-11-4~~ 11-6 through 11-11 of Chapter 50 of Title 710 of the Oklahoma Administrative Code.

### 340:25-5-244. ~~Formal and informal review~~ Review procedures for state tax refund offset program

(a) The Oklahoma Department of Human Services Child Support Enforcement Division (CSED) follows the provisions of this Section in conducting ~~formal and informal reviews~~ administrative hearings of state tax offsets if the initial annual notice process under Section 237A of Title 56 of the Oklahoma Statutes and OAC 340:25-5-213 has not been completed.

- (1) If the initial annual notice process has been completed, CSED requests collection through state tax offset without additional notice.
- (2) The noncustodial parent, non-obligated spouse, or debtor whose state tax refund was offset may request a review hearing as instructed in the notice of offset. The review must be requested in writing within the time specified in the notice of offset.

~~(b) A noncustodial parent or debtor whose refund is offset may request a review if there has been a mistake of identity or a mistake of fact. CSED may release or refund the offset in whole or in part to the noncustodial parent or debtor if CSED finds there has been a mistake of fact or identity.~~

~~(c) A non-obligated spouse may request a refund of the offset within the time specified in the notice of offset. The non-obligated spouse requesting a refund must submit copies of federal and state tax forms and all attachments to CSED. If the non-obligated spouse reports income on the tax return, CSED may release or refund the offset in whole or in part to the non-obligated spouse, prorated based on the income of the noncustodial parent and the non-obligated spouse.~~

~~(d) The informal review process is an administrative review conducted under Section OAC 340:25-5-200.1 of this Subchapter.~~

~~(e) The notice of the administrative review decision includes instructions for requesting a formal review, administrative hearing, unless a settlement is made and signed by the parties.~~

~~(f) The administrative review decision becomes the final agency decision if there is a settlement or if a written request for administrative hearing is not received by CSED within 15 days after the date on the notice of administrative review decision.~~

~~(g) Upon timely receipt of a written request for an administrative hearing within 60 days after the receipt of the debtor's notice of tax offset, CSED schedules the matter for an administrative hearing before the Office of Administrative Hearings: Child Support (OAH). OAH conducts a hearing and enters an order determining the contested issues.~~

~~(h) The administrative order may be appealed to the district court within 30 days by any aggrieved party.~~

## PART 37. RECOVERY

### 340:25-5-305. General overpayment and recovery policies

(a) Purpose. The purposes of the rules in this Part are to:  
(1) establish the policies and procedures used by the Oklahoma Department of Human Services (OKDHS) Child Support Enforcement Division (CSED) to recover overpayments made by CSED to custodial persons, non-custodial parents, and other entities; and  
(2) resolve payment disputes arising from overpayments.

(b) ~~There are three categories of overpayments.~~ Overpayment categories.

- (1) Retained support occurs when the custodial person has kept support payment(s) in violation of the assignment of support rights.
- (2) Erroneous payment occurs when CSED has incorrectly paid money to a custodial person, noncustodial parent, or other entity, or failed to retain money assigned to the State of Oklahoma because of an administrative error.
- (3) Bad debt occurs when:

(A) the funding for a payment made by CSED to a custodial person or noncustodial parent is subsequently withdrawn when a tax intercept or other collection is revoked;

(B) a check or other payment instrument received by CSED from a noncustodial parent or other payor on behalf of the noncustodial parent is dishonored after a payment has been made to the custodial person; or

(C) CSED issues a payment to a custodial person based on an incorrect arrearage balance or an incorrect allocation of a payment.

(c) **Authority.** When recovering overpayments under this Part, CSED is governed by Title IV, Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code; Section 7202.3 of Title 10 of the Oklahoma Statutes; and Sections 171, 185, and 231 through 244 of Title 56 of the Oklahoma Statutes.

(d) **Recovery.** CSED may use any legal remedy to recover overpayments, including, but not limited to, state tax offsets under OAC 340:25-5, Part 27 of this Subchapter.

(e1) CSED is not responsible for creating or recovering overpayments for non-IV-D time periods when non-IV-D cases convert to IV-D cases.

(e2) CSED does not charge, collect, or pay interest on overpayments.

**PART 38. IV-D AND NON-IV-D CENTRAL CASE REGISTRY INFORMATION**

**340:25-5-339. Central Case Registry**

(a) The Oklahoma Department of Human Services (~~OKDHS~~), Child Support Enforcement Division (CSED), maintains a Central Case Registry (CCR) under Section 112A of Title 43 of the Oklahoma Statutes. The mailing address of the CCR is: Child Support Enforcement Division, Central Case Registry, P.O. Box 528805, Oklahoma City, Oklahoma 73152-8805.

(b) In a non-IV-D child support case, under Section 120 of Title 43 of the Oklahoma Statutes, the attorney of record, or the noncustodial parent or custodial person who is not represented by an attorney, must prepare a Summary of Support Order, present it to the judge with the support order, and mail it to the Central Case Registry.

(c) CCR staff record the support order amount and other information on the statewide automated data processing and information retrieval system so that Oklahoma's Centralized Support Registry can issue support payments to the correct custodial person.

(1) Under Section 413 of Title 43 of the Oklahoma Statutes, non-IV-D payments are properly identified and distributed to the custodial person via Oklahoma's Centralized Support Registry.

(2) Non-IV-D payments are distributed as described in OAC 340:25-5-350.3.

(d) CSED refers non-IV-D support payment inquiries from noncustodial parents, attorneys, employers, and payors to the

Customer Assistance Response Effort at the telephone numbers as provided in OAC 340:25-1-2.

**340:25-5-340. Collection and maintenance of addresses of record**

(a) Section 112A of Title 43 of the Oklahoma Statutes provides the basis for the Oklahoma Department of Human Services (OKDHS) Child Support Enforcement Division (CSED) to collect and maintain addresses of record for:

- (1) parties and custodial persons subject to paternity orders or child support orders entered in Oklahoma;
- (2) noncustodial parents under Section 237A of Title 56 of the Oklahoma Statutes and OAC 340:25-5-213;
- (3) parties and custodial persons subject to paternity orders or child support orders entered in other jurisdictions; and
- (4) parties and custodial persons when they voluntarily submit them.

(b) Custodial persons and noncustodial parents establish the initial address of record through:

- (1) completion of Form ~~CSED-8 03EN008E~~, Family Violence - Address of Record Statement;
- (2) a court order; or
- (3) a support order summary form when services are not being provided under the OKDHS state IV-D plan pursuant to Section 237 of Title 56 of the Oklahoma Statutes.

(c) Custodial persons and noncustodial parents may also use Form ~~CSED-8 03EN008E~~ to designate a family violence indicator under OAC 340:25-5-67.1.

(d) Addresses of record are subject to release for the purpose of service of process in support, visitation, and custody actions under Section 112A of Title 43 of the Oklahoma Statutes.

(e) A person who is responsible for maintaining an address of record on file with CSED under Section 112A of Title 43 or Section 237A of Title 56 of the Oklahoma Statutes must notify CSED of any change in the address within 30 calendar days. The person may send changes to CSED, Central Case Registry, P.O. Box 528805, Oklahoma City, OK 73152-8805 or to a district child support office. CSED may require proof of a person's identity before establishing or changing a person's name or address of record and may attempt to verify or confirm the correctness of addresses of record.

(f) A custodial person updates an address of record:

- (1) by completing and signing a change of records letter;
- (2) by telephoning CSED customer service at 405-522-2273 in the Oklahoma City calling area, 918-295-3500 in the Tulsa calling area, or toll-free at 1-800-522-2922 and entering an OKDHS customer identification number and personal identification number. This provides restricted access to the custodial person's case information for CSED to update the address of record by telephone; or
- (3) through a court order.

(g) A noncustodial parent updates an address of record:

- (1) by completing a change of records letter; or
- (2) through a court order.

# Permanent Final Adoptions

(h) CSED records the custodial person's address of record as the address of a custodial person's attorney only if the custodial person designates the attorney's address as the address of record pursuant to Sections 112A and 413(F) of Title 43 of the Oklahoma Statutes. In accepting designation as the custodial person's address of record, the attorney becomes responsible for receiving the custodial person's payments, legal documents, and other official papers by regular mail.

(i) CSED does not change a custodial person's address of record to that of a collection agency to send support payments to the collection agency's address. CSED denies any such request unless there has been an assignment of child support to an attorney pursuant to Section 118.4 of Title 43 of the Oklahoma Statutes.

### 340:25-5-340.1. Disclosure of address of record

(a) A party or custodial person seeking disclosure of the address of record of another party or custodial person from the Central Case Registry of the Oklahoma Department of Human Services Child Support Enforcement Division (CSED) must submit Form ~~CSED-9~~ 03EN009E, Request for Address of Record, which:

- (1) elicits information about the requester and the reasons for the request; and
- (2) includes information about statutory limitations on the release of addresses of record.

(b) CSED may:

- (1) refuse to release an address under Sections 112A and 413 of Title 43 of the Oklahoma Statutes, OAC 340:25-5-67.1, or other applicable law; and
- (2) release addresses of record under OAC 340:25-5, Part 9.

## PART 39. ACCOUNTING AND DISTRIBUTION

### 340:25-5-350.3. Payment of support through Centralized Support Registry

(a) **Centralized Support Registry.** The Oklahoma Department of Human Services (OKDHS) Child Support Enforcement Division (CSED) operates a Centralized Support Registry (Registry), also known as the State Disbursement Unit, for the receipt, recording, allocation, distribution, and disbursement of support payments. CSED operates the Registry under Sections 410 and 413 of Title 43 of the Oklahoma Statutes, Sections 302.51 and 303.100 of Title 45 of the Code of Federal Regulations, and Sections 654b and 657 of Title 42 of the United States Code.

- (1) This Section applies to both IV-D and non-IV-D cases unless the context clearly indicates otherwise.
- (2) When a non-IV-D child support case has an income assignment in place, the Registry processes child support payments received from unemployment compensation benefits as income assignments per federal and state law.

(b) **Support payments.** Support payments must be paid as instructed in writing by CSED. CSED may require payors and persons to provide information needed to identify and properly allocate and distribute payments and to submit payments to

the Registry in accordance with Section 413 of Title 43 of the Oklahoma Statutes.

(1) Support payment amounts are converted from a foreign country's order amount to a United States (U.S.) dollar amount at the time the order is registered and that exchange rate remains in place until the child support order is modified or the arrears are confirmed.

(2) CSED:

(A) allocates and distributes support payments under OAC 340:25-5-351;

(B) modifies or enforces international orders under OAC 340:25-5-285;

(C) safeguards case information and records received from payors and persons. Information and records concerning IV-D and non-IV-D recipients of services through the Registry are confidential under Section 183 of Title 56 of the Oklahoma Statutes except as provided in OAC 340:25-5-67;

(D) sends custodial persons a quarterly written notice of the amount of current support, arrears, and interest collected, and the amount of collections paid to the custodian. Custodial persons may also obtain this information over the Internet or by telephoning CSED as described in OAC 340:25-1-2.1;

(E) reserves the right to refuse to accept a personal check after receiving a non-sufficient funds check from the same payor; and

(F) considers the date of collection the date that payments are received by the Registry.

(+c) EFT support payments. CSED may receive support payments through electronic funds transfer (EFT). Noncustodial parents, employers, and other payors may register to make electronic payments through CSED's online child support payment system (WebPay) at <https://www.okdhs-paycs.com/Login.aspx>.

(21) To transfer child support payments electronically, noncustodial parents, employers, and other payors must:

(A) first call CSED at the telephone numbers as provided in OAC 340:25-1-2.1 to set up the EFT process;

(B) have a valid e-mail account;

(C) have access to the Internet;

(D) be a legal owner of:

(i) a bank account held at a financial institution within the United States of America U.S.; or

(ii) a VISA or MasterCard credit or debit card held at a financial institution within the U.S.; and

(E) register to use WebPay.

(32) WebPay payments do not replace federally mandated income withholding and will not stop or cancel income withholding orders for noncustodial parents.

(43) CSED may adjust and release payroll deductions that have been electronically transferred from a noncustodial parent's wages. When an adjustment cannot be processed in time to effect the change on the next scheduled electronic funds transfer, employers do not refund money to the employee, make adjustments to subsequent

EFT payments, or take any other action to correct the amount deducted.

~~(5) CSED safeguards case information and records received from payors and persons. Information and records concerning IV-D and non-IV-D recipients of services through the Registry are confidential under Section 183 of Title 56 of the Oklahoma Statutes except as provided in OAC 340:25-5-67.~~

~~(6) CSED sends custodial persons a quarterly written notice of the amount of current support, arrears, and interest collected, and the amount of collections paid to the custodian. Custodial persons may also obtain this information over the Internet or by telephoning CSED as described in OAC 340:25-1-2.1.~~

~~(7) CSED reserves the right to: refuse to accept a personal check after receiving a non-sufficient funds check from the same payor.~~

~~(8) CSED considers the date of collection the date that payments are received by the Registry.~~

~~(9) CSED allocates and distributes support payments under OAC 340:25-5-351.~~

- (A) limit use of WebPay by imposing limits, hold times, or other measures if CSED believes that suspicious activity has occurred or may occur on a payor's account; and
- (B) close a WebPay account and impose fees and charges if a scheduled payment transaction is returned for any reason.

**(ed) Payment issuance.** Under Section 654 of Title 42 of the United States Code and Section 302.38 of Title 45 of the Code of Federal Regulations, CSED issues payments to the custodial person only by transferring funds electronically, also known as direct deposit, or through child support debit cards. In interstate cases, CSED issues payments to the initiating state IV-D agency by electronic funds transfer and only issues payments by paper warrant to initiating states that do not have an electronic funds transfer system.

- (1) For purposes of this Section:
  - (A) warrant, also known as a check or bank draft, means an unconditional written order by which one person authorizes another person to pay a certain sum of money to a third person; and
  - (B) payee means the person or entity to whom the check is written.

(2) CSED reissues a fraudulently endorsed and subsequently cashed warrant to the payee upon CSED's confirmation of a forged signature.

- (3) CSED confirms a check as forged when:
  - (A) the payee completes Form ~~ADM 44-B-10AD045E~~, Affidavit of Forged Endorsement;
  - (B) the payee completes Form ~~ADM 44-C-10AD046E~~, Investigation Questionnaire; and
  - (C) CSED compares the payee's signature against the endorsement on the check and verifies that the signatures do not match.

**(ee) Overcollected support amounts.** CSED returns overcollected support amounts as described in OAC 340:25-5-350.1.

**(ef) Distribution errors.** CSED manages distribution errors as described in this subsection.

(1) CSED is not responsible for overpayment, underpayment, nonpayment, misdirection of payment, or other distribution error caused by either incorrect payments or information submitted to CSED, or CSED receiving no information or payment. CSED does not attempt to recover, redirect, forward, repay, or otherwise correct this type of error.

(2) When CSED errs, CSED recovers overpayments to parties or custodial persons in IV-D and non-IV-D cases as described in OAC 340:25-5, Part 37 of this Subchapter.

(3) CSED sends refunds to noncustodial parents by mailing a paper warrant.

[OAR Docket #07-870; filed 4-25-07]

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

[OAR Docket #07-876]

**RULEMAKING ACTION:**  
PERMANENT final adoption

- RULES:**
- Subchapter 1. General Provisions of Child Welfare Services
    - Part 1. Scope and Applicability
      - 340:75-1-12.8 [NEW]
      - 340:75-1-16 [AMENDED]
    - Subchapter 3. Child Protective Services
      - 340:75-3-2 [AMENDED]
      - 340:75-3-4 through 340:75-3-5 [AMENDED]
      - 340:75-3-6.1 [AMENDED]
      - 340:75-3-7 through 340:75-3-7.1 [AMENDED]
      - 340:75-3-8.1 [AMENDED]
      - 340:75-3-8.6 [AMENDED]
      - 340:75-3-10.1 through 340:75-3-10.2 [AMENDED]
      - 340:75-3-13 [AMENDED]
    - Subchapter 7. Foster Home Care
      - Part 1. General Provisions
        - 340:75-7-2 [AMENDED]
      - Part 2. Development of Resources
        - 340:75-7-14 through 340:75-7-15 [AMENDED]
        - 340:75-7-18 through 340:75-7-19 [AMENDED]
        - 340:75-7-24 [AMENDED]
      - Part 4. ~~Foster Parents~~: Roles and Responsibilities
        - 340:75-7-37.1 [NEW]
      - Part 5. Eligibility and Payments
        - 340:75-7-52 [AMENDED]
        - 340:75-7-52.1 [NEW]
      - Part 6. Foster Home Care Support Services
        - 340:75-7-65 [AMENDED]
      - Part 8. Continuous Quality Assessment of a Resource Home
        - 340:75-7-94 [AMENDED]
    - Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care
      - Part 7. Medical Services
        - 340:75-13-62 through 340:75-13-63 [AMENDED]
        - 340:75-13-65 [AMENDED]
        - 340:75-13-74 through 340:75-13-75 [AMENDED]
        - 340:75-13-77 through 340:75-13-80 [AMENDED]
    - Subchapter 15. Adoptions
      - Part 2. Legal Base and Scope of the Adoption Program
        - 340:75-15-8 through 340:75-15-9 [AMENDED]
      - Part 6. Adoption Process
        - 340:75-15-41 [AMENDED]

# Permanent Final Adoptions

340:75-15-45 [AMENDED]

340:75-15-47 [AMENDED]

Part 8. Adoptive Placement Process

340:75-15-59 [AMENDED]

Part 10. Adoptive Family Assessment and Preparation Process

340:75-15-82 [AMENDED]

340:75-15-84 [AMENDED]

340:75-15-87 through 340:75-15-89 [AMENDED]

340:75-15-93 [AMENDED]

Part 12. Post Placement Services

340:75-15-103 [AMENDED]

340:75-15-106 through 340:75-15-107 [AMENDED]

Subchapter 19. Working with Indian Children

340:75-19-26.1 [AMENDED]

(Reference APA WF 06-12 and 06-25)

## AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; House Bill (HB) 2840; HB 2656; 10 O.S. §§ 601.6(B)(3), 7003-6.2, 7003-6.2A, 7101-1.3A(4), 7102.B(4), 7106(K), and 7110.2A.1; and 74 § O. S. 150.5(A)(1)(e).

## DATES:

### Comment period:

January 16, 2007 through February 16, 2007

### Public hearing:

None requested.

### Adoption:

February 27, 2007

### Submitted to Governor:

February 27, 2007

### Submitted to House:

February 27, 2007

### Submitted to Senate:

February 27, 2007

### Gubernatorial approval:

March 15, 2007

### Legislative approval:

Failure of the Legislature to disapprove the rule(s) resulted in approval on April 24, 2007.

### Final adoption:

April 24, 2007

### Effective:

June 1, 2007

## SUPERSEDED EMERGENCY ACTIONS:

### Superseded rules:

Subchapter 1. General Provisions of Child Welfare Services

Part 1. Scope and Applicability

340:75-1-16 [AMENDED]

Subchapter 3. Child Protective Services

340:75-3-5 [AMENDED]

(Reference APA WF 06-12)

### Gubernatorial approval:

January 15, 2007

### Register publication:

24 Ok Reg 631

### Docket number:

07-250

## ANALYSIS:

The revisions to Subchapters 1, 3, 7, 13, 15, and 19 of Chapter 75: (1) bring the rules into compliance with HB 2840, the Kelsey Smith-Briggs Child Protection Reform Act, effective November 1, 2006, which amends Sections (§§) 7003-6.2 and 7003-6.2A of Title 10 of the Oklahoma Statutes (O.S.) pertaining to court-ordered placement of a child in Oklahoma Department of Human Services (OKDHS) custody, 10 O.S. § 7106(K) pertaining to reporting child abuse or neglect, and 74 O.S. § 150.5(A)(1)(e) pertaining to requesting investigations by the Oklahoma State Bureau of Investigation (OSBI) in cases of child abuse or neglect; (2) codify emergency amendments; (3) allow OKDHS staff to object when a court order releasing a child from state custody may create a serious risk of danger to the child; (4) add that when a child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement; (5) provide the opportunity for OKDHS to provide sworn testimony for the purpose of determining the placement of a child; and (6) reflect that the OKDHS Director or designee may request a criminal investigation by OSBI in cases where it has been determined that

criminally injurious conduct, including, but not limited to, physical or sexual abuse of a child, has occurred.

The revised rules clarify: (1) the definitions of foster parent, out-of-home care, adult, and serious risk of danger to the health and safety of the child; (2) seriously inadequate physical care as a neglect condition; (3) the relationship between OKDHS and OSBI; (4) terminology for recommendations to the district attorney; (5) protocol for when a child is placed in OKDHS emergency custody during a matrimonial or child custody action; (6) the procedure for abandoned infants; (7) investigation time frames; (8) joint investigation protocols; (9) that an appropriate licensed medical professional may examine or be consulted concerning a child who has specified injuries; (10) requirements for records checks from other states for foster applicants or adult household members; (11) requirements for review by the Children and Family Services Division (CFSD) Foster Care Section of a foster home applicant when there is a previous confirmation of child abuse or neglect of the applicant's previous foster home; (12) that a written recommendation is required from CFSD Foster Care Section regarding history of a closed foster home; (13) safety requirements for water, animals and household pets, and weapons; (14) the purpose of the written resource family assessment; (15) joint approval procedures for OKDHS foster homes; (16) payment options for kinship foster applicants; (17) role and responsibilities of the resource specialist; (18) procedure for kinship or foster parent to apply as payee of child's social security benefits; (19) when kinship families can receive a training stipend; (20) that foster parents can make informal arrangements for the occasional care of foster children; (21) that foster parents must identify an alternate caregiver; (22) procedure for the foster care mediation program and foster parents' access to the program; (23) need for yearly re-assessment of foster parent's performance and time frames regarding continued use or closure of a foster home; (24) the requirement for documentation in the resource case for reassessment of foster home; (25) travel arrangement procedures for OKDHS adoptions; (26) criminal background check and search requirements for adoptive families; (27) procedure for contact with family when a notice of closure is issued; (28) the definition of child to mean an unmarried person; and (29) punctuation and syntax to bring the rules into conformance with current OKDHS language and usage.

## CONTACT PERSON:

Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

**DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE DEPARTMENT OF HUMAN SERVICES, SEQUOYAH BUILDING, OKLAHOMA CITY AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., SECTION 255(B):**

## SUMMARY:

340:75-1-12.8 is amended to describe the foster care mediation program available to foster parents through the Oklahoma Commission on Children and Youth.

340:75-1-16 is amended and supersedes the emergency revisions approved October 31, 2006 to: (1) reflect procedures for providing verbal notice of objection and intention to seek review of the court order releasing a child from state custody when OKDHS deems the court order creates a serious risk of danger to a child; (2) clarify that when a child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement; and (3) provide the opportunity for OKDHS to provide sworn testimony for the purpose of determining the placement of a child.

340:75-3-2 is amended to clarify the definitions of child, foster parent, and near death.

340:75-3-4 is amended to reflect updated citations, language, and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-3-5 is amended and supersedes the emergency revisions approved October 31, 2006 to reflect that the OKDHS Director or designee may request a criminal investigation by OSBI in cases where it has been determined that criminally injurious conduct, including, but not limited to, physical or sexual abuse of a child, has occurred.

340:75-3-6.1 is amended to: (1) detail procedure for an abandoned infant; (2) clarify investigation completion time frames; and (3) update form numbers to conform with current tracking system.

340:75-3-7 and 340:75-3-7.1 are amended to update language to be consistent with current usage.

340:75-3-8.1 is amended to add Community-Based Residential Services and Tribal program to the staff involved, when appropriate, in an investigation or assessment.

340:75-3-8.6 is amended to: (1) clarify that an appropriate licensed medical professional may examine or be consulted concerning a child who has injuries specified in this subsection; and (2) update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-3-10.1, 340:75-3-10.2, and 340:75-3-13 are amended to update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-7-2 is amended to clarify the definition of foster family care.

340:75-7-14 is amended to clarify that adult means age 18 or older.

340:75-7-15 is amended to require: (1) foster applicants or adult household members who have lived in Oklahoma for less than five years to provide equivalent records checks from previous states of residence; and (2) a review by the Children and Family Services Division (CFSD) Foster Care Section of a foster home applicant when there has been a previous confirmation of child abuse and neglect of the applicant's previous foster home.

340:75-7-18 is amended to clarify: (1) the written resource family assessment is a representation of the family based on complete, consistent, and truthful information gathered by the resource specialist or a contractor in conjunction with the family; (2) water, animal and household pet, and weapon safety; and (3) when a foster home may be approved.

340:75-7-19 is amended to clarify joint approval procedures of OKDHS foster homes when the placement provider is kin to the child, a Developmental Disabilities Services Division (DDSD), Office of Juvenile Affairs (OJA), or licensed family child care home.

340:75-7-24 is amended to: (1) clarify kinship foster applicant's payment options; and (2) update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-7-37.1 is a new rule detailing the roles and responsibilities of the resource specialist.

340:75-7-52 is amended to: (1) refer to 340:75-7-52.1 for foster home reimbursement option; and (2) update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-7-52.1 is a new rule that: (1) details the procedure for kinship or foster parents to apply as payee of a child's Social Security benefits; and (2) clarifies when kinship families may receive a training stipend.

340:75-7-65 is amended to: (1) clarify that foster parents may make informal arrangements for the occasional care of foster children; (2) require foster parents to identify an alternate caregiver; (3) add that foster parents have access to the foster care mediation program through Oklahoma Commission on Children and Youth; and (4) update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-7-94 is amended to: (1) clarify need for yearly re-assessment of foster parent's performance; (2) include time frames regarding continued use or closure of a foster home; and (3) update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-13-62 is amended to delete obsolete language.

340:75-13-63 is amended to update and clarify contact information for authorization and claims.

340:75-13-65 is amended to update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-13-74 is amended to clarify language to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-13-75 is amended to clarify eligibility for out-of-state Title IV-E foster care and Medicaid.

340:75-13-77 through 340:75-13-80 are amended to update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-15-8, 340:75-15-9, 340:75-15-41, 340:75-15-45, 340:75-15-47, and 340:75-15-59 are amended to update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-15-82 is amended to update the Web address for adoption recruitment.

340:75-15-84 is amended to: (1) update the criminal background check procedure for adoptive families; and (2) require an inquiry of each adoptive applicant when the applicant has applied to be or was an approved foster or adoptive home in another state.

340:75-15-87 is amended to update: (1) search requirements for an adoption background check; and (2) language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-15-88 is amended to: (1) clarify procedure for contact with family when a notice of closure is issued; and (2) update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-15-89 is amended to clarify terminology concerning evaluation and assessment.

340:75-15-93, 340:75-15-103, and 340:75-15-106 are amended to update language and form numbers to conform to current usage and comply with federal, state, and OKDHS standards.

340:75-15-107 is amended to clarify procedure when disruption of adoption occurs.

340:75-19-26.1 is amended to designate APS Healthcare as the reviewer for determining medical necessity for therapeutic foster care.

[OAR Docket #07-876; filed 4-25-07]

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

[OAR Docket #07-871]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. Aging Services Division
340:105-1-2 through 340:105-1-3 [AMENDED]
340:105-1-5 through 340:105-1-6 [AMENDED]
340:105-1-8 [AMENDED]
340:105-1-10 [AMENDED]
Subchapter 7. Adult Day Services
340:105-7-1 through 340:105-7-2 [AMENDED]
340:105-7-4 [AMENDED]
340:105-7-7 through 340:105-7-9 [AMENDED]
Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 3. State Agency
340:105-10-17 [AMENDED]
Part 5. Area Agencies on Aging
340:105-10-31 [AMENDED]
340:105-10-33 [AMENDED]
340:105-10-40 [AMENDED]
340:105-10-45 [AMENDED]
Part 7. Program Standards for Services Funded Under Title III
340:105-10-51 [AMENDED]
340:105-10-59 [AMENDED]
340:105-10-70 [AMENDED]
340:105-10-72 [AMENDED]
340:105-10-74 through 340:105-10-75 [AMENDED]
340:105-10-79 [AMENDED]
340:105-10-85 through 340:105-10-86 [AMENDED]
340:105-10-91 through 340:105-10-93 [AMENDED]
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-101 [AMENDED]
340:105-10-112 [AMENDED]
340:105-10-114 [AMENDED]
340:105-10-116 [AMENDED]
Subchapter 11. Statewide State Long-Term Care Ombudsman Program
Part 37. Statewide State Long-Term Care Ombudsman Program
340:105-11-234 through 340:105-11-235 [AMENDED]
340:105-11-240 [AMENDED]
340:105-11-245 through 340:105-11-246 [AMENDED]
340:105-11-248 [AMENDED]
340:105-11-252 through 340:105-11-253 [AMENDED]
(Reference APA WF 06-29)

# Permanent Final Adoptions

## **AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; the Older Americans Act of 1965, as amended; and Section 5310(a)(2) of Title 49 of the United States Code.

## **DATES:**

### **Comment period:**

January 16, 2007 through February 16, 2007

### **Public hearing:**

None requested.

### **Adoption:**

February 27, 2007

### **Submitted to Governor:**

February 27, 2007

### **Submitted to House:**

February 27, 2007

### **Submitted to Senate:**

February 27, 2007

### **Gubernatorial approval:**

March 15, 2007

### **Legislative approval:**

Failure of the Legislature to disapprove the rule(s) resulted in approval on April 24, 2007.

### **Final adoption:**

April 24, 2007

### **Effective:**

June 1, 2007

## **ANALYSIS:**

The revisions to Subchapters 1, 3, 7, 13, 15, and 19 of Chapter 75: (1) bring the rules into compliance with HB 2840, the Kelsey Smith-Briggs Child Protection Reform Act, effective November 1, 2006, which amends Sections (§§) 7003-6.2 and 7003-6.2A of Title 10 of the Oklahoma Statutes (O.S.) pertaining to court-ordered placement of a child in Oklahoma Department of Human Services (OKDHS) custody, 10 O. S. § 7106(K) pertaining to reporting child abuse or neglect, and 74 O.S. § 150.5(A)(1)(e) pertaining to requesting investigations by the Oklahoma State Bureau of Investigation (OSBI) in cases of child abuse or neglect; (2) codify emergency amendments; (3) allow OKDHS staff to object when a court order releasing a child from state custody may create a serious risk of danger to the child; (4) add that when a child is placed in OKDHS custody, the court may not direct OKDHS to place the child in a specific home or placement; (5) provide the opportunity for OKDHS to provide sworn testimony for the purpose of determining the placement of a child; and (6) reflect that the OKDHS Director or designee may request a criminal investigation by OSBI in cases where it has been determined that criminally injurious conduct, including, but not limited to, physical or sexual abuse of a child, has occurred.

The revised rules clarify: (1) the definitions of foster parent, out-of-home care, adult, and serious risk of danger to the health and safety of the child; (2) seriously inadequate physical care as a neglect condition; (3) the relationship between OKDHS and OSBI; (4) terminology for recommendations to the district attorney; (5) protocol for when a child is placed in OKDHS emergency custody during a matrimonial or child custody action; (6) the procedure for abandoned infants; (7) investigation time frames; (8) joint investigation protocols; (9) that an appropriate licensed medical professional may examine or be consulted concerning a child who has specified injuries; (10) requirements for records checks from other states for foster applicants or adult household members; (11) requirements for review by the Children and Family Services Division (CFSD) Foster Care Section of a foster home applicant when there is a previous confirmation of child abuse or neglect of the applicant's previous foster home; (12) that a written recommendation is required from CFSD Foster Care Section regarding history of a closed foster home; (13) safety requirements for water, animals and household pets, and weapons; (14) the purpose of the written resource family assessment; (15) joint approval procedures for OKDHS foster homes; (16) payment options for kinship foster applicants; (17) role and responsibilities of the resource specialist; (18) procedure for kinship or foster parent to apply as payee of child's social security benefits; (19) when kinship families can receive a training stipend; (20) that foster parents can make informal arrangements for the occasional care of foster children; (21) that foster parents must identify an alternate caregiver; (22) procedure for the foster care mediation program and foster parents' access to the program; (23) need for yearly re-assessment of foster parent's performance and time frames regarding continued use or closure of a foster home; (24) the requirement for documentation in the resource case for reassessment of foster home; (25) travel arrangement procedures for OKDHS adoptions; (26) criminal background check and search requirements

for adoptive families; (27) procedure for contact with family when a notice of closure is issued; (28) the definition of child to mean an unmarried person; and (29) punctuation and syntax to bring the rules into conformance with current OKDHS language and usage.

## **CONTACT PERSON:**

Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2007:**

## **SUBCHAPTER 1. AGING SERVICES DIVISION**

### **340:105-1-2. Overall responsibility**

The responsibility of Aging Services Division (ASD) of the Oklahoma Department of Human Services is to administer Title III of the Older Americans Act of 1965, as amended, and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act (TEA-21) - A Legacy for Users (SAFETEA-LU), Section 5310 of the Federal Transit Administration, as amended under Section 5310(a)(2) of Title 49 of the United States Code, Section 5310(a)(2).

(1) ~~ASD has been~~ is designated by the Governor and the Oklahoma State Legislature as the sole state agency for administering the Older Americans Act and the ~~TEA-21, Section 5310 of the Federal Transit Administration~~ SAFETEA-LU programs in Oklahoma.

(2) ASD places a special emphasis on serving older persons in the greatest social and economic need and in promoting services ~~which that~~ that avoid unnecessary institutionalization of ~~the elderly older persons~~, allowing them to remain in their own homes and preserving their independence and personal dignity.

### **340:105-1-3. Background**

~~During the 1960s, activities such as the White House Conference on Aging focused attention on the needs and problems of older Americans. In July, 1963 Governor Henry Bellmon issued an executive order directing the now The Oklahoma Department of Human Services (DHS) (OKDHS) to set up a the Special Unit on Aging, now Aging Services Division (ASD) in 1963, by executive order of Governor Bellmon, to work with local groups to extend already existing programs and to develop new services for the elderly older Oklahomans.~~

(1) ~~In 1965, After~~ After Congress established the Administration on Aging to administer the Older Americans Act (OAA) of 1965,

(1) ~~Following passage of the~~ the Governor designated ~~DHS the OKDHS~~ the OKDHS Special Unit on Aging, now called Aging Services Division (ASD), as the sole state agency to implement Title III of the OAA, coordinate state programs and activities related to the purposes of the OAA, and receive and administer funds made available to the state.

(2) ~~The Amendments in 1972 amendments~~ authorized the Nutrition Program for the Elderly, then Title VII of the OAA, which provided funding for congregate nutrition programs, home delivered meals, nutrition education, and outreach services.

(3) Amendments in 1973 resulted in the division of the state into planning and service areas and the designation of Area Agencies on Aging (AAAs) within these planning and service areas. A three tiered system, ~~consisting of federal, state, and local entities, thus emerged which~~ is referred to as the aging network.

(4) ~~The Amendments in 1975 amendments~~ designated transportation services, home services, legal services, and home repair and renovation services as priority services.

(5) Amendments in 1978 consolidated Title III, regarding social services; Title V, regarding senior centers; and Title VII, regarding nutrition services. Separate authorizations within Title III provided for social services, including senior centers, congregate meals, and home delivered meals. The 1978 amendments ~~also~~ placed increased emphasis upon advocacy for ~~the elderly older persons~~ and more assertive involvement in the area of long-term care ~~for the elderly~~.

(6) In May of 1975, the ~~DHS OKDHS~~ Special Unit on Aging was designated to administer Section 16(b)(2) of the Urban Mass Transportation Act as amended by Public Law 93-87, now the Safe, Accountable, Flexible, and Efficient Transportation Equity Act (TEA-21) - A Legacy for Users (SAFETEA-LU), Section 5310 of the Federal Transit Administration, which provides capital assistance to private non-profit organizations for the special transportation needs of ~~the elderly older persons and handicapped~~ persons with disabilities in areas of the state where existing or proposed services of public and private transit operators are not adequate.

(7) Amendments in 1984 emphasized that states and AAAs ~~were to~~ give particular attention to the needs of low income and minority older persons.

(8) Amendments in 1987 added separate authorizations of appropriations for several new programs, including disease prevention and health promotion services, in-home services for ~~the frail elderly older persons, and~~ prevention of elder abuse, neglect, and exploitation; and increased protections and visibility for the State Long-Term Care Ombudsman Program.

(9) ~~The Amendments in 1992 amendments~~ restructured the OAA to create a new Title VII designated to consolidate and expand programs that focus on protection of the rights of vulnerable older persons.

(10) The 2000 amendments consolidated programs under Part B, Supportive Services, retained the targeting provision for low income minorities and added focus on older ~~individuals persons~~ residing in rural areas, and added the National Family Caregiver Support Program as a means of addressing growing needs of the nation's caregivers.

**340:105-1-5. Description of programs administered**

(a) **Title III - General description of Aging Services Division (ASD) responsibilities.** Under Title III of the Older Americans Act (OAA), as amended, ASD provides funding to 11 Area Agencies on Aging (AAAs) for administration of certain direct services and for the planning, development, and implementation of a variety of services to ~~the elderly older persons~~ by means of grants or contracts between the AAAs and local private or public organizations. ~~It is the AAAs' responsibility to monitor~~ The AAA is responsible for monitoring and evaluate evaluating the performance of grantees the grantee and contractors contractor on a regular and continuous basis to ensure adequate performance and compliance with applicable standards.

(1) The performance of ~~the projects a project~~ is evaluated by measuring actual project achievements or accomplishments in comparison to goals and objectives set forth in project grants or contracts, ~~by utilization of using~~ standard assessment tools, and ~~by evaluation of evaluating~~ project compliance with applicable regulations and policies.

(2) ASD monitors and evaluates AAA performance in a similar manner, utilizing using standard assessment tools, ~~plus and~~ compliance with applicable policies and procedures, ~~and ensuring to ensure~~ satisfactory progress toward and completion of Area Plan goals and objectives. ASD ~~also~~ reviews funded projects on a regular basis as a part of its responsibility under Title III of the OAA.

(b) **Title III-B, supportive services.** Supportive services are designed to maximize the informal support provided by caregivers and to enhance the capacity of older persons to remain self-sufficient. Supportive services funding leverages resources to provide home- and community-based care. ~~Most supportive~~ Supportive services fall under three broad categories:

(1) access services such as transportation, outreach, information and assistance, and case management;

(2) in-home services, including supportive services for families of older ~~individuals persons~~ who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

(3) legal assistance.

(c) **Title III-C, nutrition services.** Nutrition services are provided under ~~two parts of the OAA;~~ congregate nutrition services, Part C-1 of OAA; and home delivered nutrition services, Part C-2 of OAA. The two services provided under these two parts are similar but are targeted to different populations of older persons. ~~Although meals~~ Meals are the primary service provided, ~~ancillary.~~ Ancillary services include nutrition education, counseling, and outreach.

(1) ~~The meals~~ Meals must comply with the Dietary Guidelines for Americans and provide at least 33 percent of the recommended dietary allowances in each meal served.

(2) Service providers are encouraged to expand meals service to more than one meal per day and more than five days a week to those persons with increased needs.

## Permanent Final Adoptions

(3) ~~While older~~ Older participants are not charged a fee, ~~they but~~ are encouraged to contribute through volunteering and financial donations to help defray the cost of services.

(4) Financial contributions are used by local projects to expand services.

(5) Volunteers perform essential tasks such as delivering meals and record keeping. ~~(6) The program has evolved over the years so that nutrition~~ Nutrition intervention and nutrition services ~~are more critical than ever in ensuring that provide programs based on individual needs to ensure~~ older persons ~~can~~ remain in their homes and communities. ~~Adequate nutrition is essential to the health, self-sufficiency, and quality of life of older persons. The nutrition services program strives to provide a continuum of services to meet their individual needs.~~

(d) **Title III-D, disease prevention and health promotion services.** Title III-D funds are used to leverage other resources to increase public understanding of how healthy lifestyle choices throughout life reduce the risk of chronic health conditions in later years. AAAs allocate funds to ~~general types of organizations with, such as~~ public health, education, community-based agencies, hospitals and medical institutions, and senior centers ~~being the most common~~. Title III-D funds provide programs and services ~~to include, including:~~

- (1) routine health screening;
- (2) physical fitness programs;
- (3) health promotion programs on chronic disabling conditions;
- (4) nutrition screening and educational services on preventive health services;
- (5) health risk assessments or information on age related diseases and chronic disabling conditions;
- (6) mental health screening, education, and referral;
- (7) home injury control services;
- (8) counseling regarding social services and follow up health services; and
- (9) gerontological counseling.

(e) **Title III-E, National Family Caregiver Support Program.** The National Family Caregiver Support Program defines eligible caregivers as family caregivers of older adults and grandparents or relative caregivers of children not ~~more~~ older than 18 years of age. The AAAs make grants to local community service providers to support family caregivers through services ~~which that~~ include:

- (1) information to caregivers about available services;
- (2) assistance to caregivers in gaining access to supportive services;
- (3) individual counseling, support groups, and caregiver training to caregivers to assist the caregiver in making decisions and solving problems relating to ~~their~~ caregiving the role of caregiver;
- (4) respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and
- (5) supplemental services, on a limited basis, to complement the care provided by caregivers.

### 340:105-1-6. Area Agencies agencies on Aging aging

(a) ~~Area Agency on Aging (AAA) designation.~~ In accordance with Title III provisions for designation of planning and service areas (PSA) and area agencies on aging (AAAs), the state ~~has been is~~ divided into 11 sub-state districts, each of which has a designated AAA which is funded by Aging Services Division (ASD). Levels of funding are determined by ASD based upon a formula ~~considering that considers~~ the number of older persons, ~~the number of minority older persons,~~ and the number of low income older persons in the PSA. AAAs are private or public non-profit organizations or function independently within a large private or public non-profit organization.

(b) **AAA responsibilities.** Each AAA is responsible for carrying out the planning, coordination, administrative, and programmatic functions within ~~their the~~ respective PSA, as prescribed by state and federal laws and regulations ~~as well as~~ and standards promulgated by ASD.

(c) **Area Plans.** AAAs annually develop an Area Plan for the delivery of services within their PSA. Area Plans are submitted to ASD ~~along with an application for funding. As with the State Plan,~~ Area Plans set forth specific goals and objectives ~~which that~~ indicate how an AAA implements its responsibilities under the Older Americans Act during the period of time the plan encompasses. ASD works with each AAA to ensure coordination and consistency between the State and Area Plans, ~~as well as~~ and to maximize utilization use of available resources.

(d) **AAA activities.** AAAs survey the older population of their respective PSA on a regular and ongoing basis to determine the needs of ~~the elderly older persons~~ and the priorities of those needs, and ~~then coordinates~~ coordinate services to ~~attempt to~~ meet the needs based upon available financial and other resources, financial and otherwise.

(1) The AAA is responsible for ~~the~~ planning, development, and administration of grants within its PSA, consistent with existing needs and available resources, and within applicable regulations and guidelines.

(2) Services are provided by private or public organizations pursuant to grants from, or contracts with, the AAA. ~~In addition, information~~

(3) Information and assistance services may be provided as a direct service of the AAA or ~~be provided~~ pursuant to a grant or contract. AAAs may provide other limited direct services, subject to approval by ASD.

(e) **Monitoring of AAAs.** AAAs are regularly monitored and assessed by ASD with regard to their performance based upon adherence to the goals of their Area ~~Plans~~ Plan, completion of goals and objectives, compliance with applicable laws, regulations, and policies, and progress in implementation of an effective comprehensive and coordinated system of service delivery within their PSA.

(1) ~~In the event there are areas in which~~ If the AAA is not in compliance with applicable standards or is not pursuing goals and objectives satisfactorily, ~~this the~~ non-compliance or deficiency is recorded at the State Office. The AAA is notified of ~~the~~ non-compliance or deficiency ~~in a particular area of operation or performance~~ and given a due date ~~as to for~~ re-evaluation or assessment.

(2) If the AAA is unable or refuses to respond adequately to the notice of non-compliance or deficiency within the specified time period, ASD may withdraw designation of the agency as an AAA after reasonable notice and opportunity for a hearing, or may take other administrative action as deemed appropriate by ASD.

(E) conduct coordination meetings with local transportation system operators;  
(F) provide 17 percent local matching funds and prepare a preliminary application for review by ASD; and  
(G) prepare and submit the final application to ASD.

**340:105-1-8. ~~Transportation Equity Act (TEA-21)~~  
SAFETEA-LU, Section 5310**

(a) **Purpose.** ~~This program under the The Safe, Accountable, Flexible, and Efficient Transportation Equity Act (TEA-21) - A Legacy for Users (SAFETEA-LU), Section 5310 of the Federal Transit Administration, as amended under Section 5310(a)(2) of Title 49 of the United States Code, Section 5310(a)(2) provides for the payment of 83 percent of the cost of capital equipment for transportation programs for the elderly older persons and persons with disabilities.~~

(b) **Application.** Private non-profit organizations are eligible applicants for participation in this program. All applications for such equipment are made to Aging Services Division (ASD). Certification of the organization's incorporation within Oklahoma from the Secretary of State accompanies each application. If the application is approved, ASD submits the request for purchase of the equipment to the Department of Central Services for acquisition through state bidding procedure. When acquired, the title to the equipment is vested in the name of the private non-profit organization with ASD on the title as the lien holder.

(~~c~~) **Vehicle purchase.** Vehicles acquired under this program are graded for the purpose of providing transportation services to elderly older persons and persons with disabilities. Use of the vehicle by any other group of riders is not permissible unless such use is infrequent and incidental to the regular use of the vehicle in its normal service.

(1) Vehicles acquired under this program are handicapped accessible unless the grantee can conclusively demonstrate that the existing transportation system:

- (A) meets all demands for service by disabled persons;
- (B) provides generally equal services to the disabled; and
- (C) will continue to provide these services after the acquisition of a vehicle(s) under this program.

(2) ~~If these three all conditions in (1) of this subsection are met, ASD considers issuance of a waiver of the requirement that the vehicle applied for is accessible to the handicapped.~~

(3) To apply for funds under Section 5310, private non-profit organizations:

- (A) determine in a general way whether there is a transportation problem for the community's elderly older persons and disabled citizens persons with disabilities;
- (B) identify a potential local private non-profit sponsor;
- (C) contact ASD to discuss application procedures;
- (D) contact local, regional, or state planning agencies for planning assistance;

**340:105-1-10. State Council on Aging**

The purpose, function, and rules of the State Council on Aging (Council) are delineated in the Council bylaws. The bylaws provide that the Council ~~reviews~~ advises the Aging Services Division (ASD) ~~in its director on all matters pertaining to the development, implementation, and administration of ASD programs;~~ to assist ASD in identifying the needs of ~~the elderly;~~ and to ~~represent~~ representing the ~~interest~~ interests of older persons.

- (1) Over 50 percent of the Council must be ~~over~~ 60 years of age or older, the remainder being representative of public and private service organizations or agencies.
- (2) Meetings must be held at least monthly, but special meetings may be held if deemed necessary.
- (3) ASD is responsible for providing staff assistance to the Council to ensure effective operation.
- (4) Members, are appointed by the Director of the Oklahoma Department of Human Services upon the recommendation of ASD, serve staggered terms of three years, and may be re-appointed for only one additional consecutive term.
- (5) Former members may be appointed following one year's absence from Council service.

**SUBCHAPTER 7. ADULT DAY SERVICES**

**340:105-7-1. Adult day services for older adults**

(a) **Definition Program.** Adult day services is a community-based program designed to meet the needs of functionally impaired older persons, ~~generally those aged age 60 and over~~ older, through an individualized plan of care. ~~#~~

(1) ~~The program is a structured, comprehensive program that, and provides a variety of health, social, and related support services in a protective setting for some portion of a day. Individuals who participate in adult day services~~

(2) Participants attend on a planned basis during specified hours.

(3) ~~The program assists participants includes the day services provider, the participant, the participant's family, and other community resources in a plan that allows the participant to remain in the community, enabling and avoid institutionalization, and enables families and other care-givers caregivers to continue caring for an impaired member the participant at home.~~

(b) ~~Philosophy and purpose Purpose.~~ Adult day services ~~is a viable local option for older adults who can no longer~~

## Permanent Final Adoptions

live totally independently but wish to maintain as much independence as possible. The program stresses a partnership which includes the day services provider, the participant, the participant's family, and other community resources. Working together, a protective and supportive environment is created which helps to prevent or delay inappropriate or personally undesirable institutionalization. Building on the supportive environment offered within a group setting, the adult day services program works toward the goals of are to:

- (1) ~~promoting~~ promote the individual's participant's maximum level of independence;
- (2) ~~maintaining~~ maintain the individual's participant's present level of functioning as long as possible, preventing or delaying further deterioration;
- (3) ~~restoring~~ restore and ~~rehabilitating~~ rehabilitate the individual participant to the highest level of functioning possible;
- (4) ~~providing~~ provide support, respite, and education for families and other ~~care-givers~~ caregivers;
- (5) ~~fostering~~ foster socialization and peer interaction; and
- (6) ~~servicing~~ serve as an integral part of the community service network and ~~the~~ long-term care continuum.

### (c) Responsibilities.

#### (1) County office. Local social services staff:

- (A) determines applicant eligibility; and
- (B) assists interested persons to locate and utilize adult day services facilities that hold a current valid contract with the Oklahoma Department of Human Services (OKDHS).

#### (2) ASD. ASD staff:

- (A) develops adult day services policy;
- (B) provides technical assistance to communities, organizations, and persons interested in the development of adult day services;
- (C) provides local staff with training and guidance pertaining to the adult day services program;
- (D) provides applications for contracts to provide adult day services;
- (E) performs site evaluations to ensure that applicant facilities meet OKDHS requirements; and
- (F) provides ongoing monitoring and evaluation of facilities contracted with OKDHS.

(ed) **Legal basis.** The legal basis and authority for the adult day services program is the Social Services Block Grant Act, as amended, [42 U.S.C. § 1397] which was enacted as part of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, administered by the Department of Health and Human Services.

### 340:105-7-2. Eligibility for adult day services

#### (a) **Application process.**

- (1) An application for adult day services is initiated by a request from an adult wishing to participate, a person responsible for the care of ~~such an~~ the adult, or by a referral from an adult day services vendor. The application is documented on Form ADS-RA-1-02AS003E, Adult Day Services Referral/Application.

(2) Applicants for adult day services are referred to the ADvantage Waiver or the Developmental Disabilities Services Division (DDSD) Home and Community-Based Services (HCBS) Waiver, as appropriate. Adult day services may be received while the application for waived services is pending.

(23) All adult day services participants must be determined ineligible for either the ADvantage Waiver ~~Adult Day Health program~~ or the DDSD HCBS Waiver or be placed on the DDSD waiting list.

(A) If the participant is not determined ineligible in four months, the participant may not continue in Oklahoma Department of Human Services (OKDHS) funded adult day services. The authorization is closed and services are terminated.

(B) An exception or extension of the four months rule must be requested.

(34) The service opening date is no earlier than the date on Form ~~ADS-RA-1-02AS003E~~ or the date of the oral request. If the ~~client~~ participant does not sign Form ~~ADS-RA-1-02AS003E~~ at the time of request, a staff ~~member~~ person completes the form and explains on the signature line why the ~~client~~ participant did not sign, such as an oral request.

(A) If the services are court-ordered and there is no Form ~~APS-1-08AP001E~~, Adult Protective Services Referral, the service opening date is the date of the court order.

(B) If the day services facility makes the referral by sending Form ~~ADS-RA-1-02AS003E~~, the service opening date is the date the form is stamped "received" in the county office.

(45) An application must be processed within 30 days for public assistance cases and 45 days for non-public assistance cases. The application is:

(A) certified or approved when a ~~client~~ participant is determined eligible;

(B) denied when a ~~client~~ participant is determined ineligible; or

(C) canceled when a ~~client~~ participant requests cancellation prior to other disposition.

(56) In determining eligibility for adult day services, ~~clients~~ the participant must:

(A) receive services in a facility that holds a valid contract with OKDHS for provision of adult day services; and

(B) meet need, age, and income requirements.

(b) **Need for adult day services.** Adult day services are appropriate for persons who are physically or mentally unable to function totally independently but do not require 24-hour care.

(1) To qualify for adult day services, one of the conditions in (A) and (B) of this paragraph must be met.

(A) Adult day services provide respite or time needed to maintain employment for an adult's primary caregiver.

(B) Adult day services provide beneficial socialization and access to needed therapy for a functionally impaired adult.

- (2) If the client participant is receiving state-funded 24-hour care, adult day services are not approved.
- (c) **Age.** Adult day services are available to impaired adults age 60 years and older. An age waiver may be requested, and is granted by Aging Services Division (ASD) for a person younger than 60 if one of the conditions in (1) and (2) of this paragraph is met.
- (1) The adult is suffering from Alzheimer's disease, any other form of dementia, or another degenerative condition, either physical or mental.
- (2) The adult has recently sustained a stroke, fracture, paralysis, or other incapacitating condition and the services offered in an adult day services program ~~aid~~ aid the adult in maintaining or returning to as much of an independent lifestyle as possible, avoiding institutionalization.
- (d) **Income.** Sources of income considered, verification, and computation of income for the adult day services program are described in this subsection. Co-payment and maximum allowable income are shown on OKDHS Appendix M-105, Eligibility Schedule/Rates for Adult Day Services. OKDHS Appendix M-105 reflects the sliding fee scale based upon the United States (~~U.S.~~) Bureau of Census, National Poverty Guidelines, as printed in the Federal Register. The schedule is subject to change.
- (1) **Predetermined eligible.** Persons are predetermined eligible based on receipt of Public Assistance, Supplemental Security Income (SSI), or Refugee Assistance. If services are requested by Adult Protective Services (APS), the client participant is universally approved for 60 days only without regard to income. For APS ~~clients~~ participants, no co-payment is considered during the 60 calendar days.
- (2) **Income eligible.** Income eligibility determination is based upon the amount of the family's gross income and family's size. Family income includes income from predetermined eligible members.
- (A) Anticipated income is never included in determining eligibility until it is available to and under the control of the client participant.
- (B) Income is computed on a monthly basis. If income is received every two weeks, the weekly rate is determined and multiplied by 4.3 to compute the monthly income. When income is received twice a month, for example, 1st and 15th, it is multiplied by two.
- (C) Any income that is received regularly, but in amounts that vary greatly, or income received irregularly is averaged over a six-month period. Examples are overtime pay, sporadic second jobs, irregular child support, and other occasional changes in the monthly gross child support or other monthly gross income.
- (D) When one or both persons of a married couple is in adult day services, the total gross income of both is considered and eligibility is computed based on one half of the total income.
- (3) **Determination of co-payments for persons not predetermined eligible.** In determining the co-payment for persons not predetermined eligible, the guidelines are:

- (A) married couple, one spouse in adult day services, the total gross income of both spouses is considered, with the co-payment computed on one half of the total income;
- (B) married couple, both in adult day services, the total gross income is divided equally between the two, with the co-payment for each based on the computed individual amount of income; or
- (C) single person in adult day services, only the total gross income of that person is considered.
- (4) **Sources of income considered.** The sources of income considered in determining monthly gross income are:
- (A) wages, such as total money earnings received for work performed as an employee, including armed forces pay, commissions, tips, piece-rate payments, on-the-job training programs, cash bonuses, bonds, pensions, union dues, credit union payments, garnishments, and similar purposes. Tips are not considered part of the wages for Temporary Assistance for Needy Families (TANF) recipients who are participating in the Work Supplementation Program;
- (B) net income from self-employment, farm and non-farm, determined by taking 50 percent of the gross income. When a client participant:
- (i) rents a house to someone else, the net income amount considered is 50 percent of the rent. The other 50 percent is allowed for expenses;
- (ii) rents a room in his or her house to someone else, the net income amount considered is 75 percent of the rent; and
- (iii) provides room and board in his or her home, the net income amount considered is 50 percent of the gross amount charged;
- (C) pensions, SSI, survivors' benefits, and Social Security Administration permanent disability insurance, prior to deductions for medical insurance, and Railroad Retirement Insurance;
- (D) dividends, interest, and income from estates, trusts, and mineral rights. If this income varies or is received irregularly, it is averaged over six months;
- (E) pensions and annuities or retirement benefits paid to a retired person or his or her survivors by a former employer or by a union, either directly or through an insurance company, and periodic receipts from annuities or insurance;
- (F) unemployment compensation received from government unemployment insurance agencies or private companies during periods of unemployment and any strike benefits received from union funds;
- (G) workers' compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the client participant;
- (H) alimony;
- (I) child support;

## Permanent Final Adoptions

- (J) veterans' compensations and pensions paid periodically by Veterans Affairs to disabled members of the armed forces or to survivors of deceased veterans, as subsistence allowances paid to veterans for veterans' education and on-the-job training, and to ex-servicemen as GI insurance premiums called refunds;
- (K) contributions in the form of money received regularly from anyone; and
- (L) income of minor children. If the adult in an adult day services program has minor children living in the same home, the children's income is considered.
- (5) **Sources of income not considered.** The sources of income not considered monthly gross income are:
- (A) per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission of the Court of Claims;
- (B) payments made pursuant to the Alaska Native Claims Settlement Act, to the extent that such payments are exempt from taxation under Section 21(a) of the Act;
- (C) money received from sale of a resource, such as stocks, bonds, land, house, or car. If the person is in the business of selling such property, the net proceeds are counted as income from self-employment;
- (D) withdrawals of bank deposits;
- (E) tax refunds, including the Earned Income Credit Advance payment which is received monthly;
- (F) gifts or money received occasionally, such as at birthdays, anniversaries, and Christmas;
- (G) lump sum inheritances, insurance payments, or one-time lump sum payments;
- (H) capital gain;
- (I) the value of the food benefit allotment under the Food Stamp Act of 1977, as amended;
- (J) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (K) loans and grants obtained and used under conditions that preclude their use for current living costs;
- (L) money received as reimbursement for expenses because of participation in a component of the TANF Work Program;
- (M) home produce utilized for household consumption; and
- (N) the income of adult children or other relatives residing in the same home as the adult day services participant.
- (e) **Resources.** Resources are not considered in determining eligibility for adult day services.
- (f) **Notification.** A ten-day notice is required for any adverse action. Notification to the ~~client~~ participant is required and is computer-generated when:
- (1) a decision regarding initial eligibility or continued eligibility is made;
  - (2) there is a change in the ~~client's~~ participant's income or co-payment; and

- (3) the ~~client~~ participant is no longer eligible or requests termination of adult day services.

### 340:105-7-4. Termination of authorization

- (a) Authorization for payment of adult day services for ~~an individual~~ a participant is terminated when:
- (1) the ~~individual's~~ participant's income is found to exceed the maximum shown in ~~DHS~~ Oklahoma Department of Human Services (OKDHS) Appendix M-105, Eligibility Schedule/Rates for Adult Day Services;
  - (2) it is determined that adult day services are no longer appropriate to meet the ~~individual's~~ participant's needs;
  - (3) termination is requested by the ~~individual~~ participant, authorized representative, or vendor;
  - (4) it is determined that the ~~client~~ participant is a danger to self or others;
  - (5) members of the ~~client's~~ participant's family or the authorized representative are verbally abusive or otherwise pose a threat to the safety and well-being of the staff or participants of the center or to official representatives of ~~the Department~~ OKDHS; or
  - (6) the ~~client~~ participant, family member, or authorized representative fails to cooperate with the adult day services delivery ~~Care Plan~~ of Care, including failure to pay any applicable co-payments for which the ~~client~~ participant is responsible.
- (b) Notification of termination is made in accordance with OAC 340:105-7-2(f).

### 340:105-7-7. Adult day services vendor contracts

- (a) **Licensure of facility.** According to Section 1-873 of Title 63 of Oklahoma Statutes, all adult day services centers must be licensed by the Oklahoma State Department of Health. Failure to comply with state law is grounds for immediate termination of the contract or denial of a contract application.
- (b) **Application.** Applications for a contract to provide adult day services to Oklahoma Department of Human Services (OKDHS) ~~clients~~ participants are obtained from Aging Services Division (ASD), Attention: Adult Day Services.
- (c) **Application process.** When the completed application packet is received by ASD, a visit is arranged with the facility to conduct a site evaluation. For facilities holding a current contract and applying for renewal, no site evaluation is required.
- (d) **Facility approved.** If a facility meets all minimum standards and requirements, and funding is available, a contract is offered. The facility accepts the offer by returning the properly signed contract within 15 days of the offer. When a contract number is assigned, ASD notifies the facility and the OKDHS county office where the facility is located.
- (e) **Facility not approved.** If an applicant facility fails to meet OKDHS minimum standards and requirements, ASD staff notifies the facility by mail via a letter that includes:
- (1) a description of the area(s) in which the facility failed to meet standards and requirements;
  - (2) an offer of technical assistance concerning steps needed to comply with the requirements; and

(3) a statement the facility may reapply when the operator corrects the deficiencies.

(f) **Contract monitoring.** ASD staff visits each contracted facility at least once annually to monitor the facility's compliance with the contractual agreement. ASD staff discusses with the operator any areas that require improvement. If deficiencies are not corrected or showing substantial improvement within that period, procedures for contract termination are initiated. A summary of the findings of each monitoring visit is prepared and a copy is sent to the facility.

(g) **Contract reapplication.** Performance-based contracts for provision of adult day services automatically terminate at the end of the state fiscal year. In April, ASD staff provides new application packets to each contracted vendor. Applications are evaluated in accordance with subsection (c) of this Section. Procedures for approval or disapproval are followed as outlined in subsections (e) and (f) of this Section. A site visit and evaluation is required when a facility changes location or undergoes major renovation.

(h) **Procedures for suspension or termination of contract.** If at any point during the contract term a facility fails to meet minimum standards or other contractual requirements, and fails to correct the deficiency within 30 calendar days after notification, contract suspension, or termination procedures are initiated.

**340:105-7-8. Adult day services rates and claims payment**

(a) **Rates.** A facility that contracts to provide adult day services for Oklahoma Department of Human Services (OKDHS) ~~clients~~ participants agrees to the reimbursement rate approved by the Oklahoma Commission for Human Services. The current rate is shown in OKDHS Appendix M-105, Eligibility Schedule/Rates for Adult Day Services. The facility:

- (1) is reimbursed only for days a ~~client~~ participant is actually in attendance;
- (2) may set up a sliding fee scale for private pay participants;
- (3) may not charge the public less than the rate charged OKDHS; and
- (4) must post all rates in the facility.

(b) **Claims.** Claims for reimbursement for OKDHS-purchased adult day services are made on Form ~~ADM 12 ADS SI 02AS001E~~, Adult Day Service Invoice, attached to Form ~~AS ADS 1 02AS004E~~, Service/Attendance/Claim Record. The vendor prepares and attaches Form ~~AS ADS 1 02AS004E~~ for each participant for whom payment is claimed and submits it to Aging Services Division, Attention: Adult Day Services.

**340:105-7-9. Program development grants**

As funds are available, ~~DHS~~ the Oklahoma Department of Human Services announces a ~~Request for Proposal~~ request for proposal (RFP) soliciting proposals for funding of new or expanding adult day services programs. Proposals for program expansion are considered only when the expansion provides additional services to a significant sector of the adult

day services population, for example, specialized Alzheimer's programs.

(1) **Selection process.** An RFP selection committee is set up within the Aging Services Division (ASD) to score the proposals. Proposals are rated and scores are considered along with need for the services in the applicant's service area of the state to determine which proposals will be funded. After the selection committee scoring is completed, ~~the~~ ASD staff makes a site visit. All contracts are then offered based on availability of funds.

(2) **Monitoring grant contracts.** Grant contracts are monitored both through the monthly claims process and periodic site visits.

(3) **Renewal of grant contracts.** Grant contracts are awarded on a fiscal year basis and must be renewed each July 1. An original grant is renewable for up to three years. Grantees must submit the required reapplication materials to ASD by a date determined annually. Renewals are awarded only where a grantee has met the previous year's contractual obligations as determined by monitoring throughout the year.

**SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED**

**PART 3. STATE AGENCY**

**340:105-10-17. Advocacy**

(a) **Policy.** The State Agency on Aging ~~shall serve~~ serves as a visible and effective advocate for older Oklahomans.

(b) **Authority.** The authority for ~~OAC 340:105-10-17 this Section is 45 CFR Part Section 1321.13 of Title 45 of the Code of Federal Regulations;~~ and Section 305(1)(D), of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The State Agency on Aging ~~shall serve~~ serves as a visible and effective advocate for ~~Older older~~ Oklahomans ~~via the following activities by:~~

- (1) ~~Reviewing~~ reviewing, monitoring, evaluating, and commenting on federal, state and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions ~~which that~~ affect or may affect older ~~individuals~~ persons and recommending any changes ~~which~~ the State Agency considers ~~to be~~ appropriate;
- (2) ~~Providing~~ providing technical assistance to agencies, organizations, associations, or individuals representing older persons; and
- (3) ~~Reviewing~~ reviewing and commenting, upon request, on applications to state and federal agencies for assistance relating to meeting the needs of older persons.

(d) **Cross references.** See OAC 340:105-10-11(a)(4).

**PART 5. AREA AGENCIES ON AGING**

## Permanent Final Adoptions

### 340:105-10-31. Responsibilities of Area Agencies area agencies on Aging aging

(a) **Policy.** Area Agencies ~~agencies~~ on Aging ~~have the following responsibilities~~ aging (AAAs) are responsible for activities related to the development or enhancement of comprehensive and coordinated community-based systems of services in the planning and service areas (PSAs), including:

- (1) ~~Establish~~ establishing and ~~maintain~~ maintaining an ~~Area Agency on Aging Advisory Council~~ AAA advisory council;
  - (2) ~~Develop~~ developing an Area Plan on Aging as prescribed by the State Agency on Aging;
  - (3) ~~Administer~~ administering the Area Plan on Aging;
  - (4) ~~Coordinate~~ coordinating all area activities related to the purposes of the Older Americans Act, and ~~to~~ actively ~~pursue~~ pursuing resource development at the local and area levels;
  - (5) ~~Target~~ targeting resources to ~~those~~ older persons in greatest social and economic need;
  - (6) developing, coordinating, and administering an Emergency Preparedness Plan;
  - (67) ~~Serve~~ serving as ~~an~~ a visible and effective ~~and~~ ~~visible~~ advocate for ~~the elderly~~ older persons in the ~~planning and service area~~ PSA;
  - (78) ~~Grant~~ granting funding to local sponsors for the provision of direct Title III services;
  - (89) ~~Designate~~ designating one or more focal points on aging in each community for the maximum collocation and coordination of services for older ~~individuals~~ persons;
  - (910) ~~Monitor~~ monitoring and ~~evaluate~~ evaluating the local service projects; ~~and~~
  - (1011) ~~Provide~~ providing technical assistance and training to Title III project staff related to responsibilities under Title III of the Older Americans Act.
- (b) **Authority.** The authority for ~~OAC 340:105-10-31~~ this Section is ~~45 CFR Parts Sections 1321.53 and 1321.61 of Title 45 of the Code of Federal Regulations.~~
- (c) **Procedures.** Procedures are outlined separately in this Part for each area of responsibility identified in (a) of this Section.
- (d) **Cross references.** See OAC 340:105-10-33 through 340:105-10-45.

### 340:105-10-33. Area Plan on Aging

(a) **Policy.** In order to receive or continue Area Agency on Aging (AAA) designation, the applicant agency must develop an Area Plan for a two, three, or four year period as determined by the State Agency, with annual adjustments as may be necessary. The format for the Area Plan is predetermined by the State Agency and includes, at a minimum:

- (1) a mission statement of the AAA;
- (2) an overview of the Older Americans Act (OAA) and the aging network;
- (3) a listing of the AAA advisory council members and their responsibilities;
- (4) a summary of the needs and priorities of older persons in the planning and service area (PSA) and in each respective county within the PSA;

(5) goals and measurable objectives ~~which~~ that reflect the identified needs and priorities of older persons in the PSA, ~~as well as~~ and comply with state and federal mandates;

(6) a financial management plan;

(7) a description of emergency preparedness efforts in the PSA;

(78) a listing of all designated focal points in the PSA;

(89) all ~~such~~ provisions and assurances ~~as may be~~ required by the OAA, related regulations, and State Agency policy; and

(910) a summary of the public hearing conducted on the proposed ~~plan~~ Area Plan.

