Volume 26
Number 17
May 15, 2009
Pages 1105 - 1352

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
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
Goodwell - Oklahoma Panhandle State University
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: 25 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. 68 copies have been prepared and distributed at a cost of $807.34. Copies have been deposited with the Oklahoma Department of Libraries, Publications Clearinghouse.
ISSN 0030-1728

Table of Contents

Agency/Action/Subject Index iii
Rules Affected Index v
Agency Index (Title numbers assigned) xiii
Submissions for Review
Agriculture, Food, and Forestry, Oklahoma Department of (Title 35) 1105, 1106, 1107
Cerebral Palsy Commission (Title 130) 1107
Fire Marshal Commission, State (Title 265) 1107
Grand River Dam Authority (Title 300) 1107
Health Care Authority, Oklahoma (Title 317) 1108, 1109, 1110, 1111, 1112, 1113, 1114
Human Services, Department of (Title 340) 1114
Gubernatorial Approvals
Accountancy Board, Oklahoma (Title 10) 1115
Corporation Commission (Title 165) 1115
Health Care Authority, Oklahoma (Title 317) 1115, 1116, 1117, 1118, 1119, 1120
Human Services, Department of (Title 340) 1121
Rehabilitation Services, State Department of (Title 612) 1122
Tax Commission, Oklahoma (Title 710) 1122, 1123, 1124, 1125
Teachers' Retirement System (Title 715) 1125
Transportation, Department of (Title 730) 1125
Permanent Final Adoptions
Corporation Commission (Title 165) 1127, 1137
Environmental Quality, Department of (Title 252) 1140, 1146, 1165, 1172, 1177, 1180, 1192, 1193, 1206
Housing Finance Agency, Oklahoma (Title 330) 1208
Human Services, Department of (Title 340) 1223, 1245, 1266, 1269, 1272, 1282
Mental Health and Substance Abuse Services, Department of (Title 450) 1300, 1301, 1303
Motor Vehicle Commission, Oklahoma (Title 465) 1315, 1317
Police Pension and Retirement System, Oklahoma (Title 550) 1318, 1319, 1320, 1322
Regents for Higher Education, State (Title 610) 1323, 1325, 1327, 1329, 1330
State Employee Charitable Contributions, Oversight Committee for (Title 695) 1333
Teacher Preparation, Oklahoma Commission for (Title 712) 1334
Treasurer, State (Title 735) 1348
Executive Orders (Title 1) 1351

Agency/Action/Subject Index

ACCOUNTANCY Board, Oklahoma (Title 10)
Gubernatorial Approvals
Licensure and Regulation of Accountancy (Chapter 15) 1115

AGRICULTURE, Food, and Forestry, Oklahoma Department of (Title 35)
Submissions for Review
Fees (Chapter 2) 1105
Fine Matrices [REVOKED] (Chapter 3) 1105
Agricultural Products (Chapter 10) 1106
Animal Industry (Chapter 15) 1106
Consumer Protection (Chapter 30) 1106
Market Development (Chapter 40) 1107

CEREBRAL Palsy Commission (Title 130)
Submissions for Review
Organization (Chapter 1) 1107

CORPORATION Commission (Title 165)
Gubernatorial Approvals
Motor Carriers (Chapter 30) 1115
Permanent Final Adoptions
Gas & Hazardous Liquid Pipeline Safety (Chapter 20) 1127
Telecommunications Services (Chapter 55) 1127
Resellers of Interexchange Telecommunications Services (Chapter 56) 1137

ENVIRONMENTAL Quality, Department of (Title 252)
Permanent Final Adoptions
Air Pollution Control (Chapter 100) 1140, 1146, 1165, 1172, 1177, 1180
Hazardous Waste Management (Chapter 205) 1192
Radiation Management (Chapter 410) 1193
General Water Quality (Chapter 611) 1206

FIRE Marshal Commission, State (Title 265)
Submissions for Review
Adopted National Codes and Standards (Chapter 25) 1107
Fire Safety Standards for Cigarettes (Chapter 40) 1107

GOVERNOR
Executive Orders
Granting stay of execution for Donald L. Gilson (09-19) 1351
Declaring "Do You Realize" official State Rock and Roll Song (09-20) 1351
Declaring disaster emergency caused by tornadoes, severe storms, and flooding in 9 counties (09-21) 1352

GRAND River Dam Authority (Title 300)
Submissions for Review
Public Purpose Support and Assistance (Chapter 10) 1107

HEALTH Care Authority, Oklahoma (Title 317)
Submissions for Review
Grievance Procedures and Process (Chapter 2) 1108
Soonercare Choice (Chapter 25) 1108
Medical Providers-Fee for Service (Chapter 30) 1108, 1109, 1110
Medical Assistance for Adults and Children-Eligibility (Chapter 35) 1111, 1112, 1113
Developmental Disabilities Services (Chapter 40) 1113
Insure Oklahoma/Oklahoma Employer and Employee Partnership for Insurance Coverage (Chapter 45) 1113, 1114
Gubernatorial Approvals
Grievance Procedures and Process (Chapter 2) 1115
Soonercare Choice (Chapter 25) 1116

HEALTH Care Authority, Oklahoma – *continued*
Gubernatorial Approvals – continued
Medical Providers-Fee for Service (Chapter 30) 1116, 1117, 1118
Medical Assistance for Adults and Children-Eligibility (Chapter 35) 1118, 1119
Developmental Disabilities Services (Chapter 40) 1120
Insure Oklahoma/Oklahoma Employer and Employee Partnership for Insurance Coverage (Chapter 45) 1120

HOUSING Finance Agency, Oklahoma (Title 330)
Permanent Final Adoptions
Affordable Housing Tax Credit Program (Chapter 36) ... 1208

HUMAN Services, Department of (Title 340)
Submissions for Review
Child Welfare (Chapter 75) 1114
Gubernatorial Approvals
Oklahoma Child Support ~~Enforcement Division~~ Services (Chapter 25) 1121
Child Welfare (Chapter 75) 1121
Permanent Final Adoptions
Temporary Assistance for Needy Families (TANF) (Chapter 10) 1223
Oklahoma Child Support ~~Enforcement Division~~ Services (Chapter 25) 1245
Child Care Subsidy Program ~~Services~~ (Chapter 40) 1266
~~Food Stamp~~ Supplemental Nutrition Assistance program (Chapter 50) 1269
Public Assistance Procedures (Chapter 65) 1272
Child Welfare (Chapter 75) 1282

MENTAL Health and Substance Abuse Services, Department of (Title 450)
Permanent Final Adoptions
Certification of Alcohol and Drug Substance Abuse Courses (ADSAC), Organizations and Facilitators (Chapter 21) 1300
Certification of Alcohol and Drug Assessment and Evaluations Related to Driver's License Revocation (Chapter 22) 1301
Standards and Criteria for Opiod Substitution Treatment Programs (Chapter 70) 1303

MOTOR Vehicle Commission, Oklahoma (Title 465)
Permanent Final Adoptions
License (Chapter 10) 1315
Advertising (Chapter 15) 1317

POLICE Pension and Retirement System, Oklahoma (Title 550)
Permanent Final Adoptions
Administrative Operations (Chapter 1) 1318, 1319
Retirement and Pension Benefit Program (Chapter 10) 1320
Oklahoma Police Deferred Option Plan (Chapter 15) 1320
Purchase of Transferred Credited Service (Chapter 20) 1322

REGENTS for Higher Education, State (Title 610)
Permanent Final Adoptions
Administrative Operations (Chapter 1) 1323
Student Financial Aid and Scholarships (Chapter 25) ... 1325, 1327, 1329, 1330

REHABILITATION Services, State Department of (Title 612)
Gubernatorial Approvals
Management Services Division (Chapter 3) 1122
Vocational Rehabilitation and Visual Services (Chapter 10) 1122

STATE Employee Charitable Contributions, Oversight Committee for (Title 695)
Permanent Final Adoptions
Oklahoma State Charitable Campaign Rules (Chapter 10) 1333
TAX Commission, Oklahoma (Title 710)
Gubernatorial Approvals
Administrative Operations (Chapter 1) 1122
AD Valorem (Chapter 10) 1122
Alcohol, Mixed Beverages, and Low-Point Beer (Chapter 20) 1123
Boats and Motors (Chapter 22) 1123
Gross Production (Chapter 45) 1123
Income (Chapter 50) 1123
Motor Vehicles (Chapter 60) 1124
Sales and Use Tax (Chapter 65) 1124
Tobacco, Tobacco Products, and Cigarettes (Chapter 70) 1125
Withholding (Chapter 90) 1125
TAX Commission, Oklahoma – *continued*
Gubernatorial Approvals – continued
Miscellaneous Areas of Regulatory and Administrative Authority (Chapter 95) 1125
TEACHER Preparation, Oklahoma Commission for (Title 712)
Permanent Final Adoptions
Teacher Preparation Program Accreditation (Chapter 10) 1334
TEACHERS' Retirement System (Title 715)
Gubernatorial Approvals
General Operations (Chapter 10) 1125
TRANSPORTATION, Department of (Title 730)
Gubernatorial Approvals
Maintenance and Control of State Highway System (Chapter 35) 1125
TREASURER, State (Title 735)
Permanent Final Adoptions
Security for Public Deposits (Chapter 10) 1348

Rules Affected Index

[(E) = Emergency action]

Rule		Register Page
5:10-7-1.	[NEW] (E)	163
5:10-9-1.	[NEW] (E)	164
35:15-1-2.	[AMENDED] (E)	607
35:15-13-1.	[AMENDED] (E)	608
35:15-13-2.	[REVOKED] (E)	608
35:15-13-3.	[AMENDED] (E)	608
35:15-13-4.	[AMENDED] (E)	609
35:15-13-5.	[AMENDED] (E)	609
35:15-13-6.	[AMENDED] (E)	610
35:15-13-7.	[AMENDED] (E)	610
35:15-17-69.	[AMENDED] (E)	610
35:15-40-90.	[AMENDED] (E)	165
35:15-40-90.1.	[NEW] (E)	165
55:10-1-3.	[AMENDED]	771
55:10-3-13.	[AMENDED]	773
55:10-3-13.	[AMENDED] (E)	993
55:10-5-6.	[AMENDED]	773
55:10-5-7.	[AMENDED]	774
55:10-5-8.	[AMENDED]	774
55:10-5-10.	[AMENDED]	775
55:10-5-11.	[AMENDED]	776
55:10-7-1.	[AMENDED]	777
55:10-7-3.	[AMENDED]	778
55:10-7-6.	[AMENDED]	778
55:10-7-7.	[AMENDED]	778
55:10-7-9.	[AMENDED]	778
55:10-9-11.	[AMENDED]	778
55:10-11-7.	[AMENDED]	779
55:10-11-9.	[AMENDED]	779
55:10-11-10.	[AMENDED]	780
55:10-11-12.	[AMENDED]	780
55:10-13-2.	[AMENDED]	780
55:10-13-5.	[AMENDED]	780
55:10-13-20.	[AMENDED]	781
55:10-15-2.	[AMENDED]	781
55:10-15-10.	[AMENDED]	781
87:10-1-2.	[AMENDED] (E)	5
87:10-26-1.	[NEW] (E)	7
87:10-26-2.	[NEW] (E)	7
87:10-26-3.	[NEW] (E)	7
87:10-26-4.	[NEW] (E)	7
87:10-26-5.	[NEW] (E)	7
87:10-26-6.	[NEW] (E)	7
87:10-26-7.	[NEW] (E)	7
87:10-26-8.	[NEW] (E)	7
87:10-26-9.	[NEW] (E)	8
87:10-26-10.	[NEW] (E)	8
87:10-26-11.	[NEW] (E)	8
150:65-1-10.	[AMENDED]	1013
150:105-1-2.	[AMENDED] (E)	87
150:105-1-2.	[AMENDED]	1014
150:105-1-3.	[AMENDED] (E)	90
150:105-1-3.	[AMENDED]	1017
150:105-1-4.	[AMENDED] (E)	91
150:105-1-4.	[AMENDED]	1017
155:1-1-1.	[AMENDED]	782
155:1-1-2.	[REVOKED]	782
155:1-1-3.	[AMENDED]	783
155:1-1-4.	[AMENDED]	783
155:1-1-5.	[AMENDED]	783
155:1-1-6.	[REVOKED]	783
155:1-1-7.	[REVOKED]	783
155:1-1-8.	[REVOKED]	783
155:1-1-9.	[REVOKED]	784
155:1-1-10.	[AMENDED]	785
155:1-1-11.	[REVOKED]	785
155:1-1-12.	[REVOKED]	785
155:1-1-13.	[REVOKED]	785
155:1-1-14.	[REVOKED]	785
155:10-1-1.	[AMENDED]	786
155:10-1-2.	[REVOKED]	786
155:10-1-3.	[REVOKED]	787
155:10-1-4.	[REVOKED]	787
155:10-1-5.	[AMENDED]	787
155:10-1-6.	[AMENDED]	791
155:10-1-7.	[REVOKED]	791
155:10-1-8.	[AMENDED]	791
155:10-1-9.	[REVOKED]	792
155:10-1-10.	[AMENDED]	792
155:10-1-11.	[AMENDED]	792
155:10-1-12.	[AMENDED]	793
155:10-1-13.	[REVOKED]	793
155:10-1-14.	[REVOKED]	793
155:10-1-16.	[REVOKED]	794
155:10-1-17.	[REVOKED]	794
155:10-1-18.	[REVOKED]	794
155:10-1-19.	[AMENDED]	795
155:10-1-20.	[AMENDED]	795
155:10-1-21.	[AMENDED]	796
155:20-1-3.	[AMENDED]	797
155:20-1-4.	[AMENDED]	799
155:20-1-5.	[AMENDED]	800
155:20-1-6.	[REVOKED]	800
155:20-1-7.	[REVOKED]	802
155:20-1-8.	[REVOKED]	802
155:20-1-9.	[REVOKED]	803
155:20-1-10.	[REVOKED]	803
155:35-1-1.	[NEW]	804
155:35-1-2.	[NEW]	805
155:35-1-3.	[NEW]	805
155:35-1-4.	[NEW]	805
155:40-1-1.	[NEW]	1018
155:40-1-2.	[NEW]	1018
155:40-1-3.	[NEW]	1018
155:40-1-4.	[NEW]	1019
155:40-1-5.	[NEW]	1019
158:10-3-5.	[NEW] (E)	387
158:50-1-2.	[AMENDED] (E)	388
158:50-5-1.	[AMENDED] (E)	389
158:50-5-2.	[AMENDED] (E)	389
158:70-1-1.	[NEW] (E)	391
158:70-1-2.	[NEW] (E)	391
158:70-1-3.	[NEW] (E)	392
158:70-3-1.	[NEW] (E)	395
158:70-5-1.	[NEW] (E)	395
158:70-5-2.	[NEW] (E)	395
158:70-9-1.	[NEW] (E)	396
158:70-9-2.	[NEW] (E)	396
158:70-9-3.	[NEW] (E)	396
158:70-9-4.	[NEW] (E)	396
158:70-9-5.	[NEW] (E)	396
158:70-9-6.	[NEW] (E)	397

158:70-9-8. . . . . [NEW] (E) 397
158:70-11-1. . . . . [NEW] (E) 397
158:70-11-2. . . . . [NEW] (E) 397
158:170-9-7. . . . . [NEW] (E) 397
160:3-1-1.1. . . . . [AMENDED] (E) 166
160:45-9-2. . . . . [AMENDED] (E) 167
160:55-3-1.2. . . . . [AMENDED] (E) 245
160:55-3-1.4. . . . . [AMENDED] (E) 245
160:55-9-10. . . . . [NEW] (E) 8
165:20-15-1. . . . . [NEW] 1127
165:55-5-10. . . . . [AMENDED] 1128
165:55-5-10.1. . . . . [AMENDED] 1130
165:55-5-10.2. . . . . [AMENDED] 1131
165:55-5-10.3. . . . . [AMENDED] 1131
165:55-5-12.1. . . . . [REVOKED] 1132
165:55-5-66. . . . . [AMENDED] 1132
165:55-5-70. . . . . [AMENDED] 1134
165:55-5-72. . . . . [AMENDED] 1134
165:55-7-1. . . . . [AMENDED] 1134
165:55-9-8. . . . . [AMENDED] 1135
165:55-11-10. . . . . [AMENDED] 1135
165:55-11-11. . . . . [AMENDED] 1136
165:55-11-14. . . . . [NEW] 1136
165:55-17-30. . . . . [AMENDED] 1136
165:56-5-5. . . . . [AMENDED] 1137
165:56-5-9. . . . . [AMENDED] 1138
165:56-9-4. . . . . [AMENDED] 1139
165:56-9-4.1. . . . . [NEW] 1139
165:56-9-4.2. . . . . [NEW] 1140
210:10-9-1. . . . . [AMENDED] (E) 399
210:10-9-2. . . . . [AMENDED] (E) 399
210:10-13-4. . . . . [AMENDED] (E) 91
210:10-13-10. . . . . [AMENDED] (E) 94
210:10-13-11. . . . . [AMENDED] (E) 94
210:10-13-18. . . . . [AMENDED] (E) 95
210:15-3-102. . . . . [AMENDED] (E) 651
210:15-3-114.2. . . . . [AMENDED] (E) 35
210:15-3-115. . . . . [AMENDED] (E) 39
210:15-3-116. . . . . [AMENDED] (E) 40
210:15-3-117. . . . . [AMENDED] (E) 41
210:15-3-118. . . . . [AMENDED] (E) 42
210:15-3-119. . . . . [AMENDED] (E) 44
210:15-3-120. . . . . [AMENDED] (E) 46
210:15-3-121. . . . . [AMENDED] (E) 49
210:15-3-122. . . . . [AMENDED] (E) 51
210:15-8-3. . . . . [NEW] 1020
210:15-31-2. . . . . [AMENDED] (E) 97
210:15-33-2. . . . . [AMENDED] (E) 54
210:20-9-9. . . . . [AMENDED] 1021
210:20-9-99.1. . . . . [AMENDED] (E) 98
210:20-9-102. . . . . [AMENDED] (E) 248
210:20-23-3. . . . . [AMENDED] 1022
210:20-24-1. . . . . [NEW] 1022
210:20-24-2. . . . . [NEW] 1022
210:20-37-2. . . . . [AMENDED] 1023
210:30-5-1. . . . . [AMENDED] (E) 55
210:35-3-201. . . . . [AMENDED] (E) 99
210:35-9-31. . . . . [AMENDED] (E) 10
210:35-9-31. . . . . [AMENDED] 1024
210:35-17-2. . . . . [AMENDED] 1027
210:35-25-3. . . . . [NEW] 1028
210:35-25-4. . . . . [NEW] 1029
210:40-87-5. . . . . [NEW] 1029
240:10-3-2. . . . . [AMENDED] 1030
240:10-3-12. . . . . [AMENDED] 1030
240:10-5-90. . . . . [AMENDED] 1031
240:10-11-6. . . . . [AMENDED] 1032
240:10-11-26. . . . . [NEW] 1032
240:10-13-7. . . . . [AMENDED] 1032
240:10-13-8. . . . . [AMENDED] 1032
240:10-13-46. . . . . [NEW] 1032
240:15-3-2. . . . . [AMENDED] 1033
240:15-5-5. . . . . [NEW] 1033
240:21-9-1. . . . . [AMENDED] 1033
245:2-1-10. . . . . [AMENDED] 1034
245:2-1-18. . . . . [AMENDED] 1034
245:15-1-3. . . . . [AMENDED] 1036
245:15-3-4. . . . . [AMENDED] 1037
245:15-3-6. . . . . [AMENDED] 1037
245:15-3-7. . . . . [AMENDED] 1037
245:15-3-8. . . . . [AMENDED] 1039
245:15-3-9. . . . . [AMENDED] 1042
245:15-3-10. . . . . [AMENDED] 1042
245:15-5-3. . . . . [AMENDED] 1043
245:15-5-4. . . . . [AMENDED] 1043
245:15-5-7. . . . . [AMENDED] 1044
245:15-9-3. . . . . [AMENDED] 1044
245:15-9-4. . . . . [AMENDED] 1044
245:15-9-6. . . . . [AMENDED] 1045
245:15-11-5. . . . . [AMENDED] 1045
245:15-11-7. . . . . [AMENDED] 1045
245:15-11-11. . . . . [AMENDED] 1046
245:15-13-2. . . . . [AMENDED] 1046
245:15-17-2. . . . . [AMENDED] 1048
245:15-19-2. . . . . [AMENDED] 1050
245:15-19-4. . . . . [AMENDED] 1051
245:15-21-1. . . . . [AMENDED] 1051
245:15-21-2. . . . . [AMENDED] 1051
245:15-21-3. . . . . [AMENDED] 1051
245:15-21-4. . . . . [AMENDED] 1052
245:15-21-5. . . . . [AMENDED] 1052
245:15-21-6. . . . . [AMENDED] 1052
245:15-23-1. . . . . [AMENDED] 1052
252:100-1-3. . . . . [AMENDED] 1141
252:100-1-4. . . . . [AMENDED] 1144
252:100-5-1.1. . . . . [AMENDED] 1145
252:100-8-2. . . . . [AMENDED] 1147
252:100-8-4. . . . . [AMENDED] 1150
252:100-8-30. . . . . [AMENDED] 1152
252:100-8-31. . . . . [AMENDED] 1153
252:100-8-33. . . . . [AMENDED] 1159
252:100-8-37. . . . . [AMENDED] 1160
252:100-8-38. . . . . [AMENDED] 1161
252:100-8-50. . . . . [AMENDED] 1161
252:100-8-50.1. . . . . [AMENDED] 1162
252:100-8-51. . . . . [AMENDED] 1162
252:100-8-51.1. . . . . [AMENDED] 1164
252:100-8-52. . . . . [AMENDED] 1164
252:100-8-53. . . . . [AMENDED] 1164
252:100-8-54.1. . . . . [NEW] 1164
252:100-8-55. . . . . [AMENDED] 1164
252:100-8-56. . . . . [AMENDED] 1165
252:100-17-14.1. . . . . [AMENDED] 1166
252:100-17-14.2. . . . . [AMENDED] 1166
252:100-17-15. . . . . [AMENDED] 1166
252:100-17-16. . . . . [AMENDED] 1167
252:100-17-17. . . . . [AMENDED] 1167
252:100-17-19. . . . . [AMENDED] 1167
252:100-17-20. . . . . [AMENDED] 1167
252:100-17-21. . . . . [AMENDED] 1169
252:100-17-24. . . . . [AMENDED] 1170
252:100-17-25. . . . . [AMENDED] 1172
252:100-17-26. . . . . [AMENDED] 1172
252:100-19-1.1. . . . . [AMENDED] 1172

252:100-19-11. . . . . [AMENDED] 1173
252:100-25-3. . . . . [AMENDED] 1177
252:100, App. C. . . . . [REVOKED] 1174
252:100, App. C. . . . . [NEW] 1174
252:100, App. D. . . . . [REVOKED] 1175
252:100, App. D. . . . . [NEW] 1175
252:100, App. E. . . . . [REVOKED] 1179
252:100, App. E. . . . . [NEW] 1179
252:100, App. F. . . . . [REVOKED] 1180
252:100, App. F. . . . . [NEW] 1180
252:100, App. G. . . . . [REVOKED] 1176
252:100, App. G. . . . . [NEW] 1176
252:100, App. Q. . . . . [REVOKED] 1182
252:100, App. Q. . . . . [NEW] 1182
252:205-3-1. . . . . [AMENDED] 1192
252:205-3-2. . . . . [AMENDED] 1192
252:410-1-2. . . . . [AMENDED] 1194
252:410-1-4. . . . . [AMENDED] 1198
252:410-1-7. . . . . [AMENDED] 1199
252:410-10-1. . . . . [AMENDED] 1199
252:410-10-2. . . . . [AMENDED] 1200
252:410-10-3. . . . . [AMENDED] 1200
252:410-10-30. . . . . [AMENDED] 1201
252:410-10-31. . . . . [AMENDED] 1202
252:410-10-32. . . . . [AMENDED] 1202
252:410-10-35. . . . . [AMENDED] 1203
252:410-20-1. . . . . [AMENDED] 1205
252:611-1-3. . . . . [AMENDED] 1207
252:611-3-1. . . . . [AMENDED] 1207
252:611-3-2. . . . . [AMENDED] 1207
252:641, App. H. . . . . [REVOKED] (E) 506
252:641, App. H. . . . . [NEW] (E) 506
265:40-1-1. . . . . [NEW] (E) 522
265:40-1-2. . . . . [NEW] (E) 522
265:40-1-3. . . . . [NEW] (E) 523
265:40-1-4. . . . . [NEW] (E) 523
265:40-1-5. . . . . [NEW] (E) 523
265:40-1-6. . . . . [NEW] (E) 524
265:40-1-7. . . . . [NEW] (E) 524
265:40-1-8. . . . . [NEW] (E) 524
265:40-1-9. . . . . [NEW] (E) 524
265:40-1-10. . . . . [NEW] (E) 525
265:40-1-11. . . . . [NEW] (E) 525
317:2-1-7. . . . . [AMENDED] (E) 525
317:25-7-1. . . . . [AMENDED] (E) 402
317:25-7-2. . . . . [AMENDED] (E) 402
317:25-7-3. . . . . [AMENDED] (E) 403
317:25-7-5. . . . . [AMENDED] (E) 403
317:25-7-6. . . . . [AMENDED] (E) 404
317:25-7-10. . . . . [AMENDED] (E) 404
317:25-7-12. . . . . [AMENDED] (E) 405
317:25-7-13. . . . . [AMENDED] (E) 405
317:25-7-25. . . . . [AMENDED] (E) 405
317:25-7-26. . . . . [AMENDED] (E) 405
317:25-7-27. . . . . [AMENDED] (E) 405
317:25-7-28. . . . . [AMENDED] (E) 406
317:25-7-29. . . . . [AMENDED] (E) 406
317:25-7-30. . . . . [AMENDED] (E) 407
317:25-7-40. . . . . [NEW] (E) 407
317:30-3-5.1. . . . . [AMENDED] (E) 100
317:30-3-5.1. . . . . [AMENDED] 1059
317:30-3-25. . . . . [AMENDED] (E) 249
317:30-3-25. . . . . [AMENDED] 1053
317:30-3-27. . . . . [NEW] (E) 250
317:30-3-27. . . . . [NEW] 1054
317:30-5-11. . . . . [AMENDED] (E) 252
317:30-5-11. . . . . [AMENDED] 1056
317:30-5-22. . . . . [AMENDED] (E) 101
317:30-5-22. . . . . [AMENDED] (E) 255
317:30-5-22. . . . . [AMENDED] 1060
317:30-5-22.1. . . . . [AMENDED] (E) 102
317:30-5-22.1. . . . . [AMENDED] 1063
317:30-5-42.14. . . . . [AMENDED] (E) 527
317:30-5-47. . . . . [AMENDED] (E) 252
317:30-5-47. . . . . [AMENDED] 1057
317:30-5-95.33. . . . . [AMENDED] (E) 263
317:30-5-95.33. . . . . [AMENDED] 1073
317:30-5-122. . . . . [AMENDED] (E) 249
317:30-5-122. . . . . [AMENDED] 1053
317:30-5-211.17. . . . . [NEW] (E) 733
317:30-5-216. . . . . [AMENDED] (E) 257
317:30-5-216. . . . . [AMENDED] 1062
317:30-5-240. . . . . [AMENDED] (E) 735
317:30-5-240.1. . . . . [NEW] (E) 738
317:30-5-240.2. . . . . [NEW] (E) 739
317:30-5-240.3. . . . . [NEW] (E) 740
317:30-5-241. . . . . [AMENDED] (E) 103
317:30-5-241. . . . . [AMENDED] (E) 741
317:30-5-241.1. . . . . [NEW] (E) 751
317:30-5-241.2. . . . . [NEW] (E) 752
317:30-5-241.3. . . . . [NEW] (E) 753
317:30-5-241.4. . . . . [NEW] (E) 754
317:30-5-241.5. . . . . [NEW] (E) 754
317:30-5-244. . . . . [AMENDED] (E) 755
317:30-5-248. . . . . [AMENDED] (E) 755
317:30-5-249. . . . . [NEW] (E) 756
317:30-5-275. . . . . [AMENDED] (E) 258
317:30-5-275. . . . . [AMENDED] 1065
317:30-5-326. . . . . [AMENDED] (E) 527
317:30-5-336. . . . . [AMENDED] 1066
317:30-5-336.5. . . . . [AMENDED] (E) 262
317:30-5-356. . . . . [AMENDED] (E) 114
317:30-5-356. . . . . [AMENDED] 1066
317:30-5-361. . . . . [AMENDED] (E) 253
317:30-5-361. . . . . [AMENDED] 1057
317:30-5-515. . . . . [AMENDED] 1068
317:30-5-516. . . . . [AMENDED] 1068
317:30-5-517. . . . . [AMENDED] 1068
317:30-5-518. . . . . [AMENDED] 1069
317:30-5-519. . . . . [AMENDED] 1069
317:30-5-565. . . . . [AMENDED] (E) 528
317:30-5-566. . . . . [AMENDED] (E) 529
317:30-5-567. . . . . [AMENDED] (E) 530
317:30-5-664.10. . . . . [AMENDED] (E) 253
317:30-5-664.10. . . . . [AMENDED] 1058
317:30-5-696. . . . . [AMENDED] (E) 531
317:30-5-698. . . . . [AMENDED] (E) 534
317:30-5-699. . . . . [AMENDED] (E) 535
317:30-5-761. . . . . [AMENDED] (E) 756
317:30-5-761. . . . . [AMENDED] (E) 995
317:30-5-763. . . . . [AMENDED] (E) 537
317:30-5-763. . . . . [AMENDED] (E) 996
317:30-5-763.1. . . . . [AMENDED] (E) 758
317:30-5-764. . . . . [AMENDED] (E) 544
317:30-5-764. . . . . [AMENDED] (E) 1007
317:30-5-950. . . . . [AMENDED] (E) 758
317:30-5-952. . . . . [AMENDED] (E) 758
317:30-5-953. . . . . [AMENDED] (E) 545
317:30-5-1076. . . . . [AMENDED] (E) 256
317:30-5-1076. . . . . [AMENDED] 1061
317:30-5-1090. . . . . [AMENDED] (E) 254
317:30-5-1090. . . . . [AMENDED] 1058
317:30-5-1200. . . . . [NEW] (E) 259
317:30-5-1200. . . . . [NEW] 1070

317:30-5-1201. [NEW] (E) 259
317:30-5-1201. [NEW] 1070
317:30-5-1202. [NEW] (E) 260
317:30-5-1202. [NEW] 1071
317:30-5-1203. [NEW] (E) 260
317:30-5-1203. [NEW] 1071
317:30-5-1204. [NEW] (E) 260
317:30-5-1204. [NEW] 1072
317:30-5-1205. [NEW] (E) 261
317:30-5-1205. [NEW] 1072
317:30-5-1206. [NEW] (E) 261
317:30-5-1206. [NEW] 1072
317:35-1-2. [AMENDED] (E) 759
317:35-5-25. [AMENDED] (E) 115
317:35-5-25. [AMENDED] (E) 545
317:35-5-45. [AMENDED] (E) 119
317:35-5-45. [AMENDED] 1074
317:35-5-46. [AMENDED] (E) 119
317:35-5-46. [AMENDED] 1075
317:35-9-26. [AMENDED] (E) 408
317:35-15-1. [AMENDED] (E) 550
317:35-15-2. [AMENDED] (E) 550
317:35-15-3. [AMENDED] (E) 550
317:35-15-4. [AMENDED] (E) 551
317:35-15-5. [AMENDED] (E) 554
317:35-15-6. [AMENDED] (E) 554
317:35-15-7. [AMENDED] (E) 554
317:35-15-8. [AMENDED] (E) 554
317:35-15-8.1. [AMENDED] (E) 556
317:35-15-8.1. [AMENDED] (E) 761
317:35-15-9. [AMENDED] (E) 556
317:35-15-10. [AMENDED] (E) 556
317:35-15-11. [REVOKED] (E) 557
317:35-15-14. [AMENDED] (E) 558
317:35-15-15. [AMENDED] (E) 557
317:35-17-1. [AMENDED] (E) 1009
317:35-17-3. [AMENDED] (E) 264
317:35-17-11. [AMENDED] (E) 1009
317:35-17-12. [AMENDED] (E) 762
317:35-17-14. [AMENDED] (E) 762
317:35-17-17. [AMENDED] (E) 765
317:35-17-18. [AMENDED] (E) 766
317:35-17-20. [AMENDED] (E) 766
317:35-17-21.1. [AMENDED] (E) 766
317:35-17-22. [AMENDED] (E) 559
317:35-18-10. [AMENDED] 1076
317:35-19-6. [AMENDED] (E) 408
317:35-23-1. [NEW] (E) 266
317:35-23-1. [NEW] 1077
317:35-23-2. [NEW] (E) 266
317:35-23-2. [NEW] 1077
317:35-23-3. [NEW] (E) 267
317:35-23-3. [NEW] 1077
317:35-23-4. [NEW] (E) 267
317:35-23-4. [NEW] 1077
317:40-5-8. [AMENDED] 1078
317:45-1-1. [AMENDED] (E) 621
317:45-1-2. [AMENDED] (E) 621
317:45-1-3. [AMENDED] (E) 622
317:45-7-1. [AMENDED] (E) 623
317:45-11-10. [AMENDED] (E) 409
317:45-11-11. [AMENDED] (E) 411
317:45-11-25. [AMENDED] (E) 624
325:10-1-6. [AMENDED] 806
325:20-1-2. [AMENDED] 806
325:20-1-15. [AMENDED] 807
325:20-1-24. [AMENDED] 807
325:45-1-6. [AMENDED] 808
325:75-1-15. [AMENDED] 809
325:80-5-5. [AMENDED] 810
325:90-5-1. [AMENDED] 811
330:36-1-4. [AMENDED] (E) 304
330:36-1-4. [AMENDED] 1208
330:36-2-1. [AMENDED] (E) 309
330:36-2-1. [AMENDED] 1214
330:36-2-2. [AMENDED] (E) 309
330:36-2-2. [AMENDED] 1214
330:36-2-7. [AMENDED] (E) 310
330:36-2-7. [AMENDED] 1214
330:36-2-9. [AMENDED] (E) 310
330:36-2-9. [AMENDED] 1215
330:36-2-11. [AMENDED] (E) 310
330:36-2-11. [AMENDED] 1215
330:36-2-16. [AMENDED] (E) 310
330:36-2-16. [AMENDED] 1215
330:36-2-17. [AMENDED] (E) 311
330:36-2-17. [AMENDED] 1216
330:36-4-2. [AMENDED] (E) 311
330:36-4-2. [AMENDED] 1216
330:36-4-2.1. [AMENDED] (E) 314
330:36-4-2.1. [AMENDED] 1219
330:36-6-3. [AMENDED] (E) 316
330:36-6-3. [AMENDED] 1220
330:36-6-7. [AMENDED] (E) 316
330:36-6-7. [AMENDED] 1221
340:1-1-18. [AMENDED] 812
340:2-39-1. [AMENDED] 814
340:10-2-1. [AMENDED] (E) 169
340:10-2-1. [AMENDED] 1224
340:10-2-4. [AMENDED] 1225
340:10-2-5. [AMENDED] (E) 170
340:10-2-5. [AMENDED] 1228
340:10-2-6. [AMENDED] (E) 171
340:10-2-6. [AMENDED] 1228
340:10-2-6.1. [AMENDED] (E) 171
340:10-2-6.1. [AMENDED] 1228
340:10-2-7. [AMENDED] (E) 171
340:10-2-7. [AMENDED] 1229
340:10-2-8. [AMENDED] (E) 767
340:10-3-5. [AMENDED] (E) 174
340:10-3-5. [AMENDED] 1231
340:10-3-40. [AMENDED] 1234
340:10-3-56. [AMENDED] 1235
340:10-3-57. [AMENDED] 1238
340:10-3-75. [AMENDED] 1240
340:10-3-81. [AMENDED] 1242
340:10-7-1. [AMENDED] 1242
340:10-15-1. [AMENDED] (E) 177
340:10-15-1. [AMENDED] 1243
340:10-19-2. [AMENDED] 1244
340:10-22-1. [AMENDED] 1244
340:15-1-4. [AMENDED] 815
340:15-1-6. [AMENDED] 816
340:20-1-5. [AMENDED] 817
340:20-1-10. [AMENDED] 817
340:20-1-11. [AMENDED] 818
340:20-1-14. [AMENDED] 819
340:25-1-1. [AMENDED] 1246
340:25-1-1.1. [AMENDED] 1246
340:25-1-1.2. [AMENDED] 1248
340:25-1-2.1. [AMENDED] 1249
340:25-1-5.1. [AMENDED] 1249
340:25-3-1. [AMENDED] 1250
340:25-3-1.1. [AMENDED] 1251

340:25-3-3. . . . . [AMENDED] 1251
340:25-3-5. . . . . [AMENDED] 1251
340:25-5-66. . . . . [AMENDED] 1252
340:25-5-75. . . . . [AMENDED] 1252
340:25-5-95. . . . . [AMENDED] 1252
340:25-5-117. . . . . [AMENDED] 1252
340:25-5-123. . . . . [AMENDED] (E) 412
340:25-5-123. . . . . [AMENDED] 1253
340:25-5-124. . . . . [AMENDED] 1253
340:25-5-124.2. . . . . [AMENDED] 1254
340:25-5-124.3. . . . . [AMENDED] 1255
340:25-5-140. . . . . [AMENDED] 1255
340:25-5-168. . . . . [AMENDED] 1256
340:25-5-171. . . . . [AMENDED] (E) 413
340:25-5-171. . . . . [AMENDED] 1257
340:25-5-176. . . . . [AMENDED] 1258
340:25-5-176.1. . . . . [AMENDED] 1259
340:25-5-178. . . . . [AMENDED] 1259
340:25-5-201.1. . . . . [AMENDED] 1260
340:25-5-203.2. . . . . [NEW] 1260
340:25-5-212. . . . . [AMENDED] 1261
340:25-5-214. . . . . [AMENDED] 1262
340:25-5-265.1. . . . . [AMENDED] 1262
340:25-5-345.2. . . . . [NEW] 1262
340:25-5-350.3. . . . . [AMENDED] 1263
340:25-5-350.4. . . . . [NEW] 1265
340:25-5-352. . . . . [NEW] 1266
340:40-3-1. . . . . [AMENDED] 821
340:40-5-1. . . . . [AMENDED] 822
340:40-7-1. . . . . [AMENDED] 824
340:40-7-3. . . . . [AMENDED] 825
340:40-7-3.1. . . . . [AMENDED] 825
340:40-7-5. . . . . [AMENDED] (E) 178
340:40-7-5. . . . . [AMENDED] 826
340:40-7-6. . . . . [AMENDED] 826
340:40-7-8. . . . . [AMENDED] 827
340:40-7-9. . . . . [AMENDED] 830
340:40-7-10. . . . . [AMENDED] 833
340:40-7-12. . . . . [AMENDED] 833
340:40-7-13. . . . . [AMENDED] 835
340:40-9-2. . . . . [AMENDED] 835
340:40-10-4. . . . . [AMENDED] 836
340:40-13-1. . . . . [AMENDED] 1266
340:40-13-2. . . . . [AMENDED] 1267
340:40-13-3. . . . . [AMENDED] 837
340:40-13-5. . . . . [AMENDED] 837
340:50-1-1. . . . . [AMENDED] 841
340:50-1-2. . . . . [AMENDED] 841
340:50-1-3. . . . . [AMENDED] 842
340:50-1-5. . . . . [AMENDED] 842
340:50-1-6. . . . . [AMENDED] 843
340:50-1-9. . . . . [AMENDED] 843
340:50-3-1. . . . . [AMENDED] 844
340:50-5-1. . . . . [AMENDED] 846
340:50-5-3. . . . . [AMENDED] 846
340:50-5-5. . . . . [AMENDED] 847
340:50-5-7. . . . . [AMENDED] 847
340:50-5-8.1. . . . . [AMENDED] 848
340:50-5-25. . . . . [AMENDED] 848
340:50-5-26. . . . . [AMENDED] 848
340:50-5-29. . . . . [AMENDED] 849
340:50-5-46. . . . . [AMENDED] 849
340:50-5-49. . . . . [AMENDED] 850
340:50-5-64. . . . . [AMENDED] 851
340:50-5-68. . . . . [AMENDED] 852
340:50-5-86. . . . . [AMENDED] 852
340:50-5-88. . . . . [AMENDED] 853
340:50-5-90. . . . . [AMENDED] 856
340:50-5-97. . . . . [AMENDED] 856
340:50-7-1. . . . . [AMENDED] 856
340:50-7-2. . . . . [AMENDED] (E) 12
340:50-7-2. . . . . [AMENDED] 857
340:50-7-3. . . . . [AMENDED] (E) 15
340:50-7-3. . . . . [AMENDED] 860
340:50-7-5. . . . . [AMENDED] 860
340:50-7-22. . . . . [AMENDED] 861
340:50-7-29. . . . . [AMENDED] 863
340:50-7-30. . . . . [AMENDED] 865
340:50-7-31. . . . . [AMENDED] 866
340:50-9-1. . . . . [AMENDED] 869
340:50-9-5. . . . . [AMENDED] 1270
340:50-11-3. . . . . [AMENDED] 872
340:50-11-4. . . . . [AMENDED] 873
340:50-11-23. . . . . [AMENDED] 873
340:50-11-24. . . . . [AMENDED] 874
340:50-11-27. . . . . [AMENDED] 874
340:50-11-111. . . . . [AMENDED] 874
340:50-11-112. . . . . [AMENDED] 874
340:50-11-113. . . . . [AMENDED] 875
340:50-11-114. . . . . [AMENDED] 875
340:50-11-115. . . . . [AMENDED] 875
340:50-13-3. . . . . [AMENDED] 875
340:50-13-4. . . . . [AMENDED] 876
340:50-15-1. . . . . [AMENDED] 876
340:50-15-2. . . . . [AMENDED] 877
340:50-15-3. . . . . [AMENDED] 877
340:50-15-4. . . . . [AMENDED] 877
340:50-15-5. . . . . [AMENDED] 878
340:50-15-6. . . . . [AMENDED] 878
340:50-15-25. . . . . [AMENDED] 879
340:50-15-26. . . . . [AMENDED] 880
340:50-15-27. . . . . [AMENDED] 881
340:60-1-3. . . . . [AMENDED] (E) 179
340:60-1-3. . . . . [AMENDED] 881
340:65-1-2. . . . . [AMENDED] 1272
340:65-1-3. . . . . [AMENDED] 1274
340:65-3-1. . . . . [AMENDED] 1274
340:65-3-2. . . . . [AMENDED] 1276
340:65-3-4. . . . . [AMENDED] 1277
340:65-3-5. . . . . [AMENDED] 1278
340:65-3-6. . . . . [AMENDED] 1280
340:65-3-8. . . . . [AMENDED] 1281
340:65-5-2. . . . . [AMENDED] 1282
340:65-5-3. . . . . [AMENDED] 1282
340:70-8-1. . . . . [AMENDED] 882
340:75-1-18. . . . . [AMENDED] 885
340:75-1-18.1. . . . . [AMENDED] 886
340:75-1-18.4. . . . . [AMENDED] 887
340:75-1-26.2. . . . . [NEW] 1283
340:75-1-44. . . . . [AMENDED] 888
340:75-1-152.5. . . . . [AMENDED] 891
340:75-6-4. . . . . [AMENDED] 891
340:75-6-31. . . . . [AMENDED] 892
340:75-6-48. . . . . [AMENDED] 894
340:75-6-50. . . . . [AMENDED] 897
340:75-6-85. . . . . [AMENDED] 898
340:75-6-85.1. . . . . [AMENDED] 899
340:75-6-85.6. . . . . [AMENDED] 900
340:75-6-88. . . . . [AMENDED] 900
340:75-7-2. . . . . [AMENDED] 1283
340:75-7-10. . . . . [AMENDED] 1284
340:75-7-12. . . . . [AMENDED] 1284
340:75-7-14. . . . . [AMENDED] 1286
340:75-7-15. . . . . [AMENDED] 1286

340:75-7-18. . . . . [AMENDED] 1288
340:75-7-24. . . . . [AMENDED] (E) 414
340:75-7-24. . . . . [AMENDED] 901
340:75-7-37. . . . . [AMENDED] 1291
340:75-7-37.1. . . . . [AMENDED] 1292
340:75-7-41. . . . . [AMENDED] 1293
340:75-7-51. . . . . [AMENDED] 1294
340:75-7-52. . . . . [AMENDED] 1295
340:75-7-52.1. . . . . [AMENDED] 1296
340:75-7-65. . . . . [AMENDED] 1296
340:75-7-280. . . . . [NEW] 1298
340:75-8-6. . . . . [AMENDED] 902
340:75-8-7. . . . . [AMENDED] 904
340:75-8-8. . . . . [AMENDED] 905
340:75-8-9. . . . . [AMENDED] 905
340:75-11-233.1. . . . . [AMENDED] 906
340:75-11-250. . . . . [AMENDED] 907
340:75-11-275. . . . . [NEW] 908
340:75-11-286. . . . . [AMENDED] 1299
340:75-11-289. . . . . [AMENDED] 908
340:75-11-300. . . . . [AMENDED] 909
340:75-11-320. . . . . [AMENDED] 909
340:75-11-321. . . . . [AMENDED] 910
340:75-11-330. . . . . [AMENDED] 911
340:75-11-350. . . . . [AMENDED] 912
340:75-11-360. . . . . [AMENDED] 913
340:75-13-10. . . . . [AMENDED] 914
340:75-15-5. . . . . [AMENDED] 914
340:75-15-7. . . . . [AMENDED] 915
340:75-15-41. . . . . [AMENDED] 917
340:75-15-43. . . . . [AMENDED] 918
340:75-15-82. . . . . [AMENDED] 918
340:75-15-83. . . . . [AMENDED] 919
340:75-15-84. . . . . [AMENDED] 919
340:75-15-87. . . . . [AMENDED] 920
340:75-15-88. . . . . [AMENDED] 921
340:75-15-89. . . . . [AMENDED] 922
340:75-15-91. . . . . [AMENDED] 922
340:100-3-4. . . . . [AMENDED] 923
340:100-3-5. . . . . [AMENDED] 925
340:100-3-5.1. . . . . [AMENDED] 927
340:100-3-5.2. . . . . [AMENDED] 929
340:100-3-33. . . . . [AMENDED] 930
340:100-3-35. . . . . [AMENDED] 931
340:100-3-38.5. . . . . [AMENDED] 932
340:100-3-38.12. . . . . [AMENDED] 933
340:100-3-39. . . . . [AMENDED] 934
340:100-5-17. . . . . [REVOKED] 940
340:100-5-21. . . . . [REVOKED] 940
340:100-5-22.1. . . . . [AMENDED] 940
340:100-5-26. . . . . [AMENDED] 944
340:100-5-53. . . . . [AMENDED] 948
340:100-6-45. . . . . [AMENDED] 948
340:100-6-55. . . . . [AMENDED] 949
340:100-17-30. . . . . [AMENDED] 950
340:110-1-4.1. . . . . [AMENDED] (E) 415
340:110-1-5. . . . . [AMENDED] (E) 415
340:110-1-6. . . . . [AMENDED] (E) 415
340:110-1-8. . . . . [AMENDED] (E) 415
340:110-1-8.1. . . . . [AMENDED] (E) 415
340:110-1-8.3. . . . . [AMENDED] (E) 415
340:110-1-9. . . . . [AMENDED] (E) 415
340:110-1-9.2. . . . . [AMENDED] (E) 415
340:110-1-9.3. . . . . [AMENDED] (E) 415
340:110-1-9.4. . . . . [AMENDED] (E) 415
340:110-1-10. . . . . [AMENDED] (E) 415
340:110-1-13. . . . . [AMENDED] (E) 415
340:110-1-17. . . . . [AMENDED] (E) 415
340:110-1-43.1. . . . . [AMENDED] (E) 415
340:110-1-44. . . . . [AMENDED] (E) 415
340:110-1-45. . . . . [AMENDED] (E) 415
340:110-1-46. . . . . [AMENDED] (E) 415
340:110-1-47. . . . . [AMENDED] (E) 415
340:110-1-47.1. . . . . [AMENDED] (E) 415
340:110-1-47.2. . . . . [AMENDED] (E) 415
340:110-1-51. . . . . [AMENDED] (E) 415
340:110-1-52. . . . . [AMENDED] (E) 415
340:110-1-54.1. . . . . [NEW] (E) 415
340:110-3-3. . . . . [AMENDED] (E) 415
340:110-3-5. . . . . [AMENDED] (E) 415
340:110-3-5.1. . . . . [AMENDED] (E) 415
340:110-3-6. . . . . [AMENDED] (E) 415
340:110-3-7.1. . . . . [AMENDED] (E) 415
340:110-3-37. . . . . [AMENDED] (E) 415
340:110-3-39. . . . . [AMENDED] (E) 415
340:110-3-40. . . . . [AMENDED] (E) 415
340:110-3-41. . . . . [AMENDED] (E) 415
340:110-3-42. . . . . [AMENDED] (E) 415
340:110-3-82. . . . . [AMENDED] (E) 415
340:110-3-85. . . . . [AMENDED] (E) 415
340:110-3-88. . . . . [AMENDED] (E) 415
340:110-3-89.1. . . . . [AMENDED] (E) 415
340:110-3-222. . . . . [AMENDED] (E) 415
340:110-3-223. . . . . [AMENDED] (E) 415
340:110-3-224. . . . . [AMENDED] (E) 415
340:110-3-225. . . . . [AMENDED] (E) 415
340:110-3-226. . . . . [AMENDED] (E) 415
340:110-5-4. . . . . [AMENDED] (E) 415
340:110-5-6. . . . . [AMENDED] (E) 415
340:110-5-7. . . . . [AMENDED] (E) 415
340:110-5-8. . . . . [AMENDED] (E) 415
340:110-5-12. . . . . [AMENDED] (E) 415
340:110-5-30. . . . . [AMENDED] (E) 415
340:110-5-57. . . . . [AMENDED] (E) 415
340:110-5-61.1. . . . . [AMENDED] (E) 415
365:10-11-4.1. . . . . [NEW] (E) 182
365:25-3-19. . . . . [NEW] (E) 16
365:25-11-1. . . . . [AMENDED] (E) 180
365:25-11-2. . . . . [REVOKED] (E) 181
365:25-11-2.1. . . . . [NEW] (E) 181
365:25-11-3. . . . . [AMENDED] (E) 181
365:25-11-4. . . . . [REVOKED] (E) 182
365:25-11-5. . . . . [AMENDED] (E) 182
365:25-11-6. . . . . [AMENDED] (E) 183
365:25-11-7. . . . . [NEW] (E) 184
365:25-11-8. . . . . [NEW] (E) 184
365:25-11-9. . . . . [NEW] (E) 184
365:25-11-10. . . . . [NEW] (E) 184
365:25-11-11. . . . . [NEW] (E) 184
365:25-13-1. . . . . [REVOKED] (E) 184
365:25-13-2. . . . . [REVOKED] (E) 185
365:25-13-3. . . . . [REVOKED] (E) 185
365:25-13-4. . . . . [REVOKED] (E) 185
365:25-13-5. . . . . [REVOKED] (E) 185
365:25-13-6. . . . . [REVOKED] (E) 185
365:25-13-7. . . . . [REVOKED] (E) 186
365:25, App. U. . . . . [NEW] (E) 189
365:25, App. V. . . . . [NEW] (E) 193
365:25, App. W. . . . . [NEW] (E) 197
380:20-1-3. . . . . [AMENDED] (E) 198
380:20-1-14. . . . . [AMENDED] (E) 199
380:20-1-15. . . . . [NEW] (E) 200
435:15-11-1. . . . . [AMENDED] 1079
435:20-1-1.1. . . . . [AMENDED] 1080

435:20-7-1. . . . . [AMENDED] 1081
435:50-1-4. . . . . [AMENDED] 1084
435:50-3-4. . . . . [AMENDED] 1085
435:50-3-5. . . . . [AMENDED] 1085
435:50-3-8. . . . . [AMENDED] 1086
435:50-3-9. . . . . [AMENDED] 1086
435:50-5-1. . . . . [AMENDED] 1086
435:50-5-4. . . . . [AMENDED] 1086
435:50-7-2. . . . . [AMENDED] 1087
435:60-1-1. . . . . [NEW] (E) 681
435:60-1-2. . . . . [NEW] (E) 681
435:60-1-3. . . . . [NEW] (E) 681
435:60-1-4. . . . . [NEW] (E) 682
435:60-1-5. . . . . [NEW] (E) 682
435:60-3-1. . . . . [NEW] (E) 683
435:60-3-2. . . . . [NEW] (E) 683
435:60-3-3. . . . . [NEW] (E) 683
435:60-3-4. . . . . [NEW] (E) 683
435:60-3-5. . . . . [NEW] (E) 683
435:60-3-6. . . . . [NEW] (E) 683
435:60-5-1. . . . . [NEW] (E) 683
435:60-5-2. . . . . [NEW] (E) 684
435:60-5-3. . . . . [NEW] (E) 684
435:60-5-4. . . . . [NEW] (E) 684
435:60-7-1. . . . . [NEW] (E) 684
435:60-7-2. . . . . [NEW] (E) 684
435:60-7-3. . . . . [NEW] (E) 684
435:65-1-1. . . . . [NEW] (E) 200
435:65-1-2. . . . . [NEW] (E) 200
435:65-1-3. . . . . [NEW] (E) 200
435:65-1-4. . . . . [NEW] (E) 200
435:65-1-5. . . . . [NEW] (E) 201
435:65-1-6. . . . . [NEW] (E) 201
435:65-1-7. . . . . [NEW] (E) 201
435:65-1-8. . . . . [NEW] (E) 201
450:21-5-2. . . . . [AMENDED] 1301
450:22-1-15. . . . . [AMENDED] 1302
450:70-1-2. . . . . [AMENDED] 1304
450:70-3-5. . . . . [AMENDED] 1307
450:70-3-8. . . . . [AMENDED] 1310
450:70-4-5. . . . . [AMENDED] 1310
450:70-4-7. . . . . [AMENDED] 1311
450:70-6-7. . . . . [AMENDED] 1312
450:70-6-8. . . . . [AMENDED] 1313
450:70-6-17. . . . . [AMENDED] 1313
455:10-1-2. . . . . [AMENDED] (E) 560
455:10-1-5. . . . . [AMENDED] (E) 561
455:10-1-7. . . . . [AMENDED] (E) 562
455:10-1-10. . . . . [AMENDED] (E) 562
455:10-3-1.1. . . . . [AMENDED] (E) 562
455:10-3-2. . . . . [AMENDED] (E) 562
455:10-3-3.3. . . . . [NEW] (E) 562
455:10-3-4.1. . . . . [AMENDED] (E) 563
455:10-3-6. . . . . [AMENDED] (E) 563
455:10-3-15. . . . . [AMENDED] (E) 563
455:10-3-17. . . . . [AMENDED] (E) 563
455:10-7-2. . . . . [AMENDED] (E) 564
455:10-7-4. . . . . [AMENDED] (E) 564
455:10-7-6. . . . . [AMENDED] (E) 564
455:10-9-1. . . . . [AMENDED] (E) 564
455:10-9-2. . . . . [AMENDED] (E) 565
455:10-11-1. . . . . [AMENDED] (E) 566
455:10-11-4. . . . . [AMENDED] (E) 566
455:10-11-14. . . . . [AMENDED] (E) 566
455:10-11-17. . . . . [AMENDED] (E) 567
455:10-15-4. . . . . [AMENDED] (E) 567
455:10-19-1. . . . . [AMENDED] (E) 568
455:10-19-35. . . . . [AMENDED] (E) 568
465:10-1-7. . . . . [AMENDED] 1316
465:10-3-3. . . . . [AMENDED] 1316
465:10-7-2. . . . . [AMENDED] 1316
465:10-7-3. . . . . [AMENDED] 1316
465:15-5-1. . . . . [RENUMBERED] 1317
465:15-5-1.1. . . . . [NEW] 1317
465:15-5-1.2. . . . . [NEW] 1317
465:15-7-1. . . . . [REVOKED] 1317
465:15-7-2. . . . . [REVOKED] 1317
485:10-1-2. . . . . [AMENDED] 1089
485:10-16-1. . . . . [AMENDED] 1090
530:10-7-12. . . . . [AMENDED] 1091
530:10-7-24. . . . . [AMENDED] 1092
530:10-7-26. . . . . [AMENDED] 1093
530:10-9-9. . . . . [AMENDED] 1093
530:10-15-40. . . . . [AMENDED] 1094
530:10-15-43. . . . . [AMENDED] 1094
530:10-17-150. . . . . [REVOKED] 1094
530:10-17-151. . . . . [RESERVED] 1094
530:10-17-152. . . . . [REVOKED] 1094
530:10-17-153. . . . . [REVOKED] 1095
530:10-17-154. . . . . [RESERVED] 1095
530:10-17-155. . . . . [REVOKED] 1095
530:10-17-156. . . . . [REVOKED] 1095
530:15-1-1. . . . . [AMENDED] 1096
530:15-1-2. . . . . [AMENDED] 1096
530:15-1-7. . . . . [AMENDED] 1097
530:15-1-9. . . . . [AMENDED] 1098
530:15-3-7. . . . . [AMENDED] 1098
530:15-3-9. . . . . [AMENDED] 1098
530:15-3-14. . . . . [AMENDED] 1099
535:10-7-8. . . . . [AMENDED] (E) 417
535:20-7-7.7. . . . . [AMENDED] (E) 418
550:1-7-2. . . . . [AMENDED] 1318
550:1-7-4. . . . . [AMENDED] 1319
550:10-1-5. . . . . [AMENDED] 1320
550:15-1-2. . . . . [AMENDED] 1321
550:20-1-2. . . . . [AMENDED] 1322
580:15-2-2. . . . . [AMENDED] (E) 419
580:15-4-5. . . . . [AMENDED] (E) 421
580:15-4-6. . . . . [AMENDED] (E) 422
580:15-4-7. . . . . [AMENDED] (E) 424
580:15-4-11. . . . . [AMENDED] (E) 424
580:15-6-6. . . . . [AMENDED] (E) 425
590:1-1-7. . . . . [REVOKED] (E) 120
590:1-1-7. . . . . [REVOKED] 951
590:1-3-1. . . . . [AMENDED] 951
590:1-3-2. . . . . [AMENDED] 952
590:10-2-1. . . . . [NEW] (E) 769
590:10-3-9. . . . . [AMENDED] 953
590:10-3-14. . . . . [NEW] (E) 121
590:10-3-14. . . . . [NEW] 954
590:10-7-13. . . . . [AMENDED] 954
590:10-7-18. . . . . [AMENDED] (E) 121
590:10-7-18. . . . . [AMENDED] 955
590:10-19-3. . . . . [AMENDED] 955
590:15-1-10. . . . . [AMENDED] 956
605:10-3-5. . . . . [AMENDED] (E) 428
605:10-5-1. . . . . [AMENDED] (E) 429
610:1-3-1. . . . . [AMENDED] 1323
610:1-3-2. . . . . [AMENDED] 1323
610:1-3-3. . . . . [AMENDED] 1324
610:1-3-6. . . . . [AMENDED] 1325
610:25-23-2. . . . . [AMENDED] 1325
610:25-23-5. . . . . [AMENDED] (E) 202
610:25-23-5. . . . . [AMENDED] 1326

610:25-23-6. . . . . [AMENDED] (E) 202
610:25-23-6. . . . . [AMENDED] 1327
610:25-27-3. . . . . [AMENDED] 1328
610:25-27-5. . . . . [AMENDED] 1328
610:25-27-6. . . . . [AMENDED] 1328
610:25-27-7. . . . . [AMENDED] 1329
610:25-27-9. . . . . [AMENDED] 1329
610:25-31-2. . . . . [AMENDED] 1330
610:25-31-4. . . . . [AMENDED] 1330
610:25-31-5. . . . . [NEW] 1330
610:25-35-1. . . . . [REVOKED] 1331
610:25-35-2. . . . . [REVOKED] 1331
610:25-35-3. . . . . [REVOKED] 1332
610:25-35-4. . . . . [REVOKED] 1332
610:25-35-5. . . . . [REVOKED] 1332
610:25-35-6. . . . . [REVOKED] 1332
610:25-35-7. . . . . [REVOKED] 1333
650:18-1-1. . . . . [NEW] (E) 122
650:18-1-2. . . . . [NEW] (E) 123
650:18-1-3. . . . . [NEW] (E) 123
650:18-1-4. . . . . [NEW] (E) 123
650:18-1-5. . . . . [NEW] (E) 123
650:18-1-6. . . . . [NEW] (E) 123
650:18-1-7. . . . . [NEW] (E) 123
650:18-1-8. . . . . [NEW] (E) 123
650:18-1-9. . . . . [NEW] (E) 123
650:18-1-10. . . . . [NEW] (E) 124
650:18-1-11. . . . . [NEW] (E) 124
650:18-1-12. . . . . [NEW] (E) 124
650:18-1-13. . . . . [NEW] (E) 124
650:18-1-14. . . . . [NEW] (E) 125
650:18-1-15. . . . . [NEW] (E) 125
695:10-1-5. . . . . [AMENDED] 1334
695:10-3-33. . . . . [AMENDED] 1334
695:10-5-4. . . . . [AMENDED] 1334
710:1-9-1. . . . . [NEW] (E) 17
710:1-9-2. . . . . [NEW] (E) 17
710:1-9-3. . . . . [NEW] (E) 17
710:1-9-4. . . . . [NEW] (E) 18
710:1-9-5. . . . . [NEW] (E) 18
710:1-9-6. . . . . [NEW] (E) 18
710:1-9-7. . . . . [NEW] (E) 18
710:1-9-8. . . . . [NEW] (E) 18
710:1-9-9. . . . . [NEW] (E) 18
710:1-9-10. . . . . [NEW] (E) 19
710:22-5-10. . . . . [NEW] (E) 267
712:10-5-1. . . . . [AMENDED] 1335
712:10-5-2. . . . . [AMENDED] 1342
712:10-5-3. . . . . [AMENDED] 1343
712:10-5-4. . . . . [AMENDED] 1346
712:10-7-1. . . . . [AMENDED] 1348
715:10-11-7. . . . . [AMENDED] (E) 319
715:10-15-26. . . . . [AMENDED] (E) 320
730:30-5-1. . . . . [AMENDED] (E) 19
730:30-5-1. . . . . [AMENDED] 1099
735:10-1-7. . . . . [AMENDED] 1349
775:10-3-10.1. . . . . [NEW] 958
775:10-3-12. . . . . [AMENDED] 958
775:10-7-9.1. . . . . [AMENDED] 958
775:15-1-2. . . . . [AMENDED] 959
775:25-1-4. . . . . [AMENDED] 960
775:26-1-1. . . . . [AMENDED] 961
800:10-3-5. . . . . [AMENDED] (E) 203
800:25-7-92.2. . . . . [NEW] (E) 431
800:25-7-132.1. . . . . [NEW] (E) 207

Agency/Title Index

[Assigned as of 5-15-09]

Agency	Title
Oklahoma **ACCOUNTANCY** Board	10
State **ACCREDITING** Agency	15
AD Valorem Task Force *(abolished 7-1-93)*	20
Oklahoma **AERONAUTICS** Commission	25
Board of Regents for the Oklahoma **AGRICULTURAL** and Mechanical Colleges	30
Oklahoma Department of **AGRICULTURE**, Food, and Forestry	35
Oklahoma Board of Licensed **ALCOHOL** and Drug Counselors	38
Board of Tests for **ALCOHOL** and Drug Influence	40
ALCOHOLIC Beverage Laws Enforcement Commission	45
ANATOMICAL Board of the State of Oklahoma	50
Board of Governors of the Licensed **ARCHITECTS,** Landscape Architects and Interior Designers of Oklahoma	55
ARCHIVES and Records Commission	60
Board of Trustees for the **ARDMORE** Higher Education Program	65
Oklahoma **ARTS** Council	70
Oklahoma State **ATHLETIC** Commission (*Formerly*: Oklahoma Professional **BOXING** Commission) - *See* Title 92	
ATTORNEY General	75
State **AUDITOR** and Inspector	80
State **BANKING** Department	85
Oklahoma State Employees **BENEFITS** Council	87
Council of **BOND** Oversight	90
Oklahoma State **ATHLETIC** Commission (*Formerly*: Oklahoma Professional **BOXING** Commission)	92
State **BURIAL** Board *(abolished 7-1-92)*	95
[RESERVED]	100
Oklahoma **CAPITAL** Investment Board	105
Oklahoma **CAPITOL** Improvement Authority	110
State **CAPITOL** Preservation Commission	115
CAPITOL-MEDICAL Center Improvement and Zoning Commission	120
Oklahoma Department of **CAREER** and Technology Education (*Formerly:* Oklahoma Department of **VOCATIONAL** and Technical Education) - See Title 780	
Board of Regents of **CARL** Albert State College	125
Department of **CENTRAL** Services (*Formerly:* Office of **PUBLIC** Affairs) - *See* Title 580	
CEREBRAL Palsy Commission	130
Commission on **CHILDREN** and Youth	135
Board of **CHIROPRACTIC** Examiners	140
Oklahoma Department of **EMERGENCY** Management (*Formerly:* Department of **CIVIL** Emergency Management)	145
Oklahoma Department of **COMMERCE**	150
COMMUNITY Hospitals Authority	152
COMPSOURCE Oklahoma (*Formerly:* State **INSURANCE** Fund) - *See* Title 370	
Oklahoma **CONSERVATION** Commission	155
CONSTRUCTION Industries Board	158
Department of **CONSUMER** Credit	160
CORPORATION Commission	165
Department of **CORRECTIONS**	170
State Board of **COSMETOLOGY**	175
Oklahoma State **CREDIT** Union Board	180
CRIME Victims Compensation Board	185
Joint **CRIMINAL** Justice System Task Force Committee	190
Board of **DENTISTRY**	195
Oklahoma **DEVELOPMENT** Finance Authority	200
Office of **DISABILITY** Concerns (*Formerly:* Office of **HANDICAPPED** Concerns) - *See* Title 305	
Board of Regents of **EASTERN** Oklahoma State College	205
EDGE Fund Policy Board	208
State Department of **EDUCATION**	210
EDUCATION Oversight Board	215
Oklahoma **EDUCATIONAL** Television Authority	220
[RESERVED]	225
State **ELECTION** Board	230
Oklahoma **FUNERAL** Board (*Formerly:* Oklahoma State Board of **EMBALMERS** and Funeral Directors)	235
Oklahoma Department of **EMERGENCY** Management (*Formerly:* Department of **CIVIL** Emergency Management) - *See* Title 145	
Oklahoma **EMPLOYMENT** Security Commission	240
Oklahoma **ENERGY** Resources Board	243
State Board of Licensure for Professional **ENGINEERS** and Land Surveyors (***Formerly:*** State Board of Registration for Professional **ENGINEERS** and Land Surveyors)	245
Board of Trustees for the **ENID** Higher Education Program	250
Department of **ENVIRONMENTAL** Quality	252
State Board of **EQUALIZATION**	255
ETHICS Commission *(Title revoked)*	257
ETHICS Commission	258
Office of State **FINANCE**	260
State **FIRE** Marshal Commission	265
Oklahoma Council on **FIREFIGHTER** Training	268
Oklahoma **FIREFIGHTERS** Pension and Retirement System	270
[RESERVED]	275
State Board of Registration for **FORESTERS**	280
FOSTER Care Review Advisory Board	285
Oklahoma **FUNERAL** Board (*Formerly:* Oklahoma State Board of Embalmers and Funeral Directors) - *See* Title 235	
Oklahoma **FUTURES**	290
GOVERNOR	295
GRAND River Dam Authority	300
Group Self-Insurance Association **GUARANTY** Fund Board	302
Individual Self-Insured **GUARANTY** Fund Board	303
STATE Use Committee (*Formerly:* Committee on Purchases of Products and Services of the Severely **HANDICAPPED**)	304
Office of **DISABILITY** Concerns (*Formerly:* Office of **HANDICAPPED** Concerns)	305
Oklahoma State Department of **HEALTH**	310
Oklahoma Basic **HEALTH** Benefits Board *(abolished 11-1-97)*	315
Oklahoma **HEALTH** Care Authority	317
HIGHWAY Construction Materials Technician Certification Board	318
Oklahoma **HISTORICAL** Society	320
Oklahoma **HORSE** Racing Commission	325
Oklahoma **HOUSING** Finance Agency	330
Oklahoma **HUMAN** Rights Commission	335
Department of **HUMAN** Services	340
Committee for **INCENTIVE** Awards for State Employees	345
Oklahoma **INDIAN** Affairs Commission	350
Oklahoma **INDIGENT** Defense System	352
Oklahoma **INDUSTRIAL** Finance Authority	355
INJURY Review Board	357
Oklahoma State and Education Employees Group **INSURANCE** Board	360
INSURANCE Department	365
COMPSOURCE Oklahoma (*Formerly:* State **INSURANCE** Fund)	370
Oklahoma State Bureau of **INVESTIGATION**	375
Council on **JUDICIAL** Complaints	376
Office of **JUVENILE** Affairs	377
Department of **LABOR**	380
Department of the Commissioners of the **LAND** Office	385
Council on **LAW** Enforcement Education and Training	390
Oklahoma **LAW** Enforcement Retirement System	395
Board on **LEGISLATIVE** Compensation	400
Oklahoma Department of **LIBRARIES**	405
LIEUTENANT Governor	410
Oklahoma **LINKED** Deposit Review Board	415
Oklahoma **LIQUEFIED** Petroleum Gas Board	420
Oklahoma **LIQUEFIED** Petroleum Gas Research, Marketing and Safety Commission	422
LITERACY Initiatives Commission	425

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

Submissions for Review

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

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

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

[OAR Docket #09-668]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Fee Schedules
35:2-3-2.2 [AMENDED]
35:2-3-2.3 [AMENDED]
35:2-3-2.4 [AMENDED]
35:2-3-2.6 [AMENDED]
SUBMITTED TO GOVERNOR:
March 24, 2009
SUBMITTED TO HOUSE:
March 24, 2009
SUBMITTED TO SENATE:
March 24, 2009

[OAR Docket #09-668; filed 4-16-09]

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

[OAR Docket #09-669]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 3. Fine Matrices [REVOKED]
Subchapter 1. Fine Schedules [REVOKED]
Part 1. General [REVOKED]
35:3-1-1. [REVOKED]
Part 3. Animal Health and Disease Violations [REVOKED]
Part 5. Food Safety Violations [REVOKED]
Part 7. Forestry and Timber Violations [REVOKED]
Part 9. Grain Warehouse Violations [REVOKED]
35:3-1-10. [REVOKED]
Part 11. Livestock Market Violations [REVOKED]
35:3-1-11. [REVOKED]
35:3-1-12. [REVOKED]
Part 13. Market Development Violations [REVOKED]
Part 15. Consumer Protection Services Violations [REVOKED]
35:3-1-15. [REVOKED]
35:3-1-17. [REVOKED]
35:3-1-18. [REVOKED]
35:3-1-19. [REVOKED]
35:3-1-20. [REVOKED]
35:3-1-21. [REVOKED]
35:3-1-22. [REVOKED]
35:3-1-23. [REVOKED]
35:3-1-24. [REVOKED]
Part 17. Agricultural Environmental Management Violations [REVOKED]
35:3-1-30. [REVOKED]
35:3-1-31. [REVOKED]
35:3-1-32. [REVOKED]
SUBMITTED TO GOVERNOR:
March 25, 2009
SUBMITTED TO HOUSE:
March 25, 2009
SUBMITTED TO SENATE:
March 25, 2009

[OAR Docket #09-669; filed 4-16-09]

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

[OAR Docket #09-670]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Fine Schedules [REVOKED]
Part 15. Consumer Protection Services Violations [REVOKED]
35:3-1-16 [REVOKED]
SUBMITTED TO GOVERNOR:
March 24, 2009
SUBMITTED TO HOUSE:
March 24, 2009
SUBMITTED TO SENATE:
March 24, 2009

[OAR Docket #09-670; filed 4-16-09]

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

[OAR Docket #09-671]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [AMENDED]
35:10-1-3 [AMENDED]
35:10-1-4 [NEW]
SUBMITTED TO GOVERNOR:
March 25, 2009
SUBMITTED TO HOUSE:
March 25, 2009
SUBMITTED TO SENATE:
March 25, 2009

[OAR Docket #09-671; filed 4-16-09]

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

[OAR Docket #09-672]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [AMENDED]
35:15-1-2 [AMENDED]
SUBMITTED TO GOVERNOR:
March 20, 2009
SUBMITTED TO HOUSE:
March 20, 2009
SUBMITTED TO SENATE:
March 20, 2009

[OAR Docket #09-672; filed 4-16-09]

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

[OAR Docket #09-673]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 13. Testing and Inspection for Disease and Release of Livestock at Auction Markets [AMENDED]
Subchapter 17. Bovine and Bison Brucellosis [AMENDED]
Subchapter 40. Bovine Tuberculosis [AMENDED]
SUBMITTED TO GOVERNOR:
March 25, 2009
SUBMITTED TO HOUSE:
March 25, 2009
SUBMITTED TO SENATE:
March 25, 2009

[OAR Docket #09-673; filed 4-16-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #09-674]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 17. Combined Pesticide
Part 5. Prerequisites for Licensing
35:30-17-10 [AMENDED]
SUBMITTED TO GOVERNOR:
March 24, 2009
SUBMITTED TO HOUSE:
March 24, 2009
SUBMITTED TO SENATE:
March 24, 2009

[OAR Docket #09-674; filed 4-16-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #09-675]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 13. Imported Fire Ant Quarantine
35:30-13-3 [AMENDED]
SUBMITTED TO GOVERNOR:
March 20, 2009
SUBMITTED TO HOUSE:
March 20, 2009
SUBMITTED TO SENATE:
March 20, 2009

[OAR Docket #09-675; filed 4-16-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 40. MARKET DEVELOPMENT

[OAR Docket #09-676]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Agriculture Enhancement and Diversification Program [AMENDED]
SUBMITTED TO GOVERNOR:
March 20, 2009
SUBMITTED TO HOUSE:
March 20, 2009
SUBMITTED TO SENATE:
March 20, 2009

[OAR Docket #09-676; filed 4-16-09]

TITLE 130. CEREBRAL PALSY COMMISSION CHAPTER 1. ORGANIZATION

[OAR Docket #09-658]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
130:1-1-13 [AMENDED]
SUBMITTED TO GOVERNOR:
April 1, 2009
SUBMITTED TO HOUSE:
April 1, 2009
SUBMITTED TO SENATE:
April 1, 2009

[OAR Docket #09-658; filed 4-13-09]

TITLE 265. STATE FIRE MARSHAL COMMISSION CHAPTER 25. ADOPTED NATIONAL CODES AND STANDARDS

[OAR Docket #09-677]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
265:25-1-3 [AMENDED]
SUBMITTED TO GOVERNOR:
April 17, 2009
SUBMITTED TO HOUSE:
April 17, 2009
SUBMITTED TO SENATE:
April 17, 2009

[OAR Docket #09-677; filed 4-17-09]

TITLE 265. STATE FIRE MARSHAL COMMISSION CHAPTER 40. FIRE SAFETY STANDARDS FOR CIGARETTES

[OAR Docket #09-678]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
265:40-1-1 [NEW]
265:40-1-2 [NEW]
265:40-1-3 [NEW]
265:40-1-4 [NEW]
265:40-1-5 [NEW]
265:40-1-6 [NEW]
265:40-1-7 [NEW]
265:40-1-8 [NEW]
265:40-1-9 [NEW]
265:40-1-10 [NEW]
265:40-1-11 [NEW]
SUBMITTED TO GOVERNOR:
April 17, 2009
SUBMITTED TO HOUSE:
April 17, 2009
SUBMITTED TO SENATE:
April 17, 2009

[OAR Docket #09-678; filed 4-17-09]

TITLE 300. GRAND RIVER DAM AUTHORITY CHAPTER 10. PUBLIC PURPOSE SUPPORT AND ASSISTANCE

[OAR Docket #09-660]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
300:10-1-2. [AMENDED]
SUBMITTED TO GOVERNOR:
April 9, 2009
SUBMITTED TO HOUSE:
April 9, 2009
SUBMITTED TO SENATE:
April 9, 2009

[OAR Docket #09-660; filed 4-13-09]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 2. GRIEVANCE PROCEDURES AND PROCESS

[OAR Docket #09-690]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
317:2-1-7. [AMENDED]
(Reference APA WF # 08-40)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-690; filed 4-17-09]

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

[OAR Docket #09-681]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 7. SoonerCare
Part 1. General Provisions
317:25-7-1. through 317:25-7-2. [AMENDED]
317:25-7-3. [AMENDED]
317:25-7-5. through 317:25-7-6. [AMENDED]
Part 3. Enrollment Criteria
317:25-7-10. [AMENDED]
317:25-7-12. through 317:25-7-13. [AMENDED]
Part 5. Enrollment Process
317:25-7-25. through 317:25-7-28. [AMENDED]
Part 7. Coordination and Continuity of Care [NEW]
317:25-7-29. through 317:25-7-30. [AMENDED]
Part 9. Reimbursement [NEW]
317:25-7-40. [NEW]
(Reference APA WF # 08-19)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-681; filed 4-17-09]

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

[OAR Docket #09-679]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 79. Dentists
317:30-5-695. [AMENDED]
317:30-5-696. [AMENDED]
317:30-5-698. [AMENDED]
(Reference APA WF# 08-04)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-679; filed 4-17-09]

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

[OAR Docket #09-680]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-9. [AMENDED]
(Reference APA WF # 08-13)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-680; filed 4-17-09]

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

[OAR Docket #09-686]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 85. ADvantage Program Waiver Services
317:30-5-764. [AMENDED]
Part 95. Agency Personal Care Services
317:30-5-953. [AMENDED]
(Reference APA WF # 08-29A)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-686; filed 4-17-09]

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

[OAR Docket #09-691]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 79. Dentists
317:30-5-696. [AMENDED]
317:30-5-698. through 317:30-5-699. [AMENDED]
(Reference APA WF# 08-41)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-691; filed 4-17-09]

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

[OAR Docket #09-693]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 41. Family Support Services
317:30-5-410. [AMENDED]
Part 43. Agency Companion, Specialized Foster Care, Daily Living Supports, Group Homes, and Community Transition Services
317:30-5-422. [AMENDED]
Part 101. Targeted Case Management Services for Persons with Mental Retardation and/or Related Conditions
317:30-5-1010. [AMENDED]
317:30-5-1010.1. [AMENDED]
(Reference APA WF # 08-46A)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-693; filed 4-17-09]

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

[OAR Docket #09-696]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 3. Hospitals
317:30-5-42.14. [AMENDED]
Part 63. Ambulatory Surgical Centers (ASC)
317:30-5-565. through 30-5-567. [AMENDED]
(Reference APA WF # 08-47)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-696; filed 4-17-09]

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

[OAR Docket #09-697]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 32. Soonerride Non-Emergency Transportation
317:30-5-326. [AMENDED]
(Reference APA WF #08-49)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-697; filed 4-17-09]