(b) **Authority.** The authority for this Section is Section 306 of the OAA of 1965, as amended.

(c) **Procedures.** To implement the policy for the Area Plan ~~development, the AAA staff:~~

(1) obtains the Area Plan guide and format from State Agency;

(2) outlines the Area Plan development timeline;

(3) develops a data profile on older Oklahomans in the PSA through the use of census data and other appropriate information;

(4) conducts needs assessment and service evaluation activities in the PSA, including an annual evaluation of outreach services and periodic evaluations of activities carried out under the Area Plan. Specific needs assessment and service evaluation methodologies include, but are not limited to:

(A) public hearings; or

(B) administration of survey instruments to older consumers, service providers, advocates, and other interested persons;

(5) analyzes the results of needs assessment activities, and outlines identified priority needs in the PSA;

(6) evaluates special targeting needs and program initiatives, considering all state and federal mandates;

(7) designates and lists community focal points;

(8) outlines and evaluates the existing service delivery system, including services, coordination, advocacy, and training activities;

(9) presents a summary of needs and priorities to the AAA advisory council and solicits input for Area Plan goals and objectives;

(10) develops the draft summary of the Area Plan, including:

(A) summary of the OAA of 1965, as amended;

(B) profile of older persons in the PSA;

(C) listing of the identified priority needs of older persons in the PSA;

(D) description and evaluation of the current service system;

(E) Area Plan goals and objectives;

(F) AAA advisory council membership and responsibilities; and

(G) financial management plan that includes:

- (i) a resource allocation plan that outlines the allotment of Title III funds for administration, direct services, and subgranted services as outlined in OAC 340:105-10-95;
  - (ii) an outline of the amount of funds expended for Title III-B priority services during the fiscal year most recently concluded as outlined in OAC 340:105-10-96;
  - (iii) a budget justification;
  - (iv) the AAA funding formula as outlined in OAC 340:105-10-100; and
  - (v) a summary of the process used to award funds as outlined in OAC 340:105-10-40, 340:105-10-100, and 340:105-10-101;
- (11) submits the Area Plan summary to State Agency, AAA advisory council, board of directors, and other interested entities at least two weeks prior to conducting a public hearing(s) on the Area Plan;
- (12) arranges to hold the public hearing(s) in a facility that is accessible to persons with disabilities, and secures the services of interpreters as needed for persons who are hearing impaired and for other languages spoken in the PSA;
- (13) publicizes the public hearing(s) at least two weeks prior to holding it, outlining dates, times, and locations, and ensures that older persons, public officials, and other interested persons have reasonable opportunities to participate. Publicity efforts must include:
- (A) a variety of media utilized in order to reach all persons in the PSA, with particular emphasis on reaching minorities, rural residents, and persons with disabilities;
  - (B) media notices that are repeated, where feasible, to ensure that all persons in the PSA are reached;
  - (C) written notification posted in places frequented by older persons, such as nutrition sites, banks, post offices, grocery stores;
  - (D) media notices that include information concerning availability and location of the complete Area Plan for review by interested parties prior to the public hearing(s); and
  - (E) media notices that include information regarding the availability of interpreter services, upon request;
- (14) conducts the public hearing(s) in a manner that allows a reasonable number of persons, if not all, to comment on the proposed Area Plan verbally or in writing;
- (15) incorporates written and verbal comments from the hearing(s) into the revised Area Plan, as appropriate;
- (16) submits to the AAA advisory council for approval the revised and completed Area Plan, including all parts outlined in the Area Plan guide;
- (17) submits the revised and completed Area Plan to the AAA board of directors for approval and signatures; and
- (18) submits the final and completed Area Plan to State Agency for approval at least two months prior to its effective date.

(ed) **Cross references.** See OAC 340:105-10-31(a)(2), 340:105-10-34, 340:105-10-35, 340:105-10-36, 340:105-10-40, 340:105-10-95, 340:105-10-96, 340:105-10-100, and 340:105-10-101.

**340:105-10-40. Funding local sponsors for the provision of direct Title III services**

(a) **Policy.** The Area Agency on Aging (AAA) awards all Title III of the Older Americans Act (OAA) of 1965 service funds by grant or contract to community services provider agencies and organizations, except where a direct service waiver(s) has been granted by the State Agency, ~~per~~ OAC 340:105-10-41, for the purpose of developing or enhancing a comprehensive and coordinated community-based system of services for older persons in the planning and service area (PSA). OAC 340:105-10-50.1 lists the services ~~which~~ that may be funded under Title III.

(b) **Authority.** The authority for this Section is Section 306(a) of the Older Americans Act OAA of 1965, as amended, and Section 1321.63(b) of Title 45 of the Code of Federal Regulations, ~~Part 1321.63(b).~~

(c) **Procedures.** The AAA staff, advisory council, and board of directors ~~have activities to carry out~~ follow the procedures in this Section prior to the awarding of Title III funds. ~~{OAC 340:105-10-40, 340:105-10-100, and 340:105-10-101}~~

(1) AAA staff:

(A) conducts a needs assessment and identifies priority needs in the PSA;

(B) evaluates the current service system and identifies any gaps in the system;

(C) establishes a funding formula that describes the systematic procedure the AAA follows in allocating funds for services within the PSA, per OAC 340:105-10-100;

(D) develops the request for proposal (RFP) packages for all Title III services to be funded, per OAC 340:105-10-101;

(E) submits RFP packages to the State Agency for approval at least 30 days prior to the target date for the announcement;

(F) publicly announces the RFP and distributes RFP packages to potential grantees;

(G) reviews proposals for required documents and provides feedback and technical assistance, as appropriate, to potential grantees; and

(H) rates each proposal using approved review criteria;

(2) AAA advisory council evaluates and rates all proposals; and

(3) AAA board of directors, or a subcommittee:

(A) reviews and evaluates all proposals; and

(B) considers the ratings of the AAA staff and advisory council, and the review findings of the board of directors, and awards funds for the proposals that best meet RFP specifications.

(d) **Cross references.** See OAC 340:105-10-31(a)(7), 340:105-10-40, 340:105-10-41, 340:105-10-50.1, 340:105-10-100, and 340:105-10-101.

# Permanent Final Adoptions

## 340:105-10-45. Area Agency on aging disaster planning

(a) **Policy.** The Area Agency shall ~~make~~ area agency on aging (AAA) makes arrangements for the availability of services to older persons, ~~where feasible and appropriate,~~ in weather related emergencies and other disasters, ~~where feasible and appropriate~~ including local and national emergencies, such as terrorist acts and flu pandemics.

(b) **Authority.** The authority for ~~340:105-10-45 this Section is 45 CFR Part Section 1321.65(e) of Title 45 of the Code of Federal Regulations.~~

(c) **Procedures.** In order to ~~assure~~ ensure the availability of needed services to ~~the elderly older persons~~ during weather related emergencies and other disasters, the ~~Area Agency will carry out the following activities~~ AAA:

- (1) ~~designate~~ designates a staff person who ~~will be~~ is responsible for disaster related activities;
- (2) ~~identify~~ identifies the community persons responsible for disaster planning and services in the planning and service area (PSA), for example, Civil Defense ~~Directors officials,~~ American Red Cross, Salvation Army, Mennonite Disaster Services, and Interfaith Task Forces, ~~etc.,~~ and ~~inform~~ informs these officials of the role of the ~~Area Agency AAA~~ in disaster planning;
- (3) ~~inform~~ informs disaster officials of the aging services available throughout the ~~planning and service area PSA~~ and ~~transmit~~ transmits resource directories, as appropriate;
- (4) ~~negotiate~~ negotiates written agreements with Civil Defense ~~Directors officials~~ or other appropriate officials, and ~~outline~~ outlines specific coordination efforts to be carried out prior to, during, and following a disaster;
- (5) ~~develop~~ develops a written disaster plan ~~which that~~ incorporates the activities outlined in agreements with disaster officials, ~~as well as the following considerations and includes:~~
  - (A) the types of disasters most prevalent in the ~~planning and service area PSA;~~
  - (B) the capabilities and limitations of the ~~Area Agency AAA;~~
  - (C) the disaster plans and responsibilities of the State Agency and the Administration on Aging; and
  - (D) the need for the ~~Area Agency AAA~~ to assume a greater responsibility for disaster plan implementation for non-federally declared disasters;
- (6) ~~submit~~ submits a copy of the disaster plan to the State Agency for review and approval;
- (7) annually ~~review~~ reviews the disaster plan and written agreements with ~~Disaster-disaster~~ officials for possible updating;
- (8) ~~implement~~ implements the disaster plan when notified by state or local officials that a disaster has occurred or has been officially declared, and ~~carry out the following activities follows the procedure in this paragraph. The AAA:~~
  - (A) ~~determine~~ determines the impact of the disaster on ~~the Area Agency's AAA~~ facilities and utilities, including telephone service;

(B) ~~make~~ makes immediate arrangements to handle incoming calls from disaster officials, and older persons and their families;

(C) ~~contact~~ contacts appropriate disaster officials to determine the impact of the disaster on older persons in the ~~planning and service area PSA;~~

(D) reports to the Aging Services Division Special Unit on Aging by telephone or e-mail within 24 hours after a disaster, to include information on the:

- (i) number of older persons affected;
- (ii) number of nursing homes, assisted living facilities, and residential care homes affected;
- (iii) number of fatalities of older persons;
- (iv) number of older persons injured; and
- (v) extent of damage to the property of older persons.

(~~DE~~) ~~determine~~ determines the special needs of older disaster victims and the resources available to meet those needs;

(~~EF~~) ~~provide~~ provides information and ~~make~~ makes referrals to incoming inquiries, as appropriate;

(~~FG~~) ~~provide~~ provides outreach and transportation services, as appropriate;

(~~GH~~) ~~consult~~ consults with Civil Defense officials in cases of federally declared disasters to determine the need for on-site ~~Area Agency AAA~~ staff assistance at disaster centers; and

(~~HI~~) ~~provide~~ provides follow-up to ~~elderly older disaster~~ victims, as appropriate; and

(9) ~~file~~ submits a ~~written~~ summary report to the State Agency on the disaster related activities.

(d) **Cross references.** There are no cross references for ~~Area Agency AAA~~ disaster planning.

## PART 7. PROGRAM STANDARDS FOR SERVICES FUNDED UNDER TITLE III

### 340:105-10-51. General Title III service standards

(a) **Policy.** Parts B, C, D, and E of Title III of the Older Americans Act of 1965 provide funding for a variety of services to meet the needs of older persons. All services meet service specific standards and the general standards in this subsection.

(1) Project sponsors who are the recipients of grant awards may be public, private for-profit, or nonprofit agencies or organizations, institutions, political subdivisions of the state, or Indian tribal organizations demonstrating to the Area Agency on Aging (AAA) a capacity for the effective delivery of nutrition, supportive services, or both, throughout the project service area (PSA). Project sponsors serve all eligible persons in the ~~project service area PSA~~ and do not limit participation to their own membership or residents, such as church memberships or residents of a day care program.

(2) Project services are provided to persons 60 years of age and older unless otherwise allowed for in the eligibility requirements of a specific service.

(3) Project services are located in communities with the greatest occurrence of older persons in greatest economic and social need with particular attention to low income minority persons and older persons residing in rural areas. The project documents in the written grant agreement with the AAA:

(A) assurance that, to the extent possible, the project serves low income minority persons and older persons residing in rural areas in accordance with their need for services;

(B) specific objectives outlining how the project satisfies the service needs of low income minority persons and older persons residing in rural areas served by the project. These objectives reflect the Area Plan objectives for targeting these persons;

(C) information on the extent the project met its objectives for serving low income minority persons and older persons residing in rural areas during the previous fiscal year, if previously funded; and

(D) other targeting activities required for specific funded services, as appropriate, such as targeting activities for outreach services.

(4) Projects provide recipients with the opportunity to contribute to the cost of services, with the restrictions in this paragraph.

(A) Contributions are voluntary and no otherwise eligible person is denied service because he or she chooses not to or cannot contribute to the cost of services.

(B) Participants are advised of the opportunity to contribute to the cost of programs through:

(i) individual consultation when they enter the program to include a written suggested contribution schedule;

(ii) written brochures about the program and written schedules of activities of the program; and

(iii) signs posted at the project site.

(C) The participant's privacy regarding contributions is protected at all times.

(D) The project advisory council develops a suggested contribution schedule for funded services ~~taking and takes~~ into consideration the income ranges of older persons in the community and the project's other means of income. Means testing is not used to determine suggested contributions.

(E) Congregate and home delivered meals participants are allowed to use United States (U.S.) Department of Agriculture food benefits to contribute toward the cost of their meals.

(F) The project ~~utilizes~~ uses appropriate procedures to safeguard and account for all contributions.

(G) The project uses participant contributions to expand funded services.

(5) Projects conform to the Title III fiscal accounting and program reporting systems as implemented by the State Agency and AAAs. All records are managed according to the guidelines in this paragraph. ~~Older Americans Act (OAA)~~ grantees:

(A) maintain adequate and separate accounting and fiscal records, and account for all funds provided by any source to pay the cost of the OAA funded project;

(B) permit audit, examination, or both, of all such records, procedures, and accounts at any reasonable time by authorized personnel of the U.S. Department of Health and Human Services, the Oklahoma Department of Human Services (OKDHS), the State Auditor and Inspector, and other appropriate state entities;

(C) allow authorized personnel open and complete access to the grantees' accounting records and practices, and to any other items of the service provider pertinent to the performance or payment of the grant in order to audit, examine, and make excerpts of records;

(D) retain for at least three years all financial and program records, supporting documents, statistical records, and other records pertaining to the Title III services.

(i) In the case of litigation, claim negotiation, audit, or other pending action before the end of the three year period, the records are retained until such action is completed, and until all issues arising from it have been resolved, or until the end of the regular three year period, whichever is later.

(ii) Permanent records are maintained at the project office; and

(E) provide the appropriate security, confidentiality, and accommodations for the proper maintenance and organization of program records and reports.

(6) Where feasible and appropriate, projects make arrangements for the availability of services to older persons in weather related emergencies and other local and national emergencies, including terrorist acts and flu pandemics.

(7) Projects assist participants in taking advantage of benefits or services under other programs.

(8) Project staff reports to the appropriate officials any situation that places the participant, participant's household, or both, in imminent danger.

(9) Projects coordinate Title III services with other appropriate services in the community, including Title VI Native American nutrition programs. Appropriate coordination efforts include:

(A) joint planning;

(B) information sharing; and

(C) negotiation of written agreements.

(10) Projects establish and maintain an advisory council to advise the projects on all matters relating to the delivery of project services, per OAC 340:105-10-52.

(11) Projects ensure appropriate intake information is gathered on each participant.

(A) Participants receiving Title III:

(i) personal care, homemaker, chore, home repair, home delivered meals, adult day health or adult day care, or case management services, information is gathered on Form ~~AG-2-A~~ O2AG002E, Older Americans Act Assessment, ~~Parts~~ Part I, and

## Permanent Final Adoptions

Form 02AG003E, Older Americans Act Assessment, Part II, and includes at a minimum:

- (I) identifying information;
  - (II) household composition;
  - (III) ability to perform activities of daily living (ADLs);
  - (IV) ability to perform instrumental activities of daily living;
  - (V) support system;
  - (VI) participant signature or witness signature if participant is unable to sign;
  - (VII) explanation of donation system;
  - (VIII) release of information authorization; and
  - (IX) status related to poverty level;
- (ii) congregate meals, nutrition counseling, assisted transportation, outreach, or information and assistance, information is gathered on Form ~~AG 2-A~~ 02AG002E, Part I, and includes at a minimum:
- (I) identifying information;
  - (II) household composition;
  - (III) participant signature or witness signature if participant is unable to sign;
  - (IV) explanation of donation system;
  - (V) release of information authorization; and
  - (VI) status related to poverty level;
- (iii) home delivered meals, congregate meals, case management, or nutrition counseling, project staff ensures Form ~~AG 2-A~~ 02AG002E, Part I, Determine ~~Your Nutritional Health Checklist, assessment of your nutritional status health,~~ is completed; and
- (iv) National Family Caregiver Support Program (NFCSP) services, information is gathered on an approved intake form and includes at a minimum:
- (I) the family caregiver's identifying information;
  - (II) the caregiver's relationship to the care receiver;
  - (III) the care receiver's identifying information; and
  - (IV) a written description of the caregiver's current situation, including the care receiver's need for assistance due to inability to perform specific ADLs or need for supervision due to Alzheimer's disease or other dementia.
- (B) Project staff:
- (i) obtains from participants of other Title III services not given in (A) of this paragraph, or their informants, only information necessary to provide the appropriate Title III service(s) and ensure the safety and well-being of participants;
  - (ii) ensures assessment procedures are conducted in a confidential manner, with only the

intake person, the participant, and other persons approved by the participant in attendance;

- (iii) conducts an assessment of each participant upon the participant's entry into a Title III service, with, at a minimum, annual reassessments; and
  - (iv) conducts a reassessment of in-home service participants every six months, at a minimum.
- (C) Income source information is not required to receive Title III services and may only be used to assist the ~~client~~ participant in determining eligibility for programs with income guidelines.
- (12) Projects have procedures, approved by the AAA, to ensure strict confidentiality is maintained regarding all participant information. Projects ensure identifying participant information is disclosed only when staff obtains the informed consent of the participant or the participant's legal representative. Exceptions to the rules in this paragraph include court orders, reporting possible neglect, abuse, or both, and monitoring project records by federal, state, and AAA officials.
- (13) Project staff posts grievance procedures in a public area of the project facility and complies with AAA grievance procedures for Title III participants.
- (14) Projects comply with the Americans with Disabilities Act, Section 504 of The Rehabilitation Act of 1973, and Title VI of The Civil Rights Act of 1964. A public notice of civil rights compliance is posted in a public area in all project facilities and offices.
- (15) Projects comply with the Oklahoma Open Meetings Act when conducting public meetings. Public meetings are held in handicap accessible facilities with provisions for interpreters, as needed.
- (16) Project staff conducts ongoing public information activities to ensure the general public is aware of each project and the services it provides. All materials produced by or for the project include a statement that:
- (A) the project makes no distinctions on the grounds of race, color, sex, age, ancestry, national origin, religion, or disability; and
  - (B) a portion of the project costs are met by state and federal OAA funds from the AAA and OKDHS Aging Services Division.
- (17) Project staff provides or arranges for orientation and ongoing training for all staff engaged in the implementation of the project. Training is designed to enhance staff performance as related to specific job responsibilities of each staff ~~member~~ person. Projects authorize staff time to attend AAA and State Agency sponsored training as funds permit. Minimum orientation or training topics include:
- (A) the OAA, as amended, and related regulations;
  - (B) the OKDHS Policies and Procedures Manual for Title III of the OAA, as amended;
  - (C) the AAA Title III policies and procedures manual;
  - (D) all program and fiscal reports, as appropriate;
  - (E) assessment procedures;
  - (F) the aging network; and
  - (G) specific job duties.

(18) Project staff participates in regularly scheduled assessments and evaluations by the AAA.

(A) The AAA schedules assessments at least 30 days in advance at a time mutually convenient for the AAA and the project.

(B) The AAA informs the project director of the areas to be covered during the assessment.

(C) The project director makes arrangements for site visits as requested by the AAA.

(19) The project allows unscheduled or unannounced visits by the AAA for the purposes of:

(A) investigating alleged problems;

(B) monitoring corrective action; or

(C) evaluating the normal daily activity of the project.

(b) **Authority.** The authority for this Section is ~~Parts Sections~~ 1321.11, 1321.51, 1321.63(b), 1321.65, and 1321.67 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The AAA is required to:

(1) incorporate the standards into the AAA policies and procedures manual;

(2) provide training on the standards to Title III project directors and other appropriate staff;

(3) monitor the compliance of Title III projects with the standards; and

(4) provide ongoing technical assistance to Title III projects regarding the standards.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-50.1, and 340:105-10-52.

**340:105-10-59. Outreach service assessment**

(a) **Policy.** Each person who desires to receive outreach service completes Form ~~AG 2-A-02AG002E~~, Older Americans Act Assessment, Part I. Form ~~AG 2-A-02AG002E~~ provides the person information about the outreach service and other Title III of the Older Americans Act (OAA) of 1965 services, and allows staff to obtain necessary information to better serve the needs of the person as a service participant.

(b) **Procedures.**

(1) At the initial interview, the outreach worker discusses all aspects of program participation, including the opportunity to contribute to the cost of outreach and other Title III services, as appropriate.

(2) The outreach worker does not require written verification of any assessment information gathered to complete Form 02AG002E. Participant assessment information includes:

(A) name, address, and telephone number;

(B) age, sex, race, and date of birth;

(C) name, address, and telephone number of emergency contact(s);

(D) name, address, and telephone number of physician;

(E) special dietary needs, only when participant is applying for congregate meals or home delivered meals services;

(F) diagnosed medical conditions;

(G) current medications;

(H) accommodations required for disabilities;

(I) transportation resources;

(J) Title III services requested or needed;

(K) reasons for requesting outreach or other Title III services;

(L) need for additional community resources;

(M) income sources. Income source information is not required to receive OAA Title III services and is only used to assist the participant in determining eligibility for programs with income guidelines; and

(N) status related to poverty level.

(3) The outreach worker or other appropriate project staff conducts a face-to-face re-assessment interview with the participant. Re-assessments are required every six months for some Title III services, such as home delivered meals.

(bc) **Authority.** The authority for this Section is ~~Part Section~~ 1321.11(a) of Title 45 of the Code of Federal Regulations.

(ed) **Cross references.** See OAC 340:105-10-50.1(14), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-57, 340:105-10-58, and 340:105-10-60.

**340:105-10-70. Congregate meals service assessment**

(a) **Policy.** Each person who desires to participate in the congregate meals service must complete and sign Form ~~AG 2-A-02AG002E~~, Older Americans Act Assessment, Part ~~H~~. Form ~~AG 2-A-02AG002E~~ provides the person information about the service and allows staff to obtain necessary information to better serve the needs of the person as a service participant.

(b) **Procedure.**

(1) At the initial interview, the outreach worker or site manager discusses all aspects of program participation, including the opportunity to contribute to the cost of meals and possible eligibility for home delivered meals.

(2) The outreach worker or site manager assists the participant in completing Form 02AG002E. The project does not require written verification of age eligibility unless project management has reasonable cause to question the accuracy of the age provided by the participant or the participant's representative on Form 02AG002E. Participant assessment information includes:

(A) name, address, and telephone number;

(B) age, sex, race, date of birth, and signature verification of date of birth;

(C) name, address, and telephone number of emergency contact(s);

(D) name, address, and telephone number of physician;

(E) special dietary needs;

(F) diagnosed medical conditions;

(G) current medications;

(H) accommodations required for disabilities;

(I) reasons for requesting congregate meals service;

(J) transportation resources;

(K) need for additional community resources;

## Permanent Final Adoptions

(L) income sources. Income source information is not required to receive Older Americans Act Title III services and may only be used to assist the participant in determining eligibility for programs with income guidelines; and

(M) status related to poverty level.

(3) The project conducts a face-to-face re-assessment interview with the participant. Re-assessments are required every six months for some Title III services, such as home delivered meals.

(bc) **Authority.** The authority for this Section is ~~Part~~ Section 1321.11(a) of Title 45 of the Code of Federal Regulations.

(ed) **Cross references.** See OAC 340:105-10-50.1(a)(7), 340:105-10-51, 340:105-10-68, 340:105-10-69, 340:105-10-71 through 340:105-10-80, and 340:105-10-86.

### 340:105-10-72. Congregate meals project staffing requirements

(a) **Policy.** Each congregate meals project maintains sufficient staff to carry out the required service activities.

(b) **Authority.** The authority for this Section is ~~Part~~ Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The congregate meals project is required to:

(1) employ a full-time director who is empowered with the necessary authority to conduct the daily management and administrative functions of the project;

(2) obtain the services of a licensed registered dietitian (RD) to provide monthly nutrition consultation. The RD:

(A) is an employee or independent consultant hired by the project or the Area Agency on Aging (AAA). A paid caterer or certified dietary manager is not acceptable in this position. If obtaining the services of a licensed RD consultant exceeds three months, the nutrition project or AAA:

(i) provides to Aging Services Division (ASD) documentation of hiring efforts in the form of newspaper advertisements and job announcements;

(ii) requests in writing a temporary waiver for an additional period of time, not to exceed three months; and

(iii) submits a revised budget reflecting the reallocation of funds not used while the position was vacant; and

(B) verifies by signature on the monthly Form ~~SUOA-S-74~~ 02AG025E, Dietary Consultant's Report, the monthly consultation requirements, including:

(i) limiting site visits to one per day per RD;

(ii) monitoring food service to include measurement of food temperatures and portion sizes, and assessment of food quality and adherence to contract specifications;

(iii) training staff and volunteers monthly in areas of food service management, nutrition, and sanitation;

(iv) assessing participant satisfaction and preferences;

(v) reviewing menu and commodity utilization;

(vi) coordinating monthly nutrition education programs;

(vii) providing nutrition education and counseling, when appropriate, to meal participants;

(viii) monitoring perpetual inventory;

(ix) documenting site recommendations for improvement;

(x) documenting on the date of the site visit the number of:

(I) reservations;

(II) meals prepared;

(III) meals served; and

(IV) leftovers; and

(xi) providing individual consultation for participants whose nutritional score on Form ~~AG-2-A~~ 02AG002E, Part I, Older Americans Act Assessment, page ~~34~~, Determine Your Nutritional Health your nutritional health, is six or more to:

(I) congregate meals participants, upon participant's approval; and

(II) homebound meal participants, where feasible, and upon participant's approval;

(3) provide quarterly nutrition consultation, which includes:

(A) assessing food preferences; and

(B) preparing menus and documenting nutrition analysis to meet one third recommended dietary allowance for each meal; and

(4) determine appropriate staffing patterns for each meal site in the project service area. AAAs are the final authority on appropriate staffing patterns in the Title III projects.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-71, 340:105-10-73 through 340:105-10-80, and 340:105-10-86.

### 340:105-10-74. Nutrition education

(a) **Policy.** The congregate and home delivered meals programs provide formal nutrition education to project participants.

(b) **Authority.** The authority for this Section is Sections 331(3) and 339(2)(J) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** Nutrition education is provided:

(1) in consultation with a registered dietitian or ~~an individual~~ a person with comparable expertise;

(2) at least once per month;

(3) to ~~both~~ congregate and home delivered meals participants; and

(4) documented on Form ~~SUOA-S-74~~ 02AG025E, Dietary Consultant's Report.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-70 through 340:105-10-73, and 340:105-10-75 through 340:105-10-80.

**340:105-10-75. Congregate meals planning**

- (a) **Policy.** The congregate meals project conducts appropriate meal planning for the congregate meals service with the consultation of persons competent in the field of nutrition, food service, and the needs of older persons.
- (b) **Authority.** The authority for this Section is Section 339 of the Older Americans Act of 1965, as amended and Part Section 1321.11 of Title 45 of the Code of Federal Regulations.
- (c) **Procedures.** Menus:
  - (1) are prepared or approved by a registered dietitian (RD) who considers the special needs of older persons. The RD ensures that each meal served contains at least:
    - (A) one-third of the current daily recommended dietary allowances as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences; and
    - (B) 600 calories. The recommended level is 750 to 850 calories;
  - (2) are planned on a quarterly basis with a six week cycle repeated once each quarter. Nutritional adequacy is documented with computer analysis by the RD.
    - (A) Maintenance of optimal nutritional status through menu planning is reflected in menus moderate in fat, salt, and simple sugars and high in fiber.
    - (B) Form ~~SUQA-S-34~~ O2AG018E, Project Menu Plan - Nutrition Program for the Elderly, is submitted quarterly to the State Agency ~~dietitian RD~~ for random review;
  - (3) are signed by the RD and posted at the nutrition site;
  - (4) reflect:
    - (A) special diets to meet the medical needs of eligible participants. When special diets are provided to meet the medical needs of eligible participants:
      - (i) a valid written physician's order is on file for each participant receiving a special diet. The physician's order indicates the participant is restricted to the special diet and the duration of the special diet. If the participant is consuming a liquid supplement in addition to a meal, the supplement is not reimbursed through the Nutrition Services Incentive Program as a separate meal; and
      - (ii) special diets are planned and prepared under the supervision of the RD; and
    - (B) where feasible, religious, ethnic, cultural, or regional dietary requirements or preferences of a major portion of the group of participants at a congregate meals site;
  - (5) are served as planned unless the ~~dietitian RD~~ reviews and approves an appropriate substitution. A complete menu move from one day to another does not constitute a substitution. When substitutions are made, the project maintains and submits to the State Agency at the end of each month the:
    - (A) date of substitution;
    - (B) original menu item(s); and
    - (C) substituted menu item(s);
  - (6) are based on accurate production forecasting that does not include a margin for oversized portions or second

- servings. Leftover foods are not taken from the kitchen by staff, participants, or volunteers;
- (7) may include, where feasible, provisions for the celebration of special occasions for participants, for example, birthdays and holidays; and
- (8) allow for food items within the meat, vegetable and fruit, and dessert groups to vary for the same days of the week, from week to week, in order to provide a variety of foods and nutrients.
- (d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-74, 340:105-10-76 through 340:105-10-80, and 340:105-10-86.

**340:105-10-79. Nutrition Services Incentive Program (NSIP)**

- (a) **Policy.** NSIP rewards, through cash or commodities, the effective performance of Title III-C nutrition projects in the efficient delivery of nutritious meals to older persons. Title III-C nutrition projects maintain certification of eligible participants for NSIP.
- (b) **Authority.** The authority for this Section is Section 311 of the Older Americans Act of 1965, as amended.
- (c) **Procedures.** The requirements for implementing this Section are outlined in this subsection. Projects:
  - (1) and their respective vendors apply to the appropriate state distributing agency for certification as eligible participants in NSIP;
  - (2) and vendors accept, store, and use donated food commodities as supplied to them. Donated commodities and cash in lieu of commodities may only be used in the preparation of meals funded through Title III-C.
    - (A) Vendors allow credit for the amount of commodities used during each billing period.
    - (B) The amount of credit per pound is determined by Aging Services Division (ASD) and Support Services Division Commodity Distribution Unit (CDU) of the Oklahoma Department of Human Services (OKDHS);
  - (3) develop management procedures pertaining to handling food commodities;
  - (4) document:
    - (A) NSIP foods utilized in each day's menu;
    - (B) participant eligibility, on required State Agency forms, to obtain NSIP support for eligible meals. Eligible meals are those meals served to eligible participants in accordance with OAC 340:105-10-69(a)(1) and 340:105-10-83(a). The participant's eligibility and meal reimbursement documentation is recorded on:
      - (i) Form O2AG002E, Older Americans Act Assessment, Part I;
      - (ii) Form O2AG016E, Nutrition Project Attendance Form, or comparable ASD pre-approved form; and
      - (iii) Activity Roster generated by the Advanced Information Manager (AIM) program;
  - (C) the number of meals served at nutrition sites,

## Permanent Final Adoptions

(i) The number of meals served is reported on Form 02AG019E, Number of Meals Served.

(ii) Form 02AG019E, and all required documentation, is submitted to ASD no later than the tenth day of the month following the report month; and

(D) age eligibility, only when ~~the~~ project management has reasonable cause to question the accuracy of age provided by the participant or the participant's representative on Form ~~AG 2-A 02AG002E~~; and

(5) receive NSIP cash or cash and commodity allocations of food commodities from ASD based on the number of eligible meals actually served in the previous year in relationship to the total number of meals actually served by all Title III-C projects. Commodities are distributed to the projects by OKDHS CDU.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-78, and 340:105-10-80.

### 340:105-10-85. Home delivered meals packaging and delivery

(a) **Policy.** Home delivered meals are packaged and delivered to ensure temperature control and prevent contamination and spillage.

(b) **Authority.** The authority for this Section is Oklahoma State Department of Health Food Service Establishment Regulations OAC 310:256-5-9 and Section 1321.11 of Title 45 of the Code of Federal Regulations, ~~Part 1321.11.~~

(c) **Procedures.** This Section is implemented by including procedures for:

(1) packaging and handling up to the point of delivery of the meals.

(A) Hot foods are maintained at a minimum of ~~140~~ 135 degrees Fahrenheit.

(B) Cold foods are maintained at a temperature no more than 41 degrees Fahrenheit.

(C) Frozen foods are maintained frozen and hard;

(2) performing temperature checks at least quarterly on a random basis to ensure food is delivered at the proper temperature. Documentation of these checks is maintained by the provider and monitored by the Area Agency on Aging;

(3) packaging and packing cold, hot, and frozen foods separately;

(4) packaging meals individually and in secondary insulated food carriers to meet established safety and sanitation standards;

(5) delivering meals within one hour of packaging; and

(6) dating all disposable meal containers.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, 340:105-10-82 through 340:105-10-84, and 340:105-10-86.

### 340:105-10-86. Congregate and home delivered meals site change of status

(a) **Policy.** Any site change of status, such as a site opening, closing, or relocating, in the congregate and home delivered meals programs is based upon objective, quantifiable, sociodemographic, and needs assessment data.

(b) **Authority.** The authority for this Section is ~~Part~~ Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) Thirty days prior to the change of status of a nutrition site, the Area Agency on Aging (AAA) submits to Aging Services Division (ASD) a letter of request for change of site status, with current health department and fire inspection reports, and an analysis of data considered by the project in recommending each proposed change. ~~This~~

(A) When a new site is opened, the analysis includes an evaluation of sociodemographic data, ~~when a new site is opened,~~ for the entire planning and service area (PSA).

(B) When an existing site is relocated within the local area or closed, the evaluation of sociodemographic data may be limited to the local area of potential impact.

(2) The analysis includes:

(A) reason(s) for each proposed change;

(B) existing meal services for older persons in the PSA or local area, for each change;

(C) all potentially eligible areas within the PSA with no current services, for opening or ~~relocation~~ relocating outside the local area;

(D) a list and ranking of all unserved areas in the order of their priority for future funding, for opening or ~~relocation~~ relocating outside the local area;

(E) the number and proportion of minority, low income, and older persons in greatest economic or social need for each currently served and currently unserved area, for each change;

(F) the total number of persons age 60 years or older in the total PSA, and in each current and prospective service area, for each change;

(G) a revised grant to include the budget justification for each change. The budget justification includes, at a minimum, the number of meals funded and served, a thorough explanation regarding substantial over or under serving of meals, and a meal cost evaluation;

(H) the proposed date of each change;

(~~I~~) current health department and fire inspection reports, for opening or relocation;

(~~J~~) transportation services available for older persons affected by each change;

(~~K~~) nutrition project advisory council and governing board recommendations for each change; and

(~~L~~) any other information ASD deems necessary to evaluate the proposed expansion.

(23) Upon review of the analysis, ASD may disapprove or conditionally approve the request for site change. When a site is conditionally approved, the new site must pass an Americans with Disabilities Act (ADA) inspection, conducted by an AAA or ASD, to complete the approval process.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51 through 340:105-10-52, 340:105-10-68, 340:105-10-71, 340:105-10-74 through 340:105-10-79, and 340:105-10-82 through 340:105-10-85.

**340:105-10-91. Homemaker service standards**

(a) **Policy.** The homemaker service provides assistance to persons 60 years of age or older with:

- (1) preparing a meal;
- (2) shopping for personal items;
- (3) managing money;
- (4) using the telephone; or
- (5) doing light housework, which is limited to:
  - (A) dusting;
  - (B) vacuuming;
  - (C) mopping floors;
  - (D) cleaning bathroom and kitchen;
  - (E) making beds; and
  - (F) maintaining safe environment.

(b) **Authority.** The authority for this Section is the Federal Register Office of Management and Budget Notice of Action 0985-0008 and Section 1321.11 of Title 45 of the Code of Federal Regulations.

(bc) **Procedures.** The requirements for implementing the homemaker service standards are outlined in this subsection.

- (1) The Area Agency on Aging (AAA):
  - (A) incorporates the homemaker service standards into the Title III policies and procedures manual;
  - (B) provides technical assistance to homemaker service providers regarding the standards; and
  - (C) utilizes the standards as an indicator in the evaluation of service provider proposals and in the assessment of funded projects.
- (2) The service provider:
  - (A) verifies, by completing Form AG 2-A Forms 02AG002E and 02AG003E, Older Americans Act Assessment, Parts I and II, participants who receive homemaker services have:
    - (i) functional, physical, or mental impairments, or limitations preventing them from providing the service for themselves; and
    - (ii) an unavailable or insufficient informal support network, for example, family, friends, or neighbors, capable of meeting their needs;
  - (B) initiates a written service plan for each participant based on the results of Form AG 2-A 02AG002E;
  - (C) ensures all staff persons receive in-service training at least twice each fiscal year specifically designed to increase their knowledge and understanding of the program and participants and to improve their skills at tasks performed in the provision of service.

Comprehensive records identifying dates of training and topics covered are maintained in each employee's personnel file. An individualized in-service training plan is developed for each staff person, when performance evaluations indicate a need;

(D) conducts home visits to each participant at least twice each fiscal year to evaluate service provision; and

(E) checks references on all homemakers.

(e) **Authority.** The authority for this Section is the Office of Management and Budget Notice of Action 0985-0008 and Part 1321.11 of Title 45 of the Code of Federal Regulations.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(2), and 340:105-10-51.

**340:105-10-92. Chore service standards**

(a) **Policy.** The chore service provides assistance to persons 60 years of age or older who have difficulty with one or more of the instrumental activities of daily living, which are: heavy housework, yard work, or sidewalk maintenance.

(b) **Authority.** The authority for this Section is Section 1321.11 of Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.**

(1) **Service provider.** The service provider:

(A) verifies that the participant receiving chore service has a functional, physical, or mental impairment that prevents the participant from providing the service for self, and that an informal support network, for example, family, friends, or neighbors capable of meeting the participant's needs, is unavailable or insufficient. This information is verified by the completion of Forms 02AG002E and 02AG003E, Older Americans Act Assessment, Parts I and II;

(B) initiates a written service plan for each participant based on the results of Form 02AG002E;

(C) conducts home visits to each participant at least twice each fiscal year to evaluate service provision;

(D) ensures the safety and protection of the participant at all times in the provision of chore services, for example, not spraying chemicals around a participant who has breathing problems;

(E) may use up to \$150 per participant annually from funds awarded for the chore service program to purchase materials and disposable supplies for completion of chore tasks;

(F) ensures all staff persons receive in-service training at least twice each fiscal year that is specifically designed to increase their knowledge and understanding of the program and participants and improve their skills at tasks performed in the provision of service.

(i) Comprehensive records identifying dates of training and topics covered are maintained in each staff person's personnel file.

(ii) An individualized in-service training plan is developed for each staff person when performance evaluations indicate a need; and

## Permanent Final Adoptions

(G) checks references on all chore service staff persons.

(2) **Area Agency on Aging (AAA).** The AAA:

(A) incorporates the chore service standards into the AAA Title III policies and procedures manual;

(B) provides technical assistance to chore service providers regarding the standards; and

(C) uses the standards as an indicator in the evaluation of service provider proposals and in the assessment of funded projects.

(ed) **Cross references.** See OAC 340:105-10-50.1(a)(3) and 340:105-10-51.

### 340:105-10-93. Personal care service standards

(a) **Policy.** The personal care service provides hands on assistance, stand by assistance, supervision, or cues for persons 60 years of age or older who have difficulties with one or more of the activities of daily living, which are: eating, dressing, grooming, bathing, toileting, and mobility, including walking, using a wheelchair, or transferring from one place to another. Personal care services may only be provided by licensed home health care agencies or otherwise licensed or certified health agencies.

(b) **Authority.** The authority for this Section is Section 1321.11 of Title 45 of the Code of Federal Regulations, Part 1321.11.

(c) **Procedures.**

(1) **Personal care service provider.** The personal care service provider:

(A) verifies that the participant receiving personal care service has a functional, physical, or mental impairment that prevents the participant from providing the service for self, and that an informal support network, for example, family, friends, or neighbors capable of meeting the participant's needs, is unavailable or insufficient. This information is verified by the completion of Forms 02AG002E and 02AG003E, Older Americans Act Assessment, Parts I and II; and

(B) initiates a written service plan for each participant based on the results of Form 02AG002E.

(2) **Area agency on aging (AAA).** The AAA:

(A) incorporates the personal care standards into the AAA Title III policies and procedures manual;

(B) provides technical assistance to personal care service providers regarding the standards; and

(C) uses the standards as an indicator in the evaluation of service provider proposals and in the assessment of funded projects.

(ed) **Cross references.** See OAC 340:105-10-50.1(a)(1) and 340:105-10-51.

## PART 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

### 340:105-10-101. Request for proposal procedures

(a) **Policy.** All Older Americans Act pass through funds are awarded in an open, competitive, and fair manner via the request for ~~proposals~~ proposal (RFP) process. Awards are made to applicants whose proposals include all components of the service(s) outlined in the RFP and who best meet the specifications of the RFP.

(1) The Area Agency on Aging (AAA) board of directors:

(A) is directly responsible for reviewing proposals and awarding funds. This responsibility may not be delegated;

(B) ~~The board of directors~~ may not award funds to the AAA or to another subdivision of the sponsoring agency under the auspices of the same board of directors; and

(C) ~~The board of directors~~ may not award funds to board members or the agencies or organizations they represent.

(2) Awarding funds through the RFP process during the plan year is required when:

(~~1~~A) funds are allocated to the AAA at the beginning of the fiscal year;

(~~2~~B) there is significant expansion of a service(s) already funded;

(~~3~~C) funding a new service(s); or

(~~4~~D) funding of an existing service is transferred from a defunct or terminated grantee.

(b) **Authority.** The authority for this Section is ~~Part~~ Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) To initiate RFP, the AAA:

(A) develops specifications for each service to be procured that clearly define the service and how units of service are measured. The specifications include the minimum units of services to be provided, the minimum unduplicated number to be served, if required, and geographic service areas as appropriate;

(B) develops an RFP guide; and grant application package; ~~based on the State Agency standard format;~~

(C) ~~submits a proposal~~ the RFP guide and grant application package to the State Agency for approval at least 30 days prior to the announcement of availability of funds as outlined in (1)(D) of this subsection;

(D) announces the availability of funds and documents the announcement in newspapers in the planning and service area (PSA), and concurrently sends a news release to the editor of at least three newspapers and to existing and potential service providers known to the AAA in the PSA.

(i) The announcement runs at least two times in daily papers or two weeks in weekly papers prior to the closing of the application period and in a sufficient number of papers to ensure complete coverage within the PSA.

(ii) The announcement begins at least 21 calendar days prior to the closing of the application

period and is repeated at least once no less than five calendar days prior to the date of the proposers' conference.

- (iii) All announcements include:
  - (I) a listing of services for which funding is available and the geographic areas that must be covered for each service;
  - (II) the address at which service specifications and proposal guide may be obtained;
  - (III) the closing date and time for application submittal;
  - (IV) the name and telephone number of a person to contact for additional information; and
  - (V) the date, time, and location of the proposers' conference, and notification that attendance at the conference is required in order to be considered for funding;
- (E) makes ~~proposal~~ State Agency approved RFP guides available for pick up at the AAA office;
- (F) mails copies of the ~~proposal RFP~~ guide upon request;
- (G) conducts a conference for proposers prior to the deadline for submitting applications and requires applicants to attend the conference in order to be considered for funding. At a minimum, the information discussed during the conference includes:
  - (i) the RFP guide and all requirements pertaining to submitting an application; and
  - (ii) all responsibilities associated with the acceptance of Title III funds, including applicable federal and state statute, policy, certifications, and assurances;
- (H) provides other reasonable technical assistance to applicants who request assistance, in writing, no later than seven calendar days prior to the closing of the application period; ~~and~~
- (I) informs the State Agency following the close of the proposers' conference if there are no applicants for a service; and

(J) at the close of the application period, evaluates and rates all proposals according to standard criteria based on requirements of the ~~proposal RFP~~ guide. The AAA disqualifies incomplete proposals from evaluation and funding.

(2) The AAA advisory council reviews the proposals and makes recommendations on funding to the AAA board of directors. All decisions related to funding recommendations are conducted in accordance with applicable state and federal conflict of interest laws. The advisory council review is conducted during a scheduled meeting with a quorum present.

(3) The AAA board of directors:
 

- (A) or a subcommittee of the board, reviews all proposals and the recommendations of the AAA staff and advisory council;

(B) approves funding of proposals that best meet or exceed the service specifications and the requirements of the ~~proposal RFP~~ guide. All decisions related to granting awards are made in accordance with applicable state and federal conflict of interest laws, and documented through signed resolutions and minutes of meetings. All decisions are acted on as a board with at least a quorum present at a meeting. The AAA board of directors may not delegate its responsibilities related to granting awards;

(C) issues notification of grant awards (NGAs) to applicants who are approved for funding; and

(D) provides an opportunity for appeal to applicants whose proposals for funding are denied, per OAC 340:105-10-102.

(4) If no complete proposals are submitted for a service(s) or if the AAA board of directors determines that no proposals for a service(s) meet the specifications of the RFP, the AAA, with State Agency approval, has the option of:

- (A) reprogramming the funds and issuing a new RFP for a different service(s); or
- (B) requesting authority to provide a direct service as provided in OAC 340:105-10-41; or
- (C) revising the initial specifications for the same service(s) and reissuing a new RFP; and
- (D) initiating community development activities to create a potential provider of the service(s) as specified in the RFP and, in the interim, requesting approval from the State Agency to temporarily provide the service as a direct service.

(5) When an Older Americans Act Title III funded project elects to voluntarily terminate the contract before the end of a grant year, procedures must be followed as outlined on Form ~~AG-29 02AG006E~~, Voluntary Withdrawal of a Title III Project. Form ~~AG-29 02AG006E~~ must be acknowledged, signed, and included as part of the original grant application.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-102, and 340:105-10-104(c)(7).

**340:105-10-112. Audit report and fiscal review report distribution**

(a) **Policy.** Audit reports of Area Agencies on Aging (AAAs) and audit and fiscal review reports of Title III projects are transmitted to the State Agency within 150 days after the end of the fiscal year being audited or within 30 days after the completion of the audit or fiscal review report, whichever comes first.

(b) **Authority.** The authority for this Section is ~~Part~~ Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section are described in this subsection.

(1) Each audit or fiscal review report submitted to the State Agency is accompanied by completed Form ~~SUOA-S-81 02AG026E~~, Audit Report Transmittal. This form is completed in a format prescribed by the State Agency.

## Permanent Final Adoptions

- (2) Each audit report is accompanied by properly executed copies of equipment, food, and food supplies inventories, as appropriate.
  - (3) Multiple copies of AAA and Title III project audit and fiscal review reports are submitted to the State Agency in quantities prescribed.
  - (4) Audit and fiscal review reports are submitted by the auditor to the organization audited, and to those requiring or arranging for the audit or fiscal review.
  - (5) Grantees submit copies of audit or fiscal review reports to their grantor agency.
  - (6) Audit and fiscal review reports are made available for public inspection within 30 days after completion of the report.
  - (7) Requests A request for time extensions are extension is submitted to the State Agency when the audit report or fiscal review report cannot be submitted within 150 days after the fiscal year end.
- (d) **Cross references.** See OAC 340:105-10-106 through 340:105-10-111 and 340:105-10-113.

### **340:105-10-114. Financial management standards for Area Agencies area agencies on Aging aging and Title III projects**

- (a) **Policy.** Each Area Agency area agency on Aging aging (AAA) and Title III project maintains an accounting system that is in compliance with generally accepted accounting principles. All Title III funds and state and local funds expended to earn or match such funds must be accounted for in accordance with the federal standards outlined in the authorities listed in (b) of this Section.
- (b) **Authority.** The authority for this Section is Part 74 of Title 45 of the Code of Federal Regulations and Federal Register Office of Management and Budget (OMB) Circulars A-87 and A-122.
- (c) **Procedures.** AAAs and Title III projects implement financial management standards in accordance with the federal standards outlined in the authorities in (b) of this Section. ~~On a monthly basis, the~~
- (1) The Oklahoma Department of Human Services (OKDHS) Aging Services Division (ASD) monthly reviews and reconciles AAA actual monthly expenditure reports for the prior month and adjusts for discrepancies in the following month's payments.
  - (2) The grantee agency may use OKDHS forms or computer-generated versions. Any computer-generated form must:
    - (A) include all of the information on the OKDHS forms that is pertinent to the grantee agency's reporting requirements; and
    - (B) be submitted to the grantor agency for approval prior to use.
- (d) **Cross references.** See OAC 340:105-10-115 and 340:105-10-116.

### **340:105-10-116. Property management standards for Area Agencies area agencies on Aging aging and Title III Projects projects**

- (a) **Policy.** Area Agencies agencies on Aging aging (AAAs) and Title III ~~Projects~~ shall projects follow federal policy governing title, use, and disposition, for real and tangible personal property whose acquisition cost was borne in whole or in part as a direct charge to Title III funds.
- (b) **Authority.** The authority for ~~OAC 340:105-10-116 Title 45 this Section is Subpart D of Part 74, Subpart O, of Title 45~~ this Section is Subpart D of Part 74, Subpart O, of Title 45 of the Code of Federal Regulations (CFR) and Federal Register Office of Management and Budget (OMB) Circular A-110.
- (c) **Procedures.** ~~The procedures for implementing the rules in this Section are as follows~~ AAAs and Title III projects:
- (1) ~~Area Agency and Title III Project staff shall follow~~ follow all rules outlined in Title 45, CFR Part 74, Subpart O;
  - (2) ~~Area Agency and Title III Project staff shall follow~~ follow all rules outlined in OMB Circular A-110, Attachment N; and
  - (3) ~~Area Agency and Title III Project staff shall utilize Appendix W of this Chapter (SUOA S-16) use Form 02AG013E, Equipment Inventory, to maintain a physical inventory of equipment purchased with Title III funds at a minimum cost of \$300.00.~~
    - (A) ~~The Area Agency AAA may choose to use the Appendix W Form 02AG013E or a computer-generated version of the Appendix, however, the~~ The computer-generated format form must include all of the information on the Appendix Form 02AG013E that is pertinent to the Area Agency's AAA's reporting requirements.
    - (B) ~~All computer-generated formats forms must be submitted to the State Agency for approval prior to use.~~ use.
- (d) **Cross references.** See OAC 340:105-10-114 and 340:105-10-115.

## **SUBCHAPTER 11. STATEWIDE STATE LONG-TERM CARE OMBUDSMAN PROGRAM**

### **PART 37. STATEWIDE STATE LONG-TERM CARE OMBUDSMAN PROGRAM**

#### **340:105-11-234. Designation of area programs and area representatives including staff and volunteers**

- (a) The Office of the State Long-Term Care Ombudsman (Office) officially designates agencies serving as area or local subdivisions of the Office through an annual designation process, in accordance with State Agency administrative funding procedures.
- (1) Staff and volunteer representatives of the Office are officially designated in writing by the state long-term care ombudsman.
  - (2) Designation as a representative of the Office:

- (A) for an area staff person is based on the person meeting criteria necessary to satisfactory performance in the position, including, but not limited to, the person:
  - (i) is free from any conflict of interest as defined by this policy and in compliance with federal and state statute and does not stand to gain financially through an action or potential action brought on behalf of residents the ombudsman serves;
  - (ii) meets minimum job qualifications and screening standards set by the Office; and
  - (iii) satisfactorily completes training prescribed by the state long-term care ombudsman; and
- (B) for an ombudsman volunteer is accomplished through a certification process, and based on the person meeting criteria necessary to satisfactory performance in the position, including, but not limited to, the person:
  - (i) is free from any conflict of interest as required by statute and defined by this Part and does not stand to gain financially through an action or potential action brought on behalf of residents the ombudsman serves;
  - (ii) meets screening criteria set in this Part;
  - (iii) satisfactorily completes training prescribed by the state long-term care ombudsman; and
  - (iv) completes and signs Form:
    - (I) ~~SUOA-S 77 02OM003E~~, Ombudsman Volunteer Application, agreeing to accept supervision and follow the rules and guidelines of the program; and
    - (II) ~~ADM 130 04AD003E~~, Request for Background Check, authorizing the Office to conduct a criminal background check.
- (b) The state long-term care ombudsman has the authority to refuse to designate:
  - (1) a person, staff or volunteer, as a representative of the Office for any reasonable cause related to satisfactory performance in the position, including, but not limited to:
    - (A) ~~existence of~~ an unresolved or unresolvable conflict of interest;
    - (B) failure to satisfactorily complete training; and
    - (C) failure to meet screening standards for volunteers and staff, including criminal background check, or minimum job qualifications for area staff representatives; and
  - (2) an agency as a subdivision of the Office for any reasonable cause that prevents satisfactory operation of the State Long-Term Care Ombudsman Program, including, but not limited to:
    - (A) ~~existence of~~ an unresolved or unresolvable conflict of interest;
    - (B) failure to provide adequate assurances that program guidelines can be met; and
    - (C) failure to provide assurances that the program can be adequately funded.
- (c) The state long-term care ombudsman has the authority to withdraw designation as:
  - (1) subdivision of the Office from an agency when there is:
    - (A) ~~existence of~~ an unresolved or unresolvable conflict of interest;
    - (B) breach of the confidentiality requirement caused by the action of any staff ~~member person~~ of the agency designated as a local subdivision of the Office, or of that agency's sponsoring agency;
    - (C) failure to adhere to the policies of the Office, federal Administration on Aging regulations, or state or federal law; or
    - (D) any other unreasonable or prejudicial conduct substantially affecting the State Long-Term Care Ombudsman Program; and
  - (2) a representative of the Office from a staff person or volunteer when there is:
    - (A) ~~existence of~~ an unresolved or unresolvable conflict of interest;
    - (B) breach of the confidentiality requirement;
    - (C) failure to adhere to the policies of the Office or state or federal law;
    - (D) failure to accept program supervision from the Office; or
    - (E) conviction of a crime listed in Section 1-1950.1 of Title 63 of the Oklahoma Statutes or listing on the Mary Rippe Violent Offender Registry.
- (d) The state long-term care ombudsman may also withdraw certification of an ombudsman volunteer when the ombudsman:
  - (1) fails to file monthly reports with the ombudsman supervisor for three consecutive months, unless on an approved leave of absence;
  - (2) fails to attend three consecutive monthly meetings, unless on an approved leave of absence;
  - (3) fails to initiate visitation of residents in assigned facility within two months after certification;
  - (4) misuses the "ombudsman volunteer" title or badge; or
  - (5) represents himself or herself, either verbally or by wearing a badge, as an ombudsman for a facility for which the volunteer is not certified, without specific authorization by state ombudsman staff.
- (e) An agency that is refused designation or from which designation is withdrawn ~~designation~~ as an Area Long-Term Care Ombudsman Program or a person refused designation or from whom designation is withdrawn ~~designation~~ as an area ombudsman staff representative may appeal the decision.
  - (1) Designation is not withdrawn until reasonable notice and opportunity for a hearing is provided.
  - (2) Notification of the right to appeal and the appeal procedures are included in the letter notifying the agency or staff person of a decision to refuse or withdraw designation.
  - (3) Hearings are conducted by the Appeals Unit of the Oklahoma Department of Human Services.

## Permanent Final Adoptions

### 340:105-11-235. Conflict of interest

(a) ~~No~~ An officer, employee, volunteer, or other representative of the Office of the State Long-Term Care Ombudsman (Office) is may not be subject to a conflict of interest ~~which that~~ has the potential to impair the ability of said person to carry out his or her official duties in an impartial manner and ~~cannot~~ may not stand to gain financially through an action or potential action brought on behalf of ~~individuals~~ persons the ombudsman serves.

(b) A conflict of interest exists when any organizational or supervisory relationship, policy, or action, or individual ombudsman relationship or action conflicts with or impairs the ability of an ombudsman to carry out his or her responsibilities to investigate, resolve, or refer complaints or otherwise advocate for long-term care facility residents.

(c) No ~~individuals~~ persons involved in the designation of the state long-term care ombudsman, whether by appointment or otherwise, or the designation of the head of any subdivision of the Office is may be subject to a conflict of interest.

(d) Freedom from conflict of interest is established through interview of prospective state long-term care ombudsman staff and volunteers, and through a signed statement in a form prescribed by the Office and other appropriate means.

(e) ~~Individuals~~ Persons listed in this paragraph must complete and sign ~~the~~ Form ~~OMB 3—02OM001E~~, Conflict of Interest Statement and Ethical Guidelines, annually, and when there is any change of facility or area assignment by:

- (1) prospective and current ombudsman staff;
- (2) prospective and current ombudsman volunteers; and
- ~~(3) directors of agencies designated, or seeking designation, as a local ombudsman entity;~~
- ~~(4) directors of sponsoring agencies; and~~
- ~~(5) any other individual person involved in the direct operation of the Oklahoma State Long-Term Care Ombudsman Program.~~

(f) Agencies must annually review Form 02OM002E, Freedom from Conflict of Interest Assurances, which must be signed annually by:

- (1) directors of agencies designated, or seeking designation, as a local ombudsman entity; and
- (2) directors of sponsoring agencies.

### 340:105-11-240. Training

The Office of the State Long-Term Care Ombudsman (Office) prohibits investigation of any complaint by an ombudsman staff person or ombudsman volunteer, unless the person has satisfactorily completed training required by the Office, and has been approved as qualified to investigate such complaints.

- (1) Office staff:
  - (A) ~~orient~~ orients and ~~train~~ trains ombudsman staff representatives and ~~determine~~ determines satisfactory completion of prescribed training;
  - (B) ~~develop~~ develops and periodically ~~update~~ updates core curriculum for use in training ombudsman staff and volunteers;

(C) ~~assist~~ assists area ombudsman staff in the training of ombudsman volunteers, upon request;

(D) ~~provide~~ provides, on a quarterly basis, a minimum of 40 hours of continuing education and training to ombudsman supervisors per year;

(E) ~~provide~~ provides community education in coordination with area staff;

(F) officially ~~certify~~ certifies newly trained ombudsman volunteers who meet screening criteria; and

(G) ~~assist~~ assists in the development of citizen organizations to participate in the State Long-Term Care Ombudsman Program.

(2) Area ombudsman staff representatives:

(A) ~~hold~~ holds public workshops for community education and volunteer recruitment;

(B) ~~train~~ trains ombudsman volunteer applicants using the prescribed core training format developed by the Office staff;

(C) ~~submit~~ submits to Office staff the name and facility assignment and the original signed Form ~~SUOA-S-77 02OM003E~~, Ombudsman Volunteer Application, of each trained volunteer recommended for certification;

(D) ~~accompany~~ accompanies each newly certified ombudsman volunteer on at least one introductory visit to the assigned facility to reinforce training and ensure the ombudsman volunteer's understanding of the ombudsman role; and

(E) ~~hold~~ holds monthly meetings for continued training and supervision of certified ombudsman volunteers to annually achieve a minimum of 18 hours per volunteer, ~~annually~~, of continuing education relevant to the care of older persons and persons with disabilities.

### 340:105-11-245. Facility visitation

(a) The area ombudsman staff makes periodic visits to all long-term care facilities in the area covered by the designated area ombudsman entity to ensure State Long-Term Care Ombudsman Program services are made available to the residents.

(1) Residents of each facility are visited a minimum of four times each fiscal year.

(A) Visits made by appointment, including in-service training for facility staff, are not counted toward the ombudsman staff's four visits per year.

(B) When the ombudsman ~~volunteer~~ visits residents as a citizen observer in inspections by the Oklahoma State Department of Health the visit may be counted.

(C) Visits made to resolve complaints are counted if multiple residents are visited as a part of this function.

(2) Visits are documented on forms approved by the Office of the State Long-Term Care Ombudsman (Office) and protected according to the program's confidentiality requirements. Visits are:

(A) unannounced and the dates kept confidential; and

- (B) not posted or revealed to any person other than the director of the Area Agency on Aging designated as the area ombudsman entity who must likewise safeguard them.
- (3) The area ombudsman staff accompanies each newly certified ombudsman volunteer to the volunteer's assigned facility, by appointment, for an introductory visit to:
  - (A) introduce the volunteer to the administrator, residents, and facility; and
  - (B) explain or clarify the role of the ombudsman volunteer.
- (4) The area ombudsman staff conducts at least one supervisory visit with each certified ombudsman volunteer to his or her assigned facility each year to:
  - (A) assess skills, relationships, and understanding of appropriate role; ~~or~~
  - (B) assist the volunteer with a complaint, or other problem; ~~or~~
  - (C) do both (A) and (B).
- (5) The area ombudsman staff offers and conducts in-service training for staff of long-term care facilities on residents' rights, elder abuse prevention, and other topics of importance to residents.
- (b) The certified ombudsman volunteer visits residents, ~~and documents the visits,~~ in his or her assigned facility, at least two hours per week, for the purpose of assisting the residents to resolve or prevent problems or complaints. Each visit is documented.
  - (1) No volunteer may officially begin his or her visitation and other duties in a facility as a certified ombudsman volunteer until he or she:
    - (A) receives written notice of certification from the Office; and
    - (B) is accompanied by ombudsman staff on an introductory visit to the assigned facility.
  - (2) A volunteer who is temporarily unable to fulfill visitation or other program responsibilities, may request or be placed on leave of absence. As defined in this Part, leave of absence may be granted due to:
    - (A) ill health of volunteer or volunteer's family;
    - (B) vacation or extended travel; or
    - (C) other reason approved by the ombudsman supervisor.
  - (3) Leave of absence must not exceed three months duration. If the volunteer is unable to resume official duties by the end of the three-month period, the area supervisor notifies the Office and the volunteer's certification is withdrawn.
  - (4) The volunteer may request voluntary decertification from the State Long-Term Care Ombudsman Program at any time and be re-certified at a later date if all other requirements are met.
- (c) Ombudsman participation as a citizen observer ~~observers~~ observer in unannounced inspections by the Oklahoma State Department of Health is allowed by the Oklahoma Nursing Home Care Act, the Oklahoma Residential Care Act, and the Federal Nursing Home Reform Act.

- (1) Ombudsman staff and certified ombudsman volunteers may participate.
- (2) Inspection schedule information is kept in a locked file and access is restricted to ombudsman staff.
- (3) ~~Inspection~~ The location of the inspection is shared by state ombudsman staff only with the area ombudsman supervisor.
- (4) The ombudsman volunteer for that facility may be notified, but notification is made no earlier than the date of the inspection.
- (5) Early notification to a facility is strictly prohibited. Penalties are set in state and federal statutes for violations that result in early notification to a facility.
- (d) Upon entering a facility for a visit, ombudsman staff and volunteers notify the administrator or other charge person of their presence. If no charge person is located, any staff person may be notified. This requirement is not intended to delay an ombudsman from proceeding promptly with a complaint investigation or resident visitation.

**340:105-11-246. Liability and legal counsel**

The Older Americans Act ~~Amendments of 1987~~ 1965, as amended, and Section 1-2214 of Title 63 of the Oklahoma Statutes provide protections for designated representatives of the Office of State Long-Term Care Ombudsman ~~Office~~ (Office).

- (1) For purposes of the Governmental Tort Claims Act, any state, area, or local volunteer long-term care ombudsman ~~are~~ is deemed to be ~~employees an~~ employee of this state and ~~as such are~~ not personally liable for any act or omission made within the scope of employment, as such term is defined by the Governmental Tort Claims Act.
- (2) The Oklahoma Department of Human Services ~~assures~~ ensures that adequate legal counsel is available to the Office for advice and consultation.
- (3) Legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with any act or omission of a representative made within the scope of employment.
- (4) Any representative of the Office who wishes to request legal advice, consultation, or representation contacts the Office ~~with said request.~~

**340:105-11-248. Ombudsman volunteer rules and guidelines**

The certified ombudsman volunteer observes the requirements of the State Long-Term Care Ombudsman Program, including. The ombudsman volunteer:

- (1) ~~complete~~ completes and ~~sign~~ signs Form:
  - (A) ~~SUOA S-77 02OM003E,~~ Ombudsman Volunteer Application;
  - (B) ~~OMB-3 02OM001E,~~ Conflict of Interest Statement and Ethical Guidelines, and
  - (C) ~~ADM-130 04AD003E,~~ Request for Background Check;

## Permanent Final Adoptions

- (2) ~~complete~~ completes the two-day ombudsman volunteer training program ~~and to~~ be certified by the State Long-Term Care Ombudsman Program staff;
- (3) ~~accept~~ accepts supervision by the ombudsman supervisor;
- (4) ~~respect~~ respects privacy and confidentiality.
  - (A) The volunteer does not disclose information regarding any ~~complainant~~ complainant's or ~~client's~~ participant's name, condition, or situation, except to the ombudsman supervisor or the state ombudsman staff, without the written permission of the complainant, ~~client~~ participant, or legal representative.
  - (B) Supervisory approval is secured before any information is released;
- (5) ~~visit~~ visits weekly with residents in the assigned facility;
- (6) ~~attend~~ attends monthly ombudsman volunteer meetings for continuing education, program updates, and group supervision;
- (7) ~~submit~~ submits monthly reports to the ombudsman supervisor;
- (8) ~~wear~~ wears the badge issued by the Area Agency on Aging ombudsman supervisor when visiting the facility or attending functions as an ombudsman volunteer;
- (9) ~~be is~~ available to the residents of the facility in which volunteering, to hear their concerns, and to assist them with and follow through on problem-solving;
- (10) ~~meet~~ meets with the facility administrator to establish and maintain a cooperative working relationship;
- (11) ~~be is~~ familiar with the policies and procedures the facility established for its operation;
- (12) ~~be is~~ certified as an ombudsman volunteer, limited to the facility named in the certification letter, unless authorized in advance by the Office of the State Long-Term Care Ombudsman; ~~and~~
- (13) ~~be is~~ clear in understanding the role of advocate on behalf of the residents; ~~and~~
- (14) ~~Direct does not perform~~ direct care services, such as lifting, ~~or feeding, or transporting~~ residents, ~~are not performed by the ombudsman while in the facility.~~

### 340:105-11-252. Conflict of interest statement and ethical guidelines

The Older Americans Act of 1965, as amended requires assurances that there are no conflicts of interest within the State Long-Term Care Ombudsman Program. Mechanisms to identify and remedy any conflicts are mandated. Ombudsman staff and volunteers study the rules in this Section and sign Form ~~OMB-3 02OM001E~~, Conflict of Interest Statement and Ethical Guidelines, if able to provide the assurances and meet the ethical guidelines ~~described in this subsection~~. The ombudsman:

- (1) and any member of the ombudsman's immediate family may not own, operate, control, or have interest, voting rights, or outstanding indebtedness to or be employed by any company or facility or individual person investigated by the ombudsman;

- (2) may not solicit or accept from any person or organization, directly or indirectly, money or anything of value if it could reasonably be expected to influence the ombudsman's official actions or judgment or could reasonably be considered a reward for any official action or omission on the part of the ombudsman;
- (3) who is assigned or acts as an official representative of his or her agency in the presentation of papers, talks, demonstrations, or making appearances does not solicit or accept fees, honoraria, or reimbursement of expenses for personal gain. Any fees or honoraria offered in connection with these activities are paid to the agency;
- (4) is alert to anything that impairs ability to objectively investigate complaints. The ombudsman avoids conflict of interest in the establishment of personal relationships that affect impartiality on the job;
- (5) may be involved in serving as an officer or board member of a social, fraternal, or religious organization for which the ombudsman receives no compensation or anything of value, provided the organization is not affected by exercise of the ombudsman's discretion;
- (6) may not use or disclose information gained in the course of, or by reason of, the ombudsman's official position or activities in any way without the express consent of the resident or complainant;
- (7) discloses all past and current appointments, involvement, membership, or interest that affect or could reasonably be expected to affect the ombudsman's ability to investigate and resolve complaints in an objective and independent manner;
- (8) may not effectively recommend or decide to hire or promote another person who is a member of the ombudsman's immediate family;
- (9) may not give preferential or favorable treatment in provision of service to a resident who is a member of the ombudsman's family; and
- (10) may not conduct business in restaurants or other public places where a public observer might reasonably conclude that confidences could be breached due to lack of privacy.