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

[OAR Docket #09-698]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-240. [AMENDED]
317:30-5-240.1. through 317:30-5-240.3. [NEW]
317:30-5-241. [AMENDED]
317:30-5-241.1. through 317:30-5-241.5. [NEW]
317:30-5-244. [AMENDED]
317:30-5-248. [AMENDED]
317:30-5-249. [NEW]
(Reference APA WF # 08-50)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-698; filed 4-17-09]

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

[OAR Docket #09-700]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 25. Psychologists
317:30-5-276. [AMENDED]
317:30-5-278.1 [AMENDED]
(Reference APA WF #08-53)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-700; filed 4-17-09]

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

[OAR Docket #09-701]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 3. General Provider Policies
Part 4. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program/Child Health Services
317:30-3-65.4. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-2. [AMENDED]
Part 3. Hospitals
317:30-5-49. [AMENDED]
Part 6. Inpatient Psychiatric Hospitals
317:30-5-97. [AMENDED]
Part 103. Qualified Schools as Providers of Health Related Services
317:30-5-1026. [AMENDED]
(Reference APA WF # 08-54)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009

SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-701; filed 4-17-09]

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

[OAR Docket #09-682]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 22. Pregnancy Related Benefits Covered Under Title ~~Xxi~~ XXI
317:35-22-9. through 317:35-22-11. [AMENDED]
(Reference APA WF # 08-21)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-682; filed 4-17-09]

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

[OAR Docket #09-683]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 15. Personal Care Services
317:35-15-1. through 317:35-15-10. [AMENDED]
317:35-15-11. [AMENDED]
317:35-15-15. [AMENDED]
(Reference APA WF # 08-22)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-683; filed 4-17-09]

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

[OAR Docket #09-684]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-41.8. through 317:35-5-41.10. [AMENDED]
Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
Part 7. Determination of Financial Eligibility
317:35-9-65. [AMENDED]
(Reference APA WF # 08-23)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-684; filed 4-17-09]

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

[OAR Docket #09-685]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Eligibility anc Countable Income
Part 5. Countable Income and Resources
317:35-5-42. [AMENDED]
(Reference APA WF # 08-25)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-685; filed 4-17-09]

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

[OAR Docket #09-687]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 15. Personal Care Services
317:35-15-14. [AMENDED]
Subchapter 17. ADvantage Waiver Services
317:35-17-22. [AMENDED]
(Reference APA WF # 08-29B)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-687; filed 4-17-09]

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

[OAR Docket #09-688]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
Part 3. Application Procedures
317:35-9-26. [AMENDED]
Subchapter 19. Nursing Facility Services
317:35-19-6. [AMENDED]
(Reference APA WF # 08-33)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-688; filed 4-17-09]

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

[OAR Docket #09-692]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Eligibility and Countable Income
Part 3. Non-Medical Eligibility Requirements
317:35-5-25. [AMENDED]
(Reference APA WF # 08-44)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-692; filed 4-17-09]

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

[OAR Docket #09-694]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
Part 1. Services
317:35-9-5. [AMENDED]
(Reference APA WF # 08-46B)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-694; filed 4-17-09]

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

[OAR Docket #09-699]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-43. [AMENDED]
(Reference APA WF #08-51)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-699; filed 4-17-09]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #09-695]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
317:40-1-1. [AMENDED]
Subchapter 5. Member Services
Part 1. Agency Companion Services
317:40-5-1. [REVOKED]
317:40-5-3. [AMENDED]
317:40-5-5. [AMENDED]
Part 9. Service Provisions
317:40-5-100. [AMENDED]
Subchapter 7. Employment Services Through Home and Community-Based Services Waivers
317:40-7-6. [AMENDED]
317:40-7-8. [AMENDED]
317:40-7-11. [AMENDED]
317:40-7-13. [AMENDED]
(Reference APA WF # 08-46C)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-695; filed 4-17-09]

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

[OAR Docket #09-689]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 3. Insure Oklahoma/O-EPIC IP Member Health Care Benefits
317:45-11-10. through 317:45-11-11. [AMENDED]
(Reference APA WF # 08-35)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-689; filed 4-17-09]

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

[OAR Docket #09-702]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
317:45-1-1. through 317:45-1-3. [AMENDED]
Subchapter 7. Insure Oklahoma/O-EPIC ~~PA~~ ESI Employer Eligibility
317:45-7-1. [AMENDED]
Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 5. Insure Oklahoma/O-EPIC ~~Individual Plan~~ IP Member Eligibility
317:45-11-25. [AMENDED]
(Reference APA WF # 08-55)
SUBMITTED TO GOVERNOR:
March 12, 2009

SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-702; filed 4-17-09]

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

[OAR Docket #09-703]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
317:45-1-4. [AMENDED]
Subchapter 3. Insure Oklahoma/O-EPIC ~~PA~~ Carriers
317:45-3-1. through 317:45-3-2. [AMENDED]
Subchapter 5. Insure Oklahoma/O-EPIC ~~PA~~ Qualified Health Plans
317:45-5-1. through 317:45-5-2. [AMENDED]
Subchapter 7. Insure Oklahoma/O-EPIC ~~PA~~ ESI Employer Eligibility
317:45-7-2. through 317:45-7-3. [AMENDED]
317:45-7-5. [AMENDED]
317:45-7-8. [AMENDED]
Subchapter 9. Insure Oklahoma/O-EPIC ~~PA~~ ESI Employee Eligibility
317:45-9-1. through 317:45-9-4. [AMENDED]
317:45-9-6. through 317:45-9-7. [AMENDED]
Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 1. Individual Plan Providers
317:45-11-1. through 317:45-11-2. [AMENDED]
Part 5. Insure Oklahoma/O-EPIC ~~Individual Plan~~ IP Member Eligibility
317:45-11-20. through 317:45-11-24. [AMENDED]
317:45-11-26. through 317:45-11-27. [AMENDED]
(Reference APA WF # 08-56)
SUBMITTED TO GOVERNOR:
March 12, 2009
SUBMITTED TO HOUSE:
March 12, 2009
SUBMITTED TO SENATE:
March 12, 2009

[OAR Docket #09-703; filed 4-17-09]

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

[OAR Docket #09-761]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-26.2 [NEW]
Subchapter 7. Foster Home Care
Part 1. General Provisions
340:75-7-2 [AMENDED]
Part 2. Development of Resources
340:75-7-10 [AMENDED]
340:75-7-12 [AMENDED]
340:75-7-14 through 340:75-7-15 [AMENDED]
340:75-7-18 [AMENDED]
Part 4. Roles and Responsibilities
340:75-7-37 through 340:75-7-37.1 [AMENDED]
340:75-7-41 [AMENDED]
Part 5. Eligibility and Payments
340:75-7-51 through 340:75-7-52.1 [AMENDED]
Part 6. Foster Home Care Support Services
340:75-7-65 [AMENDED]
Part 27. Contract Foster Care Program
340:75-7-280 [NEW]
Subchapter 11. Child Welfare Community-Based Residential Care
Part 23. Specialized Community Homes
340:75-11-286 [AMENDED]
(Reference APA WF 08-28)
SUBMITTED TO GOVERNOR:
February 24, 2009
SUBMITTED TO HOUSE:
February 24, 2009
SUBMITTED TO SENATE:
February 24, 2009

[OAR Docket #09-761; filed 4-22-09]

Gubernatorial Approvals

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

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

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

[OAR Docket #09-763]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 18. Computer-Based Examination
10:15-18-3. [AMENDED]
10:15-18-4. [AMENDED]
10:15-18-6. [AMENDED]
10:15-18-7. [AMENDED]
Subchapter 27. Fees
10:15-27-3.1. [AMENDED]
Subchapter 30. Continuing Professional Education
10:15-30-2. [AMENDED]
10:15-30-3. [AMENDED]
10:15-30-5. [AMENDED]
Subchapter 32. Standards for Continuing Professional Education (CPE) Programs
10:15-32-2 [AMENDED]
10:15-32-5 [AMENDED]
Subchapter 33. Peer Review
10:15-33-5. [AMENDED]
10:15-33-7. [AMENDED]
Subchapter 35. Reinstatement
10:15-35-1 [AMENDED]
Subchapter 37. Enforcement Procedures
10:15-37-5. [AMENDED]
10:15-37-6. [AMENDED]
Subchapter 39. Rules of Professional Conduct
10:15-39-1. [AMENDED]
10:15-39-9. [AMENDED]
Subchapter 43. Audits Performed in Accordance with Government Auditing Standards
10:15-43-7 [NEW]
10:15-43-8 [NEW]
GUBERNATORIAL APPROVAL:
April 7, 2009

[OAR Docket #09-763; filed 4-22-09]

TITLE 165. CORPORATION COMMISSION
CHAPTER 30. MOTOR CARRIERS

[OAR Docket #09-731]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Intrastate Motor Carriers
Part 1. Applying for a License
165:30-3-1. Obtaining a license [AMENDED]
Part 3. License Requirements
165:30-3-11. Insurance [AMENDED]
165:30-3-16. Current address requirement [AMENDED]
Part 9. Violations
165:30-3-71. Loading capacity - Safety compliance [AMENDED]
165:30-3-76. Contempt complaint [AMENDED]
Subchapter 7. Procedural Rules
165:30-7-12. Revocation, suspension or denial of issuance of motor carrier license, permit, certificate or registration [NEW]
165:30-7-13. Disqualification procedure [NEW]
Subchapter 19. Registration Pursuant to the International Registration Plan
165:30-19-12. Supplemental application [AMENDED]
165:30-19-17. Temporary registration [AMENDED]
Subchapter 21. International Fuel Tax Agreement
165:30-21-7. Application processing [AMENDED]
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-731; filed 4-17-09]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 2. GRIEVANCE PROCEDURES AND PROCESS

[OAR Docket #09-714]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
317:2-1-7. [AMENDED]
(Reference APA WF # 08-40)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-714; filed 4-17-09]

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

[OAR Docket #09-706]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 7. SoonerCare
Part 1. General Provisions
317:25-7-1. through 317:25-7-2. [AMENDED]
317:25-7-3. [AMENDED]
317:25-7-5. through 317:25-7-6. [AMENDED]
Part 3. Enrollment Criteria
317:25-7-10. [AMENDED]
317:25-7-12. through 317:25-7-13. [AMENDED]
Part 5. Enrollment Process
317:25-7-25. through 317:25-7-28. [AMENDED]
Part 7. Coordination and Continuity of Care [NEW]
317:25-7-29. through 317:25-7-30. [AMENDED]
Part 9. Reimbursement [NEW]
317:25-7-40. [NEW]
(Reference APA WF # 08-19)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-706; filed 4-17-09]

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

[OAR Docket #09-704]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 79. Dentists
317:30-5-695. [AMENDED]
(Reference APA WF # 08-04)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-704; filed 4-17-09]

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

[OAR Docket #09-705]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-9. [AMENDED]
(Reference APA WF # 08-13)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-705; filed 4-17-09]

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

[OAR Docket #09-710]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 95. Agency Personal Care Services
317:30-5-953. [AMENDED]
(Reference APA WF # 08-29A)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-710; filed 4-17-09]

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

[OAR Docket #09-715]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 79. Dentists
317:30-5-696. [AMENDED]
317:30-5-698. through 317:30-5-699. [AMENDED]
(Reference APA WF # 08-41)

GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-715; filed 4-17-09]

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

[OAR Docket #09-717]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 41. Family Support Services
317:30-5-410. [AMENDED]
Part 43. Agency Companion, Specialized Foster Care, Daily Living Supports, Group Homes, and Community Transition Services
317:30-5-422. [AMENDED]
Part 101. Targeted Case Management Services for Persons with Mental Retardation and/or Related Conditions
317:30-5-1010. [AMENDED]
317:30-5-1010.1. [AMENDED]
(Reference APA WF # 08-46A)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-717; filed 4-17-09]

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

[OAR Docket #09-720A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 32. Soonerride Non-Emergency Transportation
317:30-5-326. [AMENDED]
(Reference APA WF #08-49)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-720A; filed 4-17-09]

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

[OAR Docket #09-720]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 3. Hospitals
317:30-5-42.14. [AMENDED]
Part 63. Ambulatory Surgical Centers
317:30-5-565. through 30-5-567. [AMENDED]
(Reference APA WF # 08-47)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-720; filed 4-17-09]

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

[OAR Docket #09-721]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-240. [AMENDED]
317:30-5-240.1. through 317:30-5-240.3. [NEW]
317:30-5-241. [AMENDED]
317:30-5-241.1. through 317:30-5-241.5. [NEW]
317:30-5-244. [AMENDED]
317:30-5-248. [AMENDED]
317:30-5-249. [NEW]
(Reference APA WF # 08-50)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-721; filed 4-17-09]

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

[OAR Docket #09-723]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 5. Individual Providers and Specialties
Part 25. Psychologists
317:30-5-276. [AMENDED]
317:30-5-278.1 [AMENDED]
(Reference APA WF # 08-53)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-723; filed 4-17-09]

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

[OAR Docket #09-724]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. General Provider Policies
Part 4. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program/Child Health Services
317:30-3-65.4. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-2. [AMENDED]
Part 3. Hospitals
317:30-5-49. [AMENDED]
Part 6. Inpatient Psychiatric Hospitals
317:30-5-97. [AMENDED]
Part 103. Qualified Schools as Providers of Health Related Services
317:30-5-1026. [AMENDED]
(Reference APA WF # 08-54)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-724; filed 4-17-09]

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

[OAR Docket #09-706A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 22. Pregnancy Related Benefits Covered Under Title ~~Xxi~~ XXI
317:35-22-9. through 317:35-22-11. [AMENDED]
(Reference APA WF # 08-21)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-706A; filed 4-17-09]

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

[OAR Docket #09-707]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 15. Personal Care Services
317:35-15-1. through 317:35-15-10. [AMENDED]
317:35-15-11. [AMENDED]
317:35-15-15. [AMENDED]
(Reference APA WF # 08-22)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-707; filed 4-17-09]

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

[OAR Docket #09-708]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-41-8 through 317:35-41-10. [AMENDED]
Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
Part 7. Determination of Financial Eligibility
317:35-9-65 [AMENDED]
(Reference APA WF # 08-23)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-708; filed 4-17-09]

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

[OAR Docket #09-709]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Eligibility anc Countable Income
Part 5. Countable Income and Resources
317:35-5-42. [AMENDED]
(Reference APA WF # 08-25)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-709; filed 4-17-09]

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

[OAR Docket #09-711]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 15. Personal Care Services
317:35-15-14. [AMENDED]
Subchapter 17. ADvantage Waiver Services
317:35-17-22. [AMENDED]
(Reference APA WF # 08-29B)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-711; filed 4-17-09]

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

[OAR Docket #09-712]

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 3. Application Procedures
317:35-9-26. [AMENDED]
Subchapter 19. Nursing Facility Services
317:35-19-6. [AMENDED]
(Reference APA WF # 08-33)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-712; filed 4-17-09]

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

[OAR Docket #09-716]

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]
(Reference APA WF # 08-44)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-716; filed 4-17-09]

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

[OAR Docket #09-718]

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 1. Services
317:35-9-5. [AMENDED]
(Reference APA WF # 08-46B)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-718; filed 4-17-09]

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

[OAR Docket #09-722]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-43. [AMENDED]
(Reference APA WF # 08-51)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-722; filed 4-17-09]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #09-719]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
317:40-1-1. [AMENDED]
Subchapter 5. Member Services
Part 1. Agency Companion Services
317:40-5-1. [REVOKED]
317:40-5-3. [AMENDED]
317:40-5-5. [AMENDED]
Part 9. Service Provisions
317:40-5-100. [AMENDED]
Subchapter 7. Employment Services Through Home and Community-Based Services Waivers
317:40-7-6. [AMENDED]
317:40-7-8. [AMENDED]
317:40-7-11. [AMENDED]
317:40-7-13. [AMENDED]
(Reference APA WF # 08-46C)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-719; filed 4-17-09]

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

[OAR Docket #09-713]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 3. Insure Oklahoma/O-EPIC IP Member Health Care Benefits
317:45-11-10. through 317:45-11-11. [AMENDED]
(Reference APA WF # 08-35)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-713; filed 4-17-09]

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

[OAR Docket #09-725]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
317:45-1-1. through 317:45-1-3. [AMENDED]
Subchapter 7. Insure Oklahoma/O-EPIC ~~PA~~ ESI Employer Eligibility
317:45-7-1. [AMENDED]
Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 5. Insure Oklahoma/O-EPIC ~~Individual Plan~~ IP Member Eligibility
317:45-11-25. [AMENDED]
(Reference APA WF # 08-55)
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-725; filed 4-17-09]

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

[OAR Docket #09-726]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
317:45-1-4. [AMENDED]
Subchapter 3. Insure Oklahoma/O-EPIC ~~PA~~ Carriers
317:45-3-1. through 317:45-3-2. [AMENDED]
Subchapter 5. Insure Oklahoma/O-EPIC ~~PA~~ Qualified Health Plans
317:45-5-1. through 317:45-5-2. [AMENDED]

Subchapter 7. Insure Oklahoma/O-EPIC ~~PA~~ ESI Employer Eligibility
317:45-7-2. through 317:45-7-3. [AMENDED]
317:45-7-5. [AMENDED]
317:45-7-8. [AMENDED]
Subchapter 9. Insure Oklahoma/O-EPIC ~~PA~~ ESI Employee Eligibility
317:45-9-1. through 317:45-9-4. [AMENDED]
317:45-9-6. through 317:45-9-7. [AMENDED]
Subchapter 11. Insure Oklahoma/O-EPIC IP
Part 1. Individual Plan Providers
317:45-11-1. through 317:45-11-2. [AMENDED]
Part 5. Insure Oklahoma/O-EPIC ~~Individual Plan~~ IP Member Eligibility
317:45-11-20. through 317:45-11-24. [AMENDED]
317:45-11-26. through 317:45-11-27. [AMENDED]
(Reference APA WF # 08-56)

GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-726; filed 4-17-09]

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

[OAR Docket #09-764]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
340:25-1-1 through 340:25-1-1.2 [AMENDED]
340:25-1-2.1 [AMENDED]
340:25-1-5.1 [AMENDED]
Subchapter 3. Commissioned Peace Officers
340:25-3-1 through 340:25-3-1.1 [AMENDED]
340:25-3-3 [AMENDED]
340:25-3-5 [AMENDED]
Subchapter 5. Operational Policies
Part 9. Disclosure of Information
340:25-5-66 [AMENDED]
Part 11. ~~CSED~~ OCCS System Security
340:25-5-75 [AMENDED]
Part 13. Retention and Destruction of Records
340:25-5-95 [AMENDED]
Part 15. Case Initiation, Case Management, and Case Closure
340:25-5-117 [AMENDED]
340:25-5-123 [AMENDED]
340:25-5-124 [AMENDED]
340:25-5-124.2 through 340:25-5-124.3 [AMENDED]
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 through 340:25-5-176.1 [AMENDED]
340:25-5-178 [AMENDED]
Part 23. Enforcement
340:25-5-201.1 [AMENDED]
340:25-5-203.2 [NEW]
340:25-5-212 [AMENDED]
340:25-5-214 [AMENDED]
Part 31. Consumer Reporting Agencies - Credit Bureaus
340:25-5-265.1 [AMENDED]
Part 39. Accounting and Distribution
340:25-5-345.2 [NEW]
340:25-5-350.3 [AMENDED]
340:25-5-350.4 [NEW]
340:25-5-352 [NEW]
(Reference WF 08-14 and 08-15)

GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-764; filed 4-23-09]

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

[OAR Docket #09-762]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-26.2 [NEW]
Subchapter 7. Foster Home Care
Part 1. General Provisions
340:75-7-2 [AMENDED]
Part 2. Development of Resources
340:75-7-10 [AMENDED]
340:75-7-12 [AMENDED]
340:75-7-14 through 340:75-7-15 [AMENDED]
340:75-7-18 [AMENDED]
Part 4. Roles and Responsibilities
340:75-7-37 through 340:75-7-37.1 [AMENDED]
340:75-7-41 [AMENDED]
Part 5. Eligibility and Payments
340:75-7-51 through 340:75-7-52.1 [AMENDED]
Part 6. Foster Home Care Support Services
340:75-7-65 [AMENDED]
Part 27. Contract Foster Care Program [NEW]
340:75-7-280 [NEW]
Subchapter 11. Child Welfare Community-Based Residential Care
Part 23. Specialized Community Homes

340:75-11-286 [AMENDED]
(Reference APA WF 08-28)
GUBERNATORIAL APPROVAL:
March 12, 2009

[OAR Docket #09-762; filed 4-22-09]

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

[OAR Docket #09-666]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Policy Development and Program Standards
Part 1. General Provisions
612:3-5-1. Purpose [AMENDED]
Part 3. Policy Development
612:3-5-12. Policy Development [AMENDED]
612:3-5-13. Drafting of new or revised policy [AMENDED]
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-666; filed 4-16-09]

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

[OAR Docket #09-667]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
612:10-1-2. Definitions [AMENDED]
Subchapter 7. Vocational Rehabilitation and Visual Services
Part 1. Scope of Vocational Rehabilitation and Visual Services
612:10-7-4. Basic eligibility requirements for vocational rehabilitation services [AMENDED]
Part 5. Case Status and Classification System
612:10-7-50. Eligibility - accepted for services and IPE under development [AMENDED]
612:10-7-62. Post-Employment services [AMENDED]
Part 9. Actions Requiring Review and Approval
612:10-7-88. Actions requiring field coordinator's approval [AMENDED]
Part 13. Supportive Services
612:10-7-131. Transportation [AMENDED]
Part 15. Training
612:10-7-152. Payment of tuition and fees at colleges and universities [AMENDED]
Part 21. Purchase of Equipment, Occupational Licenses and Certificates
612:10-7-219. Purchase of motor vehicles [AMENDED]
612:10-7-220. ~~Purchase of special equipment for motor vehicles~~ Vehicle modification services [AMENDED]
Part 23. Self-employment Programs and Other Services
612:10-7-233. Special consideration in state government employment for persons with severe disabilities [AMENDED]
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-667; filed 4-16-09]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #09-745]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Public Policy
Part 3. Taxpayer Identification
710:1-3-6 [AMENDED]
Part 11. Public Records
710:1-3-73 [AMENDED]
Subchapter 5. Practice and Procedure
Part 3. Description of Administrative Review and Hearings
710:1-5-10 [AMENDED]
Part 5. Administrative Proceedings Related to Tax Protests
710:1-5-27 [AMENDED]
710:1-5-37 [AMENDED]
710:1-5-38 [AMENDED]
GUBERNATORIAL APPROVAL:
April 14, 2009

[OAR Docket #09-745; filed 4-22-09]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 10. AD VALOREM

[OAR Docket #09-746]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 4. Annual Valuation Mandate

710:10-4-8 [AMENDED]
710:10-4-9 [AMENDED]
Subchapter 7. Manufacturing Facilities
710:10-7-6 [AMENDED]
Subchapter 9. Manufactured Homes
710:10-9-22 [AMENDED]
Subchapter 14. ~~Full Fair Cash Value Exemption for~~ Disabled Veterans in Receipt of Compensation at the One Hundred Percent Rate
710:10-14-1 [AMENDED]
Subchapter 15. Freeport Exemption
710:10-15-2 [AMENDED]

GUBERNATORIAL APPROVAL:
April 14, 2009

[OAR Docket #09-746; filed 4-22-09]

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

[OAR Docket #09-747]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 2. Low-Point Beer
Part 1. General Provisions
710:20-2-20 [AMENDED]

GUBERNATORIAL APPROVAL:
April 14, 2009

[OAR Docket #09-747; filed 4-22-09]

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

[OAR Docket #09-748]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 5. Procedures for Registration
710:22-5-10 [NEW]
Subchapter 7. Titles
710:22-7-14 [NEW]

GUBERNATORIAL APPROVAL:
April 14, 2009

[OAR Docket #09-748; filed 4-22-09]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 45. GROSS PRODUCTION

[OAR Docket #09-749]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 9. Exemptions and Exclusions
Part 13. Deep Wells
710:45-9-60 [AMENDED]

GUBERNATORIAL APPROVAL:
April 14, 2009

[OAR Docket #09-749; filed 4-22-09]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 50. INCOME

[OAR Docket #09-750]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 9. Refunds
710:50-9-8 [AMENDED]
Subchapter 15. Oklahoma Taxable Income
Part 3. Exemptions
710:50-15-34 [NEW]
Part 7. Credits against Tax
710:50-15-81 [AMENDED]
710:50-15-86 [AMENDED]
710:50-15-86.1 [AMENDED]
710:50-15-87 [AMENDED]
710:50-15-87.1 [AMENDED]
710:50-15-95 [AMENDED]
710:50-15-98 [AMENDED]
710:50-15-100 [AMENDED]
710:50-15-103 [AMENDED]
710:50-15-108 [AMENDED]
710:50-15-109 [NEW]
Subchapter 17. Oklahoma Taxable Income for Corporations
Part 5. Determination of Taxable Corporate Income
710:50-17-51 [AMENDED]
710:50-17-52 [NEW]

GUBERNATORIAL APPROVAL:
April 14, 2009

[OAR Docket #09-750; filed 4-22-09]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

[OAR Docket #09-751]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Registration and Licensing
Part 1. General Provisions
710:60-3-14 [AMENDED]
710:60-3-24 [AMENDED]
710:60-3-25 [NEW]
Part 5. Dealers
710:60-3-54 [AMENDED]
710:60-3-56 [AMENDED]
Part 7. Noncommercial Vehicles
710:60-3-70 [AMENDED]
Part 9. Commercial Vehicles
710:60-3-99 [AMENDED]
Part 11. Other Vehicles
710:60-3-111 [AMENDED]
710:60-3-115 [NEW]
Part 14. All-Terrain Vehicles, and Off-Road Motorcycles and Utility Vehicles
710:60-3-140 [AMENDED]
710:60-3-141 [AMENDED]
710:60-3-142 [AMENDED]
Subchapter 5. Motor Vehicle Titles
Part 1. General Provisions
710:60-5-2 [AMENDED]
710:60-5-6 [AMENDED]
Part 5. Certificates of Title
710:60-5-53 [AMENDED]
710:60-5-61 [NEW]
Part 7. Transfer of Title
710:60-5-73 [AMENDED]
Subchapter 7. Motor Vehicle Excise Tax
710:60-7-4 [AMENDED]
Subchapter 9. Motor Vehicle License Agents/Agencies
Part 1. General Requirements, Duties and Responsibilities of Motor License Agents
710:60-9-2 [AMENDED]
Part 5. Specific Recordkeeping Duties
710:60-9-52 [AMENDED]
Part 7. Specific Reporting Duties
710:60-9-72 [AMENDED]
Part 13. Special Provisions for Application, Qualification, Appointment, and Agency Operation Applicable to Certain Motor License Agents and Agencies
710:60-9-134 [AMENDED]

GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-751; filed 4-22-09]

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

[OAR Docket #09-752]

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
710:65-3-4 [AMENDED]
Subchapter 7. Duties and Liabilities
710:65-7-13 [AMENDED]
710:65-7-15 [AMENDED]
710:65-7-20 [NEW]
Subchapter 9. Permits
710:65-9-1 [AMENDED]
Subchapter 13. Sales and Use Tax Exemptions
Part 9. Computers; Data Processing; Telecommunications
710:65-13-51 [AMENDED]
710:65-13-52 [AMENDED]
Part 29. Manufacturing
710:65-13-158 [NEW]
Part 31. Medicine, Medical Appliances, and Health Care Entities and Activities
710:65-13-170 [AMENDED]
710:65-13-173 [AMENDED]
710:65-13-177 [NEW]
Part 39. Schools and Higher Education
710:65-13-210 [AMENDED]
Part 43. Social, Charitable and Civic Organizations and Activities
710:65-13-343 [AMENDED]
710:65-13-345 [AMENDED]
710:65-13-357 [NEW]
710:65-13-358 [NEW]
710:65-13-359 [NEW]
710:65-13-360 [NEW]
Part 65. Web Portals
710:65-13-650 [AMENDED]
Subchapter 18. Sourcing Pursuant to the Streamlined Sales and Use Tax Administration Act
710:65-18-3 [AMENDED]
Subchapter 19. Specific Application and Examples
Part 1. "A"
710:65-19-11 [AMENDED]

Part 5. "C"
710:65-19-44 [AMENDED]
710:65-19-56 [AMENDED]
Part 11. "F"
710:65-19-114 [AMENDED]
GUBERNATORIAL APPROVAL:
April 13, 2009

[OAR Docket #09-752; filed 4-22-09]

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

[OAR Docket #09-753]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Part 1. General Provisions
Subchapter 2. Cigarette Stamp Tax
710:70-2-11 [AMENDED]
710:70-2-12 [REVOKED]
710:70-2-13 [REVOKED]
Subchapter 5. Excise on Tobacco Products
710:70-5-12 [AMENDED]
710:70-5-13 [AMENDED]
GUBERNATORIAL APPROVAL:
April 14, 2009

[OAR Docket #09-753; filed 4-22-09]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 90. WITHHOLDING

[OAR Docket #09-754]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
710:90-1-6 [AMENDED]
Subchapter 3. Returns and Payments
710:90-3-10 [AMENDED]
GUBERNATORIAL APPROVAL:
April 14, 2009

[OAR Docket #09-754; filed 4-22-09]

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

[OAR Docket #09-755]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Waste Tire Recycling
710:95-5-9 [AMENDED]
GUBERNATORIAL APPROVAL:
April 14, 2009

[OAR Docket #09-755; filed 4-22-09]

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

[OAR Docket #09-657]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 11. Withdrawal from Membership and Refund of Deposits
715:10-11-7. Rollovers from OTRS to other eligible retirement plans [AMENDED]
Subchapter 15. Service Retirement
715:10-15-26. Code Section 415 limits as applied to TRS [AMENDED]
GUBERNATORIAL APPROVAL:
March 24, 2009

[OAR Docket #09-657; filed 4-10-09]

TITLE 730. DEPARTMENT OF TRANSPORTATION
CHAPTER 35. MAINTENANCE AND CONTROL OF STATE HIGHWAY SYSTEM

[OAR Docket #09-743]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Highway Advertising Control
730:35-5-3 [AMENDED]
730:35-5-6 [AMENDED]
730:35-5-8 [AMENDED]
730:35-5-12 [AMENDED]
730:35-5-13 [AMENDED]

730:35-5-16 [AMENDED]
730:35-5-17 [NEW]

GUBERNATORIAL APPROVAL:

March 24, 2009

[OAR Docket #09-743; filed 4-20-09]

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 165. CORPORATION COMMISSION CHAPTER 20. GAS & HAZARDOUS LIQUID PIPELINE SAFETY

[OAR Docket #09-730]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 15. Regulations for Grants to Aid State Pipeline Safety Programs [NEW]
165:20-15-1. Regulations for grants to aid state pipeline safety programs [NEW]
AUTHORITY:
Okla. Const., Art. IX, Sec. 18, 19, 17 O.S. §152, 52 O.S. §§ 5, 47.3
DATES:
Comment Period:
December 24, 2008 through January 30, 2009
Public Hearing:
February 12, 2009
Adoption:
February 12, 2009
Submitted to the Governor:
February 20, 2009
Submitted to the House:
February 20, 2009
Submitted to Senate:
February 20, 2009
Gubernatorial approval:
March 6, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2009.
Final Adoption:
April 16, 2009
Effective Date:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None
ANALYSIS:
By this rule, the Corporation Commission adopts federal regulations regarding grants-in-aid for state pipeline safety compliance programs. This rule will enable the Commission to receive the maximum allowed reimbursement under the Pipeline Safety Grant Program for intrastate pipeline facilities.
CONTACT PERSON:
Kathy Nelson, 522-1638

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2009:

SUBCHAPTER 15. REGULATIONS FOR GRANTS TO AID STATE PIPELINE SAFETY PROGRAMS

165:20-15-1. Regulations for grants to aid state pipeline safety programs

The Commission adopts the provisions of 49 C.F.R. Part 198, with all amendments and appendices thereto as such exist January 1, 2009, and all amendments and appendices adopted thereafter.

[OAR Docket #09-730; filed 4-17-09]

TITLE 165. CORPORATION COMMISSION CHAPTER 55. TELECOMMUNICATIONS SERVICES

[OAR Docket #09-729]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Rates and Tariffs
Part 3. Approval and Notice Requirements
165:55-5-10. Tariff approval and revisions to tariffs [AMENDED]
165:55-5-10.1. Competitive services [AMENDED]
165:55-5-10.2. Promotional offerings [AMENDED]
165:55-5-10.3. Customer-specific contracts under ICB pricing [AMENDED]
165:55-5-12.1. Flow through of net reductions/increases in access charges. [AMENDED]
Part 11. Oklahoma Plan
165:55-5-66. Pricing [AMENDED]
165:55-5-70. Packaging [AMENDED]
Subchapter 7. Directories, Telephone Numbers, and Customer-Provided Equipment
165:55-7-1. Telephone directories [AMENDED]
Subchapter 9. Customer Billing and Deposits
Part 1. Billing and Payment Requirements
165:55-9-8. Customer preferences [AMENDED]
Subchapter 11. Service Denial, Suspension and Disconnection
Part 3. Suspension and Disconnection Procedures
165:55-11-10. Suspension or disconnection for nonpayment or failure to make security deposit [AMENDED]
165:55-11-11. Suspension or disconnection for reasons other than nonpayment
165:55-11-14. Multi-state customers [NEW]
Subchapter 17. Facilitation of Local Exchange Competition
165:55-17-30. Customer choice [AMENDED]
AUTHORITY:
Oklahoma Corporation Commission
Article IX, Section 18, Oklahoma Constitution
17 Okla. Stat. §§ 152

DATES:
Comment Period:
November 21, 2008 through January 6, 2009
Public Hearing:
January 6 and 7, 2009
Adoption:
January 7, 2009
Submitted to the Governor:
January 15, 2009
Submitted to the House:
January 15, 2009
Submitted to Senate:
January 15, 2009
Gubernatorial approval:
February 12, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 25, 2009.
Final Adoption:
March 25, 2009
Effective Date:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None
ANALYSIS:

The amendments to OAC 165:55-5-10 are needed to assure a "level playing field" among all Telecommunication Service Providers (TSPs). The amendments to this section will assure that all TSPs may submit new and revised tariffs describing a regulated service or a packaged service to the Commission's Public Utility Division (PUD) Director in identical manner and that such tariffs will be treated uniformly by the Commission. Presently some TSPs-through specific authority obtained by the filing of individual causes at the Commission-are permitted to submit their new and revised tariffs directly to the PUD Director while other TSPs are required to file their tariffs with the Commission; this amendment will make a uniform system of submission for all TSPs. These amendments will result in a streamlined, two-tiered process as opposed to the multi-tiered process presently in place. The amendments are also needed to assure that any new or revised tariff describing switched access service, E911 service, or payphone access service, shall become effective only after the issuance of a Commission order.

The amendments to OAC 165:55-5-10.1 are also needed to assure a "level playing field" among all TSPs by permitting a uniform submission of tariffs describing competitive services directly to the PUD Director. The amendments to this section will streamline the Commission's designation of competitive services, thereby assuring similarly situated TSPs providing similar services within the same geographic area as an ILEC's area in which services have been deemed competitive will also be deemed competitive without the need of an additional legal showing.

The amendments to OAC 165:55-5-10.2 are needed to assure acronyms are used consistently throughout Chapter 55 and to amen the date that promotional offerings may become effective to on or after the day following the day a Promotional Form is provided to the PUD Director.

The amendments to OAC 165:55-5-10.3 are needed to assure acronyms are used consistently throughout Chapter 55 and to extend the submission deadline to the Commission of customer-specific contracts for business purposes from quarterly to semi-annually and from thirty (30) to sixty (60) days after the closing of the reporting period. The extended deadlines are needed to relax unnecessarily restrictive reporting requirements while still assuring the Commission timely receives needed information.

The deletion of OAC 165:55-5-12.1 is needed as the language is no longer necessary. This section was initially included in Chapter 55 to address a specific statute mandating a net reduction in access charges. This reduction has been fully completed therefore the language no longer is of any value.

The amendments to OAC 165:55-5-66 are needed, in part, because the language is no longer necessary. As with OAC 165:55-5-12.1, this language was initially included in Chapter 55 to address a specific statute mandating a net reduction in access charges. This reduction has been fully completed therefore the language no longer is of any value. The remaining amendments are needed to assure new or revised tariffs for telecommunications services provided customers under Basket 4 of the Oklahoma Plan are processed in like manner as services provided outside the Oklahoma Plan; to assure uniformity between TSPs of new and revised tariffs.

The amendments to OAC 165:55-5-70 are needed to establish a "level playing field" between TSPs operating under the Oklahoma Plan and all other TSPs. In particular, the amendments are needed to assure packaged services, promotional offerings and customer- specific contracts offered customers under the Oklahoma Plan Oklahoma Plan are processed in like manner as they would be outside the Oklahoma Plan.

The amendments to OAC 165:55-5-72 are needed to remove language which is no longer necessary. In particular, the ARMIS data referenced in the section is no longer a required FCC filing and therefore need not be provided to the Commission either.

The amendments to OAC 165:55-7-1 are needed to permit TSPs the flexibility to furnish customers with a white pages directory in a variety of electronic versions, rather than solely a printed paper directory as presently required, as many customers are not interested in printed paper directories. These amendments will permit TSPs to forgo unnecessary printing expenses and will conserve natural resources.

The amendments to OAC 165:55-9-8 are needed to extend to multi-state and multi-national business end-users the right to enter into customer-specific, written contracts regarding the terms and conditions of Subpart 9, a privilege presently enjoyed solely by business end-users with 10 or more access lines. These amendments are needed as there is no reasonable justification to allow customer-specific, written contracts for business end-users with 10 or more access lines but deny it to multi-state and multi-national business end-users.

The amendments to OAC 165:55-11-10 are needed to permit TSPs to provide notice of potential suspension or disconnection of telecommunications services to their customers and end-users in the most effective manner possible. These amendments are needed to permit TSPs to provide notice to customers and end-users telephonically and electronically via the internet and email, as well as traditional notice through the United States Postal Service.

The amendments to OAC 165:55-11-11 are needed to protect the safety and well-being of TSPs' employees by permitting the immediate suspension or disconnection of telecommunications services to end-users who threaten TSPs' employee(s). The amendments balance the interest of a TSP to protect its employee's safety and well-being with the Commission's duty to assure an end-user's telecommunications services are not improperly suspended or disconnected.

The amendments to OAC 165:55-17-30 are needed to assure that an end-user's right to select the carrier of his or her choice is not prohibited or restricted by contract or agreement between a TSP and a property developer, multi-tenant property owner or manager, homeowners association, or agent of same. Amendments are necessary to assure an end-user has an unhindered opportunity to choose the TSP of his/her preference where there are choices of TSPs.

CONTACT PERSON:
Don A. Schooler, 522-0482

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, 2009:

SUBCHAPTER 5. RATES AND TARIFFS

PART 3. APPROVAL AND NOTICE REQUIREMENTS

165:55-5-10. Tariff approval and revisions to tariffs

(a) ~~Unless provided otherwise in this Chapter or provided by the laws of the State of Oklahoma, no tariff, or amendment thereto, which would change rates and charges for any regulated non-competitive service, or establish new rates for regulated non-competitive service not previously offered, shall be effective, except by order of the Commission after such notice and hearing, if any, as directed by the Commission.~~No new or

revised tariff shall be effective without Commission order after notice and hearing, if any, as directed by the Commission unless otherwise provided in this Chapter, or by the laws of the State of Oklahoma. Tariffs filed under this section will be deemed lawful and effective thirty (30) days after filing unless an objection is filed in advance of the thirtieth day that a hearing is required.

(b) Notwithstanding the provisions of subsection (a) of this Section:

(1) ~~The interexchange services provided by IXCs are determined to be competitive. Revisions to the terms and conditions on interexchange service(s) tariffs of IXCs shall become effective, without Commission order, the day following the day that three (3) copies of the revised tariff sheets are delivered to the Director of the Public Utility Division. With the exception of local directory assistance and operator services, revisions to interLATA and intraLATA directory assistance and operator services of IXCs and telecommunications service providers shall become effective, without Commission order, on the date specified in the revised tariff sheets, after the IXC or telecommunications service provider has delivered three (3) copies of the revised tariff sheets to the Director of the Public Utility Division. The effective date shall be no earlier than the day following the day such revised tariff pages are delivered to the Public Utility Division.~~New or revised tariffs describing a regulated service may be submitted in accordance with subsection (c) of this section unless otherwise prohibited by this Chapter, including but not limited to, subsection (b)(2) of this section and OAC 165:55-5-10.1(e), or by the laws of the State of Oklahoma.

(2) ~~Revisions to the price components of competitive service(s), as such service(s) are determined competitive by the Commission shall become effective after three (3) copies of the revised tariff pages have been provided to the Director of the Public Utility Division. The effective date of the tariff revisions shall be stated on the face of the revised tariff page(s), which may be dated no earlier than the date provided to the Director of the Public Utility Division.~~No new or revised tariff describing a switched access service, E911 service, or payphone access service, shall become effective without Commission order after notice and hearing, if any, as directed by the Commission.

(3) ~~Revisions to tariffs for any competitive service, which contain a combination of price and nonprice components shall become effective pursuant to OAC 165:55-10.1(f).~~A packaged service may include any combination of basic local services, regulated services and non-regulated services. A packaged service shall be treated as a single optional service by the Commission. A packaged service may be submitted in accordance with subsection (c) of this section unless otherwise prohibited by this Chapter or by the laws of the State of Oklahoma.

(4) ~~Decreases to the tariff rates of a telecommunication service provider, other than for basic local exchange service, switched access service or toll, shall become effective, without Commission order, thirty (30) days after the date of filing said revisions, unless the Commission orders suspension of said tariff revisions pursuant to OAC 165:55-5-13.~~Any tariffed service utilizing ICB pricing, or amendment thereto, shall become effective without Commission order according to the terms of the agreement with the customer and/or the provider's tariffs.

~~(5) Revisions to the toll service tariffs of telecommunications service providers shall become effective, without Commission order, thirty (30) days after the date of filing said revisions, unless the Commission orders suspension of said tariff revisions pursuant to OAC 65:55-5-13.~~

~~(6) The filing of new service offering(s) of telecommunications service providers shall become effective, without Commission order, thirty (30) days after the date of filing said new service offering(s), unless the Commission orders suspension of said tariff(s), pursuant to OAC 165:55-5-13.~~

~~(7) Increases to the noncompetitive tariff rates of telecommunications service providers, other than for basic local exchange service, switched access service, or toll service, shall become effective, without Commission order, thirty (30) days after the date of fling said revisions, unless the Commission orders suspension of said tariff revision(s), pursuant to OAC 165:55-5-13.~~

~~(8) Any revision or addition to noncompetitive, nonprice terms and conditions of a telecommunications service provider shall become effective, without Commission order thirty (30) days after the date of filing such new or revised terms and conditions, unless the Commission orders the suspension of said tariff revisions pursuant to OAC 165:55-5-13.~~

~~(9) Any tariffed service, utilizing ICB pricing, or amendment thereto, shall become effective without Commission order according to the terms of the agreement with the customer and/or the provider's tariffs.~~

~~(10) New service offerings, by companies whose services have been deemed competitive by the Commission shall become effective after three (3) copies of the tariff page(s) have been provided to the Director of the Public Utility Division. The effective date of the tariff revision shall be stated on the face of the revised tariff page(s) and may be dated no earlier than the date provided to the Director of the Public Utility Division.~~

(c) ~~When tariff revisions within the same application of a telecommunications service provider or IXC would become effective within different time frames pursuant to multiple paragraphs of subsection (b) of this Section, such tariff revisions shall become effective without Commission order pursuant to the time frame set forth in the paragraph with the longer time frame, unless the Commission orders the suspension of said tariff revisions pursuant to OAC 165:55-5-13.~~To the extent that this Chapter allows the submission of new or revised tariffs, new or revised tariffs shall have an effective date on or after the day following the day the submission is delivered to the Director of the Public Utility Division, subject to the following conditions:

(1) The submission delivered to the Public Utility Division shall include a cover letter, three mark-up copies of

the new or revised tariff pages in legislative format, and three final copies of the new or revised tariff pages.

(2) The effective date of the new or revised tariff submitted to the Commission shall be stated on the face of the new or revised tariff pages.

(3) A new or revised tariff submitted to the Commission shall comply with the notice requirements of OAC 165:55-5-11. A copy of the notice shall accompany the submission. The submission shall clearly identify the date of notice and the method used to provide notice.

(4) The Commission may permit electronic submission of new or revised tariffs when technically feasible.

~~(d) If a telecommunications service provider offers a package of services that includes an intrastate retail regulated telecommunications service that was individually tariffed as of December 31, 2004, the telecommunications service provider must continue to make that service available to customers on an individual basis.~~

(d) Every TSP that offers Basic Local Service to residential end-users in a package or otherwise, shall maintain a tariff offering Basic Local Service to residential end-users as a stand-alone service.

(e) Every TSP that offers Basic Local Service to business end-users in a package or otherwise, shall maintain a tariff offering Basic Local Service to those business end-users as a stand-alone service.

(~~e~~f) ~~The Public Utility Division may issue data requests for additional relevant information during its review of the requested revisions(s).~~The Public Utility Division may, after an informal investigation, file an application with the Commission seeking to revoke or modify any tariff. After notice and hearing, the Commission may issue an order revoking or modifying any tariff for good cause.

~~(f) No proposed or revised tariff of a telecommunications service provider relating to basic local exchange service or switched access service shall become effective without Commission order.~~

~~(g) If an amended application is filed, the tariff revisions set forth in the amended application shall become effective without Commission order, unless suspended pursuant to OAC 165:55-5-13, on the later of the following dates: 1) the date that the tariff revisions would have become effective if not amended, or 2) the seventeenth (17th) day after the date the amended application was filed.~~

(~~h~~g) The burden of proof to show that a proposed or revised tariff is just and reasonable shall be upon the company proposing the new or revised tariff.

(~~i~~h) ~~In reviewing a proposed or revised tariff, the~~ The Commission ~~will~~shall protect against anti-competitive behavior and the abuse of monopoly power by rejecting, revoking or modifying ~~proposed rate changes or proposed terms and conditions that result in~~tariffs that are predatory, anticompetitive or discriminatory. ~~pricing and provisioning or which would result in the subsidization of competitive service(s) with revenues from noncompetitive services.~~In ~~reviewing rate increases and/or decreases~~its review, the Commission ~~will~~may consider the ~~following factors, at a minimum:~~

~~(1) The~~the incremental cost of the service~~;~~,

~~(2) The~~the potential impact on competition~~;~~,

~~(3) The~~the potential impact on end-users generally~~;~~, and~~,~~

~~(4) Such~~such other factors as the Commission may ~~determine, after notice and hearing~~deem necessary.

(~~j~~i) Unless otherwise ordered by the Commission, all proposed rates must cover the long run incremental cost of the service, including imputation where ordered by the Commission.

(~~k~~j) For purposes of this Section, the Commission shall allow an ILEC or CLEC that serves less than seventy-five thousand (75,000) access lines as of July 1, 1997, at the option of the company, to adopt the cost studies approved by the Commission for an ILEC or CLEC that serves seventy-five thousand (75,000) or more access lines or to adopt the surrogate cost studies approved by the FCC.

(~~l~~k) Nothing in these rules is intended to modify, affect or nullify the responsibilities of the Commission or providers of telecommunications services as required by state or federal antitrust laws or the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

~~(m) Not later than fifteen (15) days after either an order approving the tariff revisions issued, or after the tariff(s) become effective without suspension, an original and two (2) copies of the approved tariff, which conforms to OAC 65:55-5-20, shall be provided to the Public Utility Division.~~

~~(n) In order to facilitate timely review in tariff revisions causes, pursuant to OAC 165:55-5-10(b), each telecommunications service provider and IXC shall answer, within ten (10) business days from the date of receipt, all data requests issued, unless an objection is filed or the parties agree in writing to a different response time.~~

~~(o) Failure to comply with subsection (m) of this Section may result in the filing of a Motion to Cease and Desist regarding the offering(s) of the revised tariff.~~

~~(p) Unless operating under the requirements of an alternative regulatory plan established by a Commission order pursuant to OAC 165:55-5-50, any telecommunications service provider may increase, decrease, or otherwise modify any or all of its rates, charges, or terms and conditions of service for existing optional local exchange services and new optional local exchange services. Tariffs for new optional local exchange services shall be effective the day following the day such tariffs are filed. Changes to tariffs for existing optional local exchange services shall be deemed approved ten (10) business days following the day such tariffs are filed, unless suspended by Commission order.~~

165:55-5-10.1. Competitive services

(a) A telecommunications service provider may file an application to have the Commission determine that a regulated telecommunications service~~, other than local directory assistance or operator services,~~ is subject to effective competition and is therefore competitive for the applicant and/or the applicant class.

(b) In determining whether a service is competitive, ~~factors~~the Commission will consider ~~include, but are not limited to~~:

(1) The number and size of alternative providers of comparable services;

(2) The extent to which comparable services are available from alternative providers in the relevant market;

(3) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates and terms and conditions;

(4) Public interest considerations; and,

(5) Other indicators of market power with respect to a service, which may include market share, growth in market share and whether the alternative provider(s) of comparable services are affiliated with the telecommunications service provider.

(c) In considering these and other factors, the Commission is not required to give equal weight to each factor in subsection (b) of this Section, but has discretion to give more weight to a particular factor or factors, based on the evidence.

(d) ~~As part of its order determining a service to be competitive, the Commission may require the passage of a transitional period, not to exceed two (2) years. During such transitional period, proposed tariff changes of all providers shall be deemed lawful and effective thirty (30) days after filing, unless the Commission suspends the proposed tariff change before the end of the 30-day period. If suspended, the provisions of OAC 165:55-5-13 shall apply.~~Tariffs describing competitive services may be submitted to the Public Utility Division in accordance with OAC 165:55-5-10.

~~(e) Following any transitional period ordered by the Commission pursuant to subsection (d) the rates charged by a TSP for a service determined to be competitive shall become effective on the date specified on the revised tariff sheets, after the provider has delivered three (3) copies of the revised tariff sheets to the Director of the Public Utility Division. The effective date shall be no earlier than the date the revised tariff pages are delivered to the Director of the Public Utility Division.~~

~~(f) Following any transitional period, ordered by the Commission pursuant to subsection (d), the terms and conditions under which competitive services are offered shall be submitted to the Director of the Public Utility Division and made available for public inspection. Changes in terms and conditions, and any combination of price and non-price components, shall be submitted at least thirty (30) days prior to when such changes shall be implemented by the provider.~~

(~~g~~e) Notwithstanding the provisions of this Section, the Commission may, at any time, revoke the competitive designation of a service, after notice and hearing, if the Commission determines that the service is no longer a competitive service. If the competitive designation of a service is revoked by the Commission, changes in the rates of the service or services affected shall be regulated pursuant to the provisions of OAC 165:55-5-10.

~~(h) Any revised tariff for a service which has been determined to be competitive by the Commission, pursuant to this Section, shall identify the cause and order number making such designation of competitiveness.~~

(f) Subject to Commission's authority to grant or revoke the competitive designation of a service in accordance with this section; once the Commission determines that a service is competitive or non-competitive in an exchange of an ILEC, similar services provided by TSPs in the same geographic area as the ILEC's exchange shall be deemed competitive or non-competitive, respectively.

165:55-5-10.2. Promotional offerings

(a) Promotional offerings are intended to be limited-duration programs that are beneficial to the targeted and/or qualified customers. Promotional offerings are not intended to replace the ~~telecommunications service provider's~~TSP's or IXC's obligation to seek approval of permanent rates and charges. Promotions may be repeated, provided the initial promotion and extension do not exceed three hundred sixty-five (365) consecutive days and may not be reintroduced for ninety (90) days.

(b) ~~Telecommunications service providers~~TSPs and IXCs may, during promotional periods, offer customers special rate incentives. The ~~telecommunications service provider~~TSP or IXC shall notify the Director of the Public Utility Division, by submitting a completed Promotion Form, which is located on the Public Utility Division portion of the Oklahoma Corporation Commission website at: ~~http://www.occ.state.ok.us.~~http://www.occeweb.com.

(c) Promotional offerings ~~of services that have been determined to be competitive shall become effective on the date specified in the Notice to the Director of the Public Utility Division which may be dated no earlier than the date the Notice on the Promotion Form, which shall be no earlier than the date that notification is provided to the Director of the Public Utility Division.~~of TSPs and IXCs shall become effective on or after the day following the day the Promotion Form is provided to the Director of the Public Utility Division.

~~(d) Promotional offerings of non-competitive services shall become effective on the date specified in the Notice to the Director of the Public Utility Division, which may be dated no earlier than ten (10) business days after the date that notification is provided to the Director of the Public Utility Division.~~

165:55-5-10.3. Customer-specific contracts under ICB pricing

(a) A ~~telecommunications service provider~~TSP or IXC shall have the authority to enter into customer-specific contracts for business services ~~that are unique because of size or configuration for which the rates and charges for non-residential services are developed as an ICB.~~provided that the pricing is not predatory.

(b) A list of customer-specific contracts for Oklahoma services shall be submitted to the Director of the Public Utility Division, ~~in a quarterly report provided~~semi-annually; no later than ~~thirty (30)~~sixty (60) days after the close of the reporting period. Reports shall contain ~~quarter has ended with~~the following information for each ICB:

(1) Tracking No. of the ICB;

(2) Customer Name;

(3) Description of the ~~service~~service(s);

(4) Aggregate monthly ~~rate~~rate(s);

(5) Aggregate nonrecurring charge(s);

(6) ~~Proposed installation date and service expiration date~~Effective date and term of contract; and

(7) Early termination liability, if applicable, and formula used to determine the liability;

~~(8) Any special terms and conditions particular to the ICB;~~

~~(9) A verified statement that the price of any service offered under the ICB contract is above the pricing standard in OAC 165:55-5-10(j) of the service or services offered under the ICB contract;~~

~~(10) For purposes of this Section, the Commission shall allow an ILEC or CLEC that served less than seventy-five thousand (75,000) access lines as of July 1, 1997, at the option of the company, to adopt the cost studies approved by the Commission for an ILEC or CLEC that serves seventy-five thousand (75,000) or more access lines or to adopt the surrogate cost studies approved by the FCC.~~

(c) At the direction of the Commission, the Director of the Public Utility Division shall periodically select a sample of ICBs for review. If a review of any ICB reveals that said ICB is not fair, just, reasonable, not priced at or above LRIC, or not in the public interest, the Commission may issue an order to revoke the TSP's ability to enter into ICB's until further order of the Commission.

165:55-5-12.1. Flow through of net reductions/increases in access charges. [REVOKED]

~~(a) All net reductions in access charges, which are ordered by State statute and/or the Commission, shall be flowed through to customers by telecommunications service providers or IXCs in a manner approved by the Commission.~~

~~(b) The application/notice to accomplish the reduction in access charges shall be filed by the entity, directly ordered to do so by State statute or the Commission, within thirty (30) days after the occurrence which triggers the reduction. The reduction shall be calculated from the date of the occurrence requiring the reduction.~~

~~(1) Upon request, the Director of the Public Utility Division may extend the filing period by up to thirty (30) days after notice to the affected TSPs and IXCs.~~

~~(2) The required notice shall be made by the entity making the request for the extension concurrent with such request.~~

~~(c) The application/notice to flow through reductions, received pursuant to subsection (b) of this Section, to the customers of a telecommunications service provider or IXC customers shall be filed thirty (30) days after the date of the order approving the reduction. Such reduction shall be effective the same date as the reduction was effective for the entity required to file an application/notice pursuant to subsection (b) of this Section.~~

~~(d) An application/notice to flow through net increases in access charges to the customers of a telecommunication service provider or IXC may, at the discretion of the entity, be filed thirty (30) days after the date of the order approving the increase. Such increase shall be effective the same date as the increase was effective for the entity ordered to pay a net increase in access charges.~~

PART 11. OKLAHOMA PLAN

165:55-5-66. Pricing

The prices for services provided by an ILEC once the ILEC has implemented the Oklahoma Plan shall be determined according to the level of competition for each service. At the time of election into the Plan, services will be priced according to the current existing tariff prices as approved by the Corporation Commission.

(1) Basket 1 - Non-competitive services. Basic local residential, basic local business and local operator services will be placed in Basket 1 upon implementation of the Oklahoma Plan. Prices for Basket 1 shall have a price floor of the lower of either the prices charged by the company as of the date of the ILEC's election into the Plan, or LRIC plus twenty percent (20%). Prices for Basket 1 shall be capped at the prices charged by the company as of the date of the ILEC's election into the Plan and shall not be increased for a period of five (5) years, except as set forth in this Section:

(A) Basic Local Residential Services and Local Operator Services.

(i) Upon the expiration of the five year period, basic local residential services and local operator services shall receive pricing flexibility pursuant to OAC 165:55-5-66(1)(C) in the absence of a Commission order issued pursuant to OAC 165:55-5-66 (1)(A)(ii).

(ii) An ILEC may petition the Commission for a determination of competition following the expiration of the Five Year Period pursuant to OAC 165:55-5-10.1. Following the expiration of the Five Year Period, if the Competitive Test pursuant to OAC 165:55-1-4 is met, then basic local residential services and local operator services shall have pricing flexibility not to exceed twelve percent (12%) in any twelve (12) month period. Tariff revisions in this Section shall become effective, without Commission order, thirty (30) days after the date of filing of the tariff, unless suspended by Commission order pursuant to OAC 165:55-5-13.

(B) Basic Local Business Services.

(i) Basic local business services shall be capped for three (3) or five (5) years, as outlined in (iii) of this subparagraph.

(ii) If the Competitive Test has been met, basic local business service shall have pricing flexibility not to exceed twelve percent (12%) in any twelve (12) month period. Tariff revisions in this Section shall become effective, without Commission order, thirty (30) days after the date of filing of the tariff, unless suspended by Commission order pursuant to OAC 165:55-5-13.

(iii) Basic local business service shall be capped until the expiration of the Five Year Period, if the Competitive Test has not been met. Not withstanding the foregoing, business access lines (i.e., multiline and PBX trunks), utilized in conjunction with telecommunications equipment or systems which are capable of terminating two or more such business lines, shall be capped for three years.

(iv) If at the end of the Three or Five Year Period, as applicable, the Competitive Test has not been met, basic local business service shall have pricing flexibility pursuant to OAC 165:55-5-66(1)(C).

(v) An ILEC may petition the Commission for a determination of competition pursuant to OAC 165:55-5-10.1.

(C) At the end of the initial Three or Five Year Period, as applicable, the ILEC shall have the following pricing flexibility:

(i) The ILEC may adjust rates on 30 days notice to the Commission, in an amount not to exceed the change in inflation less 1 percent. Inflation shall be measured by the changes in the Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index published in the Survey of Current Business or a publication by the United States Department of Commerce, or such other fixed weight price index as the FCC may designate by order for determining inflation. Rate adjustments pursuant to this subparagraph shall occur no more often than once within a 12 month period.

(ii) Notwithstanding any other provisions of this Section, if the ILEC can demonstrate that circumstances have changed such that a price increase exceeding the rate or ceiling established for the Basket 1 services is necessary, the ILEC may petition the Commission for a price adjustment. The Commission shall act upon such a petition within 90 days of filing and shall grant such a petition only after notice, hearing and a compelling showing of changed circumstances.

(2) Basket 2 - Access services.

(A) Access services will be placed in Basket 2.

(B) The ILEC shall be required to continue reducing access charges to fulfill all obligations under all Federal and State laws, rules, regulation, and orders, including 17 O.S. § 139.103. The access charges will then be capped at that level for the remainder of the Five Year Period following election into the Oklahoma Plan.

(C) Access services may be granted pricing flexibility pursuant to OAC 165:55-5-10.1, but in no event will access rates be granted pricing flexibility prior to 17 O.S. § 139.103 being fulfilled.

(D) The Commission shall have continuing regulatory oversight of prices for intrastate network access services for purposes of determining the correctness of any rate change by a telecommunications company resulting from the application of this subsection.

(E) The ILEC may not seek recovery of any part of the revenue reduction associated with access reductions from the OUSF. In addition, the terms and conditions provisions of the intrastate access tariff of the company shall mirror the terms and conditions provisions of the interstate access tariffs of that company. ~~All reductions in access rates shall be flowed through to customers and/or end users, consistent with Commission rules.~~

(F) After the ILEC fulfills all obligations under 17 O.S. § 139.103, nothing in this Section shall prohibit the ability of a third party to pursue reductions in access services and other services which remain in Basket 2.

(3) Basket 3 - Emerging Competitive and Optional Services.

(A) Services in Basket 3 will include services typically considered optional in nature, that are experiencing some degree of competition in that market but are not yet fully competitive and/ or new services.

(B) Prices in this basket shall not be increased more than once in any twelve month period.

(C) A price increase for any Basket 3 service shall not exceed five percent (5%) unless the Commission finds that the service is subject to competition pursuant to the definition of Competitive Test as set forth in OAC 165:55-1-4, in which event the price for that service may be increased in an amount not to exceed fifteen percent (15%). Tariffs for changes in prices in this Section shall become effective, without Commission order, thirty (30) days after the date of filing of the tariff, unless suspended by Commission order pursuant to OAC 165:55-5-13.

(D) An ILEC subject to this Section shall maintain tariffs with the Commission containing the terms, conditions, and rates for each of its Basket 3 services.

(E) The price floor for all services in this Basket will be the Long Run Incremental Cost ("LRIC") of the service under consideration plus 20% of the LRIC of that service, to assure recovery of appropriate joint and common costs and avoid cross subsidization between services within this basket, or by applying imputation where appropriate. The 20 percent add-on does not apply to non-recurring charges, toll, ICB or promotions.

(F) A new service may be placed in Basket 3 without Commission order, 30 days after filing of the tariff, unless suspended by Commission order pursuant to 165:55-5-13. A new service will not receive the pricing flexibility available pursuant to this subsection until 1 year after its initial placement in the basket.

(4) Basket 4 - Competitive Services.

(A) Services which are competitive, pursuant to OAC 165:55-5-10.1, and for which functionally

equivalent and substitute services are available will be placed in Basket 4.

(B) The price floor for all services in this Basket will be the greater of the LRIC of the service under consideration or a price which is arrived at by applying imputation where appropriate.

(C) ~~Price revisions to the tariffs for services in Basket 4 shall become effective on the date specified on the revised tariff sheets after the provider has delivered 3 copies of the revised tariff sheets to the Director of the Public Utility Division. The effective date shall be no earlier than the date the revised tariff pages are delivered.~~ New or revised tariffs for services in Basket 4 may be submitted to the Commission in accordance with OAC 165:55-5-10(c).

165:55-5-70. Packaging

~~(a) In addition to other flexibility identified in this Part, an ILEC which has implemented the Oklahoma Plan may offer basic local exchange service, as part of a package of services.~~

~~(b) An ILEC that has implemented the Oklahoma Plan may continue to use packaging or combinations allowed pursuant to OAC 165:55-5-10.3.~~

~~(c) Packages filed by an ILEC shall become effective, without Commission order, the day following the day such package is filed. Changes to packages shall be deemed approved ten (10) business days following the day such package is filed, unless suspended by Commission order, pursuant to OAC 165:55-5-13.~~

~~(d) Each regulated service in a package shall be priced at no lower than the lower of the current tariffed rate or LRIC, unless otherwise approved by the Commission.~~

~~(e) If an ILEC offers a package of services that includes an intrastate retail regulated telecommunications service that was individually tariffed as of December 31, 2004, the ILEC must continue to make that service available to customers on an individual basis.~~

In addition to other flexibility identified in this Part, an ILEC which has implemented the Oklahoma Plan may offer packaged services in accordance with OAC 165:55-5-10(b)(3), promotional offerings in accordance with OAC 165:55-5-10.2, and customer-specific contracts in accordance with OAC 165:55-5-10.3. Services shall be priced in accordance with OAC 165:55-5-10(h).

165:55-5-72. Reporting

(a) At least once annually from the time of election, any company electing alternative regulation shall file with the Commission a report as required by OAC 165:55-3-22.

(b) At the time the ILEC submits such information to the FCC, the ILEC shall provide to the Commission~~: copies of all Oklahoma-specific information contained in the Automated Reporting Management Information System ("ARMIS") Data, and~~ copies of completed FCC Form 499A Telecommunications Reporting Worksheets (required by the Report and Order issued July 14, 1999, in CC Docket No. 98-171).

SUBCHAPTER 7. DIRECTORIES, TELEPHONE NUMBERS, AND CUSTOMER-PROVIDED EQUIPMENT

165:55-7-1. Telephone directories

(a) **Provision of directory to end-users; frequency.** Each telecommunications service provider shall provide in conjunction with the provisioning of local exchange service, or make arrangements to provide to its end-users an alphabetical~~, white page,~~ telephone directory for each service territory, exchange or group of exchanges. Telecommunications service providers may furnish white page directories in a variety of electronic formats, including CD-Rom, via the internet, or as printed directories. Such directory shall be issued at intervals consistent with satisfactory service, which, in the absence of unusual circumstances, will be at least once each year. If any alternative to a printed paper directory is provided, customers are to be furnished with notification at the time the directory is issued that they may request a printed version of their local directory at no charge. The notification shall also include a toll free number established for honoring such customer requests. A directory for an exchange or calling area may be issued. A printed copy of each directory published, which contains exchanges located in the State of Oklahoma, shall be furnished to the Commission and the Director of the Public Utility Division (Oklahoma exchanges only).

(b) **Listing in directory.** Each telecommunications service provider shall provide its end-users in conjunction with the provisioning of local exchange service, without charge, one listing in the white page directory issued pursuant to this Chapter and inclusion in a database used to provide directory assistance for the end-user's geographic area. A request by an end-user that their listing or address be omitted from the directory or directory assistance database shall be honored by the telecommunications service provider, in accordance with tariff provisions and there will be no charge for nonpublication if the residential end-user has at least one listing in the directory. Additional listings shall be offered in accordance with approved tariffs. End-user listings in a white page directory or directory assistance data base shall be treated in a nondiscriminatory manner, regardless of the end-user's telecommunications service provider.

(c) **Form of listing in directory.** The form, location and appearance of directory listings of end-users, regardless of the end-user's telecommunications service provider, shall be provided in a nondiscriminatory manner, subject to review by the Commission.

(d) **Provision of directory.** Each customer shall be furnished at the customer service address, one directory for each access line being furnished him under current tariffs, unless the customer and the telecommunications service provider agree this requirement can be fulfilled in an alternative manner. Each telecommunications service provider shall make available its directory to telecommunications service providers for distribution to their end-users.

(e) **Contents of directory.** The directory provided to end-users pursuant to this Section shall contain the following information:

(1) Minimum requirements. Each telecommunications service provider shall assure that its end-users receive a directory which includes the following information:

(A) The name of the exchange or area covered and the date of issue on the front cover;

(B) Emergency numbers;

(C) Instructions to access directory assistance;

(D) Instructions to access repair service;

(E) Instructions for placing long distance and local calls;

(F) Instructions for obtaining an itemization of the end-user's current monthly statement;

(G) Instructions to access Telecommunication Relay Service;

(H) A notice prominently displayed on the table of contents page which shall state: "This directory contains important information about your rights as a telephone end-user on page (Here the telecommunications service provider will insert the page number on which the notice shall appear)". In the absence of a table of contents page, said notice shall be prominently displayed on the inside of the front cover.

(2) A statement shall be submitted to the Public Utility Division of the Commission for approval, at least thirty (30) days prior to being submitted for publication in a directory or distributed as a mailing or otherwise. Unless notified to the contrary by the Public Utility Division within fifteen (15) days after submission, the statement shall be considered approved. Once approved by the Public Utility Division, the statement need not be resubmitted to the Public Utility Division for further approval, unless and until this Chapter is changed by the Commission to require additional data. The statement shall at least describe or include:

(A) Billing procedures.

(B) Customer payment requirements and procedures.

(C) Deposit and guarantee requirements.

(D) Conditions of termination, discontinuance, and reconnection of service.

(E) Procedures for handling inquiries.

(F) A procedure whereby an end-user may avoid discontinuance of service during a period of absence.

(G) The telephone number and address of all offices of the Commission's Consumer Services Division.

(H) The statement that the telecommunications service provider is regulated by the Commission.

(I) Notification that the end-user may request an adjustment if service is interrupted for periods in excess of twenty-four (24) hours.

(3) Additional information. The directory shall contain additional information concerning a telecommunications service provider, as requested by a telecommunications service provider, to the same extent that the directory provider includes similar information for itself or its affiliates offering local exchange service within the geographic area covered by the directory based on rates, terms and conditions that are just, reasonable and nondiscriminatory.

(f) **Liability for errors.** The liability of the telecommunications service provider for an error or omission in its telephone directory, or for an error or omission on intercept service, shall not exceed the amount of actual damage suffered, and in no event shall its liability exceed an amount equal to local exchange service charged to the end-user for the listed service for the period during which the directory containing the error or omission is the last published directory of the exchange.

(g) **Access to publishing information.** Upon request, a telecommunications service provider shall provide directory listings gathered in its capacity as a provider of local exchange service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, and to any person upon request for the purpose of publishing directories.

SUBCHAPTER 9. CUSTOMER BILLING AND DEPOSITS

PART 1. BILLING AND PAYMENT REQUIREMENTS

165:55-9-8. Customer preferences

The terms and conditions of Subchapter 9 may be changed, modified, revised, supplemented or deleted upon written agreement between a business end-user ~~having 10 or more access lines~~ and the telecommunications service provider or IXC, where the business end-user has 10 or more access lines or is a multi-state or multi-national customer. This Section shall not apply to residential end-users ~~and business end-users with less than 10 access lines~~.

SUBCHAPTER 11. SERVICE DENIAL, SUSPENSION AND DISCONNECTION

PART 3. SUSPENSION AND DISCONNECTION PROCEDURES

165:55-11-10. Suspension or disconnection for nonpayment or failure to make security deposit

(a) When service to an end-user is to be disconnected for nonpayment of a bill for telephone service after service has been suspended or failure to make a security deposit after a reasonable time, the ~~telecommunications service provider~~TSP shall give at least ten (10) days from the date of ~~mailing written~~notice to the end-user of the TSP's intent to discontinue service. Said ~~written~~notice shall be ~~mailed~~given by the TSP as follows: ~~telecommunications service provider or delivered to the end-user's billing address as listed with the telecommunications service provider.~~

(1) mailed or delivered to the end-user's billing address;

(2) electronically via the internet to the email address provided by the end-user; or

(3) telephonically to the end-user's assigned telephone number or other number provided by the end-user;

(b) If the mailed notice is returned from that address as undeliverable, the notice may be delivered to the premises at which the service was rendered. Mailed notice will be deemed given to the end-user three (3) business days after mailing by the ~~telecommunications service provider~~TSP.

(c) If electronic notice is returned from the email address as undeliverable, the TSP shall give notice to the end-user using an alternative method as listed above. If the electronic notice is not returned, notice shall be deemed given to the end-user on the date the email was sent.

(d) If telephonic notice is not confirmed to have reached the end-user's telephone number, the TSP shall give notice to the end-user using an alternative method as listed above. If confirmation of telephonic notice is obtained by the TSP, notice shall be deemed given to the end-user on the date the telephonic notice is confirmed as given.

(~~b~~e) Unless a dangerous condition exists or the end-user requests disconnection, a ~~telecommunications service provider~~TSP may suspend or disconnect service only on the date specified in the notice or within thirty (30) days thereafter, during regular business hours, so long as the suspension or disconnection does not occur within the last two (2) hours of the business day, nor shall service be disconnected on a holiday, nor after noon (12:00 p.m.) on Fridays until Monday morning.

165:55-11-11. Suspension or disconnection for reasons other than nonpayment

(a) Unless otherwise provided in this Chapter, ~~Service~~service to an end-user may be suspended or disconnected ~~for any reason which by Part 1 of this Subchapter requires notice, other than nonpayment for service or failure to make a security deposit,~~only upon order of the Commission after notice and hearing. ~~For good cause shown,~~Prior to the merit hearing, the Commission may order suspension or disconnection of service ~~pending hearing,~~for good cause with or without notice to the end-user.

(b) End-users that communicate with the TSP's employee(s) in any manner that is reasonably expected to frighten, abuse, torment, or harass such employee(s) or engage in actions reasonably construed as threat(s) against the TSP's physical assets are subject to immediate disconnection, without notice. A TSP that disconnects an end-user's service under this section will:

(1) provide written or verbal notice to the Consumer Services Division of the disconnect action prior to the actual disconnect;

(2) within three (3) business days of the actual disconnect, provide a written description of the circumstances leading to the disconnect action; and

(3) give the customer written notice, which will include an address and telephone number, for the Consumer Services Division.

(c) The Consumer Services Division may, after an informal inquiry and review of the written description of the circumstances leading to the disconnect action, direct the TSP to restore services to the affected end-user and/or file an application with the Commission requesting a finding of contempt and the imposition of a fine or other penalty against a TSP that unreasonably suspends or disconnects an end-user pursuant to subsection (b) of this section.

165:55-11-14. Multi-State customers

The terms and conditions of Subchapter 11 may be changed, modified, revised, supplemented or deleted upon written agreement between a business end-user and the telecommunications service provider or IXC, where the business end-user has 10 or more access lines or is a multi-state or multi-national customer. This Section shall not apply to residential end-users.

SUBCHAPTER 17. FACILITATION OF LOCAL EXCHANGE COMPETITION

165:55-17-30. Customer choice

(a) Where choices are available, every customer shall have the right to choose his or her ~~telecommunications service provider~~TSP.

(b) ~~A telecommunications service provider~~Where choices of TSPs are available, a TSP shall not enter into a contract ~~with the owner or manager of multi-tenant dwellings to exclusively provide telecommunications services to the exclusion of other telecommunications service providers.~~or agreement with any person or entity, including but not limited to; property developers, multi-tenant property owners or managers, homeowners associations, or any agent or representative of such person or entity that would prohibit or restrict an end-user's right to select the carrier of his or her choice. Should a carrier become aware that such a property owner, manager, or agent is prohibiting or restricting an end-user's right to select the carrier of his or her choice, the carrier shall notify the Director of the Public Utility Division for the Commission.

(c) The Public Utility Division may, after an informal investigation, file an application requesting a finding of contempt and the imposition of a fine or other penalty against a TSP that enters into a contract or agreement that prohibits or restricts an end-user's right to select the carrier of his or her choice.

(d) The investigation and findings of the Public Utility Division shall not be contrary to federal rules regarding customer

[OAR Docket #09-729; filed 4-17-09]

TITLE 165. CORPORATION COMMISSION CHAPTER 56. RESELLERS OF INTEREXCHANGE TELECOMMUNICATIONS SERVICES

[OAR Docket #09-728]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Tariffs
165:56-5-5. Revisions to tariffs [AMENDED]
165:56-5-9. Promotional offerings [AMENDED]
Subchapter 9. Suspension and Disconnection
165:56-9-4. Notice of Disconnection and Notice of Suspension [AMENDED]
165:56-9-4.1. Suspension or disconnection for reasons other than nonpayment [NEW]
165:56-9-4.2. Notice of Disconnection or Notice of Suspension Requirements [NEW]
AUTHORITY:
Oklahoma Corporation Commission
Article IX, Section 18, Oklahoma Constitution
17 Okla. Stat. §§ 152
DATES:
Comment Period:
November 21, 2008 through January 6, 2009
Public Hearing:
January 6 and 7, 2009
Adoption:
January 7, 2009
Submitted to the Governor:
January 15, 2009
Submitted to the House:
January 15, 2009
Submitted to Senate:
January 15, 2009
Gubernatorial approval:
February 12, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 25, 2009.
Final Adoption:
March 25, 2009
Effective Date:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None
ANALYSIS:
The amendments to OAC 165:56-5-5 are needed to assure a "level playing field" among Resellers. The amendments to this section will assure that Resellers may submit new and revised tariffs describing resold interexchange services to the Commission's Public Utility Division (PUD) Director in identical manner and that such tariffs will be treated uniformly by the Commission. Presently some Resellers-through specific authority obtained by the filing of individual causes at the Commission-are permitted to submit their new and revised tariffs to the PUD Director while others are required to file their tariffs with the Commission; this amendment will make a uniform system of submission for all Resellers. The amendments are also necessary to assure that the system set forth for Resellers under Chapter 56 mirrors the system set forth for all other Telecommunications Service Providers (TSPs) in Chapter 55.

The amendments to OAC 165:56-5-9 are needed to allow Resellers to repeat promotional offerings so long as the initial promotion and extensions do not exceed 365 consecutive days and are not reintroduced within 90 days and to permit the offerings to become effective on or after the day following the day a Promotional Form is submitted to the PUD Director.

The amendments to OAC 165:56-9-4 are needed to permit Resellers to provide notice of potential suspension or disconnection of telecommunications services to their customers and end-users in the most effective and efficient manner possible. These amendments are needed to permit Resellers to provide notice to customers and end-users telephonically and electronically via internet and email, as well as traditional notice through the United States Postal Service.

The new rule, OAC 165:56-9-4.1 is needed to protect the safety and well-being of Resellers' employees by permitting the immediate suspension or disconnection of telecommunications services to end-users who threaten Resellers' employee(s). The rule balances the interest of the Reseller to protect its employee's safety and well-being with the Commission's duty to assure an end-user's telecommunications services are not improperly suspended or disconnected. The new rule, OAC 165:56-9-4.2 is needed to determine the necessary elements of an effective notice of disconnection or notice of suspension. Proposed language is identical to language presently found in OAC 165:56-9-4 which will be removed with the amendments proposed to OAC 165:56-9-4 set forth herein.
CONTACT PERSON:
Don A. Schooler, 522-0482

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, 2009:

SUBCHAPTER 5. TARIFFS

165:56-5-5. Revisions to tariffs

(a) Resold interexchange services are determined to be competitive.

(b) ~~Revisions to the price components of competitive services provided by a reseller, as such services(s) are determined competitive by the Commission, shall become effective after three (3) copies of the revised tariff pages have been provided to the Director of the Public Utility Division. The effective date of the tariff revision shall be stated on the face of the revised tariff pages, which shall be dated no earlier than the date provided to the Director of the Public Utility Division.~~New or revised tariffs describing resold interexchange services shall have an effective date on or after the day following the day the submission is delivered to the Director of the Public Utility Division, subject to the following conditions:

(1) The submission delivered to the Public Utility Division shall include a cover letter, three mark-up copies of the new or revised tariff pages in legislative format, and three final copies of the new or revised tariff pages.

(2) The effective date of the new or revised tariff submitted to the Commission shall be stated on the face of the new or revised tariff pages.

(3) A new or revised tariff submitted to the Commission shall comply with the notice requirements of OAC 165:56-5-12. A copy of the notice shall accompany the submission and shall include the date sent to customers.

(4) The Commission may permit electronic submission of new or revised tariffs when technically feasible.

(c) ~~Revisions to the terms and conditions of service provided by a reseller shall become effective, without Commission order thirty (30) days after the reseller has delivered three (3) copies of the revised tariff sheets to the Director of the Public Utility Division.~~The Public Utility Division after an informal investigation may file an application with the Commission seeking to

revoke or modify any tariff. After notice and hearing, the Commission may issue an order revoking or modifying any tariff for good cause.

~~(d) Revisions to tariffs for any competitive services, which contain a combination of price and nonprice components, shall become effective, without Commission order thirty (30) days after the reseller has delivered three (3) copies of the revised tariff sheets to the Director of the Public Utility Division.~~

~~(e) Revisions to tariffs for directory assistance, operator services and other noncompetitive services shall become effective without Commission order thirty (30) days after the date of filing said Notice and Filing, unless suspended by Commission order pursuant to OAC 165:56-5-6. The Notice and Filing of Tariff Revisions shall be made by filing an Application, including an original and eight (8) copies, styled as a Notice and Filing of Tariff Revisions, with the Commission's Court Clerk's Office accompanied by the applicable filing fee. The Notice and Filing of Tariff Revisions shall conform with the Commission's Rules of Practice, OAC 165:5. The Notice and Filing of Tariff Revisions shall be provided to the Attorney General of the State of Oklahoma, all IXCs, LECs and those other certificated resellers, which have made written request to the reseller, in a manner prescribed by the Director of the Public Utility Division and shall conform with the Commission's Rules of Practice and the provisions of this Chapter. An applicant may require reimbursement of the postage and nonlabor related cost of copying from the party(ies) requesting information pursuant to this Section. However, under no circumstances shall reimbursement be required from the Attorney General of the State of Oklahoma.~~

~~(f) Simultaneous with the filing of the proposed tariff revisions, the reseller shall deliver to the Public Utility Division Staff:~~

~~(1) A copy of the Notice required by OAC 165:56-5-12 that will be sent to the end-users affected by any increased rate; and,~~

~~(2) The rationale for the proposed tariffs.~~

~~(g) A copy of the existing tariff page(s) with the requested change(s) denoted shall be filed with the application and shall be included in the copy sent to the Attorney General, but need not be included with copies of the tariff revision sent to the service list.~~

~~(h) Failure to provide the information required by this Section at the time of filing may result in the proposed tariff revision(s) and/or new service offering(s) being suspended pursuant to OAC 165:56-5-6 and, if suspended, the tariff revision(s) and/or new service offering(s) shall not be placed into effect under any circumstances, until further order of the Commission.~~

~~(i) If an amended application is filed, the tariff revisions set forth in the amended application shall become effective without Commission order, unless suspended pursuant to OAC 165:56-5-6, on the later of the following dates: 1) the date that the tariff revisions would have become effective if not amended, or 2) the seventeenth (17th) day after the date the amended application was filed.~~

(~~j~~d) The burden of proof to show that a proposed or revised tariff is just and reasonable shall be upon the company proposing the new or revised tariff.

~~(k) Not later than fifteen (15) days after an order approving the tariff revision is issued, or after the tariff(s) become effective without suspension, an original and two (2) copies of the approved tariff(s) which conform to OAC 165:56-5-3 shall be provided to the Public Utility Division.~~

~~(l) In order to facilitate timely review, in streamlined tariff revision causes, each reseller shall answer, within ten (10) business days from the date of receipt, all data requests issued; unless an objection is filed or the parties agree in writing to a different response time.~~

~~(m) Failure to comply with subsection (j) of this Section may result in the filing of a Motion to Cease and Desist regarding the offering(s) of the revised tariff.~~

~~(n) The Public Utility Division may issue data requests for additional information during its review of the requested revision(s).~~

165:56-5-9. Promotional offerings

(a) Promotional offerings are intended to be limited-duration programs~~, not to exceed three hundred sixty-five (365) consecutive days,~~ that are beneficial to the targeted and/or qualified customers. Promotional offerings are not intended to replace the ~~reseller's~~Reseller's obligation to seek approval of permanent rates and charges. Promotions may be repeated, provided the initial promotion and extension do not exceed three hundred sixty-five (365) consecutive days and may not be reintroduced for ninety (90) days.

(b) Resellers may, during promotional periods, offer customers special rate incentives. ~~The reseller~~Resellers shall notify the Director of the Public Utility Division~~, by letter, specifying the service(s) offered, terms of the promotion, location, and dates of each promotion period~~ by submitting a completed Promotion Form, which is located on the Public Utility portion of the Oklahoma Corporation Commission website at: http://www.occeweb.com.

(c) Promotional offerings of ~~services that have been determined to be competitive~~Resellers shall become effective on or after the ~~date~~day following the day the Promotion Form is submitted ~~specified in the Notice~~to the Director of the Public Utility Division~~, which may be dated no earlier than the date the Notice is provided to the Director of the Public Utility Division~~.

~~(d) Notification of a promotional offering regarding a non-competitive service shall be provided fifteen (15) days prior to the initial offering of the campaign.~~

~~(e) Any promotional offering of a non-competitive service found not to be in the best interest of the targeted and/or qualified customer(s) will be rejected by the Director of the Public Utility Division and returned to the reseller with a brief explanation of the reason for the rejection. Notice of the rejection will be sent to the applicant within fifteen (15) days after the Commission's receipt of the notification letter.~~

~~(f) Promotions may be repeated, provided the initial promotion and extension do not exceed three hundred sixty-five (365) consecutive days in length. If the promotion has been offered~~

~~for three hundred sixty five (365) consecutive days, then the same promotion cannot be offered for one hundred eighty (180) days from the date the promotion ended.~~

SUBCHAPTER 9. SUSPENSION AND DISCONNECTION

165:56-9-4. Notice of Disconnection and Notice of Suspension

(a) When service to an end-user is to be disconnected for nonpayment of a bill for telephone service after service has been suspended or failure to make a security deposit after a reasonable time, the ~~reseller~~Reseller shall give at least ten (10) days ~~written~~notice ~~to the end-user~~of the ~~reseller's~~Reseller's intent to discontinue service. ~~Notice~~Said notice shall be ~~mailed~~given by the ~~reseller~~Reseller ~~to the end-user's address. Notice will be deemed given to the end-user three (3) days after mailing by the reseller.~~ as follows:

(1) mailed or delivered to the end-user's billing address;

(2) electronically via the internet to the email address provided by the end-user; or

(3) telephonically to the end-user's assigned telephone number or other number provided by the end-user;

~~(b) A notice of disconnection or notice of suspension shall contain the following information:~~

~~(1) The words "NOTICE OF DISCONNECTION" or "NOTICE OF SUSPENSION" or words with the same meaning, in print type larger than the print type of the notice text.~~

~~(2) Name, address, and telephone number of customer.~~

~~(3) Statement of reason for the proposed disconnection or suspension of service.~~

~~(4) The date on or after which service will be disconnected or suspended unless appropriate action is taken.~~

~~(5) The telephone number of the reseller where the customer may make an inquiry.~~

~~(6) Charges and procedures for reconnection or approved charges and procedures to avoid suspension.~~

~~(7) The address and telephone number of the Commission's Consumer Services Division in print size which is smaller than the print size used for the reseller's telephone number.~~

~~(8) A statement that the end-user must contact the reseller regarding the disconnection or suspension, prior to contacting the Commission's Consumer Services Division.~~

~~(9) Notice of suspension of service relating to past-due amounts shall inform the end-user that the total amount due may include charges for non-deniable and/or not regulated services which would not cause interruption of local service. The notice must indicate a toll-free telephone number of a service center where questions can be referred and payment arrangements made.~~

~~(c) The reseller shall not be required to give the written notice provided for in this Section in situations where the reseller has evidence of fraudulent or illegal use of the reseller's services, which if allowed to continue, would present a high risk of financial loss to the reseller.~~

~~(d) The following additional information shall be in the notice unless said information can be obtained in the telephone directory and the notice refers the end-user to the location in the directory where the information can be obtained:~~

~~(1) A statement of how an end-user may avoid the disconnection of service or suspension of service, including a statement that the end-user must notify the reseller on the day of payment as to the place and method of such payment when the bill is paid at a place other than the office of the reseller.~~

~~(2) A statement that informs the end-user where payments may be made or how to obtain a listing of authorized payment agencies.~~

~~(e) Notice of disconnection and/or notice of suspension shall be received via the United States mail, unless the end-user agrees with the reseller to receive a bill through different means.~~

(b) If the mailed notice is returned from that address as undeliverable, the notice may be delivered to the premises at which the service was rendered. Mailed notice will be deemed given to the end-user three (3) business days after mailing by the Reseller.

(c) If electronic notice is returned from the email address as undeliverable, the Reseller shall give notice to the end-user using an alternative method as listed above. If the electronic notice is not returned, notice shall be deemed given to the end-user on the date the email was sent.

(d) If telephonic notice is not confirmed to have reached the end-user's telephone number, the Reseller shall give notice to the end-user using an alternative method as listed above. If confirmation of telephonic notice is obtained by the Reseller, notice shall be deemed given to the end-user on the date the telephonic notice as confirmed as given.

(e) Unless a dangerous condition exists or the end-user requests disconnection, a Reseller may suspend or disconnect service only on the date specified in the notice or within thirty (30) days thereafter, during regular business hours, so long as the suspension or disconnection does not occur within the last two (2) hours of the business day, nor shall service be disconnected on a holiday, nor after noon (12:00 p.m.) on Fridays until Monday morning.

165:56-9-4.1. Suspension or disconnection for reasons other than nonpayment

(a) Unless otherwise provided in this Chapter, service to an end-user may be suspended or disconnected only upon order of the Commission after notice and hearing. Prior to the merit hearing, the Commission may order suspension or disconnection of service for good cause with or without notice to the end-user.

(b) End-users that communicate with the Reseller's employee(s) in any manner that is reasonably expected to frighten, abuse, torment, or harass such employee(s) or engage in actions reasonably construed as threat(s) against the Reseller's physical assets are subject to immediate disconnection,

without notice. A Reseller that disconnects an end-user's service under this section will:

(1) provide written or verbal notice to the Consumer Services Division of the disconnect action prior to the actual disconnect;

(2) within three (3) business days of the actual disconnect, provide a written description of the circumstances leading to the disconnect action; and

(3) give the customer written notice, which will include an address and telephone number, for the Consumer Services Division.

(c) The Consumer Services Division may, after an informal inquiry and review of the written description of the circumstances leading to the disconnect action, direct the Reseller to restore services to the affected end-user and / or file an application with the Commission requesting a finding of contempt and the imposition of a fine or other penalty against a Reseller that unreasonably suspends or disconnects an end-user pursuant to subsection (b) of this section.

165:56-9-4.2. Notice of Disconnection or Notice of Suspension requirements

(a) A notice of disconnection or notice of suspension shall contain the following information:

(1) The words "NOTICE OF DISCONNECTION" or "NOTICE OF SUSPENSION" or words with the same meaning, in print type larger than the print type of the notice text.

(2) Name, address, and telephone number of customer.

(3) Statement of reason for the proposed disconnection or suspension of service.

(4) The date on or after which service will be disconnected or suspended unless appropriate action is taken.

(5) The telephone number of the Reseller where the customer may make an inquiry.

(6) Charges and procedures for reconnection or approved charges and procedures to avoid suspension.

(7) The address and telephone number of the Commission's Consumer Services Division in print size which is smaller than the print size used for the Reseller's telephone number.

(8) A statement that the end-user must contact the Reseller regarding the disconnection or suspension, prior to contacting the Commission's Consumer Services Division.

(9) Notice of suspension of service relating to past-due amounts shall inform the end-user that the total amount due may include charges for non-deniable and/or not regulated services which would not cause interruption of local service. The notice must indicate a toll-free telephone number of a service center where questions can be referred and payment arrangements made.

(b) The Reseller shall not be required to give the written notice provided for in this Section in situations where the Reseller has evidence of fraudulent or illegal use of the Reseller's services, which if allowed to continue, would present a high risk of financial loss to the Reseller.

(c) The following additional information shall be in the notice unless said information can be obtained in the telephone directory and the notice refers the end-user to the location in the directory where the information can be obtained:

(1) A statement of how an end-user may avoid the disconnection of service or suspension of service, including a statement that the end-user must notify the reseller on the day of payment as to the place and method of such payment when the bill is paid at a place other than the office of the reseller.

(2) A statement that informs the end-user where payments may be made or how to obtain a listing of authorized payment agencies.

(d) Notice of disconnection and/or notice of suspension shall be received via the United States mail, unless the end-user agrees with the Reseller to receive a bill through different means.

[OAR Docket #09-728; filed 4-17-09]

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

[OAR Docket #09-738]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
252:100-1-3. Definitions [AMENDED]
252:100-1-4. Units, abbreviations and acronyms [AMENDED]
Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-1.1. Definitions [AMENDED]
AUTHORITY:
Environmental Quality Board and Air Quality Advisory Council powers and duties, 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 17, 2008, through July 16, 2008, and August 19, 2008
Public hearing:
July 16, 2008, and August 19, 2008
Adoption:
August 19, 2008
Submitted to Governor:
August 29, 2008
Submitted to House:
August 29, 2008
Submitted to Senate:
August 29, 2008
Gubernatorial approval:
September 24, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:

The Department is proposing to amend OAC 252:100-1-3, Definitions; 252:100-1-4, Units, abbreviations and acronyms; and 252:100-5-1.1, Definitions, to remove redundant definitions from Chapter 100 rules. These proposed amendments are routine housekeeping and considered non-substantive.

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4218.

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, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

252:100-1-3. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise or unless defined specifically for a Subchapter, section, or subsection in the Subchapter, section, or subsection.

"Act" means the Federal Clean Air Act, as amended, 42 U.S.C. 7401 *et seq*.

"Administrator" means, unless specifically defined otherwise, the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"Air contaminant source" means any and all sources of emission of air contaminants~~,~~ (pollutants), whether privately or publicly owned or operated, or person contributing to emission of air contaminants. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops and stores, heating and power plants or stations, buildings and other structures of all types.

"Air pollution abatement operation" means any operation which has as its essential purpose a significant reduction in:

(A) the emission of air contaminants, or

(B) the effect of such emission.

"Air pollution episode" means high levels of air pollution existing for an extended period (24 hours or more) of time which may cause acute harmful health effects during periods of atmospheric stagnation, without vertical or horizontal ventilation. This occurs when there is a high pressure air mass over an area, a low wind speed and there is a temperature inversion. Other factors such as humidity may also affect the episode conditions.

"Ambient air standards" or **"Ambient air quality standards"** means levels of air quality as codified in OAC 252:100-3.

"Atmosphere" means the air that envelops or surrounds the earth.

"Best available control technology" or **"BACT"** means the best control technology that is currently available as determined by the Division Director on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs of alternative control systems.

"Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

"Catalytic cracking unit" means a unit composed of a reactor, regenerator and fractionating towers which is used to convert certain petroleum fractions into more valuable products by passing the material through or commingled with a bed of catalyst in the reactor. Coke deposits produced on the catalyst during cracking are removed by burning off in the regenerator.

"Combustible materials" means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

"Commence" means, unless specifically defined otherwise, that the owner or operator of a facility to which neither a NSPS or NESHAP applies has begun the construction or installation of the emitting units on a pad or in the final location at the facility.

"Complete" means in reference to an application for a permit, the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Director from requesting or accepting any additional information.

"Construction" means, unless specifically defined otherwise, fabrication, erection, or installation of a source.

"Crude oil" means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

"Direct fired" means that the hot gasses produced by the flame or heat source come into direct contact with the material being processed or heated.

"Division" means Air Quality Division, Oklahoma State Department of Environmental Quality.

"Dust" means solid particulate matter released into or carried in the air by natural forces, by any fuel-burning, combustion, process equipment or device, construction work, mechanical or industrial processes.

"EPA" means the United States Environmental Protection Agency.

"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.

"Existing source" means, unless specifically defined otherwise, an air contaminant source which is in being on the effective date of the appropriate Subchapter, section, or paragraph of these rules.

"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).

"Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

"Fuel-burning equipment" means any one or more of boilers, furnaces, gas turbines or other combustion devices and all appurtenances thereto used to convert fuel or waste to usable heat or power.

"Fugitive dust" means solid airborne particulate matter emitted from any source other than a stack or chimney.

"Fugitive emissions" means, unless specifically defined otherwise, those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Fume" means minute solid particles generated by the condensation of vapors to solid matter after volatilization from the molten state, or generated by sublimation, distillation, calcination, or chemical reaction when these processes create airborne particles.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

"Gross particulate matter" or "GPM" means particulate matter with an aerodynamic diameter greater than 10 micrometers.

"In being" means as used in the definitions of New Installation and Existing Source that an owner or operator has undertaken a continuous program of construction or modification or the owner or operator has entered into a binding agreement or contractual obligation to undertake and complete within a reasonable time a continuous program of construction or modification prior to the compliance date for installation as specified by the applicable regulation.

"Incinerator" means a combustion device specifically designed for the destruction, by high temperature burning, of solid, semi-solid, liquid, or gaseous combustible wastes and from which the solid residues contain little or no combustible material.

"Indirect fired" means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.

"Installation" means an identifiable piece of process equipment.

"Lowest achievable emissions rate" or **"LAER"** means, for any source, the more stringent rate of emissions based on paragraphs (A) and (B) of this definition. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of LAER allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable standard of performance for the new source.

(A) LAER means the most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable, or

(B) LAER means the most stringent emissions limitation which is achieved in practice by such class or category of stationary sources.

"Major source" means any new or modified stationary source which directly emits or has the capability at maximum design capacity and, if appropriately permitted, authority to emit 100 tons per year or more of a given pollutant. (OAC 252:100-8, Part 3)

"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.

"Mist" means a suspension of any finely divided liquid in any gas or atmosphere excepting uncombined water.

"Modification" means any physical change in, or change in the method of operation of, a source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted, except that:

(A) routine maintenance, repair and replacement shall not be considered physical changes; and,

(B) the following shall not be considered a change in the method of operation:

(i) any increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(ii) an increase in hours of operation;

(iii) use of alternative fuel or raw material if, prior to the date any standard under this part becomes applicable to such source the affected facility is designed to accommodate such alternative use.

"National Emission Standards for Hazardous Air Pollutants" or **"NESHAP"** means those standards found in 40 CFR Parts 61 and 63.

"New installation", "New source", or **"New equipment"** means an air contaminant source which is not in being

on the effective date of these regulations and any existing source which is modified, replaced, or reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.

"New Source Performance Standards" or **"NSPS"** means those standards found in 40 CFR Part 60.

"Nonmethane organic compounds" or **"NMOC"** means nonmethane organic compounds, as defined in 40 CFR 60.754.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Open burning" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

"Organic compound" means any chemical compound containing the element carbon.

"Owner or operator" means any person who owns, leases, operates, controls or supervises a source.

"Part 70 permit" means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of Subchapter 8, as provided in OAC 252:100-8-3(a) and (b).

"PM-10 emissions" means particulate matter emitted to the ambient air with an aerodynamic diameter of 10 micrometers or less as measured by applicable reference methods, or an equivalent or alternative method.

"PM-10" means particulate matter with an aerodynamic diameter of 10 micrometers or less.

"PM-2.5" means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

"Particulate matter" or **"PM"** means any material that exists in a finely divided form as a liquid or a solid.

"Particulate matter emissions" means particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.

"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

"Prevention of significant deterioration" or **"PSD"** means increments for the protection of attainment areas as codified in OAC 252:100-3.

"Process equipment" means any equipment, device or contrivance for changing any materials or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants into the open air, but not including that equipment specifically defined as fuel-burning equipment, or refuse-burning equipment.

"Process weight" means the weight of all materials introduced in a source operation, including solid fuels, but excluding liquids and gases used solely as fuels, and excluding air introduced for the purposes of combustion. Process weight rate means a rate established as follows:

(A) for continuous or long-run, steady-state, operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(B) for cyclical or batch source operations, the total process weight for a period which covers a complete or an integral number of cycles, divided by the hours of actual process operation during such period.

(C) where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, that interpretation which results in the minimum value for allowable emission shall apply.

"Reasonably available control technology" or **"RACT"** means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

(A) The necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

(B) The social, environmental, and economic impact of such controls; and

(C) Alternative means of providing for attainment and maintenance of such standard.

"Reconstruction" means

(A) the replacement of components of an existing source to the extent that will be determined by the Executive Director based on:

(i) the fixed capital cost (the capital needed to provide all the depreciable components of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new source);

(ii) the estimated life of the source after the replacements is comparable to the life of an entirely new source; and,

(iii) the extent to which the components being replaced cause or contribute to the emissions from the source.

(B) a reconstructed source will be treated as a new source for purposes of OAC 252:100-8, Part 9.

"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

"Refuse" means, unless specifically defined otherwise, the inclusive term for solid, liquid or gaseous waste products which are composed wholly or partly of such materials as garbage, sweepings, cleanings, trash, rubbish, litter, industrial, commercial and domestic solid, liquid or gaseous waste; trees or shrubs; tree or shrub trimmings; grass clippings; brick,

plaster, lumber or other waste resulting from the demolition, alteration or construction of buildings or structures; accumulated waste material, cans, containers, tires, junk or other such substances.

"Refuse-burning equipment" means any equipment, device, or contrivance, and all appurtenances thereto, used for the destruction of combustible refuse or other combustible wastes by burning.

"Regulated air pollutant" means 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.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Chapter, a principal executive officer or installation commander of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Chapter.

"Shutdown" means the cessation of operation of any process, process equipment, or air pollution control equipment.

"Smoke" means small gas-borne or air-borne particles resulting from combustion operations and consisting of carbon, ash, and other matter any or all of which is present in sufficient quantity to be observable.

"Source operation" means the last operation preceding the emission of an air contaminant, which operation:

(A) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and,

(B) is not an air pollution abatement operation.

"Stack" means, unless specifically defined otherwise, any chimney, flue, duct, conduit, exhaust, pipe, vent or opening, excluding flares, designed or specifically intended to conduct emissions to the atmosphere.

"Standard conditions" means a gas temperature of 68 degrees Fahrenheit (20° Centigrade) and a gas pressure of 14.7 pounds per square inch absolute.

"Startup" means the setting into operation of any process, process equipment, or air pollution control equipment.

"Stationary source" means, unless specifically defined otherwise, any building, structure, facility, or installation either fixed or portable, whose design and intended use is at a fixed location and emits or may emit an air pollutant subject to OAC 252:100.

"Total Suspended Particulates" or **"TSP"** means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.

"Temperature inversion" means a phenomenon in which the temperature in a layer of air increases with height and the cool heavy air below is trapped by the warmer air above and cannot rise.

"Visible emission" means any air contaminant, vapor or gas stream which contains or may contain an air contaminant which is passed into the atmosphere and which is perceptible to the human eye.

"Volatile organic compound" or **"VOC"**means any organic compound that participates in atmospheric photochemical reactions resulting in the formation of tropospheric ozone. Carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, ammonium carbonates, tert-butyl acetate and compounds listed in 40 CFR 51.100(s)(1) are presumed to have negligible photochemical reactivity and are not considered to be VOC.

252:100-1-4. Units, abbreviations and acronyms

(a) Abbreviations and symbols of units of measure.

(1) Btu - British thermal unit
(2) cm/sec - centimeter per second
(3) dscf - dry cubic feet at standard conditions
(4) dscm - dry cubic meter at standard conditions
(5) ft/min - feet per minute
(6) gal - gallon
(7) gal/d - gallons per day
(8) gal/yr - gallons per year
(9) gr/dscf - grains per dry standard cubic foot
(10) hr - hour
(11) Hg - mercury
(12) hp - horsepower
(13) H2O - water
(14) H2S - hydrogen sulfide
(15) H2SO4 - sulfuric acid
(16) kg - kilogram
(17) kg/metric ton - kilograms per metric ton
(18) kPa - kilopascals

(19) l - liter
(20) l/yr - liters per year
(21) LT/D - long tons per day
(22) lb/wk - pounds per week
(23) lb - pound
(24) lbs/hr - pounds per hour
(25) m3 - cubic meter
(26) mg/dscm - milligrams per dry standard cubic meter
(27) MMBTU/hr - ~~heat input in~~ million british thermal units per hour
(28) Mg - megagram - 106 gram
(29) Mg/yr - megagrams per year
(30) mg/l - milligrams per liter
(31) m/min - meter per minute
(32) ng/dscm - nanograms per dry standard cubic meter
(33) ng/J - nanograms per Joule
(~~33~~34) oz/in2 - ounce per square inch
(~~34~~35) ppm - parts per million
(~~35~~36) psia - pounds per square inch absolute
(~~36~~37) psig - pounds per square inch gage
(~~37~~38) ppmv - parts per million by volume
(~~38~~39) SO2 - sulfur dioxide
(~~39~~40) TPY - tons per year
(~~40~~41) ug/m3 - micrograms per cubic meter

(b) Acronyms.
(1) A.I.S.I. - American Iron and Steel Institute
(2) A.S.M.E. - American Society of Mechanical Engineers
(3) A.S.T.M. - American Society for Testing and Materials
(4) BACT - Best Available Control Technology
(5) CEM - Continuous Emission Monitor
(6) CFR - Code of Federal Regulations
(7) COM - Continuous Opacity Monitor
(8) DEQ - Department of Environmental Quality
(9) EPA - Environmental Protection Agency
(10) HAP - Hazardous Air Pollutants
(11) HMIWI - Hospital/Medical/Infectious Waste Incinerator
(12) MACT - Maximum Achievable Control Technology
(13) MSW - Municipal Solid Waste
(14) MWC - Municipal Waste Combustors
(15) NAAQS - National Ambient Air Quality Standards
(16) NESHAP - National Emissions Standards for Hazardous Air Pollutants
(17) NSPS - New Source Performance Standards
(18) OAC - Oklahoma Administrative Code
(19) PBR - Permit by Rule
(20) PM - Particulate Matter
(21) PSD - Prevention of Significant Deterioration
(22) SIC - Standard Industrial Classification
(23) SIP - State Implementation Plan
(24) TSP - Total Suspended Particulates
(25) VOC - Volatile Organic Compound
(26) 27A O.S. - Title 27A Oklahoma Statutes Annotated

SUBCHAPTER 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 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 an 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 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 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) Gross particulate matter (GPM).

[OAR Docket #09-738; filed 4-17-09]

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

[OAR Docket #09-739]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 8. Permits for Part 70 Sources
Part 5. Permits for Part 70 Sources
252:100-8-2. Definitions [AMENDED]
252:100-8-4. Requirements for construction and operating permits [AMENDED]
Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas
252:100-8-30. Applicability [AMENDED]
252:100-8-31. Definitions [AMENDED]
252:100-8-33. Exemptions [AMENDED]
252:100-8-37. Innovative control technology [AMENDED]
252:100-8-38. Actuals PAL [AMENDED]
Part 9. Major Sources Affecting Nonattainment Areas
252:100-8-50. Applicability [AMENDED]
252:100-8-50.1. Incorporation by reference [AMENDED]
252:100-8-51. Definitions [AMENDED]
252:100-8-51.1. Emissions reductions and offsets [AMENDED]
252:100-8-52. Applicability determination for sources in attainment areas causing or contributing to NAAQS violation [AMENDED]
252:100-8-53. Exemptions [AMENDED]
252:100-8-54.1. Ozone and PM-10 precursors [NEW]
252:100-8-55. Source obligation [AMENDED]
252:100-8-56. Actuals PAL [AMENDED]
AUTHORITY:
Environmental Quality Board and Air Quality Advisory Council powers and duties, 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:
June 16, 2008, through July 16, 2008, and August 19, 2008
Public hearing:
July 16, 2008, and August 19, 2008
Adoption:
August 19, 2008
Submitted to Governor:
August 29, 2008
Submitted to House:
August 29, 2008
Submitted to Senate:
August 29, 2008
Gubernatorial approval:
September 24, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
Incorporated standards:
40 CFR 51.166(w), Actuals PALs, with some exceptions
40 CFR 51.165(a)(1) with some exceptions
40 CFR 51.165(a)(3)
40 CFR 51.165(a)(9)
40 CFR 51.165(b)
40 CFR 51.165(a)(4)
40 CFR 51.165(a)(5)
40 CFR 51.165(a)(6)(i) through (v)
40 CFR 51.165(a)(7)
40 CFR 51.165(f), Actuals PALs, with exceptions
Incorporating rules:
252:100-8-38(a)
252:100-8-51
252:100-8-51.1(a)
252:100-8-51.1(b)
252:100-8-52(a)
252:100-8-53(a)
252:100-8-55(b)
252:100-8-55(c)(1) and (2)
252:100-8-55(d)
252:100-8-56
Availability:
The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.
ANALYSIS:
The Department proposes to amend OAC 252:100-8 to correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:100-8-7.1(d) regarding permit renewal and expiration. The following changes are to implement the requirements contained in the *Federal Register* dated November 29, 2005, when EPA took final action on the remaining elements of the program to implement the 8-hour ozone NAAQS:

1) Paragraph (A)(i) of the definition of major modification and paragraph (B) of the definition of major stationary source in OAC 252:100-8-31 were changed to indicate that a major stationary source that is significant for NO_X shall be considered significant for ozone;

2) Paragraph (A)(i) of the definition of regulated NSR pollutant in OAC 252:100-8-31 was changed to list NO_X as a precursor for ozone;

3) Paragraph (A)(v) of the definition of significant in OAC 252:100-8-31 was changed to list the significant level for ozone as 40 TPY of VOC or NO_X;

4) Subsection (c) of OAC 252:100-8-33 was changed to allow exemption from some air quality analysis requirements for ozone if the air quality impacts are less than 100 TPY of NO_X;

5) New paragraphs (C) and (D) were added to the definition of major modification in OAC 252:100-8-51. Paragraph (C), in conjunction with OAC 252:100-8-54.1(a), makes the VOC requirements in Part 9 of Subchapter 8 also apply to NO_X emissions and paragraph (D) provides that any physical change or change in operation of a major source of VOC that results in any increase in VOC emissions shall be considered a major modification for ozone if the source is located in an extreme ozone nonattainment area;

6) New subsection OAC 252:100-8-51.1(b) incorporates by reference the emission offset requirements in 40 CFR 51.165(a)(9); and

7) New subsection OAC 252:100-8-54.1(b) makes the PM-10 requirements in Part 9 of Subchapter 8 also apply to PM-10 precursors.

The revision finalized in the May 1, 2007, *Federal Register* made changes to the definitions of major stationary source in the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR), and to the definition of major source in Title V regulations. The definition of major stationary source in OAC 252:100-8-31 was revised to exclude certain ethanol production facilities from being considered chemical process plants and thus changing their PSD threshold emissions from 100 TPY to 250 TPY. The incorporation by reference of the definitions in OAC 252:100-8-51 was updated to include this revision to the definition of major stationary source for

nonattainment area NSR. The definition of major source in OAC 252:100-8-2 for Part 70 sources was revised to exclude certain ethanol production facilities from being considered chemical process plants and thus the fugitive emissions from these facilities will no longer be used to determine if a source is major for Part 70. In the revision finalized in the June 13, 2007, *Federal Register*, EPA amended its regulations to eliminate the pollution control project (PCP) and clean unit (CU) provisions included in its December 31, 2002, rulemaking. This was required by the U.S. Court of Appeals for the D.C. Circuit in its ruling of June 24, 2005, vacating the PCP and CU provisions. Remaining language due to PCP and/or CU provisions was deleted from OAC 252:100-8-30(b)(5), 252:100-8-50(b)(5), 252:100-8-51, and 252:100-8-51.1. The time period in OAC 252:100-8-4(d)(8) for a timely application for permit renewal is 6 months prior to the date of permit expiration and the time period in 252:100-8-7.1(d)(1) for a timely renewal application is 180 days before the date of expiration. Although used interchangeably, the two time periods are not necessarily the same. Since 180 days is the more precise term, the 6 months time period in OAC 252:100-8-7.1(d)(1) has been changed to 180 days. For consistency 18 months was changed to 540 days. Several scrivener's errors were corrected. These were generally not of a substantive nature. Language was added to OAC 252:100-8-38(c)(3) and 252:100-8-50.1(3) for clarity. Incorporation by reference dates in OAC 252:100-8-38(a); 252:100-8-51; 252:100-8-51.1(a) and (b); 252:100-8-52(a); 252:100-8-53(a); 252:100-8-55(b), (c)(1), (c)(2), and (d); and 252:100-8-56 were updated to include changes made by the revisions contained in the three *Federal Registers*.

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4218.

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, 2009:

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this Section, terms used in this Part retain the meaning accorded them under the applicable requirements of the Act.

"Administratively complete" means an application that provides:

(A) All information required under OAC 252:100-8-5(c), (d), or (e);

(B) A landowner affidavit as required by OAC 252:2-15-20(b)(3);

(C) The appropriate application fees as required by OAC 252:100-8-1.7; and

(D) Certification by the responsible official as required by OAC 252:100-8-5(f).

"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Affected states" means:

(A) all states:

(i) That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and

(ii) That in the judgment of the DEQ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or

(B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

(A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;

(C) Any standard or other requirement under section 111 of the Act, including section 111(d);

(D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

"Begin actual construction" means for purposes of this Part, 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.

"Designated representative" means with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the DEQ offers public participation under 27A O.S.§§ 2-14-101 through 2-14-401 and OAC 252:4-7 or affected State review under OAC 252:100-8-8.

"Emergency" means, when used in OAC 252:100-8-6(a)(3)(C)(iii)(I) and (e), any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"Final permit" means the version of a part 70 permit issued by the DEQ that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and OAC 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of OAC 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) and (B) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year (TPY) of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more ~~HAP's~~ HAPs, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in subparagraph (A), (B), or (C) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 ~~tons per year ("tpy")~~ TPY or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 ~~tpy~~ TPY or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or.

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 ~~tpy~~ TPY or more of any regulated air pollutant (except ~~that fraction of particulate matter that exhibits an average aerodynamic particle diameter of more than 10 micrometers~~ gross particulate matter) (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;
(iv) Primary zinc smelters;
(v) Iron and steel mills;
(vi) Primary aluminum ore reduction plants;
(vii) Primary copper smelters;
(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(ix) Hydrofluoric, sulfuric, or nitric acid plants;
(x) Petroleum refineries;
(xi) Lime plants;
(xii) Phosphate rock processing plants;
(xiii) Coke oven batteries;
(xiv) Sulfur recovery plants;
(xv) Carbon black plants (furnace process);
(xvi) Primary lead smelters;
(xvii) Fuel conversion plants;
(xviii) Sintering plants;
(xix) Secondary metal production plants;
(xx) Chemical process plants (not including ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140);
(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(xxiii) Taconite ore processing plants;
(xxiv) Glass fiber processing plants;
(xxv) Charcoal production plants;
(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
(xxvii) All other stationary source categories which, as of August 7, 1980, are being regulated by a standard promulgated under section 111 or 112 of the Act.

(C) A major stationary source as defined in part D of Title I of the Act, including:
(i) For ozone non-attainment areas, sources with the potential to emit 100 ~~tpy~~ TPY or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 ~~tpy~~ TPY or more in areas classified as "serious," 25 ~~tpy~~ TPY or more in areas classified as "severe," and 10 ~~tpy~~ TPY or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 ~~tpy~~ TPY of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 ~~tpy~~ TPY or more of volatile organic compounds;
(iii) For carbon monoxide non-attainment areas:
(I) that are classified as "serious"; and
(II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 ~~tpy~~ TPY or more of carbon monoxide; and
(iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 ~~tpy~~ TPY or more of PM-10.

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

"Permit" means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Permit modification" means a revision to a Part 70 construction or operating permit that meets the requirements of OAC 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in OAC 252:100-5-2.2 (whether such costs are incurred by the DEQ or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air 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 is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

"Regulated air pollutant" means the following:
(A) Nitrogen oxides or any volatile organic compound (VOC), including those substances defined in OAC 252:100-1-3, 252:100-37-2, and 252:100-39-2, except those specifically excluded in the EPA definition of VOC in 40 CFR 51.100(s);
(B) Any pollutant for which a national ambient air quality standard has been promulgated;
(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

~~**"Responsible official"** means one of the following:~~

~~(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:~~

~~(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or~~

~~(ii) The delegation of authority to such representatives is approved in advance by the DEQ;~~

~~(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;~~

~~(C) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Subchapter, a principal executive officer or installation commander of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or~~

~~(D) For affected sources:~~

~~(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and~~

~~(ii) The designated representative for any other purposes under this Subchapter.~~

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S.§§ 2-5-101 through 2-5-118, as amended) that is not contained in the State Implementation Plan (SIP).

"State program" means a program approved by the Administrator under 40 CFR Part 70.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act as it existed on January 2, 2006.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J.

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

252:100-8-4. Requirements for construction and operating permits

(a) **Construction permits.**

(1) **Construction permit required.** No person shall begin actual construction or installation of any new source that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit. A construction permit is also required prior to reconstruction of a major affected source under 40 CFR Part 63, reconstruction of a major source if it would then become a major affected source under 40 CFR 63, or for any physical change that would be a significant modification under OAC 252:100-8-7.2(b)(2). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) **Requirement for case-by-case MACT determinations.**

(A) **Applicability.** The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) **Exclusions.** The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) **MACT determinations.** If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 2000.

(b) **Operating permits.**

(1) **Operating permits required.** Except as provided in subparagraphs (A) and (B) of this section, no Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) If the owner or operator of a source subject to the requirement to obtain a Part 70 permit submits a timely application for Part 70 permit issuance or renewal, that source's failure to have a Part 70 permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or OAC 252:100-8-4, any additional information identified as being reasonably required to process the application.

(B) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted under paragraph (A) of this Section. The source's failure to have a Part 70 permit shall be deemed a violation of this Subchapter.

(C) Filing an operating permit application shall not affect the requirement, if any, that a source have a construction permit.

(2) **Duty to apply.** For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the DEQ in accordance with this section.

(3) **Timely application.** Sources that are subject to the operating permit program established by this Chapter as of March 6, 1996, shall file applications on the following schedules outlined in OAC 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed below. In the event a major source consists of operations under multiple SIC codes, the primary activity shall form the basis for the initial permit application.

(4) **Application submittal schedule.** The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than September 5, 1996:

(i) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, § 407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

(I) Petroleum and Natural Gas, 1311;

(II) Natural Gas Liquids, 1321;

(III) Electric Services, 4911, 4961;

(IV) Natural Gas Transmission, 4922;

(V) Natural Gas Transmission and Distribution, 4923; and

(VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than March 5, 1997.

(C) No later than March 5, 1997, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,

(ii) Brick Plants, 3251, 3297,

(iii) Commercial Printing, 2752, 2761.

(D) No later than July 5, 1998, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Refineries, 2911;

(ii) Cement Plants, 3241;

(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;

(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;

(v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than March 6, 1999.

(5) **Newly regulated sources.** A source that becomes subject to the operating permit program established by this Chapter at any time following the effective date shall file an administratively complete operating permit application within 180 days of commencement of operation.

(6) **Application acceptability.** Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) **112(g) applications.** A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) **Application for renewal.** Sources subject to this Chapter shall file an application for renewal of an operating permit at least ~~six months~~ 180 days before the date of permit expiration, unless a longer period (not to exceed ~~18 months~~ 540 days) is specified in the permit. Renewal periods greater than ~~six months~~ 180 days are subject to negotiation on a case-by-case basis.

(9) **Phase II acid rain permits.** Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) **Application completeness.** See Environmental Permit Process, OAC 252:4-7-7 and the definition of "administratively complete" in OAC 252:100-8-2.

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-30. Applicability

(a) **General applicability.**

(1) The requirements of this Part shall apply to the construction of any new major stationary source or any project that is a major modification at an existing major stationary source in an area designated as attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the Act.

(2) The requirements of OAC 252:100-8-34 through 252:100-8-36.2 apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Part otherwise provides.

(3) No new major stationary source or major modification to which the requirements of OAC 252:100-8-34 through 252:100-8-36.2(b) apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements.

(4) The requirements of OAC 252:100-8, Parts 1, 3, and 5 also apply to the construction of all new major stationary sources and major modifications.

(b) **Major modification.**

(1) **Major modification applicability determination.**

(A) Except as otherwise provided in OAC 252:100-8-30(c), and consistent with the definition of "major modification", a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases:

(i) a significant emissions increase and

(ii) a significant net emissions increase.

(B) The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(2) **Calculating significant emissions increase and significant net emissions increase before beginning actual construction.** The procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified, according to OAC 252:100-8-30(b)(3) through (5). This is the first step in determining if a proposed modification would be considered a major modification. The procedure for calculating whether a significant net emissions increase will occur at the major stationary source is contained in the definition of "net emissions increase". This is the second step in the process of determining if a proposed modification is a major modification. Both steps occur prior to the beginning of actual construction. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(3) **Actual-to-projected-actual applicability test for projects that only involve existing emissions units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each existing emissions unit, equals or exceeds the amount that is significant for that pollutant.

(4) **Actual-to-potential test for projects that only involve construction of a new emissions unit(s).** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the amount that is significant for that pollutant.

(5) **Hybrid test for projects that involve multiple types of emissions units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in OAC 252:100-8-30(b)(3) or (4) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the amount that is significant for that pollutant. ~~For example, if a project involves both an existing emissions unit and a~~

~~new emissions unit, the projected increase is determined by summing the values determined using the method specified in OAC 252:100-8-30(b)(3) for the existing unit and determined using the method specified in 252:100-8-30(b)(4) for the new emissions unit.~~

(6) **Actual-to-potential test for projects that only involve existing emissions units.** In lieu of using the actual-to-projected-actual test, owners or operators may choose to use the actual-to-potential test to determine if a significant emissions increase of a regulated NSR pollutant will result from a proposed project. A significant emissions increase of a regulated NSR pollutant will occur if the sum of the difference between the potential emissions and the baseline actual emissions for each existing emissions unit, equals or exceeds the amount that is significant for that pollutant. Owners or operators who use the actual to potential test will not be subject to the recordkeeping requirements in OAC 252:100-8-36.2(c).

(c) **Plantwide applicability limitation (PAL).** Major stationary sources seeking to obtain or maintain a PAL shall comply with the requirements under OAC 252:100-8-38.

252:100-8-31. 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~~ Section shall have the meaning given to them in OAC 252:100-1-3, 252:100-8-1.1, or in the Oklahoma Clean Air Act.

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (A) through (C) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under OAC 252:100-8-38. Instead, the definitions of "projected actual emissions" and "baseline actual emissions" shall apply for those purposes.

(A) In general, actual emissions as of a particular date shall equal the average rate in TPY at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(B) The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition.

"Baseline actual emissions" means the rate of emissions, in TPY, of a regulated NSR pollutant, as determined in accordance with paragraphs (A) through (E) of this definition.

(A) The baseline actual emissions shall be based on current emissions data and the unit's utilization during the period chosen. Current emission data means the most current and accurate emission factors available and could include emissions used in the source's latest permit or permit application, the most recent CEM data, stack test data, manufacturer's data, mass balance, engineering calculations, and other emission factors.

(B) For any existing electric utility steam generating unit (EUSGU), baseline actual emissions means the average rate, in TPY, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Director for a permit required under OAC 252:100-8. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with start-ups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units affected by the project. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in TPY, and for adjusting this amount if required by (B)(ii) of this definition.

(C) For an existing emissions unit (other than an EUSGU), baseline actual emissions means the average rate in TPY, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator

within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required either under this Part or under a plan approved by the Administrator, whichever is earlier, except that the 10 year period shall not include any period earlier than November 15, 1990.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a MACT standard that the Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if DEQ has taken credit for such emissions reduction in an attainment demonstration ~~of~~ or maintenance plan consistent with requirements of 40 CFR 51.165(a)(3)(ii)(G).

(iv) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(v) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in TPY, and for adjusting this amount if required by (C)(ii) and (iii) of this definition.

(D) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(E) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing EUSGU in accordance with the procedures contained in paragraph (B) of this definition, for other existing emissions units in accordance with the procedures contained in Paragraph (C) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (D) of this definition.

"Baseline area" means any intrastate areas (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu g/m^3$ (annual average) of the pollutant for which the minor source baseline date is established.

(A) Area redesignations under section 107(d)(1)(D) or (E) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(i) establishes a minor source baseline date; or

(ii) is subject to 40 CFR 52.21 or OAC 252:100-8, Part 7, and would be constructed in the same State as the State proposing the redesignation.

(B) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that such baseline area shall not remain in effect if the Director rescinds the corresponding minor source baseline date in accordance with paragraph (D) of the definition of "baseline date".

"Baseline concentration" means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major stationary source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

"Baseline date" means:

(A) Major source baseline date means:

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and

(ii) in the case of nitrogen dioxide, February 8, 1988.

(B) Minor source baseline date means the earliest date after the trigger date on which a major stationary source or major modification (subject to 40 CFR

52.21 or OAC 252:100-8, Part 7) submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and

(ii) in the case of nitrogen dioxide, February 8, 1988.

(C) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(i) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i)(D) or (E) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under OAC 252:100-8, Part 7; and

(ii) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(D) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the Director may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Director, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.

"Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature.

(A) Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.

(B) With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

"Best available control technology" or **"BACT"** means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The Federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

"Commence" means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

"Continuous emissions monitoring system" or **"CEMS"** means all of the equipment that may be required to meet the data acquisition and availability requirements to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system" or **"CERMS"** means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2, or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

"Electric utility steam generating unit" or **"EUSGU"** means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an EUSGU. There are two types of emissions units as described in paragraphs (A) and (B) of this definition.

(A) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(B) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (A) of this definition. A replacement unit is an existing emissions unit.

"Federal Land Manager" means with respect to any lands in the United States, the Secretary of the department with authority over such lands.

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Low terrain" means any area other than high terrain.

"Major modification" means:

(A) Any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source is a major modification.

(i) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for VOC or NO_X shall be considered significant for ozone.

(ii) A physical change or change in the method of operation shall not include:

(I) routine maintenance, repair and replacement;

(II) use of an alternative fuel or raw material by reason of any order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(III) use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(IV) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(V) use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before January 6, 1975, (unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975) or the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 252:100-8;

(VI) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975;

(VII) any change in source ownership;

(VIII) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided the project complies with OAC 252:100 and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated;

(IX) the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant (on a pollutant-by-pollutant basis) emitted by the unit; or

(X) the reactivation of a very clean coal-fired EUSGU.

(B) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under OAC 252:100-8-38 for a PAL for that pollutant. Instead, the definition of "PAL major modification" at 40 CFR 51.166(w)(2)(viii) shall apply.

"Major stationary source" means

(A) A major stationary source is:

(i) any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 TPY or more of a regulated NSR pollutant:

(I) carbon black plants (furnace process),

(II) charcoal production plants,

(III) chemical process plants, (not including ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140),

(IV) coal cleaning plants (with thermal dryers),

(V) coke oven batteries,

(VI) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,
(VII) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,
(VIII) fuel conversion plants,
(IX) glass fiber processing plants,
(X) hydrofluoric, sulfuric or nitric acid plants,
(XI) iron and steel mill plants,
(XII) kraft pulp mills,
(XIII) lime plants,
(XIV) municipal incinerators capable of charging more than 50 tons of refuse per day,
(XV) petroleum refineries,
(XVI) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
(XVII) phosphate rock processing plants,
(XVIII) portland cement plants,
(XIX) primary aluminum ore reduction plants,
(XX) primary copper smelters,
(XXI) primary lead smelters,
(XXII) primary zinc smelters,
(XXIII) secondary metal production plants,
(XXIV) sintering plants,
(XXV) sulfur recovery plants, or
(XXVI) taconite ore processing plants;

(ii) any other stationary source not on the list in (A)(i) of this definition which emits, or has the potential to emit, 250 TPY or more of a regulated NSR pollutant;

(iii) any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source under this definition if the change would constitute a major stationary source by itself.

(B) A major source that is major for VOC <u>or NO_X</u> shall be considered major for ozone.

(C) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Part whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(i) the stationary sources listed in (A)(i) of this definition;

(ii) any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

"Necessary preconstruction approvals or permits" means those permits or approvals required under all applicable air quality control laws and rules.

"Net emissions increase" means:

(A) with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(i) the increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to OAC 252:100-8-30(b); and,

(ii) any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under (A)(ii) of this definition shall be determined as provided in the definition of "baseline actual emissions", except that (B)(iii) and (C)(iv) of that definition shall not apply.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if:

(i) it is contemporaneous; and

(ii) the Director has not relied on it in issuing a permit for the source under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that it meets all the conditions in (F)(i) through (iii) of this definition.

(i) It is creditable if the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.

(ii) It is creditable if it is enforceable as a practical matter at and after the time that actual construction on the particular change begins.

(iii) It is creditable if it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(H) Paragraph (A) of the definition of "actual emissions" shall not apply for determining creditable increases and decreases.

"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 enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Predictive emissions monitoring system" or **"PEMS"** means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2, or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

"Prevention of Significant Deterioration (PSD) program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR 51.166, or the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

"Project" means a physical change in, or change in method of operation of, an existing major stationary source.

"Projected actual emissions" means

(A) Projected actual emissions means the maximum annual rate, in TPY, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant, and full utilization of the unit would result in a significant emissions increase, or a significant net emissions increase at the major stationary source.

(B) In determining the projected actual emissions under paragraph (A) of this definition (before beginning actual construction), the owner or operator of the major stationary source:

(i) shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved plan; and

(ii) shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions; and

(iii) shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(iv) in lieu of using the method set out in (B)(i) through (iii) of this definition, may elect to use the emissions unit's potential to emit, in TPY.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(A) has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the Department's emissions inventory at the time of enactment;

(B) was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;

(C) is equipped with low-NO_X burners prior to the time of commencement of operations following reactivation; and

(D) is otherwise in compliance with the requirements of the Act.

"Regulated NSR pollutant" means

(A) A regulated NSR pollutant is:

(i) any pollutant for which a NAAQS has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (*e.g.*, VOC and NO_X are precursors for ozone);

(ii) any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(iv) any pollutant that otherwise is subject to regulation under the Act.

(B) Regulated NSR pollutant does not include:

(i) any or all HAP either listed in section 112 of the Act or added to the list pursuant to section 112(b)(2) of the Act, which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed HAP is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act; or

(ii) any pollutant that is regulated under section 112(r) of the Act, provided that such pollutant is not otherwise regulated under the Act.

"Replacement unit" means an emissions unit for which all the criteria listed in paragraphs (A) through (D) of this definition are met. No creditable emission reduction shall be generated from shutting down the existing emissions unit that is replaced.

(A) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the

emissions unit completely takes the place of an existing emissions unit.

(B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(C) The replacement unit does not alter the basic design parameter(s) of the process unit.

(D) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operating by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Repowering" means

(A) Repowering shall mean the replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(B) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(C) The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Act.

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, significant means a rate of emissions that would equal or exceed any of the following rates:

(i) carbon monoxide: 100TPY,

(ii) nitrogen oxides: 40 TPY,

(iii) sulfur dioxide: 40 TPY,

(iv) particulate matter: 25 TPY of particulate matter emissions or 15 TPY of PM-10 emissions,

(v) ozone: 40 TPY of VOC or NO_X,

(vi) lead: 0.6 TPY,

(vii) fluorides: 3 TPY,

(viii) sulfuric acid mist: 7 TPY,

(ix) hydrogen sulfide (H_2S): 10 TPY,

(x) total reduced sulfur (including H_2S): 10 TPY,

(xi) reduced sulfur compounds (including H_2S): 10 TPY,

(xii) municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.5×10^{-6} TPY,

(xiii) municipal waste combustor metals (measured as particulate matter): 15 TPY,

(xiv) municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 40 TPY,

(xv) municipal solid waste landfill emissions (measured as nonmethane organic compounds): 50 TPY.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 $\mu g/m^3$ (24-hour average).

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

"Significant net emissions increase" means a significant emissions increase and a net increase.

"Stationary source" means any building, structure, facility or installation which emits or may emit a regulated NSR pollutant.

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Oklahoma Air Pollution Control Rules in OAC 252:100 and other requirements necessary to attain and/or maintain the NAAQS during and after the project is terminated.

252:100-8-33. Exemptions

(a) **Exemptions from the requirements of OAC 252:100-8-34 through 252:100-8-36.2.**

(1) The requirements of OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a particular major stationary source or major modification if the source or modification is:

(A) a nonprofit health or nonprofit educational institution; or

(B) major only if fugitive emissions, to the extent quantifiable, are included in calculating the potential to emit and such source is not one of the categories listed in paragraph (C) of the definition of "Major stationary source"; or

(C) a portable stationary source which has previously received a permit under the requirements contained in OAC 252:100-8-34 through 252:100-8-36.2 and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(2) The requirements in OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source or

modification is located in an area designated as nonattainment for that pollutant under section 107 of the Act.

(b) **Exemption from air quality impact analyses in OAC 252:100-8-35(a) and (c) and 252:100-8-35.2.**

(1) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 are not applicable with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 as they relate to any PSD increment for a Class II area do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT, would be less than 50 TPY.

(c) **Exemption from air quality analysis requirements in OAC 252:100-8-35(c).**

(1) The monitoring requirements of OAC 252:100-8-35(c) regarding air quality analysis are not applicable for a particular pollutant if the emission increase of the pollutant from a proposed major stationary source or the net emissions increase of the pollutant from a major modification would cause, in any area, air quality impacts less than the following amounts:

(A) Carbon monoxide - 575µg/m^3, 8-hour average,

(B) Nitrogen dioxide - 14µg/m^3, annual average,

(C) Particulate matter - 10µg/m^3, TSP or PM-10, 24-hour average,

(D) Sulfur dioxide -13µg/m^3, 24-hour average,

(E) Ozone - no de minimis air quality level is provided for ozone, however any net increase of 100 TPY or more of VOC or NO_X subject to PSD would require an ambient impact analysis, including the gathering of ambient air quality data,

(F) Lead - 0.1µg/m^3, 24-hour 3-month average,

(G) Fluorides - 0.25µg/m^3, 24-hour average,

(H) Total reduced sulfur - 10µg/m^3, 1-hour average,

(I) Hydrogen sulfide - 0.2µg/m^3, 1-hour average, or

(J) Reduced sulfur compounds - 10µg/m^3, 1-hour average.

(2) The pollutant is not listed in preceding OAC 252:100-8-33(c)(1).

(d) **Exemption from monitoring requirements in OAC 252:100-8-35(c)(1)(B) and (D).**

(1) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application was complete except for the requirements in OAC 252:100-8-35(c)(1)(B) and (D). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to any such source or modification.

(2) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(c)(1)(B) and (D).

(e) **Exemption from the preapplication analysis required by OAC 252:100-8-35(c)(1)(A), (B), and (D).**

(1) The Director shall determine if the requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(c)(1)(A), (B), and (D) may be waived for a particular source or modification when an application for a PSD permit was submitted on or before June l, 1988, and the Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(c)(1)(A), (B), and (D), was complete before that date.

(2) The requirements for air quality monitoring of PM-10 in OAC 252:100-8-35(c)(1)(B)(i), 252:100-8-35(c)(1)(D), and 252:100-8-35(c)(3) shall apply to a particular source or modification if an application for a permit was submitted after June l, 1988, and no later than December 1, 1988. The data shall have been gathered over at least the period from February l, 1988, to the date the application became otherwise complete in accordance with the provisions of OAC 252:100-8-35(c)(1)(C), except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(c)(1)(B)(ii) shall have been gathered over that shorter period.

(f) **Exemption from BACT requirements and air quality analyses requirements.** If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for BACT in OAC 252:100-8-34 and the requirements for air quality analyses in OAC 252:100-8-35(c)(1) are not applicable to a particular stationary source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978, are applicable to any such source or modification.

(g) **Exemption from OAC 252:100-8-35(a)(2).** The permitting requirements of OAC 252:100-8-35(a)(2) do not apply to a stationary source or modification with respect to any PSD increment for nitrogen oxides if the owner or operator of the source or modification submitted a complete application for a permit before February 8, 1988.

252:100-8-37. Innovative control technology

(a) An applicant for a permit for a proposed major stationary source or major modification may request the Director in writing to approve a system of innovative control technology.

(b) The Director may determine that the innovative control technology is permissible if:

(1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function.

(2) The applicant agrees to achieve a level of continuous emissions reductions equivalent to that which would have been required for BACT under OAC 252:100-8-34(b)(1) by a date specified by the Director. Such date shall not be later than 4 years from the time of start-up or 7 years from permit issuance.

(3) The source or modification would meet the requirements equivalent to those in OAC 252:100-8-34 and 252:100-8-35(a) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Director.

(4) The source or modification would not, before the date specified, cause or contribute to any violation of the applicable NAAQS, or impact any Class I area or area where an applicable increment is known to be violated.

(5) All other applicable requirements including those for public participation have been met.

(6) The provisions of OAC 252:100-8-36 (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

(c) The Director shall withdraw approval to employ a system of innovative control technology made under OAC 252:100-8-37, if:

(1) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or,

(2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare or safety; or,

(3) The Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare or safety.

(d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with OAC 252:100-8-37(c), the Director may allow the source or modification up to an additional 3 years to meet the requirement for application of BACT through the use of a demonstrated system of control.

252:100-8-38. Actuals PAL

(a) **Incorporation by reference.** With the exception of the definitions in OAC 252:100-8-38(c), 40 CFR 51.166(w), Actuals PALs, is hereby incorporated by reference, as it exists on ~~January 2, 2006~~ July 2, 2007, and does not include any subsequent amendments or editions to the referenced material.

(b) **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.

(c) **Terminology related to 40 CFR 51.166(w).** For purposes of interfacing with 40 CFR, the following terms apply.

(1) "Baseline actual emissions" is synonymous with the definition of "baseline actual emissions" in OAC 252:100-8-31.

(2) "Building, structure, facility, or installation" is synonymous with the definition of "building, structure, facility, or installation" in OAC 252:100-1-3.

(3) "EPA" is synonymous with Department of Environmental Quality (DEQ) unless the context clearly indicates otherwise.

(4) "Major modification" is synonymous with the definition of "major modification" in OAC 252:100-8-31.

(5) "Net emissions increase" is synonymous with the definition of "net emissions increase" in OAC 252:100-8-31.

(6) "Reviewing authority" is synonymous with "Director".

(7) "State implementation plan" is synonymous with OAC 252:100.

(8) "Volatile organic compound (VOC)" is synonymous with the definition of "volatile organic compound" or "VOC" in OAC 252:100-1-3.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-50. Applicability

(a) **General applicability.**

(1) The requirements of this Part shall apply to the construction of any new major stationary source or major modification which would locate in or affect a nonattainment area located in Oklahoma, designated under section 107(d)(1)(A)(i) of the Act, if the stationary source or modification is major for the pollutant for which the area is designated nonattainment.

(2) The requirements of OAC 252:100-8, Parts 1, 3, and 5 also apply to the construction of any new major stationary source or major modification.

(3) In addition, the requirements of a PSD review (OAC 252:100-8, Part 7) would be applicable if any regulated NSR pollutant other than the nonattainment pollutant is emitted in significant amounts by that source or modification.

(b) **Major modification.**

(1) **Major modification applicability determination.**

(A) Except as otherwise provided in OAC 252:100-8-50(c), and consistent with the definition of "major modification" contained in OAC 252:100-8-51, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases:

(i) a significant emissions increase, and

(ii) a significant net emissions increase.

(B) The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(2) **Calculating significant emissions increase and significant net emissions increase.** The procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions unit(s) being modified, according to OAC 252:100-8-50(b)(3) through (5). This is the first step in determining if a proposed modification would be considered a major modification. The procedure for calculating whether a significant net emissions increase will occur at the major stationary source is contained in the definition of "net emissions increase" in OAC 252:100-8-50.1 and 252:100-8-51. This is the second step in the process of determining if a proposed modification is a major modification. Both steps occur prior to the beginning of actual construction. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(3) **Actual-to-projected-actual applicability test for projects that only involve existing emissions units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, as applicable, for each existing emissions unit, equals or exceeds the amount that is significant for that pollutant.

(4) **Actual-to-potential test for projects that only involve construction of a new emissions unit(s).** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the amount that is significant for that pollutant.

(5) **Hybrid test for projects that involve multiple types of emissions units.** A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in OAC 252:100-8-50(b)(3) and (4) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the amount that is significant for that pollutant. ~~For example, if a project involves both an existing emissions unit and a new emissions unit, the projected increase is determined by summing the values determined using the method specified in OAC 252:100-8-50(b)(3) for the existing unit and determined using the method specified in 252:100-8-50(b)(4) for the new emissions unit.~~

(c) **Plantwide applicability limitation (PAL).** Major stationary sources seeking to obtain or maintain a PAL shall comply with requirements under OAC 252:100-8-56.

252:100-8-50.1. Incorporation by reference

(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) **Terminology related to 40 CFR.** When these terms are used in rules incorporated by reference from 40 CFR, the following terms or definitions shall apply.

(1) "Baseline actual emissions" is synonymous with the definition of "baseline actual emissions" in OAC 252:100-8-31.

(2) "Building, structure, facility, or installation" is synonymous with the definition of "building, structure, facility, or installation" in OAC 252:100-1-3.

(3) "EPA" is synonymous with Department of Environmental Quality (DEQ) unless the context clearly indicates otherwise.

(4) "Major modification" is synonymous with the definition of "major modification" in OAC 252:100-8-51.

(5) "Net emissions increase" is synonymous with the definition of "net emissions increase" in OAC 252:100-8-51.

(6) "Reviewing authority" is synonymous with "Director".

(7) "Secondary emissions" is synonymous with the definition of "secondary emissions" in OAC 252:100-8-1.1.

(8) "State implementation plan" is synonymous with OAC 252:100.

(9) "Volatile organic compound (VOC)" is synonymous with the definition of "volatile organic compound" or "VOC" in OAC 252:100-1-3.

252:100-8-51. Definitions

The definitions in 40 CFR 51.165(a)(1) are hereby incorporated by reference as they exist on ~~January 2, 2006~~ July 2, 2007, except for the definitions found at 40 CFR 51.165(a)(1)(xxxv) "baseline actual emissions"; (ii) "building, structure, facility, or installation"; ~~(xxix) "Clean Unit";~~ (xlv) "fixed capital cost"; (xliv) "functionally equivalent component"; (v) "major modification"; (vi) "net emissions increase"; ~~(xxv) "pollution control project (PCP);~~ (xliii) "process unit"; (xxxviii) "reviewing authority"; (viii) "secondary emissions"; (xlvi) "total capital investment"; and (xix) "volatile organic compound (VOC)". With the exception of ~~"pollution control project (PCP)", "Clean Unit", and~~ "reviewing authority", "fixed capital cost", "functionally equivalent component", "process unit", and "total capital investment", these terms are defined in OAC 252:100-8-31, 252:100-8-51, or 252:100-1-3. The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise.

"**Major modification**" means:

(A) Any physical change in, or change in the method of operation of, a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source is a major modification.

(i) Any significant emissions increase from any emissions unit or net emissions increase at a major stationary source that is significant for VOC and/or oxides of nitrogen (NO_X) shall be considered significant for ozone.

(ii) A physical change or change in the method of operation shall not include:

(I) routine maintenance, repair and replacement;

(II) use of an alternative fuel or raw material by reason of any order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(III) use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(IV) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(V) use of an alternative fuel or raw material by a source which the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, or the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 8;

(VI) an increase in the hours of operation or in the production rate unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976;

(VII) any change in source ownership;

(VIII) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with OAC 252:100 and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated.

(B) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under OAC 252:100-8-56 for a PAL for that pollutant. Instead the definition at 40 CFR 51.165(f)(2)(viii) shall apply.

(C) For the purpose of applying the requirements of OAC 252:100-8-54.1(a) to modifications at major stationary sources of NO_X located in ozone nonattainment areas or in ozone transport regions (as defined in 42 U.S.C. § 7511c), whether or not subject to subpart 2, part D, title I of the Act, any significant net emissions increase of NO_X is considered significant for ozone.

(D) Any physical change in, or change in the method of operation of, a major stationary source of VOCs that results in any increase in emissions of VOCs from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act.

"Net emissions increase" means:

(A) With respect to any regulated NSR pollutant emitted by a major stationary source, net emissions increase shall mean the amount by which the sum of the following exceeds zero:

(i) the increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to OAC 252:100-8-50(b); and,

(ii) any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under (A)(ii) of this definition shall be determined as provided in the definition of "baseline actual emissions", except that (B)(iii) and (C)(iv) of that definition shall not apply.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if:

(i) it is contemporaneous; and

(ii) the Director has not relied on it in issuing a permit under OAC 252:100-8, Part 9, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(iii) the Director has not relied on it in issuing any permit under OAC 252:100; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

(G) Paragraph 40 CFR 51.165(a)(1)(xii)(B) of the definition of "actual emissions" shall not apply for

determining creditable increases and decreases or after a change.

252:100-8-51.1. Emissions reductions and offsets

(a) The requirements in 40 CFR 51.165(a)(3) regarding emissions reductions and offsets~~, except for 40 CFR 51.165(a)(3)(ii)(H) and (I),~~ are hereby incorporated by reference as they exist on ~~January 2, 2006~~ July 2, 2007.

(b) Meeting the emissions offset requirements in subsection OAC 252:100-8-51.1(a) for ozone nonattainment areas that are subject to subpart 2, part D, title I of the Act shall be in accordance with the requirements in 40 CFR 51.165(a)(9) which is hereby incorporated by reference as it exists on July 2, 2007.

252:100-8-52. Applicability determination for sources in attainment areas causing or contributing to NAAQS violation

(a) The requirements in 40 CFR 51.165(b) regarding a source located in an attainment or unclassifiable area but causing or contributing to a NAAQS violation are hereby incorporated by reference as they exist on ~~January 2, 2006~~ July 2, 2007.

(b) Sources of VOC located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(c) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in OAC ~~252:100-8-52(1)~~ 252:100-8-52(a) are exempted from the condition of OAC 252:100-8-54(4)(A).

(d) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air quality standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case-by-case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.

(e) The determination as to whether a source would cause or contribute to a violation of applicable ambient air quality standards will be made on a case-by-case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

252:100-8-53. Exemptions

(a) The ~~requirement~~ requirements in 40 CFR 51.165(a)(4) regarding exemption of fugitive emissions in determining if a source or modification is major are hereby incorporated by reference as they exist on ~~January 2, 2006~~ July 2, 2007.

(b) Nonattainment area requirements do not apply to a particular source or modification locating in or impacting on a nonattainment area if the source or modification was not subject to 40 CFR Part 51, Appendix S (emission offset interpretative ruling) as it existed on January 16, 1979, and the source:

(1) obtained all final federal and state construction permits before August 7, 1980;

(2) commenced construction within 18 months from August 7, 1980, or any earlier time required by the State Implementation Plan; and,

(3) did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(c) Secondary emissions are excluded in determining the potential to emit. However, upon determination of the Director, if a source is subject to the requirements on the basis of its direct emissions, the applicable requirements must also be met for secondary emissions but the source would be exempt from the conditions of OAC ~~252:100-8-52(4)~~ 252:100-8-52(d) and 252:100-8-54(1) through 252:100-8-54(3). Also, the indirect impacts of mobile sources are excluded.

(d) As specified in the applicable definitions, the requirements of Part 7 for PSD and Part 9 for nonattainment areas of this Subchapter are not applicable to a modification if the existing source was not major on August 7, 1980, unless the proposed addition to the existing minor source is major in its own right.

252:100-8-54.1. Ozone and PM-10 precursors

(a) **Ozone.** The requirements of Part 9 of OAC 252:100-8 applicable to major stationary sources and major modifications of VOCs shall apply to NO_X emissions from major stationary sources and major modifications of NO_X in an ozone transport region (as defined in 42 U.S.C.§ 7511c) or in any ozone nonattainment area, except in ozone nonattainment areas or in portions of an ozone transport region where the Administrator has granted a NO_X waiver applying the standards set forth under section 182(f) of the Act and the waiver continues to apply.

(b) **PM-10 precursors.** The requirements of Part 9 of OAC 252:100-8 applicable to major stationary sources and major modifications of PM-10 shall also apply to major stationary sources and major modifications of PM-10 precursors, except where the Administrator determines that such sources do not contribute significantly to PM-10 levels that exceed the PM-10 ambient standards in the area.

252:100-8-55. Source obligation

(a) **Construction permits required.** An owner or operator shall obtain a construction permit prior to commencing construction of a new major stationary source or major modification.

(b) **Responsibility to comply and the consequences of relaxation of permit conditions.** The requirements in 40 CFR 51.165(a)(5) regarding the responsibility to comply with applicable local State or Federal law and the consequences of becoming a major source by virtue of a relaxation in any

enforcement limitation are hereby incorporated by reference as they exist on ~~January 2, 2006~~ July 2, 2007.

(c) **Requirements when using projected actual emissions.**

(1) The specific provisions in 40 CFR 51.165(a)(6)(i) through (v) (as they exist on July 2, 2007) shall apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) when the owner or operator elects to use the methods specified in the definition of "projected actual emissions" at ~~40 CFR 51.165(a)(xxviii)(B)(1) through (3)~~ 40 CFR 51.165(a)(1)(xxviii)(B)(1) through (3)~~(as they existed on January 2, 2006)~~ for calculating projected actual emissions.

(2) The requirements in 40 CFR 51.165(a)(6)(i) through (v) are hereby incorporated by reference as they ~~existed~~ exist on ~~January 2, 2006~~ July 2, 2007.

(d) **Availability of information.** The requirements in 40 CFR 51.165(a)(7) regarding availability of information required to document the use of projected actual emissions for determining if a project is a major modification are hereby incorporated by reference as they ~~existed~~ exist on ~~January 2, 2006~~ July 2, 2007.

252:100-8-56. Actuals PAL

The requirements in 40 CFR 51.165(f) regarding actuals PAL except for the terminology contained in OAC 252:100-8-50.1(b), are hereby incorporated by reference as they ~~existed~~ exist on ~~January 2, 2006~~ July 2, 2007.

[OAR Docket #09-739; filed 4-17-09]

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

[OAR Docket #09-740]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 17. Incinerators
Part 5. Municipal Waste Combustors
252:100-17-14.1. Definitions [AMENDED]
252:100-17-14.2. Terminology related to 40 CFR [AMENDED]
252:100-17-15. Exemptions [AMENDED]
252:100-17-16. Standards for particulate matter and opacity [AMENDED]
252:100-17-17. Standards for municipal waste combustor metals [AMENDED]
252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans [AMENDED]
252:100-17-20. Standards for nitrogen oxides [AMENDED]
252:100-17-21. Standards for municipal waste combustor operating practices [AMENDED]
252:100-17-24. Standards for municipal waste combustor operator training and certification [AMENDED]
252:100-17-25. Compliance and performance testing [AMENDED]
252:100-17-26. Reporting and recordkeeping requirements [AMENDED]

AUTHORITY:
Environmental Quality Board and Air Quality Advisory Council powers and duties, 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 17, 2008, through April 16, 2008, and August 19, 2008
Public hearing:
April 16, 2008, and August 19, 2008
Adoption:
August 19, 2008
Submitted to Governor:
August 29, 2008
Submitted to House:
August 29, 2008
Submitted to Senate:
August 29, 2008
Gubernatorial approval:
September 24, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
Incorporated Standards:
40 CFR 60.51b
40 CFR 60.53b (b) and (c)
40 CFR 60.58b
40 CFR 60.59b
Incorporating rules:
252:100-17-14.1
252:100-17-21
252:100-17-25
252:100-17-26
Availability:
The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.

ANALYSIS:
The Department proposes to amend OAC 252:100-17, Part 5, Municipal Waste Combustors (MWC), to reflect new federal standards for existing and new MWC units with a combustion capacity greater than 250 tons per day. Standards for MWC units were promulgated in 1995 and implemented in 2000. The Clean Air Act (CAA) requires review of these standards every 5 years. The review was conducted in accordance with CAA section 129 and section 111. For existing MWC units, the goal of this action is to amend the standards to reflect the actual performance levels being achieved by existing MWC units. For new MWC units, the goal of this action is to amend the standards to reflect the performance level achievable by MWC units constructed in the future. Other technical improvements are also being made to the standards for MWC units. These proposed rule changes provide the means for implementing and enforcing the federal emission guidelines (40 CFR 60, Subpart Cb) and will be the enforcement mechanism in Oklahoma's State 111(d)/129 Plan. Amendments to Part 5 tighten the emission limits for existing MWC units for dioxin, cadmium, lead, mercury and particulate matter as well as nitrogen oxides emitted by mass burn rotary waterwall type MWC units. Emission limits for new MWC units are revised for cadmium, lead, mercury and particulate matter. Compliance testing provisions have been revised for both new and existing MWC units to require increased data availability from continuous emissions monitoring systems (CEMS). The revisions require CEMS to generate at least 95 percent data availability on a calendar year basis and at least 90 percent data availability on a calendar quarter basis. The emission guidelines and NSPS have also been revised to allow the optional use of CEMS to monitor particulate matter and mercury. In addition to establishing new emission standards for certain regulated pollutants, the new rule will modify requirements for operator training and qualifications. Proposed changes have been implemented by both modifying the rule text and updating incorporations by reference.

CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4218.

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, 2009:

SUBCHAPTER 17. INCINERATORS

PART 5. MUNICIPAL WASTE COMBUSTORS

252:100-17-14.1. Definitions

The definitions in 40 CFR 60.51b are hereby incorporated by reference as they exist on ~~July 1, 2002~~ November 6, 2006, except for the definition of municipal waste combustor plant. In addition to the incorporated definitions, the following words and terms, when used in this Part, shall have the following meanings, unless the context clearly indicates otherwise:

"EPA" means the Administrator of the U.S. EPA or employee of the U.S. EPA who is delegated to perform the specified task.

"Municipal waste combustor" or "MWC" means each municipal waste combustor unit with a combustion capacity greater than 250 tons per day of municipal solid waste for which construction was commenced on or before September 20, 1994.

"Municipal waste combustor plant" means one or more municipal waste combustor units at the same location.

"Semi-suspension refuse-derived fuel-fired combustor/wet refuse-derived fuel process conversion" means a combustion unit that was converted from a wet refuse-derived fuel process to a dry refuse-derived fuel process, and because of constraints in the design of the system, includes a low furnace height (less than 60 feet between the grate and the roof) and a high waste capacity-to-undergrate air zone ratio (greater than 300 tons of waste per day (tpd) fuel per each undergrate air zone).

"Spreader stoker fixed floor refuse-derived fuel-fired combustor/100 percent coal capable" means a spreader stoker type combustor with a fixed floor grate design that typically fires 100 percent refuse-derived fuel but is equipped to burn 100 percent coal instead of refuse-derived fuel to fulfill 100 percent steam or energy demand.

252:100-17-14.2. Terminology related to 40 CFR

When these terms are used in rules incorporated by reference, the following definitions shall apply:

"Affected facility" is synonymous with ~~"large~~ municipal waste combustor unit~~" or "large MWC unit"~~.

"State plan" is a program that the State is responsible for developing and implementing to achieve compliance with the emission guidelines in Subpart Cb of 40 CFR Part 60.

252:100-17-15. Exemptions

(a) Any MWC unit that is capable of combusting more than 250 tons per day of MSW and is subject to a federally enforceable permit limiting the maximum amount of MSW that may be combusted in the unit to less than or equal to 11 tons per day is not subject to this Part if the owner/operator:

(1) Notifies the ~~DEQ~~EPA of an exemption claim.

(2) Provides the ~~DEQ~~EPA with a copy of the federally enforceable permit that limits the firing of MSW to less than or equal to 11 tons per day.

(3) Keeps records of the amount of MSW fired per day.

(b) A qualifying small power production facility, (as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C.§ 796(17)(C)), that produces electric energy from homogeneous waste is not subject to this Part if the owner/operator:

(1) Notifies the ~~DEQ~~EPA of an exemption claim.

(2) Provides the ~~DEQ~~EPA data documenting that the facility qualifies for this exemption.

(c) A qualifying cogeneration facility, (as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C.§ 796(18)(B)), that burns homogeneous waste to produce electric energy, steam, or other useful energy used for industrial, commercial, heating, or cooling purposes, is not subject to this Part if the owner/operator:

(1) Notifies the ~~DEQ~~EPA of an exemption claim.

(2) Provides the ~~DEQ~~EPA data documenting that the facility qualifies for this exemption.

(d) Any unit combusting a single-item waste stream of tires is not subject to this Part if the owner/operator:

(1) Notifies the ~~DEQ~~EPA of an exemption claim.

(2) Provides the ~~DEQ~~EPA with data documenting that the unit qualifies for this exemption.

(e) Any unit required to have a hazardous waste permit is not subject to this Part.

(f) Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals is not subject to this Part.

(g) Any cofired combustor that meets the capacity specifications in paragraph (a) of this section is not subject to this Part if the owner/operator:

(1) Notifies the ~~DEQ~~EPA of an exemption claim.

(2) Provides the ~~DEQ~~EPA with a copy of the federally enforceable permit.

(3) Keeps separate records, on a calendar quarter basis, of the weight of MSW and the weight of all other fuels combusted at the cofired combustor.

(h) Air curtain incinerators that meet the capacity specifications in 252:100-17-23 of this Subchapter and combust a 100 percent yard waste fuel stream are not subject to this Part, except:

(1) The opacity limit under section 252:100-17-23 of this Subchapter.

(2) The testing procedures under section 252:100-17-25 of this Subchapter.

(3) The reporting and recordkeeping provisions under section 252:100-17-26 of this Subchapter.

(i) Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit are not subject to this Part if the owner/operator of the unit maintains records of:

(1) The weight of plastics, rubber, and/or rubber tires processed on a calendar quarter basis.

(2) The weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis.

(3) The name and address of the purchaser of the feedstocks.

(j) The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquefied petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this Part.

(k) Cement kilns firing MSW are not subject to this Part.

(l) No MWC is subject to subpart E of 40 CFR Part 60.

(m) Physical or operational changes made to an existing municipal waste combustor unit primarily for the purpose of complying with this Part are not considered in determining whether the unit is a modified or reconstructed facility under subpart Ea or subpart Eb of 40 CFR Part 60.

252:100-17-16. Standards for particulate matter and opacity

(a) **Particulate matter.**

(1) Before April 28, 2009, ~~The~~the concentration of particulate matter contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 27 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(2) By April 28, 2009, the concentration of particulate matter contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 25 milligrams per dry standard cubic meter, corrected to 7 percent oxygen.

(b) **Opacity.** Opacity of gases discharged to the atmosphere from a MWC unit shall not exceed 10 percent (6-minute average).

252:100-17-17. Standards for municipal waste combustor metals

(a) **Cadmium.**

(1) Before April 28, 2009, ~~The~~the concentration of cadmium contained in the gases discharged to the atmosphere from a MWC unit shall not exceed ~~0.040 milligrams~~40 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(2) By April 28, 2009, the concentration of cadmium contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 35 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(b) **Lead.**

(1) By December 19, 2000, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed ~~0.49 milligrams~~490 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(2) By August 26, 2002, or three years after EPA approval of the State plan, whichever is first, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed ~~0.44 milligrams~~440 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(3) By April 28, 2009, the concentration of lead contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 400 micrograms per dry standard cubic meter, corrected to 7 percent oxygen.

(c) **Mercury.**

(1) Before April 28, 2009, ~~The~~the concentration of mercury contained in the gases discharged to the atmosphere from a MWC unit shall not exceed ~~0.080 milligrams~~80 micrograms per dry standard cubic meter or 15 percent of the potential mercury emission concentration (~~85 percent~~85 percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

(2) By April 28, 2009, the concentration of mercury contained in the gases discharged to the atmosphere from a MWC unit shall not exceed 50 micrograms per dry standard cubic meter or 15 percent of the potential mercury emission concentration (85 percent reduction by weight), corrected to 7 percent oxygen, whichever is less stringent.