### 340:105-11-253. Freedom from conflict of interest assurances

The Older Americans Act as amended requires assurances of freedom from conflict of interest for the officially designated area program as a subdivision of the Office of the State Long-Term Care Ombudsman (Office). Directors of designated area ombudsman entities and sponsoring agency directors are asked to read, review with staff and sponsors, and sign Form ~~OMB-4 02OM002E~~, Area Ombudsman Assurance Form, if assurances can be provided as described in this ~~subsection~~ Section.

- (1) Assurance is provided that the agency:
  - (A) is not a part of an entity responsible for licensing or certifying long-term care facilities, or part of a provider organization;
  - (B) does not hold interest in, manage, own, or contract with a long-term care facility;

(C) does not stand to gain financially through an action or potential action brought on behalf of ~~individuals~~ persons the ombudsman serves; and

(D) is not located within an organization that may impair or inhibit the ability of the ombudsman to objectively and independently investigate and resolve complaints.

(2) Assurance is provided that the ombudsman will be free to:

- (A) take action on behalf of residents;
- (B) publicly represent the concerns of residents;
- (C) bring together ~~individuals~~ persons who have the authority to solve problems;
- (D) make recommendations to boards, committees, and task forces in developing long-term care policy, or similar situations;
- (E) forward unresolved formal complaints to the Office according to program policy; and
- (F) publicize the State Long-Term Care Ombudsman Program and issues affecting older persons who are institutionalized persons.

(3) There are inherent conflicts in the role of the ombudsman. The agency supports the role and goals of the State Long-Term Care Ombudsman Program and the ombudsman staff through any conflict associated with their official duties.

[OAR Docket #07-871; filed 4-25-07]

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

[OAR Docket #07-872]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

- Subchapter 1. General Provisions
- Part 1. Licensing Services - Child Care
- 340:110-1-3 through 340:110-1-4.1 [AMENDED]
- 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 340:110-1-9.5 [AMENDED]
- 340:110-1-10 [AMENDED]
- 340:110-1-13 through 340:110-1-15 [AMENDED]
- 340:110-1-17 [AMENDED]
- 340:110-1-20 through 340:110-1-21 [AMENDED]
- Part 3. Licensing Services - Residential Care and Agencies
- 340:110-1-43 through 340:110-1-43.1 [AMENDED]
- 340:110-1-45 through 340:110-1-47.2 [AMENDED]
- 340:110-1-51 through 340:110-1-53 [AMENDED]
- (Reference APA WF 06-07 and 06-24)

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and The Oklahoma Child Care Facilities Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes.

**DATES:**

**Comment period:**

January 16, 2007 through February 16, 2007

**Public hearing:**

None requested.

**Adoption:**

February 27, 2007

**Submitted to Governor:**

February 27, 2007

**Submitted to House:**

February 27, 2007

**Submitted to Senate:**

February 27, 2007

**Gubernatorial approval:**

March 15, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rule(s) resulted in approval on April 24, 2007.

**Final adoption:**

April 24, 2007

**Effective:**

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**

- Subchapter 1. General Provisions
- Part 1. Licensing Services - Child Care
- 340:110-1-17 [AMENDED]
- (Reference APA WF 06-07)

**Gubernatorial approval:**

July 26, 2006

**Register publication:**

23 Ok Reg 3197

**Docket number:**

06-1251

**ANALYSIS:**

The revisions to Subchapter 1 of Chapter 110 improve the program and services provided by Oklahoma Department of Human Services (OKDHS) Division of Child Care (DCC) by: (1) clarifying and improving the existing licensing rules for child care facilities to provide direction to licensing staff who regulate and consult with licensed child care facilities; (2) reconciling all DCC numbered forms, per the OKDHS Enterprise Document Generation System; and (3) improving the clarity of the rules by correcting punctuation and syntax and conforming to current OKDHS language and usage.

340:110-1-3 is amended to update language to conform to current OKDHS usage.

340:110-1-4 is amended to clarify contact procedures involving media relations.

340:110-1-4.1 and 110-1-6 are amended to change form numbers to conform with the new tracking system.

340:110-1-8 is amended to: (1) clarify criminal history investigation requirements; and (2) change form numbers to conform with the new tracking system.

340:110-1-8.1 is amended to update language to conform to current OKDHS usage; and change form numbers to conform with the new tracking system.

340:110-1-8.3 is amended to: (1) clarify division practice and procedure to assist programs prepare to advance to a higher star program level; and (2) change form numbers to conform with the new tracking system.

340:110-1-9 is amended to: (1) clarify protocol for reporting child death and sudden infant death syndrome; (2) provide guidelines for tracking criminal history; and (3) change form numbers to conform with the new tracking system.

340:110-1-9.1 and 110-1-9.3 are amended to change form numbers to conform with the new tracking system.

340:110-1-9.2 is amended to: (1) clarify terminology for consistency; (2) reflect complaint tracking categories; and (3) change form numbers to conform with the new tracking system

340:110-1-9.4 is amended to clarify terminology for consistency.

340:110-1-9.5 and 110-1-14 are amended to change form numbers to conform with the new tracking system.

340:110-1-10 is amended to clarify current division practice.

340:110-1-13 is amended to: (1) clarify procedures when care of children is terminated; and (2) change form numbers to conform with the new tracking system.

340:110-1-15 is amended to: (1) clarify complaint procedures; and (2) update terminology for consistency.

340:110-1-20 is amended to: (1) clarify procedures involving licensing staff professional development; and (2) change form numbers to conform with the new tracking system.

# Permanent Final Adoptions

340:110-1-21 is amended to update terminology for consistency.

340:110-1-43 is amended to: (1) clarify the person who signs the license that is issued; and (2) update terminology for consistency.

340:110-1-43.1 and 110-1-45 are amended to change form numbers to conform with the new tracking system.

340:110-1-46 is amended to: (1) clarify that a complete monitoring visit is required to issue a six-month permit; and (2) change form numbers to conform with the current form tracking system.

340:110-1-47 is amended to: (1) clarify licensing procedure when a program has a change of address or reports a satellite office; (2) clarify the definition of serious incident; and (3) change form numbers to conform with the current form tracking system.

340:110-1-47.1 is amended to: (1) clarify the complaint finding options; and (2) change form numbers to conform with the current form tracking system.

340:110-1-47.2 and 110-1-51 are amended to (1) change form numbers to conform with the current form tracking system; and (2) update terminology for consistency.

340:110-1-52 is amended to: (1) clarify procedures for development of a consent agreement and appeals; and (2) update terminology for consistency.

340:110-1-53 is amended to clarify reasons and procedures for case closures.

## CONTACT PERSON:

Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2007:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### PART 1. LICENSING SERVICES - CHILD CARE

#### 340:110-1-3. Legal base and authority

The Oklahoma Department of Human Services (OKDHS) is responsible for implementing the Oklahoma Child Care Facilities Licensing Act (Act). [10 O.S. § 401 —~~415 et seq.~~] This Act mandates that a license be obtained from ~~the Department~~ OKDHS to provide care for children away from their own homes. The child care facilities subject to licensing that are addressed in this Part are family child care homes, child care centers, part-day children's programs, and school-age programs. ~~The Department's~~ OKDHS responsibilities in relation to these facilities include:

- (1) developing minimum requirements for the care and supervision of children cared for in child care facilities;
- (2) assisting child care providers in achieving maximum standards;
- (3) providing continuing technical assistance and consultation to the facility;
- (4) developing sufficient and adequate facilities for child care in the community;
- (5) issuing licenses based upon compliance with minimum requirements;
- (6) investigating complaints received against child care facilities; and
- (7) taking corrective action as authorized by the Oklahoma Child Care Facilities Licensing Act and stated

OKDHS policy based upon non-compliance with minimum requirements.

#### 340:110-1-4. Roles and responsibilities

(a) The staff members responsible for licensing child care facilities are under the supervision of Licensing Services in the Division of Child Care. The licensing staff makes recommendations on all case actions to the licensing supervisor. The statewide licensing coordinator or designee is responsible for the final approval of all licensing recommendations.

(b) Official licensing records for child care programs are maintained in the licensing staff's office. These records are open to the public upon request and the procedures in 340:110-1-14 are followed.

(c) In addition to licensing child care facilities, licensing staff ~~are~~ is responsible for:

- (1) communicating with local fire, health, and city officials within their assigned area regarding licensing policy, requirements, inspections, and other issues related to a specific facility or child care in general;
- (2) assisting parents in identifying child care options and providing information on choosing quality care;
- (3) facilitating or sponsoring training for child care providers; and
- (4) promoting the availability of quality, affordable child care within ~~their~~ the licensing staff's assigned area.

(d) When possible, a licensing staff member is not assigned to the facility where the staff member's child is in care.

(e) All media requests for information regarding the licensing process, procedures, or case specific information are immediately forwarded to the licensing supervisor. The licensing supervisor forwards media contact information to the statewide licensing coordinator or designee, who provides the information to the Office of Communications per OAC 340:2-37-1.

#### 340:110-1-4.1. Forms

Forms that apply to this Part are described in this Section.

(1) ~~ADM-123~~ 08AD006E, Certification for Special Needs Child Care Rate. Form ~~ADM-123~~ 08AD006E is used to obtain information for determining eligibility for the special needs child care rate for children receiving Supplemental Security Income (SSI), SoonerStart, or special education services.

(2) ~~OCC-2~~ 07LC002E, Child Care Center Staff Summary. Form ~~OCC-2~~ 07LC002E is used to document compliance with licensing requirements for all staff currently employed by the child care facility.

(3) ~~OCC-3~~ 07LC003E, Child Care Center Monitoring Report. Form ~~OCC-3~~ 07LC003E is used by the licensing staff to document compliance with requirements during a monitoring visit at a child care center and record any other information obtained.

(4) ~~OCC-4~~ 07LC004E, Application for License - Child Care Facility. Form ~~OCC-4~~ 07LC004E is used to make application for a license to operate a child care facility, including a child care center, school-age program, and part-day children's program.

- (5) ~~0CC-5~~ 07LC005E, **Transportation Information.** Form ~~0CC-5~~ 07LC005E is used by a child care facility director to document compliance with licensing requirements on transportation.
- (6) ~~0CC-6~~ 07LC006E, **Equipment Inventory - Child Care Center.** Form ~~0CC-6~~ 07LC006E is used to document the equipment available and items needed to comply with Licensing Requirements for Child Care Centers, OKDHS Publication no. 84-08.
- (7) ~~0CC-7~~ 07LC007E, **Documentation of Training - Family Child Care Home and Large Child Care Home.** Form ~~0CC-7~~ 07LC007E is used by a family child care home provider to document annual training as required by Licensing Requirements for Family Child Care Homes and Large Child Care Homes, OKDHS Publication no. 86-104.
- (8) ~~0CC-7-A~~ 07LC009E, **Documentation of Required Training Topics - Family Child Care Home and Large Child Care Home.** Form ~~0CC-7-A~~ 07LC009E is used by a family child care home provider to document required training topics as required by Licensing Requirements for Family Child Care Homes and Large Child Care Homes, OKDHS Publication no. 86-104.
- (9) ~~0CC-8~~ 07LC008E, **Periodic Monitoring Report - Certification for Care of Children with Disabilities.** Form ~~0CC-8~~ 07LC008E is used by the licensing staff to document ongoing compliance with certification requirements during monitoring visits.
- (10) ~~0CC-10~~ 07LC010E, **Part-Day Children's Program Monitoring Report.** Form ~~0CC-10~~ 07LC010E is used by the licensing staff to document compliance with licensing requirements during a monitoring visit at a part-day children's program and to record any other information obtained.
- (11) ~~0CC-12~~ 07LC012E, **Licensing Complaint Report and Complaint Summary.** Form ~~0CC-12~~ 07LC012E is used to record a complaint against a child care facility. ~~Form 0CC-12 is placed in the case record and includes the findings of the investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.~~
- (12) ~~0CC-14~~ 07LC014E, **Family Child Care Home Monitoring Report.** Form ~~0CC-14~~ 07LC014E is used to document compliance with requirements during a monitoring visit to a family child care home and record other information obtained.
- (13) ~~0CC-17~~ 07LC017E, **Six-Month Permit.** Form ~~0CC-17~~ 07LC017E is a six-month temporary authorization for an applicant to operate a child care facility until a license has been issued or a formal denial notice is given to the applicant.
- (14) ~~0CC-18~~ 07LC018E, **Notice of Issuance of License for a Child Care Facility.** Form ~~0CC-18~~ 07LC018E is a notice to the child care facility that it has complied with licensing requirements and is being issued a license.
- (15) ~~0CC-20~~ 07LC020E, **Equipment Inventory - Part-day Children's Program.** Form ~~0CC-20~~

- 07LC020E is used to document the equipment available or needed to comply with Licensing Requirements for Part-day Children's Programs, OKDHS Publication no. 95-12.
- (16) ~~0CC-21~~ 07LC021E, **Comments and Recommendations RE. Licensing Requirements and Policy.** Form ~~0CC-21~~ 07LC021E is used to make comments and recommendations pertaining to licensing requirements and policy.
- (17) ~~0CC-23~~ 07LC023E, **School-Age Program Monitoring Report.** Form ~~0CC-23~~ 07LC023E is used to document compliance with licensing requirements for school-age programs during a monitoring visit and record any other information obtained.
- (18) ~~0CC-24~~ 07LC024E, **Equipment Inventory - School-Age Program - Equipment Inventory.** Form ~~0CC-24~~ 07LC024E is used to document the equipment available or needed to comply with Licensing Requirements for School-Age Programs, OKDHS Publication no. 97-10.
- (19) ~~0CC-25~~ 07LC025E, **Request for Child Care Center Star Certification.** Form ~~0CC-25~~ 07LC025E is used by a child care center owner or director to request star certification.
- (20) ~~0CC-26~~ 07LC026E, **Periodic Certification Review - Center Star Certification.** Form ~~0CC-26~~ 07LC026E is used to document compliance with criteria for star certification and to establish a plan to correct violations in a child care center.
- (21) ~~0CC-27~~ 07LC027E, **Request for Family Child Care Home Star Certification.** Form ~~0CC-27~~ 07LC027E is used by a family child care home provider to request star certification.
- (22) ~~0CC-28~~ 07LC028E, **Periodic Certification Review - Home Star Certification.** Form ~~0CC-28~~ 07LC028E is used to document ongoing compliance with criteria for star certification and to establish a plan to correct violations in a family child care home.
- (23) ~~0CC-37~~ 07LC037E, **Notice to Comply.** Form ~~0CC-37~~ 07LC037E is used by a child care facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.
- (24) ~~0CC-38~~ 07LC038E, **Child Information.** Form ~~0CC-38~~ 07LC038E is used by the child care facility to record enrollment information for a child.
- (25) ~~0CC-41~~ 07LC041E, **Child Care Staff Information.** Form ~~0CC-41~~ 07LC041E is used to record information regarding child care facility staff persons as required by licensing requirements.
- (26) ~~0CC-42~~ 07LC042E, **Application for License - Family Child Care Home and Large Child Care Home.** Form ~~0CC-42~~ 07LC042E is used to make application for license to operate a family child care home or large child care home.
- (27) ~~0CC-57~~ 07LC057E, **Physical Plant.** Form ~~0CC-57~~ 07LC057E is used by licensing staff to document the floor plan, including indoor and outdoor square footage and numbers of toilets and sinks.

## Permanent Final Adoptions

(28) ~~OCC-61~~ 07LC061E, **Alternative Compliance Request.** Form ~~OCC-61~~ 07LC061E is used by a child care facility to request an alternative method of complying with licensing requirements.

(29) ~~OCC-61-A~~ 07LC075E, **Notice of Alternative Compliance.** Form ~~OCC-61-A~~ 07LC075E is used by Oklahoma Department of Human Services (OKDHS) to notify a facility of an approved request for alternative method of compliance.

(30) ~~OCC-63~~ 07LC063E, **One Star Plus Certification Expiration.** Form ~~OCC-63~~ 07LC063E is used by licensing staff when a one star plus facility fails to reapply for certification at 12 or 24 months.

(31) ~~OCC-69~~ 07LC069E, **Compliance Review for Child Care Center Compliance Review Centers.** Form ~~OCC-69~~ 07LC069E is used by child care center directors to verify their knowledge of the licensing requirements.

(32) ~~OCC-71~~ 07LC071E, **Child Care Waiver Request.** Form ~~OCC-71~~ 07LC071E is used by licensing staff when submitting a waiver request to State Office.

(33) ~~OCC-72~~ 07LC072E, **Compliance Review for School-Age Programs and Summer Day Camps.** Form ~~OCC-72~~ 07LC072E is used by school-age and summer day camp directors to verify their knowledge of the licensing requirements.

(34) ~~OCC-73~~ 07LC073E, **Compliance Review for Part-Day Children's Programs.** Form ~~OCC-73~~ 07LC073E is used by part-day children's program directors to verify their knowledge of the licensing requirements.

(35) ~~OCC-74~~ 07LC074E, **Request for Extension of Time to Comply.** Form ~~OCC-74~~ 07LC074E is used by child care providers to request an extension of time to comply with Stars criteria.

(36) 07LC080E, **Licensing Services Supplemental Information.** Form 07LC080E is used to provide supplemental facility information.

(37) 07LC081E, **Licensing Complaint Report Summary.** Form 07LC081E is placed in the case record and includes the findings of the investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.

### 340:110-1-6. Application process

(a) **Application.** The Division of Child Care (DCC) licensing staff provides the appropriate application to persons interested in licensure.

(1) If requested, a family child care home application is filed and a license issued to a caregiver and spouse. References are obtained for both persons, and both must demonstrate compliance with requirements.

(2) Proof of ownership must be provided according to Oklahoma Department of Human Services (OKDHS) Appendix L-7, Ownership Proof Chart, for a:

(A) child care center; or

(B) family child care home operating as a business entity.

(b) **Child care provider contract.** The licensing staff advises the child care facility of the opportunity to contract

with OKDHS for the care of children whose families receive child care assistance, per OAC 340:40-13-5. The licensing staff documents that a child care contract promotional flyer is provided to the facility with contact information for the county child care liaison.

(1) OKDHS may contract with a child care facility in another state when a client residing near the Oklahoma border elects to use an out-of-state facility.

(2) The licensing staff responsible for the county in which the client resides verifies the facility is licensed or registered and in compliance with the Civil Rights Act by contacting the state agency responsible for licensing.

(c) **Reopening a family child care home case.** If a family child care home has been closed for less than one year and had a record of compliance prior to closure, the licensing staff may recommend license issuance after one compliant monitoring visit, utilizing previous references. Criminal history investigations must have been obtained within the last year.

(d) **Reopening a child care center, part-day children's program, or school-age program.** If a child care center has been closed and the same owner wishes to reopen, a new application must be completed.

(1) Fire and health inspections completed within the last 12 months may be used, unless concerns exist.

(2) If the facility has been closed less than one year:

(A) previously obtained director references may be used; and

(B) with a record of compliance prior to closure, the licensing staff may recommend license issuance after one compliant monitoring visit.

(e) **Computer checks on license applicants.** Computer checks to identify prior involvement with OKDHS are completed on all adults who sign the application for a family child care home license and on the owner of a child care center, part-day children's program, or school-age program.

(1) When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements. Other cases are reviewed only if concerns exist.

(2) When the provider's medical information is confidential or concerns exist, the licensing staff may request information from the provider by requiring the provider to sign OKDHS Form ~~HIPAA-3~~ 08HI003E, Authorization to Disclose Medical Records.

(f) **Family child care homes certified to provide foster care.** A caregiver certified to provide foster care may be licensed as a family child care home. The approval for dual service is made by the licensing supervisor, based upon the recommendation of the licensing staff and foster care worker of the child-placing agency. The decision for approval is:

(1) based upon the number, ages, and specific needs of children potentially eligible for child care and foster care;

(2) documented in the case record; and

(3) reviewed with the provider and foster care worker at least once per year or more often if concerns exist.

(g) **Status.** The facility may be granted temporary authorization to operate on application status or on a six-month

permit. The licensing staff may recommend a six-month permit when the conditions required for issuance of a six-month permit described in OAC 340:110-1-8(a) and (b) are met. If the licensing staff determines that the conditions have not been met but the non-compliance does not place children at risk of ~~immediate~~ imminent harm the facility may be allowed to operate on application status. While a child care facility is on application status:

- (1) if an application has been filed and licensing staff ~~are~~ is aware that children are in care, an initial visit must be made within two weeks;
- (2) the licensing staff conducts a monitoring visit at least every two months when children are in care;
- (3) contact is made by phone every two months and documented on Form ~~OCC 3~~ 07LC080E, Child Care Center Monitoring Report, page 4 Licensing Services Supplemental Information, when children have not been accepted into care;
- (4) the procedures found in OAC 340:110-1-9.3 are followed if non-compliance with licensing requirements is observed during the monitoring visit. A plan of correction, including an agreed-upon time period for correction of the non-compliance, is documented; and
- (5) the licensing staff consults with the licensing supervisor if the facility is unable or unwilling to meet licensing requirements after operating on application status for six months.

(h) **Withdrawal of application.** If a child care facility applicant wishes to withdraw the application prior to issuance of a license and the licensing staff confirms that no children are in care, the licensing staff closes the case.

**340:110-1-8. Types of issuance**

(a) **Six-month permit.** New child care centers, part-day children's programs, school-age programs, and family child care homes may be issued a six-month permit as a temporary authorization to operate. The primary purpose of a permit is to provide an opportunity for the Oklahoma Department of Human Services (OKDHS) Division of Child Care (DCC) licensing staff to evaluate the facility's ability to comply with minimum licensing requirements on an ongoing basis, and to provide a legal basis to contract with OKDHS and receive Child Care Food Program funding.

- (1) The licensing staff may recommend a permit when the facility is in compliance with critical requirements regarding criminal history investigations, required number of qualified staff, hazards indoors or outdoors, adequate equipment, fencing, playground safety, fire safety, or other areas affecting children's safety. The owner's previous history of licensing compliance is considered.
- (2) The licensing staff observes and documents criminal history investigation reports, pet vaccinations, and other required items. Copies of these items are not ~~needed for~~ included in the file, with the exception of a criminal history report reflecting a record. ~~A~~
- (3) The licensing staff makes a complete monitoring visit documenting compliance with critical requirements

~~must be made not longer~~ no more than 60 days prior to issuance of the six-month permit.

(b) **Documentation for six-month permit.**

(1) **Child care centers, part-day children's programs, and school-age programs.** Items required to be on file for issuance of a six-month permit are:

- (A) copy of licensing staff recommendation, Lis-Req;
- (B) Form 07LC004E, Application for License - Child Care Facility, Form OCC 4;
- (C) Form 07LC002E, Child Care Center Staff Summary, Form OCC 2;
- (D) Form 07LC041E, Child Care Staff Information for each staff person, Form OCC 41;
- (E) ~~physical plant~~ Form 07LC057E, Physical Plant, including drawing and calculation, Form OCC 57;
- (F) verification of adequate equipment for the recommended capacity;
- (G) documentation of fire department approval within the previous 12 months;
- (H) documentation of ~~Oklahoma State Department of Health~~ health approval within the previous 12 months if meals are prepared and served; and
- (I) Form 07LC041E, Child Care Center Monitoring Report, Form OCC 3; 07LC010E, Part-Day Children's Program Monitoring Report, or Form OCC 10; 07LC023E, or School-Age Program Monitoring Report, Form OCC 23.

(2) **Family child care homes.** The items required to be on file for issuance of a six-month permit for a family child care home are:

- (A) copy of licensing staff recommendation, Lis-Req;
- (B) Form 07LC042E, Application for License - Family Child Care Home and Large Child Care Home, Form OCC 42;
- (C) Form 07LC014E, Family Child Care Home Monitoring Report, Form OCC 14; and
- (D) documentation of fire department approval within the previous 12 months for a large family child care home operating in a mobile home.

(3c) **Second and subsequent six-month permits.** If additional six-month permits are recommended, the procedures in ~~(A) through (G)~~ of this paragraph subsection are followed.

- ~~(A1)~~ The licensing staff consults with the licensing supervisor prior to recommending a second permit.
- ~~(B2)~~ The licensing supervisor consults with the licensing regional programs manager (RPM) before recommending the issuance of a third permit.
- ~~(C3)~~ The licensing RPM consults with the statewide licensing coordinator or designee before recommending the issuance of a fourth or subsequent permit.
- ~~(D4)~~ The licensing staff sends a letter to the applicant notifying him or her of the recommendation each time a second or subsequent permit is recommended. The reason for the recommendation is clearly stated in the letter, with each area of non-compliance listed separately.

## Permanent Final Adoptions

(E5) If the permit is due to numerous, repeated, or serious non-compliance with requirements, the licensing staff visits the facility at least monthly and is accompanied, when possible, by a witness. If at any point the non-compliance indicates the facility is unable or unwilling to meet licensing requirements, the statewide licensing coordinator or designee is consulted to discuss negative sanctions.

(E6) If requirements are met before the expiration of the six-month permit, the issuance of a license may be recommended.

(E7) If children have not been in care on a regular basis during the previous year, the applicant is asked to withdraw his or her application.

(bd) **Issuance of license.** A license is issued after the ~~Oklahoma Department of Human Services (OKDHS)~~ has investigated the activities and standards of care of the applicant and has determined that the applicant meets all critical requirements identified in (a) and (b) of this Section and has demonstrated substantial compliance with all other requirements, including entry level training requirements for child care center employees.

(1) Prior to recommending issuance of a license, the licensing staff completes a minimum of three monitoring visits, and in child care centers, part-day children's programs, and school-age programs, an equipment inventory.

(2) Children in care must be observed by licensing staff during at least one monitoring visit.

(3) A monitoring visit must be made within 60 days of the issuance date.

(4) A license is in effect unless it is revoked or the facility voluntarily closes.

(e) **Documentation for license.**

(1) **Child care centers.** In addition to the items listed in (a) through (b)(1) of this Section for issuance of a six-month permit, items required to be on file before a license is issued to a child care center are:

(A) copy of licensing staff recommendation, Lis-Req;

(B) daily program schedule;

(C) updated ~~Child Care Center Staff Summary, Form OCC-2 07LC002E, Child Care Center Staff Summary;~~

(D) outdoor play schedule, if applicable;

(E) Form 07LC006E, Equipment Inventory - Child Care Center, Form OCC-6;

(F) statement of completed compliance review, if applicable;

(G) director's references;

(H) one-week sample menu;

(I) documentation of fire department approval within the previous 24 months;

(J) documentation of ~~Oklahoma State Department of Health~~ health approval within the previous 24 months if meals are prepared and served; and statement of water test results if not on public water supply.

(i) If the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the caregiver

may sign a statement agreeing to use bottled water for drinking, cooking, and, if applicable, bathing of children.

(ii) If there is a high level of bacteria or a high level of lead, boiled or bottled water must be used for hand washing and dish washing.

(iii) If programs are licensed for 25 or more, approval from Department of Environmental Quality (DEQ) is required when not on a public water supply system; and

(K) Form 07LC003E, Child Care Center Monitoring Report, Form OCC-3.

(2) **Part-day children's programs and school-age programs.** In addition to the items listed in (a) through (b)(1) of this Section for issuance of a six-month permit, the items required to be on file before a license is issued to a part-day children's program or school-age program are:

(A) copy of licensing staff recommendation, Lis-Req;

(B) outdoor play schedule, if applicable;

(C) daily program schedule for school-age programs;

(D) updated ~~Child Care Center Staff Summary, Form OCC-2 07LC002E, Child Care Center Staff Summary;~~

(E) ~~Equipment Inventory, Form OCC-20 07LC020E or OCC-24 07LC024E, Equipment Inventory,~~ as applicable;

(F) statement of completed compliance review, if applicable;

(G) director's references for school-age programs;

(H) one-week sample menu of foods provided by the program;

(I) documentation of fire department approval within the previous 24 months;

(J) documentation of health department approval within the previous 24 months if meals are prepared and served; and statement of water test results if not on public water supply.

(i) If the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the caregiver may sign a statement agreeing to use bottled water for drinking, cooking, and, if applicable, bathing of children.

(ii) If there is a high level of bacteria or a high level of lead, boiled or bottled water must be used for hand washing and dish washing.

(iii) If programs are licensed for 25 or more, approval of DEQ is required when not on a public water supply system; and

(K) Form 07LC010E, Part-Day Children's Program Monitoring Report, Form OCC-10, or Form 07LC023E, School-Age Program Monitoring Report, Form OCC-23.

(3) **Family child care homes.** In addition to the items listed in (a) through (b)(2) of this Section for issuance of a six-month permit, the items required to be on file before a license is issued to a family child care home are:

- (A) copy of licensing staff recommendation, Lis-Req;
- (B) one-week sample menu;
- (C) references;
- (D) Form 07LC014E, Family Child Care Home Monitoring Report, ~~Form OCC-14~~; and
- (E) statement of water test results if not on public water supply.

(i) If the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the caregiver may sign a statement agreeing to use bottled water for drinking, ~~and cooking, and, if applicable, bathing of children.~~

(ii) If there is a high level of bacteria or a high level of lead, boiled or bottled water must ~~also~~ be used for hand washing and dish washing.

~~(iii) If bacteria and lead are at safe levels, but the level of nitrates is too high, the water may be safely used for hand washing and dish washing.~~

(ef) **One-year provisional license.** A provisional license may be issued for a period of one year. A subsequent provisional license may be issued at the discretion of OKDHS if an emergency exists. If the facility complies with all requirements prior to expiration of the provisional license, the licensing staff documents compliance with all requirements and submits a recommendation for issuance of a full license. A provisional license is recommended when:

- (1) an applicant is temporarily unable to comply with all licensing requirements but the services are needed;
  - (A) the facility operator submits a written request for a provisional license, which contains the reason for the request and a time frame for compliance;
  - (B) the statewide licensing coordinator or designee sends a letter to the operator approving or denying the request; and
  - (C) a minimum of three monitoring visits are made during the provisional license period; or
- (2) the level of non-compliance does not support license issuance or a denial of the license;
  - (A) the licensing staff submits a recommendation for a provisional license, including the documentation to support the recommendation;
  - (B) the statewide licensing coordinator or designee sends a letter to the operator stating the reason for the provisional license; and
  - (C) monitoring visits are conducted at least monthly and, when possible, with a witness.

(dg) **Evaluation and disposition.**

- (1) The licensing supervisor reviews the licensing staff's recommendation for case action before forwarding it to the statewide licensing coordinator or designee.
- (2) The statewide licensing coordinator or designee approves all recommendations for case actions. If a license or permit is approved, notification is made to the operator on Form ~~OCC-17~~ 07LC017E, ~~Six-month~~ Month Permit, or Form ~~OCC-18~~ 07LC018E, Notice of Issuance of License for a Child Care Facility.

**340:110-1-8.1. Criminal history investigations**

(a) **Provider.** Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility arrange for, prior to employment, a criminal history investigation for:

- (1) any person making application to establish or operate a child care facility;
- (2) any person to be employed by a child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers;
- (3) others who have unsupervised access to children, such as lab students, Work Experience Program (WEP) workers, contracted staff, volunteers, or custodians; and
- (4) adults, including providers' spouses or adult children, who live in the child care facility.

(b) **Exceptions.** Criminal history investigations are not required for:

- (1) new staff persons who have documentation of a criminal history investigation within the last 12 months;
- (2) staff persons who move to a center or program operated by the same organization;
- (3) contracted staff persons who provide transportation, lessons, or other services if, provided facility staff are present with children at all times;
- (4) parent volunteers who transport children on an irregular basis; and
- (5) providers' children who become adults (age 18) during continuous residence at the licensed facility.

(c) **Children residing in a child care facility.** A criminal history investigation may be requested on a child older than 13 years of age residing in a child care facility if criminal activity is reported to Licensing.

(d) **Authorized agencies.** Criminal history investigations are acceptable only when conducted by:

- (1) the Oklahoma State Bureau of Investigation (OSBI); and
- (2) the authorized agency in the previous state of residence if the person has resided in Oklahoma for less than one year.

(e) **Sex Offenders Registry.** The OSBI report must include a search of the Department of Corrections files maintained by ~~the~~ OSBI pursuant to the Sex Offenders Registration Act. According to Section 404.1 of Title 10 of the Oklahoma Statutes, it is unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children, to live in a child care facility, or to be employed or contracted by the facility to care for children. If it is determined that a facility has violated this Statute, the Oklahoma Department of Human Services may pursue:

- (1) an emergency order;
- (2) revocation of the license or denial of the application for license;
- (3) an injunction;
- (4) an administrative penalty not to exceed Ten Thousand Dollars (\$10,000); or
- (5) referral for criminal proceedings.

(f) **Documentation and procedure.** The licensing staff provides information and the criminal history investigation

# Permanent Final Adoptions

request forms to licensees and persons interested in becoming licensed.

(g) **Convictions.** The licensing staff reviews each criminal history report.

(1) If a report includes a charge without a disposition for an offense listed in licensing requirements or which could affect contract eligibility, a copy of the disposition is obtained.

(2) If a report includes a conviction for an offense listed in licensing requirements, the licensing staff:

(A) advises the owner, director, or family child care home provider that the person does not meet licensing requirements;

(B) informs the owner, director, or family child care home provider that he or she may request a waiver from the statewide licensing coordinator or designee unless the person was convicted of a crime pursuant to the Sex Offenders Registration Act, per (e) of this Section;

(C) provides the owner, director, or home provider with a copy of the items considered for a waiver, per (h) of this Section; and

(D) documents assurance from the owner, director, or home provider that the person in question will not be employed, work with children, or be present in the home when children are in care until a decision has been made regarding the request for a waiver, per (h) of this Section.

(3) If the owner, director, or family child care home provider's criminal history report includes a conviction of fiscal mismanagement, such as embezzlement or fraud, or if there are repeated convictions that indicate a pattern of criminal activity, a copy of the report is sent to the county day care liaison.

(4) If the report contains information regarding behavior that may endanger children, a copy of police reports may be requested whether or not a conviction resulted.

(h) **Waiver.** The prohibition to employ a person with criminal history may be waived if requested in writing and signed by the facility's owner, director, or home provider. However, a waiver is not granted to any person who is required to register pursuant to the Sex Offenders Registration Act. When submitting a waiver request, licensing staff ~~complete~~ completes Form ~~OCC-71-07LC071E~~, Child Care Waiver Request, and ~~submit~~ submits it to Division of Child Care (DCC) State Office. The decision to grant a waiver is made by the statewide licensing coordinator or designee. The decision is based on documentation indicating that the health, safety, and well-being of children will not be endangered. DCC State Office notifies the provider of the decision in writing. Licensing staff ~~monitor~~ monitors any additional instructions made to the provider and ~~verify~~ verifies that the waiver notice is posted in the facility. Criteria considered include the:

(1) type of crime or offense for which the person was convicted or a finding made;

(2) nature of the offense(s);

(3) age of the person at the time of the offense(s);

(4) circumstances surrounding commission of the offense(s) that demonstrate whether it is likely the person will re-offend;

(5) number of offenses for which the person was convicted or findings made;

(6) length of time elapsed since the last conviction or finding;

(7) relationship of the offense(s) to the ability to care for children;

(8) evidence of rehabilitation or education activities, such as counseling, since the offense was committed;

(9) statement from the person with the criminal history; and

(10) opinions of reliable community members concerning the person in question.

### 340:110-1-8.3. Certification of facilities to receive a differential quality rate

(a) **Purpose.** Certification is required for a provider to receive a differential quality rate for children whose families are receiving child care assistance through the Oklahoma Department of Human Services (OKDHS).

(b) **Criteria for child care center certification levels.** The levels of certification for child care centers are contained in this subsection.

(1) **Criteria for one star centers.** A center operating on a permit, license, or provisional license is automatically designated as a one star center.

(2) **Criteria for one star plus centers.** To be approved as a one star plus center, the owner or designated agent must complete and submit Form ~~OCC-25-07LC025E~~, Request for Child Care Center Star Certification, and meet all the requirements in (A) through ~~(E)~~ of this paragraph. The center may operate on one star plus status for a total of 24 months, which are not required to run consecutively. After 24 months, the center must be approved as two star, request and receive an extension of time to comply, or return to one star status. If the new criteria cannot be met at 24 months, a facility may request an extension of time to comply as set forth in (g) of this Section.

(A) **Licensing status.** The program must have a license, provisional license, or permit ~~and must not have a history.~~ The monitoring visits and substantiated complaints for the last 12 months of operation are reviewed. If there are two or more incidents of numerous, repeated, or serious non-compliance with applicable licensing requirements or one serious incident resulting in injury or imminent risk of harm, the request may be denied. For the purposes of star certification, a 12-month period of time is reviewed, including the licensing record from the applicant's previous licenses, if any. The definitions of numerous, repeated, or serious non-compliance listed in (i) through (iii) of this paragraph apply for star certification.

(i) Numerous non-compliance is any monitoring visit with six or more items documented as

non-compliant on the monitoring report for a facility with a licensed capacity of less than 60 or seven or more items for a facility with a licensed capacity of 60 or more. Numerous non-compliances during the initial licensing visit, prior to permit, may be disregarded when evaluating compliance if all items were corrected in a timely manner.

(ii) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement in a 12-month period of time. For missing immunizations to be considered a repeat non-compliance, they must be regarding the same child.

(iii) Serious non-compliance is a non-compliance with licensing requirements that exposes children to conditions that present an imminent risk of harm. Some examples of serious non-compliance are violations of requirements for:

- (I) staff-child ratio;
- (II) supervision of children;
- (III) sleep position;
- (IV) prohibited disciplinary actions;
- (V) licensed capacity;
- (VI) use of passenger restraints;
- (VII) water activities,
- (VIII) pools and other water hazards;
- (IX) multiple hazards;
- (X) weapons;
- (XI) reporting child abuse;
- (XII) prohibiting access to children by a person with a criminal record or health or behavior risk;
- (XIII) administering medication to children;
- (XIV) room temperatures; and
- (XV) heat sources.

**(B) Director qualifications.**

(i) At initial star approval the director meets director qualifications as set forth by the applicable licensing requirements and must have documentation of 40 hours of training, within the last 12 months prior to application. At least 20 of those hours must be in administration and management and be Tier II or Tier III training.

(ii) If a new director is hired, the director must have documentation of 40 hours of training, within the last 12 months prior to employment. At least 20 of those hours must be in administration and management and be Tier II or Tier III training. If the new director does not have the 40 hours of training, the facility is required to submit a written plan to licensing staff for correcting the violation within 90 days of the new director's hire date.

(iii) In subsequent years, directors must have documentation of 30 hours of Tier I, Tier II, or Tier III job-related training per employment year.

(iv) A director may count a total of six hours of in-service training each year. In-service training ~~such as includes~~ videos and informal on-site staff

~~training is counted for a maximum of six hours per year.~~ Reading does not count for stars training.

(v) A person is not counted as a center master teacher, director, or qualifying home provider at more than one facility certified for a higher star level unless the facilities are programs that do not operate concurrently at any given time. An exception to this rule requires a written request submitted by the provider and approved by the stars program manager or designee.

(vi) The director has a written professional development plan.

(vii) The director evaluates staff, in writing, at least annually.

**(C) Learning environment.**

(i) The center has and ~~utilizes~~ follows current weekly lesson plans appropriate for the developmental needs of all groups of children. Current lesson plans are readily available in each classroom.

(ii) Space for children two years of age and older is arranged in a minimum of five well-defined and equipped interest areas in each classroom to facilitate a variety of activities, which must include block building, dramatic play, manipulative play, art, and book reading. Teachers read to children a minimum of 15 minutes each day.

**(D) Staff training.**

(i) At application, center staff employed at the facility for at least 12 months and counted toward meeting the staff-child ratio must have 20 hours of Tier I, II, or III training per employment year. At initial application, training may be counted if training was obtained within the last 12 months or within the staff's employment year.

(ii) After initial approval for certification, the training criteria must be met within the staff's employment year.

(iii) The training requirement applies to part-time staff and permanent substitutes who have worked at the child care center more than 40 hours. ~~Staff used persons who perform only for the purpose of performing~~ auxiliary duties, such as cooking, transportation, or maintenance, are exempt from this training requirement.

(iv) Staff may count a total of six hours of in-service training each year. In-service training ~~such as includes~~ videos and informal on-site staff training ~~is counted for a maximum of six hours per year.~~ Reading does not count for stars training.

(v) All staff have access to licensing requirements.

(vi) All full-time staff have a written professional development plan.

**(E) Parent involvement.** The center involves parents in the activities described in (i) through ~~(vii)~~ (viii) of this subparagraph.

## Permanent Final Adoptions

(i) ~~A written system is established and maintained daily for sharing with and communicating to parents happenings, and changes in activities, and related issues about a child's physical or and emotional state. This written system is provided to parents at least once per week. When a child enters kindergarten, a verbal system may be used.~~

(ii) Parents are welcomed into the center at all times, for example, to eat lunch with a child, observe, or volunteer in the classroom.

(iii) Individual parent conferences are arranged for and documented at least annually and at other times as needed to discuss children's progress, accomplishments, and challenges and set goals together. Documentation of parent conferences is maintained with the child's records.

(iv) There is a parent resource area with books, pamphlets, and articles on parenting that is accessible and available to parents.

(v) At least two parent meetings with guest speakers or special events are held each year, for example, open house, brown bag lunch, family pot-luck dinners, and children's programs.

(vi) Parents are informed of the center's program by two of these three methods: parent's bulletin board, newsletter, or parent handbook.

(vii) Parents participate in program and policy development through board involvement, planning meetings, or an opportunity to complete yearly questionnaires.

(viii) The program provides OKDHS licensing contact information to all parents and makes a copy of applicable licensing requirements available to parents.

### **(F) Program evaluation.**

(i) Staff and parents are surveyed every two years to identify strengths and weaknesses of the program and evaluate the program's effectiveness in meeting the needs of children, parents, and staff.

(ii) Health and safety checklists for both indoor and outdoor spaces are completed annually.

(3) **Criteria for two star centers.** To be approved as a two star center, the owner or designated agent of a center must complete Form ~~OCC-25~~ 07LC025E, not have numerous, repeated, or serious non-compliance with licensing requirements, and meet either all one star plus criteria and the criteria described in (A) through ~~(GK)~~ of this paragraph or provide documentation that the center is accredited by an approved national accrediting body.

(A) **Administrative.** The center maintains a policy and procedure manual on-site that includes job duties and responsibilities for all staff. A minimum of two staff meetings are conducted annually.

(B) **Director.** The director is a member of a professional or business organization.

### **(C) Learning environment.**

(i) The center has and follows a schedule that provides time to allow children to complete tasks.

The schedule reflects a balance of active and quiet play and includes indoor and outdoor physical activities.

(ii) Space for children two years of age and older is arranged in a minimum of seven well-defined and equipped interest areas in each classroom to facilitate a variety of activities, which must include block building, dramatic play, manipulative play, art, book reading, math, and science or nature. The program makes learning centers available outdoors.

**(AD) Master teacher qualification.** Master teachers must be at least 18 years of age, employed and on-site on a full-time basis, and meet and maintain ~~Level III or higher on the Early Childhood Education Professional Development Ladder or meet and maintain one of these the requirements in (i) through (vi):~~

~~(i) an occupational~~ Occupational child care competency certificate for master teacher or lead teacher through an Oklahoma technology center and three months of satisfactory full-time experience in a licensed or legally exempt child care setting;

~~(ii) a current~~ Current Child Development Associate (CDA) or Certified Childcare Professional (CCP) credential;

~~(iii) a two~~ Two-year college Certificate of Mastery in early childhood education or child development from an accredited Oklahoma college;

~~(iv) 30 college credit hours from an accredited college or university, including 12 credit hours in early childhood education, child development, or an approved related subject;~~

~~(v) a four~~ Four-year degree from an accredited college or university with six college credit hours in child development, early childhood education, or an approved related subject;

~~(vi) a two~~ Two or four-year degree from an accredited college or university in early childhood education or child development.

**(BE) Master teachers required.** There is a full-time master teacher for every 30 children of the licensed capacity. During the second and subsequent year as a two or three star center, there must be a master teacher for every 20 children. This number does not include school-age children if the majority of children in care are younger than five years of age.

(i) Centers licensed as school-age programs or programs where the majority of children are school-age must have a master teacher for every 40 children of the licensed capacity.

(ii) A person is not counted as a master teacher in more than one facility or considered a master teacher in one facility and a director of another facility unless the facilities are programs that do not operate concurrently at any given time.

(iii) A request for exception to this rule must be written and submitted by the provider and approved by the stars program manager or designee.

~~(CF)~~ **Director as master teacher.** The director may be counted as a master teacher only if the licensed capacity minus school-age children is 30 or less. The director may be counted as a master teacher in centers licensed as school-age programs or programs where the majority of children are school-age.

~~(DG)~~ **Master teacher responsibilities.** Master teachers work directly with children and support other teaching staff with responsibilities such as program development, weekly lesson plans, use of space and equipment, interactions with parents, and program evaluation.

~~(EH)~~ **School-age master teacher.** In centers licensed as school-age programs or programs where the majority of children are school-age, the master teacher must be employed and on-site at least 50% of the weekly operating hours. The master teacher must currently meet and maintain either:

(i) one of the qualifications in (3)(AD); however, a degree or coursework in (3)(AD)(iii) through (vi) may also be in elementary education, recreation, or other coursework that supports working with the school-age child; or

(ii) 120 clock hours of school-age related Tier I, II, or III training within the last five years, one year of full-time experience in a licensed school-age child care program or legally exempt school-age child care program, and every two years a minimum score of 5.0 on the School-Age Environment Rating Scale in a classroom where the master teacher is the lead teacher.

~~(FI)~~ **Staff compensation.** The program must have and follow a salary scale with increments based on level of education, credentials, and years of early childhood experience. ~~The director evaluates staff, in writing, at least annually.~~ Compensation is based upon consideration of education, experience, and performance.

~~(J)~~ **Parent involvement.** In addition to parent involvement criteria listed for one star plus in (2)(E)(i) through (viii), a written report is provided to parents at the annual parent conference. The program maintains a current list of available community resources and assists parents in locating and connecting with these services as needed.

~~(GK)~~ **Program evaluation.** All In addition to program evaluation criteria listed for one star plus in (2)(F)(i) through (ii), all methods of program evaluation as described in (i) through ~~(v)~~(iv) of this paragraph are scheduled within the first six months of two star certification and must be completed within one year of receiving two star status and repeated as noted.

~~(i)~~ ~~The director or staff person from the facility attends approved training on program evaluation.~~

~~(iii)~~ An approved self-assessment tool is completed every two years and is kept on file at the center.

~~(iii)~~ ~~Staff and parents are surveyed every two years to identify strengths and weaknesses of the program and evaluate the program's effectiveness in meeting the needs of children, parents, and staff.~~

~~(ivii)~~ The program is assessed every four years using an assessment tool approved by OKDHS to determine the day-to-day quality of care provided to children. This assessment is not required for programs accredited through an approved national accrediting body.

~~(viii)~~ Program goals are established and updated every two years based on information gathered from ~~(G)(i) through (iv) the parent and staff survey, self-assessment tool, and approved OKDHS assessment tool.~~

(iv) The program has a written development plan for meeting established goals.

(4) **Criteria for three star centers.** To be approved as a three star center, the owner or designated agent of a center must complete Form ~~OCC 25 07LC025E~~, not have numerous, repeated, or serious non-compliance with licensing requirements, and meet all two star center criteria, except for the assessment in (b)(3)(G)(iv)(K)(ii) of this Section, and be accredited through an approved national accrediting body.

(c) **Criteria for family child care home certification levels.** The levels of certification for family child care homes are contained in this subsection.

(1) **Criteria for one star homes.** A home operating on a permit, license, or provisional license is automatically designated as a one star home.

(2) **Criteria for one star plus homes.** To be approved as a one star plus family child care home or large family child care home, the owner or designated agent must complete and submit Form ~~OCC 27 07LC027E~~, Request for Family Child Care Home Star Certification, and meet the requirements in (A) through ~~(DE)~~ of this paragraph. A home may operate on one star plus status for a total of 24 months, which are not required to run consecutively. ~~At the end of~~ After 24 months, the home must be approved as a two star home, request and receive an extension of time to comply, or return to one star status. If the new criteria cannot be met at 24 months, a facility may request an extension of time to comply as set forth in (g) of this Section.

(A) **Licensing status.** The home must have a license, provisional license, or permit ~~and not have~~. The monitoring visits and substantiated complaints for the last 12 months of operation are reviewed. If there are two or more incidents of numerous, repeated, or serious non-compliance with applicable licensing requirements or one serious incident resulting in injury or imminent risk of injury, the request

## Permanent Final Adoptions

may be denied. For the purposes of star certification, a 12-month period of time is reviewed, including the licensing record from the applicant's previous licenses, if any. The definitions of numerous, repeated, or serious non-compliance listed in (i) through (iii) of this paragraph apply for star certification.

(i) Numerous non-compliance is any monitoring visit with five or more items documented as non-compliant on the monitoring report. Numerous non-compliances during the initial licensing visit, prior to permit, may be disregarded when evaluating compliance history if all items were corrected in a timely manner.

(ii) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement in a 12-month period of time. For missing immunizations to be considered a repeat non-compliance, they must be regarding the same child.

(iii) Serious non-compliance is non-compliance with licensing requirements that exposes children to conditions that present an imminent risk of harm. Some examples of serious non-compliance are violations of requirements for:

- (I) staff-child ratio;
- (II) supervision of children;
- (III) sleep position;
- (IV) prohibited disciplinary actions;
- (V) licensed capacity;
- (VI) use of passenger restraints;
- (VII) water activities,
- (VIII) pools and other water hazards;
- (IX) multiple hazards;
- (X) weapons;
- (XI) reporting child abuse;
- (XII) prohibiting access to children by a person with a criminal record or health or behavior risk;
- (XIII) administering medication to children;
- (XIV) room temperatures; and
- (XV) heat sources.

(B) **Home provider training.** At application, the family child care home provider must have documentation of 20 clock hours of Tier I, II, or III training. At initial application, the training may be counted if training was obtained within the last 12 months or within the provider's employment year. After approval for certification, the training criteria must be met within the provider's employment year.

(i) Any assistant caregiver employed for at least 12 months must have documentation of 20 clock hours of Tier I, II, or III training per employment year.

(ii) A provider may count a total of six hours of in-service training each year. In-service training such as includes videos; and informal on-site; and

home association training is counted for a maximum of six hours per year. Reading does not count for stars training.

(iii) The family child care home provider has a written professional development plan.

(C) **Learning environment.** The family child care home provider has and follows a daily schedule, and reads to children a minimum of 15 minutes each day.

(D) **Parent involvement.** The family child care home provider must provide the methods of parent communication contained in this subparagraph. The provider:

~~(i) provides policies to parents upon the child's enrollment;~~

~~(ii) obtains and maintains on file a signed ~~contracts~~ contract for each family that includes, but is not limited to, policy concerning hours, fees, payment schedule, vacation, and termination;~~

~~(iii) encourages parents to visit any time their children are present, and provides access to all parts of the home used for child care;~~

~~(iv) arranges for and documents, at least once per year, a conference with each child's parents. They discuss the child's current progress, accomplishments, and challenges, and set goals together. Documentation of the parent conference is kept with the child's records;~~

~~(v) makes opportunities available for parents to be involved in the program's activities; and~~

~~(vi) has information available about common childhood issues and resources that provide services to parents and children and makes referrals as needed; and~~

~~(vii) provides OKDHS licensing contact information to parents and makes available to parents a copy of applicable licensing requirements.~~

(E) **Program evaluation.** The family child care home provider annually completes health and safety checklists for indoor and outdoor space.

(3) **Criteria for two star homes.** To be approved as a two star home, the owner or designated agent must complete Form ~~OCC-27 07LC027E~~, not have numerous, repeated, or serious non-compliance with requirements, and meet either all one star plus criteria and the criteria described in (A) ~~and through (B)~~ of this paragraph or provide documentation the home is accredited by the National Association of Family Child Care.

(A) **Provider qualifications.** The licensed provider in a family child care home, or the licensed provider or assistant in a large family child care home, must be on-site on a full-time basis and meet one of the provider qualifications listed in (i) through (vii) of this subparagraph. A person is not counted as a center master teacher, director, or qualifying home provider at more than one facility certified for a higher star level unless the facilities are programs that do not operate concurrently at any given time. A request for exception to this rule must be written and submitted

by the provider and approved by the stars program manager or designee. ~~The qualifying person must be on site on a full time basis. The licensed provider in a family child care home, or the licensed provider or assistant in a large family child care home, must meet Level III or higher on the Early Childhood Education Professional Development Ladder or one of the provider qualifications requirements listed in (i) through (vi) of this subparagraph.~~ The qualifying criteria are:

- (i) ~~an~~ occupational child care competency certificate for Master Teacher or Lead Teacher through an Oklahoma technology center and three months of satisfactory full-time experience in a licensed or legally exempt child care setting;
- (ii) current Child Development Associate (CDA) or Certified Childcare Professional (CCP) credential;
- (iii) a two-year college Certificate of Mastery in early childhood education or child development from an accredited Oklahoma college or university;
- (iv) 30 credit hours from an accredited college or university including 12 credit hours in early childhood education, child development, or an approved related subject;
- (v) a four-year degree from an accredited college or university with six college credit hours in early childhood education, child development, or an approved related subject;
- (vi) a two or four-year degree from an accredited college or university in early childhood education or child development; or
- (vii) if approved prior to June 1, 2004, the provider may continue to meet this criteria if the provider maintains 120 hours of job-related Tier I, II, or III training within the last five years, five years of full-time experience in a licensed or legally exempt child care setting, and every two years a minimum score of 5.0 on the Family Day Care Rating Scale.

(B) Assistant caregiver. The provider has a written job description for any assistant caregiver that defines the assistant's responsibilities and planned work schedule. Assistants are evaluated in writing annually by the licensed provider.

(C) Learning environment. The schedule reflects a balance of active and quiet play activities for both indoors and outdoors, and time to play alone and in a group. Children have opportunities during the day for dramatic and manipulative play, blocks, art, and books. The provider has a plan for transition times.

(D) Parent involvement. In addition to parent involvement criteria listed for one star plus in (c)(2)(D)(i) through (vi), provider references, including contact information, are available to parents. The provider has and uses a system for sharing and communicating with parents the happenings, activities,

and related issues about their child's physical and emotional state.

(BE) Program evaluation. All In addition to program evaluation criteria listed for one star plus in (c)(2)(E), all methods of program evaluation as described in (i) through (v) of this paragraph are scheduled within the first six months of receiving the two star certification and must be completed within one year of receiving two star status and repeated as noted.

- ~~(i) The licensed provider or full time assistant attends approved training on program evaluation.~~
- ~~(ii) An approved self-assessment tool is completed every two years and kept on file in the home.~~
- ~~(iii) Parents are surveyed every two years to identify strengths and weaknesses of the program and evaluate the program's effectiveness in meeting the needs of children and parents.~~
- ~~(iv) The program is assessed every four years using an assessment tool approved by OKDHS to determine the day-to-day quality of care provided to children. This assessment is not required for programs accredited through the National Association of Family Child Care.~~
- ~~(v) Program goals are established and updated every two years based on information gathered from (i) through (iv)(iii).~~
- (v) The home provider has a written development plan for meeting established goals.

(4) Criteria for three star homes. To be approved as a three star home, the owner or designated agent must complete Form ~~OCC-27 07LC027E~~, not have numerous, repeated, or serious non-compliance with requirements, and meet all two star home criteria, except for the assessment in (c)(3)(B)(iv)(E)(iii) of this Section, and be accredited through the National Association of Family Child Care.

(d) Approval for certification for homes and centers. The procedures contained in this subsection are followed for initial approval for certification and requests for higher certification level.

(1) The facility submits Form ~~OCC-25 07LC025E~~ or Form ~~OCC-27 07LC027E~~ and required documentation to the stars outreach specialist.

(2) The stars outreach specialist determines whether the certification criteria have been met by reviewing the case record and the documentation submitted by the facility. If it has been four months since the last monitoring visit, the stars outreach specialist requests licensing staff to make a monitoring visit. The stars outreach specialist reviews all information and consults with the licensing staff and stars program manager as needed prior to approval.

(A) The monitoring visits and substantiated complaints for the last 12 months of operation are reviewed to determine whether the facility meets the compliance criteria. The monitoring visits and substantiated complaints includes the licensing record

## Permanent Final Adoptions

from the provider's previous licenses, if any. If, within the 12-month period reviewed, there are two or more incidents of numerous, repeated, or serious non-compliance as defined in (b)(2)(A) and (c)(2)(A) of this Section or one serious incident resulting in injury or imminent risk of harm to a child, the request may be denied.

(B) If the facility meets the criteria, the stars outreach specialist updates the licensing database. The effective date is the first day of the next month, and the expiration date is two years later for one star plus facilities. The stars outreach specialist sends a letter to the provider confirming the approval and the effective date. If numerous, repeated, or serious non-compliance was identified during review of the case for the star certification, the letter includes a statement that these non-compliances are considered and may result in reduction of the star certification if subsequent non-compliances occur.

(C) If the facility fails to meet the criteria, the stars outreach specialist sends a letter to the provider identifying all the criteria that have not been met. The application is also reviewed by the stars outreach specialist to determine if another certification level can be met. The stars outreach specialist updates the licensing database accordingly.

(i) If a one star plus facility fails to submit Form ~~OCC 25 07LC025E~~ or ~~OCC 27 07LC027E~~ with supporting documentation at least 30 days prior to the end of the certification period, the star status expires and the database is updated to show the facility has returned to a one star level. This does not constitute a reduction in certification level as set forth in (h) of this Section. The stars outreach specialist sends a letter documenting the reduction in certification level return to one star level.

(ii) If a one star plus facility is denied at 24 months for failure to meet additional quality criteria, and has not requested and received an extension of time to comply from OKDHS, the star status expires and the database is updated to show the facility has returned to a one star level. This does not constitute a reduction in certification level as set forth in (h) of this Section.

(D) The provider may reapply at any time the criteria are met. If the request for a higher certification level is denied due to numerous, repeated, or serious non-compliance with licensing requirements, the provider is not approved for a higher certification level for six months after the date of the denial of the request. The six-month waiting period may only be reduced by the regional programs manager (RPM) upon evaluation of the facility's licensing record, written documentation of corrective actions taken, and observation and documentation by licensing staff of substantial improvement in compliance. The RPM notifies the provider in writing of the decision.

(E) The provider may withdraw the application prior to certification denial.

(F) The owner or designated agent of a home or center may request a reduction in star status. The request must be made in writing to the stars outreach specialist. The stars outreach specialist sends a letter documenting the provider's request for reduction, along with the effective date of the new star level, and updates the database to show the facility's new star level. A request to be reduced does not constitute a reduction in certification level as set forth in (h) of this Section.

(e) **Complaint investigations.** Pending complaint investigations do not impact the decision to approve the stars application.

(f) **Ongoing monitoring.** The procedures contained in this subsection are followed for ongoing monitoring.

(1) **Written notice.** The facility is required to notify the licensing staff in writing within five working days of any change in the information provided on Forms ~~OCC 25 07LC025E~~ or ~~OCC 27 07LC027E~~. If the facility has not notified the licensing staff of changes in the information provided on the certification request and certification requirements have not been met for over 90 days, the licensing staff reviews the case with the supervisor and RPM. Referrals are made to the stars outreach specialist and the certification level is may be reduced according to (h) of this Section.

(2) **Periodic monitoring visits.** ~~During a minimum of three periodic monitoring annually, the~~ The licensing staff completes Form ~~OCC 26 07LC026E~~, Periodic Certification Review - Center Star Certification, or ~~OCC 28 07LC028E~~ Periodic Certification Review - Home Star Certification, a minimum of once per year, and verifies that certification documentation is still current and accurate and that the facility has not developed serious non-compliance with licensing requirements. The licensing staff provides written notice to the owner or designated agent that certification criteria are not being met when:

(A) the licensing staff documents serious non-compliance with requirements, as outlined in (b)(2)(A)(iii) for centers and (c)(2)(A)(iii) for homes;

(B) a complaint that may place the health, safety, or well-being of children at imminent risk of harm is substantiated; and/or

(C) the licensing staff has knowledge that the facility is not meeting certification criteria.

~~(A) Only two periodic stars monitoring visits are required annually for licensing programs that~~

~~(i) operate less than a full year;~~

~~(ii) are approved for reduced visits according to OAC 340:110-1-9(a); or~~

~~(iii) have a cooperative licensing agreement with a tribal program.~~

~~(B) Licensing programs that are inactive according to OAC 340:110-1-9(n) have one periodic stars monitoring visit annually.~~

(3) **Non-compliance.** If a provider has serious non-compliance with licensing requirements, the star level of a facility may be reduced.

(4) **Violations.** If violations of certification criteria are documented, or if the facility notifies the Division of Child Care (DCC) in writing of any change, the procedures in (A) through (C) are followed.

(A) The facility submits a written plan for correcting the violations within an agreed-upon time frame, not to exceed 90 days from the date the violation occurred or the date a facility is notified of a substantiated complaint.

(B) Licensing staff provides written notification to the director and owner or designated agent of a facility documenting the violations and including a statement that a reduction in the star certification level may occur when:

- (i) violations are not corrected in the agreed-upon time frame;
- (ii) the facility has serious non-compliance with licensing requirements;
- (iii) a serious incident occurs resulting in injury or imminent risk of injury harm to a child; or
- (iv) an Emergency Order or notice of proposed denial or revocation of license is issued.

(C) The statement advises the provider of the right to request an extension of time to comply, as outlined in (g) of this Section.

(g) **Extension of time to comply.**

(1) The provider has the right to request an extension of time to comply when:

- (A) a center or home fails to maintain the criteria for the certification level; ~~and or~~
- (B) two star criteria cannot be met after 24 months of one star plus status.

(2) The owner, designated agent, or director submits ~~the request for an extension in writing~~ Form 07LC074E, Request for Extension, to the stars program manager or designee 30 days prior to the expiration of the one star plus certification or the agreed-upon time frame for the correction of the violations.

(3) One or more discretionary extensions of time to comply may be granted. The applicant must demonstrate and provide documentation where appropriate that the violation of the criteria was not foreseeable and was beyond the applicant's control.

(4) The provider is notified of the decision in writing.

(h) **Reduction in certification level.** The procedures in this subsection are followed when violations are not corrected within the agreed-upon time frame; the facility has serious non-compliance with licensing requirements; a serious incident occurs resulting in injury or imminent risk of harm to a child; OKDHS has issued an Emergency Order; a notice of proposed denial or revocation of license has been issued; or an

injunction is obtained. Certification is reduced to the level at which the provider meets criteria.

(1) The licensing staff reviews the case with the supervisor and RPM. Referrals are made in writing to the ~~stars outreach specialist~~ stars outreach specialist ~~If the criteria not met includes serious non-compliance, the stars outreach specialist obtains approval from the stars program manager before any action is taken or designee. A determination on whether a reduction is warranted is made within 30 days of receipt.~~

(2) If a reduction is warranted ~~and approval has been obtained from~~, the stars program manager or designee, ~~the stars outreach specialist~~ sends a certified letter to the licensed home provider or director documenting the reduction in certification level.

(A) A copy of the letter notifying the provider of the right to request an administrative review of the decision is sent to the owner or designated agent of the facility.

(B) The certified mail delivery receipt card is addressed to return to the ~~Director~~ director of Child Care Services.

(C) In order to receive an administrative review, the provider must submit a request in writing to the ~~Director~~ director of Child Care Services within 15 calendar days of receipt of the OKDHS letter notifying the provider of the reduction.

(D) The request must include written documentation stating the provider's grounds for appeal.

(3) The stars ~~outreach specialist~~ program manager or designee enters the recommended reduction on the database ~~and the stars program manager approves the action.~~ State Office licensing staff update any changes in the star status level and star payment rate following verification of the provider's receipt of the certified letter and the administrative review, if requested.

(4) The procedures in (A) through (C) of this paragraph are followed when an administrative review is requested.

(A) Within 30 days of receipt of the request for an administrative review, a letter is sent notifying the provider of the date of the administrative review. The letter is sent to the provider's last known address. The provider is given at least two weeks written notice prior to the administrative review. ~~Supporting documentation OKDHS intends to use to support its decision is included with the letter.~~ Additional documentation may be presented prior to or at the beginning of the administrative review, with copies provided to all representatives.

(B) The review is conducted by the stars review panel, which consists of three OKDHS staff persons who have not been involved in the decision to reduce the certification level. The provider may submit written documentation and is given an opportunity to appear at the administrative review. ~~The standard of review applied by the panel is whether the decision of OKDHS to reduce the certification level is substantially supported by the evidence.~~

## Permanent Final Adoptions

---

- (C) When possible, the reviewing panel makes a determination to either affirm or reverse the OKDHS decision on the date of the administrative review and announces the decision at the conclusion of the review. Time constraints or the complexity of issues may require the panel to take a matter under advisement. Written findings are completed within ten calendar days from the date of the review.
- (5) If there is evidence of extenuating or revised circumstances, the provider may propose alternative settlement options prior to the date of the review hearing by contacting the RPM. If an alternative settlement is proposed, the provider is notified in writing of the regional programs manager's decision to accept or deny the proposed alternative settlement. If the regional programs manager accepts the provider's alternative settlement, a copy of the provider's proposal is sent to the stars outreach specialist and to the licensing staff and the star level is not reduced. If the regional programs manager denies the alternative settlement, the reduction in certification procedures as outlined in (h)(4)(B) are followed.
- (6) The provider may reapply for a higher certification level at any time the criteria are met. If the certification level is reduced due to serious non-compliance with licensing requirements, the provider is not approved for a higher certification level for six months after the receipt of the certified reduction letter.
- (i) **Change in ownership.** When there is a change in ownership or change in form of business entity of a family child care home, child care center, part-day children's program, or school-age program, the case is closed and the star status is removed. To be approved for a higher star level, the new owner or designated agent must complete and submit Form ~~OCC-25 07LC025E~~ or Form ~~OCC-27 07LC027E~~ and meet all the requirements applicable to the star level for which application is made.
- (j) **Change in location.** If the location of a facility changes, the licensing staff completes Form ~~OCC-26 07LC026E~~ or Form ~~OCC-28 07LC028E~~ to verify compliance with the criteria at the new location.
- (k) **Record-keeping.** Periodic review forms, certification request forms, and supporting documentation are maintained in the official licensing file or in a separate file that is part of the open record, with the exception of page 56, staff salary report, of Form ~~OCC-25 07LC025E~~ ~~staff salary report~~, which is maintained confidential. When maintained, pay stubs and photos that include children are also kept confidential.
- 340:110-1-9. Case management**
- (a) **Periodic monitoring visits.** The Division of Child Care (DCC) licensing staff makes a minimum of three unannounced monitoring visits to facilities that operate a full-year program and two unannounced monitoring visits annually to facilities that operate less than a full year. Licensing staff varies the time of monitoring visits to include lunch observation and an evening visit to child care centers with extended hours. Weekend monitoring visits are required only when there has been a complaint specific to weekend care.
- (b) **Ongoing monitoring.** During each monitoring visit, the licensing staff observes the entire facility, including outdoor play space and vehicles used for transportation, if available. At or subsequent to each visit, licensing staff checks:
- (1) compliance with licensing regulations;
  - (2) records for new staff;
  - (3) staff training records;
  - (4) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons; and
  - (5) fire and health inspections within the last 24 months, if applicable.
- (c) **Technical assistance and consultation.** Licensing staff provides:
- (1) technical assistance to licensees to assist them in meeting minimum requirements; and
  - (2) consultation on various aspects of quality child care.
- (d) **In-home caregivers.** The Family Support Services Division (FSSD) day care assistance worker notifies the licensing staff on Form ~~K-13 08MP013E~~, Information/Referral - Social Services, of the approval of a child care plan involving an in-home caregiver. In-home care is provided by a person in the child's own home.
- (1) Within 30 calendar days of receipt of Form ~~K-13 08MP013E~~, the licensing staff mails a packet of information to the caregiver. The packet includes information on child growth and development, health and safety issues, training opportunities, and other resources.
  - (2) Upon request, licensing staff provides consultation to in-home caregivers.
  - (3) Completion of six clock hours of training by the caregiver within 90 days of his or her approval is verified by the FSSD day care assistance worker.
- (e) **Agreements with tribal licensing programs and other monitoring agencies.** OKDHS may enter into a cooperative licensing agreement with a tribal licensing program or other monitoring agency.
- (f) **Equipment inventory.** Licensing staff completes the appropriate Equipment Inventory, Form ~~OCC-6 07LC006E~~, ~~OCC-20 07LC020E~~, or ~~OCC-24 07LC024E~~, prior to a license being issued. The licensing staff or the facility may complete the appropriate Equipment Inventory prior to a change in facility class and prior to an increase in licensed capacity in a child care center, part-day children's program, and school-age program. The purpose of the inventory is to document the equipment available and items needed to comply with the equipment requirements. The licensing staff may conduct a complete inventory any time concern exists about the availability of required equipment.
- (g) **Change of address.** When a facility moves to a new address, the licensing staff conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements, and obtains an updated application. For child care centers, part-day children's programs, and school-age programs, new fire and health inspections, if applicable, are required.