252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans

(a) The concentration of organics, expressed as total mass dioxins/furans, contained in the gases discharged to the atmosphere from a MWC unit shall not exceed:

(1) Before April 28, 2009, ~~With~~with electrostatic precipitator: 60 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(2) By April 28, 2009, with electrostatic precipitator: 35 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(~~2~~3) Without electrostatic precipitator: 30 nanograms per dry standard cubic meter (total mass), corrected to 7 percent oxygen.

(b) ~~Large~~ MWC units that achieve a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter total mass, corrected to 7 percent oxygen, may elect the alternative performance testing schedule for dioxins/furans as specified in 40 CFR 60.58b(g)(5)(iii).

252:100-17-20. Standards for nitrogen oxides

(a) **Nitrogen oxides emission limits.** The concentration of nitrogen oxides contained in the gases discharged into the atmosphere from a MWC unit shall not exceed the following:

(3) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level discharged from the units included in the emission averaging plan shall be no greater than the levels specified in this section. Emission limits for the nitrogen oxides concentration level for each type of unit are as follows:

NITROGEN OXIDES LIMITS

Municipal waste combustor technology	Nitrogen oxides emission limit (ppm by volume) [a]	
	Before April 28, 2009	On or After April 28, 2009
Mass burn waterwall	205	205
Mass burn rotary waterwall	250	210
Refuse-derived fuel combustor	250	250
Fluidized bed combustor (by December 19, 2000)	240	
Fluidized bed combustor (by August 26, 2002, or three years after EPA approval of the State plan, which ever is first)	180	180
Mass burn refractory combustors	No limit	No limit

a Corrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average

(b) **Nitrogen oxides emissions averaging.** The owner or operator of a MWC plant may elect to implement a nitrogen oxides emissions averaging plan for the MWC units that are located at that plant.

(1) The following units cannot be included in the emissions averaging plan:

(A) MWC units subject to Subpart Ea or Eb of 40 CFR Part 60.

(B) Mass burn refractory MWC units and other MWC technologies not listed in paragraph (b)(3) of this section may not be included in the emissions averaging plan.

(2) Prior to implementing the nitrogen oxides emissions ~~veraging~~averaging plan, the units to be included must be identified in the initial performance test report specified in 40 CFR 60.59b(f) or in the annual report specified in 40 CFR 60.59b(g), as applicable. The units which are included in the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with DEQ approval.

(3) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level discharged from the units included in the emission averaging plan shall be no greater than the levels specified in this section. Emission limits for the nitrogen oxides concentration level for each type of unit are as follows:

NITROGEN OXIDES LIMITS FOR EXISTING DESIGNATED FACILITIES INCLUDED IN AN EMISSIONS AVERAGING PLAN AT A MUNICIPAL WASTE COMBUSTOR PLANT [a]

Municipal waste combustor technology	Nitrogen oxides emission limit (ppm by volume) [b]	
	Before April 28, 2009	On or After April 28, 2009
Mass burn waterwall	185	185
Mass burn rotary waterwall	220	190
Refuse-derived fuel combustor	230	230
Fluidized bed combustor	165	165

a Mass burn refractory municipal waste combustors and other MWC technologies not listed above may not be included in an emissions averaging plan.

b Corrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average

(4) Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in paragraph (b)(3) of this section shall be calculated using the equation in Appendix K of this Chapter. MWC units that are off-line shall not be included in calculating the average daily nitrogen oxides emission level.

(5) For any day a unit included in the emissions averaging plan is off-line, the owner or operator of the MWC plant must demonstrate compliance according to either paragraph (b)(5)(A) or both paragraphs (b)(5)(B) and (b)(5)(C) of this section.

(A) Compliance with the applicable limits specified in (b)(3) of this Part shall be demonstrated using the averaging procedure specified in paragraph (b)(4) of this section. The averaging procedure will include the MWC units in the plan that are on-line.

(B) For each of the units included in the emissions averaging plan, the nitrogen oxides emissions shall be calculated on a daily average basis. The nitrogen oxides emissions level shall be equal to or less than the maximum daily nitrogen oxides emission levels achieved by that unit on any of the days during which the emissions averaging plan was achieved with all units on-line during the most recent calendar quarter. The requirements of this paragraph do not apply during the first quarter of operation under the emissions averaging plan.

(C) The average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b)(5)(C)(ii) of this section shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b)(5)(C)(i) of this section.

(i) The average nitrogen oxides emissions shall be calculated for all days during which the emissions averaging plan was implemented and achieved and during which all MWC units were on-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated, on a calendar year basis, according to paragraphs (b)(5)(C)(i)(I) through (b)(5)(C)(i)(III) of this section.

(I) The daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated for each MWC unit included in the emissions averaging plan. The calculation shall be based on the hourly nitrogen oxides data required under 40 CFR 60.58b(h) and specified under 40 CFR 60.58b(h)(5). The flue gas flow rate is determined using the hourly average steam or feedwater flow rate and Table 19-1 of EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 2002.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each unit calculated under paragraph (b)(5)(C)(i)(I) of this section.

(III) On a calendar year basis, the average nitrogen oxides emissions (kilograms per day), shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(i)(II) of this section divided by the number of calendar days for which a daily total was calculated.

(ii) The average nitrogen oxides emissions shall be calculated for all days during which one or more of the MWC units under the emissions averaging plan was off-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated according to paragraphs (b)(5)(C)(ii)(I) through (b)(5)(C)(ii)(III) of this section on a calendar year basis.

(I) For each MWC unit included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data required under 40 CFR 60.58b(h)and specified under 40 CFR 60.58b(h)(5), the flue gas flow rate determined using Table 19-1 of the EPA Reference Method 19, which is hereby incorporated by reference as it exists on July 1, 2002 and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each MWC unit as calculated under paragraph (b)(5)(C)(ii)(I) of this section.

(III) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(ii)(II) of this section divided by the number of calendar days for which a daily total was calculated.

252:100-17-21. Standards for municipal waste combustor operating practices

(a) The concentration of carbon monoxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed the following limits for each type of affected equipment:

MUNICIPAL WASTE COMBUSTOR OPERATING LIMITS

Municipal waste combustor technology	Carbon monoxide emissions level (ppm by volume) [a]	Averaging Time [b] (hours)
Mass burn waterwall	100	4
Mass burn refractory	100	4
Mass burn rotary refractory	100	24
Mass burn rotary waterwall	250	24
Modular starved air	50	4
Modular excess air	50	4
Refuse-derived fuel stoker	200	24
Fluidized bed, mixed fuel (wood/refuse-derived fuel)	200	24 [c]
Bubbling fluidized bed combustor	100	4
Circulating fluidized bed combustor	100	4
Pulverized coal/refuse-derived fuel mixed fuel-fired combustor	150	4
Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor	200	24
Semi-suspension refuse-derived fuel-fired combustor/wet refuse-derived fuel process conversion	250	24 [c]
Spreader stoker fixed floor refuse-derived fuel-fired combustor/100 percent coal capable	250	24 [c]

a Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen, dry basis. Calculated as an arithmetic average.

b Averaging times are 4-hour or 24-hour block averages.

c 24-hour block average, geometric mean.

(b) An owner or operator of a MWC shall comply with all provisions specified in 40 CFR ~~60.58b~~ 60.53b(b) and (c), which is hereby incorporated by reference as it exists on ~~July 1, 2002~~ November 6, 2006.

252:100-17-24. Standards for municipal waste combustor operator training and certification

(a) Each chief facility operator and shift supervisor shall obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers (ASME) [QRO-1-1994 Standard for the Qualification and Certification of Resource Recovery Facility Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(b) Each chief facility operator and shift supervisor shall have completed full certification or submitted an application, that has been accepted by the appropriate certification program, for a full certification exam with either the ASME [QRO-1-1994 Standard for the Qualification and Certification of Resource Recovery Facility Operators] or a State certification program no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

(c)

(1) No owner or operator of a MWC unit shall allow the unit to be operated at any time unless one of the following persons is on duty:

(~~i~~A) A fully certified chief facility operator.

(~~ii~~B) A provisionally certified chief facility operator who has met the qualification requirements specified in ASME [QRO-1-1994 section 2.2.2] and has made an application for a full certification exam following the ASME [QRO-1-1994 section 4.3.1] application process, according to the schedule specified in paragraph (b) of this section.

(~~iii~~C) A fully certified shift supervisor.

(~~iv~~D) A provisionally certified shift supervisor who has met the qualification requirements specified in ASME [QRO-1-1994 section 2.2.2] and has made an application for a full certification exam following the ASME [QRO-1-1994 section 4.3.1] application process, according to the schedule specified in paragraph (b) of this section.

(2) The requirement specified in paragraph (c) of this section shall take effect no later than the date 6 months after the startup of a MWC unit or 12 months after the date of State plan approval, whichever is later.

~~(3) If one of the persons listed in paragraph (c) of this section must leave the unit during their operating~~

~~shift, a provisionally certified control room operator who is on site at the MWC may fulfill the requirement in paragraph(c) of this section.~~

(3) If both the certified chief facility operator and certified shift supervisor are unavailable, a provisionally certified control room operator who is on-site at the MWC may fulfill the requirement in paragraph (c) of this section. Depending on the length of time that a certified chief facility operator and certified shift supervisor are away, the owner or operator of the affected facility must meet one of three criteria:

(A) When the certified chief facility operator and certified shift supervisor are both off site for 12 hours or less, and no other certified operator is on site, the provisionally certified control room operator may perform the duties of the certified chief facility operator or certified shift supervisor.

(B) When the certified chief facility operator and certified shift supervisor are off site for more than 12 hours, but for two weeks or less, and no other certified operator is on site, the provisionally certified control room operator may perform the duties of the certified chief facility operator or certified shift supervisor without notice to, or approval by, the Director. However, the owner or operator of the affected facility must record the period when the certified chief facility operator and certified shift supervisor are off site and include that information in the annual report as specified in 40 CFR 60.59b(g)(5).

(C) When the certified chief facility operator and certified shift supervisor are off site for more than two weeks, and no other certified operator is on site, the provisionally certified control room operator may perform the duties of the certified chief facility operator or certified shift supervisor without approval by the Director. However, the owner or operator of the affected facility must take two actions:

(i) Notify the Director in writing. In the notice, state what caused the absence and what actions are being taken by the owner or operator of the facility to ensure that a certified chief facility operator or certified shift supervisor is on site as expeditiously as practicable.

(ii) Submit a status report and corrective action summary to the Director every four weeks following the initial notification. If the Director provides notice that the status report or corrective action summary is disapproved, the municipal waste combustion unit may continue operation for 90 days, but then must cease operation. If corrective actions are taken in the 90-day period such that the Director withdraws the disapproval, municipal waste combustion unit operation may continue.

(4) A provisionally certified operator who is newly promoted or recently transferred to a shift supervisor position or a chief facility operator position at the municipal waste combustion unit may perform the duties of the certified chief facility operator or certified shift supervisor without notice to, or approval by, the Director for up to six months before taking the ASME QRO certification exam.

(d) All chief facility operators, shift supervisors, and control room operators at MWC units must complete the EPA or State MWC operator training course no later than the date 6 months after the date of startup of the MWC or by 12 months after the date of State plan approval, whichever is later.

(e) The requirement specified in paragraph (d) of this section does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(f) The owner or operator may request that the DEQ waive the requirement specified in paragraph (d) of this section for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the date of State plan approval.

(g) The owner or operator of a MWC unit shall develop and update on an annual basis, a site-specific operating manual. The operating manual shall, at a minimum, address the elements of MWC unit operation specified in paragraphs (g)(1) through (g)(11) of this section.

(1) A summary of the applicable standards under this Part.

(2) A description of basic combustion theory applicable to a MWC unit.

(3) Procedures for receiving, handling, and feeding MSW.

(4) MWC unit start-up, shutdown, and malfunction procedures.

(5) Procedures for maintaining proper combustion air supply levels.

(6) Procedures for operating the MWC unit within the standards established under this Part.

(7) Procedures for responding to periodic upset or off-specification conditions.

(8) Procedures for minimizing particulate matter carryover.

(9) Procedures for handling ash.

(10) Procedures for monitoring MWC unit emissions.

(11) Reporting and recordkeeping procedures.

(h) The owner or operator of a MWC unit shall establish a training program to review the operating manual according to the schedule specified in paragraphs (h)(1) and (h)(2) of this section. The training shall be provided to each person who has responsibilities affecting the operation of the unit including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

(1) Each person specified in paragraph (h) of this section shall undergo initial training no later than the date specified in paragraph (h)(1)(A), (h)(1)(B), or (h)(1)(C), whichever is later.

(A) The date 6 months after the date of startup of the unit.

(B) The date prior to the day the person assumes responsibilities affecting MWC unit operation.

(C) Twelve months after date of State plan approval.

(2) Annually, following the initial review required by paragraph (h)(1) of this section, each person specified in paragraph (h) of this section shall review the operating manual updates, any operational lessons learned/experiences of the past year, and provide for review of any section which an employee requests.

(i) The operating manual required by paragraph (h) of this section shall be kept in a readily accessible location for all persons required to undergo training under paragraph (h) of this section no later than 6 months after start-up or 12 months after the date of State plan approval. The operating manual and records of training shall be available for inspection by the DEQ upon request.

252:100-17-25. Compliance and performance testing

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.58b, which is hereby incorporated by reference as it exists on ~~July 1, 2002~~ November 6, 2006.

252:100-17-26. Reporting and recordkeeping requirements

Except for the provisions of subsection 60.59b(a), b(5), and d(11), 40 CFR 60.59b is hereby incorporated by reference as it exists on ~~July 1, 2002~~ November 6, 2006.

[OAR Docket #09-740; filed 4-17-09]

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

[OAR Docket #09-741]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 19. Control of Emission of Particulate Matter
252:100-19-1.1. Definitions [AMENDED]
252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units [AMENDED]
Appendix C. Allowable Rate of Emissions for Indirectly Fired Fuel-Burning Units [REVOKED]
Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units [NEW]
Appendix D. Allowable Rate of Emissions for Indirectly Fired Wood Fuel-Burning Units [REVOKED]
Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning Units [NEW]
Appendix G. Allowable Rate of Emissions [REVOKED]
Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process [NEW]
AUTHORITY:
Environmental Quality Board and Air Quality Advisory Council powers and duties, 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 17, 2008, through April 16, 2008, and August 19, 2008
Public hearing:
April 16, 2008, and August 19, 2008
Adoption:
August 19, 2008
Submitted to Governor:
August 29, 2008
Submitted to House:
August 29, 2008
Submitted to Senate:
August 29, 2008
Gubernatorial approval:
September 24, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Department is proposing to amend OAC 252:100-19-1.1, Definitions, by adding definitions for filterable, condensable, and total particulate matter. In addition, OAC 252:100-19-11, Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units, is being amended by the addition of the word "total". Staff is also proposing to revoke the existing Chapter 100 Appendices C, D and G and add the following new appendices:
Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units
Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning Units
Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process These amendments are being made to clarify that the particulate matter emission rates contained in this rule and its appendices refer to both condensable and filterable particulate matter.
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4218.

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, 2009:

SUBCHAPTER 19. CONTROL OF EMISSION OF PARTICULATE MATTER

252:100-19-1.1. Definitions

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

"Condensable particulate matter" means material that is vapor phase at stack conditions, but which condenses and/or reacts upon cooling and dilution in the ambient air to form solid or liquid particulate matter immediately after discharge from the stack. Condensable particulate matter is considered PM-2.5.

~~**"Directly fired"** means that the hot gasses produced by the flame or heat source come into direct contact with the material being processed or heated.~~

"Filterable particulate matter" means particles that are directly emitted by a source as a solid or liquid at stack or release conditions and captured on the filter of a stack test train.

"Fuel-Burning unit" means any internal combustion engine or gas turbine, or other combustion device used to convert the combustion of fuel into usable energy.

"Fossil fuel" means coal, petroleum, natural gas, or any fuel derived from coal, petroleum, or natural gas.

"Haul road" means a road on private property used to transport material or equipment by motorized vehicles.

~~**"Indirectly fired"** means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.~~

"Industrial process" means any source, activity or equipment, excluding fuel-burning units, which can reasonably be expected to emit particulate matter. The term includes, but is not limited to crushing, milling, screening, mixing and conveying. The term does not include maintenance activities unless maintenance is the primary activity of the facility.

"Particulate matter facility" means a facility from which particulate matter is the predominant emission, excluding fugitive emissions and emissions resulting from control equipment malfunctions.

"Total particulate matter" means the sum of all filterable and condensable particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.

"Wood fuel" means any fuel which, excluding air and water, is at least 80 percent by weight cellulose, hemicellulose and lignin, and has a heat value of less than 9,500 BTU per pound; or any wood derived fuel as approved by the Division.

252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units

Any combined wood fuel and fossil fuel fired steam generating unit with a maximum design heat input of more than 250 million BTUs per hour which commenced construction after March 4, 1978, shall not emit total particulate matter in excess of 0.1 pound per million BTUs.

APPENDIX C. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED FUEL-BURNING UNITS [REVOKED]

APPENDIX C. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR INDIRECTLY FIRED FUEL-BURNING UNITS [NEW]

Maximum Heat Input In Million British Thermal Units (MMBTU) Per Hour	Allowable Total Particulate Matter Emissions In Pounds Per MMBTU
Less than or equal to 10	**0.60**
10,000 or more	**0.10**

Allowable total particulate matter emissions for values of X greater than 10 MMBTU, but less than 1,000 MMBTU may be calculated using the formula:

$$E = 1.0428080X^{-0.238561}$$

Allowable total particulate matter emissions for values of X greater than or equal to 1,000 MMBTU, but less than 10,000 MMBTU may be calculated using the formula:

$$E = 1.60X^{-0.30103}$$

Where:

E = allowable total particulate matter emissions in pounds per MMBTU and
X = the maximum heat input in MMBTU per hour.

APPENDIX D. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED WOOD FUEL-BURNING UNITS [REVOKED]

APPENDIX D. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR INDIRECTLY FIRED WOOD FUEL-BURNING UNITS [NEW]

Maximum Heat Input In Million British Thermal Units Per Hour	Allowable Total Particulate Matter Emissions In Pounds Per Million British Thermal Units
Less than 10	0.60
10 and less than 1,000	0.50
1,000 and less than 10,000	0.35
10,000 or more	0.15

APPENDIX G. ALLOWABLE RATE OF EMISSIONS [REVOKED]

APPENDIX G. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR DIRECTLY FIRED FUEL-BURNING UNITS AND INDUSTRIAL PROCESS [NEW]

Allowable total particulate matter emission rates for process weight rates of 30 tons per hour (60,000 pounds per hour) or less shall be calculated using the formula:

$$\mathbf{E = 4.10P^{0.67}}$$

Allowable total particulate matter emission rates for process weight rates greater than 30 tons per hour (60,000 pounds per hour) shall be calculated using the formula:

$$\mathbf{E = (55.00P^{0.11})-40}$$

Where:

E = allowable total particulate matter emission rate in pounds per hour and
P = process weight rate in tons per hour.

[OAR Docket #09-741; filed 4-17-09]

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

[OAR Docket #09-732]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 25. Visible Emissions and Particulates
252:100-25-3. Opacity limit [AMENDED]
AUTHORITY:
Environmental Quality Board and Air Quality Advisory Council powers and duties, 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:
September 15, 2008, through October 15, 2008
November 18, 2008
Public hearing:
October 15, 2008
November 18, 2008
Adoption:
November 18, 2008
Submitted to Governor:
November 25, 2008
Submitted to House:
November 25, 2008
Submitted to Senate:
November 25, 2008
Gubernatorial approval:
December 15, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Department is proposing to amend OAC 252:100-25-3(b)(3), Opacity limit, to correct an error in a rule reference. In addition, there are two non-substantive changes in order to remain consistent with Chapter 100 rule writing standards.
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2009:

SUBCHAPTER 25. VISIBLE EMISSIONS AND PARTICULATES

252:100-25-3. Opacity limit

(a) Units subject to an opacity limit promulgated under section 111 of the Federal Clean Air Act are exempt from this section.

(b) No person shall allow the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof exhibiting greater than 20% opacity except for:

(1) Short term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. For units with COMs operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B), short term occurrences which consist of not more than one six-minute period in any one-hour period, not to exceed three such periods in any consecutive 24 hours. In neither case shall the average of any six-minute period exceed 60% opacity.

(2) Smoke resulting from fires covered by the exceptions outlined in OAC 252:100-13-7.

(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of OAC 252:100-25-3~~(a)~~(b).

(4) Smoke generated due to a malfunction in a facility, when the source of the fuel producing the smoke is not under the direct and immediate control of the facility and the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property.

(c) To determine compliance with this Section, opacity shall be read by either:

(1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix A).

(2) A COM installed, calibrated, operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

[OAR Docket #09-732; filed 4-17-09]

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

[OAR Docket #09-733]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Appendix E. Primary Ambient Air Quality Standards [REVOKED]
Appendix E. Primary Ambient Air Quality Standards [NEW]
Appendix F. Secondary Ambient Air Quality Standards [REVOKED]
Appendix F. Secondary Ambient Air Quality Standards [NEW]
AUTHORITY:
Environmental Quality Board and Air Quality Advisory Council powers and duties, 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:
September 15, 2008, through October 15, 2008
November 18, 2008
Public hearing:
October 15, 2008
November 18, 2008
Adoption:
November 18, 2008
Submitted to Governor:
November 25, 2008

Submitted to House:
November 25, 2008
Submitted to Senate:
November 25, 2008
Gubernatorial approval:
December 15, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The proposed amendments to Appendices E and F would change the primary and secondary ambient air quality standards for ozone to be consistent with the National Ambient Air Quality Standards.
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2009:

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	PM 2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m^3 (2)35 ppm			
8-hr. max				10 mg/m^3 (2)9 ppm	(4)0.075 ppm		
24-hr. max	365 ug/m^3 (2)0.14 ppm	(7) 150 ug/m^3	(5) 35 ug/m^3				
Calendar Qtr.							(3) 1.5 ug/m^3
Annual	80 ug/m^3 (1)0.030 ppm		(6) 15 ug/m^3			100 ug/m^3 (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Maximum arithmetic mean averaged over a calendar quarter

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.

(5) The standard is attained when the 98th percentile concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(6) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(7) The standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m^3, as determined in accordance with 40 CFR 50, Appendix K is equal to or less than one.

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	(6)PM-10	PM 2.5	(6)Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max							
3-hr. max	1300 ug/m^3 (2)0.5 ppm						
8-hr. max					(4)0.075 ppm		
24-hr. max							
Calendar Qtr.							(3) 1.5 ug/m^3
Annual			(5) 15 ug/m^3			100 ug/m^3 (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Maximum arithmetic mean averaged over a calendar quarter

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.

(5) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(6) PM-10 and Carbon Monoxide have no secondary standard.

[OAR Docket #09-733; filed 4-17-09]

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

[OAR Docket #09-734]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Appendix Q. Incorporation by Reference [REVOKED]
Appendix Q. Incorporation by Reference [NEW]

AUTHORITY:
Environmental Quality Board and Air Quality Advisory Council powers and duties, 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:
September 15, 2008, through October 15, 2008

November 18, 2008
Public hearing:
October 15, 2008
November 18, 2008
Adoption:
November 18, 2008
Submitted to Governor:
November 25, 2008
Submitted to House:
November 25, 2008
Submitted to Senate:
November 25, 2008
Gubernatorial approval:
December 15, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
Incorporated standards:
40 CFR 60, subpart Ja, Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.
40 CFR 60, subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
40 CFR 63, subpart BBBBBB, National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
40 CFR 63, subpart CCCCCC, National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
40 CFR 63, subpart MMMMMM, National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.
40 CFR 63, subpart NNNNNN, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
40 CFR 63, subpart OOOOOO, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
40 CFR 63, subpart PPPPPP, National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.
40 CFR 63, subpart QQQQQQ, National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
40 CFR 63, subpart RRRRRR, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
40 CFR 63, subpart SSSSSS, National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
40 CFR 63, subpart TTTTTT, National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
40 CFR 63, subpart WWWWW, National Emission Standards for Hospital Ethylene Oxide Sterilizers.
40 CFR 63, subpart WWWWWW, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
40 CFR 63, subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
40 CFR 63, subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
40 CFR 63, subpart ZZZZZ, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
40 CFR 64, All Subparts - Compliance Assurance Monitoring.
Incorporating rules:
252:100 Appendix Q. Incorporation by Reference
Availability:
The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.
ANALYSIS:
The proposed amendments to Appendix Q are part of the annual review and update of Title 40, Code of Federal Regulations (40 CFR), Incorporations By Reference (IBR).
The following 40 CFR rule is being removed from the list of rules incorporated by reference in the proposed Appendix Q because the federal courts have vacated all or part of it:
40 CFR 60, subpart CCCC, Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001 (remanded/vacated 6-8-07).
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2009:

APPENDIX Q. INCORPORATION BY REFERENCE [REVOKED]

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, 2008.

PART	SUBPART	DESCRIPTION
50	n/a	Appendix B to Part 50 - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).
50	n/a	Appendix J to Part 50 - Reference Method for the Determination of Particulate Matter as PM_{10} in the Atmosphere.
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements.
51	n/a	Appendix S to Part 51 - Emission Offset Interpretative Ruling.
51	n/a	Appendix P to Part 51 - Minimum Emission Monitoring Requirements.
58	n/a	Appendix A to Part 58 - Quality Assurance Requirements for SLAMS, SPMs and 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.
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	Ja	Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.
60	JJJ	Standards of Performance for Petroleum Dry Cleaners.
60	JJJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
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.

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: SO2 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	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.
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.
60	n/a	Appendix A to Part 60 - Test Methods.
60	n/a	Appendix B to Part 60 - Performance Specifications.
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	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
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 Nutritional Yeast.
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
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	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl

		Chloride and Copolymers Production Area Sources.
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	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.
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	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.
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	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium.
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	HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations.
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.
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	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	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	LLLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
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	MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.
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	NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
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	OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
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	PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.
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.
63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
63	QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
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	RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
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	SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
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	TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
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	WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers.
63	WWWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
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	XXXXXX	National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
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.
63	YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
63	ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
64	All Subparts	Compliance Assurance Monitoring (CAM).
72	All Subparts	Permits Regulation.

[OAR Docket #09-734; filed 4-17-09]

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

[OAR Docket #09-735]

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 and Hazardous Waste Management Advisory Council powers and duties; 27A O.S., §§ 2-2-101, 2-2-104, 2-2-201, 2-7-105 and 2-7-106
DATES:
Comment period:
September 4, 2008, through October 16, 2008, and November 18, 2008
Public hearing:
October 16, 2008, and November 18, 2008
Adoption:
November 18, 2008
Submitted to Governor:
November 25, 2008
Submitted to House:
November 25, 2008
Submitted to Senate:
November 25, 2008
Gubernatorial approval:
December 15, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATION BY REFERENCE:
Incorporated standards:
Title 40 of the Code of Federal Regulations, Parts 124, 260 through 268, 270, 273, and 279 as amended through July 1, 2008.
Incorporating rules:
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, 2008, (2) add clarification language to OAC 252:205-3-2(c) regarding the F019 listing exemption in 261.31(a), and (3) to correct a typographical error in OAC 252:205-3-2.
CONTACT PERSON:
Mike Edwards (405) 702-5226, Department of Environmental Quality, 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 mike.edwards@deq.ok.gov.

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, 2009:

SUBCHAPTER 3. INCORPORATION BY REFERENCE

252:205-3-1. Reference to 40 CFR

When reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean, unless otherwise specified, the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, ~~2007~~2008.

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: "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".

(3) In 261.31(a), the listing for F019, add at the end: "Zinc phosphate sludges meeting exemption conditions

remain subject to regulation as hazardous waste if the waste exhibits a hazardous waste characteristic."

(d) **Part 262.** Standards Applicable to Generators of Hazardous Waste except Subpart E and Subpart H. In 262.42(a)(2) and 262.42(b) delete "for the Region in which the generator is located".

(e) **Part 263.** Standards Applicable to Transporters of Hazardous Waste.

(f) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The following sections and subsections are not adopted by reference: 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g).

(1) In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

(2) In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is ~~Novemer~~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 (a)(9)(iii) exclude D009 from the list of alternative treatment standards for lab packs.

(k) **Part 270.** The Hazardous Waste Permit Program, except 270.1(c)(2)(ix), and 270.14(b)(18).

(l) **Part 273.** Standards for Universal Waste Management.

(m) **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."

(n) **Excepted CFR Regulations.** Authority for carrying out excepted CFR regulations remains with EPA.

[OAR Docket #09-735; filed 4-17-09]

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

[OAR Docket #09-736]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
252:410-1-2. Definitions [AMENDED]
252:410-1-4. General regulatory requirements [AMENDED]
252:410-1-7. Incorporation of federal regulations by reference [AMENDED]
Subchapter 10. Radioactive Materials Program
Part 1. General Provisions
252:410-10-1. Radioactive Materials Program [AMENDED]
252:410-10-2. Using provisions incorporated by reference as state rules [AMENDED]
252:410-10-3. Radioactive Materials Program authorizations [AMENDED]
Part 30. Byproduct Material Licensing in General
252:410-10-30. 10 CFR 30 incorporations [AMENDED]
Part 31. Byproduct Material: General Licenses
252:410-10-31. 10 CFR 31 incorporations by reference [AMENDED]
Part 32. Byproduct Material: Specific Licenses for Manufacturing and Transferring Certain Items
252:410-10-32. 10 CFR 32 incorporations by reference [AMENDED]
Part 35. Medical Use of Byproduct Material
252:410-10-35. 10 CFR 35 incorporations by reference [AMENDED]
Subchapter 20. Standards for Protection Against Radiation
252:410-20-1. Standards for protection against radiation [AMENDED]

AUTHORITY:

Environmental Quality Board and Radiation Management Advisory Council powers and duties; 27A O.S., Sections 2-2-101, 2-2-104, 2-2-201, 2-9-104 and 2-9-105

DATES:

Comment period:

September 1, 2008, through October 1, 2008

Public hearing:

October 2, 2008, and November 18, 2008

Adoption:
November 18, 2008
Submitted to Governor:
November 25, 2008
Submitted to House:
November 25, 2008
Submitted to Senate:
November 25, 2008
Gubernatorial approval:
December 15, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
Incorporated standards:
Title 10 of the Code of Federal Regulations as amended through January 1, 2008.
10 CFR 30.16
10 CFR 30.34(j)
10 CFR 31.8
10 CFR 31.12
10 CFR 32.11
10 CFR 32.12
10 CFR 32.17
10 CFR 32.57
10 CFR 32.102
10 CFR 32.201
10 CFR 35.10
10 CFR 35.204
10 CFR 35 subsections .900, .910, .920, .930, .932, .934, .940, .941, .950, .960, .961, .980, and .981
10 CFR 35.2204
10 CFR 20.2008
10 CFR 20.2207
10 CFR Part 20 Appendix E
Incorporating rules:
252:410-1-7
252:410-10-30(2)(F)
252:410-10-30(3)(D)
252:410-10-31(2)(E)
252:410-10-31(2)(I)
252:410-10-32(2)(A)
252:410-10-32(2)(B)
252:410-10-32(2)(D)
252:410-10-32(3)(C)(i)
252:410-10-32(4)(B)
252:410-10-32(6)
252:410-10-35(a)(1)(F)
252:410-10-35(a)(4)(D)
252:410-10-35(a)~~(10)~~
252:410-10-35(a)(11)(M)
252:410-20-1(c)(11)(H)
252:410-20-1(c)(13)(F)
252:410-20-1(c)(15)(D)
Availability:
From the contact person listed below
ANALYSIS:
The Department is proposing to amend OAC 252:410-1-7 to change the date for the incorporation of federal regulations by reference to January 1, 2008. Federal rule changes that become a part of the Oklahoma radiation management program through this incorporation by reference are a newly-expanded definition of byproduct material that adds radium sealed sources, accelerator-produced radioactive materials, and discrete sources of naturally-occurring radioactive material to the byproduct materials program; amendment of several regulations governing the distribution of byproduct material; requirements for implementation of a National Source Tracking System whereby licensees must report transactions involving certain sealed sources; and minor corrections to regulation on medical use of byproduct material. Additional amendments to Subchapters 1, 10, and 20 are required to conform the Oklahoma rules to the updated federal regulations.
CONTACT PERSON:
Please send written comments to Mike Broderick (e-mail: Mike.Broderick@deq.ok.gov) at the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-5155, 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 JULY 1, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

252:410-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise. In cases of conflict between the definitions of this section and those incorporated by reference from 10 CFR, 10 CFR definitions incorporated by reference into Subchapter 10 shall prevail for purposes of the Radioactive Materials Program; definitions incorporated by reference into Subchapter 21 shall prevail for NESHAP purposes; and definitions incorporated by reference into Subchapter 20, shall apply to all persons subject to this Chapter.

"Accelerator-produced material" means any material made radioactive by a particle accelerator.

"Access panel" means any barrier or panel on a cabinet which is designed to be removed or opened for maintenance or service purposes, requires tools to open and allows access to the interior.

"Agreement State" means any State with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274(b) of the Atomic Energy Act of 1954, as amended (73 Stat. 689; 42 USC § 2021 *et seq.*).

"Analytical x-ray system" means a group of components utilizing x or gamma rays to determine the elemental composition or to examine the microstructure of materials.

"Anniversary date" means the issuance day and month of a permit or license.

"Application" means a written request for a new, amended or renewed authorization.

"Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem. The term includes the owner of an x-ray system or his or her employee or agent who assembles components into an x-ray system that is subsequently used to provide professional or commercial services.

"Authorization" means any DEQ radiation management plan approval, certificate, individual certification, permit, license, or reciprocity recognition required by this Chapter.

"Beam-limiting device" means a device which provides a means to restrict the dimensions of the x-ray field.

"Byproduct material" ~~means any material (except special nuclear material), yielded in or made radioactive by exposure to the ionizing radiation incident to the process of producing or utilizing special nuclear materials.~~ means:

(A) Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

(B) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition;

(C) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(D) Any material that:

(i) Has been made radioactive by use of a particle accelerator; and

(ii) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(E) Any discrete source of naturally occurring radioactive material, other than source material, that:

(i) The U.S. Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

"Calibration" means the determination of:

(A) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or

(B) the strength of a source of radiation relative to a standard.

"Central axis of the beam" means a line passing through the virtual source and the center of the plane figure formed by the edge of the first beam limiting device.

"CFR" means the Code of Federal Regulations.

"Chapter" means, unless specified otherwise, OAC 252:410, Radiation Management.

"Collimator" means a device or mechanism by which the x-ray beam is restricted in size.

"Contact therapy" means an x-ray system used for therapy with the x-ray tube port placed in contact with or within 5 centimeters of the surface being treated.

"Control panel" means that part of the radiation machine control upon which are mounted the switches, knobs, push buttons, and other hardware necessary for manually setting the technique factors.

"Corresponding authorization" means a permit, license or certification issued to a person by an out-of-state entity that authorizes the same or similar radiation management activities as those authorized by DEQ for this state.

"DEQ" means the Oklahoma Department of Environmental Quality.

"Dose monitoring system" means a system of devices for the detection, measurement, and display of quantities of radiation.

"Dose monitor unit" means a unit response from the dose monitoring system from which the absorbed dose can be calculated.

"Exposure rate" means the exposure per unit of time, such as Roentgen per minute and milliRoentgen per hour.

"Facility" or **"Site"** means the location at which one or more radiation producing units are located and/or installed. Facilities or sites with several such units located and/or installed in different buildings and/or vehicles, but at the same street address and under the same administrative control will be considered to be one facility.

"Field emission equipment" means equipment which uses an x-ray tube in which electron emission from the cathode is due solely to the action of an electric field.

"Field size" means the dimensions along the major axes of an area in a plane perpendicular to the central axis of the useful beam of incident radiation at a normal treatment distance and defined by the intersection of the major axes and the 50 percent isodose line. Material shall be placed in the beam such that dose maximum is produced at the normal treatment distance when field size is being determined.

"Filter" means material placed in the useful beam to absorb preferentially selected radiations.

"Focal spot" means the area projected on the anode of the x-ray tube by the electrons accelerated from the cathode and from which the useful beam originates.

"Gantry" means that part of the system supporting and allowing possible movement of the radiation head.

"Half-value layer", also known as "HVL", means the thickness of specified material which attenuate the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition, the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

"Healing arts" means those professional disciplines authorized by the laws of this state to use x-rays or radioactive material in the diagnosis or treatment of human or animal disease.

"Industrial radiographer" means an individual who performs or personally supervises industrial radiographic operations and who is responsible to their employer or contractor permittee or licensee for assuring compliance with the requirements of this Chapter and the conditions of the permit or license.

"Industrial radiography" means a non-destructive testing method that uses ionizing radiation such as gamma rays or x-rays to make radiographic images for the purpose of detecting flaws in objects.

"Industrial x-ray system" means an x-ray system used in manufacturing or for industrial quality control.

"Inspection" means an official examination or observation including but not limited to, records, tests, surveys, and monitoring to determine compliance with rules, orders, requirements, and conditions of the DEQ.

"Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur or, where applicable, means a device for precluding access to an area of high radiation by automatically reducing the exposure rate.

"Interruption of radiation" means stopping irradiation with the possibility of continuing irradiation without resetting of operating conditions at the control panel.

"Irradiation" means the exposure of matter to ionizing radiation.

"Isocenter" means the intersection of the collimator axis of rotation and the gantry axis of rotation.

"kV" means kilovolts.

"kVp" means the maximum value of the potential difference across the x-ray tube during an exposure and shall be deemed to be equivalent to kilovolts peak.

"Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

"Leakage radiation" means radiation emanating from the therapeutic source assembly except for:

(A) the useful beam; and

(B) radiation produced when the exposure switch or timer is not activated.

"Leakage technique factors" means the technique factors which are used in measuring leakage radiation associated with the diagnostic or therapeutic assembly. They are defined as follows:

(A) for diagnostic tube housing assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential (kVp) and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, i.e., 10 milliampere-seconds, or the minimum obtainable from the unit, whichever is larger.

(B) for diagnostic tube housing assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(C) for all other diagnostic or therapeutic tube housing assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

"Local components" mean part of a radiation machine and include areas that are struck by radiation such as housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors, and shielding, but do not include power supplies, transformers, amplifiers, readout devices, and control panels.

"mA" means milliampere.

"MeV" means million electron volts.

"Moving beam therapy" means radiation therapy with relative displacement of the useful beam and/or the patient during irradiation. It includes arc therapy, skip therapy, conformational therapy, and rotational therapy.

"Nominal treatment distance" means:

(A) for electron irradiation, the distance from the scattering foil or exit window of the electron beam to the surface along the central axis of the useful beam, or from the virtual source to the surface along the central axis of the useful beam as specified by the manufacturer.

(B) for x-ray irradiation, the virtual source or target to isocenter distance along the central axis of the useful beam. For nonisocentric equipment, this distance shall be that specified by the manufacturer.

"Normal operating procedures" mean step-by-step instructions necessary to accomplish the task. These procedures shall include sample insertion and manipulation, equipment alignment, routine maintenance by the permittee, and data recording procedures, which are related to radiation safety.

"NRC" means the U.S. Nuclear Regulatory Commission.

"Open-beam system" means an x-ray system in which an individual could accidentally place some part of his body in the primary beam path during normal operation.

"Part" means the numbered Part of the Subchapter in which the reference appears unless specified otherwise.

"Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV.

"Patient" means an individual subjected to a healing arts examination, diagnosis or treatment.

"Peak tube potential" (See kVp).

"Permanent x-ray radiographic installation" means an enclosed shielded room, cell or vault in which radiography is performed.

"Permittee" means any person who holds a permit issued by the DEQ in accordance with this Chapter.

"Personnel monitoring equipment" means devices such as film badges, pocket dosimeters, and thermoluminescent dosimeters designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual.

"Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation.

"Practical range of the electrons" corresponds to classical electron range where the only contribution to dose is from bremsstrahlung x-rays.

"Primary authorization" means the radiation management license, permit or certification issued by an out-of-state entity which DEQ has recognized under reciprocity.

"Primary beam" means ionizing radiation emitted from the target and passing through the window of the x-ray tube housing.

"Primary dose monitoring system" means a system which will monitor the useful beam during irradiation and which will terminate irradiation when a pre-selected number of dose monitor units have been acquired.

"Protective barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:

(A) **"Primary protective barrier"** means the material, excluding filters, placed in the useful beam, for protection purposes, to reduce the radiation exposure.

(B) **"Secondary protective barrier"** means a barrier sufficient to attenuate the stray radiation (the sum of leakage and scattered radiation) to the required degree.

"Qualified expert" means a person certified in an appropriate field by the American Board of Radiology in Physics, the American Board of Health Physics, the American Board of Medical Physics, the American Board of Nuclear Medicine Science, or persons otherwise deemed to have equivalent qualifications.

"Radiation detector" means a device which in the presence of radiation provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

"Radiation head" means the structure from which the useful beam emerges.

"Radiation machine" means any device capable of producing radiation except those which produce radiation only from radioactive material.

"Radiation safety officer" means an individual who has the responsibility to apply and enforce the overall radiation safety program at a facility or site.

"Radioactive material" means any solid, liquid, or gas which emits radiation spontaneously.

"Radioactive Materials Program" means the DEQ radiation management program for licensing of certain categories of radioactive materials based on the Oklahoma Environmental Quality Code including the Oklahoma Radiation Management Act; the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq*. as amended; Title II of the Energy Reorganization Act of 1974, 42 U.S.C. 5801 *et seq.*; the State Agreement; this Chapter (OAC 252:410) including the rules incorporated from Title 10 of the Code of Federal Regulations; and orders or licenses issued thereunder.

"Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

"Radiological physicist" means a person certified by the American Board of Radiology as either a radiological physicist or a radiation therapy physicist or by the American Board of Medical Physics certified in therapy physics, or persons with equivalent qualifications.

"Rating" means the operating limits as specified by the component manufacturer.

"Reciprocity recognition" means DEQ has recognized a person's radiation management authorization issued by an out-of-state entity as a primary authorization and, on the strength of that underlying authorization and the person's compliance record in that and other recognizing states, has authorized that person to perform certain corresponding radiation management activities in Oklahoma without a DEQ-issued permit, license or certification.

"Recognized person" means a person approved by DEQ for reciprocity recognition.

"Restricted area" (controlled area) means any area, access to which is controlled by the permittee, for the purpose of protecting individuals from exposure to radiation and radioactive material. A restricted area shall not include any areas used for residential quarters, although a room or rooms in a residential building may be set apart as a restricted area.

"Roentgen" means the special unit of exposure. One Roentgen (R) equals 2.58×10^{-4} coulombs/kilogram of air.

"Scattered radiation" means radiation that, during passage through matter, has been deviated in direction. The term includes direct scattered and primary scattered radiation which has been deviated in direction only by materials irradiated by the useful beam.

"Sealed source" means any radioactive material that is encapsulated to prevent leakage or escape of the radioactive material.

"Secondary dose monitoring system" means a system which will terminate irradiation in the event of failure of the primary system.

"Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

"Source material" means uranium or thorium, or any combination thereof, in any physical or chemical form, or ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

"Special nuclear material" means plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the NRC determines to be special nuclear material, or any material artificially enriched by any of the foregoing, but does not include source material.

"Spot-check" means a procedure which is performed to assure that a previous calibration continues to be valid.

"State agreement" means the agreement between the NRC and the State of Oklahoma with effective date of September 29, 2000, transferring to DEQ the NRC's regulatory authority in the State of Oklahoma for certain categories of radioactive material including: byproduct material, source material used to take advantage of its density and high-mass property where the use of the specifically licensed source material is subordinate to the primary specifically licensed use of byproduct material, and special nuclear material in quantities not sufficient to form a critical mass.

"Stationary beam therapy" means radiation therapy without relative displacement of the useful beam and the patient during irradiation.

"Subchapter" means a Subchapter of this Chapter unless stated otherwise.

"Target" means that part of a radiation head which by design intercepts a beam of accelerated particles with subsequent emission of other radiation.

"Technique factors" means the conditions of operation. They are specified as follows:

(A) for capacitor energy storage equipment, peak tube potential (kVp) in kV and quantity of charge in milliampere second (mAs);

(B) for field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses;

(C) for CT equipment designed for pulsed operations, peak tube potential in kV, scan time in seconds, and either tube current in mA, x-ray pulse width in seconds, and the number of x-ray pulses per scan or the product of tube current, x-ray pulse width, and the number of x-ray pulses in mAs;

(D) for CT equipment not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds or the product of tube current and exposure time in mAs and the scan time when the scan time and exposure time are equivalent; and

(E) for all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds or the product of tube current and exposure time in mAs.

"Temporary job site" means a location where radioactive materials or radiation machines are used, other than the specific use location(s) listed on a permit or license.

"Termination of irradiation" means the stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

"Test" means the process of verifying compliance with an applicable regulation.

"Traceable to a national standard" means that a quantity or a measurement has been compared to a national standard directly or indirectly through one or more intermediate steps and that all comparisons have been documented.

"Tube housing assembly" means the tube housing with the tube installed. It includes any high-voltage and/or filament transformers and other appropriate elements contained within the tube housing.

"Useful beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam limiting device when the exposure controls are in a mode to cause the system to produce radiation.

"Virtual source" means a point from which radiation appears to originate.

"Wedge filter" means an added filter effecting continuous progressive attenuation on all or part of the useful beam.

"X-ray field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

"X-ray high-voltage generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube(s), high-voltage switches, electrical protective devices, and other appropriate elements.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

"X-ray tube" means any electron tube which is designed to be used primarily for the production of x-rays.

"10 CFR" means Title 10 of the Code of Federal Regulations.

252:410-1-4. General regulatory requirements

(a) **Safety requirements.** All persons required to comply with this Chapter shall:

(1) **Operations.** Conduct all radiation management activities in such a manner as to minimize danger to health, safety, property and the environment. All radiation producing machines and other sources of radiation must be used according to the manufacturer's specifications and any other guidelines or standards that apply to the specific purpose of use.

(2) **Radiation protection standards.** Conduct all radiation management activities in compliance with the radiation protection standards of 252:410-20.

(3) **Duty to mitigate.** Take all reasonable steps to minimize or correct any adverse impact on health, safety, property and the environment which results from radiation associated with the use, operation, storage, or disposal of radioactive material or radiation machines.

(4) **Notification of events.** Notify the DEQ when:

(A) a radiation protection standard has been exceeded and notice is required by 10 CFR 20.2202, 20.2203 and 20.2204, incorporated by reference in Subchapter 20;

(B) any medical event occurs and notice is required by 252:410-11-4 and/or 10 CFR ~~35.33~~35.3045, incorporated by reference in Subchapter 10;

(C) any source of radiation is lost or stolen and notice is required by 10 CFR 20.2201, incorporated by reference in Subchapter 20;

(D) a radiation machine is lost or stolen and notice is required by OAC 252:410-20-7(a);

(E) an incident has occurred and reporting is required by OAC 252:410-20-7(b);

(F) any incident occurs involving a radiation machine that is reportable under OAC 252:410-15-10; or

(G) notice is required under the Radioactive Materials Program by 10 CFR 30.50, 34.101, ~~35.33~~35.3045, 36.83, 39.77, 40.60, 70.50 and 71.95, incorporated by reference in Subchapter 10.

(b) **Records and reporting.** All records and reports required by this Chapter must be clear and legible. Personnel monitoring records must be maintained until the holder is no longer subject to radiation management requirements. All other records must be maintained for a minimum of three (3) years unless a longer period of time is specified in this Chapter. Electronic media capable of producing accurate and complete records throughout the required retention period may be used; however, DEQ may require printed documents for its reviews. Any person subject to this Chapter must:

(1) **Duty to provide information.** Furnish to DEQ, within the time specified, any information which DEQ may request to determine the extent of compliance with this Chapter and whether cause exists for renewing, amending, suspending, or revoking a radiation management authorization.

(2) **Errors and omissions.** Promptly submit correct facts or information to DEQ when the person becomes aware that a material fact was submitted erroneously or omitted from a radiation management application or in any report or notice required by this Chapter or an authorization.

(c) **Signs, labels and words of warning.** All signs, labels and other warning devices required by this Chapter must be in plain sight with words or symbols that are easy to read and understand.

(d) **Inspections and tests.** Any person subject to this Chapter:

(1) shall give DEQ at all reasonable times opportunity to inspect sources of radiation, the premises and facilities where the sources of radiation are used or stored and records required to be maintained by this Chapter. All reasonable times shall include normal hours of operation as well as any time when radiation management activities are being performed outside of normal hours of operation

(2) may be required by DEQ to test or allow DEQ to test facilities and equipment related to the use and storage of radiation machines and radioactive materials to verify the adequacy of protections from radiation.

(e) **Severability.** Should any of the rules of this Chapter be declared unconstitutional or invalid for any reason, the remainder of the rules shall not be affected thereby.

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, ~~2005~~2008 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.** Activities requiring license,§ 30.3(b); 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.** Purpose and scope,§ 32.1(c)(1); Subpart A, Exempt concentrations and items,§§ 32.11, 32.12, 32.14, 32.15, 32.16, 32.18 through 32.23, and 32.25 through 32.29~~, and 32.40~~; Subpart D, Specifically licensed items,§ 32.210;

(4) **In 10 CFR 35.** License required,§ 35.11(c)(1); License amendments,§ 35.13(a)(1);

(~~4~~5) **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~~6) **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~~7) **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; General license to possess special nuclear material for transport,§ 70.20a; General license for 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; 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 § 70.59; 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~~8) **In 10 CFR 71.** Subpart A - General Provisions,§ 71.10; Subpart B - Exemptions,§ 71.14(b); Subpart D - Application for Package Approval,§§ 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; Subpart H - Quality Assurance,§§ 71.107 through 71.125;

(~~8~~9) **In 10 CFR 150.** Persons in offshore waters not exempt,§ 150.7; Persons in agreement states exempt,§ 150.10; Commission regulatory authority for physical protection in agreement states,§ 150.14; 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; 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, § 150.32; and Criminal penalties,§ 150.33.

(c) **Effective date.**

~~(1) Except for those sources listed in paragraph (2) of this subsection, the~~ The requirements of this Subchapter 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.~~

252:410-10-2. Using provisions incorporated by reference as state rules

(a) **Extent of incorporations by reference.** Each regulation from 10 CFR is incorporated in its entirety unless specified otherwise.

(b) **Interfacing terms.** For purposes of the Radioactive Materials Program, these 10 CFR terms shall be interpreted as follows unless specified otherwise in specific incorporating sections:

~~(1) "Byproduct material" means and includes byproduct material, accelerator produced material and radium sealed sources.~~

(~~2~~1) **"Commission"** or the **"Nuclear Regulatory Commission"** or **"NRC"** means DEQ.

(~~3~~2) **"Commissioner"**, **"Regional Administrator"**, **"Administrator"**, **"Director"** or **"Executive Director"** means DEQ's Executive Director.

(~~4~~3) **"License"** means a valid NRC or Radioactive Materials Program license issued under or subject to DEQ jurisdiction.

(~~5~~4) **"Licensee"** means the holder of a NRC or Radioactive Materials Program license.

(~~6~~5) **"NRC Operation Center"** means DEQ's hotline, 1-800/522-0206.

(~~7~~6) **"Order"** means an administrative order issued by DEQ.

(~~8~~7) **"10 CFR 170. 31"** or **"Schedule of Material Fees"** means those fees listed in 252:410-10-101 through 121.

(c) **Alternate forms.** In lieu of a referenced NRC form, persons reporting to DEQ may use their own computer-generated form or a Radioactive Materials Program form available from DEQ.

(d) **Inconsistencies.** Whenever a requirement which has been incorporated by reference is inconsistent with another rule of this Chapter, the requirement incorporated by reference shall prevail.

(e) **Exceptions.** The provisions for enforcement in 10 CFR Part 2, subpart B referenced in 10 CFR 30.10 (b), 40.10(b), 61.9b (b) and 70.10 are not incorporated by reference. Any violation of Chapter 410 rules is subject to enforcement in accordance with the requirements of 27A O.S.§ 2-3-501 *et seq*., and OAC 252:4, Department of Environmental Quality Rules of Practice and Procedure.

252:410-10-3. Radioactive Materials Program authorizations

(a) **License.** Except as otherwise specifically provided in this Chapter or in the State Agreement, a person shall only manufacture, produce, transfer, receive, acquire, own, possess or use ~~radium sealed sources,~~ byproduct, ~~accelerator produced,~~ source or special nuclear material in the State of Oklahoma when authorized under an NRC or agreement state general license, a DEQ-issued specific license, or a DEQ reciprocity recognition.

(b) **Certification.** Prior to performing work as an industrial radiographer using sealed sources in the state, an individual must be authorized through either DEQ certification or DEQ

reciprocity recognition in accordance with Subchapters 5 and 7.

(c) **Related provisions.** Persons subject to this Subchapter are also subject to the requirements of Subchapters 1, 7, 9 and 20 and may be subject to Subchapter 21.

~~(d) **Transition requirements for radium sealed sources and accelerator produced material.** Any person who manufactures, produces, transfers, receives, acquires, owns, possesses or uses radium sealed sources or accelerator produced material shall submit a complete license application and meet training and certification requirements in accordance with the following schedule.~~

~~(1) Any person who manufactures, produces, transfers, receives, acquires, owns, possesses or uses radium sealed sources or accelerator produced material, but does not hold a current Radioactive Materials Program license shall submit a license application for such material by January 1, 2005.~~

~~(2) Any Radioactive Materials Program licensee shall submit an application for license amendment or renewal covering radium sealed sources by September 1, 2006. On or before September 1, 2004 the licensee shall submit to DEQ a statement signed by a responsible official and certifying that, except for the submission of an application for license amendment or renewal, the licensee's program for radium sealed sources meets all requirements of this Subchapter.~~

~~(3) Any Radioactive Materials Program licensee shall submit an application for license amendment or renewal covering accelerator produced material by September 1, 2007. On or before September 1, 2004 the licensee shall submit to DEQ a statement signed by a responsible official and certifying that, except for the submission of an application for license amendment or renewal, the licensee's program for accelerator produced material meets all requirements of this Subchapter.~~

~~(4) Any person using radium sealed sources or accelerator produced material shall meet all applicable certification requirements of this Subchapter, including but not limited to radiographer certification and Part 35 medical user training, on or before September 1, 2005.~~

PART 30. BYPRODUCT MATERIAL LICENSING IN GENERAL

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(a), (c) and (d) - 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 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~~F) 30.18 - Exempt quantities
- (~~H~~G) 30.19 - Self luminous products containing tritium, krypton-85 or promethium-147
- (~~I~~H) 30.20 - Gas and aerosol detectors containing byproduct material
- (~~J~~I) 30.21 - Radioactive drug: Capsules containing carbon-14 urea for *"in vivo"* diagnostic use for humans

(3) **Licenses.**
- (A) 30.31 - Types of licenses
- (B) 30.32 (a) through (d) and (g) through ~~(i)~~(j) - 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), and (j) - Terms and conditions of licenses
- (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) **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
- (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 and radium-226 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.
(I) 31.12 - General license for certain items and self-luminous products containing radium-226

(3) **Recordkeeping.** ~~31.12~~31.21 - 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(a), (b) and (c)(2) - 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~~A) 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~~B) 32.24 - 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 - Calibration or reference sources containing americium-241 or radium-226: Requirements for license to manufacture or initially transfer
(ii) 32.58 - Same: Labeling of devices
(iii) 32.59 - Same: 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 containing americium-241 or radium-226

(C) 32.103 - Schedule D, prototype tests for ice detection devices containing strontium- 90

(5) **Subpart C - Quality control sampling procedures.** 32.110 - Acceptance sampling procedures under certain specific licenses.

(6) **Subpart D - Specifically licensed items.** 32.201 - Serialization of nationally tracked sources

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

(F) 35.10 - Implementation

(~~F~~G) 35.11(a), (b) and (c)(2) - License required

(~~G~~H) 35.12 - Application for license, amendment or renewal

(~~H~~I) 35.13 - License amendments

(~~I~~J) 35.14 - Notifications

(~~J~~K) 35.15 - Exemptions regarding Type A specific licenses of broad scope

(~~K~~L) 35.18 - License issuance

(~~L~~M) 35.19 - Specific exemptions

(2) **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, and authorized nuclear pharmacist

(K) 35.59 - Recentness of Training

(3) **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

(4) **Subpart D; Unsealed Byproduct MaterialB-Written Directive Not Required.**

(A) 35.100 - Use of unsealed byproduct material ~~in~~for uptake, dilution, and 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~~, strontium-82, and strontium-85 concentrations

(E) 35.290 - Training for imaging and localization studies

(5) **Subpart E; Unsealed Byproduct Material B Written Directive Required.**

(A) 35.300 - Use of unsealed ~~by product~~ byproduct 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

(6) **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

(7) **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

(8) **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 sterotactic radiosurgery units

(J) 35.642 - Periodic spot-checks for 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

(9) **Subpart I.**

~~(10) **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~~

(~~11~~10) **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

(~~12~~11) **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

(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, strontium-82, and strontium 85 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 sterotactic 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

(~~13~~12) **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 are not incorporated by reference. All correspondence regarding license requirements, and any notifications or reports required by this Part, shall be directed to DEQ.

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 B 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

(H) 20.2008 - Disposal of certain byproduct material

(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

(F) 20.2207 - Reports of transactions involving nationally tracked sources

(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 E. Nationally Tracked Source Thresholds

(~~D~~E) Appendix G. Requirements for transfers of low-level radioactive waste intended for disposal at licensed land disposal facilities and manifests.

[OAR Docket #09-736; filed 4-17-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 611. GENERAL WATER QUALITY

[OAR Docket #09-737]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
252:611-1-3. Adoption and incorporation by reference [AMENDED]
Subchapter 3. Certifications
252:611-3-1. Water quality certifications required [AMENDED]
252:611-3-2. Requirements for certification [AMENDED]

AUTHORITY:
Environmental Quality Board powers and duties, 27A O.S., § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S.,§ 2-2-201; and Water Quality, 27A O.S.,§§ 2-6-101 *et seq.*

DATES:
Comment period:
September 2, 2008, through October 7, 2008
Public hearing:
October 7, 2008, and November 18, 2008
Adoption:
November 18, 2008
Submitted to Governor:
November 25, 2008
Submitted to House:
November 25, 2008
Submitted to Senate:
November 25, 2008

Gubernatorial approval:
December 15, 2008
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
Incorporated standards:
40 CFR, Part 130
Incorporating rules:
OAC 252:611-1-3
Availability:
The federal rules incorporated above are readily available to the public for examination at the administrative offices of the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102, Monday - Friday (excluding holidays) from the hours of 8:00 a.m. - 4:30 p.m.
ANALYSIS:
The Department proposes to update its rules concerning entities required to receive a water quality certification from the Oklahoma Department of Environmental Quality, pursuant to Section 401 of the Clean Water Act, when the entity is required to obtain a federal permit. The change will require entities, when applying for a certification pursuant to Section 401 of the Clean Water Act, to submit a mitigation plan with the application for certification when the federal entity requires mitigation to obtain a permit pursuant to Section 404 of the Clean Water Act. Additionally, the rule changes modify the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2007, to July 1, 2008.
CONTACT PERSON:
Please send written comments to Donald D. Maisch (e-mail: don.maisch@deq.ok.gov) at the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, OK 73101-1677, phone (405) 702-7189, fax (405) 702-7199.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

252:611-1-3. Adoption and incorporation by reference

40 CFR Part 130 is adopted and incorporated by reference, as published on ~~July 1, 2007~~ July 1, 2008, and the requirements contained therein are, unless otherwise specified, adopted and incorporated by reference in their entirety.

SUBCHAPTER 3. CERTIFICATIONS

252:611-3-1. Water quality certifications required

(a) **Certification from state required.** In accordance with the provisions of Section 401 of the federal Clean Water Act and the Environmental Quality Code, any applicant for a federal license, ~~or~~ permit or project to conduct any activity including but not limited to, the construction or operation of facilities, dredge or fill, or other activities, which may result in any discharge into, or pollution or alteration of the waters of the State of Oklahoma, shall first obtain a water quality certification from the DEQ for such activity, facility or discharge will comply with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the CWA, OWQS, and other applicable state requirements.

(b) **Types of federal applications for which certification issued.** The DEQ issues, renews and modifies water quality certifications including, but not limited to, the following list. However, certification is not required for state issued NPDES Permits.

(1) Permits issued by the U.S. Environmental Protection Agency, under the National Pollutant Discharge Elimination System (NPDES) program;

(2) Permits issued by the U.S. Army Corps of Engineers under the Section 404 permit program for the discharge of dredged or fill materials;

(3) Applications to the Federal Energy Regulatory Commission for a federal license to construct and operate a hydroelectric facility;

(4) Applications to the Nuclear Regulatory Commission for a license to operate a facility; and

(5) Permit issued by the U.S. Coast Guard that results in the discharge of wastewater or pollutants into navigable waters.

252:611-3-2. Requirements for certification

(a) An application for a water quality certification shall be made in writing pursuant to the requirements of the Uniform Permitting Act and shall clearly state that the applicant is requesting a 401 water quality certification and include:

(1) one copy of the application for the corresponding federal permit, or license for federal authorization of activities;

(2) one copy of any draft federal permit, license, or authorization, if available;

(3) copies of any relevant maps, drawings, studies, environmental impact assessments, plans, information relating to endangered, rare or threatened species including Finding of No Significant Impact (FONSI) or exemption, and other appropriate documents;

(4) a legal description of the project location; ~~and~~

(5) a description of all surface water, groundwater, or natural resources potentially affected by the proposed activities; and

(6) one copy of any mitigation plan, when mitigation is required by a federal entity.

(b) The applicant shall provide copies of any applicable water quality-related comments and responses received in response to any public notice, if any.

(c) Additional information may be required by the DEQ.

(d) Applications that do not contain the information list above are incomplete.

(e) The federal agency may submit an application for certification or other information on behalf of the applicant. The applicant is responsible to provide any additional information requested by the DEQ and ensure that the application is complete.

[OAR Docket #09-737; filed 4-17-09]

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

[OAR Docket #09-744]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
330:36-1-4. [AMENDED]
Subchapter 2. Allocation Procedures
330:36-2-1. [AMENDED]
330:36-2-2. [AMENDED]
330:36-2-7. [AMENDED]
330:36-2-9. [AMENDED]
330:36-2-11. [AMENDED]
330:36-2-16. [AMENDED]
330:36-2-17. [AMENDED]
Subchapter 4. Development Applications and Selection
330:36-4-2. [AMENDED]
330:36-4-2.1. [AMENDED]
Subchapter 6. Program Administration
330:36-6-3. [AMENDED]
330:36-6-7. [AMENDED]
AUTHORITY:
These Chapter 36 Rules are authorized by the Board of Trustees of OHFA, the Amended Trust Indenture, and the Bylaws of OHFA;
DATES:
Comment Period:
October 1, 2008 through November 1, 2008
Public Hearing:
October 23, 2008
Adoption:
November 13, 2008
Submitted to Governor:
November 19, 2008
Submitted to House:
November 19, 2008
Submitted to Senate:
November 19, 2008
Gubernatorial approval:
December 8, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.
Final Adoption:
March 24, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
Superseded Rules:
Subchapter 1. General Provisions
330:36-1-4. [AMENDED]
Subchapter 2. Allocation Procedures
330:36-2-1. [AMENDED]
330:36-2-2. [AMENDED]
330:36-2-7. [AMENDED]
330:36-2-9. [AMENDED]
330:36-2-11. [AMENDED]
330:36-2-16. [AMENDED]
330:36-2-17. [AMENDED]
Subchapter 4. Development Applications and Selection
330:36-4-2. [AMENDED]
330:36-4-2.1. [AMENDED]
Subchapter 6. Program Administration
330:36-6-3. [AMENDED]
330:36-6-7. [AMENDED]
Gubernatorial Approval:
November 20, 2008
Register Publication:
26 Ok Reg 303
Docket Number:
08-1448
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that a federal tax credit (the "Credit") may be claimed for a period of ten years by qualified owners (as defined by the Code) of residential rental property rented to qualified low-income tenants at restricted rental rates, if said owner has been approved for an allocation of Credits by the state housing credit agency. OHFA is Oklahoma's housing credit agency. The Code further provides that each state's Credit annual authority is to be allocated by that state's housing credit agency pursuant to a qualified allocation plan. These Chapter 36 Affordable Housing Tax Credit Program Rules (the "Rules") embody Oklahoma's qualified allocation plan. The purpose of said Rules is to comply with the Code, the Oklahoma Administrative Procedures Act ("APA"), and to provide guidelines for administering the allocations of Oklahoma's annual Credit authority and OHFA's Affordable Housing Tax Credit Program (the "Credit Program"). The Trustees are also required to administer the Credit Program in a manner consistent with Oklahoma's Housing Antidiscrimination Act, 15 O.S., Sections 1451-1453 and all federal laws prohibiting discrimination, including 42 U.S.C., Section 1983 and the Fair Housing Act, as amended 42 U.S.C., Sections 3601 et seq.
CONTACT PERSON:
Phillip Elzo, Agency Liaison, 100 Northwest 63rd, Suite 200, Oklahoma City, Oklahoma 73116,(405)419-8275.

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, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

330:36-1-4. Definitions

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional capitalized terms used in these Chapter 36 Rules are defined in the Code. When a conflict exists between the following definitions and the Code the Code shall control.

"Affiliate" means any Person that directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with any other Person.

"Allocation" means the maximum amount of TCA's available to the Development as a result of the approval of an award by the Trustees. The Credit shall be apportioned to each Qualified Building at the time such Qualified Building is Placed-In-Service.

"Applicable Fraction" means the fraction used to determine the qualified basis of a qualified low income building which is the smaller of the unit fraction or the floor space fraction.

"Applicant" means any individual, nonprofit organization or profit-motivated individual, corporation, general or limited partnership, limited liability company or other legal entity which has submitted an Application to OHFA for a Credit Reservation and Allocation, and its successors in interest. "Applicant" includes the Taxpayer and Taxpayer's predecessor in interest, if any, and includes any successor in interest, Transferee, of all or any portion of the Development, and the heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, Transferee, Taxpayer or lessee (other than a Resident) of all or any portion of the Development, and any other person or entity having any right, title, or interest in the Development.

"Application" means an application in the form prescribed by OHFA, from time to time, in the AP, including all exhibits and other materials filed by an Applicant with OHFA in support of or in connection with the formal request by the Applicant requesting a TCA.

"Application Packet" (referred to in these Rules as the "AP") means the Application in the form prescribed by OHFA from time to time, together with instructions and such other materials provided by OHFA to any Person requesting the same for the purpose of seeking to obtain from OHFA a TCA. OHFA will solicit public input on the Application Packet, and provide explanation of any significant changes. The AP may include definitive statements of what shall constitute Threshold Criteria, Selection Criteria, priorities, preferences, and compliance and monitoring requirements as may be authorized by or provided for in the Code and these Rules, and may include the necessary forms, instructions and requirements for Applications, environmental assessments, market studies, commitments, extensions, Carryover Allocations, Agreements, Elections, Set-asides, OHFA staff evaluation criteria for Threshold Criteria and Selection Criteria, final ranking, Credit amounts, tax exempt bond financed projects, compliance monitoring, and other matters deemed by OHFA Trustees, in their complete discretion, to be relevant to the process of evaluation of Applications and the Applicants in connection with the award or denial of TCAs.

"Area Median Gross Income" means the median gross Income adjusted for household size, for the county or counties where each Building in a Development is located as determined and published annually by HUD.

"Building" means a Residential Rental Property containing residential Housing Units located on the land and included in the Development. For purposes of the Credit Program, each Building is identified by its Building Identification Number assigned by OHFA BIN and its street address assigned by the United States Postal Service. In case of any inconsistency, the BIN shall control. In the event more than one Building is located on the land, each Building must be identified in the manner required by Code Section 42(g) to be treated as part of the Development. Any Allocation of Credit shall be effective only for the Building(s) identified in a Carryover Allocation Agreement, if applicable, or in Exhibit "A" to the Regulatory Agreement.

"Capital Needs Assessment" (CNA) means a qualified professional's opinion of a property's current physical condition determined after a physical inspection of the interior and exterior of the units and structures. The physical inspection should include an interview with the on-site manager and maintenance personnel. This assessment should identify deferred maintenance, physical needs, remaining useful life of key components, building material deficiencies and material building code violations that affect the property use, structural and mechanical integrity, and the future physical and financial needs. The assessment must include the cost of labor and materials identified in detail and the extent of future expenditures contemplated to ensure the costs will be addressed through operating and replacement reserves. Components which should be examined and analyzed in this assessment include but are not limited to:

(A) site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, sewer, storm drainage, gas and electric utility lines;

(B) structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system and drainage;

(C) interiors, including unit and common area finishes (carpeting, vinyl or tile flooring, plaster walls, paint condition, etc.), unit kitchen finishes, cabinets and appliances, unit bathroom finishes and fixtures, and common area lobbies and corridors ; and

(D) mechanical systems, including plumbing and domestic hot water, HVAC, electrical, lighting fixtures, fire protection and elevators.

"Carryover Allocation" means, an Allocation which is made with respect to a Building or Development pursuant to Code Section 42(h)(1)(E) and/or Code Section 42(h)(1)(F), as the case may be, and in conformance with IRS Notice 89-1 and Treasury Regulation Section 1.42-6.

"Carryover Allocation Agreement" means the contract between Taxpayer and OHFA, authorized and approved by the Trustees, wherein subject to the satisfaction by Taxpayer of the terms, conditions, obligations and restrictions contained therein or in any Resolution of the Trustees, a Carryover Allocation is made pursuant to Code Section 42(h)(1)(E) and/or Code Section 42(h)(1)(F), IRS Notice 89-1 and Treasury Regulation Section 1.42-6.

"Certifications" means the representations made under penalties of perjury by the Applicant, Taxpayer, each Developer, each partner or general partner, party to a joint venture, and/or Resident, as applicable, including but not limited to those representations and certifications set forth in the Applications and the Regulatory Agreement and Exhibits. Certifications also mean any and all representations made under penalties of perjury with respect to the Development at any time from the date of submission of the Application and throughout the Development Compliance Period.

"Code" means the Internal Revenue Code of 1986, as amended, and in effect at the date of the Regulatory Agreement, together with applicable rules and regulations, revenue

rulings, guidelines, releases, pronouncements, notices or procedures promulgated thereunder or referred to therein or in the applicable rules and regulations.

"Commitment" means a representation or agreement of the Taxpayer/Applicant contained in the Application, or otherwise, which in all cases shall be irrevocable and binding upon Taxpayer and its Transferees and successors in interest throughout the Development Compliance Period, unless otherwise noted in the Regulatory Agreement, these Rules, the Application, or any other agreements entered into by Taxpayer with OHFA in connection with the Credit Program.

"Compliance Period" means with respect to any Qualified Building, the continuous fifteen (15) year period over which the Qualified Building must satisfy all requirements of the Code and the Credit Program. The Compliance Period begins with the first year of the Credit Period.

"Consultant" means any person (which is not an Affiliate of an owner of the Development) that provides professional or expert services relating to an Application, a Development, or any activities pertaining to the filing of an Application, the award of a TCA, the Carryover Allocation, or cost certification documents filings with OHFA.

"Control" (including the terms "controls", "controlling", "controlled by", and/or "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction or the management and policies or any other Person, whether through an ownership interest in the other Person, by contract, agreement, understanding, designation, office or position held in or with the other Person or in or with any other Person, or by coercion, or otherwise.

"Credit" means the low-income housing tax Credit available for federal income tax purposes under Code Section 42 for a Qualified Building.

"Credit Period" means the ten (10) year period over which the Credit may be claimed for a Building. The Credit Period begins when the Building is placed in service, for Credit purposes, or if the Taxpayer makes an election under Section 42(f)(1)(B) of the Code, the next year; but only if the Building is a qualified low-income building within the meaning of Code Section 42(c)(2), by the end of the first year of that period. For an existing Building with Rehabilitation Expenditures, the Credit Period shall not begin before the year that the rehabilitation Credit is allowed under Code Section 42(f)(5).

"Credit Program" means OHFA's program for approving Allocations and includes, without limitation, adopting the Qualified Allocation Plan and OHFA's Credit Program Rules, the AP, and all things contemplated therein or appurtenant thereto, including without limitations, monitoring Developments throughout the Extended Use Period and notifying the IRS of the Building's or a Development's failure to comply with Code requirements.

"Credit Reservation" means the reservation of a maximum amount available for Allocation to such Development and apportioned to each Qualified Building therein upon meeting the requirements of the Credit Program and Code Section 42.

"Developer" means the person or entity with the responsibility of ensuring the effective construction or rehabilitation of the Development, including any and all responsibilities as outlined in the Development Agreement, which may also be the Applicant and/or Taxpayer of the Development. Developer also includes any other person or organization affiliated with, Controlled by, In Control Of or A Related Party to, the Developer, as determined by OHFA.

"Development" means the Land and one (1) or more Buildings, structures, or other improvements now or hereafter constructed or located upon the Land. If more than one (1) Building is to be part of the Development, each Building must be financed under a common plan and identified in the manner required under Code Section 42(g).

"Development Compliance Period" means the period beginning with the first day the first Building of the Development is Placed-In-Service and continuing thereafter until the latest to end of the following periods for each Building in the Development: (i) the Compliance Period; (ii) the Extended Use Period; or (iii) the "Three Year Period."

"Development Team" means the Applicant, architect, attorney, consultant, developer, general contractor, market analyst and/or appraiser, property management company, tax professional, Taxpayer, and the principals of each.

"Drug" for purposes of these OAHTC Program Rules, means "a controlled substance" as that term is defined in Section 102 of the Controlled Substances Act, 21 U.S.C., Section 802.

"Drug-Related Criminal Activity" means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

"Due Date" if a due date for submission of documents or fees falls on a weekend or a designated Federal holiday, then the due date becomes the next business day.

"Elderly" means a person sixty-two (62) years of age or older. This definition is for consideration for the Elderly set-aside and for points in which one hundred percent (100%) of units are for Elderly.

"Eligible Basis" means generally the depreciable basis in the property.

"Extended Use Period" means the continuous period, a minimum of fifteen (15) years, following the close of the Compliance Period during which a Qualifying Building must satisfy all requirements of the Code and the Credit Program. The Extended Use Period for the Development is set forth on Exhibit "A" to the Regulatory Agreement and may not be revoked or terminated prior to said date except as provided in the Code, these Chapter 36 Rules or in the Regulatory Agreement.

"Gross Rent" means the rent received for a Low-Income Housing Unit, including utility allowances but excluding (i) any payments under Section 8 or any comparable rental assistance program; (ii) any fees or supportive services (within the meaning of Code Section 42(g)(2)(B); (iii) paid to Taxpayer (on the basis of the low-income status of the Qualified Resident of the Low-Income Unit) by a governmental assistance program or an organization exempt from federal income tax under Code Section 501(c)(3), if such program or organization provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services; and (iv) rental payments to Taxpayer to

the extent an equivalent amount is paid to the RHS under Section 515 of the Housing Act of 1949. Gross Rent includes the minimum amounts paid toward purchase of a Housing Unit as described in Code Section 42(g)(6). The amount of Gross Rent is determined annually based upon the Area Median Gross Income for the locality in which the Development is located. The annual amount may decrease but such amount will not be reduced below the amount of Gross Rent established in the first Year of the Credit Period.

"Hard Construction Costs" means the following types of activities, but not limited to, earthwork/site work, on-site utilities, roads and walks, concrete, masonry, metals, carpentry (rough and finish), moisture protection, doors/windows/glass, insulation, roofing, sheet metal, drywall, tile work, acoustical, flooring, electrical, plumbing, elevators, blinds and shades, appliances, lawns & planting, fence, cabinets, carpets, and heat & ventilation. For calculations of contractor fees, a reasonable contingency can be included.

"Homeless" means (1) lacking a fixed, regular and adequate nighttime residence; and has a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations or a public or private place not ordinarily used as sleeping accommodations for human beings, OR (2) displaced as a result of fleeing violence in the home; and has a temporary residence that is a supervised public or private shelter OR (3) certified by an agency involved in regularly determining homeless status. Homeless individuals are considered homeless for a period of twenty-four (24) months from the date of move-in, according to Section 103 of the Stewart B. McKinney Homeless Assistance Act and 42(i)(3)(B)(iii)(I) of the Code.

"Housing Unit" means a Low-Income Unit and/or Market Rate Unit located in a Building which is available for rent or is rented by Residents. Common Area Units are not included.

"HUD" means the U.S. Department of Housing and Urban Development.

"Income" means the income of one or more Qualified Residents, as determined in a manner consistent with the methods under HUD's Section 8 Program.

"IRS" means the Internal Revenue Service of the Treasury.

"IRS Form 8609" means the IRS Form entitled "Low Income Housing Credit Certification" issued by OHFA no later than the end of the calendar year that such Building is Placed-In-Service or to be issued. The IRS Form 8609 establishes the maximum Credit for a Building.

"IRS Form 8823" means the IRS form entitled "Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition" issued or to be issued by OHFA with respect to issues of noncompliance with the laws of the IRS and/or the sale or disposition of the Development.

"Land" means the site(s) for each Building in the Development and having the legal description set forth described in the Carryover Allocation Agreement and Exhibit "A" to the Regulatory Agreement.

"Large Development" means a Development with more than sixty (60) units.

"LIHTC Program" means the Credit Program. "LIHTC Program" may be used interchangeably with the term "Credit Program" or "OAHTC Program".

"Low-Income Unit" means a Housing Unit that is both Rent-Restricted and occupied by Qualified Residents, provided that: (i) Housing Unit shall constitute a Low-Income Unit only if it is suitable for occupancy taking into account local health, safety and building codes and it is used other than on a transient basis except in the case of transitional housing, all as determined under Code Section 42(i)(3); and (ii) Housing Unit in any Building which has four (4) or fewer Total Housing Units shall not constitute a Low-Income Unit if any Housing Unit in the Building is occupied by an Owner or a related person [within the meaning of Code Section 42(i)(3)(C)] unless such Building is described in Code Section 42(i)(3)(E).

"Market Rate Unit" means a Housing Unit that does not meet the definition of a Low-Income Unit.

"Minimum Low-Income Housing Set-Aside" means the minimum percent required under Code Section 42(g) of Housing Units in the Development to be both Rent-Restricted and occupied by Qualified Residents, i.e., Residents whose Income is at or below a certain percentage of Area Median Gross Income. For purposes of Code Section 42(g), Taxpayer must have selected either: (i) twenty percent (20%) or more of the Total Housing Units to be Rent-Restricted and occupied by Residents whose Income is at or below fifty percent (50%) percent of the Area Median Gross Income; or (ii) forty percent (40%) or more of the Total Housing Units to be Rent-Restricted and occupied by Residents whose Income is at or below sixty percent (60%) of the Area Median Gross Income as the Minimum Low-Income Housing Set-Aside. The Applicant may, however, have made a Commitment to provide greater percentages of Housing Units that are both Rent-Restricted and occupied by Residents meeting the above Income limitations and/or making Housing Units available to Residents with Income below the above limitations, i.e., an Additional Low-Income Housing Set-Aside. Taxpayer and all Transferees, and successors in interest shall be bound by all Commitments, including the Minimum Low-Income Housing Set-Aside, or Additional Low-Income Housing Set-Aside made in the Regulatory Agreement, or included in the Carryover Agreement or any of the Resolutions of the Trustees respecting the Application, the Development, or Taxpayer.

"National Non-Metro Area Median Income" means as determined and published annually by HUD.

"Nonprofit" means a private nonprofit organization that is organized under State or local laws; has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization; has a tax exemption from the Internal Revenue Service under section 501(c) (3) or (4) of the Internal Revenue Code of 1986; does not include a public body; has among its purposes the provision of decent housing that is affordable to low income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws; and, has at least a one year history of providing affordable housing

at the local level, and is duly qualified to do business within the State.

"Nonprofit Sponsored Development" means and refers to a proposed Development that has or will have a Nonprofit that has a Controlling interest by reason of an ownership interest in a Person that is or will be the owner of the subject Development, and has materially participated, or will materially participate (within the meaning of the Code) in the Development and operation of the Development throughout the Compliance Period.

"OAHTC Program" means the Credit Program. "OAHTC Program" may be used interchangeably with the term "LIHTC Program" or "Credit Program".

"OHFA" means Oklahoma Housing Finance Agency a State-beneficiary public trust. OHFA is the allocating agency for the State for purposes of the Credit Program.

"One Year Period (1YP)" means period commencing on the date on which OHFA and the owner agree to the Qualified Contract price in writing and lasting twelve (12) calendar months.

"Owner" means the legal Owner of record of the Development, as set forth on page one of the Regulatory Agreement, and any and all successor(s) in interest of Owner, including any and all Transferees, Assignees, purchasers, grantees, owners or lessees (other than a Resident) of all or any portion of the Development, and the heirs, executors, administrators, devisees, successors and assigns of any Transferee, purchaser, assignee, grantee, owner or lessee (other than a Resident) of all or any portion of the Development, and any other person or entity having or acquiring any right, title, or interest in the Development. Owner is also the Taxpayer, Applicant or the Applicant's successor in interest.

"Partnership" means any syndicate, group, pool or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is treated for federal income tax purposes as a partnership and is not considered within the meaning of the Code, a trust or estate or a corporation. A Partnership may be a general Partnership or a limited Partnership and must have partners and an objective to carry on business and divide the gains therefrom.

"Person" means, without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability company, limited liability partnership, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality, Community Housing Development Organization (CHDO), interlocal cooperative, or other organization of any nature whatsoever, and shall include any two or more Persons acting in concert toward a common goal.

"Placed-In-Service" means: (i) the date on which a new Building or existing Building used as residential rental property is ready and available for its specifically assigned function as evidenced by a certificate of occupancy or the equivalent; or (ii) for rehabilitation expenditures that are treated as a separate new Building, any twenty-four (24) month period over which such Rehabilitation Expenditures are aggregated.

"Preliminary Application (QCPA)" means a request containing all information and items necessary for OHFA to determine the eligibility of an Owner to submit a request for a qualified contract.

"Program Rules" means the various written criteria, requirement, rules, and policies adopted from time to time by the Trustees as the State's Qualified Allocation Plan to administer the Credit Program and to provide for Allocations. The Program Rules must be followed by any participant in the Program. The Program Rules may include requirements that are more stringent than those under Code Section 42.

"Qualified Allocation Plan (QAP)" means these Chapter 36 Rules plus the Application Packet (AP) as defined and other materials provided by OHFA. The deadline for all informal input sessions and the formal public hearing will be published by OHFA Staff.

"Qualified Building" means a Building which meets the terms, conditions, obligations, and restrictions of the Program Rules, Carryover Allocation Agreement, Regulatory Agreement, Resolutions of the Trustees respecting Taxpayer or the Development, and Code Section 42(c)(2) for an Allocation and the issuance by OHFA of IRS Form 8609.

"Qualified Contract" means a bona fide contract to acquire the portion of a Building which is not Rent-Restricted for fair market value and the portion of the Building which is Rent-Restricted for an amount not less than the Applicable Fraction for the Building or the sum of: (i) the portion of outstanding indebtedness secured by, or with respect to the Building which is allocable to such Building; (ii) adjusted investor equity in the Building; and (iii) other capital contributions invested in the Building but not reflected in the amounts described in (i) or (ii) above; reduced by cash distributed from the Development or available for distribution from the Development; provided that in all cases, the purchase price for the Building required for a contract to be a Qualified Contract shall be determined in a manner consistent with the requirements of Code Section 42(h)(6)(F), or such other regulations as prescribed by the Code to carry out this section.

"Qualified Contract Application (QCA)" means an application containing all information and items required by the OHFA to process a request for a Qualified Contract.

"Qualified Contract Price (QCP)" means calculated purchase price of the development as defined within §42(h) (6) (F) of the Code and as further delineated in Chapter 36 Rules.

"Qualified Development" means a Development or Residential Rental Property where an Applicable Percentage or more of the Housing Units are both Rent-Restricted and occupied by Residents whose Income is at or below the level selected as the Minimum Low Income Housing Set Aside.

"Qualifying Households" means households whose annual incomes do not exceed the chosen set-aside (which is either 50% or 60%) of the median family income for the area.

"Regulatory Agreement" means the written and recorded agreement between a recipient of a TCA and the allocating agency, OHFA, placing restrictive covenants upon the Development and the underlying land for a term of not less than thirty years (30) years, or such other term as may be required from time to time by provisions of the AP, these

OAHTC Rules and Section 42 of the Code and the federal rules and regulations promulgated thereunder and containing other restrictions, covenants, warranties and agreements required by state, federal or local law and these OAHTC Rules.

"Rehabilitation Expenditures" means amounts that are capitalized and incurred for the addition to or improvement of an Existing Building of a character subject to the allowance for depreciation under Section 167 of the Code. However, it does not include the costs of acquiring a Building or an interest in it, for example, any Developer Fee properly allocated in acquiring a Building or any other soft costs or any amount not permitted to be taken into account under Section 42(d)(3) or Section 42(d)(4) of the Code.

"Rent-Restricted" means that the Gross Rent with respect to a Low-Income Unit does not exceed thirty percent (30%) of the income limitations for Qualified Residents adjusted by the Imputed Household Size, subject to the exception set forth in Code Section 42(g)(2)(E) (relating to certain Housing Units for which federal rental assistance decreases as Resident Income increases).

"Resident" means an individual or group of individuals (other than an Owner) residing in a Housing Unit.

"Resolution" means an official action of the Trustees and includes all Resolutions adopted by the Trustees with respect to a Development.

"Review Report" means the Threshold Criteria Review and Selection Criteria Review containing the results of OHFA's review of the Application and scoring of the Application. There are preliminary and final versions of the review report for each Application.

"Rural Area" means any city, town, village, area or place generally considered rural by the Secretary of Agriculture (RHS) for rural housing programs. Verification will be obtained by contacting the Stillwater USDA-RD office.

"Rural Development" means a Development that is, or will be located within a Rural Area. RHS 538 projects are not eligible for the Rural 515 set-aside, but may qualify under other set-asides.

"Section 8" means Section 8(c)(2)(A) of the United States Housing Act of 1937, as amended.

"Selection Criteria" means the evaluation criteria, over and above the Threshold Criteria, set out in an applicable AP, which shall be established and may be changed by OHFA from time to time in an applicable AP (using the priorities for the State as they are established from time to time under and pursuant to these Rules and the applicable AP), to determine the Development's qualifications, and which are the basis for ranking Applications and establishing a relative level of acceptability for consideration under the Rules and the applicable AP for the possibility of the award of a TCA by OHFA. Although the Selection Criteria may be given substantial weight by OHFA Trustees in deciding whether or not a particular Application and Applicant shall be awarded a TCA, the OHFA Trustees reserve the right to take into consideration such other factors as they, in their complete discretion, deem appropriate.

"Site Control" means the exercise of dominion or control over the property through the execution of a purchase, sale, or long-term lease agreement (with a lease term that exceeds the extended use period), receipt of a deed or conveyance of the Land where the development will be located, or an option to purchase the property (where the option is not revocable on the part of the seller). OHFA alone will decide if an Applicant or Taxpayer has obtained Site Control.

"Special Needs" means such targeted populations as may be designated from time to time in an Application Packet by official action of OHFA's Board, which designations may include, but are not necessarily limited to, the homeless, the elderly, persons with mental and physical disabilities and/or disabled persons.

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

"TCA" means a federal low-income tax Credit allocation by OHFA to a Development owner pursuant to Section 42 of the Code, these Rules, QAP, the Act, the applicable AP, the Application, and formal action by the OHFA Board of Trustees.

"Three-Year Period" for a Building means the three (3) year period following: (a) the date of acquisition of such Building by foreclosure or forfeiture under a deed of trust, mortgage or real estate contract or by deed in lieu of foreclosure; or (b) the end of the Extended Use Period, or (c) in the case of the release of the affordability restriction due to the failure of OHFA to present a QC before the expiration of the One Year Period, the recording of a Release of Regulatory Agreement by OHFA. During the Three-Year Period the owner may no evict or terminate a tenancy of an existing tenant of any low-income unit except for good cause. During the Three-Year Period the owner may not increase the gross rent with respect to any low-income unit except as permitted under Section 42 of the Code.

"Threshold Criteria" means the criteria set out herein and in an applicable AP, which shall be established and may be changed by OHFA from time to time in an applicable AP, to determine the qualifications of the Applicant and the Taxpayer and the Proposed Development, presented in each Application that are the minimum level of acceptability for consideration under the Rules and the applicable AP for the possibility of the award of a TCA by OHFA. Failure to satisfy all Threshold Criteria set out in the applicable AP shall result in the disqualification of the Application for further consideration, and shall require no further action by OHFA Staff except to notify the Applicant of the disqualification.

"Total Housing Units" means all Housing Units in a Building including both Market Rate Units and Low-Income Units.

"Total Development Costs" means the total costs incurred in acquiring and developing the Development as set forth in the proposed budget for the Development included in the Application and in an independent certified public accountant's certification of sources and uses of funds submitted to OHFA.

"Transfer" means any sale, transfer, merger, consolidation, liquidation, contribution, assignment, exchange or other change in all or part of Ownership of the Land and/or Development or any Building which is a part thereof, whether voluntary or involuntary, and also includes: a transfer, sale, contribution or assignment by the Applicant, Taxpayer or Developer of all or any part of its rights, title or interest in the Application,

Carryover Allocation Agreement, Credit, Land, Building and/or Development to another party; or a withdrawal, change or addition of any partner to a general Partnership, general partner of a limited Partnership, any party to a joint venture or the manager of a limited liability company.

"Transferee" means any and all successor(s) in interest of Taxpayer, including any and all Transferees, Assignees, purchasers, grantees, owners or lessees (other than a Resident) of all or any portion of the Development, and the heirs, executors, administrators, devisees, successors and assigns of any Transferee, purchaser, assignee, grantee, owner or lessee (other than a Resident) of all or any portion of the Development, and any other person or entity having or acquiring any right, title, or interest in the Development. Owner is also the Taxpayer, Applicant or the Applicant's successor in interest.

"Transitional Housing" for purposes of these OAHTC Program Rules means transitional housing for the homeless which meets the requirements of Code Section 42(i)(3)(B)(iii)

"Treasury" means the United States Department of the Treasury.

"Trustees" means the Board of Trustees of OHFA.

"**Unit Fraction**" means the fraction of a Building devoted to low-income housing, the numerator of which is the number of Low-Income Housing Units in the Building, and the denominator of which is the number of Total Housing Units, whether or not occupied, in the Building.

"Violent Criminal Activity" means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

SUBCHAPTER 2. ALLOCATION PROCEDURES

330:36-2-1. TCAs distribution

(a) OAHTCs allocated annually to the State by the IRS shall be awarded to Applicants selected through a formal application process governed by the Qualified Allocation Plan (QAP).

(b) TCAs will be awarded according to the Act, Code, these Chapter 36 Rules, the applicable AP, and at the discretion of the OHFA Trustees, by their formal action, giving consideration to Staff recommendation following a thorough review and financial feasibility analysis.

(c) The Trustees reserve the right, to consider allocations of TCAs outside the established reservation cycles for a given calendar year. The Trustees, in their sole discretion, reserve the right to approve such an allocation of TCAs, provided the facts presented to them demonstrate a special circumstance or need and said allocation promotes the development of residential use housing within the State. Provided however, the Trustees also reserve the right to deny any request for an allocation of TCAs made outside the established reservation cycles for a given calendar year. Consideration of all allocations of TCAs shall be made at a regularly scheduled or special meeting of the Trustees and shall be made by formal action, giving consideration to Staff review and recommendations.

(~~c~~d) The AP shall be made available to parties considering the filing of an Application and interested parties upon request. Requests for the AP should be directed to the OHFA Housing Development Team or the AP can be accessed at OHFA's website, www.ohfa.org.

330:36-2-2. Additional Credits

~~(a) Applications for additional Credits on new construction developments are not allowed.~~

~~(b) Applications for additional Credits on rehabilitation developments may be allowed, but only under extenuating circumstances not easily identifiable or ascertainable at the time of initial Credit award. The OHFA Board of Trustees may award additional Credits at their sole discretion. Maximum award amount cannot exceed ten percent (10%) of the original tax Credit allocation amount, which in the aggregate cannot exceed $500,000. Applicants who have received approval of a Carryover Allocation in a prior year for a specific Development may request additional Credits for that Development. The Applicant may supplement the Applicant's prior Application; however, the Application as supplemented must:~~

~~(1) Be made by the applicable reservation cycle deadline;~~

~~(2) Be accompanied by the Application fee;~~

~~(3) Meet all Threshold requirements of the Credit Program Rules in effect as of the deadline of the reservation cycle in which the request for additional Credits is made, except the Notice requirements; and~~

~~(4) Each page clearly tabbed in conformity with the current form of Application.~~

~~(5) The supplemented Application will be scored and ranked in accordance with the Credit Program Rules in effect as of the deadline of the reservation cycle in which the request is made.~~

~~(6) An additional feasibility analysis will be undertaken. The Applicant must prepare an in-depth analysis of why additional Credits are required. OHFA may request information from the Applicant's lender(s), accountants, legal advisors or financial Consultants to confirm representations contained in the Application.~~

~~(7) Neither the Applicant nor OHFA shall be required to give additional notice pursuant to 330:36-2-11 and 330:36-4-2(b)(1) of these Chapter 36 Rules if the notice requirements of the Credit Program Rules in effect as of the date of the Applicant's original filing of an Application were met.~~

(a) Guidelines for Applications for additional credits will be established in the annual AP. Limitations may be placed on types of developments, amount of additional credits, or type of applications.

(b) The timing of acceptance of applications for additional credits will also be established in the annual AP.

330:36-2-7. Award amounts

(a) The maximum TCA for any one Development proposal shall not exceed ~~$500,000~~ $550,000 or $600,000 with any boost.

(b) TCAs for amounts less than applied for based upon OHFA's financial and feasibility analyses. In order to make the most efficient, equitable and practicable utilization of the State's tax Credit allocation, the Trustees of OHFA may approve, giving consideration to the recommendations of OHFA's staff, the utilization of funding from other housing programs administered by OHFA which may also result in a decrease in the amount of the TCA approved.

330:36-2-9. Reallocation of additional tax Credits

(a) Annually, additional tax Credits may become available for the award of TCAs as the result of:

(1) Development cancellations;

(2) Developments completed under original cost estimates;

(3) Credits allocated but not utilized; or,

(4) Other circumstances.

(b) In keeping with the applicable AP, OHFA may award TCAs based on the amount of Credits available, in the calendar year any such Credits first become available. For the calendar year in which such additional Credits become available they ~~shall~~ may be prorated among all the remaining cycles for which awards have not been made by formal action by OHFA.

(c) OHFA reserves the right, in its complete discretion, to make any adjustments in the amount of TCAs that may be awarded in any cycle of a given calendar year, by increasing or decreasing the amount of TCAs made available in a given cycle.

(d) All Credits not awarded in any calendar year shall be carried over for use in the next calendar year, in accordance with the provisions of the Code, these Rules, the applicable AP and/or the formal action of OHFA Trustees.

330:36-2-11. OHFA Development notification

(a) OHFA shall, within fifteen (15) business days of receipt of an Application, and not less than thirty (30) calendar days prior to OHFA Trustee consideration thereof, notify, in writing, by certified mail or other form of traceable delivery system to provide proof of transmission and receipt, the Chief Executive Officer of each Local Governing Body of the jurisdiction within which the proposed Development is located at the time of application and the legislators who are entitled to such Notice, regarding the characteristics of the proposed Development located within their jurisdiction/district. All comments received from said Chief Executive Officer and/or legislator(s) during this thirty (30) day comment period will be presented to the Trustees for their consideration when reviewing a request for an allocation of Credits.

(b) If the application is considered at a different Board meeting than in the notice, this notification requirement is considered to be met.

330:36-2-16. Carryover Allocations

(a) **Code reference.** Code Section 42(h)(1)(E) provides that an Allocation may be made to a Qualified Building, as defined by Section 42(h)(1)(E)(ii), which has not yet been placed in service, provided the Qualified Building is placed in service not later than the close of the second calendar year following the calendar year of the Allocation.

(b) **Carryover Allocation requests.** An eligible Applicant must request in writing the approval of a carryover of an Allocation of the applicable calendar year, at a date specified in the AP. The Taxpayer must satisfy all requirements of the Code and this section and file proof of same with OHFA, except the verifications required by 330:36-2-16(d) of the calendar year in which a Carryover Allocation is sought. The certifications and opinions required by 330:36-2-16(d) must be received by OHFA ~~the later of the date which is six (6) months~~ one (1) calendar year after the date that the allocation was made ~~or the close of the calendar year in which the allocation is made~~. All documents requested by OHFA must be provided by the Taxpayer.

(c) **Carryover Allocation basis.** To qualify for a Carryover Allocation, the Taxpayer must demonstrate that the Taxpayer's basis in the Development, at ~~the later of six (6) months~~ one (1) calendar year after the date of allocation ~~or the close of the calendar year in which the Allocation is made~~, is more than ten percent (10%) of the Taxpayer's reasonably expected basis in the Development. Developments that fail to meet the ten percent (10%) Test will not have a valid carryover allocation.

(d) **Verification of basis.** The Code requires OHFA to verify that the Owner has, by ~~the later of six (6) months~~ one (1) calendar year after the date of allocation ~~or the close of the calendar year in which a Carryover Allocation is made~~, incurred more than ten percent (10%) of the reasonably expected basis in the Development (land and depreciable basis). The Taxpayer must file with OHFA a written certification, under penalty of perjury and in the form prescribed by OHFA, certifying that more than ten percent (10%) has been expended, in ~~the year in which the Carryover Allocation was made or six (6) months~~ one (1) calendar year ~~later~~. The certification must be accompanied by a written opinion of the Taxpayer's certified public accountant, in a form acceptable to OHFA. It must state that said certified public accountant has examined all eligible costs incurred with respect to the Development and that, based upon this examination, it is the certified public accountant's belief that the taxpayer has incurred more than ten percent (10%) of its reasonably expected basis in the Development by ~~the close of the calendar year of the Allocation or six (6) months~~ one (1) calendar year ~~later~~ as determined in conformity with the Code and Treasury Regulations. OHFA's determination as to the satisfaction of the ten percent (10%) requirement is not binding upon the IRS and does not constitute a representation by OHFA to the Taxpayer or any other party to that effect.

(e) **Carryover Allocation Agreement.** The Taxpayer must submit to OHFA an executed Carryover Allocation Agreement, in a form approved by the Trustees of OHFA, in the year in which the Carryover Allocation is requested.

(f) **Notification of placed in service date.** Applicant must notify OHFA within thirty (30) calendar days of the date the Development is placed in service or be subject to loss of any Allocation. Notice will consist of submission of copies of the Certificates of Occupancy for each building and completion of any and all forms as may be required in the AP.

(g) **Development based Allocation.** An Allocation pursuant to Code Section 42(h)(1)(F) must meet the requirements of Code Section 42(h)(1)(F), all applicable Treasury Regulations, and these Chapter 36 Rules.

330:36-2-17. Final Allocations

(a) **Prior approval.** Applicants must have previously been approved for a Reservation, either in a prior year or during one of the Reservation cycles for the calendar year in which the request is made. (b) **Deadline for filing.** Owner's request for approval of the Final Allocation must be received by OHFA on or before November 1 of the year in which the Owner has elected as the first taxable year of the Credit, or at such later date as OHFA may specify in writing to the Owner. Failure to file a timely Final Allocation accompanied by all required documentation may result in the denial of the Final Allocation and a determination by the Trustees that the Credits have been returned by the Applicant.

(c) **Complete filing.** The Final Allocation must be accompanied by all evidence or documentation required by the Program Rules then in effect, and such other information or documentation which may be requested by OHFA, in its sole discretion, to verify compliance with the Code, the Program Rules and the Resolutions, and to verify the amount of the Final Allocation. A complete and executed Regulatory Agreement in the form provided by OHFA and ready for filing, together with the appropriate fees, including without limitation applicable filing fees and compliance monitoring fees, must be filed with the Final Allocation. The Regulatory Agreement shall contain provisions for regulation and enforcement by OHFA and such additional provisions as may be necessary to assure compliance with Section 42 of the Code or to give effect to the requirements of OHFA.

(d) **Additional requirements.** In addition to the opinions and certifications of professionals which may be required to be filed with OHFA pursuant to 330:36-2-16 in connection with a request for a Carryover Allocation, prior to making a final Allocation, OHFA will require:

(1) An audited certification of the total Development costs, and the eligible basis and qualified basis of each Building in the Development and the sources and uses of funds for the Development prepared from an independent certified public accountant.

(2) All opinions must be in a form satisfactory to OHFA and must indicate that the professional has made an independent inquiry into the matters contained therein.

(e) **Approval.** Upon receipt of a completed Final Allocation, OHFA will conduct a final feasibility analysis. Approval of the Final Allocation is subject to Owner's continued compliance with the Code, the Program Rules, the Resolutions, all terms and conditions of this Agreement, Owner's payment of all fees required by the Program Rule.

(f) **Issuance of Form 8609(s).** Subject to the approval of the Final Allocation by the Trustees, OHFA will, upon notification by Owner that the Development (or any Building therein) has been placed in service, issue IRS Form 8609(s) respecting each such Development (or each Building therein) to the extent required by, and in accordance with, the Code and the Program Rules. ~~The total dollar amount of the final Allocation of Credits set forth on IRS Form 8609(s) shall not exceed the allocation amount for the Development (or Building(s)) approved by the Trustees.~~ No Form 8609(s) shall be issued if OHFA has not received an executed Regulatory Agreement and all Exhibits thereto, together with applicable fees.

SUBCHAPTER 4. DEVELOPMENT APPLICATIONS AND SELECTION

330:36-4-2. Selection of Applications for award of TCAs

(a) **General.** For the purpose of selecting Applications for awards of TCAs, OHFA may annually develop Threshold and Selection Criteria that conform to the Code, the OAHTC Program purposes and these Chapter 36 Rules for inclusion in the next year's AP. The number, severity, or value of any one or more of the Threshold Criteria items may be increased by adoption of an AP for a given year that contains such increased Threshold Criteria items. However, each AP must contain, as a minimum standard for approval of any Applications for the award of any TCAs, for any applicable AP, the Threshold Criteria set out herein below in this section.

(b) **Minimum Threshold Criteria.** Failure to meet all Threshold Requirements set forth in the AP upon initial submission of the Application will result in the Application being rejected without further review. The Threshold Criteria shall include, but are not necessarily limited to the following:

(1) **Notice Requirements.** The provisions of this subsection apply to all Applicants for a TCA, All notice requirements must be satisfied not less than thirty (30) and no more than ninety (90) calendar days prior to submission of an Application. Each application cycle requires notice. <u>If the application is considered at a different Board meeting than in the notice, this notification requirement is considered to be met.</u>

(A) **Written Notices.** The Applicant must notify, in writing and by certified mail, the local Chief Executive Officer of the local Governing Body, Chairman of the appropriate county commissioners, state legislators (or their successor) within whose district the development is located at the time of application regarding their intent to submit an application. This written notice shall serve to provide a reasonable opportunity to comment on the application. All notice requirements must be satisfied not less than thirty (30) and no more than ninety (90) calendar days prior to submission of an Application. Each application cycle requires notice.

(B) **Additional notice requirements.** If the site for the development is not located within the specific corporate limits of an incorporated town or city, but is within two (2) miles of an incorporated town(s) or city(ies) limits, Applicant must provide the same notice to each such town(s) and city(ies) as if the site was located within the corporate limits of each such town(s) and city(ies). All notice requirements must

be satisfied not less than thirty (30) and no more than ninety (90) calendar days prior to submission of an Application. Each application cycle requires notice.

(C) **Publication notice.** Notice of an Applicant's intent to file an Application shall also be published in a newspaper of general circulation in the area wherein the Development will be located. All notice requirements must be satisfied not less than thirty (30) and no more than ninety (90) calendar days prior to submission of an Application. Each application cycle requires notice. At a minimum all such notices must contain the reasonably anticipated information below:

(i) the name and the legal description or street address of the proposed Development;

(ii) the names, business addresses and telephone numbers of the Applicant and the Applicant's designated contact person in regard to the proposed Development;

(iii) whether the Development is new construction, acquisition and rehabilitation and/or substantial rehabilitation;

(iv) the maximum number of units, the type of development, and percentage of income restricted units;

(v) the month in which the Applicant reasonably expects the Application to be considered by the OHFA Trustees for an award of a TCA;

(vi) the name, business address, telephone number and extension number of the contact person at OHFA to whom all inquiries about the hearing on the Application and the proposed Development should be directed.

(2) **Market analysis.** All Applicants must submit third party, independent housing market analyses conforming to the Threshold Criteria set forth in the applicable AP, demonstrating and documenting the status of the market demand for the type and number of housing units proposed to be developed. The market analysis must be prepared no more than twelve (12) months prior to the date Application is filed with OHFA.

(3) **Nonprofit owners.** Applicants proposing Developments under the nonprofit set-aside must demonstrate and document that the Nonprofit owner and/or Nonprofit ownership participant meet the definition of a nonprofit as defined in Section 42h(5)(C) of the Code and these Chapter 36 rules at 330:36-1-4. Applicants for nonprofit set-aside TCAs must demonstrate that the Nonprofit participant:

(A) will own a minimum of fifty-one percent (51%) ownership interest (directly or through a Partnership) in the Development;

(B) is at least a co-general partner, co-managing member, or a controlling stockholder, or can otherwise demonstrate ownership of, or the contractual obligation to acquire a controlling interest in the proposed Development by not later than the date the Development is substantially completed and commences business;

(C) will materially participate, on a regular basis, in the planning and construction of the Development, and in the operation and management of the Development throughout the entire compliance period pursuant to 26 CFR § 1.469;

(D) has a Board of Directors and Officers that are independent from any for-profit Development partner;

(E) is duly authorized to do business within the State; and

(F) has at least one year of affordable housing experience in the State.

(4) **Resolution of local support.** Applicants must provide documentation of official local support for the Development by the jurisdiction within which the proposed Development is located at the time of application, i.e. the Local Governing Body. The required documentation must be in the form of a resolution duly adopted by the Local Governing Body, and must be in a form that shall be subject to approval by OHFA. If there are any conditions in the resolution, OHFA may exercise its discretion to contact the governing body to ascertain the potential impact of the conditions.

(5) **Capacity and prior performance.** Each Applicant must demonstrate and document the degree of expertise of Applicant and owner in the use of TCAs and the Development, rehabilitation and/or conversion, management and operation of properties related to the type of the proposed Development. Applicants, Owners, and their Affiliates, including all Development team members, shall be examined in regard to their Placed in Service Developments, and the record of compliance performance within Oklahoma and other states in which the Development team members have developed or are developing affordable housing. The removal as a General Partner may be considered lack of capacity and performance. Applicants with existing Developments may be ineligible for a TCA where OHFA has or receives notice of uncorrected or repeated instance of nonperformance by Applicant, owner, or any of their Affiliates, and may include any of their Development team~~,~~

(A) failure to meet and maintain minimum property standards;

(B) failure to meet and maintain any material aspect of a Development as represented in a Development Application;

(C) have been involved in uncured financing defaults, foreclosures, or placement on HUD's list of debarred contractors;

(D) events of material uncorrected non-compliance with any Federal or State assisted housing programs within the prior seven (7) years; or

(E) the appointment of a Receiver; conviction on a felony criminal charge; or bankruptcy within the prior seven (7) years.

(6) **Acquisition Credits.** Applicants requesting acquisition Credits must provide an opinion of counsel, in a form satisfactory to OHFA, that the requirements of Code

Section 42(d) (2)(B) have been met or a waiver obtained from the IRS. If an existing waiver or waiver to be granted is claimed, copy of the waiver letter or a copy of the letter indicating a waiver will be granted and is forthcoming must be included in the applicant's Development proposal.

(7) **Phase I environmental study.** Applicants must submit a Phase I Environmental Assessment of the Development prepared no more than twelve (12) months prior to the date an Application is filed with OHFA. In lieu of assessment for existing RHS-financed properties to be acquired and rehabilitated, the Applicant and RHS must certify that there are no adverse environmental concerns. Any remediation requirements should be detailed and costs identified in the budget.

(8) **Financial feasibility and viability.** Applicants must demonstrate with their financing that there are firm commitments to the Development's financial feasibility and viability as a qualified low-income housing Development throughout the extended use period. Projects financed through the RHS programs must submit a Multiple Family Housing Obligation-Fund Analysis, Form FmHA 1944-51, or other evidence of firm commitment. Applicant must demonstrate to OHFA's satisfaction that the Applicant has financing commitments for one hundred percent (100%) of the project's total estimated construction and permanent financing. Commitment letters must include loan amount, interest rate, loan term, debt service coverage ratio (permanent lender), loan amortization period (permanent lender), borrower, loan fees, collateral and conditions precedent to funding. Requirements set out in 36-4-2.2 (b)(c) and (d) are part of the analysis for financial feasibility.

(9) **Readiness to proceed.** Applicants must demonstrate readiness to proceed in a timely manner should they be awarded a TCA. Factors that may be considered regarding Development readiness shall include but not be limited to:

(A) site control; and

(B) Applicant must provide preliminary plans or specifications; and

(C) proper zoning for the proposed Development.

(10) **Public Housing Wait Lists.** Each Application will be analyzed and evaluated as to the extent to which it is demonstrated that the local or State public housing authority documents the presence of a client waiting list for affordable housing units in the locale of the proposed development.

(11) **Capital needs assessment.** No allocations for rehabilitation will be made unless preceded by a capital needs assessment performed by a qualified independent third-party (architect, engineer, contractor, Rural Housing Services) which considers the proposed rehabilitation activities to ensure that the proposed improvements plus reserves have a useful life that meets the full term of affordability based on extended use agreements. In addition, all rehab developments must include a complete, detailed tenant income audit that identifies all existing tenants and their income. The audit shall separately identify those tenants whose income exceeds applicable income limits.

(c) **Selection criteria.** The Selection Criteria shall be set forth in the appropriate AP, and shall include, but not necessarily be limited to the following:

(1) **Income targeting.** Each Application will be analyzed and evaluated as to the extent to which it is demonstrated therein a commitment to target lower-income populations. Points will be awarded based on the percentage of total AHTC units targeted to persons at or below fifty percent (50%) AMFI to the total number of AHTC units in the project. A sliding scale for points will be established in the annual AP.

(2) **Term of affordability.** Each Application will be analyzed on its ability and evaluated as to any commitments made therein in regard to serving qualified tenants for a period of time longer than the minimum required by the Code. Points will be awarded for an extension of the term of affordability beyond the minimum required by the Code and established in the annual AP.

(3) **Development location and housing characteristics.** Each Application will be analyzed and evaluated as to the geographic location and prevailing market conditions for the proposed Development. Examples of location and condition variables may include, locating Developments within Difficult Development Areas, Qualified Census Tracts, Presidentially declared disaster areas as identified in the current or preceding year or Empowerment Zones, Enterprise Zones, Enterprise Communities. Points will be established in the annual AP.

(4) **Development Leverage.** Each Application will be analyzed and evaluated as to the extent to which it results in tangible, cost beneficial investments or contributions to the proposed Development. Leverage shall be considered as the proportion or percentage of leverage resources to total eligible basis. Points for this criterion will be established in the annual AP.

(5) **Community Support.** The extent to which local governments and other community partners commit support for a proposed development will be analyzed. Examples of community support include, but are not necessarily limited to: fee waivers, tax abatements, public improvements directly related to a Development, donations of property and/or materials, and other contributions of direct value to the proposed Development. Support must be directly related to the proposed project. Eligible evidence of support and points will be established in the annual AP.

(6) **Development Amenities.** Each Application will be analyzed and evaluated as to commitments made therein for the provision of amenities. Points available under this criterion will be established in the annual AP. Only amenities which exceed the minimum required by applicable laws or building codes will be eligible for points.

(7) **Development Services.** Each Application will be analyzed and evaluated as to commitments made therein for the provision of resident appropriate services. Points

available under this criterion for the resident appropriate services will be established in the annual AP.

(8) **Applicant/Owner Experience.** Each Application will be analyzed and evaluated as to the experience of the Applicant and/or the Development Team in owning and successfully operating Developments in the LIHTC Program. Points available under this criterion will be established in the annual AP.

(9) **Management Experience.** Each Application will be analyzed and evaluated as to managing or providing management for Developments in the LIHTC Program. Points available under this criterion will be established in the annual AP. This evaluation will be based on the experience of the management team members. Changes in management may not occur after the Reservation without the prior written approval of OHFA.

(10) **Tenant/Special Needs Populations.** Each Application will be analyzed and evaluated as to the extent to which commitments are made therein to serve Special Needs populations. Points available under this criterion will be established in the annual AP and will be based upon a percentage of units dedicated to special needs.

(11) **Tenant populations of individuals with children.** Each Application will be analyzed and evaluated as to the extent to which it is demonstrated that the development will provide amenities and a unit mix conducive to families/individuals with children. Points available under this criterion will be established in the annual AP. To be eligible, the market study must indicate a need for family units.

(12) **Tenant ownership.** Points available to applicants proposing for single family home ownership after the Compliance Period will be established in the annual AP. Applicants must submit a detailed plan which includes projections on maintenance, tenant reserve funds, etc. which will be evaluated for feasibility.

(13) **Tie-breaker.** In case there are applications with the same final score in any set-aside, a drawing shall occur at the Board of Trustees meeting in which the applications are being considered for funding. All applications with the same score in any set-aside will be entered in the drawing. The first application drawn, will be funded first, the second application drawn, will be funded next, and so forth until such time as the tax credits have been allocated under the set-aside. Applications not drawn under a set-aside will be placed in the next set-aside in which they qualify in rank score order.

(14) **Women/MBE.** Points may be established in the AP for Applicants utilizing Minority Business Enterprises/Women Business Enterprises (M/WBEs) as a participant of the Development Team.

(15) **Preservation of affordable housing units from pre-1990.** Points may be established in the AP for the preservation of affordable housing.

(16) **Energy Efficiency of a development.** Points will be established in the AP to encourage energy efficiency of developments. This may be a separate point category, or it may be combined within another threshold or selection category.

(17) **Historic Nature of a development.** Points will be established in the AP regarding the historic nature of developments. This may be a separate point category, or it may be combined within another threshold or selection category.

(~~16~~18) **Negative Points.** OHFA Staff will deduct points for records of poor performance. Point deductions will be established in the AP.

(d) **OHFA discretion.** Not withstanding the point ranking under the Selection Criteria set forth above under 330:36-4-2.1(c), the OHFA Board of Trustees may in their sole discretion allocate Credits to a project irrespective of its point ranking, if allocation is:

(1) in compliance with Code Section 42;

(2) in furtherance of the housing goals set forth herein, in the AP or any formally adopted resolution of the Trustees; and

(3) determined by the Trustees to be in the interests of the citizens of the State.

330:36-4-2.1. General program requirements and limitations

(a) **General.**

(b) **Developer Fee limitations.** The amount of allowable Developer Fees shall be limited to:

(1) **Small developments.** Developer Fees may not exceed eighteen percent (18%) of the Eligible Basis, excluding the Developer Fees.

(2) **Large Developments.** Developer Fees may not exceed fifteen percent (15%) of the Eligible Basis, excluding the Developer Fees.

(3) OHFA may, in its sole discretion, increase the Developer Fees allowable in order to create special financing incentives to meet a pressing local affordable housing need. All determinations of allowable Developer Fees shall be made in a manner consistent with the Code, IRS regulations and/or any directives of the Internal Revenue Services at the time of Allocation.

(c) **Contractor Fee limitation.** Allowable Contractor Fees shall be limited to:

(1) **Small Developments.** Total allowable Contractor fees may not exceed sixteen percent (16%) of the hard construction costs . Allowable Contractor Fees are further limited as follows:

(A) General requirements may not exceed six percent (6%) of the hard construction costs;

(B) General Overhead may not exceed two percent (2%) of the hard construction costs; and

(C) Builders Profit may not exceed eight percent (8%) of the hard construction costs.

(2) **Large Developments.** Total allowable Contractor fees may not exceed fourteen percent (14%) of the hard construction costs. Allowable Contractor Fees are further limited as follows:

(A) General requirements may not exceed six percent (6%) of the hard construction costs.

(B) General Overhead may not exceed two percent (2%) of the hard construction costs; and

(C) Builders Profit may not exceed six percent (6%) of the hard construction costs.

(d) **Underwriting standards.**

(1) **Operating and replacement reserves.**

(A) Minimum operating reserves must equal six months of projected operating expenses plus:

(i) debt service payments and

(ii) annual replacement reserve payments.

(B) Minimum replacement reserves should equal $250.00 per unit annually for new construction and $300.00 for rehabilitation developments.

(C) Developer guarantees or letters of Credit may be accepted in lieu of operating reserves, at the discretion of OHFA. The developer must demonstrate financial capacity and liquidity. OHFA will also consider the developer's track record and the number of other guarantees outstanding.

(D) Notwithstanding the foregoing, these underwriting standards shall not apply if the project is being constructed in accordance with another federal program, such as Rural Housing 515 or 538, and such program provides for budgeting for operating and replacement reserves.

(2) **Debt service coverage.**

(A) Debt service coverage means the ratio of a property's net operating income to debt service obligations.

(B) The minimum acceptable debt service coverage ratio will be established in the AP.

(3) **Projections.** All projections and pro-formas must contain realistic operating expense and vacancy rate projections consistent with prevailing market conditions.

(4) **Cost limits.** Costs per unit must be realistic and consistent with prevailing market rates. OHFA encourages cost efficient production, but will not give a preference solely for lowest construction costs.

(5) **Minimum ~~of $7,500~~ hard construction costs per unit for rehabilitations.** No allocations for rehabilitation will be made unless a minimum of $7,500 in hard construction costs per unit will be expended or at least twenty percent (20%) of eligible basis, whichever is greater.

(6) **Buildings Designated by OHFA to receive increase in credit.** OHFA will allow up to one hundred thirty percent (130%) boost for reasons determined and identified in the annual AP.

(e) **Progress reports.** Progress reports must be filed by the Applicant/Owner beginning with the calendar quarter following the approval of a reservation of Credits until the IRS Form 8609 is issued for a building. Due dates are January 10, April 10, July 10 and October 10. The report must contain, at a minimum, the status of site preparation and/or construction, including the percentage of completion of each building, and costs incurred to date. The report must address any other requirements set forth in a Resolution of the Trustees and/or the Carryover Agreement. Within thirty (30) calendar days after the Certificate of Occupancy is issued for the last building in the project, the Taxpayer must notify OHFA and submit a copy of the Permanent Certificate of Occupancy for each building in the Development. Remedies for violation of these provisions include those denoted at 330:36-6-3, including but not limited to return of unused Credits.

(f) **Construction time period.** Construction, not including site prep work, must begin within ~~one hundred eighty (180) calendar days~~ nine (9) months of the last calendar day of the month of the Credit reservation, unless extended for cause by OHFA. Remedies for violation of these provisions include those denoted at 330:36-6-3, including but not limited to return of unused tax Credits.

(g) **Additional requirements.** OHFA may, as it deems necessary in its sole discretion, impose additional requirements or Program limitations on any Applicant, Taxpayer, Owner or Development. Said requirements or limitations may be set forth in a Resolution of the Trustees or in any contract between the Applicant or Owner and OHFA.

(h) **Timeliness and completeness of filings.** Deadlines for filing Applications will be established in the AP. Should OHFA request additional information, the deadline for filing same with OHFA will be set forth in the letter requesting same. Applicants/Owners must strictly comply with all deadlines and all filings must be complete when filed.

SUBCHAPTER 6. PROGRAM ADMINISTRATION

330:36-6-3. Corrective and remedial actions

(a) Upon a determination by OHFA staff that a violation has occurred during the Application stages or prior to the filing of the Regulatory Agreement, OHFA may take any one or more of the following actions when the cited violations are not corrected in a timely manner:

(1) Condition regulatory agreements;

(2) Withhold allocations of tax Credits;

(3) Reduce the total amount of the tax Credit award;

(4) Require the return of unused tax Credits;

(5) Deny future program Applications and participation for a specified period of time as determined by OHFA;

(6) Indefinitely suspend from program participation;

(7) File an action for specific performance; and/or

(8) Notify the IRS.

(b) Additionally, OHFA shall have the right, upon discovery of facts or statements indicating possible program violations by an Applicant or owner in regard to a Development, or a proposed Development or a pending Application, or a pending TCA, to request and obtain information regarding:

(1) The administrative, planning, budgeting, management and evaluation functions, actions being taken to correct or remove the cause of the program violation(s);

(2) Any activities by an Applicant and/or owner, or by an Affiliate of either of them that are, or might be in violation or breach of the commitments made in the Application or that are, or might be, in violation of applicable laws, these Rules, the applicable AP, and/or the applicable

Carryover Agreement and/or the applicable Regulatory Agreement;

(3) The ability of the Applicant and/or owner to fulfill the commitments made to OHFA in the Application and/or the applicable Carryover Agreement and/or the applicable Regulatory Agreement, in a timely manner; and

(4) Progress schedules for completing and/or performing the commitments made to OHFA in the Application and/or the applicable Carryover Agreement and/or the Regulatory Agreement in a timely manner.

(c) Prior to OHFA taking any corrective and/or remedial actions, OHFA, may, in its sole discretion, issue a notice of a show cause hearing. The Applicant and/or owner shall have ~~ten (10)~~ thirty (30) business days to appear and show cause as to why corrective and/or remedial actions should not be taken. This language shall not be construed as a limitation on the compliance monitoring and reporting requirements of the Code and these Chapter 36 Rules.

330:36-6-7. OHFA monitoring procedures.

(a) **General.** Section 42(m)(1)(B)(iii) of the Code mandates that state housing Credit agencies monitor all placed in service tax Credit projects for compliance with the provisions of Section 42. The Code also mandates that the Internal Revenue Service be notified, by the state housing agencies, of any instances of noncompliance, this includes failure to comply with the Code and federal regulations and these Chapter 36 Rules, as well as failure to pay all compliance fees in a timely manner. OHFA will also monitor for compliance with the Regulatory Agreement (Land Use Restriction Agreement) provisions which contain additional owner commitments made to secure points in the project selection process, e.g. additional low-income units or an extended low-income use period. OHFA has assembled and will make available to the development owners, a Compliance Manual explaining the OAHTC monitoring process in detail. An owner representative and a management agent representative will be required to successfully complete a compliance training session conducted by OHFA or approved by OHFA and submit proof thereof with the first Quarterly report. OHFA will monitor the documents and certifications set forth in 330:36-6-7(b) and (c) for compliance with the Code.

(b) **Record keeping and record retention provisions.**

(1) The owner of a low-income housing project is required to keep records for each qualified low-income building in the project showing:

(A) The total number of residential units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);

(B) The percentage of residential rental units in the building that are low-income units;

(C) The rents charged on each residential rental unit in the building (including any utility allowances;

(D) The number of occupants in each low-income unit;

(E) The low-income unit vacancies in the building and information that shows when, and to whom the next available units were rented;

(F) The initial ~~annual~~ income certification of each low-income tenant per unit, and any additional recertification that may be required;

(G) Documentation to support each low-income tenant's income certification;

(H) The eligible basis and qualified basis of the building at the end of the first year of the Credit period;

(I) The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) of the Code (e.g. tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project); and

(J) Copies of all correspondence with the IRS.

(2) The owner is required to retain the records described in this section for each building in the project for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the Credit period must be retained for at least six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

(c) **Certification and review provisions**

(1) Between the placed in service date of a building and the submission of an application for a final allocation of Credits, and prior to the issuance of an 8609, OHFA may physically inspect the property. An on-site review will again be conducted within the following year as described in 330:36-6-7 (c)(6) of these Rules.

(2) In accordance with Section 42(l)(1), following the close of the first taxable year in the Credit period, the owner must certify to the Secretary of the Treasury:

(i) the taxable year in which such building was placed in service,

(ii) the adjusted basis and eligible basis as of the close of the first year of the Credit period,

(iii) the maximum applicable percentage and qualified basis, and

(iv) the election made for the low-income targeting threshold.

(v) This certification is accomplished by completing Part II of the 8609(s). A copy of the completed 8609(s) must also be submitted to OHFA. The due date for submission is May 10, or as extended by the Service or Staff, of the year due to The Service for the first Credit year.

(3) Owners must prepare and submit a quarterly report beginning with the first full calendar quarter after the last building is Placed in Service, and for the subsequent three quarters. This report must be accompanied by copies of the Tenant Income Certifications for each tenant and new move-ins for the appropriate quarter. If a project is determined not to be in compliance with Program requirements or there is indication of possible noncompliance, OHFA, at its discretion, may require reports each quarter until compliance is demonstrated.

(4) The owner of a low-income housing project is required to certify annually, in a form prescribed by OHFA, that for the preceding 12-month period:

(A) The project met the requirements of the 20-50 or 40-60 test under Section 42(g)(I) of the Code, whichever minimum set-aside is applicable to the project, and, if the applicable to the project, the 15-40 test under Section 42(g)(4) for "deep rent skewed" projects;

(B) There was no change in the applicable fraction (as defined in Section 42(c)(1)(B))of any building in the project, or that there was a change and a description of the change;

(C) The owner has received an ~~annual~~ income certification from each low-income tenant and documentation to support that certification;

(D) Each low-income unit in the project was rent-restricted under Section 42(g)(2);

(E) All units in the project were for use by the general public and used on a non-transient basis (except for transitional housing for the homeless);

(F) Each building in the project was suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low-income unit in the project;

(G) There was no change in the eligible basis (as defined in Section 42(d)) of any building in the project, or that there was a change, and the nature of that change;

(H) All tenant facilities included in eligible basis under Section 42(d) of any building in the project, such as swimming pool, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;

(I) If a low-income unit in the project became vacant during the year, reasonable attempts were, or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were, or will be rented to tenants not having a qualifying income;

(J) If the income of the tenant of a low-income unit in the project increased above the limit allowed in Section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was, or will be, rented to tenants having a qualifying income;

(K) An extended low-income housing commitment, as described in Section 42 (h)(6), was in effect;

(L) The project meets the additional requirements contained in the Land Use Restriction Agreements;

(M) There was no change in the Owner entity (for example, transfer of general partnership interest);

(N) If the owner received its Credit allocation from a portion of the State's ceiling set-aside for projects involving "qualified non-profit organizations" under Section 42(h)(5) of the Code, the non-profit organization has materially participated in the operation if the development (within the meaning of CFR § 1.469);

(O) No finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 361a(a)(1), or an adverse judgment from federal court; and

(P) An extended low-income housing commitment as described in Section 42(h)(6) was in effect, that an owner cannot refuse to lease a unit in a project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s.

(Q) Collect data required by HUD in a form prescribed by OHFA. In no way will the data collection be in violation of Fair Housing.

(5) OHFA will review the owner certifications submitted pursuant to 330:36-6-7(c)(4), for compliance with the requirements of Section 42 of the Code.

(6) OHFA must and will conduct on-site inspections of all buildings in the project by the end of the second calendar year following the year the last building in the project is placed in service, and for at least twenty (20) percent of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units.

(7) At least once every three (3) years through the extended use period, OHFA must conduct on-site inspections of all buildings in the project and, for at least twenty percent (20%) of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units.

(8) The certifications and reviews of paragraphs 330:36-6-7(c)(2) and (c)(4) of these Chapter 36 Rules are required to be made at least annually until the end of the extended use period, and the certifications are to be made under penalty of perjury.

(9) The owner is required to provide to OHFA, for the first Credit year, a copy of the completed Part II 8609, 8609 Schedule A and Form 8586 that is submitted to the Internal Revenue Service.

(10) The owner is required to provide to OHFA, as it occurs, copies of all correspondence with the Internal Revenue Service.

(d) **Auditing provisions.** OHFA has the right to perform an audit of any low-income housing project during the term of the Land Use Restriction Agreement. An audit includes physical inspection of any building in the project, as well as a review of the records described in 330:36-6-7(c)(1) of these Chapter 36 Rules. The auditing provision of this paragraph is in addition to any inspection of low-income certifications and documentation under 330:36-6-7(c)(7)of this Chapter 36 Rules.

(e) **Notification of non-compliance provisions.**

(1) OHFA will provide prompt written notice to the owner of a low-income housing project if OHFA does not receive the certification described in 330:36-6-7(c)(4) of these Chapter 36, or does not receive, or is not permitted to inspect, the tenant income certification supporting documentation and rent records, or discovers on audit, inspection review, or in some other manner, that the project is not in compliance with the Code or these Chapter 36 rules. The owner shall have a period of time, not to exceed thirty (30) calendar days, from the date of such notice (the "Correction Period") to supply any missing certifications and bring the project into compliance. OHFA may extend, in its own discretion, the Correction Period for up to an additional thirty (30) calendar days for good cause.

(2) OHFA must file IRS Form 8823 Report of Noncompliance with the Internal Revenue Service no later than forty-five (45) calendar days after the end of the Correction Period whether or not the noncompliance or failure to certify is corrected. OHFA will explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis that results in a decrease in the qualified basis of the project under Section 42(c)(1)(A) is an event of noncompliance that must be reported under this paragraph.

[OAR Docket #09-744; filed 4-21-09]

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

[OAR Docket #09-759]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 2. Temporary Assistance For Needy Families (TANF) Work Program
340:10-2-1 [AMENDED]
340:10-2-4 [AMENDED]
340:10-2-5 through 340:10-2-7 [AMENDED]
Subchapter 3. Conditions of Eligibility - Need
Part 1. Resources
340:10-3-5 [AMENDED]
Part 3. Income
340:10-3-40 [AMENDED]
Part 5. Assistance Payments
340:10-3-56 through 340:10-3-57 [AMENDED]
Part 7. Transitional Benefits
340:10-3-75 [AMENDED]
340:10-3-81 [AMENDED]
Subchapter 7. Conditions of Eligibility - Residence
340:10-7-1 [AMENDED]
Subchapter 15. Conditions of Eligibility - Citizenship and Alienage
340:10-15-1 [AMENDED]
Subchapter 19. Eligibility requirements for Emergency Assistance to Needy Families with Children
340:10-19-2 [AMENDED]
Subchapter 22 Temporary Assistance for Needy Families (TANF) Supported Permanency Program
340:10-22-1 [AMENDED]
(Reference APA WF 08-09 and 08-25)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.62, 230.64, 230.65, and 4000 of Title 56 of the Oklahoma Statutes; the Deficit Reduction Act of 2005; Parts 261.2, 261.60, 261.61 and 262.2 of Title 45 of the Code of Federal Regulations (CFR); Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act of 2008, Section 101(a)(27) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(27)]; and Section 1244 of P.L. 110-181 of the National Defense Authorization Act for Fiscal Year 2008.
DATES:
Comment period:
January 15, 2009 through February 16, 2009
Public hearing:
None requested
Adoption:
February 24, 2009
Submitted to Governor:
February 24, 2009
Submitted to House:
February 24, 2009
Submitted to Senate:
February 24, 2009
Gubernatorial approval:
March 12, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on April 21, 2009.
Final adoption:
April 21, 2009
Effective:
June 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
340:10-2-1 [AMENDED]
340:10-2-5 through 340:10-2-7 [AMENDED]
Subchapter 3. Conditions of Eligibility - Need
Part 1. Resources
340:10-3-5 [AMENDED]
Subchapter 15. Conditions of Eligibility - Citizenship and Alienage
340:10-15-1 [AMENDED]
(Reference APA WF 08-09)
Gubernatorial approval:
October 31, 2008
Register publication:
26 Ok Reg 168
Docket number:
08-1331
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The permanent rule amendments to Chapter 10 amend the rules to: (1) change reporting of excused absences in hours instead of days; (2) clarify required work participant hours for a non-incapacitated adult when deprivation is based on incapacity; (3) remove restriction of baccalaureate or advance degree in relation to vocational training; (4) update language regarding who is considered to be in a targeted group for the Work Opportunity Tax Credit; (5) reflect the current appendix numbers; (6) add Savings for Education, Entrepreneurship, and Downpayment (SEED) accounts and certain funds in education accounts as exempt resources; (7) clarify that Supplemental Security Income (SSI) income is not considered in determining the Temporary Assistance for Needy Families (TANF) benefit; (8) clarify consideration of reimbursements made to foster care and potential foster care parents; (9) add reference to child of a minor in foster care to those who may be included in TANF benefit; (10) clarify consideration of income from spouse of a needy caretaker and income of SSI dependents; (11) reflect current form numbers; (12) update legal citation used for the Supplemental Nutrition Assistance Program (SNAP) formerly known as the Food Stamp Program; (13) remove reference to revoked rule; (14) change the maximum amount of time spent in job search and job readiness activities from weeks to hours; (15) remove reference to job search and job readiness activities from the education section; (16) replace outdated language with current terminology; (17) correct a rule

citation; and (18) add language to allow certain Iraqi and Afghan persons admitted as special immigrants to receive time-limited TANF benefits.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 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, 2009:

SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

340:10-2-1. Work requirements

All parents or needy caretakers who apply for or receive cash assistance from ~~the~~ Oklahoma are required to be engaged in a work activity. The parent(s) or needy caretaker must participate in work activities for the number of hours weekly that are necessary to move that person into employment and self-sufficiency.

(1) **Work-eligible person.** A work-eligible person is defined as an adult or minor head-of-household included in the Temporary Assistance for Needy Families (TANF) assistance unit. Excluded from this definition is a parent providing care for a disabled family member living in the home who does not attend school on a full-time basis, provided the need for such care is supported by medical documentation.

(2) **Minimum hours of work activities.**

(A) All TANF applicants and recipients who meet the definition of a work-eligible person are required to participate the minimum hours of work activities.

(i) A work-eligible person must participate an average of 30 hours per week, with the exception of a single custodial parent with a child under age six who must participate an average of 20 hours per week.

(ii) In a two-parent family, when deprivation is based on incapacity, the non-incapacitated adult must participate in work activities an average 30 hours per week, unless:

(I) required in the home to provide care for the incapacitated work-eligible parent~~.~~; or

(II) he or she is a custodial parent with a child under age six. In this instance the non-incapacitated adult must participate an average of 20 hours per week.

(iii) In a two-parent family, when deprivation is based on unemployment, one adult must participate in work activities an average of 35 hours per week and the other adult must participate an average of 30 hours per week. If one parent is an ineligible alien, the other parent must participate an average of 35 hours per week.

(iv) To determine the average weekly countable work hours for a work-eligible person who is self-employed, the worker:

(I) determines the person's monthly countable earned self-employment income per OAC 340:10-3-32;

(II) divides that figure by the federal minimum wage; and

(III) divides that figure by 4.3 which equals weekly countable work hours.

(B) Hours missed due to holidays and a maximum of an additional ~~ten days~~ 80 hours of excused absences count as hours of participation for any unpaid scheduled work activity.

(i) Federal law establishes public holidays. State holidays are ordered observed by the Governor. If the facility where the participant is scheduled to attend is open on a designated holiday, this day is not considered a holiday for participation purposes.

(ii) Excused absences are reasonable, short-term hours missed from a scheduled work activity. There are a maximum of ~~ten days~~ 80 hours of excused absences in any 12-month period. No more than ~~two days~~ 16 hours of excused absences in a month are counted as hours of TANF Work participation. All excused absences must be approved by the worker. An excused absence is defined as:

(I) unavailability of appropriate child care;

(II) illness or injury of the participant or a family member who lives in the household. The family member must meet the definition of a relative per OAC 340:10-9-1;

(III) scheduled doctor appointments for the participant or a family member who lives in the household;

(IV) court-required appearance by the participant;

(V) required attendance at parent and teacher conferences by the participant;

(VI) temporary unavailability of planned transportation when needed or inability to arrange for transportation;

(VII) occurrence of inclement weather that prevented the participant, and other persons similarly situated, from traveling to, or participating in, the prescribed activity;

(VIII) crisis intervention needed due to domestic violence issues;

(IX) family crisis; or

(X) required attendance of the participant for a specific appointment by another governmental entity.

(iii) To count an excused absence or holiday as hours of participation, the person must have been scheduled to participate in an allowable work

activity for the period of the absence. Participation allowances are paid for approved holidays and approved excused absences.

(3) **Work activities.** Work activities are defined as core and non-core and must be scheduled, structured, and supervised. TANF Work participants are placed in core work activities when appropriate.

(A) Core work activities are:

(i) unsubsidized employment that is full-time or part-time employment in the public or private sector that is not subsidized by TANF or any other public program;

(ii) subsidized private sector employment that is employment in the private sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iii) subsidized public sector employment that is employment in the public sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iv) Work Experience Program (WEP) that is a work activity that provides a person with an opportunity to acquire general skills, training, knowledge, and work habits necessary to obtain employment;

(v) on-the-job training that is training in the public or private sector that a paid employee receives while he or she is engaged in productive work and that provides knowledge and skills essential to the full and adequate performance of the job;

(vi) job search that is the act of seeking or obtaining employment and job readiness that prepares the person to seek or obtain employment, and includes life skills training, substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable; and

(vii) vocational training, not to exceed 12 months, that are organized educational programs directly related to the preparation of persons for employment in current or emerging occupations requiring training ~~other than a baccalaureate or advanced degree~~.

(B) Non-core work activities are:

(i) job skills training directly related to employment that is training or education for job skills required by an employer to provide a person with the ability to obtain employment or to advance or adapt to the changing demands of the workplace;

(ii) education directly related to employment, in the case of a recipient who has not received a high school equivalency, that is education related to a specific occupation, job, or job offer; and

(iii) satisfactory school attendance at a secondary school or in a course of study leading to a General Educational Development (GED) certificate, in the case of a recipient who has not completed secondary school or received such a certificate, that is regular attendance with the requirements of the secondary school, or in a course of study leading to a GED certificate.

(4) **Limitations and special rules.** ~~A single custodial parent who has:~~

(A) A single custodial parent who has not attained 20 years of age and has not completed high school is determined to be in a work activity for the month if the recipient maintains satisfactory attendance at a secondary school or equivalent during the month~~; or~~.

(B) A single custodial parent or the non-incapacitated adult in a family where deprivation is based on incapacity who has a child under the age of four months is not required to participate in a work activity. The recipient can use this special rule for a lifetime limit not to exceed 12 months.

340:10-2-4. Employment

(a) **Applicability.** Temporary Assistance for Needy Families (TANF) Work activities are designed to assist the participant in obtaining employment to achieve economic self-sufficiency. Work allows participants to enhance their self-esteem and to become more independent. Every effort is made to assist participants in securing jobs which provide financial security and opportunities for advancement. The appropriate employment criteria for subsidized and unsubsidized employment are included in paragraph (1) through (5) of this subsection.

(1) Appropriate employment may be temporary, permanent, full-time, part-time, or seasonal work, as long as the daily and weekly hours of employment do not exceed those customary to the occupation.

(2) The wage must meet or exceed the federal or state minimum wage laws or the prevailing rate for similar employment, whichever is applicable. The state law applies when federal law does not cover the job.

(3) A participant is not required to accept employment if the position offered is vacant due to a strike, lockout, or other bona fide labor dispute.

(4) A participant is not required to work for an employer if this is contrary to the conditions of membership in the union governing that occupation. Employment not governed by the rules of the union to which the participant belongs may be appropriate.

(5) A participant is not required to accept employment that results in the net loss of income.

(b) **Unsubsidized employment.** The State Work Incentive Program and any employment for which the employer does not receive reimbursement for any portion of the wages paid are examples of unsubsidized employment.

(1) **State Work Incentive Program.** The State Work Incentive Program is designed to assist in employing TANF participants into entry level positions in all branches of state government. Oklahoma Department of Human Services (OKDHS), in cooperation with other

state agencies and the Office of Personnel Management, coordinates job placements for those TANF participants who are referred for the program by Form 08TW023E, State Work Incentive Referral.

(A) Employment of eligible participants can be considered for positions of unclassified status for a two year period in a full-time or part-time capacity. These positions are not included within any limitation on full-time equivalent employee positions for any agency.

(B) Participants hired under this program are eligible for leave and other benefits that are available to other state employees, subject to other eligibility requirements, and may be reassigned or promoted while they are in the program.

(C) Participants hired are exempt from probationary hiring procedures. They can be considered for conversion to the permanent classified status after two years of continuous participation in the program.

(D) Requirements for placing employees in permanent status include:

(~~A~~i) completing satisfactory performance ratings which are conducted during employment; and

(~~B~~ii) having possession of the minimum requirements stated in the job specifications

(2) **Other unsubsidized employment.** Unsubsidized employment includes any employment in which a participant is hired by a private or public employer and there is no reimbursement of any portion of the wages paid to the recipient.

(c) **Subsidized employment.** The Work Supplementation Program (WSP), on-the-job training (OJT), and Supported Transitional Employment Program (STEP) are examples of subsidized employment. The employment criteria in subsection (a) apply.

(1) **WSP.** WSP is a subsidized employment opportunity through which a TANF participant is hired in full-time employment with OKDHS reimbursing the employer for wages paid at a maximum of $250 per month for up to six months. Public agencies, nonprofit private agencies, and private employers are eligible to participate. Payments to employers and supplemental payments to WSP participants are made from a wage pool created by diversion of the TANF participant's cash assistance. State agencies expressing an interest in participating in the program are informed that the $250 reimbursement cannot be used to claim matching federal funds. If, for any reason in any given month, a WSP participant is paid less than the amount of his or her cash assistance at the time of entry into the program, the WSP participant will receive a supplemental check. WSP participants are entitled to all benefits from the employer which are available to other employees. Participation is limited to one adult per assistance unit and to a six-month period during the lifetime of the participant. The six-month period may or may not be consecutive or with the same employer. Participants are assigned based on their employability plan and the availability of appropriate and willing employers. The employer retains the satisfactory WSP participant on a permanent basis following the contract period.

(A) **Participant requirements.** TANF participants must:

(i) be included in a cash assistance unit;

(ii) be available for immediate employment;

(iii) have participated in Job Search; and

(iv) be assigned to a job at a salary exceeding their cash assistance.

(B) **Position requirements.** Positions must be permanent, not less than 30 hours per week, and pay at least 65 cents above the federal minimum wage. Tips are not considered part of the wages. All contracts must conform to the Equal Employment Opportunity Commission and fair employment practices, for example, nondiscrimination regarding age, race, sex, national origin, or disability. Contracts are not written for positions:

(i) when there is a strike, lockout, or the contract would cause displacement of other employees;

(ii) that involve commission sales when the federal minimum wage is not guaranteed; or

(iii) that are casual, intermittent, or seasonal labor.

(C) **Recruitment of employers.** The employer can be asked to identify potential positions during the initial interview to facilitate contract negotiations and match TANF participants with employers.

(i) The program explanation emphasizes that employers are expected to retain the WSP participant in full-time employment unless there is good cause for the dismissal. Employers who fail to continue the successful WSP participant's employment without good cause are not granted subsequent contracts. Good cause reasons for dismissal are:

(I) lay-off due to economic reasons which result in a reduction in force;

(II) the employee is frequently absent from work or engages in disruptive or inappropriate behavior; or

(III) the employee is unable to perform at an acceptable skill level.

(ii) Before new or additional contracts are written with an employer, WSP employees or other employees in lay-off status must be recalled.

(iii) Human services center (HSC) staff has the responsibility for ensuring the employer is complying with the contract.

(D) **WSP placements.** The worker arranges interviews between participants and potential employers. WSP participants may begin employment any time during the month. The employer is informed that reimbursement begins the first month after the cash assistance is diverted to the wage pool.

(i) Following the employer's agreement to participate and the employer's selection of a TANF

participant, the worker negotiates the contract with the employer. Negotiation must include the beginning date of employment, the salary the employee will be paid, and the number of months the subsidy will be received.

(ii) Upon receipt of the contract, the county director reviews it for completeness and, if approved, signs and dates the contract. The worker delivers the employer's copy of the contract with a supply of Form 08TW018E, Work Supplementation Program Invoice, and a copy of the instructions for the form. The worker contacts the participant and Form 08TW006E, Work Supplementation Program Participant Agreement, is completed in duplicate and signed by the worker and participant.

(iii) If a contract is not approved, a letter is mailed to the employer explaining the reason for the disapproval. The participant is notified that the contract was not approved and that a placement will be negotiated with a new employer.

(E) **Program procedures.** The procedures for programs listed in ~~unit~~ (i) through (iv) of this subparagraph are used.

(i) **Cash assistance.** Under WSP, eligibility for cash assistance is frozen. During the period of participation, the cash assistance unit cannot be determined ineligible.

(ii) **Medical benefits.** WSP participants continue to be eligible for ~~medical~~ SoonerCare (Medicaid) benefits unless found ineligible for a reason other than earned income.

(iii) **Food benefits.** WSP participants may be eligible for food benefits. Eligibility for food benefits is determined based on OAC ~~340:50-11-20~~ 340:50-7-29.

(iv) **Child care.** Child care plans must be explored with each WSP participant. When purchased child care services are required, the participant's earnings are considered income, and family share co-payments are computed in accordance with OKDHS Appendix ~~08AX005E~~ C-4, Child Care Eligibility/Co-payment Chart.

(F) **Wage pool payments.** Under WSP, the diversion of the cash assistance creates a wage pool from which payments are made to employers and cash assistance supplemental payments are issued to WSP participants.

(i) **Payment of employers.** Employers are eligible for reimbursement of the first $250 of the gross wages paid to each WSP participant. Payment to the employer is made the month following the month the cash assistance is diverted to the wage pool. Employers file for reimbursement by submitting Form 08TW018E to the HSC at the first of the month. When a business changes ownership, the WSP contract transfers with the business. When change of ownership occurs mid-month, the original owner maintains the right to a claim for reimbursement for that month.

(ii) **Supplemental payments to WSP participants.** The Family Support Services Division (FSSD) issues supplemental payments for months in which income shown on Form 08TW018E is less than the amount of the WSP participant's cash assistance prior to entering the program.

(G) **Terminations.** The closing date of the authorization is the last day of employment under the contract. When employment ends prior to the end of the contract, the authorization must be closed prior to the next deadline for cash assistance changes.

(2) **OJT.** OJT is subsidized employment in which a participant is hired by a private or public employer and, while engaged in productive work, receives training that provides knowledge or skills essential to the full performance of that job. During the OJT period the employer receives reimbursement for a portion of the wages paid to the employee.

(A) Participants who have successfully completed the Work Experience Program, have a recent history of employment, or who have been through a job readiness activity are the primary candidates for OJT referral.

(B) Income from OJT is considered as any other earned income. Transitional child care and medical benefits are explained to the participant at the time of entry into OJT.

(3) **STEP.** STEP is a subsidized employment program which provides comprehensive support services that lead to permanent employment placements for TANF participants. These services are contracted with specified vendors who provide temporary paid work experience to program participants in a supportive work environment. When the participant is accepted into the program, his or her TANF benefit remains active with no cash benefit issued. If eligible, the participant continues to receive other program benefits.

(d) **Work Opportunity Tax Credit (WOTC).** The WOTC law permits for-profit employers to take a credit on their federal income tax when workers from certain groups are hired. The WOTC is equal to 40% of the first year wages up to $6,000. To claim the credit, the employee must be retained at least 180 days or work at least 400 hours.

(1) WOTC is available to employers for workers hired from targeted groups. The targeted groups are:

(A) cash assistance recipients who have received assistance for nine months out of the last 18 months;

(B) qualified veterans;

(C) qualified ex-felons;

(D) ~~high risk youths~~ designated community residents;

(E) vocational rehabilitation ~~referrals~~ recipients;

(F) qualified summer youth employees;

(G) qualified food ~~stamp~~ benefit recipients; ~~and~~

(H) qualified recipients of Supplemental Security Income (SSI); and

(I) long-term family assistance recipients.

(2) Through an agreement with the Oklahoma Employment Security Commission, OKDHS issues WOTC conditional certification forms for recipients of OKDHS benefits.

(3) The Conditional Certificate, Form ETA-9062, and a letter from the worker stating the number of months the participant has received OKDHS benefits must be given to the participant to present to the employer on or before the first day of employment. An explanation is given to the participant about the purpose of the form and that the tax credit may help the participant get a job.

340:10-2-5. Job search activities

The primary objective of all job search activities is for applicants and recipients of Temporary Assistance for Needy Families (TANF) to obtain employment through personal contacts with employers. The worker and the ~~individual~~ participant jointly determine the number of employer contacts based on availability of child care, financial resources, jobs in the community, skills and abilities, and any other factors which affect or influence the ~~individual's~~ participant's ability to obtain employment.

(1) An employer contact is defined as a face-to-face interview with an employer, the completion and return of any application to an employer, or the completion of tests required for employment with the state, local, or federal government. Referrals to employers are made on Form 08TW011E, Employment Referral. The ~~individual~~ participant records employer contacts on Form 08TW010E, Employer Contact List.

(2) Job search is defined as the ~~individual's~~ participant's job seeking efforts. ~~Individuals~~ Persons in job search activities are eligible for participant allowances and ~~day~~ may be eligible for child care for the time they are actively looking for a job or in a group activity.

(A) The ~~individual~~ participant is given Form 08TW013E, TANF Time and Progress Report, to complete and return to the worker by the time frame shown on the form.

(i) Additional job search may be required as a part of another work activity if it would improve the ~~individual's~~ participant's employment prospects.

(ii) The number of employer contacts to be made each week is included in the employability plan.

(B) If the ~~individual~~ participant has been unsuccessful in obtaining a job after a reasonable amount of time, the worker and ~~individual~~ the participant review the employability plan to determine if another activity is more appropriate.

(C) The maximum amount of time spent in job search ~~and job readiness~~ activities cannot exceed ~~12 weeks within a federal fiscal year~~ 240 hours at 20 hours per week or 360 hours at 30 hours per week for the preceding 12 month period for any ~~individual~~ person.

340:10-2-6. Job readiness

Job readiness activities help prepare participants for work by ensuring that participants are familiar with general workplace expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market. The maximum amount of time spent in job readiness activities cannot exceed 240 hours at 20 hours per week or 360 hours at 30 hours per week for the preceding 12 month period for any person.

(1) **Orientation.** Participants are referred to orientation as the need is identified on Form 08TW002E, TANF Work/Personal Responsibility Agreement. Orientation consists of individual or group meetings designed to present information about:

(A) self-esteem building;

(B) activities and services available through the Temporary Assistance for Needy Families (TANF) Program;

(C) the Oklahoma Department of Human Service (OKDHS) policies; and

(D) the employment process, including job applications, interviewing, goal-setting, and managing home and work.

(2) **Counseling or treatment.** The worker assists participants who have barriers that prevent them from obtaining or retaining a job by meeting with the participant and appropriate local partners to determine available resources to overcome barriers. Referrals may include counseling or treatment for substance abuse or mental health problems.

340:10-2-6.1. Educational services

Educational services to enhance the participant's potential for employment must be made available. Assignment is based on the criteria listed in (1) through (6) of this paragraph.

(1) Custodial parent participants under 20 years of age without a high school diploma are required to participate in educational activities directed toward the attainment of a high school diploma or its equivalent. These persons may be excused from high school attendance or courses designed to lead to a General Educational Development (GED) certificate if the employability plan includes an alternative, such as basic education or English as a second language (ESL).

(2) Participants age 20 or older that have not completed high school may participate in a basic or remedial education program.

(3) Assignment to remedial education services is appropriate for participants who read and write below high school level, even if they have a high school diploma or GED certificate. Basic and remedial education includes:

(A) Adult Basic Education (ABE) classes;

(B) GED classes;

(C) Certificate of High School Equivalency;

(D) literacy classes;

(E) tutoring; or

(F) remedial reading classes.

(4) Participants lacking proficiency in understanding, speaking, reading, or writing the English language are assigned to ESL classes.

(5) Participants already in attendance at an institution of higher education are considered appropriately assigned if the participant cooperates in the assessment process and development of an appropriate employability plan. ~~However, the~~ The participant is required to participate the minimum number of hours in an activity listed in OAC 340:10-2-1.

~~(6) The maximum amount of time spent in job search and job readiness activities cannot exceed 12 weeks within a federal fiscal year for any person.~~

340:10-2-7. Training

(a) **Scope.** Job skills training includes vocational training and hands-on work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures, such as competency gains or proficiency levels, to evaluate a participant's progress and reasonable time limits for completion. Referrals are made to appropriate training facilities on Form 08TW003E, Interagency Referral and Information.

(b) **Assignments.** Any training to which the participant is assigned must meet the criteria in (1) through (4) of this subsection.

(1) The hours of any training activity are governed by the training facility but must not exceed 40 hours per week.

(2) The training is preparation for a job which meets the criteria for appropriate employment.

(3) The quality and type of training must meet local employers' requirements so participants are in a competitive position with the local labor market.

(4) Training is related to in-demand occupations which are likely to become available in Oklahoma.

(c) **Work Experience Program (WEP).** The purpose of WEP is to provide skill training and work enhancement to Temporary Assistance for Needy Families (TANF) participants while providing a useful public service that will enable ~~them~~ participants to move toward self-sufficiency and obtain unsubsidized employment following completion of the placement.

(1) **Benefits.** Benefits of the program to participants include an opportunity to establish a work history and earn a recommendation from an employer. Participants also learn to balance the demands of home and work, gain confidence by performing in a job setting, brush-up skills already acquired, learn marketable skills on-the-job, and determine interest and aptitude for a particular type of work by doing the job.

(2) **WEP assignments.** WEP assignments are approved for an initial period of 90 calendar days.

(A) No salary is paid.

(B) With respect to injuries incurred during working hours in WEP, federal law requires medical coverage be offered under either state workers' compensation law or by the Oklahoma Department of Human Services (OKDHS). Oklahoma workers' compensation law does not cover WEP participants. Medical coverage is provided by the SoonerCare (Medicaid) Program.

(3) **WEP referrals.** Participants are referred to WEP slots based on their employability plan. Assignment to a WEP position is coordinated between the participant and worker. Based on the employability plan, the worker:

(A) determines which facility best meets the participant's needs;

(B) arranges for an interview between the facility and the participant; and

(C) notifies the participant of the place, time, and interviewer's name.

(4) **WEP facilities.** Facilities selected for WEP training must be capable of providing employment and have an apparent intent to hire, or be able to provide quality training. Training facilities are solicited by OKDHS staff or a contracted entity who has agreed to assist with job development and placement including WEP. Local job market conditions, opportunities for employment following completion of WEP participation as well as the ability of the facility to provide the necessary supervision and training are criteria used when soliciting a facility.

(A) Training slots are developed which meet the employment needs of the participant as determined by the employability plan. When a facility agrees to participate in WEP, the representative of the facility is requested to provide:

(i) a written description of the type of activities the participant will be involved in;

(ii) the number of participants the facility can accept;

(iii) the hours of participation; and

(iv) any special requirements.

(B) There are two types of WEP training facilities, WEP-Nonprofit (WEP-NP) and WEP-For-Profit (WEP-FP).

(i) WEP-NP placement is approved for public and private nonprofit and not-for-profit agencies, organizations, or businesses. When a participant requires additional training, the worker may approve a 60-day extension. Extensions are not granted when the primary purpose is to provide additional help to the facility. The criteria listed in ~~subunit~~ subunits (I) through (VII) of this subsection are used as a guide in determining the appropriateness of requesting an extension beyond the initial three-month period.

(I) The participant needs the additional time for skills to be acquired to meet minimum hiring requirements.

(II) The participant demonstrates a willingness to learn, but needs additional training, including the development of new skills, to be competitive in the labor market.

(III) The facility has agreed to hire the participant, but will not have funds available or a job opening until a specific date.

(IV) The facility has an opening in an area different from the one the participant was trained in and has agreed to hire the participant if additional time is granted for the additional training.

(V) The participant has shown improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting.

(VI) The participant has missed more than two weeks of training due to illness or the illness of a household member.

(VII) There are extenuating circumstances which prevented the participant from receiving full benefit of the training.

(ii) WEP-FP is approved for businesses or entities that operate for profit. Only one WEP-FP placement is allowed per 25 full-time employees in a for-profit business or entity. The criteria in ~~subunit~~ subunits (I) through (II) of this subsection must be in effect prior to a WEP-FP placement.

(I) The placement matches the participant's employability plan and the career path chosen by the participant.

(II) The employer has committed to hire the participant on or before the completion of the three month placement.

(5) **WEP procedures.** Upon approval by the county director, the worker contacts the WEP facility to complete Form 08TW015E, Work Experience Program - Nonprofit Training Agreement, or Form 08TW115E, Work Experience Program - For-Profit Training Agreement.

(A) The worker instructs the facility representative or the training supervisor regarding the purpose and use of Form 08TW013E, Time and Progress Report.

(B) It is the participant's responsibility to complete Form 08TW013E and submit it to the worker by the time frame shown on the form.

(C) Approved training slots that have not been utilized within a six-month period are reviewed for appropriateness. If the position is no longer feasible, human services center (HSC) staff sends a letter to the facility stating the WEP slot is no longer active and may be re-evaluated at the facility's request.

(6) **Non-cooperation by WEP facility.** When the worker obtains information that the facility is violating the terms and conditions of Form 08TW015E, Form 08TW115E, or that participants are being treated unfairly, the county director is informed immediately. The nature of the allegations guides the necessary action which may include:

(A) suspension of subsequent assignments at the facility;

(B) immediate removal of current participants; or

(C) termination of the agreement.

(7) **Notification to participant and facility.** Ten calendar days prior to the anticipated WEP completion date, or at any time the participant becomes ineligible for WEP, the worker notifies the participant by letter or telephone. The worker notifies the facility by letter or by telephone five calendar days prior to the termination. When a participant has been referred to WEP and an appropriate training slot cannot be provided, the worker notifies the participant of this decision.

(8) **Changes in placements and subsequent placements.** When the facility, worker, and participant determine that placement in a different facility is more beneficial, the worker locates a new facility and arranges an interview for the participant. When the participant fails to secure employment following successful completion of WEP training, a conference is held with the participant, worker, and supervisor to determine whether a second training placement might be beneficial. The worker reviews the employability plan prior to allowing a participant to re-enter WEP training. Consideration is given to reassignment to job search or another appropriate work activity. In making this decision, consideration must be given to the:

(A) participant's ability to secure and maintain full-time employment;

(B) opportunities for employment in the new field and in the area in which the participant received training;

(C) participant's efforts to secure employment; and

(D) length of time between training assignments.