(h) **Change in name.** When there is a change in name, licensing staff verifies there is no change in ownership, and documents the change in the case record and database.

(i) **Change in director.** When there is a change in director, licensing staff:

- (1) verifies the new director meets qualifications;
- (2) obtains a completed and signed Form ~~OCC-4~~ 07LC004E, Application for License - Child Care Facility, page 5;
- (3) obtains references;
- (34) obtains from the director a completed appropriate compliance review, Form ~~OCC-69-07LC069E~~, ~~OCC-72~~ 07LC072E, or ~~OCC-73~~ 07LC073E, if the director has no previous director experience;
- (45) notifies the new director of current employees that have been granted a waiver; and
- (56) documents the information on Form ~~OCC-3, Child Care Center Monitoring Report, page 4~~ 07LC080E, Licensing Services Supplemental Information.

(j) **Change in household.** All changes in household members are documented on the monitoring report. When there is a new adult household member in a family child care home or large child care home, the required documentation is:

- (1) page 5 of Form ~~OCC-42~~ 07LC042E, Application for License - Family Child Care Home and Large Child Care Home;
- (2) criminal background check; and
- (3) OKDHS computer check.

(k) **Change in ownership.** When there is a change in ownership or change in form of business organization of a family child care home, child care center, part-day program, or school-age program, the case is closed and a new application is obtained.

(l) **Change in facility class.** When a facility requests a change in facility class, the procedures contained in this subsection are followed.

- (1) The case is closed and a new application is required when a family child care home converts to a child care center, part-day program, or school-age program, or when a child care center, part-day program, or school-age program converts to a family child care home.
- (2) Any other request for change in class does not require case closure and documentation includes:
  - (A) a request in writing from the provider;
  - (B) a new application with updated information;
  - (C) documentation that the facility meets the requirements for the requested class type;
  - (D) an Equipment Inventory, if applicable;
  - (E) a current approved fire inspection, if applicable;
  - (F) a current approved health inspection, if applicable; and
  - (G) database updates to the appropriate class and monitoring frequency plan.

(m) **Procedure for increasing or decreasing capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form ~~OCC-3, Child Care Center Monitoring Report, page 4~~ 07LC080E, Licensing Services

Supplemental Information, and must be approved by the licensing supervisor. If the request to increase capacity is due to additional physical space, the facility must not have a history of numerous, repeated, or serious non-compliance, and must provide:

- (1) the reason for the increase;
- (2) an updated floor plan on Form ~~OCC-57~~ 07LC057E, Physical Plant, that reflects adequate indoor and outdoor space, toilets, and sinks for the increase and any changes;
- (3) fire department approval of any space not previously inspected;
- (4) ~~Oklahoma State Department of Health~~ health approval of any space not previously inspected; and
- (5) updated Equipment Inventory that reflects adequate equipment for the increase.

(n) **Inactive cases.** If children have not been in care on a regular basis during the previous year, the option of voluntary closure is discussed with the provider.

- (1) A provider who wants his or her case to remain open submits a request in writing including a statement that the provider will notify Division of Child Care, Licensing, when care is resumed.
- (2) The provider is contacted periodically by licensing staff by telephone or letter to update the provider's status, and visited at least once a year to verify and document compliance with licensing requirements.

(o) **Response to a sudden infant death syndrome (SIDS) child death.** When notified of death of a child while in child care, licensing staff completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee. When notified of a death ~~assumed to be SIDS~~, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement.

(p) **Serious incident reports.** The licensing supervisor submits to the licensing regional programs manager, county director, and statewide licensing coordinator a report of any serious incident.

(q) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form ~~OCC-3, page 4~~ 07LC080E is completed, a copy is sent to the provider, and the data system is updated.

**340:110-1-9.1. Certification of child care facilities to receive increased reimbursement rate for the care of children with disabilities**

(a) **Purpose.** Certification is the process through which Division of Child Care (DCC) licensing staff documents that a child care facility meets certification requirements for a child with disabilities.

- (1) Certification is required for a provider to receive the child care rate for a child with disabilities.
- (2) To qualify for the higher rate the:
  - (A) facility must be licensed, have a provider contract, and be certified to care for the child;
  - (B) child's family must be eligible for Oklahoma Department of Human Services (OKDHS) subsidized child care services; and

## Permanent Final Adoptions

---

- (C) child must be receiving benefits from at least one of the following sources: in this subparagraph.
- (i) Supplemental Security Income (SSI) benefits;
  - (ii) SoonerStart, early intervention program for children birth to age three; ~~or,~~
  - (iii) Special Education Services, public school program for children ages three and older.
- (b) **Initial approval for certification.** For initial approval for certification the procedures contained in this subsection are followed.
- (1) Upon receipt of Form ~~ADM-123~~ 08AD006E, Certification for Special Needs Child Care Rate, the licensing staff contacts the facility by phone within five working days when a monitoring visit has been made in the last four months. When a monitoring visit has not been made within the last four months the licensing staff visits the child care facility within ten working days.
  - (2) Approval for certification is based upon verification that:
    - (A) the facility director or family child care home provider has completed Section III of Form ~~ADM-123~~ 08AD006E, agreeing to meet the individual needs of the child;
    - (B) the facility has a previous record of compliance with minimum licensing requirements. A facility on a six-month permit may be certified if currently in compliance with licensing requirements;
    - (C) facility staff currently trained in first aid and cardiopulmonary resuscitation (CPR), including infant and child, are present at all times when the child with disabilities is in care. The licensing staff checks training documentation to obtain the effective dates of training. Only training that is approved by the Oklahoma Department of Human Services (OKDHS), such as Red Cross, American Heart Association, or First Care, is accepted. The licensing staff recommends that more than one caregiver be trained to ensure that trained staff is always present when the child is in care;
    - (D) the facility staff persons who work with the child have received on-site consultation regarding the nature of the child's disability and the development of a child care plan, to include staffing, equipment, and specialized training needs. The consultant provides resource materials to the facility for future reference. After initial certification, the facility staff persons who work with the child must conduct and document annual conferences with the child's parent or guardian to review the needs of the child. If the child's needs have changed, the procedures in (5) of this subsection are followed; and
    - (E) within six months of certification, appropriate staff obtain six hours of training in areas that address the care of children with disabilities.
      - (i) The center director and at least one person who works directly with the child must receive training. It is preferable that all staff persons who work with the child are trained.
      - (ii) As staff changes occur, a new director or new staff persons who work directly with the child must obtain training within six months of that assignment.
      - (iii) First aid, CPR, or informal training is not counted to meet the special training requirement.
      - (iv) Recommended training includes Special Care's Unique Environments, Child Care Careers' Helping Children with Special Needs, Tic-Toc training, SoonerStart training, or specialized workshops or conferences addressing the care of children with special needs.
  - (4) Upon completion of Section IV of Form ~~ADM-123~~ 08AD006E, the licensing staff sends the original to the appropriate county staff responsible for child care assistance. Copies of Form ~~ADM-123~~ 08AD006E and the monitoring report are sent to the licensing supervisor, and copies are maintained in the facility's file.
  - (5) When Form ~~ADM-123~~ 08AD006E is completed and Family Support Services Division (FSSD) has determined the child is eligible for one of the special needs rates, a new Form ~~ADM-123~~ 08AD006E is completed when:
    - (A) the needs of the child change; or
    - (B) the child stops attending the facility for more than six months.
  - (6) If the licensing staff documents that certification requirements have not been met, the licensing supervisor reviews the documentation and approves the denial. The provider is informed in writing within 30 days of the initial receipt of Form ~~ADM-123~~ 08AD006E of the certification criteria that have not been met and the right to request an administrative review.
  - (7) A request for an administrative review must be submitted in writing to the statewide licensing coordinator or designee within ten calendar days of notification. An administrative review is conducted within ten calendar days of receipt of the request.
  - (8) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from DCC.
  - (9) The facility and FSSD are notified in writing of the decision by the statewide licensing coordinator.
- (c) **Ongoing monitoring.** The procedure for ongoing monitoring contained in this subsection is followed.
- (1) **Periodic monitoring visits.** During periodic monitoring visits, the licensing staff completes Form ~~OCC-8~~ 07LC008E and verifies that certification requirements are met, including:
    - (A) the enrollment status of the child;
    - (B) staff present with first aid and CPR training;
    - (C) annual conference with the child's parent or guardian;
    - (D) director and staff training relative to care of children with disabilities; and

(E) observations that indicate that the program is meeting the individual needs of the child as recorded on Form ~~ADM-123~~ 08AD006E.

(2) **Violations.** All violations observed are documented on page 4 of the monitoring report, and a plan of correction is developed with agreed-upon time frames for correction of violations. If there are serious or ongoing violations of certification requirements, a letter is sent to the operator documenting the violations and plan of correction, and a copy is sent to the parent(s) of the child with special needs who is affected by the violation(s).

(d) **Withdrawal of certification.** Certification continues until a child leaves a facility or unless there is documentation of serious or ongoing violations of certification requirements or when OKDHS has issued an Emergency Order or a notice of proposed denial or revocation of license. Violations of certification requirements are different from non-compliance with licensing requirements, although they may involve the same issue, for example, understaffing. If violations are not corrected and represent a potential risk to the child, such as serious understaffing in the child's room or staff without first aid training, the procedure in this subsection is followed.

(1) The licensing staff reviews the case with his or her supervisor.

(2) An office conference is held with the provider at which time ~~he or she~~ the provider is notified that certification is being withdrawn and the provider has the right to request an administrative review of the decision.

(3) A letter is sent to the provider documenting withdrawal of certification and the right to request an administrative review of the decision. If the provider did not attend the office conference, the letter is sent by certified mail. A copy of the letter is sent to the appropriate county office staff responsible for child care assistance who is responsible for notifying the parent and provider of the rate change and its effective date.

(4) A request for an administrative review must be submitted in writing by the facility to the statewide licensing coordinator or designee within seven calendar days of receipt of the letter. An administrative review is conducted within ten calendar days of receipt of the request.

(5) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from DCC.

(6) The facility and FSSD are notified in writing of the decision by the statewide licensing coordinator.

(7) A provider may reapply for certification when compliance with certification requirements has been reestablished.

**340:110-1-9.2. Complaint investigations**

(a) **Legal basis.** The Child Care Facilities Licensing Act (Act) [10 O.S. § 406] mandates that the Oklahoma Department of Human Services (OKDHS) conduct a full investigation of a complaint alleging a violation against the Act or any licensing requirement.

(b) **Receipt of the complaint.** Complaints may be made to Division of Child Care, Licensing in writing, in person, or by telephone.

(c) **Complaint information.** The licensing staff obtains as much relevant information as possible from the complainant.

(d) **Screening complaints.** The licensing staff accepts a complaint for investigation when it alleges:

- (1) non-compliance with licensing requirements;
- (2) operation of an unlicensed facility in violation of the Act; or
- (3) abuse or neglect of a child in care.

(e) **Complaint risk levels.** Risk levels are determined by the licensing staff based upon the degree of harm or danger to children in care. Risk levels are used to ensure that investigations occur in a timely manner and to track types of complaints.

(1) **Risk level I complaints.** Risk level I complaints indicate a child is in imminent ~~danger~~ risk of serious physical ~~injury~~ harm. The level of risk is not influenced by the removal of a child from the facility if other children remain in care. Investigations are initiated immediately or no later than 24 hours after receipt of the complaint by the licensing staff unless awaiting investigation by Child Welfare (CW) or law enforcement. This does not include weekends and holidays if the facility is closed. Examples of risk level I complaints include:

- (A) alleged physical or sexual abuse;
- (B) use of illegal drugs while children are in care;
- (C) distribution of drugs;
- (D) children left alone in the facility or in a vehicle;
- (E) extreme facility temperatures;
- (F) an infant placed on the stomach for sleeping;
- (G) threatening or impaired behavior of a caregiver; or
- (H) severe understaffing or over-capacity.

(2) **Risk level II complaints.** Risk level II complaints do not indicate there is imminent ~~danger~~ risk of ~~injury~~ harm, but without intervention, a child may not be safe. Investigations are initiated within 15 calendar days of receipt of the complaint by the licensing staff, or sooner depending on the degree of risk, unless advised by CW or law enforcement to delay the investigation. Examples include:

- (A) leaving children with an underage staff person;
- (B) alleged physical abuse from a staff person no longer working in the facility;
- (C) inappropriate discipline where no injury is reported;
- (D) broken playground equipment;
- (E) injury caused by lack of supervision; or
- (F) minor understaffing.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent ~~danger~~ risk of ~~injury~~ harm and there are no injuries alleged. Investigations are initiated within 30 calendar days of the date of receipt of the complaint by the licensing staff or immediately if a telephone investigation is appropriate. Examples include:

- (A) inadequate meal service;
- (B) lack of play equipment;

# Permanent Final Adoptions

- (C) inappropriate use of television or videos; or
- (D) inadequate cleanliness of the facility.
- (f) **The investigation.** The licensing staff conducts a full investigation, obtaining sufficient information to make a finding.
- (g) **Telephone investigation.** With supervisory approval, the licensing staff may investigate a complaint by telephone. The discussion and, if necessary, an agreed-upon plan of correction, is documented on ~~page 4 of Form OCC-3 07LC080E, Child Care Center Monitoring Report Licensing Services Supplemental Information.~~ A copy is sent to the operator. A complaint may be investigated by telephone only when:
  - (1) the alleged non-compliance does not place children at risk of harm, for example, the facility did not serve milk one day or children have head lice;
  - (2) the facility has not had numerous, repeated, or serious non-compliance; and
  - (3) a monitoring visit has been made in the last three months during which substantial compliance was documented.
- (h) **Procedure for investigating an allegation of operating an unlicensed facility.** When a complaint alleging operation of an unlicensed facility is received, the procedure contained in OAC 340:110-1-13(b) is followed.
- (i) **Child abuse and neglect complaints.** Upon receipt of a complaint alleging abuse of a child in care, the licensing staff immediately notifies the licensing supervisor and makes a referral to CW. If the allegation involves a ~~Priority I~~ child abuse or neglect ~~complaint, for example, or~~ a report indicating that a child is in imminent ~~danger~~ risk of serious physical ~~injury~~ harm, the licensing regional programs manager is also notified.
- (j) **Findings.** After the investigation is completed, the licensing staff, in consultation with the licensing supervisor, as appropriate, makes a finding as to whether the complaint is substantiated, ~~or unsubstantiated, or ruled out.~~
  - (1) **Substantiated.** A finding of substantiated is made when a weighing of the information obtained during the investigation clearly indicates ~~that~~ the facility violated any licensing requirement or the Act.
  - (2) **Unsubstantiated.** A finding of unsubstantiated is made when ~~the allegation is found to be uncertain or ruled out.~~
    - (A) ~~It is found to be uncertain when~~ the information does not lead to a definite conclusion, for example:
      - (i) ~~A~~ there is insufficient or conflicting information on which to conclude that a violation occurred; or
      - (ii) ~~B~~ information needed to make a finding is unavailable.
    - (B) ~~Ruled out. It is a finding of ruled out is made~~ when a weighing of the information clearly indicates that there was not a violation of any licensing requirement or the Act.
- (k) **Documentation of findings.** Upon completion of the investigation, the licensing staff:
  - (1) documents the findings;
  - (2) notifies the provider in writing of the findings;
  - (3) enters the complaint information on the licensing database using complaint key words; and
  - (4) updates and closes the complaint tracking screen.

- (l) **Use of Notice to Comply, ~~Form OCC-37.~~** When a serious complaint has been substantiated, the licensing staff advises the facility to correct the violations immediately and requests that the facility complete Form ~~OCC-37 07LC037E~~, Notice to Comply, following the procedure in OAC 340:110-1-9.3(d)(7).

## 340:110-1-9.3. Non-compliance with requirements

- (a) **Documentation of non-compliance.** The Division of Child Care (DCC) licensing staff clearly and concisely documents on the monitoring report areas of non-compliance and the discussion with the operator.
  - (1) A plan of correction, including a specific agreed-upon time period for correction of the non-compliance, is documented for each non-compliance on the monitoring report.
  - (2) Immediate correction is required when the non-compliance has a direct impact on the health, safety, or well-being of one or more children in care.
  - (3) The licensing staff requests that the operator sign the monitoring report, and explains that the operator's signature indicates acknowledgment of information recorded.
  - (4) If the person in charge refuses to sign, the refusal is documented on the report.
  - (5) The operator is given a copy of the completed monitoring report.
- (b) **Referrals to fire and health officials.** If non-compliance regarding fire or health requirements places children at risk or remains uncorrected, the licensing staff requests an inspection by a fire, health, or Department of Environmental Quality (DEQ) official. If there is non-compliance regarding smoke detectors, the child care provider is given a copy of the Smoke Detector Law, Section 324.11A of Title 74 of the Oklahoma Statutes. If the non-compliance is not corrected by the third monitoring visit or is frequently repeated, copies of the monitoring reports are sent with a cover letter to the appropriate fire official for enforcement of the law.
- (c) **Numerous, repeated, and serious non-compliance.**
  - (1) Numerous non-compliance is any monitoring visit with:
    - (A) five or more items documented as non-compliant on the monitoring report for a family child care home or large child care home;
    - (B) six or more items documented as non-compliant on the monitoring report for a child care center, part-day children's program, or school-age program with a licensed capacity of less than 60; or
    - (C) seven or more items for a child care center, part-day children's program, or school-age program with a licensed capacity of 60 or more.
  - (2) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement within the last 12 months. For missing immunizations to be considered a repeat non-compliance, they must be regarding the same child.
  - (3) Serious non-compliance is a non-compliance with licensing requirements that exposes children to conditions

that present an imminent risk of harm. Some examples of serious non-compliance are violations of requirements for:

- (A) staff-child ratio;
- (B) supervision of children;
- (C) sleep position;
- (D) prohibited disciplinary actions;
- (E) licensed capacity;
- (F) use of passenger restraints;
- (G) water activities;
- (H) pools and other water hazards;
- (I) multiple hazards;
- (J) weapons;
- (K) reporting child abuse;
- (L) prohibiting access to children by a person with a criminal record or health or behavior risk;
- (M) administering medication to children;
- (N) room temperatures; and
- (O) heat sources.

(d) **Case management responses to non-compliant facilities.** When there is numerous, repeated, or serious non-compliance, one or more of the actions in (1) through (11) is taken.

- (1) **Technical assistance.** Technical assistance is offered along with referrals to consultants or training resources, if necessary, to assist the operator in meeting and maintaining licensing requirements.
- (2) **Follow-up phone call.** Follow-up phone calls are made, and documented on ~~page 4 of Form OCC-3 07LC080E, Child Care Center Monitoring Report Licensing Services Supplemental Information.~~ A copy of the documentation is mailed to the facility.
- (3) **Non-compliance letters.** A non-compliance letter may be written to the operator. A copy of the non-compliance letter is sent to the owner or designated agent, if applicable, with a copy of the monitoring report.
- (4) **Return monitoring visit.** A return monitoring visit may be made if there is numerous, repeated, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit is made at that approximate time.
- (5) **Use of witnesses.** The licensing staff may be accompanied by a witness during monitoring visits if the facility has had numerous, repeated, or serious non-compliances or if denial or revocation of the license is under consideration. The witness may be an Oklahoma Department of Human Services (OKDHS) employee or a representative from the health or fire department. The witness signs the monitoring report in the space provided.
- (6) **Increased monitoring visits.** Licensing staff may increase the frequency of monitoring when there has been numerous, repeated, or serious non-compliance or when the need for additional technical assistance is indicated.
- (7) **Notice to comply.** The licensing staff provides the facility with Form ~~OCC-37-07LC037E,~~ Notice to Comply,

on which the facility documents the plan of correction. Immediate correction may be required if the non-compliance places the health, safety, or well-being of one or more children in care at risk.

- (A) If the plan submitted by the operator is unacceptable to the licensing staff, the licensing staff negotiates and documents a revised plan.
- (B) If the Notice to Comply is not submitted within the specified time period, the licensing staff contacts the operator and documents the conversation.
- (C) If concerns exist or the operator is uncooperative, the licensing staff sends a letter stating that failure to complete a Notice to Comply may result in revocation of license, denial of the application, or filing of an injunction or emergency order.
- (8) **Office conference.** The licensing staff may schedule an office conference with the operator of the facility. The supervisor is present at the office conference. The licensing regional programs manager is informed of the office conference and may be present, if necessary.
  - (A) Areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered.
  - (B) The conference is documented on Form ~~OCC-3 07LC003E, page 4~~ which is signed by the licensing staff, the operator, and any witnesses present. This documentation includes a list of every person who is present and the purpose of the conference.
  - (C) A Notice to Comply is completed if one addressing these issues has not been completed recently.
- (9) **Consent agreement.** OKDHS and the operator of the facility may enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation, per OAC 340:110-1-9.5.
- (10) **Revocation.** The licensing staff recommends that the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children, per OAC 340:110-1-10.
- (11) **Voluntary cease care.** With State Office approval, the operator is asked to voluntarily cease caring for children.
- (12) **Voluntary closure.** With State Office approval, the operator is asked to voluntarily close the facility, per OAC 340:110-1-11.
- (e) **Case management responses when children are at risk.** If the licensing staff documents non-compliance with requirements or is investigating a complaint that may place the health, safety, or well-being of children at imminent risk of harm, options to consider during consultation with the operator and the licensing supervisor are outlined in this subsection. If any of options (2) through (7) are utilized, the local resource and referral agency is notified.
  - (1) The operator is asked to immediately correct the non-compliance, for example, the staff person will not work at the facility pending the outcome of an investigation.

## Permanent Final Adoptions

(2) The operator is asked to discontinue child care until the non-compliance is corrected or the investigation is complete.

(3) The operator is asked to voluntarily close the facility.

(4) The licensing staff requests an emergency order, per OAC 340:110-1-9.4, when immediate action is needed to protect children in a child care facility that is on permit, licensed, on notice of revocation or denial, or operating during an appeal following revocation or denial. ~~Refer to OAC 340:110-1-9.4.~~

(5) The operator agrees to enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation. ~~Refer to, per~~ OAC 340:110-1-9.5.

(6) The licensing staff recommends that the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children. ~~Refer to, per~~ OAC 340:110-1-10.

(7) An injunction may be requested when a child care facility is:

- (A) unlicensed;
- (B) on application status;
- (C) licensed;
- (D) violating an emergency order;
- (E) operating during an appeal following revocation or denial and children are at risk; or
- (F) violating the notice to cease care following revocation or denial of license.

(f) **Notification to supervisor when children are at risk.** If during a monitoring visit the licensing staff is concerned that the health, safety, or well-being of children is at imminent risk, the licensing supervisor or DCC staff is contacted immediately for an appropriate response.

(g) **Alternative method of compliance.** DCC may approve an alternative method of compliance to a minimum licensing requirement. An alternative method of compliance may be authorized if DCC determines that the alternative method of compliance offers equal protection of health, safety, and ~~welfare~~ well-being to children, meets the basic intent of the requirements for which the alternative compliance was requested, and does not violate statutory requirements.

(1) An applicant or licensee may submit a written request on Form ~~OCC-61-07LC061E~~, Alternative Compliance Request, for authorization to the statewide licensing coordinator or designee. A separate request is submitted for each requirement for which an alternative method of compliance is requested.

(2) Approval of an alternative method of compliance does not set a precedent, and is independently evaluated on the merits of each request.

(3) The facility's record of compliance is taken into consideration in determining whether to approve the request.

(4) An alternative method of compliance is not authorized for critical items affecting the health and safety of a child, such as exceeding licensed capacity or staff-child

ratios, fire safety violations, or behavior and guidance violations.

(5) Written notice from OKDHS, Form ~~OCC-61-A-07LC075E~~, Notice of Alternative Compliance, stating the nature of the exception, is posted with the license.

### 340:110-1-9.4. Emergency order

(a) **Process to obtain emergency order.** An emergency order may be issued by the Oklahoma Department of Human Services (OKDHS) when immediate action is needed to protect the health, safety, or well-being of children in a licensed child care facility.

(1) If the operator is unwilling to voluntarily correct the hazardous situation, the licensing staff notifies the licensing supervisor and licensing regional programs manager. If the supervisor agrees that an emergency order is warranted, all supporting documentation is sent by the quickest means available to the statewide licensing coordinator or designee.

(2) If in agreement, a written order is issued and signed by the statewide licensing coordinator or designee. The order:

- (A) states the existence of an emergency;
- (B) sets forth remedies, such as removal of children from the facility or closure of the facility; and
- (C) includes the right to appeal the decision.

(3) The order is effective immediately.

(4) The order remains in effect until rescinded or the facility license is denied or revoked.

(b) **Removal of children.** If children are at imminent risk of serious harm and immediate removal from the child care facility is indicated, the statewide licensing coordinator or designee gives verbal approval for removal of children. Two options available are:

(1) the operator and parents are told that the child care facility will not reopen on the following day; or

(2) parents are contacted and advised to pick up their children immediately. If every effort has been made to reach the parents and children are at imminent risk of harm, the licensing staff contacts the police and requests that the children be taken into protective custody.

(c) **Rescinding the order.** The emergency order may be rescinded when the licensing staff verifies correction of the hazardous situation. Upon receipt of such documentation, the statewide licensing coordinator or designee notifies the operator in writing that the order has been rescinded.

(d) **Hearing process.** The operator may request a hearing by filing a written request within ten days of receipt of the emergency order. The hearing is conducted within ten days from receipt of the operator's request. An OKDHS hearing officer conducts the hearing.

(e) **Appeal rights.** If the results of the OKDHS hearing are disputed, the operator may file an appeal in district court within 30 days of the decision.

(f) **Injunction.** If an operator violates the conditions set forth in the emergency order, an injunction from district court is requested by the licensing supervisor after consultation with the statewide licensing coordinator or designee.

**340:110-1-9.5. Consent agreement**

(a) **Purpose.** The Oklahoma Department of Human Services (OKDHS) may offer to enter into a consent agreement with a facility in lieu of license denial or revocation. If such action has already taken place, a consent agreement may be used during the appeal process if the facility comes into compliance with licensing requirements. The use of a consent agreement is not required prior to denying or revoking a license.

(b) **Process.** When the documented evidence reflects that the facility operator is unable or unwilling to comply with minimum requirements, the Division of Child Care (DCC) licensing staff discusses the use and terms of a consent agreement with the licensing supervisor. If the licensing regional programs manager and the statewide licensing coordinator or designee concur with this action, a meeting is scheduled with the operator.

(1) The operator is asked to provide the names and addresses of all children currently enrolled at the facility.

(2) During the meeting, areas of non-compliance and the terms of the agreement are discussed. The meeting is documented on Form ~~OCC 3, Child Care Center Monitoring Report, page 4~~ 07LC080E, Licensing Services Supplemental Information, and is signed by the operator, licensing staff, and any witness present. A copy is provided to the operator.

(3) An agreement is written by the statewide licensing coordinator or designee. Terms and time frames of the agreement are based upon the nature and severity of the non-compliance. The agreement may include voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility or the number of hours the facility may operate each day, specific staff training, drug testing, and medical or psychological evaluation. Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the statewide licensing coordinator or designee and the OKDHS Legal Division.

(4) The operator is advised to prominently post a copy of the consent agreement in the child care facility. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

(5) The licensing staff mails a copy of the consent agreement, with a cover letter, to parents of children currently enrolled at the facility. Upon enrollment of new children, the facility must provide those names and addresses to licensing staff. Licensing staff mails a copy of the consent agreement and cover letter upon receipt of this information. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(c) **Violations of the terms of the consent agreement.** Any violation of the terms of the consent agreement is considered

grounds for proceeding with license revocation, denial, or refusal to renew.

(d) **Appeals.** The child care facility is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

**340:110-1-10. Revocation or denial of license**

(a) **Failure to meet requirements.** When numerous, repeated, or serious non-compliance with licensing requirements is observed and documented or the facility fails to adequately protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny the application for license or revoke the license.

(1) **Denial of application for license.** If a facility has filed an application for an initial license, OKDHS may deny the application.

(2) **Revocation of license.** If a license or provisional license is currently in effect, the licensing staff may recommend that the license be revoked.

(b) **Licensing staff recommendation.** The Division of Child Care (DCC) licensing staff consults with the licensing supervisor regarding his or her recommendation for revocation or denial. If the licensing supervisor concurs with the recommendation, the decision is discussed with the licensing regional programs manager and the statewide licensing coordinator. If they concur with the decision, the licensing staff prepares a detailed summary of monitoring visits, complaints, correspondence, and any other relevant documents. The licensing staff submits the complete case record and the summary, including the recommendation, to the licensing supervisor and notifies the facility in writing that the case has been referred to the statewide licensing coordinator. (c) **Approval of recommendation and notification.** The case record and summary are reviewed by the statewide licensing coordinator or designee. The licensing staff's recommendation of revocation or denial is either approved, disapproved, or the decision delayed pending further investigation.

(1) When the recommendation is approved by the statewide licensing coordinator, it is submitted to the OKDHS Legal Division for review of the legal adequacy of the notice of pending action that is mailed to the operator. The ~~Director~~ director of Child Care Services or designee has final approval of the revocation or denial.

(2) The statewide licensing coordinator sends a written notice of the pending action to the operator by certified mail at least 30 days prior to the effective date of the action. The notice includes:

(A) a copy of the summary;

(B) a statement regarding the operator's right to appeal the decision;

(C) a statement that the law requires written notification to parents of the action taken, and instruction to the operator to submit the names and addresses of currently enrolled children;

(D) a sign providing notice of proposed revocation or denial that is required to be prominently posted in the facility; and

## Permanent Final Adoptions

---

- (E) a statement regarding the facility's reduction in Stars status, if applicable.
- (3) During the next monitoring visit, the licensing staff and a witness verify that the sign providing notice of proposed revocation or denial is posted. If the sign is not posted, the licensing staff sends a letter to the operator documenting the violation of the legal notice.
- (4) If the operator does not provide children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.
- (5) Questions from the operator regarding the action and appeal process are referred to the statewide licensing coordinator or designee.
- (6) If the operator does not appeal the decision within the designated time period, the statewide licensing coordinator sends a letter to the operator giving notice of the denial or revocation and stating the effective date. The closure date is entered into the database by the statewide licensing coordinator or designee. A copy of the correspondence is sent to the licensing staff.
- (7) The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. The statewide licensing coordinator or designee is notified of the visit.
- (8) If the operator continues to maintain and operate the facility for child care after a final decision revoking or denying licensure, the statewide licensing coordinator may request that the Attorney General or the appropriate district attorney secure a civil injunction or initiate criminal proceedings.
- (d) **Appeal process.** The appeal process regarding denial of application or revocation of license is described in this subsection.
- (1) The appeal is submitted to the Oklahoma Commission for Human Services by the operator within 30 days of receipt of the notice.
- (2) If the operator appeals, a hearing is scheduled by the OKDHS Appeals Unit.
- (3) The facility may continue to operate during any appeal process unless an emergency order is in effect. The licensing staff conducts monitoring visits at least once a month, unless advised otherwise by the statewide licensing coordinator or designee, and is accompanied by the same witness whenever possible. If at any time during the appeal process OKDHS believes that the health, safety, or ~~welfare~~ well-being of children cannot be ~~assured~~ ensured:
- (A) an emergency order is requested; or
- (B) following consultation with the statewide licensing coordinator or designee, the licensing supervisor contacts the district attorney and requests that an injunction be filed.
- (4) If the decision of OKDHS to revoke or deny a license is upheld during all appeals, the statewide licensing coordinator sends a letter to the operator that child care must immediately cease. The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. If the operator continues to operate the child care

facility, the licensing field staff, in consultation with the statewide licensing coordinator or designee, may request that the local district attorney pursue an injunction or initiate criminal proceedings, or the statewide licensing coordinator may pursue legal action through the Attorney General.

(5) If the decision of OKDHS to revoke or deny a license is not upheld, OKDHS takes action to implement the decision within ten calendar days.

(6) When OKDHS denies or revokes a facility's license, the responsible agent may not make application for a new child care facility license within ~~the state~~ Oklahoma:

(A) following notification of the agent of the proposed denial or revocation;

(B) during an appeal process; and

(C) for five years following the effective date of closure.

(e) **Change in ownership during appeal process.** If there is a change in ownership during the appeal process, the operator must provide documentation verifying the change. This information is reviewed by the regional programs manager. The statewide licensing coordinator may proceed with the previous owner's denial or revocation.

### **340:110-1-13. Unlicensed facilities**

(a) **Legal base and authority.** Pursuant to Section 409 of Title 10 of the Oklahoma Statutes, any person or child care facility may be enjoined from maintaining and operating a child care facility for violations of any provisions of the Oklahoma Child Care Facilities Licensing Act by the district attorney or Attorney General.

(b) **Procedure for investigating allegations of operating an unlicensed facility.** When allegations of operating an unlicensed facility are investigated, the procedure contained in this subsection is followed.

(1) **When no immediate imminent risk of harm to children is indicated.** When the report does not indicate that children are at immediate imminent risk of harm, the procedure in this paragraph is followed.

(A) If a complaint is made in person or by telephone, the licensing staff obtains and records all relevant information on Form ~~OCC-12~~ 07LC012E, Licensing Complaint Report and Complaint Summary.

(B) When advertisements indicate a person may be providing child care in violation of the Licensing Act, information is recorded with the advertisement attached.

(C) The licensing staff mails to the caregiver the licensing requirements and a letter ~~which~~ that includes information about licensure and a request for a response within 14 days.

(D) If a response is not received within 14 days, a visit is made to the facility to:

(i) determine if child care is being provided;

(ii) explain the Licensing Act;

(iii) ask the operator to file an application for licensure or cease care; and

- (iv) request the operator to advise the licensing staff of the decision within ten days.
  - (E) If a response is not received within ten days, several contacts are made or attempted to encourage the operator of an unlicensed facility to comply with the Licensing Act.
  - (F) If the operator fails to apply for licensure as required by the Licensing Act, the licensing staff consults with the supervisor and the licensing regional ~~program~~ programs manager and when appropriate, makes a recommendation to the district attorney following the procedure found in paragraph (3) of this Section.
  - (G) If care of children is substantiated, licensing staff proceeds with proper application procedures found in OAC 340:110-1-6.
- (2) **When risk to children is indicated.** When children may be at risk of harm, the licensing staff obtains and records as much information as possible, notifies the supervisor, and verifies the validity of the complaint with a visit to the facility.
- (A) If the complaint is substantiated and children are at risk of harm, the licensing staff requests the caregiver cease operation immediately.
  - (B) If the operator refuses, the licensing staff informs him or her that legal action may be initiated.
  - (C) Prior to contacting the district attorney, the licensing supervisor reviews the case with the licensing staff and statewide licensing coordinator or designee to determine if legal action is indicated.
- (3) **Referral to the district attorney.** When legal action is warranted, a request for criminal proceedings or an injunction is made to the local district attorney. The recommendation is made in writing and includes documentation of the facts of the case. The statewide licensing coordinator or designee informs the Oklahoma Department of Human Services (OKDHS) Legal Division of the request for legal action by the local district attorney.
- (4) **Referral to the Attorney General.** If a local district attorney will not take action against a facility, a referral may be made to the Attorney General by the statewide licensing coordinator or designee.
- (5) **Care of children is not substantiated.** When care of children is not substantiated or care of children has terminated, licensing staff documents the investigation of unlicensed operation on Form 07LC080E, Licensing Services Supplemental Information. A letter is sent to the alleged caregiver stating:
- (A) the outcome of the investigation of unlicensed operation with reference to the Licensing Act; and
  - (B) the requirement that OKDHS must be notified when there is any change regarding the caregiver's care of children.

(O.S.), which mandates that public records are open for public inspection unless they are required by law to be kept confidential.

(b) **Licensing records.** All OKDHS records of facilities required to be licensed under 10 O.S. § 401 ~~through 410 et seq.~~ are considered public records and are open and available for public inspection during reasonable hours. This includes records pertaining to an investigation of an unlicensed facility and audit findings from the OKDHS Office of the Inspector General. Information obtained concerning a report of a violation of a licensing requirement is confidential pursuant to 10 O.S. § 406 with the exception of a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits parents to evaluate the facility. In addition, 10 O.S. § 7005-1.2 mandates confidentiality of child abuse records.

(c) **Location of case records.** Child care facility licensing records are located in the office of the licensing staff and are inspected in the county office. If a parent resides in another county, the licensing staff makes the record available in that county.

(d) **Preparation of case files for inspection.** The licensing staff carefully reviews the entire record and removes confidential information.

(e) **Records of complaints.** To allow persons inspecting a licensing record to have access to information regarding complaints, ~~page 1, the licensing complaint summary, of Form OCC 12-07LC081E, Licensing Complaint Report and Complaint Summary, is included in the file. Page 2 of Form OCC 12-07LC012E, the licensing complaint report Licensing Complaint, is removed from the file that is open for public inspection.~~ If information regarding a complaint is requested prior to completion of the investigation, the licensing staff explains that information regarding the allegation and findings is released after the investigation is complete.

(f) **Supervision of files during inspection.** Facility records are inspected in the presence of OKDHS staff persons who are available to provide clarification on licensing policy and requirements.

(g) **Fees for photocopying.** ~~For photocopy fee information refer to~~ Information regarding photocopying fees is at OAC 340:2-21-16.

(h) **Release of confidential information.**

(1) A complete case file that includes confidential information is never released to the public, and may be provided only to certain persons according to applicable laws and regulations, for example, Legal Division, Child Welfare, law enforcement officials, and upon order of a court of competent jurisdiction.

(2) The name or other identifying information of a complainant listed on Form 07LC012E is never released to the public.

(i) **Computer licensing record.** A summary of the facility licensing record maintained on the LISVMENU computer database may be provided upon request at no charge. A cover letter is sent with the licensing summary that notes that the summary does not include the complete case record, and that the complete case record may be reviewed in the county office.

**340:110-1-14. Public inspection of licensing files**

(a) **Legal basis.** The Oklahoma Department of Human Services (OKDHS) is subject to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes

# Permanent Final Adoptions

## 340:110-1-15. Grievance and complaint policy and procedure

(a) **Grievance and complaint policy.** The owner or director of a licensed child care facility may file a grievance or complaint regarding the application of any written or unwritten policy, rule, or regulation of the Oklahoma Department of Human Services (OKDHS), or any decision by an employee of ~~the Department which OKDHS~~ that affects the facility. A grievance or complaint ~~will is not be~~ accepted concerning the denial or revocation of a child care facility license. The procedure for appealing this action is provided in the Oklahoma Child Care Facilities Licensing Act. [10 O.S. § 407]

(b) **Grievance or complaint procedure.** Persons wishing to file a complaint or a grievance are encouraged to seek informal resolution of their concerns by contacting the appropriate licensing supervisor. Supervisory staff receiving a grievance or complaint ~~attempt attempts~~ to resolve the matter.

(1) If a resolution cannot be reached at the local level or through verbal conversation with State Office staff, the grievant is requested to file a written request with the licensing supervisor.

(2) The licensing supervisor notifies the licensing regional ~~program programs~~ manager and statewide licensing coordinator by memorandum that a formal complaint or grievance has been filed and efforts made to resolve the issue. The licensing supervisor responds to written grievances or complaints within 14 days after receipt.

(3) When the grievant or complainant is not satisfied with the proposed resolution, ~~he or she the grievant~~ may appeal the grievance to the licensing regional ~~program programs~~ manager, statewide licensing coordinator, and ~~Director director~~ of Child Care Services, associate director for programs, and OKDHS Director, in that order.

(4) The grievant or complainant is requested to file only one written complaint. Referrals for resolution are ~~then~~ made by ~~Department the~~ OKDHS staff involved in the response.

## 340:110-1-17. Child Care Advisory Committee bylaws

(a) **Purpose and function of the Child Care Advisory Committee.** ~~The purpose and function of the Child Care Advisory Committee is described in this subsection.~~

(1a) **Purpose.** The purpose of the Child Care Advisory Committee (Advisory Committee) is to:

(A1) carry out the provisions of the Oklahoma Child Care Facilities Licensing Act, Section 404 of Title 10 of the Oklahoma Statutes to:

(iA) ensure maintenance of minimum standards for the care and protection of children away from their homes that include:

(Hi) constructive programs and services to meet the needs of each child and family;

(Hii) staff of good moral character and ability to care for children;

(Hiii) adequate and safe housing, sanitation, and equipment;

(IViv) good health care;

(Vv) full educational and religious opportunities;

(Vvi) good community relationships;

(VHvii) essential records and administrative methods; and

(VIIIviii) sufficient funds for sound operation;

(#B) encourage and assist child care facilities toward maximum standards; and

(#C) work for the development of sufficient and adequate services for child care through joint work with public and private agencies;

(B2) prepare minimum requirements and recommend desirable standards for child care facilities for adoption by the Oklahoma Department of Human Services, ~~hereinafter referred to as~~ (OKDHS);

(C3) serve in an advisory capacity to OKDHS for developing quality child care programs and services; and

(D4) educate the public and consumers regarding quality child care.

(2b) **Function.** The function of the ~~Child Care~~ Advisory Committee is to:

(A1) become informed on OKDHS programs and policies regarding children;

(B2) express the needs and concerns of the community and the State of Oklahoma as they relate to the care and treatment of children;

(C3) bring recommendations for change, including the adoption of minimum requirements and encouraging maximum standards for child care; and

(D4) interpret and support the recommended policies.

(bc) **Membership.** ~~The membership of the Child Care Advisory Committee is detailed in this subsection.~~

(1) **Representation.** The ~~Director director~~ of Child Care Services makes recommendations for membership to the ~~director of OKDHS who appoints members~~ Director. Members are ~~invited appointed~~ to serve ~~on the Child Care Advisory Committee~~ at the pleasure of the OKDHS Director, based on their expertise, experience, and leadership in the field of child care.

(A) The ~~Child Care~~ Advisory Committee at a minimum consists of 18 members.

(B) The majority are representatives of child care facilities.

(C) Other members include at least one representative from:

(i) Oklahoma State Department of Health;

(ii) Oklahoma Department of Education;

(iii) Office of the State Fire Marshal;

(iv) Division of Child Care (DCC); and

(v) other associations and agencies as recommended to the OKDHS Director of OKDHS, such as the Oklahoma Child Care Association, Oklahoma Children's Agencies and Residential Enterprises Incorporated (OK-CARE), Oklahoma Department of Mental Health and Substance Abuse Services, Oklahoma Association of Youth Services, Office of Juvenile Affairs, Early Childhood Association of Oklahoma, and Head Start.

- (D) A representative from the Oklahoma Commission on Children and Youth serves as an ex-officio member.
- (2) **Terms of office.**
- (A) The terms of ~~committee~~ Advisory Committee members are for three years.
- (B) Members receive orientation to the goals and practices of the ~~committee~~ Advisory Committee.
- (C) Members may be recommended for reappointment after completing their terms of office.
- (3) **Officers.** The officers of the ~~committee~~ Advisory Committee are chairperson, vice-chairperson, and secretary.
- (A) **Chairperson.** The chairperson is responsible for:
- (i) presiding over all meetings;
  - (ii) in coordination with ~~the Division of Child Care~~ DCC, planning the meeting agenda at least two weeks in advance; and
  - (iii) with the director of Child Care Services or representative, appointing members of subcommittees.
- (B) **Vice-Chairperson.** The vice-chairperson works closely with the chairperson and assumes the responsibilities of the chairperson in his or her absence.
- (C) **Secretary.** The position of secretary is held by the ~~Division of Child Care~~ DCC representative. The secretary is responsible for accurately recording the minutes of each meeting and making them available to the members prior to the next meeting. A permanent copy of the minutes is maintained by OKDHS.
- (4) **Election of officers and terms of office.**
- ~~(A) The~~ Upon vacancy of office, the chairperson and vice-chairperson are elected by a majority vote of members present during the ~~fourth next~~ quarterly meeting of even-numbered years. They take office on January 1 following the office vacancy. Officers assume duties during the meeting in which the election is held.
- ~~(B)~~ Terms of office are for two years. Officers may be elected to serve in one office for a maximum of four terms.
- (45) **Subcommittees.** ~~The rules pertaining to subcommittees contained in this paragraph are met.~~
- (A) Subcommittees are appointed by the chairperson with consultation from ~~the Division of Child Care~~ DCC and are designated to:
- (i) draft licensing requirements for child care programs and services;
  - (ii) study ~~committee~~ Advisory Committee concerns; and
  - (iii) address special issues of the ~~committee~~ Advisory Committee.
- (B) The chairperson of the subcommittee is a member of the ~~Child-Care~~ Advisory Committee.
- (C) Subcommittee members include representatives of child care programs and services with

experience and expertise in the field of child care and children's services.

(D) Subcommittees appointed to draft licensing requirements for child care programs:

- (i) present their recommendations to the ~~Child Care~~ Advisory Committee for approval prior to being approved by the Commission for Human Services and the Governor;
- (ii) have a majority of members ~~that~~ who represent private child care programs affected by the requirements; and
- (iii) include representatives from licensing, including supervisory and field staff.

(E) Standing ~~Subcommittees~~ subcommittees expand the opportunity for child care program operators to identify quality improvement resources, express concerns facing the industry, and recommend issues for consideration by the ~~Child-Care~~ Advisory Committee.

- (i) The chairpersons of four ~~Standing-Subcommittees~~ standing subcommittees, representing family child care, child care centers, residential child care, and child-placing agencies, are appointed by the ~~Child-Care~~ Advisory Committee chairperson from the Advisory Committee membership.
- (ii) Subcommittee members are identified and recruited by the subcommittee chairpersons with consultation from ~~the Division of Child Care~~ DCC.
- (iii) Subcommittees meet at the call of the chairperson.
- (iv) The subcommittee chairperson provides a report to the ~~Child-Care~~ Advisory Committee at least annually and more often as needed.

(ed) **Child-Care Advisory Committee meetings** Meetings. The rules pertaining to the Child-Care Advisory Committee meetings are contained in (1) through (6) of this Subsection.

- (1) **Frequency of meetings.** The ~~Child-Care~~ Advisory Committee meets quarterly. Additional meetings may be called or regular meetings cancelled at the discretion of the chairperson and DCC representative.
- (2) **Quorum.** A minimum of one third plus one of the membership must be present for a quorum.
- (3) **Voting.** Members or their designees vote only after completing orientation.
- (4) **Attendance.** Committee members or their designees must attend at least two ~~Child-Care~~ Advisory Committee meetings a year or may be removed from the committee at the discretion of the OKDHS Director.
- (5) **Active participation.** Advisory Committee members or their designees are required to serve on revision subcommittees representing their program knowledge and expertise.
- (56) **Guidelines.** The ~~committee~~ Advisory Committee adheres to established Guidelines for Organization and Function. The practices of the ~~committee~~ Advisory

# Permanent Final Adoptions

Committee are compatible with the Child Care Facilities Licensing Act.

(67) **Rules of order.** Roberts Rules of Order, as amended, are used to govern the meetings.

(68) **Change of bylaws.** Bylaws may be altered, amended, or repealed only by a majority vote of the ~~Child Care~~ Advisory Committee, provided that written notice of the proposed action is given in the call to the meeting and a quorum is present.

## 340:110-1-20. Professional development of DCC staff

(a) **Licensing staff training.** All Division of Child Care (DCC) Licensing staff are required to receive job-related training on an annual basis. This includes the new worker licensing training required for all new licensing staff. An annual training plan is developed for each employee with the employee's supervisor.

(b) **Professional development of DCC staff.** DCC awards may award scholarships for coursework leading to a master's degree in early childhood education at an Oklahoma public university with which DCC has a cooperative agreement. The program may be discontinued at any time based on unavailability of funding through the Child Care Development Fund.

(1) Scholarships are awarded to employees based upon supervisory recommendation and selection by the DCC Education Assistance Committee. Preference is given to staff who have three years of Oklahoma Department of Human Services (OKDHS) employment.

(2) Applications are not accepted for participants while in probationary status or a trial period or during any level of corrective discipline. Once approved, any continued participation is based upon supervisory approval, satisfactory job performance appraisal, and DCC Education Assistance Committee approval.

(3) Participation is limited to two courses per semester per person.

## (c) Scholarship requirements.

(1) **Mandatory service requirement.** The DCC Education Assistance Committee establishes conditions of a mandatory service requirement is six months of service to DCC for each 0-12 credit hours of for participants in the scholarship support. The obligation period begins after completion of the program or upon withdrawal from the program. Failure to complete the educational requirements or the obligated service period requires repayment of tuition, books, and fees. The service requirement is included in a written contract between DCC and the participant.

(2) **Reimbursement requirement Grade report.** At the end of each semester, scholarship recipients submit a copy of their grades to their supervisor and to the DCC Education Assistance Committee.

(3) **Reimbursement requirement.** Exceptions to the reimbursement requirement may be granted, at the discretion of the DCC Education Assistance Committee, for serious illness, injury, or a personal situation requiring the recipient to withdraw from school. Reimbursement The DCC Education Assistance Committee specifies and includes the terms of reimbursement in a contract

between DCC and the participant. Unless an exception is granted by the DCC Education Assistance Committee, reimbursement to OKDHS for the cost of tuition, books, fees, and other expenses incurred is required and a recipient is not permitted to enroll in further courses until the debt is paid in full when a recipient:

(A) withdraws from a class;

(B) earns a grade below "C" in any class;

(C) receives a grade of "incomplete" that is not converted to an acceptable grade during the next semester; or

(D) is removed from the program by the university.

(34) **Use of leave.** With supervisory approval, scholarship recipients may use educational leave up to 160 hours per year. Such requests are submitted and approved in accordance with DHS:2-1-42. Attendance at night or weekend classes does not qualify the recipient for compensatory time.

(45) **Application.** Applications and supporting documentation for the scholarship program are submitted within the designated time frames. Upon scholarship award, a contract is signed by the recipient to indicate an understanding of and commitment to the scholarship requirements.

## 340:110-1-21. Evaluation of the child care licensing services program

The Division of Child Care (DCC) is responsible for the evaluation of the child care licensing services program.

(1) The evaluation includes quality assurance audits and provider satisfaction surveys. ~~The audits:~~

(2) DCC establishes a method for continuously improving the internal audit program through feedback and recommendations from all parties concerned. The audit:

(1A) ~~are~~ is performed to determine ~~if the~~ whether licensing requirements, policies, and procedures are being fully implemented and to evaluate the effectiveness of the program;

(2B) ~~provide~~ provides objective evidence to support the need for the reduction, elimination, and prevention of non-conformities; and

(3C) ~~are~~ is conducted by the ~~Division of Child Care~~ DCC lead auditor, who is responsible for all activities associated with the evaluation of the program.

## PART 3. LICENSING SERVICES - RESIDENTIAL CARE AND AGENCIES

### 340:110-1-43. Roles and responsibilities of licensing staff

(a) Licensing staff for residential child care and child-placing agencies ~~conduct~~ conducts onsite visits, ~~document~~ documents findings, ~~provide~~ provides technical assistance and consultation in ~~their~~ the ~~licensing staff's~~ assigned areas, and ~~make~~ makes recommendations on all case actions to the programs manager. The programs manager or designee is

responsible for the final approval of all licensing recommendations.

(b) Official licensing records for child care programs are maintained at State Office, Division of Child Care. ~~Those records and~~ are open to the public upon request.

(c) ~~In addition to licensing child care facilities and agencies, Other responsibilities of licensing staff are responsible for include:~~

- (1) communicating with local fire, health, and city officials within ~~their~~ the licensing staff's assigned area regarding licensing rules and policy, requirements, inspections, and other issues related to a specific facility or child care in general;
- (2) facilitating or sponsoring training for child care providers; and
- (3) coordinating with other regulatory and investigative state entities in promoting quality care in residential settings within ~~their~~ the licensing staff's assigned area.

**340:110-1-43.1. Forms**

Forms that apply to this Part are listed in this Subsection.

(1) **07LC012E, Licensing Complaint.** Form 07LC012E is used by licensing staff to record a complaint against a child care facility.

(2) **0CC-16 07LC016E, Recommendation for Licensing or Certification of a Child Care Center.** Form 0CC-16 07LC016E is used by licensing staff and supervisors to make recommendations on the licensing or certification of child care facilities.

(23) **0CC-17 07LC017E, Six-Month Permit.** Form 0CC-17 07LC017E is a six-month temporary authorization for an applicant for a license to operate a child care facility until a license has been issued or a formal denial notice is given to the applicant.

(34) **0CC-18 07LC018E, Notice of Issuance of License for a Child Care Facility.** Form 0CC-18 07LC018E is a notice to the child care facility that it has complied with licensing requirements and is being issued a license.

(45) **0CC-22 07LC022E, Child-Placing Agency - Foster Care File Review.** Form 0CC-22-07LC022E is used by licensing staff to record the agency's compliance or non-compliance with licensing requirements for foster home care.

(56) **0CC-37 07LC037E, Notice to Comply.** Form 0CC-37 07LC037E is used by a facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.

(67) **0CC-40 07LC040E, Application for License.** Form 0CC-40 07LC040E is used by an agency or residential facility to make application for a child care facility license.

(78) **0CC-41 07LC041E, Child Care Staff Information.** Form 0CC-41 07LC041E is used to record required information regarding child care facility staff.

(89) **0CC-43 07LC043E, Child Placing Agency Compliance Review.** Form 0CC-43-07LC043E is used

by licensing staff to assess compliance with child-placing agency requirements.

(910) **0CC-44 07LC044E, Adoption Services File Review.** Form 0CC-44 07LC044E is used by licensing staff to record the agency's compliance or non-compliance with licensing requirements for placement of children for adoption.

(4011) **0CC-47 07LC047E, Agency Certification Report.** Form 0CC-47 07LC047E is completed by the child-placing agency staff to certify to the Oklahoma Department of Human Services that each foster home or Independent Living arrangement complies with the Licensing Requirements for Child-Placing Agencies.

(4112) **0CC-50 07LC050E, Personnel File Review - Agency and Residential Programs.** Form 0CC-50 07LC050E is used by licensing staff to document compliance with personnel record requirements in residential, shelter, and child-placing agency requirements.

(4213) **0CC-52 07LC052E, Declaration of Intent to Operate a Child Care facility Facility.**

(4314) **0CC-53 07LC053E, Notice of Issuance of License - Child Care Facility/Agency.** Form 0CC-53 07LC053E is used to notify operators of child-placing agencies and residential child care facilities of their licensing status. See also Form 0CC-18 07LC018E.

(4415) **0CC-54 07LC054E, Release of Child.** Form 0CC-54 07LC054E is used by residential facilities to notify the Division of Child Care (DCC) when a child is no longer eligible for subsidy payment.

(4516) **0CC-55 07LC055E, Child Admission Report.** Form 0CC-55 07LC055E is used by residential facilities to notify DCC when a child is admitted and is eligible for subsidy payment.

(4617) **0CC-56 07LC056E, Residential Child Care Facility Compliance Review.** Form 0CC-56 07LC056E is used by licensing staff to assess compliance with residential requirements.

(4718) **0CC-58 07LC058E, Residential Child Care Facility Visit Sheet.** Form 0CC-58-07LC058E is used by licensing staff to document compliance with requirements during a visit to a residential facility and record any other information obtained.

(4819) **0CC-59 07LC059E, Resident's Residential Child Care Facility - Resident File Review.** Form 0CC-59 07LC059E is used by licensing staff as part of the licensing process to document compliance with residential facility requirements.

(4920) **0CC-60 07LC060E, Residential Child Care Policy and Records Check.** Form 0CC-60 07LC060E is used by licensing staff to document compliance with residential policy and procedure requirements.

(2021) **0CC-65 07LC065E, Independent Living File Review Program - Resident Monitoring Report.** Form 0CC-65 07LC065E is used by licensing staff to record the agency's compliance with licensing requirements for independent living programs.

## Permanent Final Adoptions

~~(2122)~~ ~~OCC-71~~ 07LC071E, Child Care Waiver Request. Form ~~OCC-71~~ 07LC071E is used by licensing staff when submitting a waiver request to State Office.

(23) 07LC078E, Child-Placing Agency - Record of Foster Home Closure. Form 07LC078E is used by a child-placing agency to report closure of a foster home.

(24) 07LC079E, Child Death Report. Form 07LC079E is completed by licensing staff to record the death of a child while in child care.

(25) 07LC080E, Licensing Services Supplemental Information. Form 07LC080E is used when additional space for documentation is needed, when a complete monitoring report is not required, to document office and telephone contacts, and to record other information for the licensing record.

(26) 07LC081E, Licensing Complaint Report Summary. Form 07LC081E is placed in the case record and includes the findings of the investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes

### 340:110-1-45. Application process

(a) **Application packets.** Application packets, which include the appropriate licensing requirements and application forms, are provided to potential licensees upon request. This packet includes:

(1) Application for License - Child Care Facility, Form ~~OCC-40~~ 07LC040E;

(2) Child Care Staff Information, Form ~~OCC-41~~ 07LC041E; and

(3) Compliance Review, Form 07LC043E or 07LC056E, as applicable.

(b) **Receipt of application.** Upon receipt of the application packet in the Division of Child Care, the case is assigned a license number and a file is set up.

(c) **Reopening a residential child care facility or child-placing agency.** A new application must be completed when a residential facility or child-placing agency that has been closed is reopened.

(d) **Computer checks.** Computer checks to identify prior involvement with the Oklahoma Department of Human Services (OKDHS) are completed on all adults who sign the application for a residential facility and child-placing agency license.

(1) When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements.

(2) Other OKDHS cases are reviewed only if concerns exist. If the provider's medical information is confidential, the licensing staff may request the information from the provider. If concerns exist, the provider is asked to sign OKDHS Form ~~HPAA-3~~ 08HI003E, Authorization to Disclose Medical Records.

(e) **Status.** The facility may be granted temporary authorization to operate on application status or on a six-month permit. The licensing staff may recommend a six-month permit when the conditions required for issuance of a six-month permit described in OAC 340:110-1-46(a) are met. If the

licensing staff determines that the conditions have not been met but the non-compliance does not place children at risk of immediate harm, the facility may be allowed to operate on application status. While a child care facility is on application status:

(1) if an application has been filed and licensing staff ~~are~~ is aware that children are in care, an initial visit must be made within two weeks;

(2) the licensing staff conducts a monitoring visit at least every two months when children are in care;

(3) contact is made by phone every two months and documented on Form ~~OCC-3, Monitoring Report, page 4~~ 07LC080E, Licensing Services Supplemental Information, when children have not been accepted into care;

(4) the procedures found in OAC 340:110-1-47.2 are followed if non-compliance with licensing requirements is observed during the monitoring visit. A plan of correction, including an agreed-upon time period for correction of the non-compliance, is documented; and

(5) the licensing staff consults with the licensing supervisor if the facility is unable or unwilling to meet licensing requirements after operating on application status for six months.

(f) **Withdrawal of application.** If a residential child care facility or child-placing agency applicant wishes to withdraw the application prior to issuance of a license and the licensing staff confirms that no children are in care, the licensing staff closes the case.

### 340:110-1-46. Types of issuances

(a) **Six-month permit.** New residential child care facilities or child-placing agencies may be granted temporary authorization to operate on a six-month permit. If the facility was previously licensed at another location and had a pattern of compliance, the six-month permit may be waived.

(1) A complete monitoring visit documenting compliance with critical licensing requirements must be made not longer than 60 days prior to issuance of the six-month permit. The recommendation to issue a permit is made after all forms and inspections have been completed and the facility is in compliance with all requirements, including:

(A) criminal history investigations;

(B) tuberculosis (TB) tests;

(C) required number of qualified staff;

(D) hazards indoors ~~or~~ and outdoors;

(E) fire safety; and

(F) other areas affecting children's safety.

(2) During the six-month permit period, a minimum of three monitoring visits are completed to document that all requirements are met and to observe child care, where applicable.

(3) The items required to be on file for issuance of a six-month permit include:

(A) Form 07LC040E, Application for License, Form OCC-40;

(B) ~~Proof~~ proof of ownership;

(C) list of current staff;

- (D) Form 07LC041E, Child Care Staff Information, Form OCC 41;
- (E) TB test or chest x-ray results for direct care staff;
- (F) State Fire Marshal's approval for residential facilities;
- (G) ~~Health Department~~ health department approval for residential facilities;
- (H) physical plant drawing for residential facilities;
- (I) compliance review questionnaire;
- (J) monitoring reports;
- (K) Form 07LC060E, Residential Child Care Policy and Records Check, Form OCC 60; and
- (L) Form 07LC016E, Recommendation for Licensing or Certification of a Child Care Center, Form OCC 16.

(b) **Second and subsequent six-month permits.** If additional six-month permits are recommended, the procedures in (1) through (5) of this paragraph are followed.

- (1) The licensing staff consults with the programs manager prior to recommending a second or subsequent permit.
- (2) The licensing staff sends a letter to the applicant notifying ~~him or her~~ the applicant of the recommendation each time a second or subsequent permit is recommended. The reason for the recommendation is clearly stated in the letter, with each area of non-compliance listed separately.
- (3) If the additional six-month permit is due to repeated, numerous, or serious non-compliance with requirements, the licensing staff visits the facility at least monthly and is accompanied, when possible, by a witness. If at any point the non-compliance indicates the facility is unable or unwilling to meet licensing requirements, the programs manager is consulted to discuss negative sanctions.
- (4) If requirements are met before the expiration of the six-month permit, the issuance of a license may be recommended.
- (5) If children have not been in care on a regular basis during the previous year, the applicant is asked to withdraw the application for license.

(c) **License issuance.** When the licensing staff determines that the facility or agency is operating in compliance with ~~their~~ the facility's or agency's own policy and procedures and in compliance with the licensing requirements, a recommendation is made to issue a license. Prior to recommending issuance of a license, the licensing staff completes a minimum of three monitoring visits. A monitoring visit must be made within 30 days of the issuance date. A license is in effect unless it is revoked or the facility voluntarily closes.

(d) **Provisional license.** A provisional license may be issued for a period of one year to any facility or agency whose services are needed but who is temporarily unable to meet all requirements. A subsequent provisional license may be issued at the discretion of the Oklahoma Department of Human Services if an emergency exists.

- (1) A written statement from the operator requesting a provisional license and stating the reason for the request is submitted to the Division of Child Care (DCC).
- (2) The licensing staff submits to ~~the Division of Child Care~~ DCC Form OCC 16 07LC016E.
- (3) If at any time during the year the operator complies with the requirements, the licensing staff may recommend the issuance of a license.

**340:110-1-47. Case management**

(a) **Periodic visits.**

(1) Licensing staff ~~conduct two unannounced annually~~ conducts monitoring visits ~~and one announced visit to residential facilities annually~~ to document compliance with the requirements:

- (A) two unannounced and one announced, to residential facilities; and
- (B) ~~Licensing staff conduct two announced visits yearly,~~ to child-placing agencies.

(~~2~~) If caseloads prevent licensing staff from ~~fulfilling this task~~ conducting all visits, the programs manager consults with ~~them~~ licensing staff on case management, and the number of required visits may be reduced. This adjustment is approved and documented in the case record by the programs manager.

(~~2~~3) During each monitoring visit, ~~the~~ licensing staff:

- (A) observes the entire facility, including outdoor play space and vehicles used for transportation, if available; and
- (B) checks:
  - (i) resident files, if applicable;
  - (ii) records for new staff and copies of Form 07LC041E, Child Care Staff Information, obtained for the case record; and
  - (iii) fire and health inspections within the last 12 months, if applicable.

(b) **Consultation and technical assistance.** The licensing staff provides technical assistance to operators to meet and maintain minimum requirements. Consultation is provided to parties interested in licensure and to licensed facilities, and includes suggestions for improving the quality of care and for exceeding the minimum requirements.

(c) **Change of address.** When a facility moves to a new location, licensing staff ~~follow~~ follows specific procedures to document the move.

(1) **Child-placing agency.** When a child-placing agency moves its office, licensing staff:

- (A) obtains an updated application; and
- (B) files a narrative in the case file stating the new address and finding directions.

(2) **Residential facility.** When a residential program moves, licensing staff:

- (A) obtains an updated application;
- (B) conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements;
- (C) obtains new fire and health approvals;

# Permanent Final Adoptions

- (D) obtains Department of Environmental Quality approval, if applicable; and
- (E) files a narrative in the case file stating the new address and finding directions.
- (d) **Satellite office.** When a child-placing program adds a satellite office, licensing staff:
- (1) documents the location of each office; and
  - (2) requests files as needed from satellite locations.
- (de) **Change in name.** If the licensing staff verifies there is a change in name but no change in ownership, the change is documented in the case record and the database is updated.
- (ef) **Increase or decrease in licensed capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form OCC 3, Monitoring Report, page 4 07LC080E, Licensing Services Supplemental Information, and must be approved by the programs manager. If the request to increase capacity is due to additional physical space, the required documentation includes:
- (1) reason for the increase;
  - (2) fire department approval;
  - (3) health department approval;
  - (4) physical plant drawing indicating the measurements, total square footage, and number of additional children that can be accommodated; and
  - (5) additional staff, if applicable.
- (fg) **Inactive cases.** If children have not been in care or services have not been provided on a regular basis within a 12-month period, the option of voluntary closure is discussed with the provider.
- (1) A provider who wants his or her case to remain open must submit a request in writing, including a statement that the provider will notify licensing staff when care is resumed.
  - (2) Licensing staff ~~contact~~ contacts the provider by telephone or letter periodically to update the provider's status.
  - (3) Licensing staff ~~visit~~ visits the inactive facility at least once a year to verify and document compliance with licensing requirements.
- (gh) **Change in ownership.** If a residential program or child-placing agency assumes new ownership, the case file is closed, and the program must apply for new license under the new owner.
- (hi) **Response to a sudden infant death syndrome (SIDS) child death.** When notified of a ~~the death assumed to be SIDS of a child while in child care, the~~ licensing staff:
- (1) completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee; and
  - (2) visits the facility as soon as possible, unless advised otherwise by law enforcement.
- (ij) **Serious incident reports.** The licensing staff submits to the programs manager a report of any serious incident. A serious incident includes, but is not limited to, an incident:
- (1) that results in the serious injury or death of a child, such as:
    - (A) shaken baby;
    - (B) drowning or near drowning; or

- (C) traffic accident resulting in serious injury;
  - (2) that places a child at a high risk for death or injury, such as a child:
    - (A) leaves a facility without the staff's knowledge;
    - (B) is left at a location away from the facility;
    - (C) is left unattended in a vehicle; or
    - (D) is left alone in a facility;
  - (3) that causes significant damage to a facility, such as:
    - (A) fire;
    - (B) flood; or
    - (C) tornado; and
  - (4) where media involvement is anticipated.
- (j) **Coordination with state agencies.** Division of Child Care residential licensing staff works cooperatively with the OKDHS Office of Client Advocacy (OCA), the Oklahoma Commission on Children and Youth (OCCY), and the Oklahoma Health Care Authority (OHCA).

## 340:110-1-47.1. Complaint investigations

- (a) **Legal basis.** The Child Care Facilities Licensing Act (Act), Sections 401 et seq. of Title 10 of the Oklahoma Statutes, mandates that the Oklahoma Department of Human Services (OKDHS) conduct a full investigation of a complaint alleging a violation against the Act or any licensing requirement.
- (b) **Receipt of the complaint.** Complaints may be made to Division of Child Care (DCC), Licensing Services, in writing, in person, or by telephone.
- (c) **Complaint information.** The licensing staff obtains as much relevant information as possible from the complainant.
- (d) **Screening complaints.** The licensing staff accepts a complaint for investigation when it alleges:
- (1) non-compliance with licensing requirements;
  - (2) operation of an unlicensed facility in violation of the Act; or
  - (3) abuse or neglect of a child in care.
- (e) **Disposition of complaints.** Upon receipt of a complaint, the licensing staff determines a disposition, as described in this subsection.
- (1) A complaint that does not meet the criteria in (d) is discussed with the complainant, and, if appropriate, a referral is made to another entity, such as law enforcement, Office of Juvenile Affairs, Office of Client Advocacy (OCA), Children and Family Services Division, or Office for Civil Rights.
  - (2) A complaint alleging violation of licensing requirements or operation of an unlicensed facility is investigated by DCC Licensing Services.
  - (3) A complaint alleging child abuse or neglect is immediately referred to OCA with a copy of Form 07LC012E, Licensing Complaint. If an immediate response to the referral is not received, the licensing staff follows up the next working day to obtain a response.
  - (4) When a complaint alleges:
    - (A) commission of a crime, it is immediately referred to local law enforcement where the facility is located.

- (i) The referral is followed up in writing; a copy is filed in the facility record; and the programs manager is notified.
- (ii) It is the responsibility of the licensing staff to follow up with local law enforcement officials to determine and document the outcome of the investigation; or
- (B) illegal drug activity, it is referred to local law enforcement. If the facility has a provider contract, the complaint is also referred to the Office of Inspector General (OIG).
  - (i) The referral to OIG is made on Form 19MP001E, Referral Form, and includes date and contract information regarding the referral to local law enforcement.
  - (ii) Upon receipt of the referral, OIG contacts the local law enforcement agency to determine whether the agency or OIG will conduct the investigation or whether a joint investigation will be conducted.
- (5) A complaint received from another division within OKDHS or an agency responsible for monitoring residential child care facilities or child-placing agencies, such as the Oklahoma Commission on Children and Youth (OCCY), OCA, or the local health or fire department, is deemed valid if documented in writing by the agency representative. Licensing staff determines whether the observation is a non-compliance. The facility is advised of the report and given an opportunity to respond.
- (6) The programs manager is notified of any complaint:
  - (A) in which the alleged non-compliance caused or could cause imminent risk of harm to a child in care;
  - (B) when the facility has numerous, repeated, or serious non-compliance with requirements;
  - (C) when the alleged non-compliance has been addressed in a previous Form 07LC037E, Notice to Comply;
  - (D) that was referred to OCA or law enforcement;
  - or
  - (E) that is receiving special attention, such as from the media or a legislator.
- (f) **Complaint risk levels.** Risk levels are determined by the licensing staff based upon the degree of harm or danger to children in care. Risk levels are used to ensure that investigations occur in a timely manner and to track types of complaints.
  - (1) **Risk level I complaints.** Risk level I complaints indicate a child is in imminent danger of serious physical injury. The level of risk is not influenced by the removal of a child from the facility if other children remain in care. Investigations are initiated immediately or no later than 24 hours after receipt of the complaint by the licensing staff unless awaiting investigation by OCA or law enforcement. Examples of risk level I complaints include:
    - (A) alleged physical or sexual abuse;
    - (B) use of illegal drugs while children are in care;
    - (C) distribution of drugs;
    - (D) children left alone in the facility or in a vehicle;
    - (E) extreme facility temperatures;
    - (F) infant placed on the stomach for sleeping;
    - (G) threatening or impaired behavior of a caregiver; or
    - (H) severe understaffing or over-capacity.
  - (2) **Risk level II complaints.** Risk level II complaints do not indicate there is imminent danger of injury, but without intervention a child may not be safe. Investigations are initiated within 15 calendar days of receipt of the complaint by the licensing staff, or sooner, depending on the degree of risk, unless advised by OCA or law enforcement to delay the investigation. Examples of risk level II complaints include:
    - (A) leaving children with an underage staff person;
    - (B) alleged physical abuse from a staff person no longer working in the facility;
    - (C) inappropriate discipline where no injury is reported;
    - (D) broken playground equipment;
    - (E) injury caused by lack of supervision; or
    - (F) minor understaffing.
  - (3) **Risk level III complaints.** Risk level III complaints do not indicate imminent danger and there are no injuries alleged. Investigations are initiated within 30 calendar days of the date of receipt of the complaint by the licensing staff or immediately if a telephone investigation is appropriate. Examples of risk level III complaints include:
    - (A) inadequate meal service;
    - (B) inappropriate use of television or videos; or
    - (C) inadequate cleanliness of the facility.
- (fg) **The investigation.** The licensing staff conducts a full investigation, obtaining sufficient information to make a finding.
- (gh) **Telephone investigation.** With supervisory approval, the licensing staff may investigate a complaint by telephone. The discussion and, if necessary, an agreed-upon plan of correction is documented on ~~page 4 of Form OCC-3~~ 07LC080E, Child Care Center Monitoring Report Licensing Services Supplemental Information. A copy is sent to the operator. A complaint may be investigated by telephone only if:
  - (1) the alleged non-compliance does not place children at risk; of harm, for example, the facility did not serve milk one day or children have head lice;
  - (2) the facility has not had numerous, repeated, or serious non-compliance; and
  - (3) a monitoring visit has been made in the last three months during which substantial compliance was documented.
- (hi) **Procedure for investigating allegations of operating an unlicensed facility.** When allegations of operating an unlicensed facility are investigated, the procedure contained in this subsection is followed.
  - (1) When the report does not indicate that children are at immediate risk of harm, the procedure in this paragraph is followed.
    - (A) If a complaint is made in person or by telephone, the licensing staff obtains and records all relevant information on Form ~~OCC-12~~ 07LC012E,

# Permanent Final Adoptions

## ~~Licensing Complaint Report and Complaint Summary.~~

- (B) When advertisements indicate a residential facility or child-placing agency is operating in violation of the Act, information is recorded with the advertisement attached.
- (C) The licensing staff mails to the operator the licensing requirements and a letter ~~which that~~ includes information about licensure and a request for a response within 14 days.
- (D) If a response is not received within 14 days, a visit is made to the facility to:
- determine whether child care services are being provided;
  - explain the Act;
  - ask the operator to file an application for licensure or cease care; and
  - request the operator to advise the licensing staff of the decision within ten days.
- (E) If a response is not received within ten days, several contacts are made or attempted to encourage the operator of an unlicensed facility to comply with the Act.
- (F) If the operator fails to apply for licensure as required by the Act, the licensing staff consults with the programs manager and, when appropriate, makes a recommendation to the district attorney.
- (2) When children may be at risk of harm, the licensing staff obtains and records as much information as possible, notifies the programs manager, and verifies the validity of the complaint with a visit to the facility.
- (A) If the complaint is substantiated and children are at risk, the licensing staff requests the caregiver cease operation immediately.
- (B) If the operator refuses, the licensing staff informs the caregiver that legal action may be initiated.
- (C) Prior to contacting the district attorney, the programs manager reviews the case with the licensing staff to determine whether legal action is indicated.
- (3) When legal action is warranted, a request for criminal proceedings or an injunction is made to the local district attorney. The recommendation is made in writing and includes documentation of the facts of the case. The programs manager informs the OKDHS Legal Division of the request to the local district attorney for legal action.
- (4) If a local district attorney will not take action against a facility, the OKDHS Legal Division is notified. A referral may be made to the attorney general by the programs manager.
- (i) **Child abuse and neglect complaints.** Upon receipt of a complaint alleging abuse of a child in care, the licensing staff immediately notifies the programs manager and makes a referral to the Office of Client Advocacy.
- (j) **Findings.** After the investigation is completed, the licensing staff, in consultation with the programs manager, as appropriate, makes a finding as to whether the complaint is substantiated or unsubstantiated.

(1) **Substantiated.** A finding of substantiated is made when a weighing of the information obtained during the investigation clearly indicates that the facility violated a licensing requirement or the Act.

(2) **Unsubstantiated.** A finding of unsubstantiated is made when the ~~allegation is found to be uncertain or ruled out. A finding is:~~

~~(A) uncertain when the information does not lead to a definite conclusion. An example is when, for example:~~

~~(iA) there is insufficient or conflicting information on which to conclude that a violation occurred; or~~

~~(iB) information required to make a finding is unavailable; or~~

~~(B3) Ruled out. A finding of ruled out is made when a weighing of the information clearly indicates there was not a violation of a licensing requirement or the Act.~~

~~(k) Documentation of findings.~~ Upon completion of the investigation, the licensing staff documents the findings and notifies the provider in writing.

~~(m) Notice to Comply.~~ When a serious complaint is substantiated, the licensing staff advises the facility to correct the violations immediately, using Form ~~OCC-37~~ 07LC037E, Notice to Comply. The facility must complete a plan of correction.

## **340:110-1-47.2. Non-compliance with requirements**

(a) **Documentation of non-compliance.** The Division of Child Care licensing staff documents clearly and concisely on the monitoring report areas of non-compliance ~~as well as and~~ the discussion with the operator ~~clearly and concisely on the monitoring report.~~

(1) A plan of correction, including an agreed-upon time period for correction of the non-compliance, is documented on the monitoring report for each non-compliance ~~on the monitoring report.~~

(2) Immediate correction is required when the non-compliance has a direct impact on the health, safety, or well-being of a child(ren) in care.

(3) The licensing staff requests that the operator sign the monitoring report, explaining that the operator's signature indicates acknowledgment of information recorded.

(4) If the person in charge refuses to sign, the refusal is documented on the report.

(5) The operator is given a copy of the completed monitoring report.

(b) **Referrals to fire and health officials.** If non-compliance regarding fire or health requirements places children at risk of harm or remains uncorrected, the licensing staff requests an inspection by a fire, health, or Oklahoma Department of Environmental Quality (ODEQ) official.

(c) **Case management responses to non-compliant facilities.** The ~~following additional~~ responses in this subsection may be used when there is repeated, numerous, or serious non-compliance.

(1) **Technical assistance.** Technical assistance is offered along with referrals to consultants or training resources, if necessary, to assist the operator in meeting and maintaining licensing requirements.

(2) **Follow-up phone call.** Phone calls are documented on ~~page 4 of Form OCC 3, Monitoring Report 07LC080E, Licensing Services Supplemental Information,~~ and a copy is mailed to the facility.

(3) **Non-compliance letters letter.** A non-compliance letter may be written to the operator. The licensing staff sends a copy of the monitoring report and non-compliance letter to the governing board or owner, if applicable.

(4) **Return monitoring visit.** A return monitoring visit may be made if there is repeated, numerous, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit is made at that approximate time.

(5) **Use of witnesses.** The licensing staff may be accompanied by a witness during monitoring visits if the facility has had numerous, repeated, or serious non-compliances or if denial or revocation of the license is being considered. The witness may be an Oklahoma Department of Human Services (OKDHS) employee or a representative from the health or fire department. The witness signs the monitoring report in the space provided.

(6) **Increased monitoring visits.** Licensing staff may increase the frequency of monitoring when there has been numerous, repeated, or serious non-compliance or when the need for additional technical assistance is indicated.

(7) **Notice to comply.** The licensing staff provides the facility with Form ~~OCC 37 07LC037E,~~ Notice to Comply, on which the facility documents the plan of correction. Immediate correction may be required if the non-compliance places the health, safety, or well-being of a child(ren) in care at risk.

(A) If the plan submitted by the operator is unacceptable to the licensing staff, the staff negotiates and documents a revised plan.

(B) If the operator does not submit the response to Form ~~OCC 37 07LC037E~~ within the specified time period, the licensing staff contacts the operator and documents the conversation. If concerns exist or the operator is uncooperative, the licensing staff sends a letter stating that failure to complete Form ~~OCC 37 07LC037E~~ may result in revocation of license, denial of the application, or the filing of an injunction or emergency order.

(8) **Office conference.** The licensing staff may schedule an office conference with the operator of the facility. The programs manager is present at the office conference. Areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered. The conference is documented on ~~page 4 of Form OCC 3 07LC080E,~~ which is signed by the licensing staff, the operator, and any witnesses present. Form

~~OCC 37-07LC037E~~ is completed if one addressing these issues has not been completed recently.

(9) **Consent agreement.** OKDHS and the operator of the facility may enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation.

(10) **Revocation.** The licensing staff recommends that the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children.

(11) **Voluntary closure.** The operator is asked to voluntarily close the facility.

(d) **Case management responses when children are at risk.** If the licensing staff documents non-compliance with requirements or is investigating a complaint that ~~may place the health, safety, or well-being of children~~ may be at imminent risk of harm, options to consider during consultation with the operator and the programs manager are outlined in this subsection.

(1) The operator is asked to immediately correct the non-compliance; for example, the staff person will not work at the facility pending the outcome of an investigation.

(2) The operator is asked to voluntarily close the facility.

(3) The licensing staff requests an emergency order when immediate action is needed to protect children in a child care facility that is on permit, licensed, on notice of revocation or denial, or operating during an appeal following revocation or denial.

(4) The operator agrees to enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation.

(5) The licensing staff recommends that the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children.

(6) An injunction may be requested when the residential facility or child-placing agency is:

- (A) unlicensed;
- (B) on application status;
- (C) licensed;
- (D) violating an emergency order;
- (E) operating during an appeal following revocation or denial and children are at risk of harm; or
- (F) violating the notice to cease care following ~~revocation or denial~~ or revocation of license.

**340:110-1-51. Criminal background checks**

(a) **Provider.** Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility arrange, prior to employment, for a criminal history investigation for:

- (1) any person making application to establish or operate a residential child care facility and child-placing agency;

## Permanent Final Adoptions

---

- (2) any person to be employed by a child care facility or child-placing agency, including all caregivers, auxiliary staff, and substitute or assistant caregivers; and
  - (3) others who have unsupervised access to children, such as students, workers, contracted staff, volunteers, or custodians; and
  - (4) adults, including ~~providers' spouses~~ the provider's spouse or adult children, who live in the child care facility.
- (b) **Exceptions.** Criminal history investigations are not required for:
- (1) new staff persons who have documentation of a criminal history investigation within the last 12 months;
  - (2) staff persons who move to a program operated by the same organization;
  - (3) contracted staff persons who provide transportation, lessons, or other services if facility staff persons are present with children at all times; and
  - (4) ~~providers' the~~ provider's children who become adults, age 18, during continuous residence at the licensed facility.
- (c) **Authorized agencies.** Criminal history investigations are acceptable only when conducted by:
- (1) the Oklahoma State Bureau of Investigation (OSBI); and
  - (2) the authorized agency in the previous state of residence if the person has resided in Oklahoma for less than one year.
- (d) **Sex Offenders Registry.** The OSBI report must include a search of the Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act. According to Section 404.1 of Title 10 of the Oklahoma Statutes, it is unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children, to live in a child care facility, or to be employed or contracted by the facility to care for children. If it is determined that a facility has violated this Statute, the Oklahoma Department of Human Services (OKDHS) may pursue:
- (1) an emergency order;
  - (2) revocation of the license or denial of the application for license;
  - (3) an injunction; or
  - (4) referral for criminal proceedings.
- (e) **Convictions.** The licensing staff reviews each criminal history report.
- (1) If a report includes a charge without a disposition for an offense listed in licensing requirements or which could affect contract eligibility, a copy of the disposition is obtained.
  - (2) If a report includes a plea of guilty or nolo contendere, no contest, or conviction for an offense listed in licensing requirements, the licensing staff:
    - (A) advises the administrator or director of the facility that the person does not meet licensing requirements;
    - (B) informs the administrator or director of the facility that he or she may request a waiver from the

Division of Child Care (DCC) programs manager unless the person was convicted of a crime pursuant to the Sex Offenders Registration Act, pursuant to OAC 340:110-1-51(d);

(C) provides the administrator or director of the facility with a copy of the items considered for a waiver as listed in OAC 340:110-1-51(h); and

(D) documents assurance from the administrator or director of the facility that the person in question will not be employed, work with children, or be present at the facility until a decision has been made regarding the request for a waiver, pursuant to OAC 340:110-1-51(h).

(3) If the facility administrator's or director's criminal history report includes a conviction of fiscal mismanagement, such as embezzlement or fraud, or if there are repeated convictions that indicate a pattern of criminal activity, a copy of the report is sent to the DCC programs manager.

(f) **Waiver.** The prohibition to employ a person with criminal history may be waived if requested in writing and signed by the facility's owner or director. A waiver is not granted to any person who is required to register pursuant to the Sex Offenders Registration Act.

(1) Licensing staff ~~submit~~ submits completed Form ~~OCC-74~~ 07LC071E, Child Care Waiver Request, to the programs manager.

(2) The decision to grant a waiver is made by the programs manager, based on documentation indicating the health, safety, and well-being of children is not endangered. Criteria considered by the programs manager include the:

(A) type of crime or offense for which the person was convicted or a finding made;

(B) nature of the offense(s);

(C) age of the person at the time of the offense(s);

(D) circumstances surrounding commission of the offense(s) that demonstrate whether it is likely that the person will re-offend;

(E) number of offenses for which the person was convicted or findings made;

(F) length of time that has elapsed since the last conviction or finding;

(G) relationship of the offense(s) and the person's ability to care for children;

(H) evidence of rehabilitation or education activities such as counseling since the offense was committed;

(I) statement from the person who has the criminal history; and

(J) opinions of reliable community members concerning the person in question.

(3) The programs manager notifies the facility of the decision in writing.

(4) Licensing staff ~~monitor~~ monitors any additional instructions made to the program and ~~verify~~ verifies the waiver notice is posted in the facility.

**340:110-1-52. Legal actions**

(a) **Failure to meet requirements.** When numerous, repeated, or serious non-compliance with licensing requirements is observed and documented or when an operator is unable to comply with the requirements or fails to protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny or revoke the license. Denial or revocation of a license is based on observation, investigation, and documentation that the operator is unable or unwilling to comply with minimum requirements.

- (1) Denial of a license is recommended for a facility or agency that has filed an application for license.
- (2) Revocation of a license is recommended for a facility or agency that is currently licensed.

(b) **Consent agreement.** OKDHS may offer to enter into a consent agreement with a facility in lieu of license denial or revocation. If such action has already taken place, a consent agreement may be used during the ~~appeals~~ appeal process if the facility comes into compliance with licensing requirements. The use of a consent agreement is not required prior to denying or revoking a license.

(1) An office conference with the operator is scheduled to develop the consent agreement. The programs manager is present at the meeting. The operator may bring legal representation.

(A) The programs manager determines the minimum terms that are acceptable to avoid negative sanctions. Terms and time frames of the agreement are based upon the nature and severity of the non-compliance.

(B) The agreement may include emergency voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility, and specific staff training, drug testing, and medical or psychological evaluation.

(C) Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the programs manager and the OKDHS Legal Division.

(2) The operator is required to prominently post a copy of the consent agreement in the residential facility or child-placing agency. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

(3) The licensing staff mails a copy of the consent agreement, with a cover letter to parents or guardians of children currently housed at the facility. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(4) The licensing staff conducts monitoring visits at least monthly while the consent agreement is in effect. The same witness accompanies the licensing staff on monitoring visits whenever possible.

(5) Any violation of the terms of the consent agreement is:

- (A) documented on Form 07LC080E, Licensing Services Supplemental Information; and
- (B) considered grounds for proceeding with license revocation or denial.

(6) The residential child care facility or child-placing agency is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

(c) **Denial or revocation of license.** The licensing staff consults with the programs manager regarding the ~~revocation~~ denial or revocation recommendation.

(1) The licensing staff prepares a summary of non-compliance and submits it to the programs manager for review, with a recommendation to approve, disapprove, or delay decision pending further investigation.

(2) The licensing staff recommendation for When the programs manager approves denial or revocation, it is reviewed by the Director OKDHS Legal Division. The director of Child Care Services for or designee has final approval of denial or further investigation revocation.

(3) Notification of proposed denial or revocation is sent by certified mail to the operator, and to the OKDHS Legal Division, at least 30 days prior to the effective date of the proposed action with, and includes:

- (A) a copy of the recommendation summary. The;
- (B) notice of the operator's right to appeal the decision is included in the correspondence. A copy of the correspondence is sent to the OKDHS Legal Division. At the time the facility is given;
- (C) statement that the law requires notice in writing of the denial or revocation or denial of license, OKDHS also advises be given to parents or custodians of children attending the facility of such action by written notification. The operator is instructed to submit to OKDHS the names and addresses of currently enrolled children; and
- (D) the posting of an announcement a sign providing notice of proposed denial or revocation that must be prominently posted in the facility.

(d) **Appeal.**

(41) Appeals An appeal of the decision to deny or revoke license must be submitted to the Oklahoma Commission for Human Services by the operator within 30 days of receipt of the notice. If the operator does not appeal the decision within the time period, a letter is sent the programs manager sends to the operator by regular mail to the operator giving a notice that the license is denied or revoked and stating of denial or revocation that includes the effective date.

(52) If an appeal is made by an operator to OKDHS, a hearing is scheduled by the OKDHS Appeals Unit.

(6) The operator is notified of the hearing by personal service, or by delivery to the proper address by registered mail, at least two weeks prior to the date of the hearing.

## Permanent Final Adoptions

(73) If the administrative hearing officer upholds the OKDHS decision, the hearing officer provides a written notice at the conclusion of the hearing, which contains an explanation of appeal rights.

(4) The facility may continue to operate during any appeal process unless an emergency order is in effect.

(A) The licensing staff conducts monitoring visits at least once a month, unless advised otherwise in writing by the programs manager or designee, and is accompanied by the same witness whenever possible.

(B) If at any time during the appeal process OKDHS believes the health, safety, or well-being of children is at risk:

- (i) an emergency order is requested; or
- (ii) following consultation with the programs manager or designee, the licensing staff contacts the district attorney and requests that an injunction be filed.

(e) **Child care discontinued.**

(1) If the decision of OKDHS to deny or revoke is upheld during all appeals, the programs manager informs the operator in a letter that child care must immediately cease.

(A) The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. The programs manager or designee is notified of the visit.

(8B) If the operator continues to maintain and operate the residential child care facility or child-placing agency after a final decision ~~revoking or denying licensure~~ to deny or revoke license, the ~~Director~~ director of Child Care Services may request that the Attorney General or the appropriate district attorney secure a civil injunction or initiate criminal proceedings.

(2) If the OKDHS decision to deny or revoke is not upheld, OKDHS takes action to implement the decision within ten days.

(3) When OKDHS denies or revokes a facility's license, the responsible agent may not make application for a new residential child care facility or child-placing agency license within Oklahoma for five years following the closure of the facility.

(4f) **Emergency order.** An emergency order may be issued by OKDHS when immediate action is needed to protect the health, safety, or ~~welfare~~ well-being of children in a child care facility.

(1) If the operator is unwilling to voluntarily correct the hazardous situation, the licensing staff notifies the programs manager of the circumstances. If the programs manager agrees that an emergency order is warranted, all supporting documentation is given to the ~~Director~~ director of Child Care Services for review. The written order is issued and signed by the programs manager. If the risk is such that children must be immediately removed from the residential facility or placement through a child-placing agency, the ~~Director~~ director of Child Care Services may give verbal approval for removal of children.

(A) The administrator or director and parents or custodians are told that the facility will not be open

on the following day; or parents or custodians are contacted to pick up their children immediately.

(B) If every effort has been made to reach the parents or custodians, and children are at immediate risk of harm, the ~~licensing programs~~ manager contacts the ~~police~~ law enforcement to remove the children.

(2) The emergency order states the existence of an emergency and sets forth remedies such as removal of children from the facility or closure of a facility. The order is effective immediately and includes the right to appeal the decision.

(3) The emergency order may be rescinded when the ~~licensing programs~~ manager verifies correction of the hazardous situation. Upon receipt of such documentation, the ~~Director~~ director of Child Care Services notifies the operator in writing that the order has been rescinded.

(34) The operator may request a hearing by filing a written request within ten days of receipt of the emergency order. The hearing is conducted within ten days from receipt of the operator's request.

(45) If unsatisfied with the results of the OKDHS hearing, the operator may appeal to the district court within 30 days of the decision of the administrative hearing officer.

(eg) **Rescinding the order.** The emergency order may be rescinded when the licensing staff verifies correction of the hazardous situation. Upon receipt of such documentation, the programs manager notifies the operator in writing that the order has been rescinded.

(fh) **Hearing process.**

(1) The operator may request a hearing by filing a written request within ten days of receipt of the emergency order. The hearing is conducted within ten days from receipt of the operator's request. An OKDHS hearing officer conducts the hearing.

(g2) **Appeal rights.** If the results of the OKDHS ~~hearings~~ hearing are disputed, the operator may file an appeal in district court within ten days of the decision.

(hi) **Injunction.** If an operator violates the conditions set forth in the emergency order, an injunction from district court is requested by the ~~program managers~~ programs manager or designee.

### 340:110-1-53. Case closures

(a) A case is closed when:

(1) ~~the residential child care facility moves to a new location;~~

(2) the residential child care facility or child-placing agency is sold to a new owner;

(3) care of children is discontinued, or in a child-placing agency, operation is discontinued; or

(4) the license is revoked or the application for license is denied.

(b) When a licensed child care facility closes of its own accord, the licensing staff updates the database and submits to the Division of Child Care, programs manager, ~~Form K-17, Child Care Facility Services~~, a narrative, and a copy of the letter sent to the facility verifying closure.

(c) If the case is closed because of ~~revocation or denial or~~ revocation, the facility ~~cannot~~ may not make application for a new child care facility license in Oklahoma for five years following closure of the facility.

[OAR Docket #07-872; filed 4-25-07]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 1. FUNCTION AND STRUCTURE  
OF THE OFFICE OF JUVENILE AFFAIRS**

[OAR Docket #07-782]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

- Subchapter 1. Function and Structure of the Office of Juvenile Affairs
- 377:1-1-3. Description of the Office of Juvenile Affairs (OJA) [AMENDED]
- 377:1-1-5. Board of Juvenile Affairs [AMENDED]
- 377:1-1-11. Executive Director [AMENDED]
- 377:1-1-12. ~~Deputy Director/Chief of Staff of DJJ~~ OJA [AMENDED]

**AUTHORITY:**

Board of Juvenile Affairs, pursuant to 10 O.S., Section 7302-1.1(H) and 7302-1.1 (I) and 75 O.S., Section 302 (A)(1).

**DATES:**

**Comment period:**

December 1, 2006 through January 1, 2007

**Public hearing:**

January 3, 2007

**Adoption:**

January 11, 2007

**Submitted to Governor:**

January 19, 2007

**Submitted to House:**

January 19, 2007

**Submitted to Senate:**

January 19, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove resulted in approval on March 28, 2007

**Final adoption:**

March 28, 2007

**Effective:**

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS.**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The Office of Juvenile Affairs rules are being revised due to changes in Title 10 attributed to the passage of HB2999. Rule 377:1-1-3 outlines the agency's organizational structure. The OJA rule 377:1-1-5 outlines OJA Board responsibilities and duties. Rule 377:1-1-11 defines the duties of the Executive Director. Rule 377:1-1-12 provides for OJA to have a Chief of Staff.

**CONTACT PERSON:**

Robert Morey, (405) 530-2820.

**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, 2007:**

**SUBCHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS**

**377:1-1-3. Description of the Office of Juvenile Affairs (OJA)**

(a) **History.** The Office of Juvenile Affairs (OJA) was created on July 1, 1995, as a result of legislation enacting the Oklahoma Juvenile Code.

(b) **Organization.** The Office of Juvenile Affairs consists of programs providing services to juveniles involved in the juvenile justice system and administrative components which provide administrative support.

(1) **Office of the Executive Director.**

(A) Within the Office of Juvenile Affairs, programs and divisions which report directly to the Executive Director include, but are not limited to, the:

- (i) Office of Public Integrity;
- (ii) Division of the Advocate Defender; and
- (iii) Office of General Counsel Service;

(B) The Executive Director of OJA is designated by the Governor as the Interstate Compact Liaison.

(C) Additional responsibilities of the Executive Director are listed in OAC 377:1-1-11.

(D) The Executive Director shall establish divisions within ~~DJJ~~ OJA in addition to those required by law and may employ staff as necessary to perform the duties of the Office of Juvenile Affairs as authorized by statute. Organizational charts are available upon request from the ~~Office of Planning and Research~~ Office of the Executive Director.

~~(2) Department of Juvenile Justice. Title 10 O.S., § 7302-3.1 establishes the Department of Juvenile Justice (DJJ) within OJA. Responsibilities of DJJ staff include:~~

- ~~(A) serving as the state planning and coordinating agency for juvenile justice and delinquency programs;~~
- ~~(B) providing juvenile intake, probation, and parole services; and~~
- ~~(C) implementing programs enumerated in 10 O.S., § 7302-3.1(C) and (D).~~

(2) Division of Community-based Youth Services. The Division of Community-based Youth Services operates under the authority of 10 O.S. §§7302-3.3, 7302-2.2, 7302-3.5 and 7302-3.6.a.

(3) **Advocate Defender Division.** The Advocate Defender Division is a Division of the ~~Department of Juvenile Justice~~ OJA established by 10 O.S., §7302-3.2 (A) and (B)(1-8). Compliance with Oklahoma statutes is obtained by assignment of the Advocate Defenders to the OJA institutions. The Division of Advocate Defender shall be separate and apart from the Office of General Counsel.

(4) **Support Services Division.** The Support Services Division shall provide centralized support function for the Office of Juvenile Affairs.

(5) **Financial Services Division.** The Financial Services Division shall provide the centralized accounting, procurement, reporting, and budgeting for OJA.

## Permanent Final Adoptions

(6) **Institutional Services Division.** The Institutional Services Division shall be responsible for all secure institutional services.

(7) ~~**Community Services Division Juvenile Services Division.** The Community Services Division shall be responsible for all community-based services. The Juvenile Services Division shall be responsible for intake, probation and parole services, supervision and placement of juveniles.~~

(8) **Office of the Parole Board Division.** The Office of the Parole Board shall have responsibilities as set forth in 377:-30-5 5.

(c) **Purpose/mission.** The purpose of the Office of Juvenile Affairs as stated in Title 10, O.S., § 7301-1.2, is to promote the public safety and reduce delinquency. To execute the purpose of the statutes, OJA has developed its mission to include:

- (1) protection of the public from juvenile offenders;
- (2) prevention of juvenile delinquency;
- (3) implementation of programs ensuring accountability of juveniles for their behavior; and
- (4) involvement of the community in creating and implementing solutions to juvenile delinquency and establishing individual accountability.

### 377:1-1-5. Board of Juvenile Affairs

(a) **Composition.** Title 10, O.S., §7302-1.1 authorizes the Board of Juvenile Affairs (Board) as the governing body for the Office of Juvenile Affairs. The Board shall consist of seven (7) members appointed by the Governor with the advice and consent of the Senate in accordance with 10, O.S. §7302-1.1.

(b) **Meetings.** Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board by delivery of written notice to each member of the Board. Emergency meetings of the Board may be called as provided by Oklahoma statutes.

(1) Any member may waive notice of any meeting. The attendance of a member at a meeting shall constitute waiver of notice of such meeting except where the member attends for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

(2) All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.

(c) **Voting.** A majority of members serving on the Board shall constitute a quorum.

(1) The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.

(2) A member may disqualify himself or herself from a vote at any time and without explanation. A member who disqualifies himself or herself from a vote shall be considered to be not present for purposes of that vote.

(d) **Election of officers.** At the first meeting of each calendar year, the Board shall elect one of its members to serve as

Chair and another of its members to serve as ViceChair. The Chair or ViceChair shall hold office until his or her successor has been duly elected or until his or her death, resignation, or removal.

(e) **Vacancies.** A vacancy in the elected position of Chair or ViceChair because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.

(f) **Duties of the position of Chair and ViceChair.** The Chair, or in his or her absence, the ViceChair, shall preside at all meetings of the Board, including executive sessions. The Chair, or ViceChair as the case may be, shall be the final authority on all procedural issues, and may, when appropriate, refer to and follow the recommendations of the legal counsel for the Office of Juvenile Affairs or "Robert's Rules of Order" to resolve a procedural issue.

(1) The Chair, within two weeks of a member's new appointment, shall:

- (A) brief the member of the Board regarding the duties and responsibilities of the Board and its members;
- (B) provide the new member a copy of the statutes pertinent to the Board and its duties;
- (C) provide a copy of the monthly operating budgets of the Office of Juvenile Affairs for the preceding twelve months;
- (D) provide a copy of the rules under which the Office of Juvenile Affairs functions and operates; and
- (E) provide such other information as is necessary to assure that the new member is advised of his or her duties and responsibilities.

(2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or in part to the Executive Director of the Office of Juvenile Affairs or a managing officer of that agency, but the responsibility for its accomplishment shall remain with the Chair.

(g) **Responsibilities.** The purpose of the Board of Juvenile Affairs is to act as the governing board for the Office of Juvenile Affairs and to implement and direct the mandates of the Oklahoma Legislature with respect to the custody, care, and supervision of juveniles adjudicated to be delinquent or in need of supervision or persons sentenced as youthful offenders. The Oklahoma Juvenile Code, Title 10 O.S., §7301 *et seq.* and other provisions of law related to children and youth gives the Board the responsibility for:

- (1) promulgating rules for the Office of Juvenile Affairs and for its own governance;
- (2) adopting an official seal for the Office of Juvenile Affairs;
- (3) appointing and setting the salary of the Executive Director of the Office of Juvenile Affairs;
- (4) reviewing and approving OJA's budget request to the Governor;
- (5) assisting OJA in conducting regular reviews and planning activities related to the goals, objectives, priorities, and policies of the Office of Juvenile Affairs;
- (6) providing a public forum for receiving comments and disseminating information to the public regarding the goals, objectives, priorities, and policies at least quarterly;

- (7) adopting nonbinding resolutions requesting action by the Office of Juvenile Affairs in response to comments from the public or upon the Board's own initiative;
- (8) establishing OJA contracting procedures and guidelines for rates of payment for services provided by contract; provided the Board may not increase payment rates during the time the Legislature is not in session;
- (9) serving as the rulemaking body for the Office of Juvenile Affairs, including promulgating rules which implement the duties and responsibilities of the Office of Juvenile Affairs pursuant to the Oklahoma Juvenile Code;
- (10) developing performance standards for programs implemented by the ~~Department of Juvenile Justice~~ Office of Juvenile Affairs, either directly or by contract;
- (11) appointing the Executive Director, or in the event of a vacancy, designating an interim or acting Executive Director, including the ~~Deputy Director~~ Chief of Staff of the ~~Department of Juvenile Justice~~ Office of Juvenile Affairs, until a new and permanent Executive Director is appointed;
- (12) establishing fee schedules;
- (13) advising OJA with respect to real estate leases;
- (14) approving criteria for designation of organizations as "Youth Services Agencies";
- (15) establishing an administrative hearing and appeal process for denials of "Youth Service Agency" designation;
- (16) reviewing annually the ~~DJJ~~ OJA report (OJA Annual Report) which analyzes and evaluates the effectiveness of ~~DJJ~~ OJA programs and services;
- (17) reviewing annually the ~~DJJ~~ OJA report (OJA Annual Report) which analyzes and evaluates the effectiveness of the Youthful Offender Act;
- (18) promulgating rules for the Office of Juvenile Affairs to obtain national criminal history records searches in accordance with Section 404.1 of Title 10 for personnel working with or around juveniles in the Office of Juvenile Affairs' institutions and Office of Juvenile Affairs' operated facilities;
- (19) promulgating rules, outlining policies and procedures governing the operation of facilities operated by or through contract with ~~the DJJ~~ OJA;
- (20) promulgating rules defining contraband for purposes of inspection;
- (21) promulgating rules governing the use of mechanical restraints in institutions and other facilities operated by or through contract with the Office of Juvenile Affairs;
- (22) receiving and reviewing institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;
- (23) establishing standards for regimented juvenile training programs;
- (24) establishing the proposal submission and education procedures and criteria for the implementation of the Delinquency and Youth Gang Intervention and Deterrence Act;

- (25) promulgating rules necessary for the implementation of the "Juvenile Offender Victim Restitution Work Program";
- (26) adopting rules as required to implement the Serious and Habitual Juvenile Offender Program and Juvenile Justice Information System;
- (27) establishing certification standards for municipal juvenile facilities for temporary detention;
- ~~(28) establishing standards for training with respect to military mentor programs administered by the Oklahoma Military Department;~~
- ~~(29)~~ 28 promulgating standards for certification of juvenile detention facilities;
- ~~(30)~~ 29 developing, adopting, and implementing the "State Plan for the Establishment of Juvenile Detention Services";
- ~~(31)~~ 30 establishing procedures for the letting of contracts or grants for juvenile detention services or facilities;
- ~~(32)~~ 31 approving a form for the statistical reporting of detention of persons under the age of 18;
- ~~(33)~~ 32 establishing standards for the certification of detention services;
- ~~(34)~~ 33 with the State Department of Health, establishing standards for certification of jails, adult lock-ups and adult detention facilities used to detain juveniles;
- ~~(35)~~ 34 establishing guidelines and procedures for Juvenile Bureaus to ensure uniformity in the performance of the Juvenile Bureau's statutory duties;
- ~~(36)~~ 35 promulgating rules and forms necessary for the implementation of the juvenile sex offender registry; ~~and~~
- ~~(37)~~ 36 promulgating rules for the expansion for criminal records searches or foster care eligibility assessments beyond the records searches conducted by the Oklahoma State Bureau of Investigation;:
- (37) Designating Youth Services Agencies; and
- (38) Adopting the State Plan for Youth Services Agencies.

**377:1-1-11. Executive Director**

(a) The Executive Director of the Office of Juvenile Affairs shall be appointed by the Board of Juvenile Affairs and shall report directly to the Board. As the administrator of the Office of Juvenile Affairs, the Executive Director is responsible for supervising OJA activities and establishing internal policy and procedures for the administration of the Office of Juvenile Affairs.

(b) The Executive Director shall be responsible for selecting staff or contracting with personnel capable of carrying out OJA's mission, goals, and statutory requirements.

(c) The Executive Director shall have the authority to assume all duties and responsibilities of the ~~Deputy Director~~ Chief of Staff of DJJ OJA [Title 10, O.S., § 7302-2.1 (C) (4)].

**377:1-1-12. ~~Deputy Director~~ Chief of Staff of DJJ OJA**

The ~~Deputy Director~~ Chief of Staff of the ~~Department of Juvenile Justice~~ Office of Juvenile Affairs shall serve as the

# Permanent Final Adoptions

~~chief administrative assistant to the Executive Director, head of the Department of Juvenile Justice. The Deputy Director shall direct activities of the Department of Juvenile Justice and ensure that all statutory mandates related to DJJ are executed. As the administrator of services to juveniles adjudicated delinquent, in need of supervision, or youthful offender, the Deputy Director shall ensure the programs set forth in Title 10, O.S., § 7302.3.1(C) and § 7306.2.11 are in place.~~

[OAR Docket #07-782; filed 4-16-07]

## TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #07-783]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. Office of the Executive Director  
Part 3. Office of the Advocate General  
377:3-1-23. Job duties [AMENDED]  
377:3-1-26. Advocate General procedures during an abuse, neglect, or caretaker misconduct investigation [AMENDED]  
377:3-1-28. General grievance procedure [AMENDED]  
377:3-1-31. Monitoring and evaluation [AMENDED]  
Part 5. Media and Community Relations  
377:3-1-46. General provisions [AMENDED]  
377:3-1-47. Media access to OJA [AMENDED]  
377:3-1-48. Volunteer program [AMENDED]  
Subchapter 3. Office of General Counsel Services  
377:3-3-3. Duties and responsibilities [AMENDED]  
Subchapter 7. Finance Department  
377:3-7-1. Legal ~~base~~<sup>basis</sup> [AMENDED]  
Subchapter 11. Risk Management  
Part 1. Drug Policy  
377:3-11-5. Substance screening [AMENDED]  
Part 3. Safety and Risk Management  
377:3-11-20. General provisions [AMENDED]  
Subchapter 15. ~~Management Information System~~<sup>Information Technology</sup> ~~Department~~  
377:3-15-1. Purpose [AMENDED]  
377:3-15-2. Legal ~~base~~<sup>basis</sup> [AMENDED]  
377:3-15-3. JOLTS requirements [AMENDED]  
Subchapter 16. Office of Planning and Research [REVOKED]  
377:3-16-1. Purpose [REVOKED]  
377:3-16-2. Legal basis [REVOKED]  
377:3-16-3. Planning and reporting requirements [REVOKED]  
377:3-16-4. Other Services [REVOKED]  
Subchapter 17. Federal Funds Development Unit  
Part 5. Federal-state Coordination and Technical Assistance  
377:3-17-25. Purpose [AMENDED]  
377:3-17-28. Proposals seeking only an OJA Letter of Support [AMENDED]

### AUTHORITY:

Board of Juvenile Affairs, pursuant to 10 O.S., Section 7302-1.1(H) and 7302-1.1 (I) and 75 O.S., Section 302 (A)(1).

### DATES:

#### Comment period:

December 1, 2006 through January 1, 2007

#### Public hearing:

January 3, 2007

#### Adoption:

January 11, 2007

#### Submitted to Governor:

January 19, 2007

#### Submitted to House:

January 19, 2007

#### Submitted to Senate:

January 19, 2007

#### Gubernatorial approval:

February 23, 2007

#### Legislative approval:

Failure of the Legislature to disapprove resulted in approval on March 28, 2007

#### Final adoption:

March 28, 2007

#### Effective:

July 1, 2007

#### SUPERSEDED EMERGENCY ACTIONS.

N/A

#### INCORPORATIONS BY REFERENCE:

N/A

#### ANALYSIS:

The Chapter 3 rules are being amended due to changes in HB2999. Rule 377:3-11-5 is being amended to remove the requirement for testing without notice, "as part of disciplinary action by OJA" The departmental name in subchapter 15 Management Information System is changing to the Information Technology Department. Rules in subchapter 16 Office of Planning and Research are being revoked.

#### CONTACT PERSON:

Robert Morey, (405) 530-2820.

**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, 2007:**

## SUBCHAPTER 1. OFFICE OF THE EXECUTIVE DIRECTOR

## PART 3. OFFICE OF THE ADVOCATE GENERAL

### 377:3-1-23. Job duties

The job duties of the Advocate General (AG) are provided in (1)-(8) of this Section.

(1) The AG shall supervise staff assigned to juvenile facilities as advocate defenders.

(2) The AG shall inquire into and make recommendations regarding juvenile-related grievances which are not resolved at the facility level. The AG shall require that allegations of abuse, neglect, or caretaker misconduct of juveniles who are in OJA custody placed in facilities operated by or under contract with OJA are reported to the OCA by the appropriate person. The AG shall ensure that immediate protection of resident issues are addressed by the facility and follow-up on OCA findings and recommendations regarding corrective action.

(3) The AG shall coordinate any hearings or meetings of administrative review committees conducted as a result of investigations or unresolved grievances.

(4) The AG shall make recommendations to the OJA Executive Director and appropriate ~~Deputy Director~~ Division Administrator pursuant to 377:3-1-25;

(5) The AG shall provide reports on grievance procedures, hearings, and investigations to the Executive Director of OJA, Office of Juvenile Systems Oversight,

Board of Juvenile Affairs, and other persons or entities as necessary to assure action.

(6) The AG shall forward an abstract of grievances which are not resolved in favor of the person filing the grievance, and which have exhausted all available levels of appeal, to the Office of Juvenile Systems Oversight, the Executive Director, and the OJA Board of Juvenile Affairs.

(7) The AG shall:

(A) monitor rules and practices of OJA and its contractors to ensure compliance with juveniles' rights;

(B) report the number and types of investigations at juvenile facilities at least quarterly to the OJA Board of Juvenile Affairs in open meeting; and

(C) make additional reports to the OJA Board of Juvenile Affairs as needed.

(8) The AG shall perform other duties as required by the Executive Director.

**377:3-1-26. Advocate General procedures during an abuse, neglect, or caretaker misconduct investigation**

(a) Upon receiving a report from OCA concerning an investigation of abuse, neglect, or caretaker misconduct, the Advocate General shall send a copy of the report to the facility administrator and notify the Executive Director or appropriate ~~Deputy Director~~ Division Administrator. If a facility administrator is named as an accused caretaker in the allegation, the report shall be forwarded to the Chair of the Board of Directors of the facility or to the Director of the state agency operating the facility.

(b) If OCA finds that abuse, neglect, or mistreatment did not occur, further action by the OJA Advocate General is not necessary.

(c) If OCA confirms findings of abuse, neglect, or caretaker misconduct, the Advocate General shall request appropriate corrective action within 21 days of the Advocate General's receipt of OCA's report. In cases of confirmed abuse or neglect, the appropriate District Attorney will be notified and asked to advise whether or not criminal charges will be filed.

(d) Even if abuse, neglect, or caretaker misconduct is not confirmed by OCA, the Advocate General may recommend to the Executive Director appropriate measures to address systemic or individual concerns raised during the course of the OCA investigation.

(e) Upon receipt of OCA's report, the facility administrator, OJA administration, or Advocate General on behalf of a juvenile who is the subject of the report may request that the DHS Grievance Abuse Review Committee (GARC) review its findings and return a different result.

(f) OCA investigative reports, records, files, and audio tapes are considered confidential under Title 10 O.S. § 7005-1.2 and § 7101 *et seq.*

**377:3-1-28. General grievance procedure**

(a) **Informal grievances.**

(1) Informal grievances are issues relating to daily life at the juvenile's placement which can be resolved at the

facility or local level. Informal grievances include, but are not limited to:

(A) grooming and hygiene;

(B) clothing;

(C) cottage cleanliness;

(D) food;

(E) disrespect not involving threats of harm;

(F) restrictions; or

(G) routine problems with the JSU; i.e., complaints against a JSU worker.

(2) A juvenile shall try to informally resolve his or her grievance by writing a brief description of the problem and the name of the person or group with whom the juvenile wants to discuss the problem. The juvenile may put the written information in a designated grievance box or give the grievance to any staff member.

(3) The grievance must be numbered and logged in a grievance log on the day the grievance is received and distributed to the appropriate staff for processing and possible resolution.

(4) The assigned staff shall review each grievance and attempt to resolve the grievance with the juvenile.

(5) If the grievance is not resolved within (3) three working days, the juvenile may appeal to the supervisor.

(6) The supervisor shall have (5) five days from receipt of the grievance to resolve the grievance.

(7) The grievance log must also indicate the disposition of the grievance and the date of the resolution or appeal. OJA Form OJA-AG-2 may be used to facilitate the grievance resolution process.

(b) **Formal Grievances.**

(1) Formal grievances are those grievances which are appeals of informal grievances or those which cannot otherwise be resolved at the facility or local level. Issues which cannot be resolved at the facility or local level include, but are not limited to:

(A) placement;

(B) treatment;

(C) psychological services;

(D) social services;

(E) educational services;

(F) recreation; or

(G) abuse, neglect, or caretaker misconduct.

(2) Grievances which contain allegations of abuse, neglect, or caretaker misconduct shall be processed in accordance with 377:3-1-25 and 377:3-1-26.

(3) Formal grievances may be filed with any staff member but shall be routed to the Advocate General for appropriate distribution and resolution by OJA State Office as set forth in paragraph (c) of this section. Form OJA-AG-3 may be used to facilitate the formal grievance process.

(c) **Grievances received by Advocate General.** Upon receipt of an appeal of an informal grievance or formal grievance, the Advocate General's Office shall post the date of receipt. The Advocate General shall review the grievance and the accompanying documentation to determine what additional information is necessary for disposition of the grievance within

## Permanent Final Adoptions

---

five (5) working days and set deadlines for receipt of required information. If the Advocate General finds that an appeal or formal grievance was prematurely filed, the Advocate General shall send a reply containing suggestions regarding the proper procedure to the person that sent the grievance. The Advocate General shall review the applicable OJA rules, policy, and/or Oklahoma law to determine if the appeal or formal grievance is appropriate and provide an opinion regarding possible resolution. The Advocate General shall prepare a cover worksheet or memorandum for the appeal or formal grievance and forward a copy to the ~~Deputy Director~~ Chief of Staff/designee for response. The response shall be completed within seven (7) working days (extension may be granted by the Advocate General where a formal, legal opinion or policy decision is necessary). Upon receipt of the proposed resolution, the Advocate General shall forward a copy to the juvenile and/or to other appropriate person named in the grievance and to the appropriate advocate defender or grievance coordinator.

(d) **Appeal to the Executive Director/final decision.** If the juvenile affected by the appeal does not accept the proposed resolution as submitted by the ~~Deputy Director~~ Chief of Staff, the juvenile may appeal through the Advocate General to the Executive Director of OJA. The appeal to the Executive Director must be filed within ten (10) days of the date the proposed resolution is received by the juvenile. The Advocate General shall prepare the appeal and route it to the Executive Director who shall render a final, written decision within ten (10) days of receipt of the appeal, unless otherwise agreed to by both parties. The decision shall be delivered to the Advocate General's Office who shall distribute it as established by procedure. A copy of the resolution shall be inserted in the juvenile's master file. Resolutions which will change or create OJA rules are submitted to the appropriate division responsible for drafting new or revised rules. The Advocate General shall ensure that resolutions containing directives for specific action are completed.

(e) **Board notification.** All matters referred to the Executive Director for final decision shall be placed on the agenda for the next, regularly scheduled meeting of the Board of Juvenile Affairs. The Executive Director shall review any such grievance with the Board during Executive Session. At that time, the Advocate General will be allowed to voice concerns, the wishes of the juvenile, or such other matters as are relevant to the Board's understanding of the issues presented in the appeal.

(f) **Review by juvenile.** The grievance coordinator, advocate defender, or Advocate General (whoever filed the last grievance), shall review the Executive Director's resolution with the juvenile and notify the juvenile that his or her administrative remedies have been exhausted. If the juvenile does not accept the resolution, a copy of the grievance, appeals, and proposed resolutions shall be forwarded to the Office of Juvenile Systems Oversight.

(g) **Grievances originated by the Advocate General.** The Advocate General may, on behalf of all or part of the juveniles committed to OJA, originate a grievance at the State Office level concerning:

- (1) the substance or application of any written or unwritten policy, rule, or regulation of:
    - (A) OJA;
    - (B) an agent of OJA; or
    - (C) an OJA contractor; or
  - (2) any decision, behavior, or action of:
    - (A) an OJA employee;
    - (B) an agent of OJA;
    - (C) an OJA-contractor; or
    - (D) any other person committed to OJA.
- (h) The Advocate General may write the grievance by way of a detailed memorandum.

### 377:3-1-31. Monitoring and evaluation

The purpose of this section is to describe the process by which the Advocate General monitors and evaluates group home and institutional grievance systems.

- (1) The grievance coordinator or advocate defender shall meet with the resident grievance clerks at least once each week as an ongoing monitoring program.
- (2) The grievance coordinator, advocate defender or the resident grievance clerks may request a personal visit with the Advocate General on an as-needed basis.
- (3) If the grievance coordinator or advocate defender becomes aware of any program deficiencies or service program omissions which result in individual group home or community-based problems, the grievance coordinator or advocate defender shall write a special report to the Office of the Advocate General about the program deficiencies or omissions. The grievance coordinator or advocate defender shall write the special report even when a grievance has not been filed. The grievance coordinator or advocate defender shall send copies of the report to the group home supervisor and the ~~Deputy Director of Residential Services~~ affected Division Administrator. The grievance coordinator or advocate defender shall maintain the master grievance log and grievance files and shall report grievance statistical information to the Office of Advocate General monthly.

## PART 5. MEDIA AND COMMUNITY RELATIONS

### 377:3-1-46. General provisions

It is the policy of OJA to encourage interaction with the public and the media. The Media and Community Relations (MCR) Department, which reports to the Executive Director and ~~Deputy Director~~ Chief of Staff of OJA, coordinates public information activities. OJA staff shall coordinate all media relations, media contacts, news releases, news conferences and other media communications through the Media and Community Relations Department.

### 377:3-1-47. Media access to OJA

- (a) The Director of Media and Community Relations, or, if unavailable, the Executive Director, ~~Deputy Director~~ Chief

of ~~Staff~~, or designee shall grant the news media access to a juvenile under conditions which ensure:

- (1) the preservation of the juvenile's right to privacy;
- (2) the preservation of the juvenile's confidentiality; and
- (3) the maintenance of order and security when the juvenile is in an out-of-home placement.

(b) The Director of Media and Community Relations shall consider the following factors when making a decision regarding media access:

- (1) the nature of the inquiry;
- (2) whether the best interests of the juvenile are met; and
- (3) whether the best interests of the public are met.

(c) The Director of Media and Community Relations shall decide whether to grant or deny media access within 48 hours of the request, excluding weekends and holidays.

(d) Whenever possible, parental permission shall be obtained prior to a juvenile's being interviewed. If parental permission cannot be obtained, the Executive Director or ~~Deputy Director Chief of Staff~~ may grant approval for the interview.

(e) When an interview with a juvenile is requested by the media, the Director of Media and Community Relations, after consulting with the appropriate superintendent, group home supervisor, or district supervisor, shall approve or deny the media's request according to the provisions of rules contained in this Part.

(f) The guidelines for media activities with juveniles are as follows:

- (1) ~~All~~ all juveniles have the option to decline to be interviewed or filmed;
- (2) ~~No~~ no filming is to occur that could result in the juvenile's being identified through facial exposure unless written permission is obtained from the:
  - (A) juvenile;
  - (B) parent/guardian, or, if the parent is unavailable, the:
    - (i) Executive Director/~~Deputy Director Chief of Staff~~; or
    - (ii) judge from the court county of jurisdiction; ~~and~~.
  - (C) Director of Media and Community Relations or designee;
- (3) ~~A~~ a ranking staff person shall accompany film crews and intercede in any filming effort that could identify a juvenile, i.e., facial exposure;
- (4) ~~Activities~~ activities of media personnel while in an out-of-home placement must be conducted in a manner that is consistent with the maintenance of order and security;
- (5) ~~Staff~~ staff may agree to be interviewed and filmed (in private, if desired) by media personnel on authorized visits to the JSU office, group home, or institution; and
- (6) ~~At~~ at times of disorder within a residential facility, media access to the facility may be postponed if OJA or the facility ~~believe~~ believes that the media's presence would prolong or contribute to the disorder.

(g) The Executive Director or ~~Deputy Director~~ Chief of Staff may exempt the limitations in (e) of this Section if he or she considers it necessary, as long as statutory limitations are met.

**377:3-1-48. Volunteer program**

The Office of Juvenile Affairs, in its mission to provide quality services, shall recruit and utilize volunteers in group homes, institutions, and field offices. The State Office Volunteer Program Supervisor is responsible for assisting program and facility administrators, supervisors, and coordinators in developing and implementing a quality volunteer program. The facility or program volunteer coordinator supervises all aspects of volunteer recruitment, screening, selection, training, and program development and ensures that policy and standards are followed. The coordinator shall work with civic groups, public agencies, or private businesses in order to enhance volunteerism.

(1) **Requirement of volunteers.** A volunteer who serves on more than a one-time basis is subject to the following:

- (A) be at least 18 years of age;
- (B) complete an interview and selection process by an institutional, facility, or program coordinator;
- (C) complete all application forms and give consent for security check;
- (D) agree, in writing, to the confidentiality requirements regarding residents and clients and agree to support and follow OJA policies;
- (E) attend an orientation and training session for institution and program policy and procedures for working with residents and clients;
- (F) if a full-time volunteer (40 hours per week), complete the same training as a full-time staff member and complete the additional training per year required of full-time staff who work directly with residents and clients;
- (G) if transporting residents or clients, provide adequate auto liability insurance coverage and display proof of this at the volunteer orientation session;
- (H) carry proper identification while on duty which identifies him or her as a volunteer for OJA; and
- (I) when performing professional services, must provide documentation of each certificate of license.

(2) **Term of service.** Ordinarily volunteers have a one year term of service which may be renewed annually. However, staff may recruit volunteers on a short-term or one-time basis. Those volunteers recruited for one-time special events are not required to go through training. The volunteer coordinator or supervisor shall closely screen the short-term or one-time-basis volunteers who will have contact with juveniles. The volunteer coordinator, or the coordinator's supervisor, shall ask the individual volunteer or representative of the volunteer organization to sign all appropriate documentation.

(3) **Authority.** The Executive Director of OJA, ~~Deputy Director Chief of Staff~~ of the ~~Department of Juvenile~~

# Permanent Final Adoptions

~~Justice OJA~~, General Counsel, volunteer program coordinator, superintendent, district supervisor, or group home supervisor may curtail, postpone, or discontinue the services of a volunteer or volunteer organization at any time.

## SUBCHAPTER 3. OFFICE OF GENERAL COUNSEL SERVICES

### 377:3-3-3. Duties and responsibilities

The Office of General Counsel Services provides legal services to the Office of Juvenile Affairs (OJA), and members of the Board of Juvenile Affairs acting in the scope of their official capacities, the Executive Director of the Office of Juvenile Affairs (OJA), the ~~Deputy Director~~ Chief of Staff of the ~~Department of Juvenile Justice (DJJ)~~ OJA, and all other OJA employees acting in the course or scope of their employment.

## SUBCHAPTER 7. FINANCE DEPARTMENT

### 377:3-7-1. Legal ~~base~~basis

- (a) The Office of Juvenile Affairs (OJA) Finance Division is designated by OJA to conduct OJA's financial matters.
- (b) Title 10 O.S., § 7302-3.4 authorizes the ~~Department of Juvenile Justice~~ OJA to enter into financial agreements with governmental entities or private agencies for juvenile delinquency prevention and treatment programs.

## SUBCHAPTER 11. RISK MANAGEMENT

### PART 1. DRUG POLICY

#### 377:3-11-5. Substance screening

Drug and alcohol testing may be required for employees and job applicants under the following circumstances:

- (1) **Job applicant testing.** Every job applicant who is conditionally offered employment in the following job families shall be tested:
- (A) Juvenile justice specialist;
  - (B) Juvenile specialist;
  - (C) Police officer;
  - (D) Recreational therapist;
  - (E) Institutional safety & security coordinator;
  - (F) Registered nurse;
  - (G) Licensed practical nurse; and
  - (H) Nursing manager.
- (2) **Reasonable suspicion testing.** Any employee may be tested, at the request of the Executive Director or, if he is unavailable, the ~~Deputy Director~~ Chief of Staff, if a reasonable suspicion exists that the employee has violated this policy while on duty. A reasonable suspicion may be drawn from specific objective and articulate facts and reasonable inferences drawn from those facts in light of experience, and, among other things, may be based upon:

- (A) Observable phenomena such as:
- (i) The physical symptoms or manifestations of being under the influence of a drug or alcohol while at work or on duty; or
  - (ii) The direct observation of drug or alcohol use while at work or on duty;
- (B) A report of drug or alcohol use while at work or on duty provided by reasonable and credible sources and which has been independently corroborated;
- (C) Evidence that an individual has tampered with a drug or alcohol test during his employment with OJA; or
- (D) Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs while on duty or while on any OJA premises or premises with which OJA has contracted services, or operating any OJA vehicle, machinery, or equipment.
- (3) **Post-accident testing.** Any employee may be tested when the Director of Safety and Risk Management has a reasonable suspicion that the employee or another person has sustained a work-related injury or that Office of Juvenile Affairs property has been damaged as a direct result of the employee's use of drugs or alcohol, including damage to equipment, in an amount reasonably estimated at the time of the accident to exceed \$500.00.
- (4) **Post-rehabilitation.** Any employee who has had a confirmed positive test or has participated in a drug or alcohol dependency treatment program as ~~part of disciplinary action by OJA~~ may be tested without prior notice for a period of up to two (2) years, commencing with the employee's return to work.

## PART 3. SAFETY AND RISK MANAGEMENT

### 377:3-11-20. General provisions

- (a) The purpose of this Part is to enable OJA ~~and DJJ~~ staff to work in a safe and healthful environment.
- (b) The Office of Safety and Risk Management shall assist OJA offices, institutions, and group homes to develop internal policies and procedures regarding:
- (1) violence in the workplace;
  - (2) smoking in the workplace;
  - (3) worker compensation;
  - (4) Occupational Safety and Health (OSHA), including:
    - (A) blood ~~boun~~ borne pathogens; and
    - (B) toxic and hazardous substances; and
  - (5) general safety in the workplace.
- (c) In developing internal policies and procedures, OJA shall comply with all applicable state and federal laws and regulations, including:
- (1) 74 O.S. Supp. 1986, § 85.34;
  - (2) OSHA;
  - (3) 85 O.S., the Workers' Compensation Bill; and
  - (4) other rules promulgated by Oklahoma Department of Labor.

**SUBCHAPTER 15. MANAGEMENT INFORMATION SYSTEM INFORMATION TECHNOLOGY DEPARTMENT**

**377:3-15-1. Purpose**

The ~~Management Information Systems Unit (MIS) Information Technology Department~~ is the unit designated by the ~~Department of Juvenile Justice (DJJ) Office of Juvenile Affairs (OJA)~~ to develop and maintain a management information system for the ~~Office of Juvenile Affairs (OJA)~~. The system includes all ~~DJJ OJA~~ programs and services related to juveniles and their families. The system developed is the Juvenile-On-Line Tracking System (JOLTS).

**377:3-15-2. Legal basebasis**

The ~~Management Information Systems management information system~~ is authorized by 10 O.S. Supp. 1995 § 7302-3.8 and § 7302-9.6.

**377:3-15-3. JOLTS requirements**

- (a) Pursuant to § 7302-3.8 and § 7302-9.6, the OJA management information system:
  - (1) is based on integration, utilization, or modification of existing systems within the Department;
  - (2) ensures the privacy, security, and limited access to the information contained within JOLTS;
  - (3) includes specific case information, including outcomes, and monitors the status of juveniles receiving services from ~~DJJ OJA~~;
  - (4) provides management reports and information relating to ~~DJJ OJA~~ programs, as well as total information required for planning, monitoring, and evaluation of programs; and
  - (5) ensures that reports are immediately generated by staff requesting the report.
- (b) ~~The MIS Information Technology Department~~ shall integrate the JOLTS system with DHS as provided by law.
- (c) The ~~Management Information Systems management information system~~ is available to persons authorized to obtain ~~DJJ's OJA's~~ confidential reports and records as per Article VII of the Oklahoma Juvenile Code, the Serious and Habitual Offender Act, and OJA rules.

**SUBCHAPTER 16. OFFICE OF PLANNING AND RESEARCH [REVOKED]**

**377:3-16-1. Purpose [REVOKED]**

~~The Office of Planning and Research is the unit designated by the Executive Director to support the Office of Juvenile Affairs (OJA) to strategically plan for agency growth as well as to provide agency staff with the necessary information to be informed on the performance of agency service programs and trends within the juvenile justice system.~~

**377:3-16-2. Legal basis [REVOKED]**

~~The functions of the Office of Planning and Research are authorized by 10 O.S. Supp. 1995 §7302 3.1 (A), § 7302 3.8 (B) (4) (5), §7302 3.9, § 7302 3.10, §7302 3.11, § 7302 7.3 (A) (1), §7302 7.3 (B) (1), § 7302 7.4 (D), §7302 9.6 (A) (4), § 7304 1.3 (D), §7307 1.3 (A) (2) (e), § 7307 1.5 (A) (13).~~

**377:3-16-3. Planning and reporting requirements [REVOKED]**

~~The Office of Planning and Research shall provide administrative support for an agency planning process for the development of agency and departmental goals and priorities for services to children and youth. The planning responsibilities of the Office of Planning and Research shall include:~~

- (1) ~~administrative support for the development of agency program and service performance measures.~~
- (2) ~~evaluating agency programs and services including annual production and dissemination to the public of the following reports:~~
  - (A) ~~The OJA Annual Report;~~
  - (B) ~~The OJA Annual Client Outcomes Report;~~
  - (C) ~~The OJA Annual Youthful Offender Report;~~
  - (D) ~~The OJA Annual Literacy Assessment Report;~~
  - (E) ~~The OJA Detention Facility Plan;~~
  - (F) ~~The OJA Strategic Plan; and,~~
  - (G) ~~The OJA Vision/Goals Plan.~~

**377:3-16-4. Other Services [REVOKED]**

~~The Office of Planning and Research shall provide technical assistance to providers of juvenile justice prevention or intervention services with regards to evaluation, performance measurement and statistical information. The Office of Planning and Research shall provide analysis and interpretation of research and statistical data for use by agency staff, elected officials, and the public.~~

**SUBCHAPTER 17. FEDERAL FUNDS DEVELOPMENT UNIT**

**PART 5. FEDERAL-STATE COORDINATION AND TECHNICAL ASSISTANCE SERVICES**

**377:3-17-25. Purpose**

The Federal Funds Development Unit supports the Executive Director's, the ~~Deputy Director's~~ Chief of Staff's and the Board of Juvenile Affairs' work with Oklahoma's Congressional delegation, other governmental entities, and national organizations to maximize resources devoted to preventing delinquency, protecting the public and for changing juvenile offenders into productive citizens. The purposes of FFDU are to:

- (1) identify and promote the use of exemplary juvenile crime control-prevention strategies that work;

# Permanent Final Adoptions

- (2) organize the coordinated efforts of communities, the private sector, and Federal, State and local governments to continually improve the juvenile justice system; and
- (3) assist OJA in efficiently administering available resources.

## 377:3-17-28. Proposals seeking only an OJA Letter of Support

Any group outside of OJA may seek a letter of support from the Executive Director of OJA or the ~~Deputy Director~~ Chief of Staff of the Department of Juvenile Justice OJA for proposals on which there has been no prior collaboration on behalf of this agency. An outside entity seeking a letter of support shall ensure its request is received by OJA no later than five (5) days before the deadline date for submittal of the proposal. The request must be accompanied by the original copy of the proposal under signature of the requesting entity's Chief Executive Officer.

[OAR Docket #07-783; filed 4-16-07]

## TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 5. DIVISION OFFICE OF THE PAROLE BOARD

[OAR Docket #07-784]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

377:5-1-3. Legal Basis [AMENDED]

Subchapter 3. Pre-release Planning

377:5-3-1. Pre-release Planning [AMENDED]

377:5-3-2. Scheduling of the tentative release date [AMENDED]

Subchapter 5. Hearings

377:5-5-1. Definitions [AMENDED]

377:5-5-2. Parole Hearing [AMENDED]

377:5-5-5. Conduct of Parole Revocation and Administrative Transfer Hearings [AMENDED]

### AUTHORITY:

Board of Juvenile Affairs, pursuant to 10 O.S., Section 7302-1.1(H) and 7302-1.1 (I) and 75 O.S., Section 302 (A)(1).