(d) **Job Corps nonresident training program (Job Corps II).** Oklahoma's four Job Corps centers provide a nonresident Job Corps program to TANF participants who can commute to their sites. Participants referred must be ages 16 through 24. Referrals are made by the worker completing Form 08MP013E, Information/Referral - Social Services. It is the responsibility of the worker to coordinate with the Job Corps center and arrange for child care.

(1) By special agreement with the Job Corps centers, Job Corps II students are provided Job Corps participant training allowances designed to meet training costs not covered by the TANF cash assistance. These allowances are not considered as income.

(2) The worker coordinates with the centers and other designated agencies, such as Oklahoma Employment Security Commission (OESC) and Workforce Investment Act (WIA), to ensure Job Corps II students leaving the center are placed in an appropriate work activity. When a Job Corps II student leaves the center, the worker meets with the Job Corps II student to make immediate plans for further implementation of the employability plan.

(e) **Vocational training.** ~~Vocational training other than that described in subsection (f) of this Section include, but are not limited to, practicum placements, internships, or proprietary schools and are considered as work activities.~~ Up to 12 months of participation in a vocational certificate, associate's degree, bachelor's degree, or advanced degree program may count as vocational training when it qualifies a person to obtain immediate employment in a specific field.

(f) **Special programs and demonstration efforts with other agencies.** OKDHS may enter into special education,

training, or employment efforts with federal, state, and local governments, and private for-profit, private not-for-profit organizations, and agencies. When this occurs, the HSCs involved are expected to comply with the terms of those agreements.

(g) **Job skills training.** Training that is directly related to employment for job skills required by an employer to provide a person with the ability to obtain employment or to advance or adapt to the changing demands of the workplace is considered job skills training.

SUBCHAPTER 3. CONDITIONS OF ELIGIBILITY - NEED

PART 1. RESOURCES

340:10-3-5. Personal property

(a) This subsection describes personal property and how it is considered in determining eligibility for Temporary Assistance for Needy Families (TANF).

(1) **Household goods and equipment.** Items essential to day-to-day living such as clothing, furniture, and other similarly essential items of limited value are excluded as resources.

(2) **Livestock and equipment used in a business enterprise.** ~~The individual's~~ A person's equity in livestock, equipment, or inventory of merchandise in a business enterprise is considered as a resource only if the ~~individual~~ person is not actively engaged in the business enterprise. Equity is not counted if the ~~individual~~ person actively participates in the business or is only temporarily inactive, for example, incapacitated and can reasonably expect and has plans to resume the business enterprise. Equity is established on the basis of oral or written information which the ~~individual~~ person has at hand and counsel with persons who have specialized knowledge about the particular resources.

(3) **Livestock and home produce used for home consumption.** Any livestock or produce grown and used by the assistance unit for home consumption is exempt.

(4) **Cash savings and bank accounts.** Money on hand or in a savings account is considered as a resource. The ~~individual's~~ person's statement that he or she has no money on hand or on deposit is sufficient unless there are indications to the contrary. When there is information to the contrary or when the ~~individual~~ person does not have records to verify the amount on deposit, verification is obtained from bank records. Section 167.1 of Title 56 of the Oklahoma Statutes provides that financial records obtained for the purpose of establishing eligibility for assistance or services must be furnished without cost to the ~~individual~~ person or the Oklahoma Department of Human Services (OKDHS).

(A) Checking accounts may or may not represent savings. Current bank statements are evaluated with the ~~individual~~ person to establish what, if any, portion of the account represents savings. Any income deposited during the current month is not considered.

(B) Accounts owned jointly are considered available to the ~~individual~~ person unless it can be established what part of the account actually belongs to each of the owners, the money is separated, and the joint account is dissolved.

(5) **Insurance policies and prepaid funeral benefits.**

(A) **Life insurance policies.** The cash surrender value (CSV) less any loans or unpaid interest of life insurance policies owned by members included in the TANF cash assistance is counted as a resource. Dividends which accrue and remain with the insurance company increase the amount of the resource. Dividends paid to ~~an individual~~ a person are considered as income. Assignment of the face value of a life insurance policy to fund a prepaid burial contract is not counted as a resource. In this instance, the amount of the face value of the life insurance is evaluated according to (C) ~~of this paragraph~~ or, if applicable, (D) of this paragraph.

(B) **Burial spaces.** The value of a burial space for each family member whose needs are in the cash assistance or whose income and resources are considered when computing the cash assistance is excluded from resources.

(C) **Burial funds.** Revocable burial funds not in excess of $1500 for each ~~member~~ person included in the assistance unit are excluded as a resource if the funds are specifically set aside for the burial arrangements of the ~~individual~~ person. Any amount in excess of $1500 for each ~~member~~ person included in the assistance unit is considered as a resource. Burial policies which require premium payments and do not accumulate cash value are not considered prepaid burial policies.

(i) Burial funds means a prepaid funeral contract or burial trust with a funeral home or burial association which is for the ~~individual's~~ person's burial expenses.

(ii) The face value of a life insurance policy, when properly assigned by the owner to a funeral home or burial association, may be used for purchasing burial funds as described in (i) of this subparagraph.

(iii) The burial fund exclusion must be reduced by the face value of life insurance policies owned by the ~~individual~~ person and by the amounts in an irrevocable trust or other irrevocable arrangement.

(iv) Interest earned or appreciation on the value of any excluded burial funds is excluded if left to accumulate and become a part of the burial fund.

(v) If the ~~individual~~ person did not purchase the prepaid burial, even if the ~~individual's~~ person's money was used for the purchase, the ~~individual~~ person is not the owner and the prepaid burial

funds cannot be considered a resource to the ~~individual~~ person.

(D) **Irrevocable burial contract.** Oklahoma law provides that a purchaser of a prepaid funeral contract may elect to make the contract irrevocable. Irrevocability becomes effective 30 days after the contract is signed.

(i) If the irrevocable election was made prior to July 1, 1986, and the ~~individual~~ person received assistance on July 1, 1986, the full amount of the irrevocable contract is excluded as a countable resource. This exclusion applies only if the ~~individual~~ person does not add to the amount of the contract. Interest accrued on the contract is not considered as added. Any break in assistance requires that the contract be evaluated at the time of reapplication.

(ii) If the effective date for the irrevocable election or application for assistance is July 1, 1986, or later, the amount in any combination of an irrevocable contract, revocable prepaid burial contract or trust, and the cash value of unassigned life insurance policies cannot exceed $7500. When the principal amount exceeds $7500, the ~~individual~~ person is ineligible for assistance. Accrued interest is not counted as a part of the $7500 limit, regardless of when it is accrued.

(iii) For an irrevocable contract to be valid, the election to make it irrevocable must be made by the purchaser or the purchaser's guardian or ~~an individual~~ a person with power of attorney for the purchaser.

(E) **Medical insurance.** When ~~an individual~~ a person has medical insurance whether directly purchased or available in conjunction with employment, the available benefits are applied toward the medical expense for which the benefits are paid. If an assignment of the insurance is not made to the vendor and payment is made directly to the ~~individual~~ person, the payment must be applied to the cost of medical services. Any amount remaining after payment for medical services is considered a resource.

(6) **Stocks, bonds, mortgages, and notes.** The ~~individual's~~ person's equity in stocks and bonds, including United States Savings Bonds, Series A through EE, is considered a resource. The current market value less encumbrances is the equity. Except for a bond which has been held beyond the maturity date, the current value is the redemption value listed in the table on the back of the bond for the anniversary date most recently reached. If the bond has been held beyond maturity date, it has continued to draw interest. The amount which can be realized from notes, mortgages, and similar instruments, if offered for immediate sale, constitutes a resource.

(7) **Non-negotiable resources.** Installment payments received on a note, mortgage, and similar instruments, for which a buyer cannot be found, are considered as monthly income.

(8) **Automobiles, pickups, and trucks.** The market value of each year's make and model is established on the basis of the average trade-in value. In the event the ~~individual~~ person and worker cannot agree on the value of the vehicle, the ~~individual~~ person secures written appraisals by two persons familiar with current values. If there is substantial unexplained divergence between these appraisals or between the blue book value and one or more of these appraisals, the worker and the ~~individual~~ person jointly arrange for the market value to be established by an appraisal made by a third person who is familiar with current values and acceptable to both the ~~individual~~ person and worker.

(A) **Exempt automobiles.** One automobile, pickup, truck, or other vehicle used for the primary source of transportation for each assistance unit not to exceed an equity of $5,000 is exempted. The amount of the equity in excess of $5,000 is considered against the resource limit.

(B) **Other vehicles.** The equity in other automobiles, pickups, and trucks as well as other personal property including boats, travel trailers, motorcycles, motor homes, campers, and similar items is considered a resource. The current market value less encumbrances on the vehicle is the equity. Only encumbrances that can be verified are considered in computing equity.

(9) **Lump sum payments.** A lump sum settlement which compensates for the loss of a resource such as an automobile may be disregarded in the amount used to replace the loss. The ~~individual~~ person is given a reasonable amount of time to replace the loss not to exceed 30 days. Extension beyond 30 days may be justified in special instances when completion of the transaction is beyond the ~~individual's~~ person's control. Any amount remaining after the replacement of the loss is considered as income. Income tax refunds, except for the portion that represents an earned income tax credit (EITC), must be treated as a resource and considered available to the ~~recipient~~ person upon receipt. Retirement benefits received as a lump sum payment at termination of employment are considered a resource. These benefits are not treated as income because the retirement contribution was regarded as income in the month earned and withheld by the employer.

(10) **Individual Development Accounts (IDAs).** IDAs are dedicated savings accounts that are used for a qualified purpose such as purchasing a first home, education or job training expenses, capitalizing a small business, or other purposes designated by the IDA administrative entity. IDAs are managed by community organizations and accounts are held at local financial institutions. Cash deposits and interest accrued from the deposits made by ~~an individual~~ a person in an IDA up to $2,000 are not considered as income or resources in determining TANF eligibility. The account deposits must be made from earned income, ~~earned income tax credits~~ EITCs, or tax refunds.

(11) **Saving For Education, Entrepreneurship, and Downpayment (SEED) Initiative accounts.** SEED accounts are dedicated savings accounts for persons age 13 through 18 that are used for a qualified purpose such as purchasing a first home, education or job training expenses, capitalizing a small business, or other purposes designated by the administrative entity. SEED accounts are managed by community organizations and accounts are held at local financial institutions. Cash deposits and interest accrued from the deposits made by a person in a SEED account up to $2,000 are not considered as income or resources in determining TANF eligibility.

(b) This subsection describes resources disregarded in determining need. Disregarded resources are:

(1) food ~~stamp~~ benefit allotments under the Food ~~Stamp Act of 1977~~ and Nutrition Act of 2008;

(2) any payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) education grants, including work study, scholarships, and similar grants, if receipt is contingent upon the student regularly attending school. The student's classification, graduate or undergraduate, is not a factor;

(4) loans, regardless of use, if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. The borrower's acknowledgment of obligation to repay, with or without interest, is considered to indicate that the loan is bona fide. If the loan agreement is not written, Form ~~ADM-103~~ 08AD103E, Loan Verification, is completed by the borrower attesting the loan is bona fide and signed by the lender verifying the date and amount of loan;

(5) Indian payments, including judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior, Bureau of Indian Affairs (BIA) or distributed per capita by the tribe subject to approval by the Secretary of the Interior. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. Any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds is disregarded. Any income from mineral leases or tribal business investments is disregarded as long as the payments are paid per capita. Any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) special allowances for school expenses made available upon petition, in writing, from funds held in trust for the student;

(7) trusts of a child(ren) included in a TANF benefit if it is determined by the worker the funds are to be used for educational purposes for the child(ren). Any court established trust must be examined to determine if the court has restricted the trust for other purposes. The worker must verify at application and redetermination if funds have been withdrawn. Any funds withdrawn are treated as lump sum unearned income unless it can be documented the funds were used for the child(ren)'s educational purposes;

(8) any accounts, stocks, bonds, or other resources held under the control of a third party if the funds are designated for educational purposes for a child(ren) eligible for TANF, even if the child(ren)'s name is on the account and the third party holder is required to access the funds;

(9) benefits from state and community programs on aging from Title III and Title V are disregarded. Both Title III and Title V are under the Older Americans Act (OAA) of 1965 amended by Public Law (P.L.) 100-175 to become the OAA as amended 2000;

(10) unearned income received by a child(ren) eligible for TANF, such as needs based payments, cash assistance, compensation in lieu of wages, or allowances from programs funded by the Workforce Investment Act (WIA), including Job Corps income. This includes WIA earned income received as wages when the child(ren) is a full-time student; ~~7~~

(11) payments for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), and any other programs pursuant to the National and Community Service Trust Act of 1993 (NCSTA);

(12) payments to volunteers under the NCSTA, unless the gross amount of AmeriCorps*VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(13) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(14) any portion of payments made under the Alaska Native Claims Settlement Act to an Alaska Native which are exempt from taxation under the Settlement Act;

(15) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(16) advance payments of EITC or refunds of EITC, as a result of filing a federal income tax return, in the month received and the following month;

(17) refunds of the state EITC, as a result of filing a state income tax return, in the month received and the following month;

(18) payments from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(19) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(20) federal major disaster and emergency assistance provided by Section 5515(d) of Title 42 of the United States Code (U.S.C.), and comparable disaster assistance provided by state, local governments, and disaster assistance organizations;

(21) interests of individual Indians in trust or restricted lands. However, any disbursements from the trust or restricted lands are considered as income;

(22) a migratory farm worker's out-of-state homestead if the farm worker's intent is to return to the homestead after the temporary absence;

(23) a non-recurring lump sum Supplemental Security Income (SSI) retroactive payment, made to a TANF recipient, in the month paid and the next following month. The amount remaining in the second month after the month of receipt is a countable resource;

(24) payments received under the Civil Liberties Act of 1988. These payments are made to ~~individuals~~ persons of Japanese ancestry who were detained in internment camps during World War II;

(25) payments made to ~~individuals~~ persons because of their status as victims of Nazi persecution;

(26) payments made from the crime victims compensation program as amended in section 1403 of the Victims of Crime Act of 1984, Section 10602 of Title 42 of the U.S.C.;

(27) reimbursements made to a foster care parent(s); ~~and~~

(28) payments as described in Section 1823(c) of Title 38 of the U.S.C. provided to certain ~~individuals~~ persons who are children of Vietnam War veterans; and

(29) funds in education accounts established under Section 529 and 530 of the Internal Revenue Code or exempted by Section 4000 of Title 56 of the Oklahoma State Statues.

PART 3. INCOME

340:10-3-40. Income disregards

Income that is disregarded in determining eligibility for Temporary Assistance for Needy Families (TANF) is:

(1) the food ~~stamp~~ benefit allotment under the Food ~~Stamp Act of 1977~~ and Nutrition Act of 2008;

(2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) education grants, including work study, and scholarships that are contingent upon the student regularly attending school. The student's classification as a graduate or undergraduate is not a factor;

(4) loans, regardless of use, if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan was from ~~an individual~~ a person or financial institution in the loan business. If the loan was from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay, with or without interest, is required to indicate that the loan is bona fide. If the loan agreement is not written, Form ~~ADM-103~~ 08AD103E, Loan Verification, must be completed by the borrower attesting that the loan is bona fide and signed by the lender verifying the date and amount of loan. When copies of written agreements or Form ~~ADM-103~~ 08AD103E are not available, detailed case documentation must include information that the loan is bona fide and how the debt amount and date of receipt was verified;

(5) Indian payments, which include judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior, Bureau of Indian Affairs (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. Any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds is disregarded. Any income from mineral leases or from tribal business investments is disregarded as long as the payments are paid per capita. Any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) special allowance(s) for school expenses made available upon petition in writing from trust funds of the student;

(7) income from trusts of a child(ren) included in a TANF benefit if it is determined by the worker that funds are to be used for educational purposes for the child(ren). Any court established trust must be examined to determine if the court has restricted the trust for other purposes. The worker must verify at application and redetermination if funds have been withdrawn. Any funds withdrawn are treated as lump sum unearned income unless it can be documented the funds were used for the child(ren)'s educational purposes;

(8) income from accounts, stocks, and bonds held under the control of a third party if the funds are designated for educational purposes for a child(ren) in a TANF benefit even if the child(ren)'s name is on the account and the third party holder is required to access the funds;

(9) benefits from state and community programs on aging from Title III and Title V. Title III and Title V are under the Older Americans Act (OAA) of 1965 amended by Public Law (P.L.) 100-175 to become the OAA as amended 2000. Each state and various organizations receive some Title V funds. These organizations include:

(A) Experience Works;

(B) National Council on Aging;

(C) National Council of Senior Citizens;

(D) American Association of Retired Persons (AARP);

(E) United States (US) Forest Service;

(F) National Association for Spanish Speaking Elderly;

(G) National Urban League;

(H) National Council on Black Aging; and

(I) National Council on Indian Aging.

(10) unearned income received by a child(ren) in a TANF benefit, such as a needs based payment, cash assistance, compensation in lieu of wages, or allowance from a program funded by the Workforce Investment Act (WIA) including Job Corps income and WIA earned income received as wages;

(11) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(12) payments to volunteers under the National and Community Service Trust Act of 1993 (NCSTA), unless the gross amount of AmeriCorps*VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(13) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(14) any portion of payments, made under the Alaska Native Claims Settlement Act to an Alaska Native, which are exempt from taxation under the Settlement Act;

(15) any income ~~if~~ of an adult or child(ren) ~~from~~ in the family group ~~is~~ living in the home and ~~is~~ receiving Supplemental Security Income (SSI)~~, his~~ is not considered in determining the TANF benefit. His or her individual income is considered by the Social Security Administration in determining eligibility for SSI. This includes any payment made by the Developmental Disabilities Services Division through the Family Support Assistance Payment Program on behalf of a child(ren) receiving SSI~~. The individual's income and SSI payment are not considered in determining the TANF benefit~~ and any other earned or unearned income of the person;

(16) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the US Housing Act of 1937, as amended;

(17) earnings of a child(ren) in a TANF benefit who is a full-time student ~~are disregarded~~;

(18) government rental or housing subsidies by governmental agencies, for example, Housing and Urban Development (HUD) which are received in-kind or in cash for rent, mortgage payments, or utilities;

(19) reimbursements from an employer, the Department of Labor, or the Bureau of Indian Affairs, for out-of-pocket expenditures and allowances for travel, training, meals, or supplies, which could include uniforms, to the extent the funds are used for expenses directly related to such travel, training, meals or supplies;

(20) Low Income Home Energy Assistance Program (LIHEAP) payments for energy assistance and payments for emergency situations under Emergency Assistance to Needy Families with Children;

(21) advance payments of Earned Income Tax Credit (EITC) or refunds of EITC as a result of filing a federal income tax return;

(22) refunds of state EITC as a result of filing a state income tax return;

(23) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(24) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(25) federal major disaster and emergency assistance provided by Section 5515(d) of Title 42 of the United States Code (U.S.C.) and comparable disaster assistance provided by states, local governments, and disaster assistance organizations;

(26) interests of individual Indians in trust or restricted lands;

(27) income up to $2,000 per calendar year received by individual Indians, which is derived from leases or other uses of individually owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered as unearned income;

(28) payments received under the Civil Liberties Act of 1988. These payments are made to ~~individuals~~ persons of Japanese ancestry who were detained in internment camps during World War II;

(29) payments made to ~~individuals~~ persons because of their status as victims of Nazi persecution;

(30) interest accrued from the deposits made by an ~~individual~~ person into an Individual Development Account (IDA) up to $2,000;

(31) stipends paid to students participating in the Indian Vocational Education Program (IVEP) through the Carl D. Perkins Vocational and Applied Technology Education Act;

(32) payments made from the crime victims compensation program as amended in section 1403 of the Victims of Crime Act of 1984, Section 10602 of Title 42 of the U.S.C.;

(33) reimbursements made to a foster care parent(s) or a potential foster care parent(s); and

(34) payments as described in Section 1823(c) of Title 38 of the U.S.C. provided to certain ~~individuals~~ persons who are children of Vietnam War veterans.

PART 5. ASSISTANCE PAYMENTS

340:10-3-56. Structure of the assistance unit

(a) The structure of the assistance unit is defined in this Section.

(1) ~~Individuals~~ Persons whose needs **must** be included in the assistance unit, unless otherwise excluded in accordance with paragraph (3) of this subsection, are:

(A) at least one Temporary Assistance for Needy Families (TANF) eligible child;

(B) the natural or adoptive parent(s); and

(C) all blood-related minor siblings living in the home with the TANF eligible child(ren), including half brothers and half sisters unless eligibility for the half brothers and half sisters does not exist. This does not apply to siblings of a minor parent when the minor parent is the adult in the assistance unit.

(2) ~~Individuals~~ Persons whose needs **may** be included are:

(A) the caretaker relative-payee other than the natural or adoptive parent(s) with whom the child(ren) resides, if this ~~individual~~ person meets the definition of needy and is of the specified degree of relationship. A caretaker other than stepparent may be included in the assistance unit only when the natural or adoptive parent(s) is absent from the home. A stepparent may be included in the assistance unit when the natural or adoptive parent(s) is incapacitated or absent;

(B) the caretaker relative or the natural or adoptive parent when the only dependent child(ren) residing in the home:

(i) receives Supplemental Security Income (SSI); or

(ii) has been removed from the home by a child protection action and the plan for the child(ren) is impending reunification;

(C) the caretaker relative when the only child(ren) in the home receives federal or state foster care maintenance payments;

(D) the natural parent(s) when the only child(ren) in the home received benefits in the form of a voucher and has been removed from the cash benefit as a result of attaining 36 months of age;

(E) the adoptive parent(s) when the only dependent child(ren) receives a Title IV-E or state adoption subsidy; ~~or~~

(F) a family that includes any head of household or a spouse of the head of household who has received TANF benefits for a total of 60 cumulative months nationwide, whether or not consecutive, and a hardship extension is approved. All other conditions of TANF eligibility must be met. The hardship extensions are:

(i) under-employment. The participant is regularly working 30 hours or more per week and earning at least minimum wage or its equivalent, but the net income of the assistance unit is insufficient to close the TANF cash assistance;

(ii) chronically under-employed. The participant is under-employed over an extended period of time as a result of documented barriers;

(iii) pending SSI or Social Security Administration (SSA) disability application. This extension is granted only if the Oklahoma Department of Human Services (OKDHS) determines the disability application has merit and the participant pursues all appeals through a decision by the SSA Appeals Council. If an unfavorable decision is received from the SSA Appeals Council during the time period the participant is approved for a hardship extension, Family Support Services Division (FSSD), TANF Section, is notified and the TANF benefit is closed the next effective date;

(iv) care of a disabled child(ren) or spouse. The participant is responsible for the care of a disabled child(ren) or spouse. This extension is granted only when verification has been provided to show the participant is needed in the home to care for this disabled ~~individual~~ person and there is no alternative care available;

(v) a clinical diagnosis of mental illness. The participant must be diagnosed with and receiving treatment for a mental disorder listed at Part 404, Subpart P, Appendix 1 of Title 20 of the Code of Federal Regulations. This illness must interfere with the participant maintaining or obtaining gainful employment. If appropriate, the participant must participate in other work activities in conjunction with receiving treatment;

(vi) a substance abuse treatment plan. The participant has a treatment plan level of care which requires intensive aftercare treatment of nine hours or more per week in conjunction with other appropriate work activities, or outpatient treatment of nine hours or more per week in conjunction with other appropriate work activities, or is in full-time inpatient treatment; or

(vii) a continuing training or educational activity. The participant, during the 60th month, is regularly attending an approved training or educational activity which will be completed in less than 12 months; or

(G) a child of a minor in foster care if the minor's child is not included in a foster care payment.

(3) ~~Individuals~~ Persons whose needs **may not** be included are:

(A) ~~an individual~~ a person who has received a State Supplemental Payment (SSP) for the same month;

(B) ~~an individual~~ a person who has received or is included in an SSI payment for the same month;

(C) the spouse of the payee if the payee is not the natural or adoptive parent;

(D) a child(ren) who is receiving foster care;

(E) an adopted child(ren) receiving an adoption subsidy;

(F) an alien who is not legally admitted to the United States (US) for permanent residence or does not meet alienage requirements;

(G) a caretaker other than a stepparent when the natural or adoptive parent is in the home;

(H) ~~an individual~~ a person whose period of ineligibility due to receipt of a lump sum payment has not expired;

(I) a stepparent when the natural or adoptive parent is in the home and not incapacitated;

(J) ~~an individual~~ a person in a household that is eligible to receive benefits under a tribal TANF program;

(K) a child(ren) born to a recipient after ten months from the date of application.

(i) Any such child(ren) is not eligible for the parent to receive cash benefits but is eligible for the parent to receive a non-cash voucher in the incremental amount the cash benefits would have been increased had the child(ren) been eligible for cash benefits. This voucher is issued for items of necessity for newborns until the age of 36 months.

(ii) If a recipient gives birth to an additional child(ren) during the period in which the family is eligible for benefits or during a temporary penalty period of ineligibility, the increase in the amount of benefits is issued as a voucher. A child(ren) born within ten months of application is not considered an additional child(ren) for this provision.

(iii) The first child(ren) born after ten months from the date of application to a minor child(ren) of an applicant or a recipient family is not considered an additional child(ren) for this provision and is added to the cash payment. Any subsequent child(ren) born to a minor child(ren) is added for voucher benefits;

(L) a fugitive felon;

(M) a probation and/or parole violator;

(N) ~~an individual~~ a person convicted of having fraudulently misrepresented residence in order to obtain assistance in more than one state. The ~~individual~~ person is ineligible for a ten year period that begins on the date of conviction;

(O) a family that includes any head of household or a spouse of the head of household who has received TANF benefits for a total of 60 cumulative months, whether or not consecutive, and a hardship extension is not approved; or

(P) a minor unmarried payee who has a dependent child(ren) in the minor's care and does not reside with a parent(s), legal guardian, or other adult relative age 18 or older. For the minor payee to be eligible for TANF benefits, the minor must live with the minor's natural or adoptive parent(s) or a stepparent, legal guardian, or other adult relative age 18 or older, or live in a foster home, maternity home, or other supportive living arrangement supervised by an adult. A supportive living arrangement is where a private family setting is maintained and an adult assumes the responsibility for the care and control of the minor and the minor's dependent child(ren) or provides supportive services such as counseling and guidance. The minor payee can reside elsewhere and be eligible for TANF if good cause is established because the:

(i) minor has no living parent or legal guardian whose whereabouts are known;

(ii) parent(s), legal guardian, or other adult relative does not allow the minor to live in the home;

(iii) physical or emotional health or safety of the minor or the minor's dependent child(ren) is jeopardized if the minor or the minor's dependent child(ren) lives in the home with the parent(s), legal guardian, or other adult relative age 18 or older;

(iv) minor parent has lived apart from the minor's parent(s), legal guardian, or other adult relative age 18 or older, for at least one year before the birth of any dependent child(ren), or before the minor applied for benefits; or

(v) minor parent is legally emancipated pursuant to Chapter 4, Title 10 of the Oklahoma Statutes. A minor is legally emancipated when the district court must have granted the minor the authority to act on the minor's own behalf.

(b) In general, when ~~an individual~~ a person whose needs are included in a TANF assistance unit is temporarily absent from the home for the purpose of receiving training or education for employment, or certain medical services, he or she is considered part of the family and the budgetary requirements are not changed unless needs change by reason of circumstances unrelated to the temporary absence. ~~Individuals~~ Persons temporarily absent from the home but included in the assistance unit are:

(1) ~~an individual~~ a person receiving training or education for employment during the period of time the training or educational activities are taking place;

(2) a child(ren) attending boarding school during the school term;

(3) a child(ren) absent from the home on visitation to the absent parent up to a maximum of three months. This consideration applies only to visitation and does not apply if the absent parent has physical and legal custody of the child(ren) during these three months;

(4) a child(ren) absent in order to attend school, other than boarding school. Factors considered in making this determination include the maintenance of normal ties between home and the child(ren) during the period of absence; whether the child(ren) continues under the control and guidance of the payee during the absence; and assumption of responsibility by the relative-payee for meeting the child(ren)'s expenses during the school term. A child(ren) who attends the School for the Blind or the School for the Deaf is considered temporarily absent from the home in determining TANF eligibility;

(5) ~~an individual~~ a person absent from the home because of entrance into a private facility for counseling, rehabilitation, behavioral problems, or special training. If an assessment indicates care is projected for a period exceeding four months, the absence is not considered temporary. At any time an absence is determined as not temporary or no longer temporary, the needs of the ~~individual~~ person cannot be included in the assistance unit;

(6) ~~an individual~~ a person absent from the home for medical services, other than institutionalization for treatment of mental illness, mental retardation, or tuberculosis,

for up to six months. Six-month extensions may be allowed when verification indicates the ~~individual~~ person may return to the home within the next six months;

(7) ~~an individual~~ a person absent from the home to receive substance abuse treatment for up to four months. A four-month extension may be allowed when verification indicates the ~~individual~~ person will return to the home within the next four months; or

(8) ~~an individual~~ a person absent from the home to receive nursing care approved by the Oklahoma Health Care Authority, Level of Care Evaluation Unit. If it appears that the ~~individual~~ person is disabled, an application for State Supplemental Payment is taken and a referral made to the SSA district office for an SSI application.

(c) A change in benefit is not made during a temporary absence from Oklahoma for three months or less, unless a change is necessary by reason of some change in circumstances not relating to such absence from Oklahoma.

340:10-3-57. Special considerations

(a) **Concurrent receipt of State Supplemental Payment (SSP) for the aged, blind, or disabled.** A person who is not a recipient of Supplemental Security Income (SSI) has an option to be included in a Temporary Assistance for Needy Families (TANF) assistance unit or may be a recipient of SSP if all eligibility requirements are met. The person may also be included in the TANF assistance unit pending determination of eligibility for SSP or SSI if all eligibility requirements are met.

(b) **Concurrent receipt of TANF and SSI.** A person cannot be included in a TANF benefit for the same month he or she was included in an SSI payment. If it appears a person included in a TANF application or an active TANF benefit might meet the eligibility conditions for TANF and SSI, the person has a choice to have eligibility determined for TANF or SSI benefits. Persons are informed of their responsibility to report to the Oklahoma Department of Human Services (OKDHS) if any member of the assistance unit makes application for SSI or becomes eligible for SSI. If any assistance unit member applies for TANF or is receiving TANF when the member makes an application for SSI, the member must inform the Social Security Administration (SSA).

(1) When the only dependent child(ren) is receiving SSI, the natural or adoptive parent(s) or needy caretaker relative may receive TANF if all other factors of eligibility are met. The assistance unit will consist of the adult(s) only.

(2) When a TANF applicant is also an applicant for SSI, eligibility for TANF must be determined and, if eligible, is included in the benefit until notified of SSI eligibility.

(3) When a TANF recipient is an applicant for SSI, ~~the~~ SSA advises ~~the~~ OKDHS of SSI eligibility, and requests the month of TANF termination and the amount of TANF benefits paid for each month of SSI eligibility. SSA considers a recipient removed from a TANF benefit effective with, and based on, the TANF termination date provided orally by the worker. If the actual date of termination is later than the date given orally to SSA, TANF payments to SSI recipients are TANF overpayments and must be recouped.

(4) When a TANF recipient is determined ineligible for SSI the person may continue to be included in the TANF assistance unit if all other conditions of eligibility are met.

(5) When a TANF recipient is determined ineligible for SSI for reasons other than a disability determination the person may be included in an SSP, if all other conditions of eligibility are met.

(c) **Concurrent receipt of state and tribal TANF.** A person who is included in a tribal TANF payment cannot be included in another TANF benefit in the same month. If the person meets the criteria of a tribal TANF service area and population, the entire household must be served by tribal TANF. If the household moves out of the tribe's service area, the worker coordinates certification of state TANF benefits.

(d) **Concurrent receipt of more than one form of public assistance.** A person who is included in a TANF benefit cannot be included in another TANF or SSP benefit for the same period. When a TANF applicant is eligible for TANF but has received a weekly or bi-monthly TANF benefit from another state for the same month the applicant is eligible in Oklahoma, the benefit from the other state is counted as unearned income. A person who is the payee for a TANF benefit, but not included in that benefit, is not prevented from being a recipient of SSP if the SSP eligibility requirements are met. When transferring a TANF recipient to SSP, the removal and approval date must agree.

(e) **Stepparent, spouse of needy caretaker, ~~or~~ person acting in the role of a spouse, ~~and~~ or parent(s) of a minor parent.** The natural or adoptive parent's income cannot be diverted to meet the needs of the stepparent or other dependents in the home, but is considered available to the TANF assistance unit. No income is considered if the stepparent, spouse of a needy caretaker, person acting in the role of a spouse, ~~or~~ parent(s) of a minor parent, or his or her dependent is an SSI recipient.

(1) **Stepparent or spouse of needy caretaker income.** If a stepparent of the child(ren) or the spouse of a needy caretaker for whom TANF is requested is living in the home with the child(ren), the verified earned and unearned income of the stepparent or spouse of a needy caretaker, after all applicable TANF income disregards and work related expenses, is computed to determine the amount considered available to the assistance unit. The stepparent's or spouse of a needy caretaker's income is computed by:

(A) subtracting the work related expense, one-half of the remaining earned income, and dependent care expense from the stepparent's or spouse of a needy caretaker's earned income for full-time or part-time employment; [OAC 340:10-3-33]

(B) adding the net earned income to the stepparent's or spouse of a needy caretaker's unearned income;

(C) subtracting the need standard for the appropriate number of persons, including the stepparent or spouse of a needy caretaker and dependents who

are not included in the assistance unit but are living in the home and can be claimed on the stepparent's or spouse of a needy caretaker's personal income taxes;

(D) subtracting the actual amounts the stepparent or spouse of a needy caretaker paid to persons not living in the household but claimed as tax dependents. It is the stepparent's or spouse of a needy caretaker's responsibility to identify and verify tax dependents;

(E) subtracting the actual payments of alimony and child support to persons outside the household; and

(F) adding the stepparent's or spouse of a needy caretaker's remaining net income to all other gross income of persons included in the TANF assistance unit. If the income does not exceed the monthly maximum gross income, the remaining income of the stepparent or spouse of a needy caretaker is considered as a contribution to the assistance unit.

(2) **Stepparent or spouse of a needy caretaker resources.** Resources owned exclusively by the stepparent or spouse of a needy caretaker are not considered in determining the assistance unit's resource eligibility. Consideration is only given to the assistance unit's share of resources that are owned jointly with the stepparent or spouse of a needy caretaker.

(3) **Person acting in the role of a spouse.** Income must be considered available to the TANF assistance unit of any non-relative adult(s) of the opposite sex not receiving TANF who lives in the home with the natural or adoptive parent. The income of this person(s) is computed the same as stepparent income; however, the exemption of one-half of the remainder and dependent care expense is not applicable in determining this person's countable earned income. If the parent or the person acting in the role of a spouse fails to provide information necessary to determine income eligibility, the application is denied or the cash assistance terminated.

(4) **Parent(s) of a minor parent.** When a minor parent is living in the home with his or her natural or adoptive parent(s) and the needs of the parent(s) are not included in the assistance unit, the parent's income is considered available to the assistance unit and computed the same as stepparent income. The income of a minor parent's stepparent is not considered. The parent of the minor parent may be designated as the substitute payee for the case.

(f) **Allocating or diverting income.** When family members are not included in the assistance unit, special consideration is required in determining the income available to the assistance unit.

(1) Income received by a person included in the assistance unit is not allocated or diverted to persons who are not in the assistance unit. All countable unearned and earned income of the person is considered available to the assistance unit.

(2) The net income of an alien parent excluded from the benefit because the citizenship or alienage requirement is not met is considered the same as stepparent income. The needs and income of disqualified alien siblings are not considered when determining eligibility of an otherwise eligible child(ren).

(3) The net income of a fugitive felon excluded from the benefit is considered the same as stepparent income.

(g) **Benefit reduction as a result of program violation.** The TANF benefit is reduced by 25% of the payment standard when a determination of program violation has been made. The 25% penalty is removed the next effective date when compliance is documented or the time frame for the penalty has ended. When multiple types of program violations have occurred, a 25% penalty of the payment standard is imposed for each type of violation. If the benefit reduction causes existing income to be in excess of the benefit amount, the case is closed using the reason for the benefit reduction. The amount of the payment standard reduction applies as Food Stamp Penalty Income in the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP). [OAC 340:50-7-29(b)(1)] Reasons for benefit reduction are:

(1) refusal to cooperate in an effort to obtain child support; [OAC 340:10-10-5(c)]

(2) failure to apply for or provide a Social Security number;

(3) failure of a child(ren) kindergarten age to 18 years of age to attend school; [OAC 340:10-13]

(4) failure to provide verification of child(ren) immunizations; and [OAC 340:10-14]

(5) intentional program violations determined as fraud by court action or an administrative disqualification hearing or administrative hearing waiver. [OAC 340:65-9-4]

(h) **Parent living in the home receiving SSP.** When there is a parent living in the home but not included in the TANF benefit because of receipt of SSP and not SSI, consideration is not given to that parent's individual income for the TANF benefit. When a parent in the SSP benefit becomes ineligible to continue to receive the SSP, the parent is included in the TANF benefit and all the income and resources of the parent are considered in determining eligibility for TANF. If consideration of the parent's income and resources causes the TANF benefit to be closed, and the closure of the SSP benefit was a direct result of an overall Social Security increase, the SSP benefit is placed in Special Medical Status. If the parent is living in the home but not included in the TANF benefit because of receipt of SSP and SSI, no consideration is given to the parent's income and the parent is not included in the TANF assistance unit as long as the parent remains eligible for SSI.

(i) **TANF eligibility when the child(ren) is placed in out-of-home care.** When the child(ren) is removed by a child protection action and it is reasonably anticipated the child(ren) will return to the home within four months, the natural or adoptive parent or needy caretaker relative continues eligible for TANF, if other conditions of eligibility are met.

(1) A team consisting of the worker, the Child Welfare (CW) worker, the natural or adoptive parent or needy caretaker relative, and any other appropriate partner(s) must meet to develop a mutually agreed upon plan of action. This plan addresses employability and strategies to correct the conditions which caused the child(ren) to be removed from the home.

(2) At the end of the four month period if the child(ren) has not been returned to the home, the adult(s)' needs are removed and the TANF benefits are discontinued.

(j) **Strikers.** The assistance unit is not eligible for TANF for any month the natural or adoptive parent, whether or not included in the benefit, is participating in a strike on the last day of that month. A person other than the natural or adoptive parent is not included in the benefit for any month if that person is participating in a strike on the last day of the month.

PART 7. TRANSITIONAL BENEFITS

340:10-3-75. Continued medical benefits (CMB)

(a) **Conditions for CMB.** Medical benefits are continued when a Temporary Assistance for Needy Families (TANF) benefit is closed due to the receipt of child or spousal support, or new or increased earnings of the caretaker relative. The medical ~~assistance~~ benefits coverage is of the same amount, duration, and scope as if the assistance unit continued receiving TANF. Eligibility for CMB begins with the effective date of closure or the effective date of closure had the income been reported timely. A person is included for CMB only if that person was eligible for TANF and included in the assistance unit at the time of the closure. To be eligible for CMB the assistance unit must meet all of the requirements listed in (1) - (4) of this subsection.

(1) At least one member received TANF in at least three of the six months immediately preceding the month of case closure.

(2) The assistance cannot have received fraudulently as determined by Family Support Services Division Benefit Integrity and Recovery Section in any one of those six months.

(3) The assistance unit must include a dependent child who meets the age and relationship requirements for TANF and whose needs are included in the TANF assistance unit at the time of closure, unless the only eligible child is a Supplemental Security Income (SSI) recipient.

(4) Client must comply with Soonercare (Medicaid) citizenship and identity verification rules at OAC 317:35-5-25.

(b) **Closure due to child support or spousal support.** Medical benefits are continued if the TANF closure is due to the receipt of new or increased child support or payments for spousal support in the form of alimony. The medical benefits are continued for four months.

(c) **Closure due to new or increased earnings of caretaker relative.** Medical benefits are continued if the closure is due to the new or increased earnings of the caretaker relative. The caretaker relative's needs must be included in the assistance unit at the time of closure. The caretaker relative who is the natural or adoptive parent is required to cooperate with Oklahoma Child Support ~~Enforcement Division~~ Services (OCSS) during the period of time the family is receiving CMB. If the caretaker relative changes during the CMB period, the assistance unit loses its CMB coverage.

(1) **Eligibility.** Medical benefits may be continued for a period up to 12 months. This period is divided into two six-month periods with eligibility requirements and procedures for each period.

(A) **Initial six-month period.** The assistance unit is eligible for CMB if:

(i) an eligible child remains in the home;

(ii) the caretaker relative remains the same; and

(iii) the assistance unit remains in ~~the state~~ Oklahoma.

(B) **Additional six-month period.** Medical benefits are continued for the additional six month period if:

(i) an eligible child remains in the home;

(ii) the caretaker relative remains the same;

(iii) the assistance unit remains in ~~the state~~ Oklahoma;

(iv) the assistance unit was eligible for and received CMB for each month of the initial six month period;

(v) the assistance unit has complied with reporting requirements in (4) of this subsection;

(vi) the assistance unit has average monthly earned income that does not exceed the standard which is based on 185% of the Federal Poverty Level; and

(vii) the caretaker relative had earnings in each month of the three-month reporting period, unless the lack of earnings was due to an involuntary loss of employment, illness, or other good cause.

(C) **Income eligibility.** Income eligibility is determined using rules in (i) through (ix) of this subsection.

(i) The unearned income and resources of the assistance unit are disregarded in determining eligibility for CMB.

(ii) There is no earned income test for the initial six-month period.

(iii) The assistance unit's medical benefits are not continued for the additional six-month period if the assistance unit's countable earnings exceed the standard.

(iv) Income is determined by averaging the entire assistance unit's gross monthly earnings for the three-month reporting period.

(v) Use average family size for the immediate preceding three months when the family size changes during the three-month period.

(vi) The only deduction allowed is the cost for approved child care necessary for the employment of the caretaker relative. The child care deduction is averaged for the same three-month reporting period. There is no maximum amount for this deduction.

(vii) The earnings of all assistance unit members are used in determining the earned income test. The earnings of additional family members

are considered only if that member is a natural or adoptive parent.

(viii) The needs of all persons whose earnings are considered are included in determining the household size for the income test.

(ix) The earned income of a full time student included in the assistance unit is disregarded the same as in TANF rules.

(D) **Eligible child.** When the TANF benefit is closed and CMB begins, the assistance unit must include an eligible child whose needs were included in the TANF benefit at the time of closure, unless the only eligible child is a SSI recipient. After the CMB begins, the assistance unit must continue to include an eligible child. However, age is the only requirement an eligible child must meet. This means that the eligible child does not have to meet the deprivation factor once CMB begins.

(E) **Additional members.** After the CMB begins, family members who move into the home cannot be added to the CMB coverage. This includes siblings and a natural or adoptive parent(s). If the additional member is in need of medical services, a new application is completed for that person. If an assistance unit member included in the CMB leaves the home and then returns, that member may be added back to the CMB coverage if all conditions of eligibility are met. A child under the age of one year whose mother is included in the CMB coverage, is added to the assistance unit if the child is deprived of parental support.

(F) **Third party liability.** The assistance unit's eligibility for CMB is not affected by a third party liability. However, the assistance unit is responsible for reporting all insurance coverage and any changes in the coverage. The worker must explain the necessity for applying benefits from private insurance to the cost of medical care.

(G) **Termination of CMB.** The CMB coverage is discontinued any time the assistance unit fails to meet the eligibility requirements as shown in this Section. If it becomes necessary to discontinue the CMB coverage for the assistance unit or any member of the assistance unit, the person must be advised that he or she may be eligible for medical benefits under the regular SoonerCare (Medicaid) Program and how to obtain these benefits.

(2) **Notification.** Notices are sent to the assistance unit, both at the onset of and throughout the CMB period. These notices, which are sent at specific times, inform the assistance unit of its rights and responsibilities. When a TANF benefit is closed and the assistance unit is eligible for CMB, the computer-generated closure notice includes notification of the continuation of medical benefits. Another computer-generated notice is sent at the same time to advise the assistance unit of the reporting requirements and under what circumstances the medical benefits may be discontinued. Each notice listed in (A)- through (C) of this paragraph includes specific information about what the assistance unit must report. The notices serve as the required advance notification in the event benefits are discontinued as a result of the information furnished in response to these notices.

(A) **Notice #1.** PSNCM1 is issued in the third month of the initial continued medical eligibility period. This notice advises the assistance unit of the additional six-month period of CMB, the eligibility conditions, reporting requirements, and appeal rights.

(B) **Notice #2.** PSNCM2 is issued in the sixth month of the continued medical eligibility period, but only if the assistance unit is eligible for the additional six-month period. This notice advises the assistance unit of the eligibility conditions, reporting requirements, and appeal rights.

(C) **Notice #3.** PSNCM3 is issued in the ninth month of the continued medical eligibility period, or the third month of the additional six-month period. This notice advises the assistance unit of the eligibility conditions, the reporting requirements, appeal rights, and the expiration of CMB coverage.

(3) **Notices not received.** In some instances the assistance unit does not receive all of the notices listed in (c)(2)(A)-(C) of this Section. The notices and report forms are not issued retroactively.

(4) **Reporting.** The assistance unit is required to periodically report specific information. To assist the unit, Form 08TA018E, Continued Medical Benefit Reply Form, is sent at the same time as the notices generated during the CMB period. Though preferred, it is not mandatory for the report form itself to be returned. The information may be reported by telephone, in an office interview, or by letter.

(A) The assistance unit must report:

(i) gross earned income of the entire assistance unit for the appropriate three-month period;

(ii) child care expenses, for the appropriate three-month period, necessary for the caretaker relative's continued employment;

(iii) changes in members of the assistance unit;

(iv) residency; and

(v) third party liability.

(B) The reporting requirement time frames are explained in this subparagraph.

(i) The information requested in the third month must be received by the 21st day of the fourth month and is used to determine the assistance unit's eligibility for the additional six-month period. While this report is due in the fourth month, negative action cannot be taken during the initial period for failure to report. If the assistance unit fails to submit the requested information, benefits are automatically suspended effective the seventh month. If action to reinstate is not taken by deadline of the suspension month, the computer automatically closes the case effective the next month.

(ii) The information requested in the sixth month must be furnished by the 21st day of the

seventh month. The decision to continue benefits into the eighth month is determined by the information reported.

(iii) The information requested in the ninth month must be furnished by the 21st day of the tenth month. The decision to continue medical benefits into the 11th month is determined by the information reported.

(I) When the information is not reported timely, the CMB are automatically suspended by the computer for the appropriate effective date.

(II) If the assistance unit subsequently reports the necessary information, the worker determines eligibility.

(III) If all eligibility factors are met during and after the suspension period, the medical benefits are reinstated. The effective date of the reinstatement is the same as the effective date of the suspension so the assistance unit has continuous medical coverage.

(d) **Receipt of medical benefits after CMB ends.** To ensure continued medical coverage, Form 08MA007E, Recertification of Eligibility for SoonerCare Health Benefits, is computer-generated and mailed to the assistance unit during the third month of CMB for benefits closed due to the receipt of child or spousal support or the 11th month of CMB for benefits closed due to increased earnings. The assistance unit must return Form 08MA007E for a medical redetermination to be made prior to the termination of the CMB benefits. When determined eligible, medical benefits continue as ~~health~~ regular SoonerCare (Medicaid) benefits, not CMB. If the assistance unit fails to return Form 08MA007E, medical benefits are terminated.

340:10-3-81. Adjustment period

(a) **Scope.** In an effort to promote marriage and provide a more secure and stable family situation, an adjustment period up to three months of the existing Temporary Assistance for Needy Families (TANF) benefit ~~can~~ may be approved by the worker. The intent of the adjustment period is to assist the family in the payment of outstanding bills and to allow for the gradual assumption of financial responsibilities.

(1) When a TANF recipient marries and the income of the spouse will close the case, an adjustment period ~~can~~ may be made available to the family.

(2) If deprivation ends for the child(ren) when the spouse returns home and he or she is not incapacitated or does not meet the unemployed parent policy, an adjustment period ~~can~~ may be made available to the family.

(3) At the time the recipient reports his or her marriage or the return of the spouse, it is the responsibility of the worker to discuss the adjustment period with the family to determine possible eligibility.

(4) The marriage of the recipient or return of the spouse must be reported timely. If the TANF recipient fails to report the marriage or return of the absent spouse, the number of months of benefits approved is adjusted accordingly.

(5) The TANF recipient must be made aware the receipt of an adjustment period counts towards the 60-month lifetime limit of receipt of TANF.

(b) **Benefits.** The maximum adjustment period approved is three months. The benefit issued is the same as the existing TANF benefit issued prior to the recipient's marriage or the return of the spouse.

~~(1) When the TANF recipient receives purchased child care for the child(ren), no change is made regarding child care eligibility or the family share co-payment during the time of the adjustment period.~~

~~(2) If the family continues to be eligible for food stamps, it is necessary to add the stepparent or returning spouse to the food stamp benefit on the Household tab of Family Assistance/Client Services (FACS) and show his or her income on the Income tab of FACS so food stamp benefits are correctly computed.~~

~~(3) Medical benefits remain open until medical eligibility is determined by the worker.~~

SUBCHAPTER 7. CONDITIONS OF ELIGIBILITY - RESIDENCE

340:10-7-1. Residence

To be eligible to receive Temporary Assistance for Needy Families (TANF) ~~an individual~~ a person must be making his or her home in Oklahoma. ~~An individual~~ A person whose residence has been established in Oklahoma does not lose residency status when he or she is removed from Oklahoma against his or her will and held in another state, as for example, in federal prison, or has been out of the state to make use of a federal facility, or to attend school.

(1) ~~An individual's~~ A person's statement that he or she is residing in Oklahoma voluntarily and not for a temporary purpose is acceptable if it is consistent with other known facts. If the statement is inconsistent with other known facts, further substantiation is necessary.

(2) ~~An individual~~ A person applying for TANF after living in another state any time during the past 12 months must not be certified until the state of former residence is contacted to determine if cash assistance is being received from that state. If so, planning must be done with that state so approval and closure are simultaneously effected in the respective states.

(3) Continuous residence is established when the case record and contact with the ~~individual~~ person show no evidence of absence from ~~the state~~ Oklahoma.

(A) **Temporary residence.** For purposes of TANF eligibility, ~~an individual~~ a person is a resident of Oklahoma if he or she is living in Oklahoma voluntarily or has a job commitment or is seeking employment, even though the intent is to stay only temporarily, as long as cash assistance is not being received from another state. This includes migrant and itinerant workers who are temporarily residing in Oklahoma

but maintain a homestead in another state. ~~An individual~~ A person traveling through the state or visiting relatives in this state is not considered a resident.

(B) **Out-of-state visits.** A temporary absence from the state with subsequent returns to the state or intent to return when the purposes of the absence have been accomplished does not interrupt Oklahoma residence. When the purpose is temporary in nature, the ~~individual~~ person is responsible for information regarding which member(s) of the assistance unit is visiting out-of-state, for what purpose, the plan and date of the departure, and the planned date of return. ~~[OAC 340:10-3-55]~~

(i) An absence from the state may not continue beyond three months without a specific and current determination of the circumstances of the absence, whether the purposes of the absence have been accomplished, and the ~~individual's~~ person's statement as to his or her residence. The ~~individual~~ person is considered as residing in Oklahoma until there is substantial factual evidence he or she has chosen to establish residence in another state.

(ii) If the ~~individual~~ person applies for cash assistance in another state and is determined eligible by that state, the case record must document the facts used to establish that the effective date of closure in Oklahoma corresponds with the effective date of certification in the other state, thus ensuring there is not interruption in the assistance payment.

SUBCHAPTER 15. CONDITIONS OF ELIGIBILITY - CITIZENSHIP AND ALIENAGE

340:10-15-1. Citizenship and alien status

(a) ~~An individual~~ A person eligible to be included in a Temporary Assistance for Needy Families (TANF) benefit, must be either:

(1) a citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa and Northern Mariana Islands. ~~An individual~~ A person may be a citizen of the U.S. by being born in the U.S. or by being born in some other country but moving to the U.S. and being granted U.S. citizenship through the U.S. Citizenship and Immigration Services (USCIS) a bureau of the U.S. Department of Homeland Security; or

(2) a qualified alien described as:

(A) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);

(B) an alien who is paroled into the U.S. under Section 212(d)(5) of INA for a period of at least one year;

(C) an alien who is granted conditional entry pursuant to Section 203(a)(7) of INA as in effect prior to April 1, 1980;

(D) an alien who is granted asylum under Section 208 of INA;

(E) a refugee who is admitted to the U.S. under Section 207 of INA;

(F) an alien whose deportation is withheld under ~~Section 243(h) or~~ Section 241(b)(3) of INA;

(G) an alien who is a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

(H) battered aliens and their children or parents as defined in Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended; ~~or~~ [8 U.S.C. 1641(c)]

(I) an alien and his or her eligible relatives who are victims of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000 which was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003~~.~~;

(J) an Iraqi admitted under special immigrant status pursuant to Section 525 of Division G of Public Law (P.L.) 110-161 of the Consolidated Appropriations Act of 2008, Section 101(a)(27) of the INA [8 U.S.C. 1101(a)(27)], and Section 1244 of P.L. 110-181 of the National Defense Authorization Act for Fiscal Year 2008. An Iraqi must be treated as a refugee for a time-limited period and may be eligible for benefits for up to eight months from the date he or she is granted special immigrant status if the person meets all other program requirements. After the time-limited eligibility period ends, the Iraqi is ineligible for a TANF benefit for a five year period beginning on the date of the alien's entry into the U.S. with a qualified alien status; or

(K) an Afghan admitted under special immigrant status pursuant to Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act of 2008 and Section 101(a)(27) of the INA [8 U.S.C. 1101(a)(27)]. The person must be treated as a refugee for a time-limited period and may be eligible for benefits for up to six months from the date he or she is granted special immigrant status if the person meets all other program requirements. After the time-limited eligibility period ends, the Afghan is ineligible for a TANF benefit for a five year period beginning on the date of the alien's entry into the U.S. with a qualified alien status.

(b) A qualified alien who enters the U.S. on or after August 22, 1996, is not eligible for TANF benefits for a five year period beginning on the date of the alien's entry into the U.S. with a qualified alien status unless the alien is:

(1) admitted to the U.S. as a refugee;

(2) granted asylum;

(3) one whose deportation is being withheld;

(4) a Cuban or Haitian entrant;

(5) admitted to the U.S. as an Amerasian immigrant;

(6) lawfully residing in the state and is a veteran of the U.S. armed forces, on active duty, or is that person's spouse or unmarried dependent child; or

(7) is a victim of a severe form of trafficking.

(c) A declaration of citizenship and alien status is required for all adults and children in the TANF benefit. This requirement is met when an adult member in the assistance unit completes and signs the application or review form attesting to the citizenship and alien status for all members of the assistance unit. Refer to OAC 340:65-3-1(g) for additional citizenship requirements for persons 14 years of age and older pursuant to Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes.

(d) Declaration on behalf of a newborn child may be delayed provided the delay does not exceed the date of the assistance unit's next eligibility redetermination.

(e) Persons determined as having satisfactory alien status must have the status verified through Systematic Alien Verification for Entitlements (SAVE). In situations which require a written inquiry to the USCIS, the worker must not delay, deny, terminate, or reduce benefits to an alien pending USCIS verification of submitted documentation.

(f) All persons born in the U.S. are, with rare exceptions, U.S. citizens. Documents of citizenship or national status of ~~individuals~~ persons from certain U.S. territories or possessions listed in (a)(1) of this Section may not be in their possession nor available. Their status can usually be determined by birth certificate, passport, or other official document.

SUBCHAPTER 19. ELIGIBILITY REQUIREMENTS FOR EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH CHILDREN

340:10-19-2. Emergency assistance to needy families with children

The Emergency Assistance Program consists of Emergency Family Services (EFS) administered by the ~~Division of~~ Children and Family Services Division (~~DCFS~~ CFSD), Office of Juvenile Affairs (OJA), and Temporary Assistance for Needy Families (TANF) Emergency Assistance (TANF-EA) administered by the Family Support Services Division (FSSD).

(1) **EFS.** EFS are services to families in which immediate action is necessary to avoid placement of a child(ren) in out-of-home care or to assist in reuniting a child(ren) with the family when in out-of-home placement and thereby prevent destitution of a child(ren) or family.

(2) **TANF-EA.** TANF-EA is administered by ~~the~~ FSSD. TANF-EA is available to or on behalf of a needy child(ren) if the assistance is necessary to avoid destitution of the child(ren). TANF-EA payments are state disaster relief funds to families for food, medicine, shelter, utilities, clothing, and personal items. These payments are authorized **only** after all other resources such as emergency funds from the Social Security Administration (SSA), Bureau of Indian Affairs (BIA), Veterans' Administration (VA), other federal, or state, county, city agencies, and community organizations have been determined unavailable.

(A) **Persons who might be eligible for TANF-EA.** The assistance unit for TANF-EA is defined as containing the natural or adoptive parent(s) if residing with the child(ren) or if the parent(s) is absent from the home, the applicant who is of the specified degree of relationship, the applicant's spouse and any dependent child(ren) in the home who meet the age and relationship requirements. The applicant must be responsible for meeting the emergency need(s) of the child(ren) and unable to meet such need(s). The assistance unit must have suffered a major loss to their home as a result of a natural disaster and whose interest was not protected by insurance. In this instance, income and resources may be disregarded if they are not available or are insufficient to meet the emergency need. Partial insurance coverage must be considered when determining the amount to be disregarded.

(B) **TANF-EA emergency benefits.** Emergency benefits for persons eligible for TANF-EA are:

(i) food which is not available through the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) Program;

(ii) medicines or medical supplies not otherwise covered under the ~~Medical Assistance~~ SoonerCare (Medicaid) Program;

(iii) shelter or emergency repairs on the home. If the client owns the home or is responsible for repairs, benefits can be provided for emergency repairs required to make the home livable. Verification of the repair cost must be documented in the case record. If the request is for new shelter, the ~~social services specialist~~ worker contacts the prospective landlord, either in person or by telephone, to document details regarding the new shelter plan;

(iv) utilities when services have been discontinued. A written notice is required from the supplier that services or fuel cannot be provided or utilities turned on until a payment is received. The notice must be other than routinely printed on the regular bill and must include client's name, address, amount of bill, and account number; and

(v) clothing and personal items lost or destroyed.

SUBCHAPTER 22. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) SUPPORTED PERMANENCY PROGRAM

340:10-22-1. Temporary Assistance for Needy Families (TANF) Supported Permanency Program

(a) **Scope.** In an effort to promote permanency for a child(ren) who is in the custody of the Oklahoma Department of Human Services (OKDHS) and placed with a relative(s) residing in Oklahoma who is a paid kinship relative foster home, the Supported Permanency Program has been developed. Supported permanency is considered appropriate when the:

(1) ~~the~~ child is age 12 or older or has a sibling age 12 or older who resides in the same relative foster home;

(2) ~~the~~ relative(s) meets the specified degree of relationship as defined in OAC 340:10-9-1;

(3) ~~the~~ court has made a finding that reasonable efforts to reunite the child(ren) with his or her parent(s) are not required or have been made and failed, and the permanency plan of reunification has been ruled out;

(4) ~~the~~ child(ren) currently resides with the relative(s) in Oklahoma and has resided with the relative(s) four of the last six months;

(5) ~~the~~ relative(s) has completed all requirements to be an approved OKDHS foster care home;

(6) ~~the~~ relative(s) is willing to assume legal responsibility; and

(7) ~~the~~ court and, if appropriate, the child(ren), are in agreement with the plan for the relative(s) to obtain legal responsibility.

(b) **Eligibility.** Once the Supported Permanency Program is determined appropriate by the Child Welfare (CW) worker and the transfer of legal responsibility has been approved by the court, the CW worker makes a referral for Temporary Assistance for Needy Families (TANF) to the Field Operations Division Family Support Services. When the child(ren) is approved for TANF supported permanency, he or she is eligible for ~~managed health care~~ SoonerCare (Medicaid) and child care ~~services~~ benefits, if appropriate.

(1) Income of this child(ren) is considered the same as for any other TANF eligible child.

(2) Food ~~stamp~~ benefit eligibility is dependent on the eligibility of the household.

(3) Benefit reduction as a result of program violation is applicable for school attendance and immunization.

(4) If the child(ren) leaves the home to reside elsewhere, the Supported Permanency Program benefit is terminated for the child(ren).

(5) If the child(ren) returns to this home, he or she may be eligible for cash assistance but not the Supported Permanency Program benefit.

[OAR Docket #09-759; filed 4-22-09]

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

[OAR Docket #09-765]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Scope and Applicability
340:25-1-1 through 340:25-1-1.2 [AMENDED]
340:25-1-2.1 [AMENDED]
340:25-1-5.1 [AMENDED]
Subchapter 3. Commissioned Peace Officers
340:25-3-1 through 340:25-3-1.1 [AMENDED]
340:25-3-3 [AMENDED]
340:25-3-5 [AMENDED]
Subchapter 5. Operational Policies
Part 9. Disclosure of Information
340:25-5-66 [AMENDED]
Part 11. ~~CSED~~OCCS System Security
340:25-5-75 [AMENDED]
Part 13. Retention and Destruction of Records
340:25-5-95 [AMENDED]
Part 15. Case Initiation, Case Management, and Case Closure
340:25-5-117 [AMENDED]
340:25-5-123 [AMENDED]
340:25-5-124 [AMENDED]
340:25-5-124.2 through 340:25-5-124.3 [AMENDED]
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 through 340:25-5-176.1 [AMENDED]
340:25-5-178 [AMENDED]
Part 23. Enforcement
340:25-5-201.1 [AMENDED]
340:25-5-203.2 [NEW]
340:25-5-212 [AMENDED]
340:25-5-214 [AMENDED]
Part 31. Consumer Reporting Agencies - Credit Bureaus
340:25-5-265.1 [AMENDED]
Part 39. Accounting and Distribution
340:25-5-345.2 [NEW]
340:25-5-350.3 [AMENDED]
340:25-5-350.4 [NEW]
340:25-5-352 [NEW]
(Reference WF 08-14 and 08-15)

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 Sections 653, 654, 654a, and 654b of Title 42 of the United States Code (U.S.C.); Section 1738B of Title 28 U.S.C.; United States House Resolution 3130, Public Law 105-200; Sections 302.31, 302.32, 302.33, 302.38, 303.6, 307.11, 307.13, and Part 310 of Title 45 of the Code of Federal Regulations; Sections 652 and 666 of Title 42 of the U.S.C. (federal Deficit Reduction Act of 2005); Sections 7700-605 and 7700-621 of Title 10 of the Oklahoma Statutes (Senate Bill (SB) 1923 and House Bill 2967); Section 1171.2 of Title 12 of the Oklahoma Statutes (federal Deficit Reduction Act of 2005); Sections 112, 115, 137, 139, and 139.1 of Title 43; Section 135 of Title 43 of the Oklahoma Statutes (SB 943); Sections 237, 240.1, and 240.20 of Title 56 of the Oklahoma Statutes; Section 237B of Title 56 of the Oklahoma Statutes (SB 943); Section 240.10 of Title 56 of the Oklahoma Statutes (SB 2194); and Section 724.1 of Title 3A of O. S.

DATES:
Comment period:
January 15, 2009 through February 16, 2009
Public hearing:
None requested
Adoption:
February 24, 2009
Submitted to Governor:
February 24, 2009
Submitted to House:
February 24, 2009
Submitted to Senate:
February 24, 2009
Gubernatorial approval:
March 12, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on April 21, 2009.
Final adoption:
April 21, 2009
Effective:
July 1, 2009
Gubernatorial approval:
December 15, 2008

Register publication:
26 Ok Reg 411
Docket number:
08-1509
SUPERSEDED EMERGENCY ACTIONS:
Subchapter 5. Operational Policies
Part 15. Case Initiation, Case Management, and Case Closure
340: 340:25-5-123 [AMENDED]
Part 20. Medical Support
340:25-5-171 [AMENDED]
(ReferenceWF 08-14)
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed revisions to Subchapters 1, 3, and 5 of Chapter 25 update and clarify Oklahoma Child Support Services (OCSS) 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 OCSS to be sought out as a family's counsel of choice; (2) address needs identified in the OCSS 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; and (7) clarify language and correct punctuation and syntax.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 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, 2009:

SUBCHAPTER 1. SCOPE AND APPLICABILITY

340:25-1-1. Purpose

(a) The purpose of the rules in this Chapter is to explain the ~~Oklahoma's~~ Oklahoma Child Support ~~Enforcement Program~~ Services program as it pertains to the public it serves. Unless the context clearly indicates otherwise, the rules in this Chapter only pertain to IV-D programs and services.

(b) All entities and personnel of the Oklahoma Child Support ~~Enforcement~~ Services ~~Program~~ program of the Oklahoma Department of Human Services (OKDHS) and all entities and personnel of entities that contract with OKDHS to administer and operate any portion of the ~~Child Support Enforcement Program~~ child support program are bound by the provisions of this Chapter.

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~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) 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" 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~~ OCSS maintains the Central Case Registry under Section 112A of Title 43 of the Oklahoma Statutes.

"Centralized Support Registry" means a repository maintained by ~~CSED~~ OCSS 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 and is also

known as Oklahoma Child Support Services (OCSS). 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]

"District office" means a child support ~~enforcement~~ services 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.

"Full-service case" means a child support case for which ~~CSED~~ OCSS 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. The terms "income assignment" and "income withholding" may be used interchangeably. [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.

"Intrastate case" means a case existing or occurring within the boundaries of a single state.

"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," **"SoonerCare (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~~ OCSS provides only IV-D services related to securing medical support to non-TANF SoonerCare (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.

"Notice of Income Assignment" means the tool used to effect the income withholding process. This document is used to notify employers and other withholders to deduct child support payments from noncustodial parents' income and to send the payments to Oklahoma's Centralized Support Registry for distribution. The terms "income withholding" and "income assignment" may be used interchangeably.

"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]

"OCSS" means Oklahoma Child Support Services. OCSS 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, and others. OCSS includes all of these offices and their employees and agents. OCSS is formerly known as the Child Support Enforcement Division of the Oklahoma Department of Human Services.

"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~~ child support program for the State of Oklahoma.

"Overpayment" means a payment to a custodial person, noncustodial parent, or other entity by ~~CSED~~ OCSS to which the entity or person is not entitled.

"Participant in a case" means a child, parent or alleged father, or custodial person associated with a child support ~~enforcement~~ services case.

"Past support" means past-due support or support for a prior period. See the definition for "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~~ Section 7700-204 of Title 10 of the Oklahoma Statutes, *is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.* [10 O.S. § 7700-102]

"Social Security Act" means Public Law 74-271, approved August 14, 1935, as currently in effect.

"State's attorney" means a lawyer employed in the child support program to represent the state in rendering services pursuant to the Social Security Act, codified in Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code.

"Support" means all payments or other obligations due and owing to the custodial person or person entitled by the noncustodial 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 replaces Aid to Families with Dependent Children (AFDC).

"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~~ services. The Oklahoma Department of Human Services is the designated agency in Oklahoma. ~~The~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) administers the plan.

(2) ~~CSED~~ OCSS provides services through a state office and other offices throughout the state 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~~ OCSS is to provide child support ~~enforcement~~ services in all IV-A TANF, IV-E foster care, and non-TANF SoonerCare (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~~ OCSS 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) OCSS is committed to the right of all parties to have access to the justice system for the purpose of enhancing understanding and ownership of the case. In addition to the child support services provided by OCSS as described

in this Chapter, when parties want to be heard on child support issues, regardless of whether the positions of the party are contrary to the state's position and may be subject to legal defenses, OCSS:

(A) provides available pro se self-help forms to request a hearing before either the Office of Administrative Hearings: Child Support (OAH) under OAC 340:2-28-17.2 or the district court. OAH or the district court determine whether a hearing is granted; and

(B) refers parties to community resources including, but not limited to:

(i) lawyer referral services;

(ii) community legal services;

(iii) other available self-help legal forms; and

(iv) other available informational materials and community resource materials.

(~~4~~5) ~~CSED~~ OCSS 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~~ OCSS services include, but are not limited to:

(1) establishment of paternity, child support obligations, ongoing medical support, and ongoing child care obligations through administrative and court actions;

(2) enforcement of child support, fixed sums and judgments for medical support including birthing costs, health care coverage, fixed ongoing child care costs, 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~~ OCSS 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~~ OCSS 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~~ OCSS provides limited services, when appropriate, even if no individual noncustodial parent or custodial person resides in Oklahoma.

340:25-1-2.1. Location for information

(a) **Mailing address.** The mailing address of the state office of Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) is: ~~Child Support Enforcement Division~~ Oklahoma Child Support Services, Capitol Station Box 53552, Oklahoma City, ~~OK~~ Oklahoma 73152-3552.

(b) ~~**CSED**~~ **OCSS 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 toll-free at 1-800-522-2922. The Teletypewriter (TTY) number for the hearing impaired is 405-522-3792 in the Oklahoma City calling area, or 1-866-264-4767 toll-free.

~~(c) **Tribal telephone information.** Inquiries regarding child support cases with the:~~

~~(1) Chickasaw Nation Tribal Child Support Services may be made by telephoning toll-free at 1-866-431-3419.~~

~~(2) Cherokee Nation Child Support office may be made by telephoning 918-453-5444.~~

~~(3) Osage nation Child Support offices may be made by telephoning 918-287-5458.~~

(c) **Interpreter services.** The Oklahoma Department of Human Services (OKDHS) provides, at no cost, oral or sign language or foreign language interpretation services.

(d) **Oklahoma Employer Services Center.** The Oklahoma Employer Services Center (OKESC) processes incoming employer questionnaires regarding employment verification and insurance availability, and answers employer questions regarding new hire reporting, income withholding, and medical support. Employer and insurance plan administrator inquiries regarding child support cases may be made by telephoning 405-522-5550 in the Oklahoma City calling area, or toll-free at 1-866-553-2368. OKESC's fax number is 405-522-5555. The mailing address for OKESC is: Oklahoma Employer Services Center, P.O. Box 248805, Oklahoma City, Oklahoma 73124-8805.

(~~d~~e) **Internet access.** Information about ~~the Child Support Enforcement Program~~ OCSS is available from the ~~CSED~~ OCSS Internet page at http://www.okdhs.org.

(1) A customer who has an active child support case(s) and ~~an Oklahoma Department of Human Services (OKDHS)~~ OKDHS customer identification number may use the Internet to access information about the customer's case(s).

(2) A customer may contact ~~CSED~~ OCSS as described in this Section to request a child support customer personal identification number (PIN) and instructions for accessing case information on the Internet.

340:25-1-5.1. Administrative complaint procedure

(a) **Purpose and scope.**

(1) The administrative complaint procedure is for IV-D customers of ~~the Child~~ Oklahoma Child Support Services ~~Enforcement Division (CSED)~~ (OCSS) of the Oklahoma Department of Human Services (OKDHS). ~~CSED~~ OCSS:

(A) represents the state's economic interest in children;

(B) does not represent either parent, a custodian, or the child. Parents and custodians may apply for ~~CSED~~ OCSS services, and ~~CSED~~ OCSS enforces the duties of parents to support their children; and

(C) considers parents and custodians as customers, whom ~~CSED~~ OCSS treats with dignity and respect.

(2) The administrative complaint procedure is established under Section 303.35 of Title 45 of the Code of Federal Regulations and available to customers in Oklahoma and from other states. The purpose is to provide:

(A) ~~CSED~~ OCSS customers an opportunity to raise concerns about services or treatment they receive, request an administrative review, and take appropriate action when there is evidence that an error occurred, or an action should have been taken on their case;

(B) customers a fast and effective procedure for reviewing issues that have no other review process. The intent of the complaint procedure is to provide customers a process for having their cases reviewed and not to require formal administrative hearing processes or adjudication of complaints; and

(C) an informal rather than a formal hearing process. It does not replace or extend other child support enforcement processes, such as court processes, that are established by federal or state statutes, rules, or regulations. The complaint process is intended to remedy errors, not to allow individuals to dictate action in a case.

(b) **Procedure.**

(1) **Step 1.** ~~CSED~~ OCSS encourages any customer who has a complaint about ~~a CSED~~ an OCSS district ~~child support enforcement~~ office or state office ~~unit~~ center to address the complaint orally or by letter, fax, or e-mail to the ~~CSED~~ OCSS ~~unit~~ state or district office for resolution. Interstate customers express their concerns to the IV-D agency in the state in which they applied or were referred for services.

(2) **Step 2.**

(A) If the customer is dissatisfied with the response or receives no response from the ~~CSED~~ OCSS ~~unit~~ state or district office, the customer may ~~send a written complaint to~~ contact Oklahoma Child Support ~~Enforcement Division~~ Services, Attention: ~~Community Collaboration Unit (CCU)~~ Center for Customer Services (CCS), P.O. Box 53552, Oklahoma City, ~~OK~~ Oklahoma 73152, or by fax to 405-522-3685, or by e-mail to =csed.customeroutreach@okdhs.org, or by telephone to 405-522-5871. The customer may describe the complaint on ~~a form supplied by CSED~~ Form 03EN011E, Child Support Comments, (available upon request over telephone, at a district office), or Form 03EN012E (available on the Internet), which elicits the information listed in (i) through (ix), or in a letter, fax, or e-mail, including:

(i) first and last name;

(ii) standing of the person submitting the complaint, for example, the noncustodial parent, custodial person, biological parent, or an attorney of record or authorized representative on behalf of the noncustodial parent, custodial person, or biological parent;

(iii) the first and last names, mailing address, and telephone number of the attorney of record or authorized representative, if any;

(iv) Social Security number;

(v) child support case number;

(vi) mailing address;

(vii) telephone number;

(viii) an explanation, including names of people and locations, dates, and times of incidents; and

(ix) a description of the desired action to resolve the complaint.

(B) The ~~CCU~~ CCS refers complaints about cases to the ~~CSED~~ OCSS district office or state office ~~unit~~ center for administrative review. The district office or state office ~~unit~~ center conducts the administrative review and notifies the customer ~~in writing~~ of the results of the review and any actions taken within ~~30~~ five days after the written complaint is received in the ~~CCU~~ CCS. The method of notification is requested by the customer. If contact in the manner requested by the customer is unsuccessful, written notification is made.

(3) **Step 3.** If the customer is dissatisfied with the response, the customer may ask for further review by submitting a ~~written~~ request to the ~~CCU~~ CCS. This request for review may be made by telephone, letter, fax, or e-mail.

(A) The division director or a designee reviews the complaint, the administrative review of the complaint, and any action taken.

(B) Within ~~30~~ five days after the written request for further review is received in ~~CCU~~ CCS, ~~CSED~~ OCSS notifies the customer and the district office or state office ~~unit~~ center ~~in writing~~ of the results and any actions taken. The method of notification is requested by the customer. If contact in the manner requested by the customer is unsuccessful, written notification is made. The result of this review is the final decision of ~~CSED~~ OCSS.

SUBCHAPTER 3. COMMISSIONED PEACE OFFICERS

340:25-3-1. Authority and scope

(a) Section 162.2 of Title 56 of the Oklahoma Statutes authorizes the Director of the Oklahoma Department of Human Services (OKDHS) to appoint and commission peace officers to conduct investigations and assist in prosecuting court proceedings related to child support ~~enforcement~~. Peace officers of ~~the Child Support Enforcement Division (CSED)~~ Oklahoma Child Support Services (OCSS) serve civil process and execute ~~process~~, arrest warrants~~,~~ and other court orders in cases in which OKDHS is a party or participant.

(b) Peace officers may be authorized to possess and use firearms while performing their official OKDHS duties.

Firearms are carried in compliance with applicable state and federal laws.

(c) This Subchapter does not apply to peace officers employed by entities under contract or agreement with ~~CSED~~ OCSS.

340:25-3-1.1. Definitions

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

"CLEET" means the Council on Law Enforcement Education and Training.

"Next friend" means a person who appears in court on behalf of another person who is under disability, a minor, or otherwise unable to maintain a lawsuit on their own behalf as a result of their circumstances. The next friend is not a party to the lawsuit and can be any legally-competent person whose interests do not run counter to those of the person on whose behalf they are acting. The next friend is considered an agent of the court whose role is to protect the rights of the person on whose behalf they are acting.

"Peace officer" means a peace officer commissioned and employed by the Oklahoma Department of Human Services (OKDHS) within ~~the~~ Oklahoma Child Support ~~Enforcement Division~~ Services under Section 162.2 of Title 56 of the Oklahoma Statutes. It does not include peace officers employed by entities under contract or agreement with OKDHS.

"Service of Process" means the delivery of a writ or summons to a party for the purpose of obtaining jurisdiction and to notify of a legal proceeding against the party.

340:25-3-3. Service of process

(a) **Authority.** ~~The Oklahoma Department of Human Services Child Support Enforcement Division (CSED)~~ Oklahoma Child Support Services (OCSS) follows the provisions of Section 2004 of Title 12 of the Oklahoma Statutes for service of process.

(b) **Personal service.** ~~CSED~~ OCSS uses personal service when:

(1) a person has not accepted service by certified mail;

(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.

(c) **Service by regular mail to address of record.** Service to the address of record is not appropriate when:

(1) the remedy sought is punitive in nature, including but not limited to, indirect contempt of court action; or

(2) when the court may require a higher level of notice to the affected party, including but not limited to, actions to determine paternity.

(~~c~~d) **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~~ OCSS:

(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~~ OCSS 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~~e) **Minor noncustodial parent.** ~~CSED~~ OCSS serves a minor noncustodial 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.

340:25-3-5. Use of force

Peace officers have the right to use reasonable, necessary force to defend themselves and others against life-threatening, violent, and dangerous personal attack ~~in the course of their duties~~. Force may only be used by peace officers within applicable laws and the limits given in (1) - (4) of this subsection.

(1) The degree of force used must be the minimum necessary to defend oneself or others as described in (2) of this subsection and may include physical apprehension and restraining techniques which result in an application of less than deadly force.

(2) Deadly force is that which is applied with the intent of causing, or which a reasonable person should know would cause, death or serious bodily harm. Deadly force is only used in:

(A) self defense to prevent death or serious injury to oneself; or

(B) defense of others to prevent death or commission of a violent offense threatening serious bodily ~~injury~~ harm to others.

(3) Firearms may not be used to attempt to stop or disable a vehicle. However, if a vehicle is being used as a weapon, firearms may be used toward the driver of the vehicle, but not after the vehicle is no longer in a position to threaten the peace officer.

~~(4) Warning shots are forbidden.~~

SUBCHAPTER 5. OPERATIONAL POLICIES

PART 9. DISCLOSURE OF INFORMATION

340:25-5-66. Legal basis for release of information

Federal and state laws and the rules adopted by the Oklahoma Commission for Human Services restrict the use and disclosure of information. Release of information from Child Support ~~Enforcement~~ Program records is based on applicable provisions of:

(1) Sections OAC 340:2-21-12 through 340:2-21-16, ~~340:2-21-32, 340:2-21-35,~~ and 340:75-1-44;

(2) Chapter 70 of Title 10, Section 413 of Title 43, Sections 24A.1 through 24A.26 of Title 51, and Sections 183 and 231 through 240.23 of Title 56 of the Oklahoma Statutes;

(3) Sections 303.15, 303.70, and 307.13 of Title 45 of the Code of Federal Regulations; and

(4) Sections 653, 654, 654a, and 663 of Title 42 of the United States Code.