### DATES:

#### Comment period:

December 1, 2006 through January 1, 2007

#### Public hearing:

January 3, 2007

#### Adoption:

January 11, 2007

#### Submitted to Governor:

January 19, 2007

#### Submitted to House:

January 19, 2007

#### Submitted to Senate:

January 19, 2007

#### Gubernatorial approval:

February 23, 2007

#### Legislative approval:

Failure of the Legislature to disapprove resulted in approval on March 28, 2007

#### Final adoption:

March 28, 2007

### Effective:

July 1, 2007

### SUPERSEDED EMERGENCY ACTIONS.

N/A

### INCORPORATIONS BY REFERENCE:

N/A

### ANALYSIS:

The Office of Juvenile Affairs rules are being revised due to changes in Title 10 attributed to the passage of HB2999. Chapter 5 rules establish guidelines for the OJA parole process.

### CONTACT PERSON:

Robert Morey, (405) 530-2820.

**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, 2007:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 377:5-1-3. Legal basis

Granting parole, revoking parole and administratively transferring juveniles from a community placement (non-secure) to an institution (secure) are administrative functions authorized by Title 10 of the Oklahoma Statutes §§ 7302-3.1(B)(2), 7302-6.1(A)(3), 7302-6.1(B), 7306-2.10 and 7306-2.11. The Parole Board is a ~~division of the Department of Juvenile Justice (DJJ) Office~~ within the Office of Juvenile Affairs (OJA) and is composed of persons designated by the ~~Deputy Director Chief of Staff~~. The ~~Deputy Director Chief of Staff~~ or Parole Board shall assign staff to conduct hearings.

## SUBCHAPTER 3. PRE-RELEASE PLANNING

### 377:5-3-1. Pre-release planning

Title 10 O.S., Section 7302-6.1(A)(3) and 7306-2.11 gives ~~DJJ~~ OJA authority to place a juvenile on parole whenever ~~DJJ~~ OJA determines that such release shall not be detrimental to society and that the juvenile is probably ready to be returned to the community or has reasonably completed a plan of rehabilitation.

### 377:5-3-2. Scheduling of the tentative release date

(a) **Institutional Treatment Plan.** Within 30 days of institutional admission, an Institutional Treatment Plan shall be prepared and signed by the Institutional Supervisor, Youth and Juvenile Justice Specialist (JJS) Worker.

(b) **Scheduling.** Within 45 days of institutional admission a tentative release date shall be set for the juvenile. A meeting shall be held with the juvenile for the purpose of scheduling the tentative release date. At the meeting the criteria for release shall be explained to the juvenile.

(c) **Persons Present.** The juvenile, the Advocate Defender, and the Institutional JJS shall be present at the meeting.

(d) **Guidelines for tentative release date.** The tentative release date is determined by the juvenile's delinquent classification and date of placement in the institution. The dates are given in (1) - (3) of this paragraph:

- (1) Class I's and Class II's-twelve months
- (2) Class III's-nine months
- (3) Class IV's-six months

(e) Accelerated tentative release date. During the course of the juvenile's stay at the institution, the juvenile's institutional worker and/or local JSU worker can recommend the juvenile's tentative release date be rescheduled to an earlier date than the date previously scheduled.

(f) Criteria for release. Release from an institution is not guaranteed by the fact that a tentative release date has been scheduled. The juvenile must comply with the clearly established treatment goals of the individual treatment plan. Release will be subject to terms and conditions established by ~~DJJ~~ OJA whenever ~~DJJ~~ OJA determines that such release will not be detrimental to society and that the juvenile is ready to be returned to the community.

## SUBCHAPTER 5. HEARINGS

### 377:5-5-1. Definitions

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

**"Administrative Transfer Hearing (community)"** A hearing by which the supervised community placement (SCP) status of a delinquent juvenile may be terminated.

**"Hearing Examiner"** A Hearing Officer or Panel of Parole Board members who preside over parole hearings.

**"Hearing Officer"** Hearing Officers shall be appointed by the OJA ~~Deputy Director~~ Chief of Staff.

**"Parole Board Member"** Parole Board Members shall be appointed by the OJA ~~Deputy Director~~ Chief of Staff.

**"Parole Hearing"** A formal evidentiary hearing provided to a juvenile when OJA staff do not recommend parole during the month of tentative release or when a staff recommendation for parole is rejected by the Parole Board.

**"Parole Revocation Hearing"** An administrative hearing by which the parole status of a juvenile may be revoked. A juvenile's parole may be revoked for violation of the terms and conditions of parole.

**"Tentative Release Date"** An actual fixed month and year for tentative release.

### 377:5-5-2. Parole Hearing

(a) If the Parole Board has rejected a staff recommendation for parole, a 3-member panel of the Parole Board shall preside over the parole hearing, as the Hearing Examiner.

(b) If parole has not been recommended by the JSU and/or institutional staff, a Hearing Officer shall preside over the parole hearing, as the Hearing Examiner.

(c) **Notice.** The juvenile, parent, guardian, or legal custodian and Advocate Defender shall have at least 14 calendar days notice of the hearing.

(d) **Conduct of Parole Hearings.** The parole hearing shall be conducted in an orderly manner and with a concern for privacy with ample opportunity for the juvenile to express his/her views. The Hearing Examiner shall explain the purpose of the parole hearing and the issues to be addressed to the juvenile.

(1) OJA staff shall provide written documentation and other information which supports their recommendation at least seven (7) days (excluding weekends and holidays) prior to a Parole Hearing. The information shall include, but is not limited to:

- (A) the number and severity of committing offense(s) and any previous offense(s);
- (B) the institutional adjustment of the juvenile including any serious negative behavior; i.e., major rule violations;
- (C) the existence of a workable parole placement and an adequate program in the community;
- (D) the juvenile's adjustment on any weekend passes or other community release;
- (E) the review of the juvenile's progress;
- (F) the existence of any pending charges and the possibility of any recommitment on these charges;
- (G) the juvenile's willingness to cooperate with parole supervision; and
- (H) relevant conditions in the community.

(2) The juvenile may have access to information which is submitted to the Hearing Examiner unless the Examiner considers the information harmful to the juvenile.

(3) The juvenile shall be given an opportunity to verbalize and present documentation why he/she should be granted parole and be allowed to question the Hearing Examiner and staff present about any of the documents used in the hearing.

(4) The Hearing Examiner shall consider any documentation submitted and may ask the juvenile, OJA staff, and other parties involved in the care of the juvenile questions relevant to granting or denying parole. If, in the opinion of the Hearing Examiner, a case requires an examination and opinion by a ~~Psychiatrist~~ Psychiatrist or Psychologist, Certified members of the appropriate profession are available for such examination and opinions. The Hearing Examiner may access the juvenile's master file as a reference source during the hearing.

(5) When the Hearing Examiner has considered all written and oral evidence, the Hearing Examiner shall prepare a written statement of the specific factors and reasons which support the granting or denying of parole. The Hearing Examiner shall address the parole release criteria as well as any specific concerns.

(6) A Hearing Officer or Panel may defer its decision on any case for just cause for a period not to exceed 30 days (excluding weekends and holidays). In these cases, the juvenile shall receive written notice of the reasons for

## Permanent Final Adoptions

---

the deferral with the date and time when the Parole Hearing shall resume. The hearing shall resume prior to the expiration of 30 days (excluding weekends and holidays).

(7) **Presiding official is Hearing Officer.**

(A) At the close of the hearing, if a Hearing Officer has presided over the Parole Hearing as provided in Rule 377:5-5-2(b), he/she shall advise the juvenile of his or her recommendation to be submitted to the Parole Board and the reasons supporting the recommendation.

(B) The Hearing Officer shall issue a written recommendation to grant or deny parole to the Parole Board within three (3) days (excluding weekends and holidays).

(C) The Parole Board shall review all records and make decision to grant or deny parole within ten (10) days (excluding weekends and holidays) of receiving the recommendation.

(D) The decision and the reasons for the decision of the Parole Board shall be made available in writing to the appropriate staff and to the ~~juveniles~~ juvenile within 14 calendar days (excluding weekends and holidays) of the Hearing.

(8) **Presiding official is a Panel.**

(A) At the close of the hearing, if a Panel has presided over the Parole Hearing as provided in Rule 377:5-5-2(a), the panel shall advise the juvenile of the outcome of its decision to grant or deny parole and the reasons therefor.

(B) The Panel shall prepare a written decision granting or denying parole within ten (10) days (excluding weekends and holidays) of the hearing.

(C) The Panel's decision shall be made available in writing to the appropriate staff and to the juvenile within three (3) calendar days (excluding weekends and holidays) of the issuance of the decision.

(9) ~~The parole hearing shall be recorded.~~ **The parole hearing shall be recorded.** A summary of the proceedings and the Hearing Examiner's recommendation or decision shall be kept in the juvenile's case record.

(10) The Parole Board or the Panel shall inform a juvenile of his or her rights to appeal decisions granting or denying parole.

(e) **Persons present.** Persons attending the hearing are limited to those persons necessary for the orderly and fair conduct of the hearing.

(1) A representative of the Office of Advocate General or designee shall be present at all parole hearings.

(2) The parent, guardian or legal custodian shall be provided prior notice of all Parole hearings.

(3) The JSU and Institutional workers shall be present when requested by the Hearing Examiner.

(4) The Hearing Examiner shall decide whether additional persons may be present at the parole hearing.

(f) **Appeals of parole decisions.** A juvenile, his or her parent, guardian, legal custodian, attorney or a representative of the Advocate General's Office, or a designee may appeal a

decision of the Parole Board or that of a Panel as provided in 377:5-5-2(a) in the following manner:

(1) A written notice of appeal, stating the reasons therefor shall be submitted to the Office of Juvenile Affairs, Office of the ~~Deputy Director~~ Chief of Staff, within seven (7) days (excluding weekends and holidays) of the receipt of the decision granting or denying parole.

(2) The ~~Deputy Director~~ Chief of Staff shall consider all appeals and render a decision to sustain or deny an appeal within seven (7) days (excluding weekends and holidays). The ~~Deputy Director~~ Chief of Staff shall notify the juvenile, Advocate General's Office and any individual who filed on behalf of the juvenile, of his/her decision to sustain or deny the appeal.

(g) **Effective date of parole.** The decision of the Parole Board or the Panel's decision, if not appealed, is final within seven (7) days (excluding weekends and holidays) of the hearing.

(h) **Subsequent hearings.** If parole is denied, a parole hearing must be conducted every six (6) months in accordance with rules set forth in this section.

### 377:5-5-5. Conduct of Parole Revocation and Administrative Transfer Hearings

(a) ~~Conduct of the hearings~~ **Conduct of the hearings.** The Hearing Officer shall conduct the hearing to obtain accurate information upon which an informed decision can be reached.

(1) At the beginning of the hearing, the Hearing Officer shall ascertain that:

(A) notice of the hearing, including the time, date and location of the hearing, and a copy of the Application to Revoke Parole or for Administrative Transfer Hearing (ATH), were given to the juvenile, the parent, guardian or legal custodian, and legal counsel at least 24 hours before the hearing; and

(B) legal counsel is present to represent the juvenile and has been given an opportunity to prepare a defense.

(2) Only an attorney who is licensed to practice law in the State of Oklahoma shall be permitted to represent a juvenile.

(3) Persons attending the hearing are limited to those persons necessary for the orderly and fair conduct of the hearing. Hearings are conducted with a concern for privacy.

(4) Requests for continuances from any of the parties may be granted only at the discretion of the Hearing Officer. Due consideration shall be given to:

(A) the timeliness of the request;

(B) the justification;

(C) convenience to the interested parties;

(D) problems with continued detention; and

(E) the Hearing Officer's schedule.

(5) The Hearing Officer may exclude any participant from the hearing for good cause. The Hearing Officer shall state the reasons for exclusion on the record at the time it is made. However, the attorney for the juvenile and

the representative of the agency shall be present continuously while the hearing is in progress.

(6) The Hearing Officer may recess the hearing at the request of either party or at his/her own initiative for a brief period of time as necessary to facilitate the hearing process. The Hearing Officer shall state for the record:

- (A) the reasons for the recess;
- (B) the time the recess began; and
- (C) the time the recess ended.

(7) The first presenter shall be a representative of OJA. The presenter shall carry the burden of proof that the juvenile violated conditions of parole or supervised community placement.

(8) The juvenile and legal counsel shall be present while evidence is being presented. The juvenile's parent, guardian or legal custodian may be present at all times the juvenile is present, unless they are the adverse parties by the nature of the violations alleged.

(9) Either party or the Hearing Officer may invoke the "Rule of Sequestration". When the "Rule" is invoked, the Hearing Officer shall instruct all witnesses that they are to be sequestered from the hearing room, called in the order in which they are expected to testify, and are not to discuss their testimony with other witnesses.

(10) Harassment or intimidation of witnesses is not permitted.

(11) The application may be dismissed at the request of the OJA representative prior to the Hearing Officer's recommendation to sustain or deny the application.

(12) Prior to commencement of the hearing, no one shall be permitted to discuss with the Hearing Officer any facts related to issues of the hearing.

(b) ~~Evidence~~ **Evidence**. The Hearing Officer shall screen all evidence for its material value to the issues of the hearing.

(1) Hearsay evidence is considered only in light of its reliability, relevancy, necessity, and probative value. Generally, the more the information is removed from its source, the less weight it should be given. The Hearing Officer may not base a decision substantially upon hearsay evidence.

(2) Relevant evidence is admissible. Evidence is relevant if it has a tendency to prove or disprove any disputed fact issue before the Hearing Officer.

(3) The Hearing Officer shall take official notice of any fact that the courts may judicially notice and of those matters within the Hearing Officer's particular field of expertise, including policies and procedures of the agency.

(4) Written material may be introduced during the course of the hearing by either the juvenile's legal counsel or the representative of the OJA.

(c) ~~Fact finding standards and hearing sequence~~ **Fact-finding standards and hearing sequence**.

(1) A Hearing Officer must find by a preponderance of the evidence that:

- (A) the allegations are true; and
- (B) revocation or transfer is warranted under the circumstances.

(2) A preponderance of the evidence means that the evidence indicates that the facts to be proved are:

- (A) credible; and
- (B) more probable than not.

(3) Upon the conclusion of the hearing, the Hearing Officer may recommend that the Application to Revoke Parole or for Administrative Transfer be sustained based upon a preponderance of the evidence. The Hearing Officer shall advise the juvenile and legal counsel of the recommendation and the appeal process.

(4) The Hearing Officer shall prepare a written recommendation within three (3) working days (excluding weekends and holidays) of the hearing as to whether the juvenile's parole should be revoked or placement should be administratively transferred. The report must include the allegation(s), the finding(s) of fact, and mitigating circumstances, if any. The Hearing Officer shall submit the report to the juvenile, the juvenile's legal counsel, parent, guardian or legal custodian, and Parole Board.

(d) Parole Board review. The Parole Board shall review the recommendation of the Hearing Officer and the entire record of the hearing and affirm or deny in writing.

(e) Distribution. The Parole Board shall send written copies of the final decision to the juvenile, the juvenile's parent, guardian or legal custodian, legal counsel, the JSU, and the court in the county wherein the violations occurred within ten (10) working days (excluding weekends and holidays) following the hearing.

(f) Appeal. A juvenile may appeal the decision of the Parole Board to the ~~Deputy Director~~ **Chief of Staff** who has final review authority. The appeal must be filed by the juvenile within ten (10) days (excluding weekends and holidays) after receipt of the Parole Board's decision. The ~~Deputy Director~~ **Chief of Staff** shall inform all involved parties of the appeal decision within ten (10) days (excluding weekends and holidays).

(g) Recordings. Recordings of revocation hearings shall be preserved for six (6) months from the date of the hearing or as otherwise required by law.

(h) Expungement. If the Application for Revocation of Parole or Administrative Transfer is denied by the Parole Board or the ~~Deputy Director~~ **Chief of Staff**, OJA shall expunge all materials related to the alleged offense from the juvenile's case record.

[OAR Docket #07-784; filed 4-16-07]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 10. DEPARTMENT OF  
JUVENILE JUSTICE OFFICE OF JUVENILE  
AFFAIRS**

[OAR Docket #07-785]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions

377:10-1-3. Discipline [AMENDED]

377:10-1-5. Testing for research purposes [AMENDED]

# Permanent Final Adoptions

377:10-1-8. Agency records [AMENDED]  
377:10-1-9. Information sharing [AMENDED]  
377:10-1-10. Disclosure of records pertaining to serious and habitual juvenile offenders without court order [AMENDED]  
377:10-1-11. Documents and Records [AMENDED]  
Subchapter 7. Contract Programs and Services  
Part 1. General Provisions and Foster Care  
377:10-7-1. Purpose [AMENDED]  
377:10-7-3. Foster care [AMENDED]  
377:10-7-4. Therapeutic foster care [AMENDED]  
Part 9. Contracted Services  
377:10-7-50. Legal basis [AMENDED]  
Subchapter 11. Child in Need of Mental Health Treatment  
377:10-11-1. Child in Need of Mental Health Treatment [AMENDED]  
Subchapter 13. Regimented Juvenile Training Programs Standards  
Part 9. Physical Facility  
377:10-13-36. Juvenile housing [AMENDED]  
Part 19. Juvenile Services  
377:10-13-100. Placement in RJTP [AMENDED]

## AUTHORITY:

Board of Juvenile Affairs, pursuant to 10 O.S., Section 7302-1.1(H) and 7302-1.1 (I) and 75 O.S., Section 302 (A)(1).

## DATES:

### Comment period:

December 1, 2006 through January 1, 2007

### Public hearing:

January 3, 2007

### Adoption:

January 11, 2007

### Submitted to Governor:

January 19, 2007

### Submitted to House:

January 19, 2007

### Submitted to Senate:

January 19, 2007

### Gubernatorial approval:

February 23, 2007

### Legislative approval:

Failure of the Legislature to disapprove resulted in approval on March 28, 2007

### Final adoption:

March 28, 2007

### Effective:

July 1, 2007

## SUPERSEDED EMERGENCY ACTIONS.

N/A

## INCORPORATIONS BY REFERENCE:

N/A

## ANALYSIS:

The Office of Juvenile Affairs rules are being revised due to changes in Title 10 attributed to the passage of HB2999. Rule 377:10-1-11 is being amended to change the copy fees from 5 & 10 cents per page to a flat rate of 25 cents per page.

## CONTACT PERSON:

Robert Morey, (405) 530-2820.

**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, 2007:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 377:10-1-3. Discipline

(a) When it becomes necessary to discipline a juvenile, staff shall do so by utilizing sanctions that are appropriate to the severity of the infraction. Appropriate methods of discipline

include withdrawal of privileges or placement in a more restrictive environment. OJA staff and contractors may use physical force or mechanical restraints only under the circumstances described in OAC 377:10-1-4.

- (1) Appropriate types of discipline protect the resident from harming self and others.
  - (2) Staff and contractors shall use a course of behavioral management approved by the Executive Director or the ~~Deputy Director~~ Chief of Staff of the Office of Juvenile Affairs in dealing with juveniles. Other appropriate methods of control include withdrawal of privileges, placement in a more restrictive environment, or placement in the crisis management center, when necessary.
- (b) ~~OJA~~ OJA staff and contractors shall adhere to OJA rules regarding discipline of juveniles. Prohibited disciplinary actions include, but are not limited to:
- (1) corporal punishments of any kind;
  - (2) threats;
  - (3) derogatory remarks or other verbal abuse directed toward the juvenile or the juvenile's family;
  - (4) deprivation of meals;
  - (5) deprivation of visits with the natural or adoptive parents without prior consultation with OJA ~~or DJJ~~ staff;
  - (6) use of profanity by OJA or contract staff;
  - (7) hog-tying;
  - (8) use of psychotropic drugs for punishment, control, or program management; and
  - (9) use of chemical agents, including, but not limited to:
    - (A) tear gas;
    - (B) mace;
    - (C) pepper gas; or
    - (D) other devices which use chemicals to control juveniles.

### 377:10-1-5. Testing for research purposes

- (a) Juveniles are permitted to participate in research projects if:
- (1) the research is:
    - (A) non-medical;
    - (B) non-pharmaceutical; or
    - (C) non-cosmetic;
  - (2) the Executive Director or ~~Deputy Director~~ Chief of Staff has determined that the resident will not suffer negative effects; and
  - (3) the juvenile signs an informed consent stating that his or her participation is voluntary.
- (b) the juvenile may terminate his or her participation at any time upon the juvenile's written request.
- (c) The staff shall obtain execution of an informed consent by the juvenile's parent, guardian, legal custodian or obtain a judicial order allowing the juvenile's participation in research projects. Voluntary participation in research by juveniles who are 18 years of age or older, or who have been legally emancipated, does not require an informed consent by parent, guardian, or legal custodian.

**377:10-1-8. Agency records**

(a) "Agency record" means records prepared, obtained, or maintained by a public or private agency with regard to a child who is or has been under its care, custody, or supervision or with regard to a family member or other person living in the home of such child and includes, but is not limited to:

- (1) any study, plan, recommendation, assessment, or report made or authorized to be made by such agency for the purpose of determining or describing the history, diagnosis, custody, condition, care, or treatment of such child; or
- (2) any records made in the course of any investigation or inquiry conducted by an agency to determine whether a child is a delinquent child or a child in need of supervision.

(b) ~~The Department of Juvenile Justice Office of Juvenile Affairs~~ "agency records" are confidential and may not be inspected nor their contents disclosed without a court order, unless otherwise provided by state or federal law, except to the following persons:

- (1) the judge having the child currently before the court in any proceeding pursuant to Title 10 O.S. and any judge of the district court or tribal court to which any proceedings may be transferred;
- (2) employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem, appointed by the court, and members of review boards established pursuant to the Oklahoma Children's Code;
- (3) a district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to 10 O.S. or the prosecution of crimes against children;
- (4) the attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of Title 10, O.S. The attorney representing a child or an attorney considering representing a child in a juvenile proceeding may access other confidential records listed in 10 O.S., § 7307-1.2 (A) for use in the legal representation of the child;
- (5) employees of juvenile bureaus in the course of their official duties;
- (6) employees of a law enforcement agency of this or another state and employees of a child protective service of another state or any federally recognized Indian tribe member in the course of their official duties pertaining to investigations of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;
- (7) employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under 18 years of age. Records or information disclosed pursuant to this subparagraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation;
- (8) the Oklahoma Commission of Children and Youth;
- (9) the Department of Human Services;

(10) any public or private agency or person authorized by the ~~Department of Juvenile Justice Office of Juvenile Affairs~~ to diagnose or provide care, treatment, supervision, or other services to a child who is the subject of a report or record of delinquency, child abuse or neglect, or other adjudicatory category, provided ~~the Department OJA~~ may limit the disclosure to summaries or to information directly necessary for the purpose of the disclosure;

(11) any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision, or other services provided such child;

(12) the parents of the child who is the subject of any records;

(13) any person or agency for research purposes, if any of the following conditions are met:

(A) The person or agency conducting the research is employed by the State of Oklahoma or is under contract with the state and is authorized by the Department of Human Services to conduct the research; and

(B) The person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to any documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

(14) the Governor or to any person the Governor designates, in writing; ~~and~~

(15) any federal official of the United States Department of Health and Human Services or the United States Department of Justice;

(16) any member of the Legislature, upon the written approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate; and

(17) employees of the Department of Corrections in the course of their official duties (10 O.S., §7307-1.5 as amended).

(c) Any person to whom the information is released shall show proper identifying credentials prior to release of the confidential information. The information disclosed remains confidential and must be used for the purposes for which the disclosure is authorized. It is unlawful for any person to furnish or disclose confidential records or information for commercial, political, or unauthorized purposes. Any unlawful disclosure or unlawful use of disclosed information is subject to criminal sanctions.

**377:10-1-9. Information sharing**

(a) The Serious and Habitual Juvenile Offender Act, 10 O.S., § 7302-9.1, et seq. as amended provides for the exchange of information relating to serious and habitual juvenile offenders among law enforcement agencies, juvenile court personnel, district attorneys, and others who require such information in order to implement the Serious and Habitual Juvenile Offender

## Permanent Final Adoptions

---

Program. "Serious juvenile offender" and "habitual juvenile offender" mean persons under 18 years of age who have been adjudicated delinquent for the commission of serious acts or habitual criminal acts as defined by 10 O.S., § 7302-9.2 as amended and who are subject to the Serious and Habitual Offender Program.

(b) Information regarding such serious and habitual offenders shall be made available to the agencies responsible for the implementation of the Serious and Habitual Offender Program. ~~The Department of Juvenile Justice of the~~ Office of Juvenile Affairs, the juvenile bureaus, the District Attorneys' Council, the Oklahoma State Supreme Court as provided by law, the Oklahoma Commission on Children and Youth, the Oklahoma State Bureau of Investigation, local law enforcement agencies, and other agencies comprising the juvenile justice system, as defined by 10 O.S. Supp. 1995, § 7302-9.2, shall enter into contracts or interagency agreements under the Interlocal Cooperation Act for the purpose of sharing information regarding serious and habitual offenders.

(c) Such contracts and agreements shall be made in accordance with any applicable proposed guidelines recommended by the Serious and Habitual Juvenile Offender Task Force within the Oklahoma Commission on Children and Youth.

### **377:10-1-10. Disclosure of records pertaining to serious and habitual juvenile offenders without court order**

(a) In accordance with the rules adopted pursuant to the Serious and Habitual Juvenile Offender Act and 10 O.S., § 620.6, juvenile court records, agency records, district attorney's records, law enforcement records, non-directory education records, and social records, as defined by law, may be inspected and their contents disclosed without a court order, as provided in 10 O.S., §7303-1.3, to:

- (1) participating agencies as defined in 10 O.S., §7307-1.1;
- (2) a person, agency, hospital, or clinic authorized or directed by the court or by the ~~Department of Juvenile Justice~~ Office of Juvenile Affairs to care for, treat, examine, evaluate, or supervise a child or to treat, examine, or evaluate the parent, legal guardian, or other adult person living in the home of the child;
- (3) a legally recognized school that is not a participating agency in which the child, who is the subject of the records, is currently enrolled; and
- (4) individuals or agencies engaged in legitimate research for educational, scientific, or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose.

(b) Information and records released as provided herein shall remain confidential and shall be used for the purposes for which disclosure is authorized. It is unlawful for any person to furnish any confidential record or disclose any confidential information contained in any juvenile record for commercial,

political, or any unauthorized purpose. Any unlawful disclosure or unlawful use of disclosed information is subject to criminal sanctions.

(c) In accordance with the provisions of the Serious and Habitual Juvenile Offender Act and Section 620.6 of Title 10, information included in juvenile court records, agency records, district attorney's records, law enforcement records, non-directory education records, and social records may be entered in and maintained in the Juvenile Justice Information System, or other automated system, whether or not the record is confidential. Such information systems may be accessed by participating agencies as provided for by law (10 O.S., §7307-1.2).

### **377:10-1-11. Documents and records**

(a) Documents filed with or presented to OJA shall be retained in the OJA files for the length of time required by state and federal laws. Documents shall be disposed of, sealed, and expunged in a manner consistent with the Records Management Act, 67 O.S., §§ 201 through 216; 67 O.S., §§ 305 through 317, as amended, which pertain to archives and records; and 10 O.S., § 7307.1-7, which pertains to the sealing of records. The records disposition schedule for OJA is available for public inspection.

(b) OJA records are available for public inspection in accordance with the Oklahoma Open Records Act, 51 O.S., § 24A.1 through 24A.24 as amended and OJA rules and procedures. All requests for agency and/or juvenile records must be submitted to the OJA Public Records Officer, P.O. Box 268812, Oklahoma City, OK 73126. No staff, other than the Public Records Officer or designee, shall fill records requests.

(c) In order to avoid giving unfair advantage to competitors or bidders, OJA shall keep confidential records relating to:

- (1) specifications for competitive bidding prior to publication by the public body; and
- (2) prior to the opening of bids by OJA or its representative, the contents of sealed bids solicited through requests for proposals or requests for information under Department of Central Services purchasing rules or those established by OJA.

(d) Provisions for copying and search fees are contained in the Open Records Act, with these exceptions being noted:

- (1) OJA shall not charge a copy fee to other public entities, clients or their representatives, or employees;
- (2) ~~No~~ no search fee is charged to those seeking information in the public interest, including news media, schools, authors, or "taxpayers seeking to determine whether those entrusted with the affairs of its government are honestly, faithfully, and competently performing their duties as public servants."; and
- (3) ~~Former~~ former employees seeking information from their personnel files shall not pay for the first ten (10) pages, but shall pay the prescribed fees for anything over ten (10) pages.

(e) The fees listed in (1)-(4) of this subsection may be charged separately or in combination. For example, a person may be charged a search fee in addition to a fee for photocopying.

(1) **Fees for photocopying.** OJA has established the following fee schedule, which must be posted for public view, for photocopying documents having the dimensions of 8½ x 14 inches or smaller:

- (A) ~~if less than 10 pages, 25 cents per page;~~
- (B) ~~if between 10 and 100 pages, 10 cents per page;~~
- (C) ~~if over 100 pages, 5 cents per page;~~ and
- (D) a maximum of one dollar (\$1.00) per copied page for a certified page.

(2) **Fees for search.** Requests that are for a commercial purpose or clearly would cause excessive disruption of office function shall be charged a search fee of \$25.00 per hour for staff time spent in the search.

(3) **Fees for other types of reproduction.** Requests for computer runs, microfilming, or reproduction other than photocopying shall be charged the cost to OJA of duplicating the information involved. Such requests shall be forwarded to the State Office where the fee is developed with the appropriate division.

(4) **Payments of fees.** All fees shall be paid prior to delivering the copies. If the request is for search only, the fee shall be paid before the person is allowed to review the material. All fees shall be paid by check or money order; cash is not accepted. The fee payment shall be transmitted to the State Office, Attention Finance Division. In addition, a receipt shall be given upon payment

are found in OAC 340:110-5, Part 5 and OJA foster family standards found in paragraphs (d) and (e) of this section.

(2) An OJA employee may apply to become a foster parent. However, the district supervisor must obtain approval from the Executive Director or the affected division administrator before certifying the home.

(c) **Foster parent eligibility assessment.** The JSU worker shall advise each foster parent applicant that a foster parent eligibility assessment per 10 O.S., §7203, as amended will be conducted on all adults living in the home. The foster parent eligibility assessment includes, but is not limited to, the following:

- (1) a criminal history records search conducted by the OSBI;
- (2) a national criminal history records search based upon the submission of fingerprints;
- (3) a home assessment; and
- (4) any other assessment requested by the ~~Department of Juvenile Justice~~ **Office of Juvenile Affairs**.

(d) **OJA foster family home standards.** Persons providing foster family home care shall be chosen for their child care abilities and governed by clear standards of conduct as listed in this paragraph.

(1) **Skills, knowledge, and abilities of foster parents.** A foster parent must:

- (A) demonstrate an ability to show openness, warmth, and acceptance in personal relationships;
- (B) participate as a team member with the JSU worker and other persons involved in the ~~juvenile's~~ juvenile's treatment plan;
- (C) demonstrate an ability to create and continue a mutual trust relationship with the juvenile and the team;
- (D) help the juvenile have confidence in the team;
- (E) agree in writing to abide by OJA's rules regarding confidentiality;
- (F) understand the general principles of human behavior, with special emphasis on the emotional, behavioral, and social problems of troubled juveniles;
- (G) demonstrate an ability to work effectively with a range of professional disciplines, such as law enforcement, social work, psychology, vocational rehabilitation, and education;
- (H) demonstrate a knowledge of and willingness to abide by all standards, regulations, and policies pertaining to the foster home; and
- (I) demonstrate an ability to resolve conflict in a positive manner.

(2) **Foster parent training.**

- (A) A foster parent shall complete 12 hours of pre-service foster parent education prior to a juvenile's being placed in the home.
- (B) A foster parent shall attend 12 hours per year of continuing in-service training.
- (C) Training shall include all provisions of 10 O.S. §7212 (B)(2) and:
  - (i) foster parent rights and responsibilities, including the area of parental substitute authority;

## SUBCHAPTER 7. CONTRACT PROGRAMS AND SERVICES

### PART 1. GENERAL PROVISIONS AND FOSTER CARE

#### 377:10-7-1. Purpose

The ~~Department of Juvenile Justice Office of Juvenile Affairs~~ is authorized by 10 O.S., § 7302-6.6(D) to develop a variety of placements for OJA-custody juveniles. The purpose of this Subchapter is to describe the programs and facilities with which the Office of Juvenile Affairs contracts for placement of juveniles.

#### 377:10-7-3. Foster care

(a) **Foster family home.** A foster family home is a private residence in which a juvenile is placed for out-of-home foster care services. Foster parents shall provide continuous 24-hour care and supportive services to a juvenile placed in the home.

(b) **Scope.**

(1) The JSU worker shall participate in the recruitment of foster homes for juveniles in ~~Department of Juvenile Justice (DJJ) Office of Juvenile Affairs (OJA)~~ custody. In addition to the requirements listed in 10 O.S., § 7204, as amended foster family homes shall meet, at a minimum, the standards required by the Oklahoma Child Care Facility Licensing Act (10 O.S. §7204B.7). These standards

## Permanent Final Adoptions

---

- (ii) rights and responsibilities of OJA;
  - (iii) juvenile rights; and
  - (iv) behavior management techniques.
- (3) **Family composition.** Foster parents may be either single or married, with a history of stable relationships. All applicants shall be evaluated on a case-by-case basis, but must have family, friends, or others approved by OJA to provide support and backup care.
- (4) **Age.** The JSU worker conducting the study shall consider the age of a foster parent in relation to his or her physical capability, flexibility, vitality, maturity or judgment, and ability to exercise appropriate authority, supervision, and physical care. No person under the age of 21 shall be approved as a foster parent.
- (5) **Health.** All members of the foster family must be in sufficiently good physical and mental health to provide necessary care for a juvenile. Adults in the home must have a physical exam before the home is certified. If a foster parent requires hospitalization or ongoing outpatient medical care, including mental health counseling, the foster parent must give the worker a physician's statement stating that the foster parent is capable of providing foster care. Adult members of the household who receive disability payments shall provide JSU a release of information so that JSU can obtain information regarding the applicant's ability to care for foster children.
- (6) **Income.** The foster family must have a source of income adequate to meet the family's needs without the supplement of the foster care reimbursement. The worker shall consider entitlement programs such as Social Security, SSI, IV-E, and TANF as appropriate sources of income.
- (7) **Employment.** A foster parent may be employed or attend school or training either full or part time while providing foster care as long as these activities do not interfere with the provision of a suitable family life. Arrangements for supervision of custody juveniles must be approved by the juvenile's JSU worker.
- (8) **Religion.** Foster parents shall provide reasonable opportunity for any foster child to practice the religion of his or her choice. No child shall be required to attend any religious service against his or her religious preferences.
- (9) **References.** Foster family applicants shall provide a total of six references, no more than two of whom are relatives, to the JSU worker.
- (10) **Foster parent eligibility assessment.**
- (A) An Oklahoma State Bureau of Investigation criminal history records search must be conducted on all applicants and adult members of the household prior to the home's being certified. Applicants or household members with less than one (1) year's residence in Oklahoma shall authorize equivalent records searches from the previous state(s) of residence for at least five (5) years immediately preceding the placement.
  - (B) A national criminal history records search based on submission of fingerprints must also be conducted on foster parent applicants and all adults

residing in a prospective foster home. Exceptions may be granted by the Executive Director in writing to a person who has a severe physical condition which precludes his or her being fingerprinted (10 O.S. §7209).

(C) A juvenile may be placed in the home before the national criminal history records search is completed if the prospective foster parent and all adults living in the home have lived in Oklahoma for at least five (5) years immediately preceding the placement.

(D) JSU shall update the OSBI criminal history records search every three (3) years or sooner if indicated. Statutory authority for the foster parent eligibility assessment is found in 10 O.S. §§ 404.1 and 7209, as amended.

(E) The JSU worker conducting the study must conduct a juvenile justice information systems review on all persons over the age of 13 years residing in the home, other than a foster child.

(11) **History of charges and convictions of crimes.**

(A) A home shall not be certified if anyone in the home has been convicted of:

- (i) physical assault, battery, or a drug-related offense within the five-year period preceding the application;
- (ii) child abuse or neglect;
- (iii) domestic abuse;
- (iv) a crime against a child, including, but not limited to, child pornography; or
- (v) a crime involving violence, including, but not limited to, rape, sexual assault or homicide, but excluding physical assault or battery.

(B) Approval of any person with a history of charges and convictions of crimes other than those listed in (i) of this sub-paragraph shall be determined on a case-by-case basis with consultation from the Executive Director or the affected division administrator.

(12) **Sex crimes.** No person who has been convicted of or received a deferred sentence for a sex-related crime or for whom there has been a confirmed finding in a sexual abuse investigation shall be approved as a foster parent.

(13) **OJA rules, policies, and procedures.** Foster parents shall abide by OJA rules, policies, and procedures. Foster parents must agree in writing to follow OJA rules related to confidentiality. Foster parents must be given a copy of OJA's disciplinary rules as set forth in 377:10-1-3 and agree in writing that the following disciplinary actions are strictly prohibited:

- (A) corporal punishment of any kind;
- (B) threats;
- (C) derogatory remarks, or other verbal abuse directed toward the juvenile or his or her natural or adoptive parents;
- (D) deprivation of nutritious meals;
- (E) deprivation of visits with the natural or adoptive parents without prior consultation with the JSU worker; and

- (F) any unusual or unnecessary punishment.
- (e) **OJA foster family standards related to physical facilities, sleeping arrangements, and surroundings**
- (1) **Safety.** The physical facilities of the home must present no hazards to the safety of the foster child.
  - (2) **Location.** The foster home must be located within one half mile of public transportation, or the foster parent must be able to arrange transportation to community resources.
  - (3) **Recreation.** Adequate indoor and safe outdoor space for recreational activities must be provided.
  - (4) **Telephone.** Foster parents must have a working telephone and advise JSU of the correct phone number.
  - (5) **Automobiles.** Foster parents shall maintain a car in working order. ~~The car must have a current Oklahoma safety inspection sticker properly displayed.~~ Foster parents shall carry the statutorily mandated automobile liability insurance of a 10/20/10 minimum and possess a valid Oklahoma driver's license. Foster parents shall insure that seat belts are used at all times.
  - (6) **Liability insurance.** A foster family shall carry a minimum of \$100,000.00 liability insurance.
  - (7) **Sleeping arrangements and privacy.**
    - (A) Each juvenile shall be provided a separate bed.
    - (B) No more than two juveniles shall share a bedroom.
    - (C) Separate bedrooms must be provided for juveniles who are of the opposite sex.
    - (D) Adults shall not share bedrooms with foster children.
    - (E) Adequate space must be provided for a juvenile's personal possessions and for a reasonable degree of privacy.
    - (F) A room, such as the living room, utility room, den, dining room, pantry, or converted garage, cannot be used as a bedroom unless it is specifically designated as a bedroom.
  - (8) **Number of juveniles**
    - (A) The total number of juveniles in the home, including the foster parents' biological children, adopted children, and foster children, cannot exceed six.
    - (B) The total number of foster children placed in any home cannot exceed five.
    - (C) An OJA foster home may not serve as a placement resource for any other agency nor may the foster parents provide child care for children from another source on a regular basis, paid or free without prior written approval from the Executive Director or the affected division administrator.
  - (9) **Annual assessment.** The JSU worker responsible for the foster home shall conduct an annual assessment of the home. An annual OSBI records check must also be conducted.
- (f) **Foster home certification.** The district supervisor shall certify the applicant's home as a foster home upon the worker's written recommendation when:
- (1) the worker's written home assessment indicates the family meets the foster home standards; and
  - (2) all background and criminal history records searches have been completed and reveal no disqualifying information.
- (g) **Foster home contract.** If the OSBI criminal history records search reveals no disqualifying information, the district supervisor may provisionally certify the home. Upon being provisionally certified, the foster parents shall sign a foster home contract with OJA. If the national criminal history records search reveals disqualifying information, OJA shall immediately cancel the contract and remove all juveniles placed in the home. In addition to the provisions listed in 10 O.S. §7206, the contract must include the list of foster parent rights in accordance with 10 O.S., §7209, as amended. A new contract must be executed each year.
- (h) **Preplacement visit.** When possible, the JSU worker shall arrange for a preplacement visit between the juvenile and foster parents (10 O.S. §7208, as amended).
- (i) **Information provided to foster parents.** Upon a juvenile's being placed in foster care, the worker shall provide foster parents with:
- (1) the names and telephone numbers for the:
    - (A) ~~the~~ juvenile's case worker;
    - (B) case worker's supervisor;
    - (C) worker responsible for conducting the foster home study and the annual assessment of the home and the worker's supervisor; and
    - (D) contact person in the OJA state office or child-placing agency.
  - (2) any other medical, psychological, social, or other pertinent information relating to foster care;
  - (3) a copy of the OJA or child placing agency's grievance procedures;
  - (4) the name and telephone number of any foster parent association in the county of the foster parent's residence;
  - (5) a copy of the statement of foster parent rights;
  - (6) information detailing the foster parent's ability to submit written reports to the court, or to petition the court directly for review of a decision by the state agency or the child-placing agency to remove a foster child who has been placed with the foster parent; and
  - (7) a copy of the policies and procedures of the Office of Juvenile Affairs or the child-placing agency which pertain to placement operations.
- (j) **Foster parent grievances.**
- (1) A foster parent may file a grievance with OJA in accordance with 10 O.S., §7213.
  - (2) In accordance with 10 O.S., 7204.1, there shall be no retaliation against a foster parent who files a grievance.
  - (3) Any person who knowingly and willfully makes a false or frivolous grievance report or complaint or a report that the person knows lacks factual foundation may lose certification as a foster parent.
- (k) ~~Department of Juvenile Justice Office of Juvenile Affairs~~ **"Foster Parent Hotline"**. Foster parents may call the Office of Juvenile Affairs' toll-free during normal agency business hours, 8:00 a.m. until 5:00 p.m., Monday through Friday

## Permanent Final Adoptions

to obtain information related to foster care services or to file a ~~complaints~~ complaint or ~~grievances~~ grievance. Weekend and holiday calls will be answered by automated message center. A representative from OJA shall respond to weekend or holiday calls within the first hour of the next business day following the weekend or holiday. The toll-free number is 1-888-254-6692.

(1) **Movement of a juvenile from a foster care placement.** The JSU worker shall move juveniles from foster care in accordance with 10 O.S., §7208, as amended.

(1) When a juvenile has resided with a foster parent for (3) three or more months, the JSU worker, except in an emergency, shall give the foster parent a minimum of five days advance notice before removing a juvenile from the foster parent's care and shall provide the foster family with written notification of the reasons for removing the juvenile.

(2) Except in an emergency situation, JSU shall not change the foster home placement of a juvenile without court approval if the:

(A) juvenile has been moved once since the last court hearing; and

(B) foster parent, with whom the juvenile has resided for more than six (6) months objects, in writing, after notice of the removal of the juvenile by ~~DJJ~~ OJA or the child-placing agency. The objection shall be filed with the court by the foster parent and served on ~~DJJ~~ OJA or the child-placing agency within five (5) days after receipt of the notice from ~~DJJ~~ OJA or the child-placing agency regarding removal of the juvenile.

(3) The timely filing and service of the objection shall stay removal of the juvenile pending court review unless the ~~DJJ~~ OJA or child placing agency's stated reason for removal is:

(A) the foster parent's substantial noncompliance with applicable standards and agreements;

(B) pending investigation of allegations of abuse or neglect by the foster parents or other person residing in the foster family home; or

(C) reunification with a parent who contributed to the juvenile's being deprived, with prior approval of the court.

### **377:10-7-4. Therapeutic foster care**

(a) As authorized by 10 O.S. §§ 7302-6.6(D), 7204, and 7205, as amended the ~~Department of Juvenile Justice Office of Juvenile Affairs~~ Department of Juvenile Justice Office of Juvenile Affairs may contract with a licensed child-placing agency for the provision of therapeutic foster care services to OJA-custody juveniles. A therapeutic foster home is a foster family home which provides specific services to eliminate social and behavioral problems of a juvenile placed in the home.

(b) Rules regarding eligible providers, admission requirements, description of required services, and the Title XIX payment rate are found in Title 317, the Oklahoma Health Care Authority [17:30-5-740, 317:30-5-741(5)(D), 317:30-5-742, 317:30-5-473, and 317:30-5-475]. In addition to the requirements of the Oklahoma Health Care Authority, therapeutic foster homes shall meet, at a minimum, the standards required

by the Oklahoma Child Care Facility Licensing Act, found in OAC 340:110-5, Part 5, and OJA foster home standards listed in OAC 377:10-7-3(d)(e).

(c) In working with therapeutic foster families, the child placing agency shall abide by the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act.

## PART 9. CONTRACTED SERVICES

### **377:10-7-50. Legal base basis**

(a) Title 10, O.S., § 7302-3.5 provides that ~~DJJ~~ OJA may contract for provision of services to juveniles and families. When resources allow, ~~DJJ~~ OJA may offer contracted services to duly constituted Juvenile Bureaus (10 O.S., § 7305-1.1). However, when service capacity is limited, ~~DJJ~~ OJA shall give priority to custody juveniles.

(b) Contract services include:

(1) educational and vocational assessments and services;

(2) substance abuse assessments and interventions;

(3) non-residential substance abuse assessment and interventions;

(4) non-residential diagnostic and evaluation services;

(5) wraparound services focused on the juvenile and family; and

(6) tracking services.

## SUBCHAPTER 11. CHILD IN NEED OF MENTAL HEALTH TREATMENT

### **377:10-11-1. Child in need of Mental Health Treatment**

The ~~Department of Juvenile Justice Office of Juvenile Affairs~~ Department of Juvenile Justice Office of Juvenile Affairs may provide for the care of a child who is in the custody of the Office of Juvenile Affairs and found by a court to be a child in need of mental health or substance abuse treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Children Act, [Title 43A. § 5-501 through 5-513] as required by 10 O.S., § 7303-8.4, as amended. For Medicaid eligible juveniles who are wards of the court and in the custody of, or under, the supervision of the Office of Juvenile Affairs, OJA employees shall follow applicable rules as promulgated by the Oklahoma Health Care Authority that govern Medicaid reimbursement for inpatient care.

## SUBCHAPTER 13. REGIMENTED JUVENILE TRAINING PROGRAMS STANDARDS

### PART 9. PHYSICAL FACILITY

### **377:10-13-36. Juvenile housing**

(a) Each sleeping room must have:

(1) 20 square feet of unencumbered space per occupant;

- (2) access to toilets and a wash basin with hot and cold running water 24 hours a day;
  - (3) a bed, mattress, pillow, storage space; and
  - (4) natural light.
- (b) Upon written approval from the Director or ~~Deputy Director~~ Chief of Staff of OJA and notification of the Board of Juvenile Affairs, a regimented juvenile training program may accommodate both males and females provided that:
- (1) males and females shall not occupy the same sleeping area;
  - (2) separate toilet and bathing areas must be available;
  - (3) written facility procedures must outline methods that ensure appropriate personal hygiene privacy; and
  - (4) male and female participants must be directly supervised by program staff when interacting in any program event.
- (c) The facility must provide sufficient seating and writing surfaces for every juvenile. Furnishings must be consistent with the security needs of the juveniles assigned.
- (d) Temperatures in indoor living, sleeping, work, and dining areas must be appropriate to the summer and winter comfort zones.
- (e) All housing areas must provide:
- (1) lighting of at least 20 foot candles at desk level and in the personal grooming area;
  - (2) natural light;
  - (3) other lighting requirements for the program determined by the task performed;
  - (4) access to a drinking fountain; and
  - (5) heating, ventilation, and acoustical systems to ensure healthful and adequate living and working conditions for juveniles and staff.

**PART 19. JUVENILE SERVICES**

**377:10-13-100. Placement in RJTP**

No 12 or 13 year-old juvenile shall be admitted to RJTP without prior approval from the Executive Director, ~~Deputy Director~~ Chief of Staff, or ~~Administrator of the Division of Residential Services~~ the affected Division Administrator.

*[OAR Docket #07-785; filed 4-16-07]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 15. COMMUNITY-BASED  
COMMUNITY-BASED YOUTH SERVICES**

*[OAR Docket #07-786]*

**RULEMAKING ACTION:**  
PERMANENT final adoption

- RULES:**
- Subchapter 1. General Provisions [NEW]
  - 377:15-1-1. Purpose [AMENDED]
  - 377:15-1-2. Authority, legal ~~base~~ basis, and scope [AMENDED]
  - 377:15-1-3. Application for "Youth Service Agency" designation [REVOKED]
  - 377:15-1-4. Criteria for designation as a "Youth Service Agency" [REVOKED]

- 377:15-1-5. Retaining designation as a "Youth Services Agency" [REVOKED]
- 377:15-1-6. Appeal process and administrative hearing process [REVOKED]
- 377:15-1-7. Constituency development [REVOKED]
- Subchapter 3. State Plan for Youth Services Agencies [NEW]
- 377:15-3-1. State Plan [NEW]
- Subchapter 5. Designation of Community-based Youth Services Agencies [NEW]
- 377:15-5-1. Definitions [NEW]
- 377:15-5-2. Application for "Youth Services Agency" designation [NEW]
- 377:15-5-3. Application Process [NEW]
- 377:15-5-4. Requirements for the Application [NEW]
- 377:15-5-5. Reporting Process [NEW]
- 377:15-5-6. Report Recommending Termination of Designation as a Youth Services Agency [NEW]
- Subchapter 7. Individual Proceedings: Application Denials, and Terminations of Designation as a Youth Services Agency [NEW]
- 377:15-7-1. Definitions [NEW]
- 377:15-7-2. Filing of Papers [NEW]
- 377:15-7-3. Initiation of Individual Proceedings [NEW]
- 377:15-7-4. Notice of Hearing [NEW]
- 377:15-7-5. Procedures for Hearing [NEW]
- 377:15-7-6. Recordings [NEW]
- 377:15-7-7. Informal Disposition [NEW]
- 377:15-7-8. Representation [NEW]
- 377:15-7-9. Final Agency Orders [NEW]
- 377:15-7-10. Emergencies [NEW]
- 377:15-7-11. Continuances and Request for Extensions of Time [NEW]
- 377:15-7-12. Rehearing [NEW]
- 377:15-7-13. Appeals [NEW]
- Subchapter 9. Community-Based Youth Services Purchasing Procedures [NEW]
- 377:15-9-1 Purchasing Procedures [NEW]

**AUTHORITY:**  
Board of Juvenile Affairs, pursuant to 10 O.S., Section 7302-1.1(H) and 7302-1.1 (I) and 75 O.S., Section 302 (A)(1).

**DATES:**  
**Comment period:**  
December 1, 2006 through January 1, 2007

**Public hearing:**  
January 3, 2007

**Adoption:**  
January 11, 2007

**Submitted to Governor:**  
January 19, 2007

**Submitted to House:**  
January 19, 2007

**Submitted to Senate:**  
January 19, 2007

**Gubernatorial approval:**  
February 23, 2007

**Legislative approval:**  
Failure of the Legislature to disapprove resulted in approval on March 28, 2007

**Final adoption:**  
March 28, 2007

**Effective:**  
July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS:**  
N/A

**INCORPORATIONS BY REFERENCE:**  
N/A

**ANALYSIS:**  
HB2999 required significant changes to Chapter 15, including a designation process, adoption of the State Plan, and individual proceedings process.

**CONTACT PERSON:**  
Robert Morey, (405) 530-2820.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,  
THE FOLLOWING RULES ARE CONSIDERED  
FINALLY ADOPTED AS SET FORTH IN 75 O.S.,**

# Permanent Final Adoptions

SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2007:

## SUBCHAPTER 1. GENERAL PROVISIONS

### **377:15-1-1. Purpose**

The purpose of this Chapter is to describe the rules for the ~~Community Division of Community-based Based Youth Services Unit (CBYSU).~~

### **377:15-1-2. Authority, legal base basis, and scope**

(a) ~~The Community-Based Division of Community-based Youth Services Unit operates under the authority of 10 O.S. §§7302-3.3, 7302-2.2, 7302-3.5 and 7302-3.6.a.~~

(b) ~~The Community-Based Division of Community-based Youth Services Unit shall be designated by the Department of Juvenile Justice (DJJ) to plan and coordinate the contracting of delinquency prevention and treatment services with designated youth services agencies. Contracts shall be based on needs identified in DJJ and the Oklahoma Association of Youth Services' planning process. The Department of Juvenile Justice OJA shall enter into such contracts for the development, implementation and operation of community-based community-based delinquency prevention, diversion, and service programs, consistent with state statutes.~~

### **377:15-1-3. Application for "Youth Service Agency" designation [REVOKED]**

~~An agency wishing to be considered as a designated "Youth Services Agency" shall make written application to the Office of Juvenile Affairs, as set forth in 10 O.S., § 7302 3.6. The applicant shall submit the application to the Office of Juvenile Affairs, 3814 N. Santa Fe, Suite, 400, P.O. Box 268812, Oklahoma City, Ok. 73126 8812.~~

### **377:15-1-4. Criteria for designation as a "Youth Service Agency" [REVOKED]**

(a) ~~In order to become a designated "Youth Service Agency", the agency shall undergo a Peer Review process and be subject to the youth service standards. At a minimum, the applicant shall meet the criteria listed in 10 O.S., § 7302 6.6(A)(B)(C). When applicable and required, the applicant shall meet all licensing requirements, health and safety codes.~~

(b) ~~CBYSU shall prepare a summary report for the Deputy Director of Office of Juvenile Affairs (OJA). The report shall contain the results of the Peer Review and recommend whether the agency should be designated as a Youth Services Agency.~~

(c) ~~Any agency whose request for designation as a Youth Services Agency is being denied shall have an opportunity for an appeal hearing to the Executive Director and, when necessary, an administrative hearing as per OAC 377:15 1-6. OJA shall notify in writing within 10 days of its decision.~~

### **377:15-1-5. Retaining designation as a "Youth Services Agency" [REVOKED]**

(a) ~~In order to remain a designated "Youth Service Agency", a Peer Review is conducted at least once every two years. The Deputy Director of the Office of Juvenile Affairs may terminate the designation as a Youth Services Agency as per 10 O.S. § 7302 3.6(D) or other good cause.~~

(b) ~~Any agency whose designation is being terminated shall have an opportunity for an appeal to the Executive Director and, when necessary, an administrative hearing as per OAC 377:15 1-6. OJA shall notify the agency in writing within 10 days of its decision.~~

### **377:15-1-6. Appeal process and administrative hearing process [REVOKED]**

(a) ~~**Submission of appeal.** Any agency denied designation as a Youth Services Agency or whose designation is terminated may appeal the decision to the Executive Director of OJA. The appeal shall be in writing and received within 10 days of the Deputy Director's decision. The agency making the request shall submit the appeal to the Executive Director of OJA, 3814 N. Santa Fe, Suite, 400, P.O. Box 268812, Oklahoma City, Ok. 73126 8812 or deliver the appeal to the An Son Oil Building, 3814 N. Santa Fe, Suite, 400, Oklahoma City, Oklahoma. An appeal mailed to OJA is considered submitted upon receipt by the Executive Director. A designated OJA staff member shall stamp the appeal upon receipt to show the date of submission.~~

(b) ~~**Content of appeal.** The appeal shall clearly state the agency's rationale for becoming or remaining a "Youth Service Agency". The written appeal shall include any legal grounds, if known, and other relevant information or views on which the agency relies. A copy of any reference or source cited shall be submitted with the petition unless the reference or source is readily available to OJA. The appeal shall be signed by the agency director or the authorized representative, and contain the printed name, address, and day time telephone number of the agency director or designee.~~

(c) ~~**Notification of receipt.** The Executive Director shall send the agency written notification of receipt of the appeal within five working days after receipt.~~

(d) ~~**Consideration and disposition.** Within 21 working days after submission of the appeal, the Executive Director, after consulting with the General Counsel shall approve or deny the appeal.~~

(e) ~~**Notification of approval or denial of appeal.** The Executive Director shall notify the agency of the decision within 30 days of receipt of the appeal. If the appeal is denied, the Executive Director shall provide written notification that the agency may request an administrative hearing before the Board of Juvenile Affairs. If the agency does not make written request for an administrative hearing within ten working days after receiving notification, no further action shall be taken.~~

(f) ~~**Administrative hearing.** If the agency decides to request an administrative hearing, the agency director or designee shall submit the written request to the Executive Director. The Executive Director shall place the administrative hearing on the agenda for the next available Board meeting and immediately notify the agency of the meeting date.~~

- (1) The agency shall submit to OJA any additional information necessary support their position.
- (2) During the Board Meeting, the agency shall present arguments for becoming or remaining a designated Youth Services Agency". The Executive Director, Deputy Director, General Counsel, or designee shall have the opportunity to present OJA's reasons for denial or termination.
- (3) The Board shall either approve or deny the agency's request to become or remain a designated "Youth Service Agency".

**377:15-1-7. Constituency development [REVOKED]**

(a) The intent of this Section is to encourage and support the development of constituencies which will work with OJA and Oklahoma Association of Youth Services (OAYS) to maximize services to clients. The CBYSU shall:

- (1) provide information and educational assistance to the community to encourage support of needed services and/or specific programs;
- (2) community organization, development, support and advocaey;
- (3) participate in and/or facilitate local planning;
- (4) participate and/or facilitate the local comprehensive needs assessments that contribute to the OJA state plan;
- (5) develop and maintain positive relationships with constituencies to keep information, issues, needs and solutions in focus; and
- (6) advocate for a state wide system of effective, proven delinquency prevention, diversion and treatment services.

**SUBCHAPTER 3. STATE PLAN FOR YOUTH SERVICES AGENCIES**

**377:15-3-1. State Plan**

The Community-based Youth Services Division will develop the State Plan for Youth Services Agencies in accordance with criteria approved by the Board of Juvenile Affairs after full consideration of any recommendations of the Department of Human Services and the Oklahoma Association of Youth Services.

**SUBCHAPTER 5. DESIGNATION OF COMMUNITY-BASED YOUTH SERVICES AGENCIES**

**377:15-5-1. Definitions**

The following words or terms shall have the following meaning, unless the context clearly indicates otherwise:

**"Applicant"** means any non-profit organization submitting an application for designation as a youth services agency to the Board of Juvenile Affairs.

**377:15-5-2. Application for "Youth Services Agency" designation**

The applicant for designation as a youth services agency shall submit an application to the Board of Juvenile Affairs on a form prescribed by the Board, as set forth in 10 O.S., § 7302-3.6.a. The applicant shall submit the application to the Secretary to the Board of the Office of Juvenile Affairs, 3812 N. Santa Fe, Suite, 400, P.O. Box 268812, Oklahoma City, OK, 73126-8812.

**377:15-5-3. Application Process**

**Submission of Application.** The applicant for designation as a youth services agency shall submit an application to the Board of Juvenile Affairs on a form prescribed by the Board. The applicant may attach to the form such supplemental materials as may be necessary to fully support the application. The applicant shall provide all documentation required by the Community-based Youth Services Division in support of the application. The application shall be signed by the person making the application or by the chief executive officer of the organization seeking designation. The signature shall be notarized.

**377:15-5-4. Requirements for the Application**

(a) The applicant shall describe in detail all aspects of direct community participation in the planning, operation and evaluation of the community-based youth services and programs.

(b) The applicant shall describe in detail:

- (1) its capability to deliver all or part of the compensable services set forth in Title 10, § 7302-3.3; core community-based services, as defined in 10 O.S. § 7301-1.3(9); or other community-based facilities, programs, or services designated by the Board of Juvenile Affairs as core community-based services.
- (2) if applicable, its capability to deliver all or part of the compensable children's services that the Department of Human Services is authorized to provide for by contract with a private agency.
- (3) its ability to provide adequate and qualified staff for the services it may provide.
- (4) its capability to meet the need for adequate services in its primary catchment area or other areas which it may serve.
- (5) a statement of its financial viability as defined by 10 O.S. § 7302-3.6a. An assessment of the applicant's financial viability shall be based upon a formula as determined by the Community-based Youth Services Division.
- (6) a documented need for services in the primary catchment area or other area which it may serve.
- (7) if applicable, a statement of how the applicant may augment any services being provided by an existing youth services agency.

(c) **CERTIFICATIONS AND LICENSES:** The applicant shall provide copies of all current licenses and certifications applicable to its operations. If the organization is accredited

## Permanent Final Adoptions

---

by a nationally recognized accrediting organization, the applicant shall submit a copy of its most recent evaluation or audit conducted by the certifying organization.

(d) Upon submission of the application, the applicant may be required to undergo an initial peer review to be conducted by the Oklahoma Association of Youth Services Agencies or other Oklahoma non-profit corporation whose membership consists solely of youth services agencies and of whom at least a majority of youth services agencies are members. If a peer review is required by the Community-based Youth Services Division, the applicant and peer reviewing organization shall be notified by the Division Director. The peer review shall be completed and submitted to the Division of Community-based Youth Services within 90 days of the notice of the peer review requirements. The costs, if any, of the initial peer review shall be borne by the applicant. Failure to successfully complete the initial peer review, if required, may be considered by the Division of Community-based Youth Services in making its recommendation regarding designation of the applicant.

(e) **AGENCY INSPECTION:** The Division of Community-based Youth Services shall make a site visit inspection of the applicant's operations and obtain all available verification required to support the application.

(f) **REFERENCES:** The applicant shall provide letters of reference from local community leaders or other persons familiar with the applicant's operations. The Division of Community-based Youth Services shall obtain from the applicant authorizations to communicate with such references. The Division of Community-based Youth Services shall not be limited to the references provided in conducting its review of the applicant's operations.

(g) **EVALUATION AND SUMMARY:** The Division of Community-based Youth Services shall evaluate the application and all supporting detail and summarize its findings in a Report of the Community-based Youth Services Division to be submitted to the Board of Juvenile Affairs. The evaluation shall be completed and a Report submitted to the Board within 120 days of submission of the application to the Secretary to the Board of Juvenile Affairs. Extensions of the 120-day requirement may be authorized by the Executive Director of the Office of Juvenile Affairs upon good cause shown. The Report shall state whether the designation of the applicant as a Youth Services Agency is based on community needs as indicated in the State Plan for Youth Services Agencies. The Report of the Community-based Youth Services Division shall contain a recommendation as to whether the application should be granted, denied or deferred. The Report shall be signed by the Division Director and approved by the Executive Director of the Office of Juvenile Affairs.

### **377:15-5-5. Reporting Process**

(a) With respect to any application for designation as a Youth Services Agency, the Division of Community-based Youth Services shall prepare a Report addressing the statutory criteria for designation of Youth Services Agencies, as well as any other criteria established by the Board.

(b) The Report of the Division of Community-based Youth Services (Report) shall contain a recommendation to either grant, deny or defer an application for designation.

(c) The Executive Director of OJA shall approve the Report prior to submission to the Board of Juvenile Affairs.

(d) The Report shall be filed with the Board of Juvenile Affairs and a copy provided to the applicant, either by personal delivery or by certified mail, when filed.

(e) The application for designation as a Youth Services Agency shall be placed on the Board Agenda for consideration at the next Board meeting following the filing of the Report containing the recommendation.

(f) The Board shall consider the Report in determining whether to grant, deny or defer the application.

(g) The Board's review of the Report shall not be conducted as an individual proceeding.

(h) Upon review of the Report the Board may make one of the following determinations:

- (1) grant the application for designation;
- (2) deny the application for designation; or
- (3) defer its decision and direct the Division of Community-based Youth Services to provide additional information to the Board for its consideration.

(i) The applicant shall be notified of the Board's decision by certified mail.

(j) If the application for designation is granted, the designation shall be effective immediately.

(k) If the application for designation is denied, the applicant may request an individual proceeding on the denial by filing a request for hearing with the Secretary to the Board of Juvenile Affairs upon a form approved by the Board. The request for an individual proceeding shall be filed within thirty (30) days of the mailing of the Board's decision. The request for hearing shall state the grounds upon which the applicant disagrees with the decision.

(l) If the decision to grant or deny designation is deferred, the Division of Community-based Youth Services shall file an Addendum to its original Report providing the additional information requested by the Board within the time frames established by the Board. The matter shall be considered at the next Board meeting following the filing of the Addendum. The Addendum shall be provided to the applicant, either by personal delivery or by certified mail, when filed with the Board. Following review of the Report and Addendum, the Board may:

- (1) grant the application for designation which shall become effective immediately; or
- (2) deny the application.

### **377:15-5-6. Report Recommending Termination of Designation as a Youth Services Agency**

With respect to any Youth Services Agency whose designation is recommended for termination, the Division of Community-based Youth Services shall complete a Report documenting the grounds for the proposed termination.

- (1) The Report of the Division of Community-based Youth Services (Report) shall contain an analysis of the program administration, financial viability and most recent peer review report of the Youth Services Agency.

- (2) The Report shall also contain a plan to ensure the continuation of services by another Youth Services Agency.
- (3) The Report shall reflect the recommendations of the Oklahoma Association of Youth Services Agencies with respect to the plan for service coverage.
- (4) The OJA Executive Director shall approve the Report prior to filing with the OJA Board.
- (5) The Report shall be filed with the Secretary to the Board of Juvenile Affairs and shall be considered at the next Board meeting following the filing of the Report.
- (6) The Board's review of the Report shall not be conducted as an individual proceeding.
- (7) Upon review of the Report, the Board may:
  - (A) terminate the designation of a Youth Services Agency;
  - (B) reject the recommendation for termination; or
  - (C) place the Youth Services Agency on probation upon the terms specified by the Board for up to 90 days. The Board may extend the period of probation for an additional 90 days upon consideration of the Youth Services Agency's substantial compliance with the terms of probation. The probationary status of the Youth Services Agency shall be reviewed by the Board not later than the Board meeting immediately preceding the expiration of the probationary period; at the end of the probationary period, including any extension, the Board shall terminate the designation or remove the Youth Services Agency from probationary status.
- (8) The Youth Services Agency shall be notified of the Board's decision by certified mail. If the Board terminates the designation of a Youth Services agency, the Youth Services Agency may request an individual proceeding on the denial by filing with the Secretary to the Board of Juvenile Affairs a request for hearing upon a form approved by the Board. The request for an individual proceeding shall be filed within thirty (30) days of the mailing of the Board's decision to terminate. The request for hearing shall state the grounds upon which the Youth Services Agency disagrees with the decision.

**SUBCHAPTER 7. INDIVIDUAL PROCEEDINGS:  
APPLICATION, DENIALS, AND TERMINATIONS  
OF DESIGNATION AS A YOUTH SERVICES  
AGENCY**

**377:15-7-1. Definitions**

All words which are defined in 75 O.S. 2001, § 250.3 are used in accordance with such meaning.

**377:15-7-2. Filing of Papers**

All papers required by this subchapter are to be filed with the Secretary to the Board of Juvenile Affairs at the Office of Juvenile Affairs, 3812 North Santa Fe, Suite 400, Oklahoma City, Oklahoma 73118.

**377:15-7-3. Initiation of Individual Proceedings**

An individual proceeding may be initiated by the filing of a request for hearing containing a brief statement setting forth the relief requested and the grounds therefor upon a form approved by the Board of Juvenile Affairs. The hearing shall be open to the public and shall be conducted in accordance with the *Administrative Procedures Act*.

**377:15-7-4. Notice of Hearing**

- (a) The notice of hearing shall include:
  - (1) a statement of the time, place, and nature of the hearing;
  - (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
  - (3) a reference to the particular sections of the statutes and rules involved; and
  - (4) a short and plain statement of the matters asserted or issues involved.
- (b) Notice of the hearing shall be provided by the Secretary to the Board of Juvenile Affairs.