PART 11. ~~CSED~~ OCSS SYSTEM SECURITY

340:25-5-75. Authority and responsibility

~~The~~ Oklahoma ~~Department of Human Services~~ Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) operates a single statewide automated data processing and information retrieval system that meets the requirements of:

(1) Sections 652, 654, 654a, and 655 of Title 42 of the United States Code; and

(2) Section 302.85 and Part 307 of Title 45 of the Code of Federal Regulations.

PART 13. RETENTION AND DESTRUCTION OF RECORDS

340:25-5-95. Scope and applicability

~~The~~ Oklahoma ~~Department of Human Services~~ Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) manages and disposes of records according to Oklahoma Statutes as interpreted in ~~OAC 340:2-21-20 through 340:2-21-35~~ OKDHS:2-21-50 through OKDHS:2-21-66. Per OAC 340:25-5-55, ~~CSED~~ OCSS maintains all records for cases closed under Section 303.11 of Title 45 of the Code of Federal Regulations for a minimum of three years.

PART 15. CASE INITIATION, CASE MANAGEMENT, AND CASE CLOSURE

340:25-5-117. Initiation of IV-D cases

(a) **IV-A, IV-E foster care, non-TANF SoonerCare (Medicaid), and child care subsidy referrals.**

(1) ~~The~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) automatically initiates child support ~~enforcement~~ cases without additional application for certified IV-A, IV-E foster care, non-TANF (Temporary Assistance for Needy Families) SoonerCare (Medicaid), and child care subsidy referrals.

(2) Custodial persons who apply for non-TANF SoonerCare (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(l)(1)(A), 1396k, or 1396r-6 of Title 42 of the United States Code.

(B) ~~CSED~~ OCSS must open a IV-D medical enforcement only case as described in OAC 340:25-5-169. ~~CSED~~ OCSS 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~~ OCSS receives a referral from the Family Support Services (FSS) worker, ~~CSED~~ OCSS 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~~ OCSS receives a non-TANF SoonerCare (Medicaid) referral from the FSS worker in which assigned court-ordered child support is owed, ~~CSED~~ OCSS must open a full-service case under OAC 340:25-5-169.

(5) Custodial persons who apply for non-TANF SoonerCare (Medicaid) on behalf of their child(ren) only are not required to cooperate in establishing paternity and obtaining medical support. Therefore, except when (a)(3) of this Section applies, ~~CSED~~ OCSS does not provide child support services unless the ~~FSS referral is coded to indicate that the~~ custodial person has made a request for a full-service case or the case is for medical enforcement only.

(b) **Termination of IV-A, IV-E foster care, and non-TANF SoonerCare (Medicaid) benefits.** When a family is no longer eligible for assistance under IV-A, IV-E foster care, or SoonerCare (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 SoonerCare (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 03EN001E, Application for Child Support Services, even if ~~CSED~~ OCSS has an active case because of unreimbursed assistance owed to the state.

(c) **Referrals from other jurisdictions.** ~~CSED~~ OCSS accepts cases referred:

(1) by any state or tribal IV-D agency and from other countries when the noncustodial parent resides in Oklahoma. ~~CSED~~ OCSS 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~~ OCSS opens full-service cases for noncustodial parents who have filed Form 03PA209E, Acknowledgment of 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 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~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) closes cases eligible for closure under Section 303.11 of Title 45 of the Code of Federal Regulations (CFR).

(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 (5) of this subsection applies.

(1) 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 custodial person is participating in the Oklahoma Department of Human Services (OKDHS) ~~child care subsidy program~~ Child Care Subsidy Program, is not receiving Temporary Assistance for Needy Families (TANF) or non-TANF SoonerCare (Medicaid), requests closure, and (A) and (B) of this paragraph apply.

(A) There is a child support order.

(B) The custodial person is receiving the full amount of the current monthly child support obligation and has reported to the person's Family Support Services worker receipt of this child support income.

~~(3) 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 custodial person later contacts CSED to decline child support services.~~

~~(B) No court hearing has been held to enforce the child support order.~~

(~~4~~3) The custodial person is participating in the OKDHS ~~child care subsidy program~~ Child Care Subsidy Program, is receiving non-TANF SoonerCare (Medicaid) benefits for a child(ren) only, requests closure, and all the criteria in ~~paragraphs~~ (2) ~~and (3)~~ of this subsection ~~apply~~ applies.

(~~5~~4) The noncustodial parent is receiving Supplemental Security Income, has no income or assets to pay arrears, and the child support order is set at or modified to $0.00 per month due to the parent's disability and lack of income.

(d) A child support case may be closed when the custodial person is receiving non-TANF SoonerCare (Medicaid) benefits for a child(ren) only when the custodial person:

(1) cannot be located under Section 303.11(b)10 of Title 45 of CFR; or

(2) fails to cooperate and an action by the custodial person is essential for the next step in providing child support services under Section 303.11(b)(11) of Title 45 of CFR.

(~~d~~e) When ~~CSED~~ OCSS closes a non-public assistance child support case ~~because the parties to a case reunite or the child(ren) is adopted~~, ~~CSED~~ OCSS terminates the Order/Notice to Withhold Income for Child Support with the employer per OAC 340:25-5-201.1.

~~(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,~~ CFR when IV-A TANF, IV-E foster care, and non-TANF SoonerCare (Medicaid) services are discontinued, ~~CSED~~ OCSS notifies the recipient that ~~CSED~~ OCSS 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~~ OCSS closes the case. If the custodial person fails to respond, ~~CSED~~ OCSS 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~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) considers whether the case is eligible for assignment to one of the tribal programs under OAC 340:25-5-124.2. ~~CSED~~ OCSS 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 assigned to one of the tribal programs, ~~CSED~~ OCSS assigns cases under this Section.

(1) Oklahoma child support cases are assigned to a district office serving the county where a prior Family and Domestic district court case exists involving the parents and child(ren), regardless of whether or not a child support order was entered as to either parent. If there is a guardianship order in effect, the case is assigned to the district office serving the county in which the guardianship action was filed. The district office proceeds to:

(A) petition the guardianship court to defer jurisdiction of child support to ~~CSED~~ OCSS. The case then follows regular case assignment rules;

(B) petition the guardianship court to defer jurisdiction of child support to a pre-existing Family and Domestic court case involving the parents and child(ren) to enforce an existing child support order or establish a child support order. The case is assigned to the district office serving the county with the existing Family and Domestic court order; or

(C) petition the guardianship court to establish a child support order. The case is assigned to the district office serving the county of the guardianship.

(2) 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.

(3) 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 and there is no prior Family and Domestic district court case on file;

(B) a federal or tribal child support order; or

(C) a child support order from another state.

(4) When the applicant for child support services is the noncustodial parent and the location of the custodial person and child is unknown and there is no prior paternity or child support order established, cases are assigned to the office responsible for the county in which the noncustodial parent resides until the custodial person and child are located.

(~~4~~5) 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 alleged father resides.

(~~5~~6) 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.

(~~6~~7) ~~CSED~~ OCSS 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.

(~~7~~8) OCSS does not transfer cases because the custodial person files a contempt action in a county outside of the original district office's service area.

(9) ~~CSED~~ OCSS 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~~ referral and transfer of cases to an Oklahoma tribal child support ~~office~~ program

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meanings:

(1) **"Native American"** means a person who is an enrolled member of a federally recognized Indian tribe.

(2) **"Tribal child support office program"** means a federally recognized comprehensive IV-D child support program in Oklahoma.

(b) **~~Legal base and scope~~ Scope.** The tribal child support ~~offices~~ programs:

(1) provide 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~~ to tribal members as outlined in their tribal codes; and

(2) do 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~~.

(c) **~~New tribal~~ Tribal case ~~assignments~~ referrals and transfers from ~~the~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS).**

(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 district child support office incoming interstate referrals and Form 03EN001E, Application for Child Support Services, with a:

(A) Native American noncustodial parent;

(B) tribal child support order; or

(C) tribal employer.

(2) ~~CSED~~ OCSS retains cases with tribal members and tribal child support orders unless:

(A) the applicant of the ~~CSED~~ OCSS case applies for child support services with a tribal child support ~~office~~ program and requests a transfer of the ~~CSED~~ OCSS case to a tribal child support ~~office~~ program, and the ~~CSED~~ OCSS case meets the eligibility requirements as determined by the tribal child support ~~office~~ program; or

(B) the noncustodial parent is a tribal employee, and the employer refuses to honor OCSS' income withholding order.

(3) Upon confirmation from a tribal child support ~~office services~~ program that the ~~CSED~~ OCSS case applicant has applied for tribal child support services and there is no pending litigation, the district office provides copies of relevant documents from the district office case file to that tribal child support ~~office~~ program and retains ~~a~~ the district office case file.

(d) ~~**Transfers**~~ **Referrals and transfers from tribal child support ~~offices~~ programs ~~and CSED~~ to OCSS ~~registration of tribal child support orders.~~** ~~CSED~~ OCSS accepts ~~cases~~ case referrals and transfers ~~returned to CSED~~ from a tribal child support ~~offices~~ program when:

(1) ~~due to the~~ there is lack of jurisdiction to proceed in the tribal court system;

(2) ~~if~~ a current customer with a tribal child support program applies for services with ~~CSED~~ OCSS; or

(3) a noncustodial parent leaves tribal employment and the applicant on the former OCSS case does not apply for services with the tribal child support ~~office services~~ program. ~~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 program's service area.~~

(e) **Registration of tribal child support orders.** OCSS 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 programs' service area.

340:25-5-124.3. Assignment and management of deprived cases

When a case includes a child(ren) in a deprived court action, ~~the~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) assigns cases under this Section.

(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 case.** When there is a prior Family and Domestic district court case involving the parent(s) and child(ren), the case is assigned to a district office serving the county in which the order was entered or docketed, regardless of whether a child support order was entered as to either parent.

(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 child support order was entered prior to the filing of the juvenile petition, there is no existing Family and Domestic district court case, the parental rights of the noncustodial parent are terminated, and the child is not placed with that noncustodial parent, the child support case is assigned and transferred according to (A) through (E) of this paragraph, as applicable.

(A) When a child(ren) is permanently placed within 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 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.

(D) When parental rights have been terminated, ~~CSED~~ OCSS requests the court refer all child support issues regarding the parent whose rights have been terminated to ~~CSED~~ OCSS for filing in the appropriate court.

(E) When the juvenile court has entered a child support order but no longer desires to exercise jurisdiction to enforce the order, no prior Family and Domestic district court case exists, and the child(ren) is not placed with the noncustodial parent, ~~CSED~~ OCSS dockets the juvenile child support or paternity order in a new district court case according to (i) through (iii) of this subparagraph, as applicable:

(i) in the county in which the noncustodial parent resides or the last verified address of the noncustodial parent;

(ii) if both parents are noncustodial parents, (C) of this paragraph applies; or

(iii) in the county where the child(ren) resides if parental rights have been terminated.

(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, or when child support issues have been deferred by the juvenile court, the office with the existing child support order dockets 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) of this paragraph.

(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)~~ Services (OCSS) 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~~ OCSS 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~~ OCSS 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) 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~~ OCSS takes action to enforce past-due support and support for a prior period under OAC 340:25-5, Part 23.

(2) When a case new to ~~CSED~~ OCSS under OAC 340:25-5-117 has an existing order, ~~CSED~~ OCSS does not calculate a past-due support balance or take action to enforce past-due support until 30 days from the date of mailing of the notice of case letter and affidavit of payments document to the noncustodial parent. This does not preclude the initiation of an income assignment to collect current support.

(3) Past-due child support remains due to the custodial person with whom a child resided during the month the past support was due.

(4) When ~~CSED~~ OCSS 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~~ OCSS 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;

(B) an agreement for the noncustodial parent to pay a specified number of current child support payments in the future; and

(C) acceptance of in-kind 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~~ OCSS:

(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

(B) may negotiate the right to collect all or part of past support owed to the State of Oklahoma.

(d) **Annual notice.** ~~CSED~~ OCSS 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.

(e) **Death of custodial person.** If the custodial person dies and no past support is owed to any state, ~~CSED~~ OCSS refunds child support payments to the decedent's estate when notified in writing by the administrator of the estate. ~~CSED~~ OCSS does not file a forced probate court action to determine heirs and distribute past support to heirs. When:

(1) ~~CSED~~ OCSS does not receive notice from the administrator of the estate within six months of the custodial person's death, ~~CSED~~ OCSS 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~~ OCSS distributes the payments according to OAC 340:25-5-351.

(f) **Jurisdiction.** When an Oklahoma tribunal has personal and subject matter jurisdiction and can obtain service of process on the noncustodial parent, ~~CSED~~ OCSS 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) **Scope and applicability.** ~~The~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS):

(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) **Medical support provision of child support order.** A child support order established by ~~CSED~~ OCSS must contain a provision for medical support. The medical support provision

must include one of the provisions in (1) through (4) of this subsection.

(1) 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 in effect. Alternative health coverage includes, but is not limited to, an individual policy for the child(ren), Indian Health Services, and military dependent benefits.

(3) Either or both parents are required to secure health insurance for the minor child(ren) in addition to Indian Health Services (IHS).

(4) Either or both parents are required to seek alternative health coverage other than SoonerCare (Medicaid) if an employer or other group plan is not available at reasonable cost and/or is not accessible. Any alternative health coverage must comply with (1) and (2) of subsection (c) of this Section.

(c) **Standards for health coverage.** When ~~CSED~~ OCSS seeks an order for health coverage, ~~CSED~~ OCSS applies the standards in (1) and (2) of this subsection:

(1) Health insurance is reasonable in cost, which means that the actual out-of-pocket premium cost paid by the insured does not exceed five percent of the gross income of the parent who is ordered to provide health insurance. To calculate the actual premium cost of the health insurance, ~~CSED~~ OCSS:

(A) deducts from the total insurance premium the cost of coverage for the parent;

(B) deducts from the total insurance premium the cost of coverage for any other adults in the household, when that cost information is available;

(C) divides the remainder by the number of dependent children covered; and

(D) multiplies the amount per child by the number of children in the child support case under consideration.

(2) Health insurance is accessible, which means that there are available providers appropriate to meet the child(ren)'s individual health care needs no more than 60 miles one-way from the primary residence of the child(ren).

(d) **Exceptions to standards.** If the parents agree or the court otherwise orders, the cost of health insurance may exceed five percent of the gross income of the parent ordered to provide health insurance and/or accessibility may exceed 60 miles one-way from the primary residence of the child(ren).

(e) **Indian Health Services (IHS).** 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~~ OCSS 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 IHS, upon request of the custodial person or noncustodial parent.

(f) **Notification requirements.** The noncustodial parent and the custodial person must notify ~~CSED~~ OCSS 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.

(g) **Modification request.** When a child support order exists, ~~CSED~~ OCSS 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~~ OCSS seeks a medical support order in a tribunal that has jurisdiction to modify the child support order.

340:25-5-171. Enforcement of a medical support order

(a) When ~~the noncustodial~~ a 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)~~ Services (OCSS), uses the National Medical Support Notice (NMSN) to aid in enrolling the child(ren) in the group health plans for which ~~the noncustodial~~ a parent is eligible. ~~CSED~~ OCSS 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~~ OCSS 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.

(c) If the employer response to the NMSN indicates that enrollment cannot be completed because of the cost of coverage, ~~CSED~~ OCSS applies OAC 340:25-5-168 to determine if coverage is available at reasonable cost. ~~CSED~~ OCSS conducts a review of the order under OAC 340:25-5-198.1 and seeks a modified order if the review indicates that modification would result in an enforceable medical support order or that the child support order should be adjusted.

(d) ~~CSED~~ OCSS 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~~ OCSS 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

(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.

(e) ~~CSED~~ OCSS 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.

(f) ~~CSED~~ OCSS 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.

(g) If the employer or insurer complies with the requirements of the NMSN, ~~CSED~~ OCSS may dismiss the case against the employer or insurer.

(h) Employers and insurers must send any fine(s) imposed by the court, under Section ~~225~~ 235 of Title 56 of the Oklahoma Statutes, by check or money order to ~~CSED~~ OCSS, Attn: Finance, P.O. Box 53552, Oklahoma City, Oklahoma 73125-3552.

(i) ~~If~~ In addition to issuing a NMSN, when the custodial person is ordered to provide medical support for the minor child(ren) and is not complying with the order, ~~CSED~~ OCSS may either:

(1) ~~enforces~~ enforce the medical support order by a license revocation action under Section 139.1 of Title 43 of the Oklahoma Statutes, or by an indirect contempt of court action under Section ~~566~~ 566.1 of Title 21 of the Oklahoma Statutes; or

(2) ~~seeks~~ seek a modification of the order under OAC 340:25-5-198.2.

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)~~ Services (OCSS) 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) 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 Sections 1-311 and 1-321 of Title 63 of the Oklahoma Statutes.

(b) ~~CSED~~ OCSS ~~does not initiate~~ only initiates a paternity action ~~if~~ when the child has no legal father. A child has a legal father when:

(1) paternity has been voluntarily acknowledged in Oklahoma or another state and not rescinded within 60 days; [10 O.S. §§ 7700-301 through 7700-314]

(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]

(c) ~~If no other conclusive presumption of paternity or court determination of paternity exists for a child, the parents may complete and sign Form 03PA209E, Acknowledgment of Paternity.~~ ~~CSED~~ OCSS provides Form 03PA209E, Acknowledgment of Paternity, for voluntary acknowledgment of paternity under Section 7700-312 of Title 10 and Sections 1-311 and 1-311.3 of Title 63 of the Oklahoma Statutes. ~~CSED~~ OCSS also provides several companion forms described in (1) through (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 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 03PA212E, Adult Child's (18 Years or Older) Consent.

(2) Form 03PA210E, Denial of Paternity, must accompany Form 03PA209E if the mother of a child is married to someone other than the natural father 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 03PA209E if:~~

~~(A) there is a presumed father;~~

~~(B) the mother and the presumed father agree he is not the natural father of the child; and~~

~~(C) the child is under two years of age.~~

(3) Under Sections 7700-307 and 7700-312 of Title 10 of the Oklahoma Statutes, ~~CSED~~ OCSS provides Form 03PA211E, Rescission of Acknowledgment of Paternity, for a person to use to cancel the legal finding of paternity created by having previously signed Form 03PA209E. This form must be completed, signed, and filed with the OSDH Division of Vital Records within 60 days after the date of the last signature on Form 03PA209E.

(A) When a person submits Form 03PA211E within 60 days after the date of the last signature on Form 03PA209E, ~~CSED~~ OCSS sends notice of the rescission to all other signatories on 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 address of the signatories, if different.

(B) When rescissions are submitted to ~~CSED~~ OCSS past the 60-day time period, ~~CSED~~ OCSS sends a letter to the person who submitted Form

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~~ OCSS 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~~ OCSS within 60 days after the date of the last signatures on Forms 03PA209E and 03PA210E, ~~CSED~~ OCSS 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~~ OCSS past the 60-day time period, ~~CSED~~ OCSS 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~~ OCSS establishes paternity against an alleged father or with a custodial person, either of whom is a servicemember, ~~CSED~~ OCSS 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~~ OCSS has the cooperation of a deceased alleged father's relatives, ~~CSED~~ OCSS establishes paternity of the child(ren) through genetic testing of the relatives as necessary according to the standards and provisions of the Uniform Parentage Act, Sections 7700-501 through 7700-511 of Title 10 of the Oklahoma Statutes.

(f) ~~CSED~~ OCSS 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.

(g) When a default paternity order has been entered~~,~~ and either party contacts OCSS in writing within 30 days of entry of the default order, ~~CSED~~ OCSS treats the request as a motion to vacate or modify ~~requests the court vacate the order if the noncustodial parent contacts CSED within 30 days of entry of~~ the default order. ~~When the order is vacated~~ After the request is filed with the district court or Office of Administrative Hearings: Child Support, ~~CSED~~ OCSS pursues genetic testing and ~~enters a~~ vacates or amends the default ~~child support~~ order as necessary based on findings.

340:25-5-176.1. Challenges to paternity establishment

(a) ~~CSED~~ Oklahoma Child Support Services (OCSS) ~~defends a paternity establishment~~ objects to a paternity challenge proceeding 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;

(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]~~ OCSS does not object to a paternity challenge proceeding when:

(1) the parties neither cohabited nor engaged in sexual intercourse and the husband never held out the child as his own; or

(2) the mother, legal father, and biological father agree to adjudicate paternity. [10 O.S. § 7700-607]

(c) When a paternity challenge proceeding is brought by a child under 10 O.S. § 7700-637, the state's attorney reviews the facts of the case and determines whether or not an objection is appropriate under the circumstances.

340:25-5-178. Establishment of current child support

(a) ~~The~~ Oklahoma Child Support Services (OCSS)~~, 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) Section 83 of Title 10; Title 43; and Sections 231 through 240.23 of Title 56 of the Oklahoma Statutes.

(b) ~~CSED~~ OCSS 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~~ OCSS 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) Under Section 118 of Title 43 of the Oklahoma Statutes, ~~CSED~~ OCSS uses the best evidence available to determine a parent's monthly gross income for the child support computation form, including written earning records, past job history, and earning ability based on education and training, with a continued emphasis on setting orders that are fair and equitable.

(d) To establish the amount of current support, ~~CSED~~ OCSS considers "actual" child care expenses to be the amount paid to the child care provider by the custodial person except when subsection (e) applies. ~~CSED~~ OCSS 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.

(e) When the custodial person is participating in the OKDHS ~~child care subsidy program~~ Child Care Subsidy Program under Section 230.50 of Title 56 of the Oklahoma Statutes, ~~CSED~~ OCSS 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~~ OCSS 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~~ OCSS uses the corresponding family share co-payment amount based on the number of children in OKDHS subsidized child care. ~~CSED~~ OCSS 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~~ OCSS uses the proportionate share of the family share co-payment for the child(ren) included in the case.

(f) ~~CSED~~ OCSS 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~~ OCSS and published by the Administrative Office of the Courts on the Oklahoma State Courts Network Web site.

(g) ~~CSED~~ OCSS establishes child support orders for a child(ren) for whom child support is imposable under applicable law.

(h) When the noncustodial parent is a minor, ~~CSED~~ OCSS 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~~ OCSS does not impute gross income for the minor parent in the child support computation and only uses 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~~ OCSS 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.

(i) ~~CSED~~ OCSS enforces child support orders for adults with disabilities under Section 112.1A of Title 43 of the Oklahoma Statutes.

(j) ~~CSED~~ OCSS 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.

(k) ~~CSED~~ OCSS 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.

(l) When ~~CSED~~ OCSS establishes a child support order for a child of a noncustodial parent or a custodial person who is a servicemember, ~~CSED~~ OCSS applies the provisions of the Servicemembers Civil Relief Act, codified in Sections 501 through 596 of Title 50A of the United States Code.

(m) ~~CSED~~ OCSS does not impute gross income to a person who has been determined disabled by the Social Security Administration.

(n) When a default order for child support has been ordered and ~~the noncustodial parent~~ either party contacts ~~CSED~~ OCSS in writing within 30 days of entry of the default order and provides information to calculate an accurate child support obligation, ~~CSED~~ OCSS treats the request as a motion to vacate or modify and requests the court enter a new order consistent with the evidence presented.

PART 23. ENFORCEMENT

340:25-5-201.1. ~~Amendment of income assignment and modification after noncustodial parent obtains custody~~ Termination or amendment of income withholding

~~(a) The~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) amends or terminates the Order/Notice to Withhold Income for Child Support, as appropriate, to stop:

(1) withholding only current support when a noncustodial parent obtains physical custody of all children who are the subject of the support order, or when the parties to the case reunite. ~~CSED~~ OCSS does not amend the Order/Notice to Withhold Income for Child Support if there is any indication of parental kidnapping or involuntary relinquishment~~.~~;

~~(b) If the noncustodial parent obtains physical or legal custody of all children who are the subject of the support order and makes application for services, CSED initiates modification of the order to establish current support.~~

(2) all withholding when the custodial parent requests closure of a non-public assistance case; or

(3) all withholding when the case is updated as medical enforcement only.

340:25-5-203.2. Insurance intercept

(a) **Legal basis.** Oklahoma Child Support Services (OCSS) maintains an insurance intercept match process to identify noncustodial parents' assets and issue liens and levies on claims of noncustodial parents who are in noncompliance with an order for support under Section 237B of Title 56 of the Oklahoma Statutes.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meanings:

(1) **"Claimant"** means *either a first party claimant, a third party claimant, or both, and includes such claimant's*

designated legal representatives and includes a member of the claimant's immediate family designated by the claimant. [36 O.S. §1250.2]

(2) **"Third party claimant"** means *any individual, corporation, association, partnership, or other legal entity asserting a claim against any individual, corporation, association, partnership, or other legal entity insured under an insurance policy or insurance contract.* [36 O.S. §1250.2]

(c) **Insurance intercept age requirement.** Insurance companies subject to the requirements of Section 237B of Title 56 of the Oklahoma Statutes are not required to check for matches of any claimant's claims where the claimant is 13 years of age or younger.

(d) **Insurance intercept validation practices.** OCSS accepts either a claimant's Social Security number or name and date of birth as match verification criteria for compliance with Section 237B of Title 56 of the Oklahoma Statutes.

340:25-5-212. Financial institution data match reporting system

(a) **Legal basis.** ~~The~~ Oklahoma ~~Department of Human Services (OKDHS)~~ Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) maintains a financial institution data match reporting system to identify noncustodial parents' assets and issue levies on accounts of noncustodial parents who are in noncompliance with an order for support. In maintaining the system, ~~CSED~~ OCSS follows Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, associated federal regulations, and state statutes. This Section establishes provisions necessary to implement Sections 666(a)(17) and 669A of Title 42 of the United States Code and Sections 240.22 through 240.22G of Title 56 of the Oklahoma Statutes. The definitions in Section 240.22A of Title 56 of the Oklahoma Statutes apply to the terms used in this Section.

(b) **Financial institutions.**

(1) All data supplied to ~~CSED~~ OCSS by financial institutions doing business in Oklahoma must be in accordance with the Financial Institution Data Match Specifications Handbook published by the federal Office of Child Support Enforcement.

(2) A financial institution may charge an account levied on by ~~CSED~~ OCSS a fee of $20, under Section 240.22E(E) of Title 56 of the Oklahoma Statutes, which is deducted from the account before the financial institution remits funds to ~~CSED~~ OCSS. If the levied funds are subsequently refunded by ~~CSED~~ OCSS because of ~~a CSED~~ an OCSS error described in (d)(4)(A) or (d)(4)(B) of this Section, ~~CSED~~ OCSS refunds any fee charged to the appropriate account holder.

(c) **Levies.** Levies are for the total amount of past-due support as defined in Section 237.7 of Title 56 of the Oklahoma Statutes. Under Section 240.22G of Title 56 of the Oklahoma Statutes, ~~CSED~~ OCSS automatically issues a levy for each matched account unless the noncustodial parent is in full and timely compliance with a court-ordered payment plan. ~~CSED~~ OCSS considers a noncustodial parent in full and timely compliance with a court-ordered payment plan when the noncustodial parent has made voluntary payments of at least ~~92%~~ 92 percent of the court-ordered payment plan payments due over the last six full calendar months prior to the date of the levy. ~~CSED~~ OCSS considers a manual levy appropriate if there is evidence that the noncustodial parent has funds subject to levy not previously considered by ~~CSED~~ OCSS in establishing the monthly court-ordered payment plan.

(d) **Notice of levy and administrative review.**

(1) ~~CSED~~ OCSS sends a notice of levy to a noncustodial parent within three days after sending the levy to the financial institution. [56 O.S. § 240.22G] The notice of levy includes:

(A) instructions for the noncustodial parent or a non-obligated joint account holder to request an administrative review in writing;

(B) a description of the grounds for requesting an administrative review;

(C) a description of the review process; and

(D) notice that failure to submit a timely request for review in writing means the levy is final.

(2) It is the responsibility of the noncustodial parent to notify any joint account holder(s) of the levy.

(3) Either the noncustodial parent or a non-obligated joint account holder may request an administrative review of the levy in writing after the date on the notice of levy under Section 240.22G of Title 56 of the Oklahoma Statutes.

~~(4) The noncustodial parent may request an administrative review in writing when:~~

~~(A) there is a mistake of identity;~~

~~(B) the noncustodial parent did not owe three months of child support at the time of the levy;~~

~~(C) the amount taken by the levy is more than the noncustodial parent owes; or~~

~~(D) the levied funds are owned by a non-obligated joint account holder.~~

(~~5~~4) A non-obligated joint account holder may request an administrative review in writing when the levied funds are not owned by the noncustodial parent.

(5) Upon receipt of a request for an administrative review OCSS:

(A) contacts the requesting party within three business days to:

(i) notify the party that the review has begun; and

(ii) request further information as necessary;

(B) completes the review as soon as possible, not to exceed three business days from receiving all necessary information; and

(C) completes the review using the best information available when the party requesting a review does not provide the information requested by OCSS within five business days of the request.

(6) The purpose of the administrative review is to quickly resolve any obvious factual errors.

(7) After the administrative review, ~~CSED~~ OCSS issues a notice of administrative review decision and information about requesting an administrative hearing.

(e) **Administrative hearing.** Either the noncustodial parent or a non-obligated joint account holder may request a hearing before the ~~OKDHS~~ Oklahoma Department of Human Services Office of Administrative Hearings: Child Support (OAH), by the date specified in the notice of administrative review decision. A request for an OAH hearing must be submitted in writing to the district office.

(f) **Release of funds from levy.**

(1) ~~CSED~~ OCSS releases funds from levy when the noncustodial parent submits sufficient and credible evidence at the administrative review that the source of the funds is:

(A) Supplemental Security Income (SSI) benefits;

(B) State Supplemental Payments (SSP) for Aged, Blind and the Disabled;

(C) Temporary Assistance for Needy Families (TANF) benefits; or

(D) child support payments, if the obligor is the custodial person of a minor child(ren) and is receiving the payments as required by a court order.

(2) Funds from a levy may be released, in full or in part, at the discretion of the state's attorney when it is determined the levy negatively impacts a reliable source of child support, or is not in the best interest of the child(ren). When the funds are not assigned to the state, ~~CSED~~ OCSS considers the input of the custodial person in reviewing the case for release.

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 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~~ Oklahoma Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) 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~~ OCSS provides notice to the noncustodial parent of ~~CSED's~~ OCSS determination that the noncustodial parent owes child support 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 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.

(c) If ~~CSED~~ OCSS finds a request for certification was submitted in error, or in a life ~~and~~ or death ~~situations~~ situation, ~~CSED~~ OCSS requests immediate ~~withdrawal~~ release of a noncustodial ~~parent~~ parent's passport from the process described in (a) of this Section.

(d) ~~CSED~~ OCSS may request ~~withdrawal~~ release of a noncustodial ~~parent~~ parent's passport from the process described in (a) of this Section if the noncustodial parent pays the entire child support debt or:

(1) pays the entire child support debt down to the threshold amount;

(2) enters into a repayment agreement or order to retire the remaining child support debt in not more than 36 equal monthly payments; and

(3) provides ~~CSED~~ OCSS with a verified source of future income for which an income assignment may be issued for payment of all current support and arrears.

(e) A passport may be released from the passport referral process at the discretion of the OCSS director. The district office may request a director's exception when it is determined the passport denial, revocation, restriction, or limitation negatively impacts a reliable source of child support. When the arrears are not assigned to the state, OCSS considers the input of the custodial person in reviewing the case for release from the passport referral process.

(~~e~~f) After requesting ~~withdrawal~~ release of a case from the passport referral process, ~~CSED~~ OCSS may at any time recertify the case as described in (a) of this Section.

PART 31. CONSUMER REPORTING AGENCIES - CREDIT BUREAUS

340:25-5-265.1. Access of consumer reporting agency - credit bureau - information

(a) **Access to information.** ~~The~~ Oklahoma ~~Department of Human Services through its~~ Child Support ~~Enforcement Division (CSED)~~ Services (OCSS) periodically accesses credit information available through consumer reporting agencies - credit bureaus. Access of this information is governed by Sections 1681b and 1681f of Title 15 of the United States Code.

(b) **Notice.**

(1) Each time ~~CSED~~ OCSS requests a full credit bureau report on a noncustodial parent for use in establishment or modification of a support order, ~~CSED~~ OCSS sends the noncustodial parent advance notice to confirm that the report requested belongs to the correct person. The noncustodial parent is not required to authorize release of the report.

(2) ~~CSED~~ OCSS does not send a noncustodial parent advance notice when ~~CSED~~ OCSS requests a credit bureau report for locate or enforcement purposes.

PART 39. ACCOUNTING AND DISTRIBUTION

340:25-5-345.2. Definitions

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

"**Case type**" means a payee, including, but not limited to:

(A) custodial person;

(B) support owed to another state; or

(C) reimbursement for:

(i) Temporary Assistance for Needy Families program;

(ii) Foster Care program; or

(iii) Office of Juvenile Affairs program.

"Cashier's check" means *a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.* [12A O.S. §3-104]

"Certified check" means *a check accepted by the bank on which it is drawn.* [12A O.S. §3-409]

"Check" means a draft payable on demand and drawn on a bank. A negotiable instrument may be a check even though it is described on its face by another term such as "money order." [12A O.S. §3-104]

"Distributed payments" means funds have been logged to the case and the resulting issuance, if any, has occurred.

"Forgery" means a fraudulently endorsed and subsequently cashed warrant.

"Negotiable instrument" means *an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order,* if it meets the criteria outlined in Section 3-104 of Title 12A of the Oklahoma Statutes.

"Payee" means the person or entity to whom the check is written.

"Pended payments" means funds which are distributed to case balances but the payee has not yet received the money. Pended payments include, but are not limited to, cancelled by statute and stop pay issuances.

(A) **"Cancelled by statute"** means a warrant was issued but was not cashed by the payee within 90 days.

(B) **"Stop pay"** means an Oklahoma Child Support Services (OCSS) warrant was issued but the payee has requested the check not be approved for payment. The payee must complete Form 10AD044E, Affidavit of Lost or Destroyed Warrant, in order to initiate the stop payment process. Upon receipt of Form 10AD044E, OCSS notifies the Oklahoma State Treasurer and issues a replacement warrant.

"Unauthorized signature" means *a signature made without actual, implied or apparent authority. The term includes a forgery.* [12A O.S. §1-201]

"Undistributed payments" means funds received but not yet distributed to a case balance.

"Warrant" means an unconditional written order by which one person or entity authorizes another person or entity to pay a sum certain of money to a third person or entity. A warrant is also known as a check or bank draft.

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 Services (OCSS) ~~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~~ OCSS 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.**

(1) Support payments must be paid as instructed in writing by ~~CSED~~ OCSS to the Registry.

(2) OCSS offices may accept support payments when:

(A) a noncustodial parent offers a payment in connection with a court action; or

(B) a payment is made as part of a settlement agreement on a lien or levy on real or personal property.

(c) **Method of payment.** ~~CSED~~ OCSS 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~~ OCSS:

(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~~ OCSS as described in OAC 340:25-1-2.1;

(E) reserves the right to refuse to accept a personal or business check or direct debit after receiving a dishonored personal or business check, direct debit, electronic funds transfer (EFT), or other ~~payment~~ negotiable instrument from the same payor or on the same case; and

(F) considers the date of collection the date that payments are received by the Registry.

(3) When ~~CSED~~ OCSS refuses to accept a personal or business check, ~~or~~ direct debit, EFT, or other negotiable instrument from a payor under (2)(E) of this subsection, the payor:

(A) must submit the payment by cashier's check, ~~or~~ certified check, money order~~.~~, or online using a debit or credit card;

(B) is added to the OCSS Returned Payments List;

(C) remains on the Returned Payments List until OCSS receives the equivalent of 12 months of payments unless:

(i) the payment is returned due to missing endorsement;

(ii) payor provides prior notification that payment will be returned and remits a replacement payment within ten days of notification in the manner required by OCSS;

(iii) returned payment is insufficient funds caused by an OCSS Financial Institution Data Match levy; or

(iv) the reason for returned payment is deemed by OCSS to be out of payor's control;

(D) must request removal from the Returned Payments List by contacting OCSS as described in OAC 340:25-1-2.1.

(4) OCSS notifies the payor by mail:

(A) of the reason for the returned payment;

(B) that the payor has been placed on the Returned Payments List;

(C) that the payor must submit payments as outlined in (3)(A) of this subsection; and

(D) how the payor can be removed from the Returned Payments List.

(5) When OCSS removes the payor from the Returned Payments List and subsequently has another payment returned, payor is added back to the Returned Payments List and remains there indefinitely.

(~~c~~d) **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~~ OCSS online child support payment system (WebPay) at https://www.okdhs-paycs.com/Login.aspx.

(1) To transfer child support payments electronically, noncustodial parents, employers, and other payors must:

(A) ~~first~~ call ~~CSED~~ OCSS 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 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.

(2) WebPay payments do not replace federally mandated income withholding and will not stop or cancel income withholding orders for noncustodial parents.

(3) ~~CSED~~ OCSS 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.

(4) ~~CSED~~ OCSS reserves the right to:

(A) limit use of WebPay by imposing limits, hold times, or other measures if ~~CSED~~ OCSS 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;

(C) add payor to Returned Payments List under (c)(3) of this Section~~.~~;and

(D) specify what payment formats are used to conduct the electronic transfer of funds between businesses to state child support entities.

(i) Formats for electronically transferring funds and their identifying information have been developed by the Bankers Electronic Data Interchange (EDI) Council of the National Automated Clearing House Association (NACHA). These formats specify how employers and payroll companies electronically send the information and the capabilities that states must have to receive the information.

(ii) Cash Concentration and Disbursement (CCD) and Corporate Trade Exchange (CTX) payment formats are used within the NACHA network to transfer funds between businesses to state child support entities.

(iii) Addenda Records are used to transmit personally identifying information about noncustodial parents such as Social Security numbers along with their payments. Addenda Records identify the employer sending the payment and the payor to receive credit for the payment. A CCD entry accompanied by an Addenda Record is referred to as a CCD+.

(iv) OCSS accepts CCD+ and CTX formats from employers sending child support payments.

(v) OCSS does not accept Prearranged Payment and Deposit (PPD) formats because PPD formats lack the EDI Addendum Record.

(~~d~~e) **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~~ OCSS 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~~ OCSS 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) ~~To receive child support payments, a custodial person is initially issued a child support debit card.~~ Payments issued by debit card.

(A) ~~The custodial person may then enroll in direct deposit by calling the toll-free customer service telephone number located on the back of the debit card. There are no charges or fees for receiving child support payments by direct deposit. However, a custodial person must have a bank account held at a financial institution within the U.S. to receive direct deposit child support payments and normal banking charges may apply.~~ When an Oklahoma Department of Human Services (OKDHS) customer already has a debit card, at the point of OCSS initial child support payment issuance for a custodial person, a letter is mailed explaining that child support funds are added to the existing debit card account.

(B) ~~Some automated teller machine (ATM) withdrawals are provided free with the debit card, but some ATMs charge transaction fees.~~ When an OKDHS customer has not been issued an Oklahoma debit card, at the point of OCSS initial child support payment issuance, a letter is mailed explaining the debit card activation process and that the debit card should be expected within ten business days. The custodial person must activate the debit card within 90 days of issuance.

(i) When a card is not activated, OCSS mails a second letter to the custodial person after 45 days and a third letter after 90 days. The letters explain the importance of activating the debit card and that when the card is not activated within 90 days, the payment is no longer available on the debit card.

(ii) Payments issued to a custodial person who has not activated the debit card are returned to OCSS after 90 days. When payments are returned to OCSS, payments are applied under OAC 340:25-5-350.4. When the payments have been distributed to other case balances or returned to the noncustodial parent, the payments are not redistributed to the custodial person.

(2) ~~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.~~ Payments issued by direct deposit. After receiving a debit card, the custodial person may enroll in direct deposit by calling the toll-free customer service telephone number located on the back of the debit card. There are no charges or fees for receiving child support payments by direct deposit. A custodial person must have a bank account held at a financial institution within the United States to receive direct deposit child support payments and normal banking charges may apply.

(~~e~~f) **Forged endorsement on warrants.**

(1) When a custodial person reports that a warrant has been fraudulently cashed, ~~CSED~~ OCSS compares the payee's signature against the endorsement on the warrant and verifies that the signatures do not match.

(2) ~~CSED~~ OCSS sends the following documentation that has been completed and signed by the payee to the OST:

(A) Form 10AD044E, Affidavit of Lost or Destroyed Warrant;

(B) Form 10AD045E, Affidavit of Forged Endorsement; and

(C) Form 10AD046E, Investigation Questionnaire.

(3) ~~CSED~~ OCSS issues a replacement ~~payment for a fraudulently endorsed and subsequently cashed~~ warrant to the payee after ~~CSED~~ OCSS receives the return of funds from the Oklahoma State Treasurer's Office (OST) and the mandatory 60-day holding period imposed by the OST has lapsed.

(~~f~~g) **Overcollected support amounts.** ~~CSED~~ OCSS returns overcollected support amounts as described in OAC 340:25-5-350.1.

(~~g~~h) **Distribution errors.** ~~CSED~~ OCSS manages distribution errors as described in this subsection.

(1) ~~CSED~~ OCSS is not responsible for overpayment, underpayment, nonpayment, misdirection of payment, or other distribution error caused by either incorrect payments or information submitted to ~~CSED~~ OCSS, or ~~CSED~~ OCSS receiving no information or payment. ~~CSED~~ OCSS does not attempt to recover, redirect, forward, repay, or otherwise correct this type of error.

(2) When ~~CSED~~ OCSS errs, ~~CSED~~ OCSS recovers overpayments to parties or custodial persons in IV-D and non-IV-D cases as described in OAC 340:25-5, Part 37.

(3) ~~CSED~~ OCSS sends refunds to noncustodial parents by mailing a paper warrant.

340:25-5-350.4. Undistributed and pended issuance payments

(a) **Undistributed payments.** When a payment cannot be distributed to a case balance, Oklahoma Child Support Services (OCSS) temporarily suspends the application of the payment.

(b) **Pended payments.** A payment is pended when it is distributed to a case balance but the issuance of the payment is temporarily suspended. Reasons why a payment has not been issued may include, but are not limited to:

(1) federal income tax refund intercept under OAC 340:25-5-215;

(2) forgery under OAC 340:25-5-350.3;

(3) inactivated debit card;

(4) warrant cancelled by statute; and

(5) warrant with a stop pay.

(c) **Payment resolution.** OCSS researches the reason for the undistributed or pended status in the automated Oklahoma Support Information System (OSIS), resolves and processes the payment by:

(1) adjusting the case balance to distribute to the custodial person or other balances;

(2) applying to balances on other cases; or

(3) refunding to the payor.

340:25-5-352. Distributed payment adjustments

When a payment has been logged to an incorrect case, or an incorrect case type, a payment adjustment is required. Oklahoma Child Support Services makes the necessary corrections to the statewide automated data processing and information retrieval system and after the corrections have been made, the payment adjustments are completed.

[OAR Docket #09-765; filed 4-23-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE SUBSIDY PROGRAM ~~SERVICES~~

[OAR Docket #09-756]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-1 through 340:40-13-2 [AMENDED]
(Reference APA WF 08-26)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (P.L.) 104-193; the Balanced Budget Act of 1997, P.L. 105-33; and 45 Code of Federal Regulations (CFR) Parts 98 and 99.
DATES:
Comment period:
January 15, 2009 through February 16, 2009
Public hearing:
None requested
Adoption:
February 24, 2009
Submitted to Governor:
February 24, 2009
Submitted to House:
February 24, 2009
Submitted to Senate:
February 24, 2009
Gubernatorial approval:
March 12, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on April 21, 2009.
Final adoption:
April 21, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The permanent rule amendments to Chapter 40 amend rules to: (1) move rules regarding the guidelines for use and approval of in-home child care from OAC 340:40-13-1 to OAC 340:40-13-2; (2) remove the requirement for an in-home provider to watch a training video prior to approval as the video doesn't relate to an in-home situation; (3) remove the exception allowing an in-home provider to be a member of the child's household; (4) change approval rights of an in-home child care provider from the county director to the Family Support Services Division (FSSD) Child Care Subsidy Section; (5) add the requirement that a caregiver must provide photo identification (ID) and a Social Security number before being approved as an in-home provider; (6) change initial training requirements once a caregiver is approved as an in-home provider; and (7) update and reorganize language for clarity.

CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 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, 2009:

SUBCHAPTER 13. CHILD CARE RATES AND PROVIDER ISSUES

340:40-13-1. Child care arrangements

(a) **Out-of-home care arrangements.** Out-of-home care is care provided outside of the child's home for less than 24 hours. The Oklahoma Department of Human Services (OKDHS) purchases out-of-home child care services only from licensed or permitted child care centers and family child care homes. A list of licensed, contracted out-of-home providers is available upon request.

(b) **In-home child care arrangements.** OKDHS purchased in-home child care services are obtained only from approved in-home providers. In-home child care is considered the arrangement of choice when night-time child care is needed or when care is needed for a medically fragile child. A parent can choose an in-home provider even when an out-of home provider is available. In no instance is housekeeping service approved. The approval is for the child care plan and the ~~individual~~ person giving care. Guidelines for use and approval of in-home child care are found at OAC 340:40-13-2.

~~(1) The worker helps the family select a caregiver capable of providing adequate care and supervision of the child(ren). Guidelines for use in approving an in-home provider are found at OAC 340:40-13-2.~~

~~(2) Upon selection of a caregiver, the client and caregiver complete Form 08CC003E, Notification of Eligibility and Mutual Agreement to Provide In-Home Child Care Services. This form is valid for a maximum of one year from the date the county director signs the document and must be renewed annually. If the chosen caregiver is not approved as an in-home provider, the county director sends a letter to the caregiver advising of the denial. The worker sends Form 08MP037E, Notice Regarding Social Services, to the client advising him or her to choose another caregiver.~~

~~(3) The client and provider also complete and return Form 08CC004E, Mutual Agreement Regarding the Plan of Care. This form serves as a basis for discussion between the parent or caretaker and the in-home provider of the plan of care for the children, duties of the in-home provider, how to handle emergencies, and the family rules.~~

~~(4) To help ensure the health and safety of the child(ren) in care, the worker gives Form 08CC005E, In-Home Provider Health and Safety Checklist, to the provider and the client to complete and return to the worker when the initial contract is signed. The parent~~

~~or caretaker is also responsible for advising the provider of known risks of a contagious condition of one or more persons in the household. The disclosure allows for training in the universal precautions against exposure.~~

~~(5) The in-home provider is required to review the "Contracting with DHS for Child Care Subsidy Payments Handbook" and watch a training video prior to approval as an in-home provider.~~

~~(6) The in-home provider must complete a minimum of six clock hours of training within 90 calendar days of the date the county director signs and dates Form 08CC003E. The provider can meet the training requirement by attending workshops or formal training programs, viewing videos, or through individual job related readings. The in-home provider must then sign and complete Form 08CC008E, Declaration of Completion of In-Home Provider Training, and return it to the worker.~~

~~(A) The in-home provider must receive and declare six clock hours of training yearly. The declaration is valid for one year from the date the provider signs the document.~~

~~(B) Training hours earned by the in-home provider are transferable from one family to another during the year the declaration is in force.~~

~~(7) When an in-home child care provider cares for a child with disabilities, the provider can be approved for the special needs rate in addition to the applicable daily rate. Prior to receiving this additional rate:~~

~~(A) the client, provider, and worker must complete Form 08AD006E, Certification for Special Needs Child Care Rate, as described in OAC 340:40-7-3.1;~~

~~(B) the provider must be currently certified in first aid and infant and child cardiopulmonary resuscitation (CPR). Only training that is OKDHS approved, such as Red Cross, American Heart Association, or First Care is accepted;~~

~~(C) the provider must receive on-site consultation regarding the nature of the child's disability and the development of the child care plan which may include how to operate equipment needed by the child and any specialized training needs. This consultation can be provided by a health professional, a child guidance specialist, a SoonerStart provider if the child is under three years of age, a public school teacher familiar with that child, or from a consultant through the Center for Early Childhood Professional Development. The consultant also provides any available resource materials that might aid the provider in caring for the child; and~~

~~(D) the provider must agree to obtain six additional hours of training in areas that address the care of children with disabilities within six months of approval. First aid, CPR, or informal training may not be counted to meet the special training requirement. Recommended training includes Special Care's Unique Environments, Child Care Careers' Helping Children with Special Needs, SoonerStart training, Training Inclusive Child Care Equal Terrific Opportunities for Children (TIC-TOC) training, formal training from an OKDHS approved sponsor training list, or specialized workshops or conferences addressing the care of children with disabilities. This training is also documented on Form 08CC008E.~~

340:40-13-2. Guidelines for use in approving in-home child care

(a) **Purpose.** In-home child care is defined as care given to a ~~child(ren)~~ child by a person coming into the child's own home for the express purpose of caring for the ~~child(ren)~~ child. The purpose of standards for in-home care is to help ensure the safety of children cared for in their own home when the usual responsible adult is temporarily absent due to employment, training, illness, or other valid reason.

(b) **Qualifications of caregiver.** The worker helps the family select a caregiver capable of providing adequate care and supervision of the child. The caregiver:

(1) must be at least 18 years of age;

(2) demonstrates the vitality and flexibility needed to care for children as well as the ability to exercise good judgment and appropriate authority;

(3) must provide personal references prior to approval if, in the worker's judgment, they are considered necessary;

(4) cannot be a member of the child's household, whether relative or non-relative~~.~~; ~~An exception is made if the person is employed full-time and if approved as a provider, agrees to quit his or her employment; and~~

(5) can only care for the child(ren) of one family at a time. The provider can give care to more than one family as long as the hours do not overlap and the child(ren) of each family is cared for in his or her own home; and

(6) must not be under the effects of alcohol, illegal drugs, or medication that impairs functioning when caring for children.

(c) ~~**Background investigations and restrictions**~~ **Requirements prior to approval of the caregiver for ~~caregivers~~ subsidy payment.** ~~The requirements for background investigations and restrictions for caregivers are contained in paragraphs (1) through (3) of this subsection.~~ Upon selection of a caregiver requirements in paragraphs (1) through (3) must be met before the caregiver may be approved as an in-home provider.

(1) The client and caregiver must complete and sign forms described in (A) through (C).

(A) Form 08CC003E, In-home Mutual Agreement and Notification to Provide Child Care Services. This form notifies the caregiver of the eligibility and child care plan for the child requiring care and the intent of the parent or caretaker to receive care from the caregiver. Once approved, it also serves as the in-home provider's authorization to bill the Oklahoma Department of Human Services (OKDHS) for services provided on or after approval.

(B) Form 08CC004E, Mutual Agreement Regarding the Plan of Care. This form serves as a basis for discussion between the parent or caretaker and the

in-home provider of the plan of care for the child, duties of the in-home provider, how to handle emergencies, and the family rules.

(C) Form 08CC005E, In-Home Provider Health and Safety Checklist. This form serves as a basis for discussion between the parent or caretaker and the in-home provider of adequate safety precautions and possible safety hazards in the child's home. The parent or caretaker is also responsible for advising the provider of known risks of a contagious condition of one or more persons in the household. The disclosure allows for training in the universal precautions against exposure.

(2) The caregiver must provide photo identification and a copy of his or her Social Security card.

(~~1~~3) ~~**Criminal history investigations.**~~ The caregiver must complete a criminal history investigation as described in paragraph (A) and not be guilty of crimes or enter a plea of guilty or nolo contendere, no contest, to crimes described in paragraph (B).

(A) Criminal history investigations:

(~~A~~i) are required and must be requested by each caregiver and substitute caregiver, prior to caring for children;

(~~B~~ii) are not required for persons who have documentation of a criminal history investigation within the last 12 months;

(~~C~~iii) must be obtained from:

(~~i~~I) the Oklahoma State Bureau of Investigation (OSBI); and

(~~ii~~II) the authorized agency in the previous state of residence if the individual has resided in Oklahoma less than one year;

(~~D~~iv) must include a search of the Oklahoma Department of ~~Corrections'~~ Corrections files maintained by the OSBI pursuant to the Sex Offenders Registration Act; and

(~~E~~v) must include the worker completing a computer check using the Social Security number of the potential caregiver prior to approval as an in-home provider. When a Child Welfare (CW) case number appears, the worker consults with CW staff to see if concerns exist about this person's ability to care for children.

(~~2~~B) ~~**Restrictions.**~~ A caregiver whose criminal history report includes a conviction of fiscal mismanagement, such as embezzlement or fraud, or repeated convictions that indicate a pattern of criminal activity is not approved as an in-home provider. ~~Individuals~~ Persons who are convicted of or enter a plea of guilty or nolo contendere, no contest, to certain crimes are not approved to care for children or be a substitute caregiver. These crimes include:

(~~A~~i) violence against a person;

(~~B~~ii) child abuse or neglect;

(~~C~~iii) possession, sale, or distribution of illegal drugs;

(~~D~~iv) sexual misconduct; or

(~~E~~v) gross irresponsibility or disregard for the safety of others.

~~(3) **Alcohol, drugs, medication.** The caregiver must not be under the effects of alcohol, illegal drugs, or medication that impairs functioning when caring for children.~~

(4) Once requirements described in paragraphs (1) through (3) are met, the worker faxes a memo and supporting documentation to the Family Support Services Division (FSSD) Child Care Subsidy Section to request approval.

(A) If the chosen caregiver is approved as an in-home provider, the approval is valid for a maximum of one year from the date FSSD Child Care Subsidy staff signs Form 08CC003E. This form must be renewed annually. Once approved, FSSD Child Care Subsidy Section staff mail the in-home provider the "In-home Child Care Provider Handbook for Subsidy Payments" to advise him or her how to claim for OKDHS payment and a copy of Form 08CC003E advising the in-home provider of the assigned contract number.

(B) If the chosen caregiver is not approved as an in-home provider, FSSD Child Care Subsidy Section staff sends a letter to the caregiver advising of the denial. The worker sends Form 08MP037E, Notice Regarding Social Services, to the client advising him or her to choose another caregiver.

(d) **Duties of the caregiver.** The caregiver:

(1) provides adequate care and supervision of children at all times, including frequent observations of children in cribs or playpens. ~~He or she~~ The caregiver must arrange to have a competent adult provide consistent supervision during his or her absence from the home;

(2) is responsible only for each child specified in Form 08CC003E~~, Notification of Eligibility and Mutual Agreement to Provide In-Home Child Care Services~~;

(3) must be aware of adequate safety precautions and take action to correct hazards to children's safety, both indoors and outdoors;

(4) provides opportunities for learning, indoor and outdoor play, rest periods, and meals. The caregiver ensures that the use of television is age-appropriate and suitable for children;

(5) must be able to give understanding, consistent, and loving guidance. Discipline is constructive and educational in nature and appropriate to the child's age and circumstances. Loud, profane, and abusive language, corporal punishment, or any technique that is either humiliating or frightening to children is not used. Discipline is not associated with rest, toilet training, or loss of food;

(6) seeks emergency medical attention in case of sudden illness or accident. The parent or guardian stipulates who is called in case of an emergency by entering this information on Form 07LC038E, Child Information, provided by ~~the Oklahoma Department of Human Services (~~OKDHS~~)~~. The caregiver has emergency telephone numbers readily available at all times. Emergency telephone

numbers include the fire department, police department, ambulance service, and physician or clinic;

(7) is responsible for preparation and serving of food. The child's family provides the food used to prepare snacks and meals. The caregiver consults with the child's parent(s) or guardian to ensure a balanced diet suitable to the age and physical development of the child; and

(8) ensures the child's school attendance in accordance with the requirements of the State Department of Education.

(e) **In-home provider training requirements after approval.** The in-home provider must read "The Good Health Handbook - A Guide For Those Caring For Children" within 90 calendar days of the approval date of the in-home provider shown on Form 08CC003E. The in-home provider must then sign and complete Form 08CC008E, In-Home Child care Provider Training Declaration of Completion, and return it to the worker. The signature and completion of Form 08CC008E meets the in-home provider training requirement for the first year of approval.

(1) After the first year of approval, the in-home provider must receive and declare six clock hours of training yearly. The provider can meet the training requirement by attending workshops, formal training programs, viewing videos, or through individual job related readings. The declaration is valid for one year from the date the provider signs the document.

(2) Training hours earned by the in-home provider are transferable from one family to another during the year the declaration is in force.

(f) **Requirements prior to approval for a special needs child care rate for a child with disabilities.** When an in-home child care provider cares for a child with disabilities, the provider may be approved for the special needs rate in addition to the applicable daily rate. Prior to receiving this additional rate:

(1) the client, provider, and worker must complete Form 08AD006E, Special Needs Child Care Rate Certification, as described in OAC 340:40-7-3.1;

(2) the provider must be currently certified in first aid and infant and child cardiopulmonary resuscitation (CPR). Only training that is OKDHS approved, such as Red Cross, American Heart Association, or First Care, is accepted;

(3) the provider must receive on-site consultation regarding the nature of the child's disability and the development of the child care plan which may include how to operate equipment needed by the child and any specialized training needs. The consultant also provides any available resource materials that might aid the provider in caring for the child. This consultation may be provided by a:

(A) health professional;

(B) child guidance specialist;

(C) SoonerStart provider if the child is under three years of age;

(D) public school teacher familiar with that child; or

(E) consultant through the Center for Early Childhood Professional Development; and

(4) the provider must agree to obtain six additional hours of training in areas that address the care of children with disabilities within six months of approval. This training is documented on Form 08CC008E.

(A) First aid, CPR, or informal training may not be counted to meet the special training requirement.

(B) Recommended training includes:

(i) Special Care's Unique Environments;

(ii) Child Care Careers' Helping Children with Special Needs;

(iii) SoonerStart training;

(iv) Training Inclusive Child Care Equal Terrific Opportunities for Children (TIC-TOC) training;

(v) formal training from an OKDHS approved sponsor training list; or

(vi) specialized workshops or conferences addressing the care of children with disabilities.

[OAR Docket #09-756; filed 4-22-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 50. ~~FOOD STAMP~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

[OAR Docket #09-757]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Eligibility and Benefit Determination Procedures
340:50-9-5 [AMENDED]
(Reference APA WF 08-27)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and the Food and Nutrition Act of 2008.
DATES:
Comment period:
January 15, 2009 through February 16, 2009
Public hearing:
None requested
Adoption:
February 24, 2009
Submitted to Governor:
February 24, 2009
Submitted to House:
February 24, 2009
Submitted to Senate:
February 24, 2009
Gubernatorial approval:
March 12, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on April 21, 2009.
Final adoption:
April 21, 2009
Effective:
June 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Chapter 50 proposed permanent rule amendments: (1) change reporting requirements for annual reporter households to match semi-annual reporter requirements; (2) change the date that a benefit report form must be returned to the Oklahoma Department of Human Services (OKDHS) for semi-annual and annual reporters; (3) clarify able-bodied adult without dependents (ABAWD) reporting requirements for semi-annual reporters; (4) update language to current terminology; and (5) remove internal procedures from the rule.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2009:

SUBCHAPTER 9. ELIGIBILITY AND BENEFIT DETERMINATION PROCEDURES

340:50-9-5. Changes after application and during the certification period

(a) **Applicant households.** Applicant households must report all changes related to their food benefit eligibility and benefit amount. Households must report changes that occur after the interview but before the date of the notice of eligibility, within ten calendar days of the date of the notice.

(b) **Certified households.** Those households assigned a certification period other than 12 or 24 months are required to report within ten calendar days changes in:

(1) sources of income;

(2) unearned income of $50 per month or more;

(3) earned income of more than $100 per month;

(4) household composition, such as an addition or loss of a household member;

(5) residence and resulting changes in shelter costs;

(6) the acquisition of licensed vehicles not fully excluded;

(7) cash on hand, stocks, bonds, and money in bank checking or savings accounts or savings institutions, when the balance reaches or exceeds a total of $2,000; and

(8) the legal obligation to pay child support.

(c) **Change affecting food benefit.** If a reported change affects the household's eligibility or food benefit amount, the household is notified of the adjustment to be made and the effective date. The worker has ten calendar days from the date the change is reported to take the necessary action.

(1) If the household fails to report a change within the ten-day period and, as a result, receives benefits to which it is not entitled, an overissuance is referred to the Family Support Services Division~~, Overpayment~~ (FSSD) Benefit Integrity and Recovery Section.

(2) If the worker fails to take action on a reported change within the prescribed time limits and benefits are lost, they are restored to the household.

(d) **Changes that increase benefits.** Changes resulting in a benefit increase must be verified. The household is allowed ten calendar days to verify the information.

~~(1) The change is made effective no later than the first issuance to be delivered ten calendar days after the date the change was reported or verified, whichever is later.~~

~~(2) The worker issues a supplement when a change that increases benefits is reported too late to verify and make the change by regular roll deadlines.~~

~~(3) If verification is provided timely, the supplement is issued by the tenth calendar day following the date the change was reported, or the date the regular roll benefit is to be received, whichever is later.~~

~~(4) If the required verification is not provided within ten calendar days but is provided at a later date, the supplement is issued within ten calendar days of the date verification was provided, rather than from the date the change was reported.~~

(e) **Changes which decrease or terminate benefits.** Food benefits are closed, **never** suspended, if a change in household circumstances causes a household to be ineligible for food benefits. When a household's benefit level decreases or is terminated, an advance notice is required unless exempt from such a notice for a reason listed in (1) and (2) of this subsection. When an advance notice is required, the decrease or termination of the benefit is effective no later than the month following the month in which the advance notice period expired. When the change is reported less than ten calendar days before the advance notice deadline, the action must be taken before advance notice deadline the following month. Advance notice is not required when the:

(1) ~~the~~ Oklahoma Department of Human Services (OKDHS) receives a clear written statement signed by a responsible household member stating he or she no longer wishes food benefits or giving information which requires termination or reduction of food benefits and stating that he or she understands the food benefit will be reduced or terminated. The household retains its right to a fair hearing and to continue benefits if a fair hearing is requested within ten calendar days of the change notice; and

(2) ~~the~~ reduction or termination of food benefits is based on situations listed in (j) of this Section.

(f) **Annual reporting households.** ~~Non-public assistance (non-PA)~~ Food benefit households with all adult members elderly or disabled with no earned income are known as annual reporters. A 24-month certification period is automatically assigned. These households are only required to report ~~within ten calendar days those~~ changes ~~listed in (b) of this Section~~ that result in their gross monthly income exceeding 130 percent of the monthly poverty income guidelines for their household size. The worker must act on any changes reported by these households that increase their benefits. The worker also acts on changes reported by the household that result in a decrease in benefits. The system determines if the change results in a decrease in benefits. A decrease in benefits does not occur unless the:

(1) household has requested closure of the case; or

(2) worker has information about the household's circumstances considered verified upon receipt.

(g) **Benefit review form for annual reporters.** Annual reporting households are sent computer-generated Form 08MP004E, Benefit Review Report, in the 11th month of certification. The intent of this form is to allow the household's circumstances to be reviewed without requiring face-to-face contact.

(1) The worker must act on any changes reported on Form 08MP004E.

(2) If the reported changes result in a reduction or termination of benefits, an advance notice must be sent to the household.

(3) If the household fails to provide sufficient information regarding a deductible expense, the benefits are not terminated, but processed without regard to the deduction.

(4) Form 08MP004E must be completed and returned to the human services center (HSC), along with all required verification, by the last day of the ~~13th~~ 12th month of certification.

(h) **Semi-annual reporting households.**

(1) A 12-month certification period is assigned to ~~non-PA~~ food benefit households at certification unless the household contains:

(A) a member who is an able-bodied adult without dependents (ABAWD) who is not meeting the work requirement;

(B) an ABAWD who is not otherwise exempt; or

(C) all adult household members who are elderly or disabled with no earned income.

(2) These households are only required to report changes that result in their gross monthly income exceeding 130 percent of the monthly poverty income guidelines for their household size unless their household contains an ABAWD meeting the work rule per OAC 340:50-5-64(a). Households with an ABAWD who is meeting the work rule at certification must report if the hours decrease below an average of 20 per week or 80 per month. The worker must act on any changes reported by these households that increase their benefits. The worker also acts on changes reported by the household that result in a decrease in benefits. The system determines if the change results in a decrease in benefits. A decrease in benefits does not occur unless the:

(A) household has requested closure of the case; or

(B) worker has information about the household's circumstances considered verified upon receipt.

(i) **Benefit review form for semi-annual reporters.** Semi-annual reporting households are sent a computer-generated Form 08MP004E in the fifth month of certification.

(1) The worker must act on any changes reported on Form 08MP004E.

(2) If the reported changes result in a reduction or termination of benefits, an advance notice must be sent to the household.

(3) If the household fails to provide sufficient information regarding a deductible expense, the benefits must not be terminated, but processed without regard to the deduction.

(4) Form 08MP004E must be completed and returned to the HSC, along with all required verification, by the last day of the ~~seventh~~ sixth month of certification.

(j) **Notice of adverse action not required.**

(1) **Mass changes.** The individual notification requirement is waived when changes affecting the entire caseload or significant portions of the caseload are initiated because of changes or requirements in federal or state law. In these situations, the ~~Family Support Services Division (~~FSSD~~)~~ mails notices to the households informing them of the changes that are about to be made.

(2) **Notice of death.** If the worker determines, based on reliable information, that all members of the household are deceased, notice of adverse action is not required.

(3) **Moved out of county.** Notice of adverse action is not required when the worker determines, based on reliable information, that the household has moved out of the county and that a transfer request has not been received.

(4) **Completion of restoration of lost benefits.** Notice of adverse action is not required if the household is previously notified in writing when restoration of lost benefits is completed and the household's food benefit is reduced due to completion of restoration of lost benefits.

(5) **Variable food benefit.** The household benefit amount varies from month to month within the certification period to take into account changes that were anticipated at the time of certification and the household was so notified at the time of certification.

(6) **Willful misrepresentation.** Notice of adverse action is not required if a person in the household is disqualified for willful misrepresentation. If there is more than one person in the household, the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member.

(7) **Food benefit recoupment.** A notice of adverse action is not required if the household fails to make agreed upon cash or food benefit repayment of an overpayment.

(8) **Drug or alcohol treatment center or group home loses approved status.** If a household's eligibility is being terminated because the drug or alcohol treatment center or group home facility is no longer approved, an individual notice of adverse action is not required.

(k) **Action on changes when fair hearings are requested.** When a household requests a fair hearing within ten calendar days of the date shown on the adverse action notice, the household may continue to receive food benefits.

[OAR Docket #09-757; filed 4-22-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

[OAR Docket #09-758]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
340:65-1-2 through 340:65-1-3 [AMENDED]
Subchapter 3. Eligibility for Benefits
340:65-3-1 through 340:65-3-2 [AMENDED]
340:65-3-4 through 340:65-3-6 [AMENDED]
340:65-3-8 [AMENDED]
Subchapter 5. Procedures Relating to Case Changes
Part 1. General Provisions
340:65-5-2 through 340:65-5-3 [AMENDED]
(Reference APA WF 08-24)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 161 et seq. of Title 56 of the Oklahoma Statutes; and Section 41.19 of Title 62 of the Oklahoma Statutes.
DATES:
Comment period:
January 15, 2009 through February 16, 2009
Public hearing:
None requested
Adoption:
February 24, 2009
Submitted to Governor:
February 24, 2009
Submitted to House:
February 24, 2009
Submitted to Senate:
February 24, 2009
Gubernatorial approval:
March 12, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on April 21, 2009.
Final adoption:
April 21, 2009
Effective:
June 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Chapter 65 permanent rule amendments amend rules to: (1) add a legal citation; (2) change the name of the Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP); (3) remove a rule citation that is no longer applicable; (4) add other documents that are acceptable as verification of lawful status; (5) add that an interview may be completed face-to-face or by telephone depending on the program; (6) add language that funds expunged from a debit card can be reloaded if requested within 365 days of issuance; (7) add information about how to handle requests for unused benefits on a debit card at the time of the client's death; (8) remove the face-to-face interview requirement for SNAP at recertification; (9) add clarifying language regarding the worker's action when a change is reported that affects the amount of the cash benefit being received; (10) clarify which benefits administered by Family Support Services Division may be suspended; (11) update language to current terminology and procedures; and (12) remove internal procedures from rules.
CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 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, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

340:65-1-2. Confidential nature of case material

(a) **Legal basis.** ~~DHS~~ The Oklahoma Department of Human Services (OKDHS) maintains the confidentiality of all applications, information, and records concerning any applicant or recipient in accordance with the Oklahoma Social Security Act, ~~and~~ the Federal Social Security Act, and Section 183 of Title 56 of the Oklahoma State Statutes.

(b) **Custody of records.** All case information including electronic data procured by, or available to, any staff member of ~~the Department~~ OKDHS is the property of ~~the Department~~ OKDHS and is used by staff only in accordance with the provisions of the law and the ~~policies~~ rules adopted by ~~the Department~~ OKDHS.

(1) **Authority to disclose information.** The county director is responsible for the custody of records in the ~~county office~~ human services center (HSC) and for their proper use. All requests for information from ~~a~~ an OKDHS record ~~of the Department~~ are referred to the county director, except in those instances where the request originates within ~~the Department~~ OKDHS in carrying out its regular functions. Staff members of each of the OKDHS operating divisions ~~of the Department~~ have access to records of the other divisions so that a mutual exchange of information, on the same family or related to a case under care, may be constructive.

(2) **Nature of information to be safeguarded.** Except as provided in this subsection, information which must be safeguarded includes:

(A) names and addresses, including lists;
(B) information contained in an application;
(C) reports of investigations;
(D) medical data which includes, but is not limited to, diagnosis and past history of disease and disability;
(E) correspondence and other records concerning the condition or circumstances of any person from whom or about whom information is obtained, regardless of whether it is recorded;
(F) evaluations of such information;
(G) warrant registers;
(H) all data items available on computer screens. Disclosure to any unauthorized person is a violation of federal and state agency regulations. Persons considered to be authorized are:

(i) the client~~,~~;
(ii) the client's authorized representative~~, Agency;~~
(iii) OKDHS staff~~,~~;
(iv) authorized volunteers~~,~~; and
(v) staff of outside agencies with a contract or agreement allowing access to specific data; and

(I) raw tax data which is any written, typed, photocopied, or printout of information from the Income Eligibility Verification System-Internal Revenue Service (IEVS-IRS), Beneficiary and Earnings Data Exchange System (BENDEX), and Beneficiary Earnings Exchange Record (BEER). Raw tax data may include:

(i) the client's name~~,~~;

(ii) Social Security number~~,~~;

(iii) Internal Revenue Service (IRS) reporting firm, company, political subdivision~~,~~;

(iv) state agency account number~~,~~;

(v) type of income~~,~~; and

(vi) the amount of income or resource.

(3) **Nature of information to be made available.** General information not identified with any particular ~~individual~~ person or group of ~~individuals~~ persons, such as total expenditures made, number of recipients, and other statistical information and social data contained in reports or surveys do not fall within the type of material to be safeguarded.

(A) Requested information is released to representatives of agencies which are authorized, by law, to have the information. Information may be released to other agencies only when they give assurance that the:

(i) confidential character of the information will be preserved;

(ii) information will be used only for purposes related to the administration of the assistance program and the functioning of the inquiring ~~agencies~~ agency; and

(iii) standards of protection established by the agency to which information is disclosed are equal to those established by ~~the Department~~ OKDHS, both in regard to the use of the information by the staff and the provision of protective procedures.

(B) Addresses of ~~recipients~~ clients can be disclosed to federal, state, and local law enforcement officers who furnish the ~~recipient's~~ client's name, Social Security number, and notify ~~the Department~~ OKDHS that the location or apprehension of the ~~recipient~~ client is within their official duties and that the ~~recipient~~ client is:

(i) a fugitive felon who is fleeing to avoid prosecution, custody, or confinement after conviction; or

(ii) violating a condition of probation or parole.

(C) The days and hours a child is approved for the Child Care Subsidy Program ~~services~~ can be disclosed to a child care ~~providers~~ provider.

(D) Upon written request, information used to establish eligibility that is not otherwise protected by law is made available to the client or the client's representative during normal business hours. Confidential information, including the names of ~~individuals~~ persons who have disclosed information about the client without the client's knowledge and the nature or status of pending criminal prosecutions is withheld.

(E) Information obtained by the ~~social service specialist~~ worker from collateral sources, other than public records or the ~~social service specialist's~~ worker's written evaluation of the client's situation, cannot be made available to the client or to any other person without the consent of the person who gave the information. Prior to a fair hearing, ~~the county office~~ HSC staff is responsible for supplying the client with a copy of the written summary, documents, and other records which ~~the county will~~ HSC staff present at the hearing. [OAC 340:2-5]

(4) **Release of information at request of client.** If the client or the client's representative requests ~~the Department~~ OKDHS make available to him, her, or to other persons, courts, or agencies, certain information which he or she has given ~~the Agency~~ OKDHS regarding himself or herself, it is proper to do so, provided the release is to the designated ~~persons~~ person and the material is related to the specific subject involved.

(A) A written inquiry from an interested person, accompanied by the client's ~~request to him or her~~ written permission, is considered sufficient to identify the person as the authorized representative of the client and information may be furnished.

(B) If a letter of inquiry does not conclusively show that the person making inquiry has been asked to obtain such information in behalf of the client, no action is taken without ascertaining the client's wishes in the matter.

(5) **Release of information to courts.** Information about the client in his or her record is made available in court proceedings only upon subpoena, except upon request by court officials in cases of abandonment and desertion, neglect of children, or restitution when such cases have been referred to the court by ~~the Department~~ OKDHS. In ~~either~~ these situation ~~the Department's~~ OKDHS staff testimony is limited to material affecting the administration of the public assistance law except when participating in a case requested by the client or ~~his or her~~ the client's representative in which his or her personal interests are at stake.

(A) When an employee of ~~the Department~~ OKDHS is subpoenaed by the court for the purpose of giving testimony based upon ~~Department~~ OKDHS records, the county director confers with the district attorney (DA) regarding recognition by the court of the right of ~~the Department~~ OKDHS under the law to protect its records, and of the confidential character of information made available to ~~the Department~~ OKDHS in the process of administering assistance.

(B) If there is reason to believe that the court will not respect the confidential character of ~~the Department's~~ OKDHS records, the county director communicates immediately with the ~~Family Support Services~~ Legal Division ~~(FSSD)~~ regarding the steps to be taken. ~~[DHS:2-25-10]~~

(6) **Release of information to the ~~district attorney~~ DA.** Information is released to the ~~district attorney~~ DA, as necessary, to carry out ~~Agency~~ OKDHS policy regarding support from an absent parent. In every instance, the relative making application for Temporary Assistance for Needy Families (TANF) is informed of the requirement for obtaining support from an absent parent.

(7) **Release of medical information.** Medical information paid for by ~~the Department~~ OKDHS is not released, even at the request of the ~~individual~~ person to whom it pertains, except to another agency to which the ~~individual~~ person has applied for services ~~having~~ with the objective ~~of protecting~~ to protect or ~~advancing his or her~~ advance the person's welfare. ~~However, there~~ There is nothing in Oklahoma law or federal law to prevent a physician from releasing medical information to his or her patient or an authorized representative of the patient. The physician, in such instances, is governed by the physician-patient relationship.

(A) The ~~DHS Legal Unit~~ OKDHS Legal Division is responsible for determining whether the particular medical information being requested may be released under federal regulations and ~~Department~~ OKDHS policies. When such clearance has been made, the ~~DHS Legal Unit~~ Legal Division notifies FSSD. FSSD contacts ~~the county office~~ HSC staff regarding the action to take.

(B) Medical information that ~~a county office~~ HSC staff has obtained from the Veterans Administration or from the Social Security Administration cannot be released to anyone outside ~~the Department~~ OKDHS.

(C) When a client requests a hearing on a medical decision, all medical records or reports except for psychological and psychiatric records, which were considered in establishing the medical decision, are provided to the client or authorized representative at a reasonable time before the date of the hearing. Copies of psychological and psychiatric records are not made available unless the release of these records is consented to by the treating physician or practitioner or are ordered released by a court of competent jurisdiction upon a finding that it is in the best interest of a patient.

340:65-1-3. Case records

The purposes and objectives of ~~the Agency~~ the Oklahoma Department of Human Services (OKDHS) are carried out on a case-by-case basis. The decision on each case must be based on facts, be free of error and prejudice, fair to the ~~individual~~ person, and within the law and ~~Agency~~ OKDHS policy. The case record is the means used by ~~the Agency~~ OKDHS to document the factual basis for decisions.

SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS

340:65-3-1. Determination of eligibility

(a) **Eligibility determination.** The determination of eligibility is a continuous process that begins with an application. It includes the final disposition of the application and all subsequent activities related to determining continuing eligibility. The applicant has the right and the responsibility to participate in the eligibility determination and is relied on as the first source of information.

(1) In instances when it is difficult for the applicant to complete the application, someone acting on the applicant's behalf such as an authorized representative or a person with power-of-attorney may complete the application for all programs except Temporary Assistance for Needy Families (TANF).

(2) When someone other than the applicant applies on behalf of the applicant, he or she must bring a signed statement from the applicant giving this person permission to act on behalf of the applicant or the applicant must have designated this person as his or her authorized representative on the signed application. The SoonerCare (Medicaid) programs allows others to apply for the applicant without a written designation.

(b) **Application forms.** Application forms used include:

(1) Form 08MP001E, Request for Benefits, Form 08MP002E, Eligibility Information for Benefits, and Form 08MP003E, Responsibilities and Signature for Benefits, to apply for:

(A) food benefits;

(B) State Supplemental Payment (SSP);

(C) Supplemental Security Income-Disabled Children's Program (SSI-DCP);

(D) TANF;

(E) SoonerCare (Medicaid) benefits. Form SC-1, SoonerCare Health Benefits Application, may be used instead for pregnant women and families with children; or

(F) child care benefits; or

(2) ~~Computer generated~~ computer-generated Form 08LH001E, Application for Low Income Home Energy Assistance (Heating), or Form 08LH002E, Application for Low Income Home Energy Assistance - Walk-In, to apply for Low Income Home Energy Assistance Program (LIHEAP).

(c) **Signature requirements.** The applicant, guardian, or someone acting on the applicant's behalf such as an authorized representative or a person with power-of-attorney must sign the application form. TANF applications must be signed by the applicant. If the applicant is living with his or her spouse, both must sign the application form. The applicant may voluntarily withdraw the request for benefits or services either before or after signing the application form. An applicant who is:

(1) eligible for Medicare signs the application using the name on his or her Medicare Health Insurance Benefits (HIB) card; or

(2) not eligible for Medicare signs the application using the name shown on his or her Social Security card.

(d) **Interview requirements.** Whether an interview is required varies depending on the program.

(1) Prior to approval for benefits, the applicant must complete a face-to-face interview for the:

(A) ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP). Exceptions are found at OAC 340:50-3-2(b); or

(B) TANF Program.