**377:15-7-5. Procedures for Hearing**

- (a) The hearing shall be conducted in an orderly manner and shall be presided over by the Chairperson of the Board or Board Member Designee.
- (b) The rules of evidence used during the hearing shall be those specified by the *Administrative Procedures Act*.
- (c) Witnesses shall be sworn upon oath or shall affirm the truth of their testimony and are subject to cross-examination. The oath or affirmation shall be administered by the Chairperson of the Board or Board Member Designee.
- (d) The Chairperson of the Board or Board Member Designee shall rule upon the admissibility of evidence or objections thereto, or upon motions or objections arising during the hearing.
- (e) The rulings of the Chairperson of the Board or Board Member Designee shall be the rulings of the Board unless reversed or modified by a majority vote of the Board.
- (f) 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. All decisions concerning objections or procedures shall be made by the presiding Board member.
- (g) An attorney may be designated by the Board to present the position adverse to the Youth Services Agency applicant or Youth Services Agency whose designation is terminated, but any Board member may inquire of any witness concerning matters deemed relevant and competent and not otherwise offered into evidence.
- (h) All preliminary motions filed by any party prior to the commencement of the hearing shall be ruled upon at the beginning of the hearing.
  - (i) The Board shall admit and give probative value to all competent, relevant and probative evidence, both oral and documentary, which tends to prove or disprove the facts germane to the designation denial or termination.

## Permanent Final Adoptions

---

(j) The Board may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. The Board is possessed of specialized knowledge and such knowledge will be used when officially noticed along with other evidence in arriving at a decision. Notice may also be taken of judicially cognizable facts.

(k) All parties shall be given an opportunity to respond and present evidence on all issues involved.

(l) In all individual proceedings, the Office of Juvenile Affairs shall bear the burden of proof that shall be by clear and convincing evidence.

### **377:15-7-6. Recordings**

Any hearing before the Board of Juvenile Affairs shall be electronically recorded. The portion of the hearing constituting deliberations in executive session need not be recorded. A copy of the electronic recording shall be made available to any person upon request and payment of appropriate reimbursement costs for reproduction.

### **377:15-7-7. Informal Disposition**

Informal disposition may be made of any individual proceeding by stipulation, agreed settlement, or default upon approval by the Board.

### **377:15-7-8. Representation**

Any party shall have the right to counsel who must be duly licensed by the Supreme Court of Oklahoma.

### **377:15-7-9. Final Agency Orders**

(a) All findings of fact made by the Board in an individual proceeding shall be based exclusively on the evidence and on matters officially noticed, and a final decision shall be determined by a majority vote of the Board.

(b) The final agency order shall be in writing and may be stated on the record at the conclusion of the hearing and deliberations. All parties shall be notified, either by personal delivery or by certified mail, of any final order.

### **377:15-7-10. Emergencies**

If the Board of Juvenile Affairs finds that the public health, safety, or welfare imperatively requires emergency action with respect to a plan for service coverage in a recommended termination, and the finding is incorporated into the order, the Board may issue an *ex parte* order implementing the Division of Community-based Youth Services' plan for service coverage pending the final outcome of proceedings and issuance of a final order.

### **377:15-7-11. Continuances and Request for Extensions of Time**

Requests for continuances and for extensions of time shall be filed with the Secretary to the Board of Juvenile Affairs. Such requests may be granted by the Chairperson or the Board

Member Designee upon good cause shown. The Secretary shall notify the parties of the decision.

### **377:15-7-12. Rehearing**

A Youth Services Agency aggrieved by a final agency order may request a rehearing, reopening, or reconsideration by filing a request with the Secretary to the Board within ten (10) days from the filing of the final agency order with the Secretary to the Board. The grounds for such action shall be as provided in the *Administrative Procedures Act* and shall be stated in the request. The Board may grant reconsideration, reopening, or rehearing of the matter at any time on the grounds of fraud practiced by the prevailing party or the procurement of the order by perjured testimony or fictitious evidence. Requests for rehearing, reopening, or reconsideration shall be placed on the Board's agenda for consideration at the next Board meeting following the filing of the request. The Youth Services Agency shall be notified by certified mail of the ruling of the Board on the request.

### **377:15-7-13. Appeals**

Appeals of a final agency order shall be in accordance with the *Administrative Procedures Act*.

## **SUBCHAPTER 9. COMMUNITY-BASED YOUTH SERVICES PURCHASING PROCEDURES**

### **377:15-9-1. Purchasing Procedures**

Pursuant to 74 O.S. § 85.12 and 85.39, the Office of Juvenile Affairs shall develop internal purchasing procedures for contracts with designated Youth Services Agencies and the Oklahoma Association of Youth Services or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members. The procedures shall be submitted to the State Purchasing Director for approval.

*[OAR Docket #07-786; filed 4-16-07]*

## **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 25. JUVENILE SERVICES UNIT**

*[OAR Docket #07-787]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

377:25-1-2. Legal basis, authority and scope [AMENDED]

Subchapter 3. Pre-court

Part 3. Intake/Preliminary Inquiry

377:25-3-15. Legal basis for intake/preliminary inquiry [AMENDED]

Subchapter 7. Custody

Part 1. General Provisions

377:25-7-2. Grievance procedure [AMENDED]

Part 9. Extended Custody

377:25-7-50. Retention of custody guideline [AMENDED]

Subchapter 9. Casework Services

Part 1. Services Provided by the JSU Worker  
377:25-9-1. Financial support [AMENDED]  
Subchapter 13. Military Mentor Screening and Training Standards  
[REVOKED]  
377:25-13-1. Mentor screening criteria [REVOKED]  
377:25-13-2. Mentor training standards [REVOKED]

**AUTHORITY:**

Board of Juvenile Affairs, pursuant to 10 O.S., Section 7302-1.1(H) and 7302-1.1 (I) and 75 O.S., Section 302 (A)(1).

**DATES:**

**Comment period:**

December 1, 2006 through January 1, 2007

**Public hearing:**

January 3, 2007

**Adoption:**

January 11, 2007

**Submitted to Governor:**

January 19, 2007

**Submitted to House:**

January 19, 2007

**Submitted to Senate:**

January 19, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove resulted in approval on March 28, 2007

**Final adoption:**

March 28, 2007

**Effective:**

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS.**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The Office of Juvenile Affairs rules are being revised due to changes in Title 10 attributed to the passage of HB2999. Rule 377:25-7-2 is being amended to provide for all juveniles with an open OJA case to utilize the grievance system.

**CONTACT PERSON:**

Robert Morey, (405) 530-2820.

**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, 2007:**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**377:25-1-2. Legal basis, authority, and scope**

(a) The Office of Juvenile Affairs (OJA) operates under the authority of 10 O.S., Chapter 73, as amended, Oklahoma Juvenile Code. Title 10 O.S., § 7302-3.1 gives the Office of Juvenile Affairs the statutory responsibility for providing intake, probation, and parole services through the Department of Juvenile Justice (DJJ). Within the Department of Juvenile Justice Office of Juvenile Affairs, the Juvenile Services Unit (JSU) provides intake and probation services in all counties except those with duly constituted Juvenile Bureaus (10 O.S., §7305-1.1). The Juvenile Services Unit provides parole services in all counties [10 O.S., §7302-6.1(A)(5)].

(b) The Department of Juvenile Justice Office of Juvenile Affairs provides and contracts for services designed to address

the individual needs of juveniles and families in the least restrictive environment which affords protection to the public. ~~DJJ~~ OJA is committed to preventing delinquency by providing a wide variety of quality services.

**SUBCHAPTER 3. PRE-COURT**

**PART 3. INTAKE/PRELIMINARY INQUIRY**

**377:25-3-15. Legal basis for intake/preliminary inquiry**

The Office of Juvenile Affairs, through its Department of Juvenile Justice, is mandated to provide intake and probation services as required by 10 O.S. § 7302-3.1.

**SUBCHAPTER 7. CUSTODY**

**PART 1. GENERAL PROVISIONS**

**377:25-7-2. Grievance procedure**

The JSU worker shall inform a newly committed juvenile all juveniles under formal supervision, court probation, or custody of the Office of Juvenile Affairs and the juvenile's family of the Office of Juvenile Affairs Grievance System (377:3-1). The JSU worker shall, at the time of the juvenile's initial commitment to OJA custody, provide a Notice of Grievance Procedure, to the juvenile and request that the juvenile sign the notice.

(1) The JSU worker shall review the grievance process with the juvenile and have the juvenile sign appropriate forms upon any subsequent placement in:

- (A) the juvenile's own home;
- (B) relative's home;
- (C) foster care;
- (D) therapeutic foster care; or
- (E) specialized community home care; or
- (F) other out of home placements.

(2) When the juvenile is placed in an institution or an OJA-operated or contracted group home, the facility shall be responsible for explaining the grievance procedures and obtaining the juvenile's signature on appropriate forms.

**PART 9. EXTENDED CUSTODY**

**377:25-7-50. Retention of custody guideline**

(a) The Department of Juvenile Justice OJA may be authorized by the Court to retain custody of a juvenile or a youthful offender beyond the age of 18 in accordance with 10 O.S., § 7302-5.4(B) or 10 O.S., § 7306-2.d et cet.

(b) OJA shall continue to provide services to a juvenile during the period of extended jurisdiction.

# Permanent Final Adoptions

## SUBCHAPTER 9. CASEWORKER SERVICES

### PART 1. SERVICES PROVIDED BY THE JSU WORKER

#### 377:25-9-1. Financial support

(a) **Parental responsibilities.** OJA shall enforce the legal duty of parents to provide for their child even though that child has been adjudged a ward of the court pursuant to the Juvenile Code. Title 10 O.S., §7303-7.6 authorizes ~~the Department of Juvenile Justice~~ OJA to obtain from a juvenile's parent reimbursement for costs and expenses for care and maintenance incurred by ~~DH~~ OJA in providing services for the juvenile. Information regarding parental financial accountability must be provided by the JSU worker to the court.

(b) **Benefits.** OJA shall seek to obtain all income and resources available to the juvenile to help reimburse ~~the Department~~ OJA for the cost of the juvenile's care. Any amount received over the cost of care is deposited in the juvenile's trust fund account. Benefits include:

- (1) Social Security;
- (2) Veteran's benefits;
- (3) inheritance;
- (4) trust funds;
- (5) insurance benefits; and
- (6) Indian trusts or monies.

(c) **Federal funds.** The Office of Juvenile Affairs shall maximize the use of federal funds for services to juveniles in OJA custody. Rules regarding the use of federal funds are found in 377:3-17.

### SUBCHAPTER 13. MILITARY MENTOR SCREENING AND TRAINING STANDARDS [REVOKED]

#### 377:25-13-1. Mentor screening criteria [REVOKED]

~~Title 10 O.S., § 7303-5.3 A.5.a requires the Department of Juvenile Justice to establish screening criteria for military mentors. Prospective mentors must:~~

- ~~(1) be 21 years of age or older;~~
- ~~(2) agree to and pass a criminal background investigation;~~
- ~~(3) commit to spending a minimum of one year working with juveniles assigned to the program;~~
- ~~(4) have a valid drivers license;~~
- ~~(5) have current and valid auto insurance;~~
- ~~(6) be willing to attend a mentor training seminar;~~
- ~~(7) agree to attend at least one weekend drill per month;~~
- ~~(8) agree to maintain contact with the juvenile assigned to him or her on a weekly basis with at least one face-to-face visit per month; and~~
- ~~(9) agree to maintain contact with the juvenile's JSU worker.~~

#### 377:25-13-2. Mentor training standards [REVOKED]

~~(a) Title 10 O.S., § 7303-5.3 A.5.a requires the Department of Juvenile Justice to establish training standards for military mentors. At a minimum, military mentors shall complete the military mentor training program and be trained to:~~

- ~~(1) visit the juvenile no less than one time every week;~~
- ~~(2) provide required documentation;~~
- ~~(3) contact the assigned juvenile in advance to let him or her know if the mentor is unable to make a scheduled event;~~
- ~~(4) become dependable and consistent with the juvenile;~~
- ~~(5) abide by state law relating to confidentiality; and~~
- ~~(6) abide by state law relating to reporting child abuse.~~

~~(b) Military mentors shall not:~~

- ~~(1) give legal advice;~~
- ~~(2) give medicines, aspirins, vitamins, or any other similar substance to a juvenile;~~
- ~~(3) authorize medical treatment of any kind for a juvenile;~~
- ~~(4) sign invoices or medical statements of any kind;~~
- ~~(5) use alcohol or tobacco products of any kind;~~
- ~~(6) use drugs;~~
- ~~(7) make promises the mentor can't keep; or~~
- ~~(8) talk down to the juvenile.~~

*[OAR Docket #07-787; filed 4-16-07]*

## TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 30. RESIDENTIAL SERVICES

*[OAR Docket #07-788]*

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

Subchapter 1. General Provisions

377:30-1-1. Legal ~~base~~ basis, scope and purpose [AMENDED]

#### AUTHORITY:

Board of Juvenile Affairs, pursuant to 10 O.S., Section 7302-1.1(H) and 7302-1.1 (I) and 75 O.S., Section 302 (A)(1).

#### DATES:

##### Comment period:

December 1, 2006 through January 1, 2007

##### Public hearing:

January 3, 2007

##### Adoption:

January 11, 2007

##### Submitted to Governor:

January 19, 2007

##### Submitted to House:

January 19, 2007

##### Submitted to Senate:

January 19, 2007

##### Gubernatorial approval:

February 23, 2007

##### Legislative approval:

Failure of the Legislature to disapprove resulted in approval on March 28, 2007

##### Final adoption:

March 28, 2007

##### Effective:

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS.**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The Office of Juvenile Affairs rules are being revised due to changes in Title 10 attributed to the passage of HB2999.

**CONTACT PERSON:**

Robert Morey, (405) 530-2820.

**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, 2007:**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**377:30-1-1. Legal base basis, scope, and purpose**

(a) Rules regarding community-based placements shall be issued in compliance with 10 O.S., §§ 7303-8.4 (A) and (B) and 7302-3.5 (B).

(b) Residential facilities shall be operated either directly by OJA or by contractual agreement.

(c) Residential programs may include:

- (1) regimented juvenile training programs;
- (2) wilderness camps;
- (3) therapeutic foster care;
- (4) specialized community homes (SCH);
- (5) OJA-operated group homes;
- (6) contract-based residential care (CBC);
- (7) independent living; and
- (8) foster care.

(d) Rules for contracted residential programs, therapeutic foster care, specialized community homes, independent living, and wilderness camps are set forth in OAC 377:10-7.

(e) Rules for regimented juvenile training programs are set forth in OAC 377:10-13.

(f) A purpose of this Chapter is to describe the Office of Juvenile Affairs' (OJA) operation of group homes for juveniles in the legal custody of ~~the Department of Juvenile Justice (DJJ)~~ OJA. OJA-operated group homes shall be licensed by the Department of Human Services (DHS) in accordance with the Oklahoma Child Care Facilities Act, 10 O.S. §§ 401 through 408. The applicable licensing standards are found in DHS rules OAC 340:110-5-80 through 340:110-5-99 and are published by DHS in the pamphlet "Requirements for Residential Child Care Facilities." OJA-operated group homes shall be accredited by the American Correctional Association (ACA).

(g) Rules regarding the parole process are also set forth in this chapter.

*[OAR Docket #07-788; filed 4-16-07]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 35. INSTITUTIONAL SERVICES**

*[OAR Docket #07-789]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

- Subchapter 1. General Provisions
- 377:35-1-1. Legal basis [AMENDED]
- Subchapter 3. Security and Control
- 377:35-3-3. Injuries, fires, and assaults [AMENDED]
- 377:35-3-8. Searches and control of contraband/evidence [AMENDED]
- Subchapter 7. Medical and Health Care
- 377:35-7-2. Surgery [AMENDED]
- Subchapter 9. Juvenile Rights
- 377:35-9-1. Juvenile rights [AMENDED]
- Subchapter 11. Juvenile Rules/discipline
- 377:35-11-5. Juvenile correspondence [AMENDED]
- Subchapter 17. Ancillary Programs
- 377:35-17-1. Education [AMENDED]

**AUTHORITY:**

Board of Juvenile Affairs, pursuant to 10 O.S., Section 7302-1.1(H) and 7302-1.1 (I) and 75 O.S., Section 302 (A)(1).

**DATES:**

**Comment period:**

December 1, 2006 through January 1, 2007

**Public hearing:**

January 3, 2007

**Adoption:**

January 11, 2007

**Submitted to Governor:**

January 19, 2007

**Submitted to House:**

January 19, 2007

**Submitted to Senate:**

January 19, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove resulted in approval on March 28, 2007

**Final adoption:**

March 28, 2007

**Effective:**

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS.**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The Office of Juvenile Affairs rules are being revised due to Title 10 changes attributed to the passage of HB2999. Rule 377:35-9-1 is being amended to allow the Institutional Advocate Defender 30 days to meet with newly admitted juveniles. Rule 377:35-11-5 is being amended to reflect changes attributed to the passage of HB2366.

**CONTACT PERSON:**

Robert Morey, (405) 530-2820.

**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, 2007:**

**SUBCHAPTER 1. GENERAL PROVISIONS**

# Permanent Final Adoptions

---

## 377:35-1-1. Legal basis

The Office of Juvenile Affairs through its Department of Juvenile Justice operates its institutions under the authority of Title 10, O.S., § 7305.3(B)(1).

## SUBCHAPTER 3. SECURITY AND CONTROL

### 377:35-3-3. Injuries, fires, and assaults

(a) **Injuries, medical examination, and treatment.** The provisions in this section are in addition to the rules and regulations listed in 377:3-1-25. All persons, including juveniles and staff, injured in an accident or incident must receive an immediate medical examination and treatment.

(b) **Report of injuries, fires, assaults.** In the event of serious injury to or assault against a juvenile or staff member, or damage or destruction to property, a written report of the incident shall be submitted to the Division Administrator of Residential Services, by the end of the shift. If a juvenile is injured in a serious incident or accident, an accident report shall be completed. The designated institutional staff shall notify the parent or guardian of the accident and provide them with complete details and a report of the juvenile's condition at the time. The Division Administrator of Residential Services shall notify the ~~Deputy Director~~ Chief of Staff within ~~4~~ four (4) hours of any serious incident or accident.

(c) **Assault by juveniles upon staff (institutions).** Title 21 O.S. §§ 650.2 and 650.8 provides that certain assaults upon staff shall result in a felony upon conviction.

### 377:35-3-8. Searches and control of contraband/evidence

The control of contraband and weapons shall be valid basis for authorization of searches. Searches shall be conducted in a manner which avoids undue or unnecessary force, embarrassment, or indignity. Each institution shall have written policy and procedure that govern searches and control of contraband/evidence, and will include, but not be limited to:

- (1) Search authorization requirements will include the title of approving authority and the designee authority.
- (2) Training requirements will encompass all aspects of searches and control of contraband, specific training time and annual requirements.
- (3) Control of contraband will include items deemed illegal by statute or disallowed by the agency/facility.
- (4) Staffing requirements: All property searches will be conducted with a minimum of two trained staff members, except in emergency situations. Body searches, with the exception of pat-downs, will be conducted by a trained staff member of the same sex, and a witness. Pat searches may be conducted by one trained staff member of the same sex, and a witness.
- (5) The Juvenile whose property is being searched shall be present when the search is conducted, except in an emergency. The juvenile may request the presence of the Advocate Defender or a supervisory staff person.
- (6) Searches for contraband will include:

(A) Body searches: Which include pat searches, disrobement searches, and cavity searches.

(i) Staff members shall strive to preserve the dignity and integrity of the juvenile.

(ii) Body searches will only be conducted upon a reasonable suspicion that the juvenile is carrying contraband.

(iii) The superintendent or designee must authorize any search requiring a juvenile to disrobe. The search is justifiable only when there is a reasonable belief that the juvenile is carrying contraband. The search will be conducted only by staff members who have been appropriately trained.

(iv) Searches will be conducted by staff members of the same sex. The search will be conducted out of the sight of other juveniles. The juvenile may request the presence of the advocate defender or a supervisory staff person.

(v) Cavity searches will only be conducted with the approval of the Superintendent or designee. Cavity searches will be conducted only when there is a strong reason to believe that the juvenile is carrying contraband in a body cavity. The juvenile will be sent to the local hospital emergency room, unless there is a physician at the facility, where experienced medical personnel will perform the search.

(B) Property searches: Which include juvenile living quarters and juvenile personal property.

(C) Search of the facility: Which will include all areas of the facility, excluding the juvenile living quarters and personal property.

(D) Search of visitors/employees: Which include personal belongings, and body searches; **consequences for a visitor's refusal to submit to a search will be denial of visit; employees who refuse to submit to a search may be subject to disciplinary action.**

(E) Use of canines: Which will include employees, visitors, juveniles, facility grounds, parking lots, vehicles, juvenile living quarters, buildings, and offices.

(7) Storage and disposal of contraband/evidence will include specific storage area, containers, and accessibility.

(8) Drug identification shall be conducted to confirm suspect illegal substances.

(9) Contraband/evidence tags/chain of custody, and logs will include format, intended use, and length of time retained.

(10) Reporting requirements: Staff will document all non-routine searches. Non-Routine searches include, but are not limited to, searches of a juvenile or juvenile's cubical for contraband when the juvenile is suspected of possessing contraband. Routine searches include pat-down search when leaving the kitchen or maintenance area after completing a work assignment, pat-down searches after visitation, etc. The report will include the scope of the search, detailing any item confiscated. The

juvenile-owner shall be given a receipt for any item confiscated. If the confiscated contraband is determined to be a statutorily defined controlled or dangerous item, the Superintendent/Facility Head/Designee will contact the appropriate law enforcement authorities, and notify the ~~Deputy Director~~ Chief of Staff/Designee.

(11) Policies regarding searches and control of contraband/evidence shall be reviewed annually and updated as necessary.

**SUBCHAPTER 7. MEDICAL AND HEALTH CARE**

**377:35-7-2. Surgery**

(a) **Non-Emergency.** When an institutional physician determines a juvenile requires non-emergency surgery, the physician shall refer the juvenile to a specialist for a second opinion. The institutional physician shall provide all information regarding the juvenile's treatment to the ~~superintendent~~ Superintendent and any further information provided by the specialist. If the specialist agrees that the juvenile requires surgery, the ~~institutional superintendent~~ Institutional Superintendent shall request a documented medical consult. The ~~institutional superintendent~~ Institutional Superintendent shall ensure that the Division Administrator and ~~Deputy Director~~ Chief of Staff have notification of all non-emergency surgery procedures prior to treatment. Prior to the surgery, the institutional worker shall contact the juvenile's parent, guardian or legal custodian to request written authorization for hospitalization and for the doctor to perform the juvenile's surgery.

(b) **Emergency.** The ~~superintendent~~ Superintendent shall authorize surgery if the attending physician deems the surgery to be an emergency and the attending physician advises the superintendent, that because of the emergency nature, that the surgery should be done before the parent can be contacted. The ~~superintendent~~ Superintendent shall notify the Division Administrator within 24 hours after any emergency surgery. When the ~~superintendent~~ Superintendent authorizes emergency surgery, the institutional worker shall make every effort to contact the juvenile's parent, guardian or legal custodian to:

- (1) notify them of the action taken; and
- (2) provide details concerning the surgery.

**SUBCHAPTER 9. JUVENILE RIGHTS**

**377:35-9-1. Juvenile rights**

(a) **Legal basis.** Institutional staff members shall protect the safety and constitutional rights of juveniles and seek a balance between expression of individual rights and preservation of facility order. Juvenile rights shall be consistent with 10 O.S., Sections 7302-6.3, 7306-2.11 and 7303-5.4, as well as with OAC 377:10-1-2.

(b) **Notice of availability of advocate defender.** The advocate defender shall advise the juvenile of the availability and

function of the advocate defender ~~upon the juvenile's admission~~ within 30 days of admission to the institution. The name and duties of the advocate defender are posted in conspicuous places within the institution.

**SUBCHAPTER 11. JUVENILE RULES/DISCIPLINE**

**377:35-11-5. Juvenile correspondences**

(a) Correspondence shall not be denied except:  
(1) for security reasons where a clearly documented reason exists, e.g., the correspondent has aided the juvenile in planning an escape or has used the mail to send the juvenile contraband items;  
(2) where it is clearly documented that the correspondence is from a person whose continued relationship poses a threat to the juvenile's treatment or rehabilitation; or  
(3) when the correspondence is from correctional facility inmates whose continued relationship poses a threat to the juvenile's treatment or rehabilitation. In this case staff shall return the unopened mail to its point of origin unless it is clearly documented that the correspondence is from a relative.

(b) In the case of (a)(1) of this Section, where the primary focus is one of documentable obscenity, the Superintendent or designee shall send the material and an assessment of its impact on the juvenile to the ~~Deputy Director~~ Chief of Staff. The ~~Deputy Director~~ Chief of Staff shall seek legal consultation regarding any action to be taken. Staff shall deal with lesser issues of this nature by:

- (1) counseling the juvenile; or
- (2) the juvenile's refusing to accept mail.

(c) Delivery of incoming mail and posting of outgoing mail occurs within 24 hours excluding weekends and holidays. ~~Staff may not read or censor correspondence. However, staff~~ Staff may inspect incoming packages for contraband. Staff may not read or censor correspondence, except when based on legitimate facility interests of order and security as determined by the facility Superintendent, mail addressed to a child or sent by a child may be read, censored, or rejected, except that mail addressed to a child from the attorney of the child or sent by the child to the attorney of said child shall not be opened. All mail shall be opened for inspection, the juvenile shall open his or her mail in the presence of the juvenile justice specialist or designated staff member. The staff member shall document the incident.

(d) Staff shall not limit correspondence to or from the juvenile's attorney and committing court officials. Staff shall not open or inspect correspondence to/from Office of Juvenile Affairs officials, including the:

- (1) advocate defender and staff; and
- (2) members of the Parole Board.

(e) The institution shall not be obligated to purchase or subscribe to publications for individual juveniles. Staff shall give the juvenile any publications which:

- (1) are received through the mail; and
- (2) do not interfere with rehabilitative efforts.

# Permanent Final Adoptions

(f) There shall not be a limit on the volume of mail a juvenile may send or receive. The institution shall provide unlimited writing materials. The institution shall also provide the current or equivalent postage for five (5), one ounce letters a week for each juvenile, and, as necessary, for all legal correspondence. Juveniles may purchase additional postage or receive it from other sources. After a juvenile is transferred or released, all packages and first class letters shall be forwarded to him or her.

## SUBCHAPTER 17. ANCILLARY PROGRAMS

### 377:35-17-1. Education

As authorized by 10 O.S., Section 7302-6.3, ~~The Department of Juvenile Justice (DJJ)~~ the Office of Juvenile Affairs (OJA) shall operate and maintain an educational program by directly employing staff. Alternatively, ~~DJJ~~ OJA may contract with local school boards to provide education. Every educational contract shall specifically prohibit corporal punishment.

- (1) ~~The Department Office of Juvenile Affairs~~ shall provide facilities for educational purposes and assist local school districts in providing an education.
- (2) Each educational, vocational supervisor, instructor or administrator must hold a valid certificate issued or recognized by the Oklahoma State Department of Education authorizing the individual to teach or administer the grades or subject matter for which the individual is employed. Such certificates must remain in effect during the term of the teacher, vocational supervisor, instructor or administrator's employment.
- (3) The educational facilities, while subject to the regulations of the Oklahoma State Department of Education for accreditation, must be flexible enough to meet the wide range of needs found in the population of an institution. Each juvenile shall be evaluated, assessed for educational needs, and have access to appropriate teaching, educational materials, and books. The education program addresses basic literacy skills and reading, writing, mathematics, science, and vocational technical education. Juveniles shall be recognized for academic and vocational achievements.

[OAR Docket #07-789; filed 4-16-07]

## TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

### CHAPTER 15. CONSUMER RIGHTS

[OAR Docket #07-864]

**RULEMAKING ACTION:**  
PERMANENT final adoption

**RULES:**  
Subchapter 3. Consumer Rights  
Part 1. Mental Health and Drug or Alcohol Abuse Services Consumer Bill of Rights  
450:15-3-6 [AMENDED]  
Part 3. Consumer Grievance Procedure

450:15-3-45 [AMENDED]

**AUTHORITY:**

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-108 and 2-109.

**DATES:**

**Comment period:**

October 2, 2006 thru November 2, 2006

**Public hearing:**

November 3, 2006

**Adoption:**

November 17, 2006

**Submitted to Governor:**

November 27, 2006

**Submitted to House:**

November 27, 2006

**Submitted to Senate:**

November 27, 2006

**Gubernatorial approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**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:**

Terri White, Director of Communications and Public Policy, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-3841.

**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, 2007:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### PART 1. MENTAL HEALTH AND DRUG OR ALCOHOL ABUSE SERVICES CONSUMER BILL OF RIGHTS

#### 450:15-3-6. Right to communication

(a) Every consumer shall be allowed to contact one individual immediately upon entry into such place of detention or admission for purposes of notification of the consumer's location (43A O.S. § 5-201).

(b) Every consumer is entitled to communicate by uncensored, sealed mail.

- (1) Each program shall provide writing materials and reasonable amounts of postage to ensure correspondence can be written and mailed for those consumers who cannot procure the same.

(2) The facility director may establish procedure regarding the mailing, delivery and opening of consumer mail if determined necessary for security or safety precautions. A consumer's correspondence may be restricted as determined by the treatment team. Either occurrence shall be documented in the consumer's record.

(3) No correspondence shall be placed in the consumer's record or any program record without the written consent of the consumer.

(c) Every consumer is entitled to unimpeded, private and uncensored communication by telephone and by personal visit with persons of his or her choice.

(1) Each program shall make telephones readily available within the facility to ensure calls can be conveniently made and received.

(2) Each program shall establish in writing reasonable times and places for the use of telephones and for visitation and communicate such to consumers and the consumer's family or friends. Each program shall post hours for visitation. Requests for telephone usage or visitation outside the established hours shall be addressed on an individual basis by the consumer's treatment team.

(3) Telephone usage and visitation may be ~~restricted~~ limited as determined by the treatment team for a therapeutic reason and documented in the consumer's record. Limitations shall be reviewed at each treatment team meeting and shall not continue longer than therapeutically necessary. Limitations shall not be for punitive reason, and documented in the consumer's record.

**PART 3. CONSUMER GRIEVANCE PROCEDURE**

**450:15-3-45. Consumer grievance policy and procedures**

Facilities shall have a written grievance policy that includes:

(1) A written notice of the grievance procedure is provided to each consumer or guardian and, to an individual of the consumer's choice;

(2) Time frames for the grievance procedures which allow for an expedient resolution of consumer grievance(s);

(A) Inpatient and residential programs shall be a seven (7) day timeframe;

(B) Outpatient, intensive outpatient and day treatment programs shall be a fourteen (14) day timeframe;

(C) Crisis stabilization, medical detoxification and social detoxification programs shall have a three (3) day timeframe;

(3) The provision of written notification to the consumer of the grievance outcome and mechanism by which an individual may appeal the outcome;

~~(4A)~~ ODMHSAS-operated facility procedures shall include a process by which the consumer may appeal the grievance outcome to the Consumer Advocacy Division.

~~(B)~~ The Consumer Advocacy Division shall develop procedures for such external appeals;

~~(54)~~ A procedure for advising the consumer he or she has the right to make a complaint to the ODMHSAS Consumer Advocacy Division and the mechanism for contacting the Consumer Advocacy Division;

~~(65)~~ Name(s) of the individual(s) responsible for coordinating the program's grievance procedure and the individual responsible for or authorized to make decisions for resolution of the grievance. In the instance where the decision making is the subject of a grievance, decision making authority shall be delegated;

~~(76)~~ A mechanism to monitor the grievance process and improve performance based on outcomes;

~~(87)~~ An annual review of the grievance policy and procedure; and

~~(98)~~ The ongoing monitoring of the grievance process and, based on outcomes, adjust and improve processes.

*[OAR Docket #07-864; filed 4-25-07]*

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

*[OAR Docket #07-865]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Services

450:16-5-1 [AMENDED]

Subchapter 21. Personnel, Staffing and Training

450:16-21-4 [AMENDED]

**AUTHORITY:**

43A O.S. § 3-315; Board of Mental Health and Substance Abuse Services.

**DATES:**

**Comment period:**

October 2, 2006 thru November 2, 2006

**Public hearing:**

November 3, 2006

**Adoption:**

November 17, 2006

**Submitted to Governor:**

November 27, 2006

**Submitted to House:**

November 27, 2006

**Submitted to Senate:**

November 27, 2006

**Gubernatorial approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**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

# Permanent Final Adoptions

proposed amendments are intended to clarify certification requirements, delete redundant or superfluous language, and correct scrivener's errors.

**CONTACT PERSON:**

Terri White, Director of Communications and Public Policy, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-3841.

**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, 2007:**

## SUBCHAPTER 5. SERVICES

**450:16-5-1. Continuity of care agreements, other service providers**

(a) The RCF shall have negotiated formal written agreements with other behavioral health service providers to assure availability of continuous community based services to residents who will potentially need those services. The agreements must define responsibilities of each service entity. The Agreement(s) shall be renewed on an annual basis. If the Agreement is not obtained, the RCF shall show documentation of efforts to obtain the Agreement(s). At a minimum, there shall be agreements in place to sufficiently meet the emergency mental health needs of clients as well as insure continuous access to and collaboration with an array of outpatient behavioral psychiatric and rehabilitation services, including appropriate access to integrated services for individuals with co-occurring substance disorders.

(b) To ensure continuity of care with all components of services, these Agreements shall address the roles and responsibilities of the RCF, the local providers of community-based behavioral health services and any other pertinent party. One of the roles and responsibilities addressed shall be to provide access to ~~emergency detention services~~ crisis stabilization and inpatient services.

(c) Compliance with 450:16-5-1 shall be determined by a review of documentation, including agreement(s) signed by all necessary parties; or agreement(s) signed by some of the parties with further notes from the RCF stating the date of attempts to have the agreement(s) signed by the other providers.

## SUBCHAPTER 21. PERSONNEL, STAFFING AND TRAINING

**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 or ODMHSAS. This training will consist of eight (8) hours of mental health-related subjects, including ~~attention to~~ at least one (1) hour of 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 #07-865; filed 4-25-07]

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

[OAR Docket #07-866]

**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]  
450:55-3-3 [AMENDED]  
450:55-3-5 [AMENDED]  
450:55-3-6 [AMENDED]  
450:55-3-7 [AMENDED]  
450:55-3-8 [AMENDED]  
Subchapter 5. PACT Clinical Documentation  
450:55-5-6 [AMENDED]  
450:55-5-7 [AMENDED]  
450:55-5-9 [AMENDED]  
Subchapter 11. Organizational Management  
450:55-11-2 [AMENDED]

**AUTHORITY:**

43A O.S. § 3-319; Board of Mental Health and Substance Abuse Services.

**DATES:**

**Comment period:**

October 2, 2006 thru November 2, 2006

**Public hearing:**

November 3, 2006

**Adoption:**

November 17, 2006

**Submitted to Governor:**

November 27, 2006

**Submitted to House:**

November 27, 2006

**Submitted to Senate:**

November 27, 2006

**Gubernatorial approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

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.

**CONTACT PERSON:**

Terri White, Director of Communications and Public Policy, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-3841.

**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, 2007:**

**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

## Permanent Final Adoptions

---

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 Licensed Alcohol and Drug Counselor.

(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

**"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.

**450:55-3-3. Total case load and admission rate**

(a) The PACT program shall maintain written policies and procedures that at a minimum assure compliance with the following:

(1) A staff-to-consumer ratio of no more than ten (10) consumers for each staff person. The psychiatrist and program assistant are not included in determining the staff-to-consumer ratio;

(2) A gradual build-up of, on average, no more than 5 consumers admitted per month into the program, or no more than 3 consumers admitted per month for PACT teams with 8.5 or less FTE, excluding psychiatrist and program assistant; and

(3) A limit of no more than 120 consumers on a PACT team case load at one time.

(b) Compliance with 450:55-3-3 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) ~~For weekdays, Monday through Friday, 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) For weekends and holidays, regardless of the number of FTE's, In addition, for teams serving 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 more than 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 minimally provide an average of three contacts per week for ~~each~~ consumers, 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; and
- (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 program assistant or other PACT staff shall be available to personally answer all incoming phone calls.

## Permanent Final Adoptions

---

(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 per week 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. Each nurse shall have at least one (1) year of mental health experience or work a total of forty (40) hours at a psychiatric medication clinic within the first three (3) months of employment.

(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) 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) 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) Recovery Support Specialist(s). The Recovery Support Specialist shall be a fully integrated team member.

(8) A minimum of one (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) additional 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-meets the requirement in 450:55-3-7 (b) (3).~~

(3) One (1) additional full-time Mental Health Professional.

(4) 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.

### **450:55-3-8. Staff communication and planning**

(a) The PACT team shall have daily organizational staff meetings at regularly scheduled times as prescribed by the team leader. Daily organizational staff meetings shall be conducted in accordance with the following procedures:

(1) A review of the daily log, to update staff on the treatment contacts which occurred the day before and to provide a systematic means for the team to assess the day-to-day progress and status of all consumers;

(2) A review by the shift manager of all the work to be done that day as recorded on the daily staff assignment schedule. During the meeting, the shift manager shall assign and supervise staff to carry out the treatment and service activities scheduled to occur that day, and the shift manager shall be responsible for assuring that all tasks are completed; and

(3) Revise treatment plans as needed, plan for emergency and crisis situations, and add service contacts to the daily staff assignment schedule per the revised treatment plans.

(b) The PACT team shall maintain a written daily log, using ~~either a~~ computer, notebook or cardex. The daily log shall document:

(1) A roster of the consumers served in the program; and,

(2) For each consumer, brief documentation of any treatment or service contacts which have occurred since the last daily organizational staff meeting and a concise, behavioral description of the consumer's daily status.

(c) The PACT team, under the direction of the team leader, shall maintain a weekly schedule for each consumer. The weekly consumer schedule is a written schedule of all treatment and service contacts which staff must carry out to fulfill the goals and objectives in the consumer's treatment plan.

The team shall maintain a central file of all weekly consumer schedules.

(d) The PACT team, under the direction of the team leader, shall develop a daily staff assignment schedule from the central file of all weekly consumer schedules. The daily staff assignment schedule is a written timetable for all consumer treatment and service contacts, to be divided and shared by the staff working on that day.

(e) Compliance with 450:55-3-8 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

**SUBCHAPTER 5. PACT CLINICAL DOCUMENTATION**

**450:55-5-6. Treatment team meeting**

(a) The PACT team shall conduct treatment planning meetings under the supervision of the team leader, or designee. These treatment planning meetings shall minimally:

- (1) Convene at regularly scheduled times per a written schedule maintained by the team leader; and
- (2) Occur with sufficient frequency and duration to develop written individual consumer treatment plans and to review and rewrite the comprehensive treatment plans every six months.

(b) Prior to writing the comprehensive treatment plan, the team shall meet to develop the comprehensive treatment plan by discussing and documenting:

- (1) The specifics of all information learned from the comprehensive assessments or course of treatment;
- (2) Resources to carry out the treatment plan;
- (3) Roles of the individual PACT members to carry out the plan; and
- (4) Recommendations made to the treatment plan from the consumer, family members and PACT staff.

c Treatment planning meetings shall be scheduled in advance of the meeting and the schedule shall be posted. The team shall assure that consumers and others designated by the consumers may have the opportunity to attend treatment planning meetings, if desired by the consumer. A summary of the treatment planning meeting shall be documented in the consumer's clinical record. At each treatment planning meeting the following staff should attend: team leader, psychiatrist, primary case manager, individual treatment team members, and all other PACT team members involved in regular tasks with the consumer.

(d) Compliance with 450:55-5-6 shall be determined by on-site observation and a review of the following: clinical records, ICIS information and the PACT policy and procedures.

**450:55-5-7. Treatment planning**

(a) The PACT team shall evaluate each consumer and develop an individualized comprehensive treatment plan within

eight (8) weeks of admission, which shall identify individual needs and problems and specific measurable ~~long and short term~~ goals along with the specific services and activities necessary for the consumer to meet those goals and improve his or her capacity to function in the community. The treatment plan shall be developed in collaboration with the consumer or guardian when feasible. The consumer's participation in the development of the treatment plan shall be documented.

(b) Individual treatment team members shall ensure the consumer is actively involved in the development of treatment and service goals.

(c) The treatment plan shall clearly specify the services and activities necessary to meet the consumer's needs and who will be providing those services and activities.

(d) The following key areas shall be addressed in every consumer's treatment plan: symptom management, physical health issues, substance abuse, education and employment, social development and functioning, activities of daily living, and family structure and relationships.

(e) The primary case manager and the individual treatment team shall be responsible for reviewing and revising the treatment goals and plan whenever there is a major decision point in the consumer's course of treatment, e.g., significant change in consumer's condition, etc., or at least every six (6) months a new comprehensive treatment plan will be developed. The revised treatment plan shall be based on the results of a treatment planning meeting. The plan and review will be signed by the consumer, the primary case manager, individual treatment team members, the team leader, the psychiatrist, and all other PACT team members.

(f) The PACT team shall maintain written assessment and treatment planning policies and procedures to assure that appropriate, comprehensive, and on-going assessment and treatment planning occur.

(g) Compliance with 450:55-5-7 shall be determined by review of the clinical records.

**450:55-5-9. PACT progress note**

(a) The PACT shall have a policy and procedure mandating the chronological documentation of progress notes. Every contact and service that relates to the consumer's treatment shall be documented.

(b) Progress notes shall minimally address the following:

- (1) Person(s) who received services ~~were rendered~~;
- (2) Date and the start and stop time-frame of the service provided;
- (3) Staff travel times prior to and following the service, if applicable;
- (4) Activities and services provided and as they relate to the goals and objectives of the treatment plan;
- (5) Detailed description of the contact or service;
- (6) The consumer's response to intervention services, changes in behavior and mood, and outcome of intervention services;
- (7) Plans for continuing treatment;
- (8) The location of the service provided; and
- (9) Clinician's signature with credentials.

# Permanent Final Adoptions

(c) Compliance with 450:55-5-9 shall be determined by a review of clinical records.

## SUBCHAPTER 11. ORGANIZATIONAL MANAGEMENT

### 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; ~~and~~
- (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.

*[OAR Docket #07-866; filed 4-25-07]*

## TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

### CHAPTER 60. STANDARDS AND CRITERIA FOR CERTIFIED EATING DISORDER TREATMENT PROGRAMS

*[OAR Docket #07-867]*

**RULEMAKING ACTION:**  
PERMANENT final adoption

**RULES:**  
Chapter 60. Standards and Criteria for Certified Eating Disorder Treatment Programs [NEW]

**AUTHORITY:**  
43A O.S. § 3-320; Board of Mental Health and Substance Abuse Services.

**DATES:**  
**Comment period:**  
November 16, 2006 thru December 15, 2006

**Public hearing:**  
December 19, 2006

**Adoption:**  
January 12, 2007

**Submitted to Governor:**  
January 18, 2007

**Submitted to House:**  
January 18, 2007

**Submitted to Senate:**  
January 18, 2007

**Gubernatorial approval:**  
February 7, 2007

**Legislative approval:**  
Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2007

**Final adoption:**  
March 28, 2007

**Effective:**  
July 1, 2007

### SUPERSEDED EMERGENCY ACTIONS:

**Superseded rules:**  
Chapter 60. Standards and Criteria for Certified Eating Disorder Treatment Programs [NEW]

**Gubernatorial approval:**  
April 25, 2006

**Register publication:**  
23 Ok Reg 1617

**Docket number:**  
06-881

**INCORPORATIONS BY REFERENCE:**  
N/A

### ANALYSIS:

In accordance with the Administrative Procedures Act the proposed adoption of Chapter 60 is part of the Department's review of Title 450. This proposed permanent adoption of Chapter 60, replaces the previous version of Chapter 60, which was adopted as Emergency Rules on March 10, 2006. Proposed adoptions and amendments are intended to comply with statutory changes and enhance advocacy services for individuals receiving services by organizations operated or certified by or under contract with ODMHSAS.

### CONTACT PERSON:

Terri White, Director of Communications and Public Policy, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-3841.

**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, 2007:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 450:60-1-1. Purpose

(a) This chapter sets forth standards for certification of eating disorders treatment programs and implements 43A O.S. § 3-320, which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify eating disorder treatment programs.

(b) The rules regarding the certification process including but not necessarily limited to application, fees and administrative sanctions are found in the Oklahoma Administrative Code, Title 450 Chapter 1, Subchapters 5 and 9.

## **450:60-1-2. Definitions**

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

**"Abuse"** means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by a staff responsible for the consumer's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the consumer; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a consumer.

**"Certified Eating Disorder Treatment"** or **"CEDT"** mean programs certified by ODMHSAS to provide treatment to individuals diagnosed with an eating disorder.

**"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, 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.

**"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 who 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 consumer or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

**"Dietitian"** means an individual trained and licensed in the development, monitoring, and maintenance of food and nutrition.

**"Eating disorder"** means anorexia nervosa, bulimia nervosa, or any other severe disturbances in eating behavior specified in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders.

**"Emergency examination"** means the examination by a licensed mental health practitioner of a person in treatment at the CEDT program to determine whether or not an emergency mental health condition (including, but not limited to, suicidality, homicidality, self-harm, delusions, hallucinations, or acute intoxication) exists requiring immediate treatment; further, the

licensed behavioral health practitioner provides or arranges services up to and including hospitalization.

**"Emergency medical services"** means assessment and diagnosis of a person receiving services at the CEDT program by a qualified medical professional to determine the presence of an emergent medical condition that threatens life, limb, or functioning, or causes uncontrolled pain; further, the qualified medical professional provides or arranges care to stabilize the emergency medical condition.

**"Emergency psychiatric services"** means services provided by a licensed behavioral health practitioner of a person in treatment at the CEDT program to assess, diagnose, and treat mental health conditions that threaten the life or basic functioning of that person.

**"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 performance improvement, continuous improvement, organization-wide performance improvement and total quality management.

**"Progress notes"** mean a chronological description of services provided to a consumer, the consumer's progress, or lack thereof, and documentation of the consumer's response related to the intervention plan.

**"Psychotherapist"** means an individual trained in assessing, evaluating, and treating psychological or social problems which the consumer experiences. A psychotherapist uses a variety of treatment modalities, including individual, group, and family therapies.

**"Psychotherapy services"** means the professional activity of a psychotherapist to assess, diagnose, and treat the mental disorder(s) and psychological, social, and environmental problems of individuals and families.

**"Resident"** means an eating disorder consumer admitted to a residential facility for eating disorder treatment.

**"Residential facility"** means the facility that houses CEDT program consumers during their course of treatment which provides 24 hour on-site nursing supervision and care.

**"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.

## **450:60-1-3. Meaning of verbs in rules**

The attention of the facility is drawn to the distinction between the use of the words "shall," "should," and "may" in this chapter:

# Permanent Final Adoptions

---

- (1) "Shall" is the term used to indicate a mandatory statement, the only acceptable method under the present standards.
- (2) "Should" is the term used to reflect the most preferable procedure, yet allowing for the use of effective alternatives.
- (3) "May" is the term used to reflect an acceptable method that is recognized but not necessarily preferred.

**450:60-1-4. Annual review of standards and criteria**  
This chapter shall be reviewed annually by the ODMH-SAS.

**450:60-1-5. Applicability**  
The standards for services as subsequently set forth in this chapter are applicable to Certified Eating Disorder Treatment programs as stated in each subchapter.

## **SUBCHAPTER 3. REQUIRED SERVICES**

- 450:60-3-1. Required core services**
- (a) The services in this subchapter are core services, and are required of each CEDT.
  - (b) Each CEDT shall provide the following services:
    - (1) Screening, intake, and assessment services;
    - (2) Referral services;
    - (3) Emergency psychiatric services;
    - (4) Emergency and routine medical services;
    - (5) Physician services;
    - (6) Nursing services;
    - (7) Psychotherapy services; and
    - (8) Dietary services.

**450:60-3-2. Availability of services**  
The core services shall be available to individuals on a daily basis, either as part of routine or emergency care.

- 450:60-3-3. Screening, intake, and assessment services**
- (a) CEDT policy and procedure shall require a comprehensive assessment of each consumer's service needs be completed in a timely manner.
  - (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, including food and nutrition status;
    - (4) Social and recreational;
    - (5) Vocational;
    - (6) Spiritual; and
    - (7) Culture.

- (c) The consumer and family as appropriate shall be an active participant(s) in the intake and assessment process.
- (d) The CEDT shall have policy and procedures specific to each program service that dictate timeframes by when assessments must be completed and documented. In the event the consumer is not admitted and the assessment is not included in the clinical record, the policy shall specify how screening and assessment information is maintained and stored.

- 450:60-3-4. Referral services**  
Written policy and procedures governing the referral process shall specify the following:
- (1) The information to be obtained on all applicants or referrals for admission;
  - (2) The procedures for accepting referrals from outside agencies or organizations;
  - (3) The procedure to be followed when an applicant or referral is found to be ineligible for admission;
  - (4) Methods of collection of information from family members, significant others or other providers of clinical care or social services;
  - (5) Methods for providing or obtaining a physical examination or continued medical care where indicated; and
  - (6) Referral to other resources when the consumer has treatment or other service needs the facility cannot meet.

- 450:60-3-5. Emergency services**
- (a) CEDT's shall provide, on a twenty-four (24) hour basis, for psychiatric emergencies.
  - (b) This service shall include the following:
    - (1) Assessment and evaluation, including emergency examinations;
    - (2) Availability of and arrangement of transportation to acute-care psychiatric referral;
    - (3) Face-to-face assessment; and
    - (4) Intervention and resolution.

- 450:60-3-6. Emergency examinations**  
The CEDT shall provide psychiatric emergency examinations 24 hours per day, seven days a week.
- (1) Referral to an acute-care hospital by the CEDT shall occur only after all other less restrictive options have been discussed with the resident and resident's family (when possible) and upon written authorization from the resident.
  - (2) The CEDT shall notify referral hospital(s) prior to referring non-emergent residents.
  - (3) If the CEDT is referring the consumer to a state-operated inpatient facility, the resident must meet the criteria in OAC 450:30-9-3 and the CEDT must comply with OAC 450:30-9-4.

**450:60-3-7. Emergency examinations, staffing**  
Staff providing emergency examinations shall be an LMHP as defined in 43A O.S. § 1-103 and meet the CEDT's

privileging requirements for the provision of emergency services.

### **450:60-3-8. Emergency medical services**

(a) CEDT's shall provide, on a twenty-four (24) hour basis, for medical emergencies.

(b) This service shall include the following:

- (1) Arrangements for availability of transportation appropriate to the resident's medical condition to a licensed hospital's emergency room;
- (2) Arrangements for availability of evaluation and treatment by a licensed physician at a licensed hospital's emergency room.

### **450:60-3-9. Routine medical services**

The CEDT shall arrange to make available to consumers at a minimum the following general and specialty care services:

- (1) General/internal medicine;
- (2) Cardiology;
- (3) Gastroenterology;
- (4) Laboratory services.

### **450:60-3-10. Physician services**

(a) Because of the medical and psychiatric complexity and fragility of eating-disorder consumers, CEDT's shall provide routine, ongoing physician services.

(b) A physician will be assigned to each consumer's care and be responsible as the attending physician.

(c) At a minimum, the physician will conduct rounds on each resident once per week. Rounds will include:

- (1) Evaluation of the resident's medical and psychiatric condition;
- (2) Review of response to medications and other interventions;
- (3) Prescription or discontinuation of medication;
- (4) Ordering of any other needed medical or psychiatric care.

### **450:60-3-11. Physician requirements**

(a) Physicians shall be licensed to practice medicine in the State of Oklahoma.

(b) Physicians shall be privileged by the CEDT to perform as attending physician.

### **450:60-3-12. Nurse practitioners**

Nurses licensed as nurse practitioners with prescriptive authority and who practice under the supervision of a licensed physician may perform the duties of the physician as allowed by State Law and CEDT policy.

### **450:60-3-13. Nursing services**

(a) CEDT's shall provide 24-hour on-site nursing supervision and care of consumers.

(b) At a minimum, one (1) licensed registered nurse shall be present at all times per 15 occupied beds. For 16 to 30 occupied

beds, a licensed practical nurse shall be on-site, working under the supervision of the licensed registered nurse.

(c) In addition to the requirements above, CEDT shall provide nursing staff, including mental health technicians or nursing aides, sufficient to meet the needs of residents in a safe, consistent, quality manner.

(d) Nursing staff shall, consistent with the scope of their licenses and CEDT policy, provide:

- (1) Supervision of residents.
- (2) Administration of medication according to the physician's orders.
- (3) Medical treatments according to the resident's immediate needs and/or the physician's orders.

### **450:60-3-14. Psychotherapist credentialing**

(a) All psychotherapists will be credentialed to provide psychotherapy according to the CEDT's policies.

(b) At least one psychotherapist practicing at the CEDT shall meet at least one of the following credentialing criteria, with licensure defined as possessing a valid and current license issued by the State of Oklahoma:

- (1) Licensed clinical psychologist;
- (2) Licensed clinical social worker;
- (3) Licensed professional counselor;
- (4) Licensed marital and family therapist;
- (5) Licensed behavioral practitioner

(c) All psychotherapists shall, at a minimum:

- (1) Possess a master's degree from an accredited college or university in psychology, social work, counseling, or related degree; and
- (2) Be license-eligible according to State Law and working toward licensure; and
- (3) If not yet licensed, practice under the supervision of a licensed psychotherapist.

### **450:60-3-15. Psychotherapy service provision**

At a minimum, psychotherapy services shall be provided as follows:

- (1) Individual psychotherapy - 1 hour per week.
- (2) Process group psychotherapy - 5 hours per week.
- (3) Other psychotherapy groups (examples include body image, cognitive-behavioral strategies, anger management, gender issues, family dynamics, grief issues, sexuality, spirituality, etc.) - 12 hours per week.
- (4) Family contact/therapy - depending on the resident's clinical needs and family availability, at least 2 hours of family therapy/contact should be provided on a monthly basis, either face-to-face or by phone.
- (5) Therapeutic meal (eating with the consumers and processing issues as they arise) - 5 meals per week.

### **450:60-3-16. Dietitian credentialing and service provision**

A dietitian must be credentialed as a Registered Dietitian/Licensed Dietitian, and shall provide, at a minimum:

## Permanent Final Adoptions

---

- (1) Individual meetings with each resident - 30 minutes per week per resident, with additional time for consultation as needed.
- (2) Food and nutrition educational groups - 2 hours per week.
- (3) Direct observation of therapeutic meals - 3 meals per week.
- (4) Development of individualized meal plans (including snacks and nutritional supplements) for each resident.
- (5) Ensuring the accurate execution of meal plans by either 1) direct supervision of the dietary staff or 2) consultation with the dietary staff supervisor.

### **SUBCHAPTER 5. OPTIONAL SERVICES**

#### **450:60-5-1. Applicability**

The services in this subchapter are optional services. However, if the services in this subchapter are provided, all rules and requirements of this subchapter shall apply to the affected CEDT's certification.

#### **450:60-5-2. Independent living services**

- (a) Programs that elect to provide independent living services for consumers clinically ready for outpatient care shall provide housing for such persons.
- (b) At a minimum, the facility shall provide or arrange at least monthly contact for each consumer with a physician, psychotherapist, and dietitian.
- (c) The facility shall provide at least one therapeutic meal per week that is supervised by a psychotherapist.
- (d) 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.

(e) 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.

(f) To ensure a safe and sanitary environment for residents, the following shall apply for all CEDT 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 CEDT 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.

#### **450:60-5-3. Outpatient services**

- (a) Programs that provide outpatient services shall offer a range of 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 psychotherapy;
  - (2) Group psychotherapy/support groups;
  - (3) Marital or family counseling;
  - (4) Psychological/psychometric evaluations or testing;
  - (5) Psychiatric assessments;
  - (6) Food and nutrition consultation.
- (b) Outpatient psychotherapy services shall be provided by a licensed practitioner in the appropriate discipline.

### **SUBCHAPTER 7. FACILITY CLINICAL RECORDS**

#### **450:60-7-1. Clinical record keeping system**

Each CEDT shall maintain an organized clinical record system for the collection and documentation of information appropriate to the treatment processes; and which insures organized, easily retrievable, usable clinical records stored under confidential conditions and with planned retention and disposition.

**450:60-7-2. Applicability**

The requirements of this subchapter are applicable to a CEDT's clinical services, core and optional.

**450:60-7-3. Basic requirements**

The CEDT's policies and procedures shall:

- (1) Define the content of consumer records in accordance with 450:60-7-4 through 60-7-9.
- (2) Define storage, retention and destruction requirements for consumer records.
- (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, credentials, and dated by the person making the entry.
- (5) Require the consumer's unique identifier 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.

**450:60-7-4. Record access for clinical staff**

The CEDT shall assure consumer records are readily accessible to the program staff directly caring for the consumer. Such access shall be limited to the minimum necessary to carry out the staff member's job functions or the purpose for the use of the records.

**450:60-7-5. Clinical record content, intake assessment**

- (a) All facilities shall assess each individual to determine appropriateness of admission.
- (b) The CEDT shall document the first contact per episode between the potential consumer and the CEDT 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 CEDT 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) Presenting problem and disposition;
  - (12) 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 medication,
- (C) Length of time consumer was on the medication, if known,
- (D) Benefit(s) of medication, and
- (E) Side effects;
- (13) 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,
    - (xii) Substance use, abuse, and dependence.
  - (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.
- (14) Additional information as required by the facility.
- (d) The CEDT 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 the consumer wants in terms of service, is acceptable only on re-admissions within one (1) year of previous admission.

**450:60-7-6. Service Plan**

- (a) The service plan shall provide evaluation, formation of measurable service objectives and reflect ongoing changes in goals and objectives based upon consumer's progress or identification of needs, challenges and new problems.
- (b) An initial treatment plan shall be completed after completion of intake assessment or after the first treatment session on all consumers.
- (c) The CEDT shall have policy and procedures that dictate timeframes by when comprehensive service plans must be

# Permanent Final Adoptions

---

completed for each program service to which a consumer is admitted.

- (d) Comprehensive service plan contents shall:
- (1) Describe assets and liabilities;
  - (2) Reflect consideration of clinical needs;
  - (3) Specify services necessary to meet the needs;
  - (4) Include referrals for needed services;
  - (5) Contain specific goals;
  - (6) Contain measurable time framed objectives;
  - (7) Specify frequency of treatment;
  - (8) Designate person(s) responsible for providing treatment;
  - (9) Delineate specific discharge criteria;
  - (10) Include substantiated diagnosis in terminology of the current Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and
  - (11) Describe the consumer's involvement in, and consumer's response to the service plan as evidenced by a statement dated and signed by the consumer verifying his or her involvement in the service planning process and his or her agreement with the plan, proposed interventions, and target dates for completion.
- (e) Service plans shall be dated and signed by all members of the treatment team who participate in the planning or in providing the services.
- (f) Service plan updates shall contain:
- (1) Change in goals and objectives based upon consumer's progress or identification of new problems;
  - (2) Change in primary clinician assignment;
  - (3) Change in frequency or types of services provided; and
  - (4) A statement documenting review, including an explanation if no changes are made in the plan.
- (g) The CEDT shall have policy and procedures that dictate timeframes by when service plan updates must be completed for each program service to which a consumer is admitted.

## **450:60-7-7. Medication record**

- (a) A medication record shall be maintained on all consumers who receive medications or prescriptions through the outpatient clinic services and shall be a concise and accurate record of the medications the consumer is receiving or prescribed.
- (b) The consumer record shall contain a medication record with the following information on all medications ordered or prescribed by physician staff:
- (1) The record of medication administered and prescribed shall include all of the following:
    - (A) Name of medication,
    - (B) Dosage,
    - (C) Frequency of administration or prescribed change,
    - (D) Route of administration, and
    - (E) Staff member who administered each dose, or prescribing physician; and

- (2) A record of pertinent information regarding adverse reactions to drugs, drug allergies, or sensitivities during intake, updated when required by virtue of new information, and kept in a highly visible location in or on the record.

## **450:60-7-8. Progress notes**

- (a) Progress notes shall chronologically describe the consumer's progress in treatment and document the consumer's response to services related to the treatment.
- (b) Progress notes shall address the following:
- (1) Person(s) to whom services were rendered;
  - (2) Activities and services provided as they relate to the goals and objective of the service plan, including ongoing reference to the service plan;
  - (3) Documentation of the progress or lack of progress made in treatment as it relates to the service plan;
  - (4) Documentation of the implementation of the individualized service plan, including consumer activities and services and all treatment rendered;
  - (5) The consumer's current status;
  - (6) Documentation of the consumer's response to treatment services, changes in behavior and mood, and outcome of treatment or services;
  - (7) Plans for continuing therapy or for discharge, whichever is appropriate; and
  - (8) Family's response to services provided when applicable.
- (c) 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 nursing staff must document each shift; and
  - (3) Residential physicians, psychotherapists, and dietitians must document each unit of service provided.

## **450:60-7-9. Other records content**

- (a) The consumer record shall contain copies of all consultation reports concerning the consumer.
- (b) When psychometric or psychological testing is done, the consumer record shall contain a copy of a written report describing the test results and implications or recommendations for treatment.
- (c) The consumer record shall contain any additional information relating to the consumer, which has been secured from sources outside the program.

## **450:60-7-10. Discharge summary**

- (a) A discharge summary shall document the consumer's progress made in treatment; response to services rendered; and recommendation for any referrals, if deemed necessary.
- (b) A discharge summary shall be entered in each consumer's record within fifteen (15) days of release, discharge, or transfer from residential treatment or upon discharge from facility services.
- (c) The discharge summary shall minimally include, but is not limited to:

- (1) Presenting problem at intake;
- (2) Medication summary when applicable;
- (3) Treatment provided and treatment outcome and results;
- (4) Psychiatric and physical diagnosis or the final assessment;
- (5) Discharge plan: Written recommendations, specific referrals for implementing aftercare services, including medications. Aftercare plans shall be developed with the knowledge and cooperation of the consumer, when possible;
- (6) In the event of death of a consumer: A summary statement including this information shall be documented in the record; and
- (7) Signature of staff member, professional credentials, if any, and date.

**SUBCHAPTER 9. CONSUMER RECORDS AND CONFIDENTIALITY**

**450:60-9-1. Confidentiality of mental health and drug or alcohol abuse treatment information**

- (a) The CEDT shall comply with confidentiality requirements as set forth in 43A O.S. Sec. 1-109, and federal law.
- (b) All facilities shall have policy and procedures protecting the confidential and privileged nature of clinical and treatment information in compliance with state and federal law and which contain at a minimum:
  - (1) an acknowledgment that all clinical and treatment information, whether recorded or not, and all communications between a physician or psychotherapist and a consumer are both privileged and confidential and will not be released without the written consent of the consumer or the consumer's legally authorized representative;
  - (2) an acknowledgment that the identity of a consumer who has received or is receiving clinical and treatment services is both confidential and privileged and will not be released without the written consent of the consumer or the consumer's legally authorized representative;
  - (3) a procedure to limit access to clinical and treatment information to only those persons or agencies actively engaged in the treatment of the consumer and to the minimum amount of information necessary to carry out the purpose for the release;
  - (4) a procedure by which a consumer, or the consumer's legally authorized representative, may access the consumer's clinical and treatment information;
  - (5) an acknowledgement that certain state and federal law exceptions to disclosure of clinical and treatment information without the written consent of the consumer or the consumer's legally authorized representative.

**SUBCHAPTER 11. CONSUMER RIGHTS**

**450:60-11-1. Consumer rights**

The CEDT shall comply with applicable rules in Title 450, Chapter 15. Consumer Rights.

**450:60-11-2. Consumer's grievance policy**

The CEDT shall comply with applicable rules in Title 450, Chapter 15. Consumer Rights.

**450:60-11-3. ODMHSAS Consumer Advocacy Division**

The ODMHSAS Office of Consumer Advocacy, in any investigation or monitoring regarding consumer rights shall have access to consumers, facility records and facility staff as set forth in OAC 450:15-7-3.

**SUBCHAPTER 13. ORGANIZATIONAL MANAGEMENT**

**450:60-13-1. Organizational and facility description**

- (a) The CEDT shall have a written organizational description which is reviewed annually and minimally includes:
  - (1) The overall target population for whom services will be provided;
  - (2) The overall mission statement; and
  - (3) The annual facility goals and objectives.
- (b) The CEDT's governing authority shall review and approve the mission statement and annual goals and objectives and document their approval.
- (c) The CEDT shall make the organizational description, mission statement and annual goals available to staff.
- (d) The CEDT shall make the organizational description, mission statement and annual goals available to the general public upon request.
- (e) Each CEDT 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 are primarily intended; and
  - (4) Goals and objectives.
- (f) The CEDT shall have written procedures and plans for attaining the organization's goals and objectives. These procedures and plans shall define specific tasks, set target dates and designate staff responsible for carrying out the procedures and plans.
- (g) Compliance with OAC 450:60-13-1 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.

# Permanent Final Adoptions

## **450:60-13-2. Information analysis and planning**

(a) The CEDT shall have a defined and written plan for conducting an organizational needs assessment which specifies the methods and data to be collected, to include, but not be limited to information from:

- (1) Consumers;
- (2) Governing Authority;
- (3) Staff;
- (4) Stakeholders;
- (5) Outcomes management processes; and
- (6) Quality record review.

(b) The CEDT shall have a defined ongoing system to collect data and information on a quarterly basis to manage the organization.

(c) Information collected shall be analyzed to improve consumer services and organizational performance.

(d) The CEDT shall prepare an end of year management report, which shall include but not be limited to:

- (1) an analysis of the needs assessment process, and
- (2) performance improvement program findings.

(e) The management report shall be communicated and made available to, among others:

- (1) the governing authority,
- (2) facility staff, and
- (3) ODMHSAS if and when requested.

## **SUBCHAPTER 15. PERFORMANCE IMPROVEMENT AND QUALITY MANAGEMENT**

### **450:60-15-1. Performance improvement program**

(a) The CEDT shall have an ongoing performance improvement program designed to objectively and systematically monitor, evaluate and improve the quality of consumer care.

(b) The Performance improvement program shall also address the fiscal management of the organization.

(c) The facility shall have an annual written plan for performance improvement activities. The plan shall include but not be limited to:

- (1) Outcomes management specific to each program component which minimally measures:
  - (A) efficiency
  - (B) effectiveness, and
  - (C) consumer satisfaction.
- (2) A quarterly quality consumer record review to evaluate and ensure, among others
  - (A) the quality of services delivered;
  - (B) the appropriateness of services;
  - (C) patterns of service utilization;
  - (D) consumers are provided an orientation to services, and actively involved in making informed choices regarding the services they receive,
  - (E) assessments are thorough, timely and complete;
  - (F) treatment goals and objectives are based on, at a minimum:
    - (i) assessment findings, and
    - (ii) consumer input;

(G) services provided are related to the treatment plan goals and objectives;

(H) services are documented as prescribed by policy; and

(I) the treatment plan is reviewed and updated as prescribed by policy.

(3) Clinical privileging; and

(4) Review of critical and unusual incidents and consumer grievances

(d) The CEDT shall monitor the implementation of the performance improvement plan on an ongoing basis and make adjustments as needed.

(e) Performance improvement findings shall be communicated and made available to, among others:

- (1) the governing authority
- (2) facility staff, and
- (3) ODMHSAS if and when requested.

### **450:60-15-2. Incident reporting**

(a) The facility shall have written policies and procedures requiring documentation and reporting of critical incidents.

(b) The documentation for critical incidents shall contain, minimally:

- (1) the facility, name and signature of the person(s) reporting the incident;
- (2) the name(s) of the consumer(s), staff member(s) or property involved;
- (3) the time, date and physical location of the critical incident ;
- (4) the time and date the incident was reported and name of the staff person within the facility to whom it was reported;
- (5) a description of the incident;
- (6) resolution or action taken, date action taken, and signature of appropriate staff; and
- (7) severity of each injury, if applicable. Severity shall be indicated as follows:

(A) No off-site medical care required or first aid care administered

(B) Medical care by a physician or nurse or follow-up attention required; or

(C) Hospitalization or immediate off-site medical attention was required;

(c) Critical incidents shall be reported to ODMHSAS Provider Certification Division within specific timeframes, as follows:

(1) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or mail to ODMHSAS Provider Certification within twenty-four business (24) hours of the incident.

(2) Critical incidents involving allegations constituting a sentinel event or consumer abuse shall be reported to ODMHSAS immediately via telephone or fax, but not more than twenty-four business (24) hours of the incident. If reported by telephone, the report shall be followed with

a written report within twenty-four business (24) hours of the incident.

**SUBCHAPTER 17. HUMAN RESOURCES**

**450:60-17-1. Personnel policies and procedures**

(a) The facility shall have written personnel policies and procedures approved by the governing authority.

(b) All employees shall have access to personnel policies and procedures, as well as other Rules and Regulations governing the conditions of their employment.

(c) The facility shall develop, adopt, and maintain policies and procedures at each provider location to promote the objectives of the center and provide for qualified personnel during all hours of operation to support the functions of the facility and the provision of quality care.

**450:60-17-2. Job descriptions**

There shall be job descriptions for all positions setting forth minimum qualifications and duties of each position.

**450:60-17-3. Utilization of volunteers**

(a) In facilities where volunteers are utilized, specific policies and procedures shall be in place to define the purpose, scope, and training, supervision and operations related to the use of volunteers.

(b) A qualified staff member shall be assigned the role of, or responsibility as, the volunteer coordinator.

(c) Volunteer policies and procedures shall be reviewed by an appropriate level of authority upon revision.

(d) There shall be documentation to verify orientation of each volunteer which shall enable him or her to have knowledge of program goals and familiarity with routine procedures.

(e) The volunteer orientation shall include explanations, at a minimum, of the following:

(1) The importance of maintaining confidentiality and protecting consumer's rights, as well as the legal ramifications of State and Federal regulations concerning confidentiality;

(2) The facility's policies and procedures;

(3) Any other necessary information to ensure that volunteer staff members are knowledgeable enough to carry out the responsibilities of their position; and

(4) Documentation of volunteer's understanding of policies, goals and job.

**SUBCHAPTER 19. STAFF DEVELOPMENT AND TRAINING**

**450:60-19-1. Staff qualifications**

All staff who provides clinical services shall have documented qualifications or training specific to the clinical services they provide within the CEDT.

**450:60-19-2. Staff development**

(a) The CEDT 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 education and inservice training programs shall be evaluated by the CEDT at least annually.

**450:60-19-3. Annually required inservice training for all employees**

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 Consumer's Bill of Rights;

(4) Confidentiality;

(5) Oklahoma Child Abuse Reporting and Prevention Act, 10 O.S. §§ 7101-7115; and

(6) Facility policy and procedures.

**450:60-19-4. First Aid and CPR training**

The CEDT shall have staff during all hours of operation at each program site who maintains current certification in basic first aid and Cardiopulmonary Resuscitation (CPR).

**SUBCHAPTER 21. GOVERNING AUTHORITY**

**450:60-21-1. Documents of authority**

(a) There shall be a duly constituted authority and governance structure for assuring legal responsibility and for requiring accountability for performance and operation of the facility (including all components and satellites).

(b) The governing authority shall have written documents of its source of authority, which shall be available to the ODMH-SAS upon request.

(c) In accordance with governing body bylaws, rules and regulations, the chief executive officer is responsible to the governing body for the overall day-to-day operation of the facility, including the control, utilization, and conservation of its physical and financial assets and the recruitment and direction of the staff

(1) the source of authority document shall state:

(A) The eligibility criteria for governing body membership;

(B) The number and types of membership;

(C) The method of selecting members;

## Permanent Final Adoptions

---

- (D) The number of members necessary for a quorum;
  - (E) Attendance requirements for governing body membership;
  - (F) The duration of appointment or election for governing body members and officers.
  - (G) The powers and duties of the governing body and its officers and committees or the authority and responsibilities of any person legally designated to function as the governing body.
- (2) There shall be an organizational chart setting forth the operational components of the facility and their relationship to one another.

### **SUBCHAPTER 23. FACILITY ENVIRONMENT**

#### **450:60-23-1. Facility environment**

- (a) The CEDT shall obtain an annual fire and safety inspection from the State Fire Marshall or local authorities which documents approval for continued occupancy.
- (b) CEDT staff shall know the exact location, contents and use of first aid supply kits and fire fighting equipment. First aid supplies and fire fighting equipment shall be maintained in appropriately designated areas within the facility.
- (c) There shall be posted written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather.
- (d) Facility grounds shall be maintained in a manner to provide a safe environment for consumers, personnel, and visitors.
- (e) The director of the CEDT or designee shall appoint a safety officer.
- (f) The facility shall have an emergency preparedness program designed to provide for the effective utilization of available resources so that consumer care can be continued during a disaster. The emergency preparedness program is evaluated annually and is updated as needed.
- (g) Policies for the use and control of personal electrical equipment shall be developed and implemented.
- (h) There shall be an emergency power system to provide lighting throughout the facility.
- (i) The CEDT director shall ensure there is a written plan to cope with internal and external disasters. External disasters include, but are not limited to, tornados, explosions, and chemical spills.
- (j) The environment of the residential setting shall be planned, developed, and maintained to respond to the range of needs of consumers served. The environmental quality and type, and the rationales for the development of environment shall be defined by written policy and procedures. Attention to the needs of special populations shall be reflected in these written policy and procedures.
  - (1) The plan for environment shall include the following, as indicated by the clinical status of consumers served:
    - (A) Use of outdoor areas.
    - (B) Safety, security, and sanitation needs.

- (C) Areas to accommodate a range of social activities.
  - (D) Areas offering privacy to the individual to be alone or talk with staff, family, or others, and
  - (E) Facilities shall be appropriately furnished and supplied with materials and equipment suited to the age and physical status of consumers served.
- (2) Dining and sleeping areas shall be comfortable and conducive to relaxation.
  - (3) Consumers shall be allowed to wear their own appropriate clothing.
  - (4) Consumers shall be allowed to display personal belongings and decorate their living and sleeping areas as appropriate to clinical status of consumers.
  - (5) Consumers shall be encouraged to assume responsibility for maintaining their living areas, as appropriate to their clinical status.

### **SUBCHAPTER 25. SPECIAL POPULATIONS**

#### **450:60-25-1. Americans with disabilities act of 1990**

- (a) Under Titles 11 and 111 of the ADA, the CEDTs shall comply with the "Accessibility Guidelines for Buildings and Facilities (ADAAG) for alterations and new construction." United States government facilities are exempt for the ADA as they shall comply with the "Uniform Federal Accessibility Standards (UFAS)", effective August 7, 1984. Also available for use in assuring quality design and accessibility is the American National Standards Institute (ANSI) A117.1 "American National Standard for Accessible and Usable Buildings and Facilities."
- (b) State and local standards for accessibility and usability may be more stringent than ADA, UFAs, or ANSI A 117.1. The CEDT shall assume responsibility for verification of all applicable requirements and comply with the most stringent standards.
- (c) The CEDT shall have written policy and procedures providing or arranging for services for persons who fall under the protection of the Americans With Disabilities Act of 1990 and provide documentation of compliance with applicable Federal, state, and local requirements. A recommended reference is the "Americans With Disabilities Handbook" published the in U.S. Equal Employment Opportunities Commission and the U.S. Department of Justice.

#### **450:60-25-2. Human Immunodeficiency Virus (HIV), and Acquired Immunodeficiency Syndrome (AIDS)**

- (a) The facility shall have a policy of non-discrimination against persons with HIV infection or AIDS.
- (b) All facilities shall observe the Universal Precautions For Transmission of Infectious Diseases as set forth in, "Occupational Exposure to Bloodborne Pathogens" published by the (U.S.) Occupations Safety Health Administration [OSHA]; and

- (1) There shall be written documentation the aforesated Universal  
 (2) Inservice training regarding the Universal Precautions shall be a part of employee orientation and, at least once per year, is included in employee inservice training.

[OAR Docket #07-867; filed 4-25-07]

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

[OAR Docket #07-733]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

- Subchapter 1. General Provisions  
485:10-1-2. [AMENDED]
- Subchapter 3. Regulations for Approved Nursing Education Programs  
485:10-3-5. [AMENDED]
- Subchapter 5. Minimum Standards for Approved Nursing Education Programs  
485:10-5-4. [AMENDED]  
485:10-5-4.1. [AMENDED]  
485:10-5-6. [AMENDED]  
485:10-5-12. [AMENDED]
- Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse  
485:10-7-1. [AMENDED]  
485:10-7-2. [AMENDED]  
485:10-7-6. [AMENDED]  
485:10-7-9. [AMENDED]
- Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse  
485:10-9-2. [AMENDED]  
485:10-9-6. [AMENDED]  
485:10-9-9. [AMENDED]
- Subchapter 13. Requirements for Employment  
485:10-13-1. [AMENDED]
- Subchapter 15. Requirements for Practice as an Advanced Practice Nurse  
485:10-15-5. [AMENDED]  
485:10-15-6. [AMENDED]
- Subchapter 16. Requirements for Prescriptive Authority for Advanced Practice Nurses  
485:10-16-6. [AMENDED]  
485:10-16-7. [AMENDED]
- Subchapter 19. Peer Assistance Program  
485:10-19-5. [AMENDED]

**AUTHORITY:**

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, 567.4.F, 567.4a.1, 567.4a.2, 567.4a.3, 567.4a.4, 567.4a.6, 567.4a.7, 567.4a.8, 567.5.A, 567.5.B, 567.6.A, 567.6.B, 567.7.B, 567.7.C, 567.12.A, 567.12.B, 567.15, 567.17.D

**DATES:**

**Comment period:**

December 1, 2006 to January 26, 2007

**Public hearing:**

January 30, 2007

**Adoption:**

January 30, 2007

**Submitted to Governor:**

February 6, 2007

**Submitted to House:**

February 6, 2007

**Submitted to Senate:**

February 6, 2007

**Gubernatorial approval:**

February 23, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the Rules resulted in approval on March 30, 2007

**Final adoption:**

March 30, 2007

**Effective:**

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded 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

485:10-9-2. [AMENDED]

**Gubernatorial approval:**

August 24, 2006

**Register publication:**

24 Ok Reg 44

**Docket number:**

06-1285

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

In Subchapter 1, the proposed revisions to 485:10-1-2 add definitions for clinical learning experiences, clinical skills laboratory, distance learning program, preceptor and member board jurisdiction. These definitions assist nursing education programs and members of the public to better understand the standards for nursing education.

In Subchapters 3 and 5, the proposed revisions in 485:10-3-5, 485:10-5-4, and 10-5-4.1 provide consistency in terminology used and clarifies requirements for clinical skills laboratory and clinical learning experiences to be consistent with the definitions in Subchapter 1. In 485:10-5-6, reference is made to the Board's guidelines for non-traditional learning options as the basis for establishing program policies and procedures to assist nurse educators to meet minimum standards when planning new learning options that may increase accessibility to nursing education. In 485:10-5-12, requirements for participating in clinical experiences in Oklahoma for Registered Nurses enrolled in out-of-state advanced practice educational programs are added to ensure the safety of the public is maintained during such experiences.

In Subchapters 7 and 9, proposed revisions clarify requirements for licensure for Registered and Licensed Practical Nurses. In 485:10-7-1, a section allowing for licensure of non-nurses enrolled in master's degree in nursing programs prior to completion of the program is deleted. There are currently no programs in Oklahoma that offer this option. In 485:10-7-2 and 485:10-9-2, the proposed revisions clarify requirements for applicants educated in foreign countries and in U.S. territories to ensure consistency in evaluation. In 485:10-7-6 and 485:10-9-6, an option to receive a duplicate license card upon notification of a name change is proposed so that the licensee will have a correct license card to show upon request. In 485:10-7-9 and 485:10-9-9, the proposed revisions clarify requirements for notification of change of name by licensees, in order to ensure the Board has the information necessary to support the change.

In Subchapter 13, the proposed revision ensures that nurses employed in nurse administrative positions hold Oklahoma licensure. This revision clarifies questions that licensees may have regarding the need for a current Oklahoma license when working as a nurse administrator

In Subchapter 15, the proposed revisions in 485:10-15-5 clarify requirements for reinstatement and return to active of advanced practice recognition to ensure consistency in evaluation. In 485:10-15-6, the specialty category for School Nurse Advanced Practice Registered Nurse (ARNP) is deleted since this certification examination is no longer offered.

In Subchapter 16, requirements for renewal, reinstatement, and return to active status for prescriptive authority are clarified to ensure consistency in evaluation.

In Subchapter 19, the proposed revisions to 485:10-19-5(a)(1) address applicant qualifications and eligibility of those nurses referred to the Peer Assistance Program by the Board of Nursing. Nurses referred to the program by the Board do not have a current, unrestricted license. The license is not active until the nurse has been accepted into the program. When the nurse has been referred to the program by the Board, the license remains encumbered as successfully completing the program is a condition for maintaining the active

# Permanent Final Adoptions

license. The revision to 485:10-19-5(c) is proposed to require nurses entering the program whose license is not current to obtain a current license within a reasonable time frame. This has been identified as an issue when a nurse whose license is suspended does not apply for reinstatement. Allowing 60 days to obtain a current license will prevent the nurse from being penalized by the program, if there are unforeseen delays beyond the control of the nurse in being able to obtain a current license.

## CONTACT PERSON:

Gayle McNish, Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106 (405) 962-1800.

**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, 2007:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 485:10-1-2. Definitions

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

**"Accountable"** means assuming responsibility to the client, the public, other health-care practitioners and oneself for one's actions and/or decisions and their outcomes.

**"Additional nursing function"** means the nursing functions, procedures, or tasks, not usually included at the time of matriculation in most nursing education programs; requiring additional knowledge, instruction, and practice before they can be safely performed. Such functions must fall within the scope of accepted nursing practice; may become necessary due to technological advances, new practice standards, or the natural evolution of an occupation; and must not be precluded by other Oklahoma Practice Acts.

**"Advanced practice nurse"** is a term that includes Advanced Registered Nurse Practitioners (ARNP), Clinical Nurse Specialists (CNS), Certified Nurse Midwives (CNM), and Certified Registered Nurse Anesthetists (CRNA).

**"Advanced unlicensed assistive person"** means an individual, other than a licensed nurse, who performs in an assistive role and has been certified to perform core skills as delegated by a licensed nurse and as authorized by the Rules and Regulations of the Oklahoma Board of Nursing.

**"Board"** means the Oklahoma Board of Nursing [59 O.S. Section 567.3(1)]

**"Client"** means a consumer of nursing care; may be an individual or group; is synonymous with "patient".

**"Clinical learning experiences"** means faculty-planned and guided activities designed to assist students to meet stated program and course outcomes and to safely apply knowledge and skills when providing nursing care to clients across the lifespan as appropriate to the role expectations of the graduates. These experiences occur in a variety of affiliating agencies or clinical practice settings including, but not limited to: acute care facilities, extended care facilities, long-term care facilities, clients' residences, and community agencies; and in associated clinical pre- and post-conferences.

**"Clinical skills laboratory"** means a designated area in which equipment and supplies are provided to simulate a clinical facility, allowing skills and procedures to be demonstrated and practiced.

**"Controlling institution"** means the agency or institution that administers the nursing education program, assumes responsibility for its financing, graduates the students, and grants the diploma, certificate or degree to the graduates.

**"Core skills"** means the list of functions developed by the working committee prescribed in 59 O.S. § 567.3a.13 that an advanced unlicensed assistive person shall be able to perform upon completion of the certification training program and satisfactory passage of the certification examination.

**"Delegating"** means entrusting the performance of selected nursing duties to individuals qualified, competent and legally able to perform such duties.

**"Distance learning program"** means part or all of the theory components of the board-approved nursing education program are offered by correspondence, on-line, through video-conferencing, or via CD-ROM.

**"Legal authority"** means the authorized state agency for the administration of the statutes relating to the practice of nursing in this state. The Oklahoma Board of Nursing is the only legal authority for licensing practical nurses, Registered Nurses, and issuing recognition to advanced practice nurses in Oklahoma.

**"Licensed nurse"** means a registered nurse or licensed practical nurse, currently licensed by the Oklahoma Board of Nursing.

**"Nurse Administrator"** means the Registered Nurse responsible for the administration of the nursing education program or the nurse holding the highest level of management in an agency/facility regardless of the title used.

**"Preceptor"** means a licensed nurse who is employed by the facility in which the clinical experience takes place, and who agrees to provide supervision to a student for a specified period of time during the preceptor's scheduled work hours in order to assist the student to meet identified learning objectives.

**"State approved program of nursing"** means a nursing education program approved by the Oklahoma Board of Nursing.

**"Member board jurisdiction"** means a full member board of National Council of State Boards of Nursing.

**"Supervising"** means providing guidance by a qualified nurse for the accomplishment of the nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing a task or activity.

## SUBCHAPTER 3. REGULATIONS FOR APPROVED NURSING EDUCATION PROGRAMS

### 485:10-3-5. Reports to the Board

The Board shall take action on all reports as appropriate.

#### (1) Faculty qualification report.

(A) A faculty qualification record shall be submitted for all instructional staff (full-time, part-time,

classroom, or clinical), and shall include educational preparation and employment experience.

(B) The faculty qualification record shall be submitted within two weeks following the appointment by the Nurse Administrator on a form provided by the Board.

(2) **Enrollment and annual reports.** Enrollment and annual reports shall be submitted in formats requested by the Board.

(3) **Special reports.** Special reports to the Board shall include but not be limited to:

(A) notifying in writing of administrative changes relating to and affecting the program;

(B) requesting approval prior to implementation for:

(i) major curriculum changes that alter the length of the program, substantially change the objectives, reorganize the course offerings, or reflect a significant philosophical or conceptual shift;

(ii) extended, distance learning, or off-campus offerings, when any nursing course is offered;

(iii) part-time or pilot programs.

(4) **Pass Rate Reports.** Pass Rate Reports are required when the first-time NCLEX writer pass rate falls ten (10) percentage points or more below the national average and at least ten candidates wrote the examination (based on a calendar year.)

## SUBCHAPTER 5. MINIMUM STANDARDS FOR APPROVED NURSING EDUCATION PROGRAMS

### 485:10-5-4. Resources, facilities, and services

(a) The nursing education program shall receive adequate financial support for faculty, other necessary personnel, equipment, supplies, learning resources, and services, in accord with the program needs.

(b) Sufficient secretarial and related clerical services shall be provided to ensure appropriate use of faculty time and talents.

(c) Adequate facilities, including classrooms, conference rooms, clinical skills laboratories, and offices shall be available to meet the needs of the nursing education program.

(d) Library space shall be adequate for size of nursing education program; and holdings shall be current, appropriate and adequate for the type of nursing education program, accessible to students and faculty, and provisions made for regular and current acquisitions to holdings.

(e) Clinical skills ~~Laboratory~~ laboratory equipment and supplies should be up-to-date, accessible to students and faculty, and appropriate for the level of nursing education, so that students will have adequate opportunity to practice psychomotor skills.

(f) Current and adequate audiovisual and computer-assisted instructional resources shall be available to assist students to meet their learning objectives.

### 485:10-5-4.1. Clinical facilities learning experiences

(a) An adequate amount and variety of clinical learning experience to prepare students for practice at the appropriate educational level shall be planned by the faculty.

(b) Clinical facilities utilized shall provide a safe environment for students' learning experiences and shall provide the type of experiences needed to meet the objectives of the rotation.

(c) Written criteria for the selection of clinical facilities shall be utilized by the faculty, and the faculty shall evaluate the quality of the learning experiences provided by the facility on a regular basis.

(d) Written agreements with cooperating agencies shall be mutually developed and maintained, annually reviewed, shall specify the respective responsibilities, and include provisions for continuing use by currently enrolled students.

(e) Cooperating agencies shall be acceptable to the Board for students' clinical learning and shall be approved by accreditation, evaluation or licensing bodies as appropriate.

(f) The maximum ratio of faculty to students in clinical areas involving direct care of patients or clients shall be defensible in light of safety, learning objectives, students' level, and patient acuity.

(g) Clinical preceptors may be used for supervision of students in community health, leadership/management, independent study, elective courses, home health and selected hospitals and long-term care facility experiences consistent with Board policy.

(h) Clinical skills laboratory experiences, which may include simulated patient care experiences, shall be developed, implemented, and evaluated by the faculty to facilitate student preparation for clinical learning experiences.

### 485:10-5-6. Curriculum

(a) The curriculum shall be planned, developed, implemented, and evaluated by the faculty with opportunities for input from students, graduates, and employers.

(b) The curriculum plan shall be based upon the mission, philosophy and objectives of the program and supported by a logical rationale for organizing and sequencing the content. Classroom content shall be taught concurrently with or prior to related clinical experiences.

(c) A syllabus shall be made available to students at the beginning of each course, and shall include course objectives, methods of instruction and evaluation, an outline of content, and, when appropriate, a schedule for course activities.

(d) The curriculum of registered nursing programs shall prepare the graduate for licensure and the full scope of practice as a Registered Nurse, as defined in state law, and shall address the NCLEX-RN test content, current standards for nursing practice, and expected competencies of graduates at the appropriate educational level. The curriculum shall include, but not be limited to:

(1) principles and clinical practice in utilization of scientific problem solving for the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life

## Permanent Final Adoptions

process in a variety of settings, including clinical practice in nursing care of the adult, nursing care of children, maternal-infant nursing, and psychiatric-mental health nursing;

(2) incorporation of principles of nutrition, pharmacology, growth and development, and ethical, legal, and professional roles of the registered nurse; and

(3) supporting content from biological and physical sciences, social and behavioral sciences, and the humanities.

(e) The curriculum of practical nursing programs shall prepare the graduate for licensure and the full scope of practice as a practical nurse, as defined in state law, and shall address the NCLEX-PN test content, current standards for practical nursing practice, and expected competencies of practical nursing graduates. The curriculum shall include, but not be limited to:

(1) principles and clinical practice in utilization of the nursing process, within the scope of practice as a practical nurse, to assist clients in all age groups to meet relatively stable nursing requirements and to assist the Registered Nurse in complex nursing situations, including clinical practice in nursing care of the adult, nursing care of children, and maternal-infant nursing;

(2) incorporation of basic concepts of anatomy and physiology and related sciences, nutrition, pharmacology, growth and development, mental health concepts, and ethical, legal, and professional roles of the practical nurse;

(f) A variety of instructional methods, based upon authenticated educational principles, shall be used to provide for individual learning needs. Programs offering non-traditional learning options to facilitate instruction shall establish policies and procedures in accordance with the Board's guidelines.

### **485:10-5-12. Out-of-State nursing education programs conducting clinical experiences in Oklahoma**

(a) Nursing education programs leading to initial licensure that wish to conduct clinical experiences in Oklahoma must obtain prior permission from the Board.

(b) To apply for permission from the Board, the program must submit a letter of request to the Board and provide evidence that the following standards will be met:

(1) The program must be on full approval status with the board of nursing in another member board jurisdiction;

(2) The program will provide for supervision of students while in the clinical area by a nursing faculty member licensed in Oklahoma;

(3) A written clinical affiliation agreement with the clinical facility will be in place; and

(4) If precepted clinical experiences are requested, the program will ensure they are conducted in accordance with the Board's policy.

(c) Registered Nurses enrolled in out-of-state advanced practice educational programs may participate in clinical experiences and clinical preceptorship in Oklahoma as part of the advanced practice educational program, under the following conditions:

(1) The advanced practice student has an Oklahoma license to practice registered nursing, and

(2) The advanced practice educational program meets the requirements established by the Oklahoma Board of Nursing for educational preparation of advanced practice registered nurses.

## **SUBCHAPTER 7. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A REGISTERED NURSE**

### **485:10-7-1. Licensure by examination**

(a) **Qualifications.** An applicant for licensure by examination as a Registered Nurse must meet the following qualifications:

(1) Submits an application containing such information as the Board may prescribe.

(2) 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 professional curricula of a state Board-approved registered nursing education program conducted in a member board jurisdiction that meets the requirements of 485:10-5-6 (d-1, 2, and 3), and holds or is entitled to hold a diploma or degree therefrom.

~~(A) Applicants who are enrolled in a nursing education program leading to a masters degree in nursing who have a baccalaureate degree in another field, will be eligible to apply for licensure at the time that they have completed the basic professional curricula as approved by the Board for registered nurse licensure. The Board may accept a verification statement on such forms as prescribed by the Board from the nursing education program director as proof of completion of the approved basic professional curricula of the registered nursing education program.~~

(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 issued allowing the candidate to schedule the examination.

(d) **Fee for examination.**

(1) The fee for writing the licensing examination adopted by the Board for Registered 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 Registered Nurse licensure shall be the same as the fee established for the first-time writing.

(3) The fee for the examination is not refundable.

(e) **Policies for the examination.**

- (1) Applicants must pass the the National Council Licensure Examination for Registered Nurses (NCLEX-RN).
- (2) Applicants who fail the NCLEX-RN 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-RN, 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. 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-RN.

**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 or U.S. territory 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, U.S. territory, or country 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 or U.S. territory of licensure by examination.
- (3) If the applicant has written the licensing examination adopted by the Board in a state other than the state or U.S. territory 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 or in a U. S. territory.** An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma. An applicant educated in a U.S. territory not recognized as a full member of National Council of State Boards of Nursing (NCSBN) must meet the requirements for applicants educated in foreign countries. An applicant educated in a U.S. territory that is a full member of NCSBN but in a nursing education program not included on the NCSBN state-approved programs of nursing list at the time of the applicant's graduation from the program must meet the requirements for applicants educated in foreign countries.

- (1) The applicant must present evidence of:
  - (A) graduation from a government-approved school of nursing nursing education program, as verified from the Commission of Graduates of Foreign Nursing Schools (CGFNS);
  - (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:

## Permanent Final Adoptions

- (i) a translated transcript with certified proof of translation received directly from the nursing education program in the ~~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: the Commission of Graduates of Foreign Nursing Schools;
- (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) current competence in oral and written English as evidenced by receipt of scores directly from the approved testing service verifying 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), ~~or~~
  - (iv) Test of English as a Foreign Language Internet-based test (TOEFL iBT) of the Educational Testing Service.
- (E) An evaluation of educational credentials as evidenced by:
- (i) CGFNS Certificate Status 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, Jamaica, Barbados, South Africa, and the United States.
  - (B) Licensed in another US State or Territory, 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
    - (A) Current licensure in another state;
    - (B) Evidence of having ~~written~~ successfully passed 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 transcripts; and
    - (D) Payment of the fee for licensure by endorsement and temporary license; and
    - (E) Foreign-educated applicants must provide evidence of current competence in oral and written English by meeting the requirements of 485:10-7-2(d)(1)(D)(i-iv).
  - (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.
- 485:10-7-6. Duplicate license card**
- (a) One duplicate Registered Nurse license card may be issued.
  - (b) If a license card is lost, stolen or destroyed, the licensee must submit written evidence of the situation and a duplicate license may be issued for a fee as established by the Board. A duplicate license card will be issued upon notification by the licensee of a name change.
  - (c) If a license card is not received and the Board office receives written notification within ninety (90) days of date of issuance, a duplicate license may be issued without fee.
- 485:10-7-9. Change of name and address**
- (a) Each Registered Nurse licensee must provide certified evidence (~~affidavit, or~~ a copy of marriage license or court action) regarding any change of name within 30 days of the change.
  - (b) Evidence of change of name shall be accompanied by a fee as established by the Board.

- (c) Notice of change of address must be submitted in writing by each licensee within 30 days of the change.

**SUBCHAPTER 9. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A LICENSED PRACTICAL NURSE**

**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 or U.S. territory 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, U.S. territory, or country 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 or U.S. territory 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 or in a U.S. territory.** An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma. An applicant educated in a U.S. territory not recognized as a full member of National Council of State Boards of Nursing (NCSBN) must meet the requirements for applicants educated in foreign countries. An applicant educated in a U.S. territory that is a full member of NCSBN but in a nursing education program not included on the NCSBN state-approved programs of nursing list at the time of the applicant's graduation from the program must meet the requirements for applicants educated in foreign countries.

(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) current competence in oral and written English as evidenced by receipt of scores directly from the testing service verifying 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); or

(iv) Test of English as a Foreign Language Internet-based test (TOEFL iBT) of the Educational Testing Service.

(C) graduation from a government approved school of practical nursing education program or equivalent courses in a government approved school of nursing education program, as verified from the Commission of Graduates of Foreign Nursing Schools (CGFNS);

(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;~~

## Permanent Final Adoptions

(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 received directly from the nursing education program in the 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;
- (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, Jamaica, Barbados, South Africa, and the United States or

(B) Licensed in another US State or Territory, 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

- (A) Current licensure in another state;
- (B) Evidence of having written successfully passed 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; and

(E) Foreign-educated applicants must provide evidence of current competence in oral and written English by meeting the requirements of 485:10-9-2(d)(1)(B)(i-iv).

(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.

### **485:10-9-6. Duplicate license card**

(a) One duplicate Licensed Practical Nurse license card may be issued.

(b) If a license card is lost, stolen or destroyed, the licensee must submit written evidence of the situation and a duplicate license may be issued for a fee as established by the Board. A duplicate license card will be issued upon notification by the licensee of a name change.

(c) If a license card is not received and the Board office receives written notification within ninety (90) days of date of issuance, a duplicate license may be issued without fee.

### **485:10-9-9. Change of name and address**

(a) Each Licensed Practical Nurse licensee must provide certified evidence (~~affidavit,~~ or a copy of marriage license or court action) regarding any change of name within 30 days of the change.

(b) Evidence of change of name shall be accompanied by a fee as established by the Board.

(c) Notice of change of address must be submitted in writing by each licensee within 30 days of the change.

## **SUBCHAPTER 13. REQUIREMENTS FOR EMPLOYMENT**

### **485:10-13-1. Conditions of employment**

(a) Any person who practices or offers to practice nursing or represents themselves as a licensed nurse, (excluding federal employment) shall possess a valid Oklahoma license.

(b) Any individual offering to practice advanced practice nursing as an ARNP, CNS, CNM, CRNA, shall possess a valid Oklahoma license and a certificate of recognition issued by the Board.

(c) A valid temporary license shall be required in lieu of a full certificate of licensure.

(d) Any person employed as a Nurse Administrator, as defined in these rules, directing or supervising the performance of nursing services shall possess a valid license to practice nursing in Oklahoma, except as otherwise provided by law.

**SUBCHAPTER 15. REQUIREMENTS FOR PRACTICE AS AN ADVANCED PRACTICE NURSE**

**485:10-15-5. Recognition, renewal, reinstatement and inactive status**

- (a) **Recognition.**
  - (1) A certificate of recognition shall be issued by the Board.
  - (2) The pocket license card will have an advanced practice designation code.
  - (3) A list of all Board recognized advanced practice nurses shall be maintained by the Board.
- (b) **Renewal.**
  - (1) Renewal shall be concurrent with the two-year licensure renewal for Registered Nurse.
  - (2) The renewal form shall include a statement that the nurse's certification is current and that certification will be maintained during the period of licensure renewal.
  - (3) Each advanced practice nurse shall submit a copy of a current national certification document to the Board with the renewal form, if requested.
- (c) **Reinstatement.**
  - (1) If an advanced practice nurse fails to renew recognition prior to the expiration date of that authority, the advanced practice recognition shall lapse.
  - (2) The applicant may request reinstatement of advanced practice recognition by submitting a completed application and the required fee. If the reinstatement is not approved within two years of the expiration date of recognition, the applicant must meet current requirements for initial advanced practice recognition.
- (d) **Inactive Status.**
  - (1) An advanced practice nurse may submit a written request to place advanced practice recognition on inactive status.
  - (2) Advanced practice recognition will be placed on inactive status upon notification to the Board office the advanced practice nurse does not have current national certification from a national certifying body approved by the Board.
  - (3) The date of inactive status will be the date of approval by the Board.
  - (4) The Board may delegate approval to place advanced practice recognition on inactive status to Board staff.
  - (5) The applicant may request return-to-active status of advanced practice recognition by submitting a completed application and the required fee. If the advanced practice recognition has been on inactive status for two or more years, the applicant must meet current requirements for initial advanced practice recognition.

**485:10-15-6. Practice as an Advanced Registered Nurse Practitioner**

- (a) **Educational programs.** Successful completion of an educational program shall establish eligibility to take recognized advanced practice nurse certification examination in a specialty area. 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.** 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 certification program be considered by the Board for inclusion on the list. A certifying body examination shall meet the following requirements:
  - (1) require applicants for the certification examination to have completed a formal program of study consistent with the area of certification;
  - (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.
- (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;

# Permanent Final Adoptions

- (D) management of health care during acute and chronic phases of illness;
  - (E) guidance and counseling services;
  - (F) consultation 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, and national certification. It is the responsibility of the licensee to document competency of any act, based upon education, experience 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.~~
  - ~~(B)C~~ Family ARNP provides health care to persons across the lifespan.
  - ~~(C)D~~ Geriatric ARNP provides health care to older adults.
  - ~~(D)E~~ Neonatal ARNP provides health care to neonates and infants.
  - ~~(E)F~~ Pediatric ARNP provides health care to persons from newborn to young adulthood.
  - ~~(F)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.
  - ~~(G)H~~ Acute Care ARNP provides health care to adults who are acutely or critically ill.
  - ~~(H)I~~ The Adult Psychiatric and Mental Health ARNP provides acute and chronic psychiatric and mental health care to persons age 13 or older.
  - ~~(I)J~~ The Family Psychiatric and Mental Health ARNP provides acute and chronic psychiatric and mental health care to persons across the lifespan.
  - ~~(J)K~~ The Acute Care Pediatric ARNP provides health care to persons from newborn to young adulthood with complex acute, critical and chronic health conditions.

## SUBCHAPTER 16. REQUIREMENTS FOR PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE NURSES

### 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:

- (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. Applicants for renewal who have submitted a written statement signed by the physician supervising prescriptive authority prior to renewal but within 90 days of the expiration date are not required to submit another written statement for renewal.

### 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) The advanced practice nurse may reinstate the prescriptive authority renewal by submitting:

(A) a completed application approved by the Board and required fee;

(B) evidence of having met requirements for renewal of prescriptive authority as listed in 485:10-16-6 (2)(B)(i)(ii).

(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.

(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) ~~The An~~ advanced practice nurse may ~~request~~ return to active status of ~~the~~ prescriptive authority renewal by submitting:

(A) a completed application approved by the Board and required fee;

(B) evidence of having met requirements for renewal of prescriptive authority as listed in 485:10-16-6 (2)(B)(i)(ii).

(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.

(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.

**SUBCHAPTER 19. PEER ASSISTANCE PROGRAM**

**485:10-19-5. Qualifications of applicant**

(a) To be eligible for participation in the Peer Assistance Program, each applicant must:

(1) have a current unrestricted license, unless referred by the Board,

(2) have no pending felony charge or conviction that would prevent the nurse from practicing,

(3) voluntarily submit an application for participation, and

(4) reside in this state.

(b) Nurses previously disciplined by the Board shall be ineligible, unless referred to the Peer Assistance Program by the Board.

(c) Nurses referred by the Board shall have sixty (60) days from the date of acceptance into the Program within which to obtain a current license.

[OAR Docket #07-733; filed 4-9-07]

**TITLE 710. OKLAHOMA TAX COMMISSION  
CHAPTER 75. TOURISM PROMOTION**

[OAR Docket #07-813]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

710:75-1-1 [REVOKED]

710:75-1-2 [REVOKED]

710:75-1-3 [REVOKED]

710:75-1-4 [REVOKED]

710:75-1-5 [REVOKED]

710:75-1-6 [REVOKED]

710:75-1-7 [REVOKED]

710:75-1-8 [REVOKED]

710:75-1-9 [REVOKED]

710:75-1-10 [REVOKED]

**AUTHORITY:**

68 O.S. § 203; Oklahoma Tax Commission

**DATES:**

**Comment Period:**

January 2, 2007 to February 5, 2007

**Public hearing:**

February 6, 2007

**Adoption:**

February 20, 2007 (Commission Order No. 2007-02-20-02)

**Submitted to the Governor:**

February 22, 2007

**Submitted to House:**

February 22, 2007

**Submitted to Senate:**

February 22, 2007

**Gubernatorial approval:**

March 15, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 19, 2007.

**Final adoption:**

April 19, 2007

**Effective:**

July 1, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

House Bill 1174XX repealed the levy of the Oklahoma tourism tax effective July 1, 2007 during the Second Extraordinary Session of the 50<sup>th</sup> Legislature (2006).

**CONTACT PERSON:**

Lisa R. Haws, 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 RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2007:**

# Permanent Final Adoptions

## 710:75-1-1. Purpose [REVOKED]

The provisions of this Chapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of taxes and other levies enacted by the Oklahoma Legislature with respect to the Oklahoma Tourism Promotion Act (68 O.S. §§50010-50015).

## 710:75-1-2. Definitions [REVOKED]

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

**"Caterer"** means a person engaged in the business of preparing or serving meals, food, or beverages, without regard as to whether the service is at the caterer's place of business, the customer's location, or some other location, usually for a specified price for a specific menu or offering, but not off a menu to the public. The term does **not** include wait persons hired directly by a caterer's customer, whether hired by the hour, by the day, or for the event.

**"Combination establishment"** means any establishment that sells food, confection or drink prepared on the premises for sale at retail, for consumption either immediately or within a short period of time, either on the premises or elsewhere by carry out or delivery, along with other items. Establishments such as groceries, convenience stores, gas stations, bakeries, and retail stores can be combination establishments.

**"Private tourist attraction"** means any commercial activity which appeals to the recreational desires and tastes of the public through the presentation of services or devices designed to entertain or educate. The private tourist attractions for which the tax is levied shall be limited to the following: [See: 68 O.S. Section 50011]

- (A) carnivals, private booths and concessions at state fairs, and amusement parks, except those amusement parks operated on a nonprofit basis by those entities exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C.A. Section 501(c)(3);
- (B) commercial animal, reptile, and zoological exhibits;
- (C) water parks and services provided by marinas, excluding water vessel sales;
- (D) water sports equipment, boats, canoes, and other water vessel rentals and tours;
- (E) historic structures and tours;
- (F) commercial horse shows and rodeos, except those operated by those entities exempt from taxation under Section 501(c) of the Internal Revenue Code, 26 U.S.C.A. Section 501(c);
- (G) commercial museums;
- (H) motor vehicle, bicycle, horse and other racing events, excluding parking for such events; and
- (I) seasonal events and attractions. The following list, although not all inclusive, contains examples of seasonal events and attractions:
  - (i) art and craft shows

- (ii) theaters
- (iii) concerts
- (iv) specialty shows
- (v) festivals

**"Restaurant"** means and includes any food establishment where food, confection or drink is prepared for sale at retail for consumption either immediately or within a short period of time either on the premises or elsewhere by carry out or delivery. As of November 1, 1994, "restaurant" shall mean and include any establishment and any area of any combination establishment for which a license to operate a food establishment is required by the Article 11 of the Public Health Code, 63 O.S. Section 1-1101 et seq, (entitled "Food"); and the rules promulgated pursuant thereto by the Oklahoma State Department of Health to prepare food, confection, or drink for sale at retail for consumption either on the premises or elsewhere by carry out or delivery. The term encompasses food establishments which routinely deliver food or beverage items to customers at other locations, commonly known as "catering".

## 710:75-1-3. General applicability of Tourism Promotion Tax [REVOKED]

Effective November 1, 1987, the Tourism Promotion Tax shall be paid on gross receipts derived from the sales identified by this Chapter. The Tourism Promotion Tax is a levy on the privilege of doing business, and is not to be added to the sales price and collected from the consumer. [See: 68 O.S. §§50010-50015]

## 710:75-1-4. Application of Tourism Tax [REVOKED]

- (a) Tourism Tax shall be levied on the gross receipts received from the sale of the following:
  - (1) Furnishing of rooms by:
    - (A) hotels
    - (B) motels
    - (C) apartment hotels
    - (D) private rooming houses
    - (E) all other facilities for public lodging, except campsites.
  - (2) Food and drink dispensed by, including but not limited to:
    - (A) hotels
    - (B) restaurants
    - (C) bars
    - (D) elubs
    - (E) commercial cafeterias that primarily serve the general public.
  - (3) Motor vehicle rentals.
  - (4) Tour bus and sight seeing passenger carrier tickets, except transportation services provided by a tourism service broker, as defined by 68 O.S. §50012.
  - (5) Admissions to and sales by private tourist attractions.
- (b) Tourism Tax does **not** apply to gross receipts from:

- (1) *Private tourist attractions operated on an annual or semiannual basis for fund raising purposes by nonprofit charitable organizations;*
- (2) *Tourist attractions owned or operated by any government entity, except as otherwise provided by the Oklahoma Tourism Promotion Act;*
- (3) *Sales or other ownership transfers of any livestock or other live animals;*
- (4) *Sales from any vending facility operated by a blind person and licensed pursuant to Section 73 of Title 7 of the Oklahoma Statutes or licensed pursuant to federal law; or*
- (5) *Sales by public or private colleges or universities which are recognized or accredited as defined by the Oklahoma State Regents for Higher Education and which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3). [See: 68 O.S. § 50012(C)]*

**710:75-1-5. Tourism and Recreation Department and Historical Society facilities [REVOKED]**

Tourism Tax shall apply to the gross receipts received from facilities or tourist attractions owned or operated by the Oklahoma Tourism and Recreation Department or the Oklahoma Historical Society, except motor vehicle rentals. [See: 68 O.S. §50012(A)(6)]

**710:75-1-6. Tax not applicable to campsites [REVOKED]**

The Tourism Tax levied shall not apply to gross receipts received for the furnishing of campsites.

**710:75-1-7. Nonprofit charitable organizations [REVOKED]**

The Tourism Tax levied shall not apply to gross receipts from private attractions operated on an annual or semiannual basis for fund raising purposes by nonprofit charitable organizations or to gross receipts from tourist attractions owned or operated by any government entity, unless the levy is specifically made applicable by the Oklahoma Tourism Promotion Act. [See: 710:75-1-5.] Only those nonprofit charitable organizations recognized by the Internal Revenue Service as such shall be exempt. [See: 26 U.S.C.A. §501(c)]

**710:75-1-8. Filing requirements; interest; penalty [REVOKED]**

The following filing requirements apply to all those taxpayers required to file Tourism Promotion Gross Receipts Tax Reports:

- (1) Taxpayers must report tourism promotion gross receipts tax on the forms prescribed and furnished by the Oklahoma Tax Commission.
- (2) Returns are due on the 20th day of each month for the liability incurred the previous calendar month. However, those taxpayers who are permitted to file semiannual sales tax reports pursuant to 68 O.S. §1365(B), may file

semiannual Tourism Promotion Gross Receipts Tax Reports and remit taxes due thereunder to the Tax Commission on or before the 20th day of January and July of each year for the preceding six month period.

(3) If payment of the tax is not postmarked or delivered to the Oklahoma Tax Commission on or before the 20th of the month, the tax shall be delinquent from that date. Reports timely mailed shall be considered timely filed. If a remittance is not timely made, interest at the rate of one and one fourth percent (1.25%) per month shall be charged from the date the remittance should have been made until the tax is actually paid.

(4) If payment of the tax due is not made within fifteen (15) days of the due date, a ten percent (10%) penalty will be applied.

**710:75-1-9. Recordkeeping [REVOKED]**

(a) **General requirements.** All persons required to pay Tourism Promotion Tax and file reports must keep and preserve adequate records of sales and other pertinent information to substantiate the amount of tax due. An establishment wherein only a portion of the gross receipts are subject to the Tourism Promotion Tax (combination establishments) must maintain records of its sales adequate to differentiate those sales subject to Tourism Promotion Tax from sales which are not.

(b) **Retention of records.** All records needed to determine and substantiate the amount of Tourism Promotion Tax due must be maintained for a three year period.

**710:75-1-10. Examples and applications [REVOKED]**

(a) Generally, if a food, drink or confection is prepared by an establishment, or combination establishment, on the premises, by heating, cooling, mixing, adding condiments, or otherwise preparing it for sale for immediate consumption upon the premises or to be delivered or carried away from the premises, for consumption elsewhere, immediately or within a short period of time, the establishment, or the applicable part of a combination establishment, will be considered and treated as a "restaurant" for purposes of the Tourism Promotion Tax. [See: Attorney General Opinion 94-08.]

(b) Examples, not intended to be exhaustive or exclusive in scope, of establishments and activities deemed to be subject to the tax include:

(1) A store which sells hamburgers, french fries, etc., prepared on the premises. These items would be subject to Tourism Promotion Tax. Other grocery items which are not prepared on premises would not be subject to Tourism Promotion Tax.

(2) A dairy store which sells grocery items as well as ice cream, hamburgers and other sandwiches. The items which are prepared on premises are subject to Tourism Promotion Tax. Milks, breads, ice cream and such, which are sold as grocery items and not prepared on premises, are not subject to Tourism Promotion Tax. For example: An ice cream cone, dipped, is subject to tax, but the purchase of a half-gallon container of ice cream is not subject to tax.

# Permanent Final Adoptions

(3) Sales of specialty foods from specialty shops such as donuts, pretzels, bagels, and similar items, are all subject to Tourism Promotion Tax.

(4) Businesses that have a snack bar which sells hamburgers, cokes, and similar items, that are prepared on premises are subject to Tourism Promotion Tax on those sales.

(e) Examples of establishments or portions of combination establishments that would **not** be subject to the tax include:

(1) Establishments that do no "preparation" of food, but which provide beverage dispensers and devices for heating food items for use by customers, so long as the establishment does not provide an area for the consumption of food products, does not make food items available for delivery (carry out), nor deliver food items (catering).

(2) Establishments wherein the "preparation" does not significantly change the form, content, appearance, or flavor of the food or beverage sold, prior to delivery; no area is provided for the consumption of food products; no food or beverage is made available for delivery (carry out), and no food or beverage items are routinely delivered.

[OAR Docket #07-813; filed 4-23-07]

## SUPERSEDED EMERGENCY ACTIONS:

n/a

## INCORPORATIONS BY REFERENCE:

n/a

## ANALYSIS:

Section 710:85-1-2 has been amended to include the definition of "gross payroll".

Section 710:85-1-3 has been revoked eliminating procedures that are no longer the practice of the Oklahoma Tax Commission.

Section 710:85-1-8 has been amended to include the deadline for filing the first claim for a large Quality Jobs Program rebate.

Section 710:85-5-3 has been revoked to eliminate out-dated procedures and practices.

Section 710:85-5-10 has been amended to delete duplicate language in the rules.

## CONTACT PERSON:

Lisa R. Haws, 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 RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2007:**

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

[OAR Docket #07-814]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. Oklahoma Quality Jobs Program

710:85-1-2 [AMENDED]

710:85-1-3 [REVOKED]

710:85-1-8 [AMENDED]

Subchapter 5. Small Employer Quality Jobs Program

710:85-5-3 [REVOKED]

710:85-5-10 [AMENDED]

### AUTHORITY:

68 O.S. § 203; Oklahoma Tax Commission

### DATES:

#### Comment Period:

January 2, 2007 to February 7, 2007

#### Public hearing:

February 8, 2007

#### Adoption:

February 20, 2007 (Commission Order No. 2007-02-20-03)

#### Gubernatorial approval:

March 15, 2007

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 19, 2007

#### Final adoption:

April 19, 2007

#### Effective:

May 25, 2007

#### SUBMITTED TO GOVERNOR:

February 22, 2007

#### SUBMITTED TO HOUSE:

February 22, 2007

#### SUBMITTED TO SENATE:

February 22, 2007

## SUBCHAPTER 1. OKLAHOMA QUALITY JOBS PROGRAM

### 710:85-1-2. Definitions

In addition to terms defined in 68 O.S. § 3603, the following words and terms, when used in this Subchapter, 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 any time 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, whichever is greater.

**"Commission"** means the Oklahoma Tax Commission

**"Department"** means the Oklahoma Department of Commerce.

**"Gross payroll"** means wages subject to Oklahoma Income tax, as defined in 68 O.S. §2385.1, for new direct jobs.

**"New direct jobs"** means "new direct jobs" of a qualified establishment as recognized by the Oklahoma Department of Commerce.

**"Qualified establishment"** means an establishment for which the Commission has been notified of an approved application for incentive payments by the Oklahoma Department of Commerce.

"**Start date**" means the date on which an establishment may begin accruing benefits for the creation of new direct jobs, which date shall be determined by the Department. [See: 68 O.S.2001, § 3603]

**710:85-1-3. Procedure upon qualification; reporting [REVOKED]**

~~(a) **Procedures upon initial qualification.** Upon receipt of each approved incentive offer and notification of the start date from the Oklahoma Department of Commerce, the Commission will establish a withholding tax account. Such account shall be utilized by the qualified establishment to report the actual number and gross payroll of new direct jobs for the qualified establishment.~~

~~(b) **Reports required.** The reports, on forms prescribed by the Commission, shall be filed in the same manner as returns for withholding, reporting and remitting Oklahoma Income Taxes. A return shall be filed for each period following notification by the Commission, even if the qualified establishment has no new direct jobs and gross payroll for the period. [See: 68 O.S. §2385.1 et seq., OAC 710:90-1-1 through 710:90-7-2]~~

**710:85-1-8. Procedure for filing claim, verification, payment, protest**

(a) **Contents of claim.** As soon as practicable after the end of a calendar quarter, the qualified establishment shall file a claim for gross payroll paid the previous quarter. The claim, on forms prescribed by the Commission, shall include:

- (1) Name of qualified establishment;
- (2) Identification number of qualified establishment;
- (3) Period for which claim is filed;
- (4) Actual number of new direct jobs during period of claim;
- (5) Gross payroll of new direct jobs during period of claim;
- (6) Net benefit rate; and
- (7) Amount claimed for period.

(b) **Deadline for filing first claim.** For establishments that were approved after October 31, 2001, in no event shall the first claim for incentive payments be filed later than three (3) years from the start date designated by the Oklahoma Department of Commerce.

(c) **Amount of claim not to include penalty, interest paid.** The amount claimed shall not include any portion of penalty and/or interest paid by the qualified establishment because of delinquent filing and/or payment of withholding tax. [See: 68 O.S. §2385.6]

(ed) **Verification of claim.** The Commission shall verify the actual gross payroll utilizing information available to the Commission. All participating companies are required to retain documentation to verify the quality jobs employees and rebate amounts claimed. Documents retained shall include all employee names, both base and new employees, social security numbers, original hire dates, individual wages drawn for each month, and copies of claim forms for the duration of the contract. These records shall be retained in both hard copy

form and in an electronic format approved by the Commission for a minimum of three (3) years after the final rebate payment is received by the company. In the event the Commission is unable to verify the gross payroll, the Commission may request additional information from the qualified establishment or may request the qualified establishment revise its claim to the amount verified by the Commission.

(de) **Payment of claim.** Except as provided in 710:85-1-11, the qualified establishment whose claim has been approved shall receive a warrant in an amount not to exceed the net benefit rate multiplied by the actual gross payroll for new direct jobs for the calendar quarter for which the claim is filed.

(ef) **Procedure when claim cannot be verified or is revised.** The following shall apply when a claim cannot be verified or is revised by the Commission.

(1) The qualified establishment may, within sixty (60) days after the mailing of notification of action by the Commission, file with the Commission a protest under oath, signed by the qualified establishment or a duly authorized agent setting out:

- (A) a statement of the action by the Commission that is protested;
- (B) a statement of the qualified establishment's disagreement with such action; and
- (C) supporting documentation relied on by the qualified establishment in support of its claim.

(2) If the qualified establishment fails to file a written protest within the sixty (60) days, then the action of the Commission shall become final and no appeal will be entertained.

(3) A protest to the action of the Commission filed by a qualified establishment shall be governed by 710:1-5-21 through 710:1-5-48.

**SUBCHAPTER 5. SMALL EMPLOYER QUALITY JOBS PROGRAM**

**710:85-5-3. Procedure upon qualification; reporting [REVOKED]**

~~(a) **Procedures upon initial qualification.** Upon receipt of each approved incentive offer from the Oklahoma Department of Commerce and notification of start date from the qualified establishment, the Commission will establish a separate withholding tax account. Such account shall be utilized by the qualified establishment to report the actual number and gross payroll of new direct jobs for the qualified establishment.~~

~~(b) **Reports required.** The reports, on forms prescribed by the Commission, shall be filed in the same manner as returns for withholding, reporting and remitting Oklahoma Income Taxes. A report shall be filed for each quarter following notification by the Commission, even if the qualified establishment has no new direct jobs and gross payroll for the quarter. [See: 68 O.S. § 2385.1 et seq. and OAC 710:90-1-1 through 710:90-7-2]~~

# Permanent Final Adoptions

## 710:85-5-10. Payment of claim

(a) After the review of the reports and the verification that the establishment qualifies, as set out in *OAC* 710:85-5-9, the Commission shall issue a warrant in the amount equal to the net benefit multiplied by the amount of gross payroll of new direct jobs actually paid by the establishment.

(b) The amount claimed shall not include in the computation of gross payroll any portion of penalty or interest paid as a result of delinquency in filing or paying income tax withheld.

~~(c) Commission action upon receipt of reports. Upon receipt of the reports for the initial calendar quarter and for each subsequent calendar quarter, the Commission shall make the following determinations:~~

~~(1) That the establishment has created or maintained the minimum number of new direct jobs as specified in 68 O.S. §3904(C)(3);~~

~~(2) That the individuals employed in the new direct jobs were paid an annualized wage which equaled or exceeded the applicable percentage of the average county wage as determined by the Department upon the approval of the application; and~~

~~(3) That a determination by the Department has been made that the establishment continues to meet the requirements set out in the initial approval.~~

[*OAR Docket #07-814; filed 4-23-07*]

## TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[*OAR Docket #07-815*]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 6. Oklahoma Safe Playground Surfaces Program [REVOKED]

710:95-6-1 [REVOKED]

710:95-6-2 [REVOKED]

710:95-6-3 [REVOKED]

710:95-6-4 [REVOKED]

710:95-6-5 [REVOKED]

### AUTHORITY:

27A O.S. § 2-11-401.6; 68 O.S. § 203; Oklahoma Tax Commission

### DATES:

#### Comment Period:

January 2, 2007 to February 7, 2007

#### Public hearing:

February 8, 2007

#### Adoption:

February 20, 2007 (Commission Order No. 2007-02-20-04)

#### Gubernatorial approval:

March 15, 2007

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on

April 19, 2007

#### Final adoption:

April 19, 2007

#### Effective:

May 25, 2007

### SUBMITTED TO GOVERNOR:

February 22, 2007

### SUBMITTED TO HOUSE:

February 22, 2007

### SUBMITTED TO SENATE:

February 22, 2007

### SUPERSEDED EMERGENCY ACTIONS:

n/a

### INCORPORATIONS BY REFERENCE:

n/a

### ANALYSIS:

Subchapter 6 and Sections 710:95-6-1 through 710:95-6-5 dealing with playground surfaces have been revoked consistent with House Bill 1606 which repealed the Oklahoma Safe Playgrounds Surfaces Act, 27A O.S. §§2-11-414 and 2-11-415, effective July 1, 2005.

### CONTACT PERSON:

Lisa R. Haws, 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 RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2007:**

## SUBCHAPTER 6. OKLAHOMA SAFE PLAYGROUND SURFACES PROGRAM

### 710:95-6-1. Purpose [REVOKED]

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250.1 et seq., and to implement the "Oklahoma Safe Playground Surfaces Act," 27A O.S.Supp.2001, §§ 2-11-414 to 2-11-415.

### 710:95-6-2. Definitions [REVOKED]

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

**"Commission"** means the Oklahoma Tax Commission.

**"Eligible playground surfacing material"** means playground surfacing material made from crumb rubber or other waste tire material processed by a facility located in this state which is purchased and installed so as to meet the performance specifications outlined in the American Society for Testing and Materials 1292 (ASTM F 1292).

**"Public school or institution"** means *any public educational institution or other public institution located in this state and accredited for the purpose of educating or caring for children.* [27A O.S.Supp.2001, § 2-11-415(C)(1)]

**"State park or recreation area"** means *any public recreation area owned and operated by the State of Oklahoma that contains a playground area for public use.* [27A O.S.Supp.2001, § 2-11-415(C)(2)]

### 710:95-6-3. Determination of the availability of matching funds [REVOKED]

(a) ~~If the balance of the Waste Tire Recycling Indemnity Fund (Fund) exceeds three million dollars (\$3,000,000.00) at any time during a particular fiscal year (July 1 through June 30~~

of the succeeding year), matching grants of up to twenty thousand dollars (\$20,000.00) each may be awarded and paid to applicants for the reimbursement of funds expended by a public school or institution, or a state park or recreation area for purchasing and installing eligible playground surfacing material. The total of all amounts paid in matching funds to the applicants shall not exceed one million dollars (\$1,000,000.00), including administrative costs of one percent (1%) as set out in 27A O.S.Supp.2001, § 2-11-415(F), in any fiscal year. Grants shall be made on a first come, first serve basis.

(b) The balance available from the Fund for matching grants may be obtained upon request made to the Management Services Division of the Tax Commission. Since matching grants provided for by this Subchapter may not be made until completion of the installation, provision of information regarding available balances does not constitute a commitment of funds by the Commission, but is provided for planning and informational purposes, only.

**710:95-6-4. Procedure to be used by public schools or institutions and state parks or recreation areas to request compensation [REVOKED]**

(a) **General Provisions.** In order to receive a matching grant from the Waste Tire Recycling Indemnity Fund, the applicant must provide the following information on the form prescribed and attach the required documentation. The application and documentation shall provide the information described in (1) through (6) of this subsection:

- (1) The applicant's name, location, and qualifying type of entity;
- (2) If the applicant is a public institution, other than a public school, which provides care or education for children, the name and address of the applicant's accrediting agency;
- (3) The name and address of the firm which installed the playground surface and the date of the installation;
- (4) A statement, signed by an officer of the company which installed the playground surface, setting out the name and address of the Oklahoma facility that processed and produced the crumb rubber or waste tire material used in the playground surface, stating that the materials were produced solely from waste tires discarded in this state, and that the materials, as installed, meet the performance requirements of ASTM F 1292;
- (5) The total cost of the purchase and installation of the playground surfacing material, as supported by a copy of the contract between the applicant and the contractor, and evidence that the contracted amounts have been paid;
- (6) The name and signature of the principal of the school, the administrator of the other public educational

institution or care facility, or the manager of the state park or recreational area, stating under penalty of perjury that the information contained in the application is true and correct.

(b) **Other required information.** Additional documentation or information may be required by the Commission.

**710:95-6-5. Review and determination of requests for reimbursement or payment [REVOKED]**

(a) **Review and determination of requests for compensation.** Requests for reimbursements or payment should be sent to Oklahoma Tax Commission, Comptroller's Office, 2501 North Lincoln Blvd., Oklahoma City OK 73194. The application may be submitted at the time a contract for sale and installation of the playground surfacing material has been executed. Upon receipt of a proper request for reimbursement, the Oklahoma Tax Commission, shall review the request and determine whether the application reflects compliance with the statutory requirements of the Oklahoma Safe Playground Surfaces Act, and all applicable rules pertaining thereto promulgated by the Commission.

(b) **Procedure for disbursement of funds for approved requests.** If approved, funds shall be obligated for the applicant and a notice of approval sent. Actual disbursement shall not be made until a notice of installation, signed by the contractor, has been received from the applicant.

(c) **Assignment permitted.** Any eligible entity which has been approved by the Tax Commission may assign the payment to a contractor.

(d) **Procedure for notice of disapproved requests.** If the application is not approved, the applicant shall be notified in writing of the Commission's determination, and the reasons therefore.

(e) **Reimbursements to be made on a first come, first served basis.** Applications for reimbursement will be processed on a first come first served basis, based on the date of the postmark. An application resubmitted after an initial disapproval shall be processed in the same fashion as a new submission, based upon the date of the postmark of the resubmitted application.

(f) **Fiscal year limitation.** In the instance where applications totaling more than one million dollars (\$1,000,000.00) are received during a fiscal year, requests for reimbursements which would cause the total of reimbursements to exceed that amount will be held over until the start of the next fiscal year in which money for reimbursement is available.

[OAR Docket #07-815; filed 4-23-07]



# 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

**1:2007-15.**

### EXECUTIVE ORDER 2007-15

I, Brad Henry, Governor of the State of Oklahoma, designate the American flag as the commemorative flag to be flown in memory of those killed and injured in the bombing of the Alfred P. Murrah Federal Building on April 19, 1995. During the week of April 19, 2007, I encourage all Oklahomans to fly the American flag in commemoration of the twelve-year anniversary of the Murrah Building bombing.

We shall never forget the one hundred sixty-eight Americans who lost their lives, including nineteen children, on that fateful day. We must never forget the more than eight hundred fifty others who were injured and bravely press ahead, emblematic of the strength and compassion of our great state and nation. The people of Oklahoma will never forget the courage and compassion of those from around the world who were involved in the rescue and recovery and who continue to share an outpouring of goodwill.

I 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 Thursday, April 19, 2007. Further, appropriate steps shall be taken to fly the American flag on each of the fourteen flag poles located at the south plaza entrance to the state capitol building from 8:00 a.m. on Wednesday, April 18, 2007, until 5:00 p.m. on Tuesday, April 24, 2007.

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 17th day of April, 2007.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage  
Secretary of State

*[OAR Docket #07-796; filed 4-18-07]*

**1:2007-16.**

### EXECUTIVE ORDER 2007-16

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 until 8:00 a.m., Monday April 23, 2007, as a mark of respect for the victims of the tragedy at Virginia Tech on Monday April 16, 2007.

The State of Oklahoma grieves with those who have lost loved ones at Virginia Tech. We hold the victims and their families in our hearts and lift them up in our prayers. The flying of these flags at half staff is a symbol that Oklahomans respect and honor the victims of these senseless acts of violence, and it demonstrates our sympathy for their families and loved ones.

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 17th day of April, 2007.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage  
Secretary of State

*[OAR Docket #07-797; filed 4-18-07]*

**1:2007-17.**

### EXECUTIVE ORDER 2007-17

I, Brad Henry, Governor of the State of Oklahoma, by the authority vested in me pursuant to Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby establish the Governor's CLASS Task Force otherwise known as the Campus Life and Safety and Security Task Force.

## Executive Orders

---

The purpose of the Task Force shall be to review and evaluate safety and security plans already in place for higher education and career and technology institutions. Additionally, the Task Force shall determine what modifications, if any, are necessary to prevent crisis and enhance crisis response on higher education and career and technology campuses. The Task Force will also research methods for recognizing students in need and delivering to them appropriate services, such as counseling, substance abuse, and mental health treatment. The Task Force may make preliminary recommendations to university and career and technology personnel of specific measures to better protect campuses and improve emergency response.

The Task Force shall consist of fifteen (15) members to be selected as follows:

1. The Chancellor of the Oklahoma State Regents for Higher Education or a designee, who shall serve as chair of the Task Force;
2. The President of the University of Oklahoma or a designee;
3. The President of Oklahoma State University or a designee;
4. Two members shall be representatives from the Regional University System of Oklahoma and shall be appointed by the Chancellor;
5. Two members shall be representatives from Oklahoma Community Colleges and shall be appointed by the Chancellor;
6. The Director of the Department of Career and Technology Education or a designee, who shall serve as vice-chair of the Task Force;
7. Two members shall be representatives from two separate Career and Technology Education Campuses and shall be appointed by the Director of the Oklahoma Department of Career and Technology Education;
8. The Cabinet Secretary of Safety and Security or a designee;
9. The Commissioner of Mental Health and Substance Abuse Services or a designee;
10. The Executive Director of a statewide association of independent colleges and universities to be appointed by and serve at the pleasure of the Governor; and
11. Two members shall be representatives from institutions of higher education that are members of the statewide association of independent colleges and universities and shall be appointed by the Executive Director of the statewide association.

The Task Force shall meet at such times and places as it deems appropriate. Members shall serve without compensation. Task Force members employed by a state agency shall be reimbursed travel expenses related to their service on the Task Force as authorized by state law by their respective state agency. Remaining Task Force members shall be reimbursed travel expenses related to their service on the Task Force as authorized by state law by the Oklahoma State Regents for Higher Education.

Administrative support for the Task Force, including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Task Force, shall be provided by the Oklahoma State Regents for Higher Education.

The Task Force shall complete a final report no later than January 15, 2008. The final report shall contain recommendations to improve campus safety and security. The Task Force shall provide a copy of the final report to the Governor, the President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives.

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 25th day of April, 2007.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage  
Secretary of State

*[OAR Docket #07-878; filed 4-25-07]*

**1:2007-17a.**

### **AMENDED EXECUTIVE ORDER 2007-17 OF APRIL 25, 2007**

I, Brad Henry, Governor of the State of Oklahoma, by the authority vested in me pursuant to Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby establish the Governor's CLASS Task Force otherwise known as the Campus Life and Safety and Security Task Force.

The purpose of the Task Force shall be to review and evaluate safety and security plans already in place for higher education and career and technology institutions. Additionally, the Task Force shall determine what modifications, if any, are necessary to prevent crisis and enhance crisis response on higher education and career and technology campuses. The Task Force will also research methods for recognizing students in need and delivering to them appropriate services, such as counseling, substance abuse, and mental health treatment. The Task Force may make preliminary recommendations to university and career and technology personnel of specific measures to better protect campuses and improve emergency response.

The Task Force shall consist of fifteen (15) members to be selected as follows:

1. The Chancellor of the Oklahoma State Regents for Higher Education or a designee, who shall serve as chair of the Task Force;

2. The President of the University of Oklahoma or a designee;
3. The President of Oklahoma State University or a designee;
4. Two members shall be representatives from the Regional Universities of Oklahoma and shall be appointed by the Chancellor;
5. Two members shall be representatives from Oklahoma Community Colleges and shall be appointed by the Chancellor;
6. The Director of the Department of Career and Technology Education or a designee, who shall serve as vice-chair of the Task Force;
7. Two members shall be representatives from two separate Career and Technology Education Campuses and shall be appointed by the Director of the Oklahoma Department of Career and Technology Education;
8. The Cabinet Secretary of Safety and Security or a designee;
9. The Commissioner of Mental Health and Substance Abuse Services or a designee;
10. The Executive Director of a statewide association of independent colleges and universities to be appointed by and serve at the pleasure of the Governor; and
11. Two members shall be representatives from institutions of higher education that are members of the statewide association of independent colleges and universities and shall be appointed by the Executive Director of the statewide association.

The Task Force shall meet at such times and places as it deems appropriate. Members shall serve without compensation. Task Force members employed by a state agency shall be reimbursed travel expenses related to their service on the

Task Force as authorized by state law by their respective state agency. Remaining Task Force members shall be reimbursed travel expenses related to their service on the Task Force as authorized by state law by the Oklahoma State Regents for Higher Education.

Administrative support for the Task Force, including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Task Force, shall be provided by the Oklahoma State Regents for Higher Education.

The Task Force shall complete a final report no later than January 15, 2008. The final report shall contain recommendations to improve campus safety and security. The Task Force shall provide a copy of the final report to the Governor, the President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives.

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 27 day of April, 2007.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:  
M. Susan Savage  
Secretary of State

*[OAR Docket #07-903; filed 4-30-07]*

---