(2) A telephone or face-to-face interview is required for the:

(A) Child Care Program;

(B) SSP Program;

(C) SoonerCare (Medicaid) long-term care programs such as Advantage Waiver, nursing home care, or personal care; or

(D) SoonerCare (Medicaid) programs that categorically relate to the aged, blind, and disabled population such as Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLMB), Qualified Disabled and Working Individuals (QDWI), or Qualified Medicare Beneficiary Plus (QMBP).

(3) An interview is not required prior to approval for SoonerCare (Medicaid) for pregnant women and families with children or LIHEAP benefits.

(e) **Worker responsibilities.** The worker is responsible for:

(1) advising the applicant during the application process of the:

(A) Oklahoma Department of Human Services (OKDHS) responsibility for reaching a decision and notifying the applicant of eligibility or ineligibility within the appropriate time limits;

(B) applicant's right to request a fair hearing per OAC 340:2-5, either orally or in writing, and be represented at the hearing by any person the applicant chooses. A hearing may be requested when there is a:

(i) delay beyond the established time limits for determining eligibility per OAC 340:65-3-5; or

(ii) disagreement with any action taken on the case;

(C) applicant's legal responsibility for reporting all facts pertinent to eligibility;

(D) types of changes the applicant must report within ten calendar days;

(E) penalty for failure to report changes;

(F) information needed to establish eligibility. When requesting information or verification from the applicant, the worker uses Form 08AD092E, Client Contact and Information Request, and gives the applicant at least ten calendar days to respond to the ~~requestper~~ request per OAC 340:65-3-2.1;

(G) assistance provided by OKDHS in establishing eligibility;

(H) permission the applicant gives OKDHS to obtain information from sources other than the applicant by signing the application; and

(I) requirement that the applicant must cooperate with state and federal officials if the applicant's case is selected for a Quality Control review;

(2) collecting information necessary for determining the applicant's initial and continuing eligibility. Information considered verified upon receipt if that information is not questionable or inconsistent with known facts, and the provider of the information is the primary source of the information, is the:

(A) applicant's statement concerning:

(i) residency;

(ii) relationship;

(iii) age;

(iv) living in the home of a relative payee;

(v) minor parent living in the home of a relative;

(vi) Social Security number (SSN);

(vii) non-liquid resources;

(viii) household members;

(ix) school attendance; and

(x) third party insurance;

(B) unearned income information obtained through:

(i) Beneficiary and Earnings Data Exchange System (BENDEX), from the Social Security Administration (SSA);

(ii) Supplemental Security Income (SSI)/State Data Exchange System (SDX), from SSA;

(iii) Unemployment Insurance Benefits (UIB), from the Oklahoma Employment Security Commission (OESC); and

(iv) workers' compensation documents from Workers' Compensation Court; and

(C) alien status information obtained through Systematic Alien Verification for Entitlements (SAVE), from the United States Citizenship and Immigration Services (USCIS);

(3) contacting other persons who may be able to help in establishing eligibility if the applicant is unable to participate in the eligibility determination because of physical or mental disability, inability to speak English, or other difficulties;

(4) recognizing expressed or implied needs;

(5) determining whether there is a need for crisis intervention;

(6) making appropriate referrals;

(7) ensuring all of the applicant's social services needs are addressed and met; and

(8) denying the application if sufficient facts are available to substantiate ineligibility.

(f) **Requirement for SSN.** A verifiable SSN or application for a SSN is required for every person whose needs are included for food benefits, SSP, SSI-DCP, or TANF benefits. The requirement for a verifiable SSN also applies to all persons whose needs are included for SoonerCare (Medicaid) benefits, except newborn children deemed eligible and aliens who are residing in the United States (U.S.) unlawfully.

(1) The worker accepts the applicant's statement to document the SSN unless the information is inconsistent or there are other facts or observations which cause the worker to question the statement.

(A) Persons for whom a SSN is required but not available must be referred to the appropriate SSA office for SSN enumeration.

(i) The worker uses Form 08AD101E, SSN Enumeration Referral, to refer persons to the SSA office for a SSN application.

(ii) The return of Form 08AD101E to the human services center (HSC) validates the application(s) or indicates which persons have not provided SSA appropriate original evidence of age, identity, and citizenship.

(B) Parents of newborns who participate in Enumeration at Birth (EAB) receive from hospital personnel Form SSA-2853-OP3, Message From Social Security. This receipt form is verification the newborn was enumerated at birth.

(2) The worker denies the application or does not include the person for benefits if the person fails or refuses to furnish or to apply for a SSN.

(A) For TANF purposes, the person's needs are included; however, a 25% payment standard reduction penalty is imposed until an application for or a SSN is provided.

(B) For food benefit and SoonerCare (Medicaid) purposes, only the needs of the person for whom a SSN is not provided or applied for are not included.

(g) **Citizenship requirement.** All persons who are applying for state or federal public benefits such as child care, food benefits, LIHEAP, SoonerCare (Medicaid), SSP, or TANF must declare whether they are residing in the U.S. lawfully. Initially, the applicant must declare the citizenship or alien status for each household member applying for such benefits on the application form. Citizenship and alien status for persons applying for SoonerCare (Medicaid) benefits is determined using specific program requirements found at OAC 317:35-5-25. The following citizenship requirements are pursuant to Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes. Form 08MP022E, Declaration of Citizenship Status, is completed to declare the citizenship or alien status of additional household members who request benefits after certification. The application form and Form 08MP022E contain a statement advising the applicant that fraudulent claims of citizenship or lawful alien status are reported to the U.S. Attorney and may be subject to criminal prosecution.

(1) When the applicant declares that some or all of the household members applying for benefits are aliens, the worker must follow the SAVE procedures described at OAC 340:65-3-4 to determine if the documents provided to verify legal alien status are valid.

(2) The worker also must follow specific program policy regarding citizenship and alien status requirements to determine benefit eligibility found at:

(A) OAC 340:40-7-5 ~~and OAC 340:10-15-1~~ for child care;

(B) OAC 340:50-5-67 for food benefits;

(C) OAC 340:20-1-8, OAC 340:20-1-10, and OAC 340:50-5-67 for LIHEAP;

(D) OAC 317:35-5-25 for SSP; and

(E) OAC 340:10-15-1 for TANF.

(3) Lawful status in the U.S. is considered verified if each person applying for benefits has furnished a SSN or Form 08AD101E from SSA indicating that the person has completed the application to apply for a SSN. OKDHS then through an automated data exchange transaction attempts to match SSN data exchange information with SSA.

(4) When OKDHS is unable to match the SSN with SSA for a person 14 years of age or older who is applying for benefits, that person must sign and have notarized Form 08MP005E, Citizenship Affidavit, attesting to his or her U.S. citizenship or alien status unless lawful status has been verified by a U.S. birth certificate, U.S. passport, or a Certificate of Naturalization. Documents acceptable as verification of citizenship for SoonerCare (Medicaid) described at OAC 317:35-5-25 are also acceptable as verification of lawful status.

(5) When the person fails or refuses to sign and have notarized Form 08MP005E, benefits are denied or closed for that person.

(6) When the worker finds that a person who signed Form 08MP005E attesting to U.S. citizenship or legal alien status made a false claim:

(A) the worker sends to Family Support Services Division (FSSD) any applicable evidence and a memo that includes:

(i) the benefits the person fraudulently applied for or obtained;

(ii) the time frame benefits were received; and

(iii) how the worker knows the claim was false;

(B) ~~staff in~~ FSSD staff in consultation with ~~staff from the~~ Legal Division staff review the memo and any evidence provided by the worker; and

(C) when FSSD and Legal Division staff determine the person made a false claim, a complaint is filed with the U.S. Attorney for the applicable district based upon the venue in which the affidavit was executed.

340:65-3-2. Definitions

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

"Applicant" means a person who directly or through a person acting responsibly on the applicant's behalf requests a formal determination of eligibility for one or more ~~public assistance~~ programs administered by the Family Support Services Division (FSSD) of the Oklahoma Department of Human Services (OKDHS).

"Application process" means the process by which the applicant's request is formalized. The application process may consist of ~~a face-to-face~~ an interview, either face-to-face or by telephone depending on the program, by the worker during which the applicant provides information regarding his or her situation, or a paper application form. Any person who fraudulently represents facts, acts without authority, or exceeds

his or her authority to perform a transaction may be prosecuted under all applicable criminal and civil laws.

"Client" means a person who is applying for or receiving services, cash assistance, or other benefits.

"Date of application" means, for:

(A) child care benefit applications, the date the applicant or a person acting on the applicant's behalf completes the child care interview and provides all necessary verification, including the name of the child care provider the applicant wishes to use.

(B) Temporary Assistance for Needy Families (TANF), food benefits, and SoonerCare (Medicaid), the date the applicant or a person acting on the applicant's behalf signs the application form. If the application is initiated outside of ~~Oklahoma Department of Human Services (~~OKDHS~~)~~, the application date is the date the application form is stamped into the human services center (HSC).

(i) If an oral request is received prior to the date of signature on the application, the date of the oral request is entered in red above the signature date. The date of the oral request is the date of application.

(ii) When the applicant accepts an appointment to return at a later date to complete and sign the application form, the application date is the date of the original request and is handled the same as an oral request.

(iii) The oral request date is protected only if the application is signed within 30 calendar days.

(I) If the applicant fails to sign the application within 30 calendar days, no application request is considered made. The applicant's contact with OKDHS is documented in the record or as information and referral only if a record does not exist.

(II) If the applicant subsequently contacts OKDHS after 30 calendar days and completes the application process, the application date is the date the application is completed and signed.

(iv) Receipt of Form 08MA005E, Notification of Needed Medical Services, preserves the date of application for medical benefits.

"Inquiry" means a request for information but does not imply a request for assistance.

"Near real-time (NRT) benefit processing" means the application for child care benefits is processed within two business days of receiving verification needed to determine eligibility for assistance.

"Payee" means the person in the household in whose name benefits are issued. The person considered the payee varies depending on the requested programs. The payee may or may not be included in the benefit.

(A) For the Child Care Subsidy Program, the payee must be the person responsible for the child for whom benefits are requested. The payee does not have to be related to the child. If the parent of the child is in the home, the parent is considered the payee, per OAC 340:40-3-1(a)(3).

(B) For the TANF Program, the payee must have a certain degree of relationship to the child for whom benefits are requested, per OAC 340:10-3-56 and 340:10-9-1.

(C) For the ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP), the payee can be any responsible adult living in the home. If the only adult living in the home is a non-household or ineligible member in accordance with OAC 340:50-3-1, 340:50-5-5, and 340:50-5-8.1, that person is shown as the payee on the case.

(D) For the SoonerCare (Medicaid) Program, the payee is the person for whom benefits are requested or the person responsible for the minor child for whom benefits are requested. The payee does not have to be related to the child. If the parent of the child is in the home, the parent is considered the payee, per OAC 317:35-7-15.

(E) For the State Supplemental Payment (SSP) Program, the payee is the person for whom benefits are requested. If the person for whom benefits is requested is a minor child, the child is coded as a person with a guardian.

"Recipient" means a person who receives services, cash assistance, or other benefits.

340:65-3-4. Investigation of eligibility conditions and services planning

~~**Worker responsibility.**~~ The worker is responsible for collecting information necessary for determining the client's eligibility for benefits and ~~ensuring all of the~~ addressing the client's social services needs ~~are addressed and met~~. When verification of information from a source other than the client's statement is necessary, the sources described in this Section are used.

(1) **Home visits.** Home visits are necessary for Field Operations Division (FOD), Family Support Services (FSS) staff to provide services and benefits and to promote safety and stability for families. All home visits must be planned and coordinated to prevent duplication of efforts.

(A) FOD, Adult Protective Services (APS) staff may make home visits and client contacts outside normal working hours within policy as outlined in OAC 340:5.

(B) Workers may make home visits or other client contacts outside normal working hours when it is in the best interest of the client and approved by appropriate supervisory personnel. ~~If it is necessary for a worker to have contact with a client outside of normal working hours because of an emergency and the worker's immediate supervisor is not available, authorization must be obtained from the county director or designee prior to the contact. If the immediate supervisor and county director or designee are not available, the worker takes care of the client's emergency need and notifies appropriate supervisory~~

~~personnel of the situation immediately after returning to duty.~~ Home visits are made when:

(i) there is a need to confirm the accuracy of statements and documentation cannot be obtained from other sources;

(ii) an office visit would create a hardship on the household;

(iii) a Temporary Assistance for Needy Families (TANF) case is closed due to failure to cooperate according to OAC 340:10-2-2;

(iv) it is the best method to complete or review the employability plan;

(v) protective services are needed; or

(vi) the worker deems it necessary.

(2) **Collateral sources.** The client's signature on the application for assistance is the necessary authorization for securing required information or verification from collateral sources. If the collateral source requires written authorization before supplying information to the Oklahoma Department of Human Services (OKDHS), Form 08AD060E, Request for Release of Information, is completed. This authorization includes the permission of the client's spouse for information regarding his or her circumstances to be given in connection with the same application~~,~~ and of the client's parents when the client is a dependent child who is blind or disabled. The worker is responsible for discussing with the client any inconsistent information obtained from collateral sources related to the client's eligibility.

(A) Persons who are contacted for information related to the client's eligibility are advised of how the information is used and the reason it is needed. If the person is unwilling for the client to know his or her identity, the person's name is not recorded in the case record and is not revealed to the client.

(B) When someone contacts OKDHS with information related to the client's eligibility and requests anonymity, that person's name is not recorded in the case record nor revealed to the client.

(3) **Public records.** Sources of information in the form of public records that provide essential information may be obtained without consent from any ~~individual~~ person whose transactions are involved.

(4) **Data exchange.** Automated data exchange with other agencies provides benefit, wage, and tax information that is matched with OKDHS records. The worker is responsible for:

(A) reviewing data exchange information at the time of application and review of eligibility. Data exchange information screens available are:

(i) Beneficiary and Earnings Data Exchange System (BENDEX);

(ii) Buy-In Data Exchange (BIL);

(iii) SSI/State Data Exchange System (SDX);

(iv) SSA Beneficiary Earnings Exchange Record (BEER/BWG);

(v) New Hire Employee list (NHL);

(vi) Social Security Number (SSN) Verification - SSN Enumeration;

(vii) Wage Data Exchange;

(viii) Unemployment compensation; and

(ix) Unearned income report (IEVS-IRS);

(B) initiating appropriate queries; and

(C) resolving data exchange discrepancy messages within 30 calendar days of the date the message is posted on the data exchange inquiry screen.

(5) **Systematic Alien Verification for Entitlement (SAVE).** All applicants and recipients of the TANF, SoonerCare (Medicaid), ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP), and Child Care Subsidy Program benefits are required to declare their citizenship status. Persons who declare themselves or their minor child(ren) non-citizens must present documentation of their legal alien status from the United States Citizenship and Immigration Services (USCIS) or other acceptable resource. The status, as determined from the documentation, must be verified through the Alien Status Verification Index (ASVI) maintained by USCIS.

(6) **Workers' compensation.** Family Support Services Division (FSSD) staff reviews copies of all Workers' Compensation Court documents by matching SSNs with OKDHS records. Any court action that appears to potentially impact eligibility is forwarded to the servicing human services center (HSC) ~~office~~ for clearance. A copy of the document is retained in the case record.

(7) **Vital records verification.** Verification of birth records, when not otherwise available, for persons born in Oklahoma may be secured by sending a completed Form 08AD064E, Division of Vital Records, in duplicate to FSSD ~~Overpayments~~ Benefit Integrity and Recovery Section. Form 08AD064E must be retained in OKDHS case files only and not copied for any ~~individual~~ person or agency, in accordance with the agreement between OKDHS and the Oklahoma State Department of Health.

(8) **Food stamp disqualification (FSD).** The FSD transaction is used to determine if a client has been disqualified from ~~the Food Stamp Program~~ SNAP due to fraud. If a client has been disqualified, the FSD screen shows the date the disqualification began and the length of the disqualification period.

340:65-3-5. Certification process

Each application is processed by a certification of eligibility or ineligibility unless denied at the applicant's request.

(1) **Application processing time limits.** An application must be processed within certain time limits. If near real-time (NRT) benefit processing time frames are used, application processing must be completed within two working days of the date required verification is provided.

(A) When it is not possible to process the application timely, the applicant is notified in writing of the specific reasons for the delay. The applicant is also informed of his or her right to request a fair hearing and the procedures for requesting the hearing. An application is completed timely if the first month's

benefits or notice of eligibility or ineligibility is processed within specified time limits. The time limits are:

(i) Temporary Assistance for Needy Families (TANF) - 30 days;

(ii) Title IV-E Foster Care - 30 days;

(iii) Energy Crisis Assistance Program (ECAP) - 48 hours;

(iv) ~~Food Stamp~~ Supplemental Nutrition Assistance Program (SNAP) - 30 days;

(v) ~~Medical Assistance~~ SoonerCare (Medicaid) benefits for:

(I) ~~and~~ women categorically related to pregnancy related services and persons categorically related to Aid to Families with Dependent Children (AFDC) - 20 days;

(~~vi~~II) ~~Presumptive~~ presumptive eligibility for pregnant women - 5 working days;

(~~vii~~III) ~~Medical Assistance and~~ persons categorically related to Aid to the Aged - 30 days;

(~~viii~~IV) ~~Medical Assistance and~~ persons categorically related to Aid to the Blind or Disabled - 60 days;

~~(ix) Medical Assistance only and categorically related to Aid to Families with Dependent Children - 20 days, or 30 days if establishing incapacity;~~

(~~x~~V) ~~Medical Assistance for~~ Optional Tuberculosis (TB) Coverage group - 45 days;

(~~xi~~VI) ~~Medical Assistance~~ persons requesting long-term care ~~request on active State Supplemental Payment or Medical Assistance case~~ services - 45 days;

(VII) women categorically related to the Breast and Cervical Cancer Treatment Program - 30 days; and

(VIII) adults categorically related to the Family Planning Waiver Program - 20 days;

~~(xii) Children with Special Health Care Needs - 45 days;~~

(~~xiii~~vi) Diversion Assistance - 7 working days;

(~~xiv~~vii) TANF Emergency Assistance - 5 working days;

(~~xv~~viii) Low Income Home Energy Assistance Program (LIHEAP) - 30 days;

(~~xvi~~ix) Refugee Medical Assistance - 30 days; and

(~~xvii~~x) Child Care ~~Services~~ benefits - 2 working days from the date required verification is provided.

(B) An application is not denied when it cannot be processed timely due to:

(i) circumstances beyond the control of the applicant which result in failure or delay on the part of the applicant to provide needed information;

(ii) failure or delay on the part of an examining physician to supply needed information;

(iii) failure or delay on the part of the Social Security Administration in making a decision on disability; or

(iv) administrative or other emergency that could not reasonably be controlled by the ~~county office~~ local human services center (HSC).

(2) **Certification of eligibility for cash assistance.** ~~The county does not delay certification of eligibility for cash assistance pending a decision on a request for non-hospital medical care.~~

~~(A)~~ ~~If~~ When all conditions of TANF eligibility are established for the month of application, certification is effective the date of application and benefits are prorated from the date of application. When all conditions of SSP eligibility are established for the month of application, certification is effective from the first day of the month and the SSP is not prorated.

(~~B~~A) Certification cannot be effective prior to the application date.

(~~C~~B) When an application is taken for TANF and all other conditions of eligibility are determined prior to a child's entry to the home, the certification date cannot be prior to the actual date of entry.

(~~D~~C) A retroactive payment ~~can~~ may be authorized for any month eligibility is established. An application denied in error must have payment authorized for the period eligibility is established. The applicant is not penalized if the certification is delayed beyond the time limit for disposition due solely to Oklahoma Department of Human Services (OKDHS) failure to take timely action. ~~In this case, the payment is authorized for the period eligibility is established.~~

(~~E~~D) A certification is valid even if a month of ineligibility is determined between application and authorization. An applicant, who is ineligible for the month of application but is eligible for a subsequent month, is certified effective the first day of the subsequent month.

(3) **Certification of ineligibility.** When an applicant is ineligible, a computer-generated notice is sent to the applicant giving the effective date and explaining the reason for ineligibility. If the applicant is dissatisfied with the action taken, the applicant may request a fair hearing within the period of time specified in the notice.

(4) **Proration of TANF benefits.** The proration of TANF benefits applies when ~~a new assistance case~~ the applicant is determined eligible during the month of application unless the applicant received a TANF benefit for the previous month and is eligible to be reopened in accordance with OAC 340:65-5-6. Certification is made effective from the date of application. Proration also applies when ~~an individual~~ a person is added to an existing case. The family is eligible for the full TANF benefit effective the following month if applicable.

(A) For the month of application only, the TANF benefits are prorated from the date of application. The TANF benefits that the recipient would be eligible to

receive if proration did not apply must be determined prior to the computation.

(B) The formula used for the prorated amount is: 31 - application date x TANF money benefit ÷ 30 = the prorated payment. The prorated payment is rounded down to the lower dollar amount.

~~(C) This proration policy is applied regardless of whether the family received assistance the prior month.~~

(i) If the prorated benefit is below $10, the family is not eligible for a money payment but is eligible for ~~medical~~ SoonerCare (Medicaid) benefits for the entire month.

(ii) When food ~~stamps~~ benefits are requested in the TANF case for the month the TANF payment is prorated, the food ~~stamp~~ benefit unearned income is automatically updated to show the TANF benefit before proration.

(iii) The notification to the client is computer-generated and shows the amount for the initial month and following month. ~~When proration is applied to the TANF benefit the family is eligible for medical benefits for the entire month and receives a medical card. The family is eligible for the full TANF benefit effective the following month.~~

340:65-3-6. Payment method for TANF and SSP benefits

(a) When an applicant applies for Temporary Assistance for Needy Families (TANF) or State Supplemental Payment (SSP) benefits, the worker advises the applicant that these benefits are ~~first~~ issued on a debit card.

(1) When a debit card has not previously been issued to the applicant, it is issued when benefits are placed in application status or after benefits are approved. When a debit card has previously been issued to the applicant, a new one is not sent. It is activated once benefits are approved.

(2) Once the client receives the debit card, he or she must call the customer service telephone number located on the back of the debit card to activate the card and choose a personal identification number (PIN).

(3) The client may choose another person to be a secondary cardholder for the benefits. The client must either contact the customer service telephone number located on the back of the debit card to request this or print the alternate cardholder request form from the www.eppicard.com Web site. The client and the secondary cardholder must complete and sign the form and return it to the address on the form before a debit card is issued to the secondary cardholder. After the secondary cardholder receives the debit card, he or she must choose a PIN number before accessing benefits.

(4) When the client advises the Oklahoma Department of Human Services (OKDHS) staff that he or she never received the debit card, the worker checks to see if was returned as undeliverable.

(5) There are certain fees a client may be charged when using a debit card. A list of fees can be found at www.eppicard.com. The client is sent information about fees when a debit card is first issued. The client can access account and transaction information on-line at www.eppicard.com free of charge at any time.

(6) If the client fails to activate his or her debit card within 90 calendar days, the benefits are expunged and the contractor returns any funds loaded on a debit card to OKDHS. These funds may be reloaded on the client's debit card if he or she pins the debit card and requests from OKDHS reissuance within 365 days of the date of issuance.

(b) When the client prefers to receive benefits through direct deposit, he or she must call the contractor's call center telephone number to request direct deposit. The contractor's staff mails or faxes a direct deposit form to the client to complete and return before benefits can be issued by direct deposit. The client can also obtain a direct deposit form by going to the www.eppicard.com Web site and printing it off.

(1) The client must complete the direct deposit form, provide a voided check or a savings account deposit slip, and return them to the address on the form.

(2) Once the form is completed and account information confirmed, the contractor has five working days to enter direct deposit information in the system.

(3) Benefits are changed to direct deposit for the next payment due after direct deposit information is entered in the system.

(4) Funds cannot be transferred from a debit card to direct deposit.

(c) The client's cash benefit is deposited in the client's checking or savings account on the first banking day of each month or loaded on the client's debit card on the first day of each month.

(1) The funds are available for withdrawal after deposit.

(2) After the monthly benefit is deposited in the client's account or loaded on the debit card, OKDHS is not responsible if someone other than the payee withdraws the funds. Banking regulations govern withdrawals.

(3) Clients are encouraged to be prudent about giving withdrawal privileges or debit card access to other people.

(d) The client may switch from direct deposit to the debit card or from the debit card to direct deposit by calling the contractor's call center to request the change and following directions given by the contractor's staff.

(e) When problems occur with direct deposit or debit card deposits, procedures for dealing with these problems are detailed in (1)~~-~~ through (5) of this subsection.

(1) When direct deposit cannot be accomplished for a benefit, the contractor's staff attempts to contact the client to obtain current banking information. When the client fails to provide current information or five days elapse without contact, the contractor converts the payment method to a debit card. If the client wishes to receive direct deposit again, the client must complete a new direct deposit form and provide current account information.

(2) If a client reports that a deposit was not made to his or her account or loaded on the debit card, the client reports this to the contractor's call center. The contractor handles any communication with banking institutions or MasterCard and then contacts the client regarding resolution.

(3) Payments may be made by direct deposit or debit card after the death of the payee.

(A) When a payment is made after the death of the payee for which the payee is not eligible, an overpayment may be established against the estate.

(B) If there are unused benefits on the debit card at the time of death for which the client was entitled and someone contacts OKDHS to request these benefits, he or she is advised to contact the customer service number located on the back of the client's debit card for assistance.

(4) When a cash benefit is closed, the closure action automatically closes out direct deposit or debit card payments.

(A) When the client's cash benefit is closed due to transfer of eligibility to another TANF or SSP case, direct deposit or debit card deposit is automatically transferred to the new case provided the client number of the payee in the closed and new case is the same.

(B) When the client's cash benefit is closed and he or she later reapplies and is approved with the same client number, the previously chosen payment method is used to issue the cash benefit. The client must call the contractor's call center to change the payment method.

(5) When the payee for the cash benefit changes for any reason, he or she is assigned a new client number and a debit card is issued if one has not previously been issued for the new client number. The client must call the contractor's call center to set up direct deposit if he or she prefers that payment method. The new payee does not have access to benefits issued prior to the payee change.

340:65-3-8. Determination of continuing eligibility

(a) **Determination of continuing eligibility.** Determining continuing eligibility is a process which must be carried out at appropriate intervals. The appropriate interval for reviewing eligibility depends on the type of benefit received. The worker is responsible for:

(1) advising the recipient at each contact of the recipient's responsibility to report changes within ten calendar days of the date the change becomes known;

(2) making contacts at unspecified intervals to ensure continuing eligibility;

(3) synchronizing the review dates for all benefits received by the household whenever possible; and

(4) determining continuing eligibility.

(b) **Eligibility review or recertification forms.** Form 08MP001E, Request for Benefits, Form 08MP002E, Eligibility Information for Benefits, and Form 08MP003E, Responsibilities and Signature for Benefits, are used as the review or recertification forms for food benefits, subsidized child care benefits, Temporary Assistance for Needy Families (TANF), State Supplemental Payment (SSP), or SoonerCare (Medicaid) benefits. Other forms that may be used include:

(1) computer-generated Form 08MA007E, Recertification of Eligibility for SoonerCare Health Benefits, for pregnant women and families with children approved for SoonerCare (Medicaid) benefits;

(2) computer-generated Form 08MP004E, Benefit Review Report, for persons subject to benefit review. These may include recipients of food, child care, or SoonerCare (Medicaid) benefits; or

(3) Form 08MA017E, SSI-DCP Service Plan, for children receiving Supplemental Security Income-Disabled Children's Program (SSI-DCP) services per OAC 340:70-8-1.

(c) **Signature requirements.** The review or recertification form must be signed by the recipient, guardian, or a person acting on the recipient's behalf, such as an authorized representative or a person with power-of-attorney. TANF reviews must be signed by the recipient. If the recipient is living with his or her spouse, both must sign the review form. The only exception to the signature requirement is for a SoonerCare (Medicaid) review completed over the telephone using Form 08MA007E or Form 08MP004E.

(d) **Review or recertification time frames.** A periodic review or recertification time frame varies depending on the program.

(1) The worker completes a review at six month intervals with a:

(A) TANF recipient due to:

(i) pending required immunizations;

(ii) payment standard reductions because of intentional program violations;

(iii) hardship extension approvals;

(~~v~~iv) earned income;

(v) a work-eligible person exempt from TANF Work activities because of incapacity; or

(vi) a work-eligible person exempt from TANF Work activities to care for a disabled family member living in the household;

(B) child care recipient who is receiving child care benefits because of a protective or preventive reason per OAC 340:40-7-8; or

(C) food benefit recipient subject to semi-annual benefit reporting per ~~OAC40:50-9-5(i)~~ OAC 340:50-9-5(i).

(2) The worker completes a review or recertification at 12-month intervals with a:

(A) TANF recipient unless an earlier review date is warranted;

(B) State Supplemental Payment (SSP) recipient based on the review of need for SoonerCare (Medicaid);

(C) child receiving SoonerCare (Medicaid) who is in state or tribal custody;

(D) child care recipient unless an earlier review date is warranted per OAC 340:40-9-1;

(E) ~~non public assistance (non PA)~~ food benefit household who is subject to semi-annual benefit reporting per OAC 340:50-9-5(i). The food benefit household must complete a recertification ~~form~~ using Forms 08MP001E, 08MP002E, and 08MP003E~~.~~;

(F) ~~Non PA~~ food benefit recipients subject to annual benefit reporting must complete Form 08MP004E in the 11th month of certification; or

(~~F~~G) SoonerCare (Medicaid) recipient unless benefits are approved for less than 12 months.

(3) The worker completes a food benefit recertification form at 24-month intervals for a ~~non PA~~ food benefit household who is subject to annual benefit reporting per OAC 340:50-9-5(g).

(e) **Interview requirements.** Whether an interview is required for a review or recertification varies depending on the program.

(1) A face-to-face interview is required for the:

~~(A) Food Stamp Program at recertification. Exceptions are found at OAC 340:50-3-2(b);~~

(~~B~~A) TANF Program; or

(~~C~~B) SSI-DCP service plan review.

(2) A telephone or face-to-face interview is required for the Child Care Subsidy Program review and the Supplemental Nutrition Assistance Program (SNAP) recertification.

(3) An interview is not required for any of the SoonerCare (Medicaid) programs as long as the review form is complete, including the signature, all required verification provided, and none of the information is questionable. When information is not complete or is questionable, the worker contacts the recipient to obtain needed information.

SUBCHAPTER 5. PROCEDURES RELATING TO CASE CHANGES

PART 1. GENERAL PROVISIONS

340:65-5-2. Change of ~~Cash~~ cash benefits

When ~~there is an increase or decrease in the monthly benefit, the~~ a change occurs in ~~benefit is authorized by updating~~ the ~~Family Assistance/Client Services (FACS) system. A change in the amount of benefit cannot be effective for the coming month after the deadline for change. If the change took place or the information was received in the county office too late to process before the current deadline, the change is made effective for the next month's deadline. When a change occurs~~ recipient's situation that increases ~~a client's benefit amount, the computer system is updated to make the change the next possible effective date. A supplemental~~ or decreases the cash benefit, the worker makes the change for the next possible effective date shown on Oklahoma Department of Human Services (OKDHS) Appendix B-2, Deadlines for Case Actions.

(1) When the change increases the cash benefit, ~~is authorized for each month the client was underpaid as a result of Agency error. Documentation of the change is required prior to an authorization to issue~~ the worker determines whether a supplemental benefit is due. If one is due, the worker issues the supplement within ten calendar days of the date the change was reported.

(2) When ~~a decrease in the amount of benefit is authorized, the county office gives consideration to~~ the change decreases the cash benefit, the worker evaluates whether prior benefits have been properly issued. ~~Any improper benefits issued are reported to the State Office, Attention Family Support Services Division, Overpayment Section, for consideration of~~ When benefits were issued in error, the worker completes an overpayment in accordance with rules at OAC 340:65-9~~.~~.

340:65-5-3. Suspension of benefits

~~Benefits~~ Temporary Assistance for Needy Families (TANF), State Supplemental Payment (SSP), or SoonerCare (Medicaid) benefits may be temporarily discontinued by suspension ~~without closing the case~~. Suspensions cannot exceed one month. Benefits are not issued on cases in suspended status. Suspensions are appropriate when:

(1) the recipient is ineligible as there are resources available to meet needs for a brief time. If the amount of resources indicates that the recipient will be ineligible for a longer period, the benefit is terminated; or

(2) the facts indicate a change or discontinuance of an assistance payment but sufficient evidence for a determination of proper action cannot be obtained in time to change the next month's benefit.

[OAR Docket #09-758; filed 4-22-09]

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

[OAR Docket #09-760]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-26.2 [NEW]
Subchapter 7. Foster Home Care
Part 1. General Provisions
340:75-7-2 [AMENDED]
Part 2. Development of Resources
340:75-7-10 [AMENDED]
340:75-7-12 [AMENDED]
340:75-7-14 through 340:75-7-15 [AMENDED]
340:75-7-18 [AMENDED]
Part 4. Roles and Responsibilities
340:75-7-37 [AMENDED] through 340:75-7-37.1 [AMENDED]
340:75-7-41 [AMENDED]
Part 5. Eligibility and Payments
340:75-7-51 through 340:75-7-52.1 [AMENDED]
Part 6. Foster Home Care Support Services

340:75-7-65 [AMENDED]
Part 27. Contract Foster Care Program [NEW]
340:75-7-280 [NEW]
Subchapter 11. Child Welfare Community-Based Residential Care
Part 23. Specialized Community Homes
340:75-11-286 [AMENDED]
(Reference APA WF 08-28)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and the Oklahoma Children's Code of Title 10 of the Oklahoma Statutes.

DATES:
Comment period:
January 15, 2009 through February 16, 2009
Public hearing:
None requested
Adoption:
February 24, 2009
Submitted to Governor:
February 24, 2009
Submitted to House:
February 24, 2009
Submitted to Senate:
February 24, 2009
Gubernatorial approval:
March 12, 2009
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on April 21, 2009.
Final adoption:
April 21, 2009
Effective:
June 1, 2009

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The proposed revisions to Subchapter 1, 7, and 11 of Chapter 75 amend the rules to: (1) update language to conform to the Practice Model and Bridge resource family initiatives being implemented by Oklahoma Department of Human Services (OKDHS); (2) further clarify and set out procedures that enhance the goals of safety and permanency for children; and (3) expand the availability of placement resources for children.

CONTACT PERSON:
Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 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, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS OF CHILD WELFARE SERVICES

PART 1. SCOPE AND APPLICABILITY

340:75-1-26.2. Death certificates

If a child in the custody of Oklahoma Department of Human Services (OKDHS) has a deceased parent, the Child Welfare (CW) worker requests a certified copy of that parent's death certificate.

SUBCHAPTER 7. FOSTER HOME CARE

PART 1. GENERAL PROVISIONS

340:75-7-2. Purpose, legal ~~base~~ basis, and definitions

(a) **Purpose.** Foster family care is a planned, goal directed service that provides 24-hour a day substitute temporary care and supportive services in a home environment for any child, birth to 18 years of age, residing in Oklahoma and in the custody of Oklahoma Department of Human Services (OKDHS). Voluntary foster care is available for any child, birth to 21 years of age, per OAC 340:75-4-12.1 and 340:75-6-115.9.

(b) **Legal ~~base~~ basis.**

(1) The Oklahoma Foster Care and Out-of-Home Placement Act acknowledges that foster parents have a recognizable interest in the familial relationship they establish with a child who is placed in their care. The law recognizes that foster parents are essential participants in decision-making related to the child in their home.

(2) Sections 7203 and 7204.4 of Title 10 of the Oklahoma Statutes define and authorize foster family care.

(3) Titles IV-B and IV-E of the Social Security Act mandate and provide funding for certain child welfare services, including foster care.

(4) OKDHS implements recruitment and retention activities that support the:

(A) Multiethnic Placement Act of 1994 as amended by the Interethnic Adoption Provisions of 1996 (MEPA/IEP), per OAC 340:75-1-9;

(B) Federal Indian Child Welfare Act (FICWA), per Section 1901 et seq. of Title 21 of the United States Code, and Oklahoma Indian Child Welfare Act (OICWA), per Section 40 et seq. of Title 10 of the Oklahoma Statutes;

(C) Adoption and Safe Families Act of 1997 (ASFA) that amended Titles IV-B and IV-E of the Social Security Act, per Sections 620 through 679 of Title 42 of the United States Code; and

(D) regulations promulgated to implement each Act.

(c) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Bridge resource family"** is a family who may be asked to:

(A) provide temporary care, love, and nurturance to the child and serve as a mentor actively helping the parent improve their ability to safely care for their children while staying connected and assisting in the transition to reunification, legal guardianship, or adoption to another family; and/or

(B) serve as the legal guardian for the child while maintaining a child's connection to kin, culture, and community; and/or

(C) adopt the child while maintaining a child's connection to kin, culture, and community.

(2) **"Contracted foster care (CFC)"** is care for children in custody of OKDHS provided by a contracted child placing agency to meet the child's needs through service coordination and delivery in conjunction with OKDHS.

(~~2~~3) **"Emergency foster care (EFC)"** means short-term care for children in the custody of OKDHS from birth through five years of age. Care is provided by a contracted child-placing agency to meet the child's needs through service coordination and delivery in conjunction with OKDHS.

(~~3~~4) **"Foster family care"** means an essential temporary Child Welfare (CW) service for a child and parent(s), legal guardian, or custodian when the child's safety cannot be ensured in his or her own home due to the ~~risk~~ threat of child abuse, neglect, or special circumstances necessitating out-of-home care on a temporary basis in a home away from the child's parent(s), legal guardian, or custodian. A service of continuous care is provided for a child requiring out-of-home placement in a home environment, including, but not limited to, the care, supervision, guidance, and rearing of a child by a ~~foster~~ Bridge resource parent, who is approved by and under contract with OKDHS.

(~~4~~5) **"House assessment"** means the evaluation of the prospective ~~foster or kinship~~ Bridge resource family's place of residence to determine whether the residence meets OKDHS physical requirements for safety.

(~~5~~6) **"In-service training"** means instruction on a yearly basis that is required to maintain continued approval of a ~~foster~~ Bridge resource home.

(~~6~~7) **"Inquiry"** means the first contact a prospective Bridge resource parent has with OKDHS. The prospective Bridge resource parent may ask the local OKDHS office staff about foster parenting, through a phone call, e-mail, or personal contact.

(8) **"Integrated Assessment"** means an assessment, of a family interested in becoming a Bridge resource family for OKDHS, that is completed by OKDHS staff or by a contractor of OKDHS. The assessment consists of an evaluation of the family's ability to foster and adopt, and includes, but is not limited to:

(A) consideration of criminal and CW history;

(B) the safety and physical ability of the home to integrate a new family member;

(C) the number and ages of children in the home;

(D) references;

(E) military history; and

(F) household income.

(~~7~~9) **"Kinship foster family care"** means continuous care provided for a child requiring out-of-home placement by a relative, stepparent, or other responsible adult who has a bond or tie with the child or a family relationship role with the child's parent(s) or the child prior to the child's entry into foster care.

(~~8~~10) **"Mutual decision-making"** means the process by which the prospective Bridge resource family decides, given what they have learned about themselves and the children served by OKDHS, whether they want to become approved foster, kin, or adoptive parents. OKDHS, represented by the resource specialist, determines whether the family has the skills, willingness, and Bridge resources to foster or adopt an available child.

(~~9~~11) **"Parental substitute authority"** means the ability of the foster parent to integrate the child requiring out-of-home placement into the family setting and to care for the child as the foster parent would his or her child, by:

(A) meeting the child's physical and emotional needs;

(B) teaching the child problem-solving, self-control, and responsibility; and

(C) building the foster parent - child relationship. This does not include the authority to use corporal punishment on any child in OKDHS custody.

(~~10~~12) **"Pre-service training"** means instruction required of a ~~foster~~ Bridge resource parent applicant prior to approval.

PART 2. DEVELOPMENT OF RESOURCES

340:75-7-10. Recruitment of ~~foster~~ Bridge resource families

(a) **~~Foster~~ Bridge resource families.** The recruitment of ~~foster~~ Bridge resource families is a crucial component for providing safe home environments for children requiring out-of-home placement due to child abuse, neglect, or other special circumstances. Diligent recruitment ensures children have access to ~~foster~~ Bridge resource families who:

(1) live in close proximity to biological families;

(2) can meet each child's unique needs;

(3) allow sibling groups to remain together; and

(4) reflect and understand the racial and ethnic diversity of local communities.

(b) **Recruitment and retention.** In order to impact the availability and diversity of Bridge resources, the Oklahoma Department of Human Services (OKDHS) implements recruitment and retention activities that are defined by each county.

340:75-7-12. Initial screening and requirements

(a) **Inquiries.** Any person who is at least 21 years of age may apply to become a ~~foster~~ Bridge resource parent by contacting the local Oklahoma Department of Human Services (OKDHS) office.

(b) **Requirements.** Requirements described in OAC 340:110-5 serve as a framework for families and OKDHS in the mutual assessment process that assists in selecting the best home for children placed in foster family care. All applicants must:

(1) be at least 21 years of age and preferably no more than 55 years older than the child considered for placement;

(2) be residing lawfully in the United States;

(3) have healthy relationships whether married, single, separated, or divorced;

(~~3~~4) have the ability to manage personal and household financial needs without relying on the foster care reimbursement;
(~~4~~5) provide appropriate sleeping arrangements for each child placed;
(~~5~~6) provide verification that all household members are in sufficiently good physical and mental health to provide for the individual needs of each child placed;
(~~6~~7) submit to a search of all OKDHS records, including Child Welfare records;
(~~7~~8) ensure that each household member, 18 years of age or older, submits fingerprints for a state and national criminal history records search;
(~~8~~9) submit to a search of Juvenile Justice Information System (JOLTS) records for any child older than 13 years of age in the household;
(~~9~~10) ensure that no household member has a prior conviction of any sexual offense;
(11) participate in the family assessment process which includes a home study;
(~~10~~12) not smoke in the home when a child is placed in the home;
(~~11~~13) not smoke in the automobile when transporting a child placed;
(~~12~~14) provide references;
(~~13~~15) complete 27 hours of pre-service training;
(~~14~~16) complete 12 hours of in-service training each calendar year;
(~~15~~17) demonstrate the basic competencies that are to:
(A) protect and nurture children who have been abused, emotionally maltreated, or neglected;
(B) meet the medical and developmental needs of these children;
(C) support relationships between children and their parents, siblings, and kin, as specified by OKDHS;
(D) connect children to safe, nurturing relationships; and
(E) collaborate with OKDHS as a team member;
(~~16~~18) provide a home that is clean and safe;
(~~17~~19) have a house assessment completed;
(~~18~~20) have extended family or friends to provide support and child care other than, or in addition to, licensed child care paid by OKDHS;
(~~19~~21) submit verification of employment when requesting OKDHS paid child care services for a child in foster care;
(~~20~~22) acknowledge and agree to abide by applicable Oklahoma statutes and OKDHS rules regarding the child in their care that include, but are not limited to:
(A) OKDHS, as the legal custodian of the child, has the right to move any child from any foster home at any time when in the child's best interests and in accordance with statutes governing movement of children;
(B) the necessity of maintaining and respecting the confidential nature of all information regarding a child placed in the ~~foster~~ Bridge resource home. A breach of confidentiality may be grounds for closure of the ~~foster~~ Bridge resource home and termination of the foster care contract; and
(C) the requirement that OKDHS investigate or assess allegations of abuse, neglect, or maltreatment of any child in OKDHS custody placed in an approved ~~foster~~ Bridge resource home in the same manner as any other abuse or neglect investigation or assessment conducted by OKDHS;
(~~21~~23) notify OKDHS whenever any member of the ~~foster~~ Bridge resource family is seriously ill or hospitalized;
(~~22~~24) provide a physician's statement, once approved as a ~~foster~~ Bridge resource parent:
(A) for any hospital stay;
(B) for ongoing outpatient medical or mental health care, including psychological counseling; or
(C) upon OKDHS request;
(~~23~~25) agree to provide foster care as a planned, temporary placement for the child whose permanency plan is family reunification or other permanency plan;
(~~24~~26) work as a member of a professional multidisciplinary team with OKDHS staff to develop a permanency plan for each child placed;
(27) participate in an initial meeting with the parent(s);
(~~25~~28) share parenting of the child in care with the parent(s), who may have different values and lifestyles;
(~~26~~29) be willing to actively mentor the parent in helping them improve their ability to safely care for their child;
(~~27~~30) treat all information regarding the child and family as confidential, only sharing such information necessary to obtain services for the child or with persons who are directly involved with the case;
(~~28~~31) participate in the development of an effective parent and child visitation plan that may include contact with the parents and siblings, if siblings are separated;
(~~29~~32) comply with OKDHS rules on discipline;
(~~30~~33) maintain requirements necessary for continued approval as a foster home;
(~~31~~34) participate in the re-assessment of the ~~foster~~ Bridge resource home and the evaluation of the OKDHS Foster Care program and services;
(~~32~~35) utilize the foster care reimbursement for the care and maintenance of the child's basic needs, such as food, clothing, shelter, incidentals, non-prescription medications, including special activity fees, allowances, and recreational opportunities;
(~~33~~36) utilize the clothing allowance included in the foster care reimbursement to provide adequate clothing for the child placed; and
(~~34~~37) comply with all Oklahoma statutes relating to the care and support of minors including those that prohibit the use of tobacco, alcohol, or non-prescribed medications.

(c) **Specific inquiries.** Temporary Assistance for Needy Families (TANF) recipients and OKDHS employees may apply to be OKDHS ~~foster~~ Bridge resource families.

(d) **Requests from other states.** When former foster parents apply in another state to be a foster resource and that state requests information about the foster parents from OKDHS,

Children and Family Services Division Foster Care Section responds to the request.

(e) **Disposition of application.** The application will be accepted or denied. If denied, the reasons for denial are discussed with the applicant.

340:75-7-14. Training

(a) **Pre-service training.** Applicants and adult household members who will be caring for a child in Oklahoma Department of Human Services (OKDHS) custody complete a prescribed course of training that addresses the values and competencies essential to caring for a child who is a victim of maltreatment.

(1) Each adult age 18 years or older in a ~~foster~~ Bridge resource home identified as a provider for a child completes required training or is determined to possess required competencies as a result of prior foster care training and experience.

(2) Required pre-service training consists of approximately 27 hours of instruction addressing required competencies, including, but not limited to:

(A) protecting and nurturing children who have been abused, emotionally maltreated, or neglected;

(B) meeting the medical and developmental needs of these children;

(C) supporting relationships between children and their parents, siblings, and kin, as specified by OKDHS;

(D) connecting children to safe, nurturing relationships; and

(E) collaborating with OKDHS as a team member.

(3) Applicants may request a waiver of training requirements by submitting to the resource specialist a list of subjects addressed in training as a result of prior service with Oklahoma, another state, or a private agency. Requests for training waivers are reviewed and acted on by the Children and Family Services Division (CFSD) Foster Care Section programs manager.

(A) An applicant with a break in OKDHS service of less than five years meets the training requirements.

(B) Supplemental information or confirmation of training may be requested from another state or private agency identified by the applicant to aid in decision-making.

(C) The resource specialist notifies the applicant of the decision within 30 working days of the request for a training waiver.

(4) Kinship Bridge resource families may be approved as initial placements before the completion of classroom training.

(5) ~~Foster and kinship~~ Bridge resource families may request exception to training based on work schedule or disability.

(A) A self-study curriculum addressing the required competencies may be:

(i) requested by an adult in the applicant's home when the person's work schedule precludes the completion of training; and

(ii) approved by the Foster Care programs manager or designee. The assigned resource specialist supervises self-studies.

(B) A permanent training waiver may be approved by the Foster Care programs manager or designee for adults in the applicant's home when verification is received that the person has a significant disability that precludes completion of classroom or self-study curriculums. Persons who are granted a permanent training waiver may not be considered as a provider for a child.

(b) **In-service training.** All ~~foster~~ Bridge resource parents complete 12 hours of continuing in-service training per calendar year on subjects that promote their skills and interests as providers.

(1) OKDHS offices provide free in-service training options to ~~foster~~ Bridge resource families, including conferences, video and taped instruction, and literature.

(2) Internet instruction through recognized state and private foster care agencies is accepted as meeting in-service training requirements. The ~~foster~~ Bridge resource family provides to the resource specialist the certificate of training, if available, from the training source, listing the completed approved hours.

(3) ~~Foster~~ Bridge resource families have options in selecting classes, conferences, reading materials, or other learning opportunities that enhance their skills as providers and meet the in-service training requirement. Prior approval from the resource specialist is secured to ensure a common understanding of credit for each event.

(4) ~~Foster~~ Bridge resource families caring for children in OKDHS custody residing in another state must meet the requirements of that state for ongoing training to maintain approval.

340:75-7-15. Background investigation and assessment of results

(a) **Requirements.** A background investigation is conducted on all adults in the ~~foster~~ Bridge resource applicant's home as a safeguard for children placed in Oklahoma Department of Human Services (OKDHS) custody. Results from the background investigation are obtained prior to approving the Bridge resource applicant's home. Background investigations are conducted at the time of application and include, but are not limited to:

(1) an Oklahoma State Bureau of Investigation (OSBI) name and records criminal history search, including the Department of Public Safety (DPS) and Sex ~~Offenders~~ Offender Registry, of the applicant and any adult living in the applicant's household;

(2) a Federal Bureau of Investigation (FBI) national criminal history search, based on the fingerprints of the applicant and any adult members of the household;

(3) a search of any court involvement;

(4) a search of all OKDHS records, including Child Welfare (CW) records, for past confirmation of child maltreatment involving the applicant and any adult living in the household;

(5) a search of all applicable out-of-state child abuse and neglect registries for any applicant or adult household member who has not lived continuously in Oklahoma for the past five years. The prospective resource home is not approved without the results of the state-maintained child abuse and neglect registry checks, if a registry is maintained in the applicable state, for all adult household members living in the home. If no child abuse and neglect registry is maintained in the applicable state, the resource specialist requests any information that can be provided; and

(6) a search of Juvenile Justice Information System (JOLTS) records for any child older than 13 years of age in the applicant's household.

(b) **Criminal history search.** The applicant and adult household members provide consent for an OSBI and FBI criminal history search by signing Form 04AD003E, Request for Background Check.

(c) **Exception to fingerprinting.** The Director of OKDHS or designee may authorize an exception to the fingerprinting requirement, and authorize use of an alternative procedure for obtaining a national criminal records check for any person residing in the home who has a severe condition that precludes such person being fingerprinted. In limited, case specific circumstances, OKDHS may not be able to obtain:

(1) an individual's fingerprints as a result of the individual's disability; or

(2) legible fingerprints due to low quality fingerprints, as a result of age, occupation or otherwise, thereby making it impossible for the national crime information databases (NCID) to provide results.

(d) **Residence time frame.**

~~(1) If every person age 18 or older residing in the applicant's home has resided in Oklahoma for at least five consecutive years immediately preceding approval, the approval may occur upon completion of the entire home assessment process using results per OAC 340:75-7-15(a).~~

~~(2)~~ Applicants or adult household members who have lived in Oklahoma for less than five years must also provide the equivalent background records check from previous state(s) of residence prior to placement. Equivalent records check includes, but is not limited to, a state's criminal history search, including DPS and Sex ~~Offenders~~ Offender Registry. OKDHS obtains the child abuse and neglect registry check from the previous state(s) of residence.

(e) **Occupancy of the household.** A criminal history search is completed for every adult who sleeps in the household more than 30 days per calendar year or engages in a pattern of overnight visitation that meets this test. Such persons are considered household members.

(f) **New occupants in the ~~foster~~ Bridge resource home.** The ~~foster~~ Bridge resource parent notifies OKDHS within 24 hours of any person taking up residence in the foster home. OKDHS completes a background investigation, per OAC 340:75-7-15, for persons age 18 years or older. The ~~foster~~ Bridge resource parent's child who reaches age 18 is considered in this category. Adults in this category have no provider responsibility until the background investigation is complete. A ~~foster~~ Bridge resource family's failure to notify OKDHS of a new household member or refusal of a household member to consent to a background check is grounds for cancellation of the foster care contract.

(g) **Kinship Bridge resource applicant criminal background records search after normal business hours or on a holiday.** When OKDHS considers placement of a child with a prospective kinship ~~foster~~ Bridge resource family in an emergency situation, after normal business hours or on a holiday, OKDHS requests that local law enforcement conduct a name based National Crime Information Center (NCIC) criminal history search. This is based upon submission of the name, race, gender, date of birth, and Social Security number of each person age 18 years or older living in the household. Each person completes and signs Form 04AD003E to initiate the search.

(h) **Assessment of background investigation results.**

(1) **History of felony convictions.** OKDHS denies a Bridge resource home application if the applicant, or any person residing in the home of the applicant, has a criminal conviction record for any of the felony offenses listed in (A) through (E). The criminal conviction of an approved ~~foster~~ Bridge resource parent or any person residing in the ~~foster~~ Bridge resource home of any of the felony offenses listed in (A) through (E) requires the closure of the ~~foster~~ Bridge resource home, cancellation of the foster care contract, and removal of each child in OKDHS custody. The felony offenses are:

(A) physical assault, battery, or a drug-related offense within the five year period preceding the application date;

(B) child abuse or neglect;

(C) domestic abuse;

(D) a crime against a child, including, but not limited to, child pornography; or

(E) a crime involving violence, including, but not limited to, rape, sexual assault, or homicide, but excluding physical assault or battery. Homicide includes manslaughter. A crime involving violence means an offense that:

(i) has as an element the use, attempted use, or threatened use of physical force against the person or property of another; or

(ii) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) **Exceptions to history of felony or relevant misdemeanor arrests or convictions.** OKDHS does not grant exceptions regarding felony convictions, per OAC 340:75-7-15(h)(1), of a prospective or approved ~~foster~~ Bridge resource parent or of anyone residing in the ~~foster~~ Bridge resource home. Any applicant who has, or is living with a person who has, any felony, relevant misdemeanor, criminal arrest, or conviction history will be reviewed by a committee. A relevant misdemeanor may include, but is not limited to, assault and battery, alcohol or drug-related

offenses, crimes involving domestic abuse, and other such offenses.

(3) **Sex related crimes.** OKDHS denies the application of an applicant if the applicant, or any person residing in the applicant's home, has been convicted, whether upon a verdict or a plea of guilty or upon a plea of nolo contendere, for any crime specified per Section 582 of Title 57 of the Oklahoma Statutes. OKDHS denies the application of an applicant if the applicant is subject to, living with, or married to a person who is subject to the Oklahoma Sex ~~Offenders~~ Offender Registration Act.

(4) **History of crimes, charges, or other convictions.** Approval of any applicant who has, or is living with a person who has, a history of arrests, charges, or convictions for any felony other than those listed in OAC 340:75-7-15(h)(1) or a relevant misdemeanor may be approved on a case-by-case basis. A relevant misdemeanor includes, but is not limited to, assault and battery, alcohol or drug related offenses, crimes involving domestic abuse, and other such offenses.

(5) **History of child abuse and neglect investigations.** OKDHS determines the approval of any applicant with a history of child abuse and neglect investigations on a case-by-case basis. The county director considers the:

(A) nature and seriousness of the CW history;

(B) time elapsed since the CW history;

(C) circumstances of the CW history;

(D) degree of rehabilitation;

(E) risk, if any, to the child by such placement; and

(F) results of appeals, if applicable.

(6) **History of child abuse and neglect investigations on closed foster homes.** OKDHS determines whether to pursue the approval of any applicant that was previously a ~~foster~~ Bridge resource home with a history of child abuse and neglect investigations as a ~~foster~~ Bridge resource parent. The Children and Family Services Division Foster Care Section reviews investigations where there have been abuse or neglect allegations and confirmed findings.

(7) **JOLTS information.** The information obtained from a JOLTS search on the child older than 13 years of age living in the applicant's home is used to determine whether that child poses a risk to a child in OKDHS custody.

340:75-7-18. ~~Resource~~ Bridge resource family assessment

(a) **Bridge ~~Resource~~ resource family assessments.** The Bridge resource family assessment is completed by Oklahoma Department of Human Services (OKDHS) staff or by a contractor of OKDHS and consists of an evaluation of the items listed in (1) through (7). The written assessment depicts the family based on complete, consistent, and truthful information gathered by the resource specialist or contractor in conjunction with the family.

(1) **Background investigation.** Completed and signed Forms 04AF001E, Resource Family Assessment Application, and 04AD003E, Request for Background Check, authorize OKDHS to conduct an investigation into criminal and OKDHS records, including Child Welfare (CW) records, of the applicant and each adult household member, per OAC 340:75-7-15.

(2) **House assessment.** The resource specialist conducts an evaluation of the applicant's residence to assess the location, condition, and capacity to accommodate children in foster care. The resource specialist assesses:

(A) location. The home must be accessible to school, medical, and recreational resources;

(B) condition. The home must be clean and safe;

(C) play space. Adequate and safe indoor and outdoor space for play activities must be available;

(D) equipment. Age appropriate child care equipment, such as beds, high chairs, and toys must be available and in good repair;

(E) communications. A working phone must be maintained in the home;

(F) automobiles. The applicant must maintain an automobile in working order, carry the statutorily mandated automobile liability insurance, possess a valid Oklahoma driver license, and have a current, valid license tag. The resource specialist observes passenger restraints and advises the applicant that proper automobile restraints are used at all times when a child in OKDHS custody is riding in an automobile.

(i) Every driver must use a child passenger restraint system that meets federal standards when transporting a child who is younger than six years of age.

(ii) Every child age six to 18 years who is transported in an automobile must be protected by a passenger restraint system or seat belt.

(iii) The provisions in (i) and (ii) do not apply to the:

(I) driver of a school bus, taxicab, moped, motorcycle, or other vehicle not required by law to be equipped with safety belts;

(II) driver of a vehicle in which all seat belts are in use;

(III) transportation of a child for whom medical reasons prohibit the use of a passenger restraint system or seat belt; or

(IV) transportation of a child who weighs more than 40 pounds and is transported in the back seat using only a lap seat belt when the back seat of the vehicle is not equipped with combination lap and shoulder belts or when the combination lap and shoulder belts are used by other children weighing more than 40 pounds. The back seat includes all seats located behind the front seat of a vehicle;

(G) sleeping arrangements and privacy.

(i) The applicant's home provides a separate bed for each child with the exception of siblings younger than six years of age who exhibit a need

for mutual support. A separate bedroom is provided for a child who acts out sexually.

(ii) Preferably, no more than two children share a bedroom. Primary consideration is given to the child's safety according to age and emotional needs.

(iii) The applicant's home provides separate bedrooms for children older than six years of age who are of the opposite sex.

(iv) A child in OKDHS custody, with the exception of an infant who is younger than 12 months of age, does not share a bedroom with an adult in the household.

(v) The applicant's home provides space for the child's personal possessions and for a reasonable degree of privacy.

(vi) The applicant may not designate a room, such as the living room, utility room, den, dining room, pantry, or unconverted garage, as a bedroom unless the room is specifically designed as a bedroom;

(H) sleeping arrangements for infants. A crib, port-a-crib, bassinet, or playpen with a firm waterproof mattress or pad is used for each child younger than one year of age.

(i) Bassinets are used for infants:

(I) weighing up to 15 pounds; or

(II) no more than three months of age.

(ii) Port-a-cribs or playpens are used for short-term sleeping arrangements, such as naps or respite and traveling for periods of no more than one week.

(iii) Cribs, port-a-cribs, bassinets, and playpens with more than two and 3/8 inches between slats or between the side and end panels are not allowed.

(iv) Cribs with decorative cutout areas in crib-end panels or tall decorative knobs on the corner posts that may entrap a child's head or catch the child's clothing are not allowed.

(v) Mattresses must be tight fitting with no more than one inch between the mattress and crib, port-a-crib, bassinet, or playpen.

(vi) Mattress and crib sheets must fit snugly.

(vii) Drop-side latches must:

(I) hold sides securely; and

(II) not be accessible by the child in the crib, port-a-crib, bassinet, or playpen.

(viii) Pillows, quilts, comforters, sheepskins, stuffed toys, bumper pads, and other soft products are not permitted in the infant's crib, port-a-crib, bassinet, or playpen.

(ix) To reduce the risk of Sudden Infant Death Syndrome (SIDS), infants younger than 12 months of age are placed on their back for sleeping unless there is a medical reason the infant must not sleep in this position, as documented by a health professional. This documentation is maintained by the foster parent and filed in the child's CW case record.

(x) Infants who are able to turn themselves over are placed initially on their back for sleeping but allowed to sleep in a position they prefer;

(I) water safety.

(i) Any activity that involves wading and swimming is supervised at all times.

(ii) Pools are fenced to prevent unsupervised access or a child safety pool cover can be placed over the water area each time the pool is not in use. Pool covers must be completely removed prior to pool use. Municipality and insurance requirements for pools are followed. All doors and gates leading to the pool are locked. There is:

(I) a sturdy fence at least four feet high that cannot be easily climbed; or

(II) a fence that connects to the top of an above-ground pool and extends two feet above the pool or follows other specified safety guidelines.

(iii) The hot tub must be equipped with a hard cover designed for a hot tub.

(iv) The use of portable wading pools is monitored at all times. The wading pool is emptied at the end of each use;

(J) animal and household pet safety.

(i) Animals are in good health, do not show evidence of carrying disease, and do not present a threat to the health, safety, or well-being of children.

(ii) Documentation of current rabies vaccinations administered by a licensed veterinarian for dogs, cats, and other applicable pets is kept in the resource file.

(iii) If an animal bites a child, the child's CW worker is contacted immediately; and

(K) weapon safety. Any activity that involves a weapon must have supervision at all times. The activity must be approved by the CW worker. Weapon includes, but is not limited to, gun, BB gun, bow and arrow, and knife, with the exception of cooking and eating utensils.

(3) **Total number of children in placement.** The total number of children in OKDHS custody placed in a ~~kinship or foster~~ Bridge resource home may not exceed five. The total number of all children in the home, which includes biological, adoptive, foster, and other children not in OKDHS custody, may not exceed six.

(4) **Children younger than two years of age.** No more than two children younger than two years of age, including the ~~foster~~ Bridge resource family's own children, are placed in the same home.

(5) **References.** The resource specialist solicits and reviews the comments of personal, employer, and school references identified by the applicant regarding the applicant's parenting strategies and skills. Information obtained through references is confidential.

(A) Three personal references are interviewed by phone or in person.

(B) The applicant's current or most recent employer is contacted by letter, phone, or in person. When the applicant is self-employed, a reference is obtained from a customer.

(C) School teachers, counselors, or administrators who have recently served the applicant's child are contacted by letter, phone, or in person to assess the applicant's involvement in educational concerns, if applicable.

(D) If the applicant home schools their own child, a person that has knowledge of the applicant's home schooling experience is contacted by letter, phone, or in person.

(E) All adult children of the applicant are interviewed by letter, phone, or in person, if applicable.

(F) The mental health professional is contacted by letter, when the applicant or applicant's child has received counseling, whether currently or in the past.

(G) A minimum of six references is required.

(6) **Military discharge.** If an applicant has been discharged from the armed forces, a copy of DD Form 214, Certificate of Release of Discharge From Active Duty, is required to determine the type of discharge. Any discharge other than honorable must be specifically addressed in the assessment as a consideration in the applicant's ability to attend to the safety and well-being of a child requiring foster care services.

(7) **Previous foster care experience.** Applicants who have previously served as foster parents in another state or with a private agency provide or authorize release of all previous foster home assessments, reports, and training records from the state or agency.

(8) **Household income.** The applicant provides verification that he or she can manage personal and household financial needs without relying on the foster care reimbursement. The applicant must have sufficient income to meet the needs of an additional child placed in his or her home until receipt of foster care reimbursement for that child.

(b) **Disposition of ~~foster~~ Bridge resource home assessments.** Upon completion of the ~~foster~~ Bridge resource home assessment, a decision regarding disposition is made assessing all the information gathered. The assessment process is completed and the determination regarding disposition is made no later than 90 days after receipt of Form 04AF001E. The resource specialist confirms in writing all decisions made concerning the assessment and application with the applicant. The resource specialist shares with the applicant the resource family assessment for the applicant's input prior to deciding to select in or out of the Foster Care program. When the fingerprint results are received showing history, the resource specialist has a discussion about the history with the applicant or adult member of the household. Disposition of the assessment may result in:

(1) postponement of the assessment. The applicant is advised of any condition that does not conform to Foster Care rules, per OAC 340:75-7, during the assessment. When determined appropriate, the resource specialist postpones the assessment to afford the applicant the opportunity to resolve issues of concern;

(2) voluntary withdrawal of the application. If the resource specialist determines the applicant does not meet the requirements for becoming a foster parent, the reasoning for the determination is explained, and the resource specialist gives the applicant the option to voluntarily withdraw the application;

(3) approval of the assessment.

~~(A)~~ The resource specialist reviews and discusses the assessment with the applicant for clarification of content, except for the Juvenile Justice Information System (JOLTS) review, CW records search, and reference information.

~~(B) The resource specialist, CW supervisor, and applicant sign Form 04AF003E, Resource Family Assessment - Bridge Family Profile, and a copy is provided to the applicant. The home is not considered approved until the CW supervisor approves the family assessment in KIDS and signs Form 04AF003E, and the foster family has completed the pre-service training.~~

~~(C) Prior to initiation of reimbursement, the applicant signs the foster care contract with the exception of a kinship placement, per OAC 340:75-7-24.~~

~~(D) The resource specialist provides the family OKDHS Publication No. 99-17, Foster Parent Handbook. Each foster parent signs Form 04AF021E, Verification of Receipt of OKDHS Rules.~~

~~(E) The foster parent signs Form 15GR008E, Notice of Grievance Rights - Foster Parents;~~

(4) exceptions to the assessment. OKDHS may, at its discretion, grant an exception of specific rules or standards upon request by the applicant.

(A) OKDHS may establish conditions that must be met by the applicant in order to operate under the exception granted.

(B) Exceptions may be granted upon a showing by the applicant that:

(i) the particular rule or standard that is the subject of the exception request may not be applied as written because strict application of the rule or standard would cause undue hardship; and

(ii) adequate standards affording protection for the health, safety, and care of the child exists and will be met in lieu of the exact requirements of the rule or standard in question; or

(5) denial of the assessment. The decision to deny requires an explanation to the applicant by the resource specialist regarding the reasons the assessment is denied. If a kinship home is denied, the child in OKDHS custody in the home is moved immediately. Reasons for denying an assessment may include, but are not limited to:

(A) a lack of stable, adequate income to meet the applicant's own or total family needs or poor management of available income;

(B) a physical facility that is inadequate to accommodate the addition of children to the home or presents health or safety concerns;

(C) the applicant or any person residing in the home has a history of alleged or confirmed child abuse, neglect, or both, per OAC 340:75-7-15;

(D) the applicant or any person residing in the home has a history of arrests or convictions per OAC 340:75-7-15;

(E) the age, health, or any other condition of the applicant impedes the applicant's ability to provide appropriate care for a child;

(F) relationships in the household are unstable and unsatisfactory;

(G) the mental health of the applicant or other family or household member impedes the applicant's ability to provide appropriate care for a child;

(H) references are guarded or have reservations in recommending the applicant;

(I) the applicant fails to complete the application, required training, or verifications in a timely manner as requested or provides information that is incomplete, inconsistent, or untruthful;

(J) the home is determined unsuitable for the child requiring placement;

(K) the applicant has applied for a child that OKDHS reasonably believes may not be available for placement; or

(L) one or more factors concerning the applicant, a family or household member, or conditions in the home as described in the denial letter, renders the applicant or home environment inappropriate as a resource home.

(c) **Approval of a Bridge resource home.**

(1) The resource specialist, CW supervisor, and applicant sign Form 04AF003E, Resource Family Assessment - Bridge Family Profile, and a copy is provided to the applicant. The home is not considered approved until the CW supervisor approves the family assessment in KIDS and signs Form 04AF003E, and the foster family has completed the pre-service training and fingerprint results have been received and reviewed.

(2) Prior to initiation of reimbursement, the applicant signs the foster care contract with the exception of a kinship placement, per OAC 340:75-7-24.

(3) The resource specialist provides the family with the Resource Parent Handbook. Each foster parent signs Form 04AF021E, Verification of Receipt of OKDHS Rules.

(4) The foster parent signs Form 15GR008E, Notice of Grievance Rights - Foster Parents.

(d) **Re-application to provide foster care.** Persons who desire to re-open their foster home must re-apply. If the foster home has been closed ~~two years or~~ more than five years, a Bridge resource family assessment is completed. If the Bridge resource home has been closed five years or less and at the time of closure the home was in good standing and the re-assessments were up-to-date; the home can be opened with an addendum and updated forms. If the re-assessments were not in compliance, a Bridge resource family assessment is completed. If the home was closed during an investigation or needing a Written Plan of Compliance, a Bridge resource family assessment is completed.

(~~d~~e) **Dissolved marriage or other relationships.** If ~~foster~~ Bridge resource parents divorce or the relationship is dissolved, the person who continues to foster retains the existing resource number and information.

(~~e~~f) **Contract ~~foster~~ Bridge resource home assessments.** Children and Family Services Division (CFSD) may contract with licensed child-placing agencies or a qualified person to provide a range of CW services that include conducting resource family assessments. OKDHS makes the final decision regarding the disposition of all resources assessed by contractors.

(~~f~~g) **Changes in the household.** The ~~foster~~ Bridge resource parent must notify the resource specialist within 24 hours of any change in the household that precludes the ~~foster~~ Bridge resource parent from providing adequate care for the child, including, but not limited to:

(1) income;
(2) location;
(3) health; or
(4) relationship.

PART 4. ROLES AND RESPONSIBILITIES

340:75-7-37. Responsibilities of ~~foster~~ Bridge resource parents

As members of a professional team with Oklahoma Department of Human Services (OKDHS) staff, ~~foster~~ Bridge resource parents assume responsibility both to OKDHS and to the children and families served. A clear understanding of the roles, abilities, and requirements of the ~~foster~~ Bridge resource parents is necessary for effective coordination with OKDHS staff and the children and families served.

(1) **Responsibilities of the ~~foster~~ Bridge resource parent to the child in OKDHS custody and the child's family.** Responsibilities of the ~~foster~~ Bridge resource parent include:

(A) integrating the child into the ~~foster~~ Bridge resource family setting and caring for the child as the ~~foster~~ Bridge resource parent would for the ~~foster~~ Bridge resource parent's own child;

(B) providing mentoring services to the child's parent(s) and coordinating visitation and contact to facilitate timely reunification, including phone and mail contact when appropriate;

(C) participating in the initial meeting with the child's parents;

(D) working as a multidisciplinary team member with the Child Welfare (CW) worker and the child's parent(s) toward family reunification or other permanency plan;

(~~D~~E) helping the child understand why he or she is in foster care and to deal with the grief caused by the separation;
(~~E~~F) cooperating and assisting in sibling contact or visitation, including phone and mail contact, when siblings are separated;
(~~F~~G) helping the child maintain a connection to the child's kin, culture and community;
(~~G~~H) cooperating and assisting the CW worker in the placement of siblings together;
(~~H~~I) helping the child develop a positive identity and self-esteem by feeling lovable, capable, worthwhile, and competent;
(~~I~~J) helping the child learn appropriate behavior without using physical punishment;
(~~J~~K) utilizing appropriate behavior management, parent-child conflict resolution, and stress management techniques in a manner appropriate to the age and development of the child in foster care;
(~~K~~L) enrolling the child in an accredited school, if applicable, and ensuring the child attends;
(~~L~~M) advocating for the child to obtain appropriate educational testing and placement in a timely manner;
(~~M~~N) attending school conferences and Individualized Education Plan (IEP) meetings;
(~~N~~O) ensuring the child participates in extracurricular and other recreational activities as appropriate;
(~~O~~P) ensuring the child's necessary medical, dental, and counseling needs are met by:
(i) making appointments;
(ii) providing transportation to appointments and sibling and parent visits; and
(iii) obtaining prescription medications or over-the-counter medications as necessary and administering the medication as directed;
(~~P~~Q) maintaining records of all medical, dental, and counseling appointments and notifying the CW worker of the time and place of the appointments, all medications prescribed for the child, and over-the-counter medications given to the child;
(~~Q~~R) notifying the CW worker of all medical and educational problems and progress;
(~~R~~S) ensuring the child's opportunity to participate in the religious practices of the child's family's choice, including the provision of transportation to worship services other than those of the foster parent, if necessary, and ensuring a child in foster care is not made to attend religious services against the child's wishes;
(~~S~~T) providing transportation for the child to meet with legal counsel upon reasonable request, attending court hearings as desired or required, submitting to the court written reports or presenting testimony concerning the strengths, needs, behavior, important experiences, and relationships of the child, in addition to other information the court requests;
(~~T~~U) providing from the foster care reimbursement:
(i) essentials such as food, shelter, non-prescription medical needs, clothing, shoes, and toiletries;
(ii) clothing and fees for special activities;
(iii) school pictures;
(iv) athletic and band instrument fees;
(v) cap and gown rental and prom clothing; and
(vi) birthday and holiday gifts;
(~~U~~V) providing federally mandated independent living services to youth who are at least 16 years of age and assisting other children in learning basic life skills that allow the opportunity to improve self-concept and strengthen identity in preparation for life after foster care;
(~~V~~W) allowing the child access to mail from family members and the child's attorney; and
(~~W~~X) allowing the child overnight stays with friends of the child whom the ~~foster~~ Bridge resource parent knows and approves while ensuring the safety of the child.

(2) Responsibilities of the ~~foster~~ Bridge resource parent in the development and support of an appropriate permanency plan for each child. Responsibilities of the foster parent include:
(A) informing the CW worker and other team members of each child's strengths, needs, progress, and development;
(B) participating in the development of an effective parent and child visitation plan approved by OKDHS that defines contact with the parent(s) and siblings, if siblings are separated;
(C) collaborating with the child's CW worker prior to visits with the birth parents unless part of a specific plan;
(D) advising the CW worker of all pertinent information about the child and family;
(E) participating in meetings and case staffings when appropriate;
(F) completing all required training hours each calendar year, including policy training when offered; and
(G) maintaining current medical and education records for each child in foster care. A Life Book is maintained for each child placed in the home to support the child's sense of family continuity. These records accompany the child when he or she leaves the foster home.

340:75-7-37.1. Roles and responsibilities of the resource specialist

A clear understanding of the roles, responsibilities, and requirements of the resource specialist is necessary for effective coordination with ~~foster~~ Bridge resource parents and the children and families served.

(1) **Recruitment.** The resource specialist engages in activities designed to recruit Bridge resource families who reflect the diversity of the children in out-of-home

care and who are willing and able to parent children with special needs. Every effort is made to place a child in a kinship placement.

(2) **Inquiries.** Inquiries into becoming a foster or kinship family are documented by the resource specialist in KIDS as a Pre-resource. The resource specialist discusses with each potential applicant the basic responsibilities and requirements expected of a Bridge resource parent, the types of children requiring out-of-home placement, and the elements of the approval process.

(3) **Assessment process.** The resource specialist or a contractor of Oklahoma Department of Human Services (OKDHS) completes the Bridge resource family assessment. The initial consultation with the family is completed in the family's home. The resource specialist:

(A) conducts at least two home visits with the family, excluding the final review of the assessment;

(B) evaluates the prospective foster or kinship home to assess the location, condition, and ability to accommodate children in foster care; and

(C) contacts three personal references by phone or in person.

(4) **Training.** The resource specialist:

(A) enrolls the applicant in pre-service training;

(B) documents all other training the resource family completes, including 12 hours of required in-service training;

(C) engages the family in completing the required 12 hours of in-service training each calendar year;

(D) provides the resource family with materials to obtain the 12 hours of in-service training; and

(E) assists the family in completing the self-study requirements, if applicable.

(5) **Disposition of the assessment.** The resource specialist:

(A) confirms in writing all decisions made regarding the assessment and application process;

(B) shares with the applicant the resource family assessment for the applicant's input prior to deciding to select in or out of the foster care program;

(C) provides the applicant with an explanation of the reasons the assessment is denied, if applicable; and

(D) provides the applicant with a copy of the resource family assessment, if the assessment is approved.

(6) **Reimbursement.** The resource specialist:

(A) refers relative kinship providers to the local OKDHS office for the application of Temporary Assistance for Needy Families (TANF) benefits pending completion of the assessment process;

(B) ~~enters an initial training stipend of $375 when the kinship providers are enrolled in training;~~

~~(C) enters a final training stipend of $375 when the kinship providers complete training no later than seven days after the documentation of completion has been entered into KIDS;~~

~~(D)~~ coordinates with the local OKDHS office when TANF benefits should end and foster care payments will begin;

(~~E~~C) assists families in applying for Supplemental Security Income (SSI) or Social Security (SSA) for a parent who is deceased or disabled, per OAC 340:75-7-52.1; ~~and~~

(~~F~~D) responds to reimbursement issues timely; and

(E) assists the Bridge resource family in completing Form 10AD006E, Travel Claim, for mileage per OAC 340:75-7-65.

(7) **Retention.** The resource specialist engages in activities that value and support the ~~foster~~ Bridge resource parent's role and assists the resource family in navigating the Child Welfare (CW) system.

(8) **Re-assessments.** The resource specialist timely completes the yearly re-assessments.

(9) **Visitation.** Quarterly visitation of the resource family by the resource specialist is recommended to provide ongoing support and address any concerns or issues that the resource family may have.

(10) **Placements.** The resource specialist:

(A) carefully considers the child's physical and emotional health and safety in identifying placements, including potential kinship providers; and

(B) works with the Bridge resource family to place siblings together.

(11) **Investigations and policy violations.** The resource specialist works in conjunction with the Bridge resource family to address any identified issues, concerns, or policy violations through a written plan of compliance, per OAC 340:75-7-94, to ensure the placement is safe and stable for children.

(12) **Team member.** The resource specialist:

(A) works as a professional team member with Permanency Planning, Child Protective Services, Adoption Services, and the Bridge resource family to ensure the child's safety, well-being, and permanency; and

(B) treats the Bridge resource family with respect and assists the Bridge resource family with any issues arising with the children placed in the home and any concerns they have as a Bridge resource family.

(13) **Closure.** The resource specialist assesses the need for closure of a Bridge resource home and timely completes all necessary documentation regarding closure of the home.

(14) **Fair hearing.** The resource specialist prepares documentation for a fair hearing, per OAC 340:75-1-12.6.

340:75-7-41. Placement considerations and requirements

(a) **Approved ~~foster~~ Bridge resource family homes.** Approved ~~foster~~ Bridge resource family homes serve as out-of-home placements for children in Oklahoma Department of Human Services (OKDHS) custody. Cooperation between Child Welfare (CW) workers and ~~foster~~ Bridge resource families is required to ensure the effective and appropriate use of

foster families to serve the best interests of the children. The resource specialist assesses each placement decision with careful consideration of the skills and abilities of the Bridge resource family. The willingness of the Bridge resource family to accept the placement of a child is not the major criterion for placement decisions.

(b) **Number and ages of children placed.** To determine the number and ages of children placed in a ~~kinship or foster~~ Bridge resource home, consideration is given to:

(1) capabilities and skills of the ~~foster~~ Bridge resource family;

(2) number and ages of the ~~foster~~ Bridge resource family's own children;

(3) accommodations of the home;

(4) known behavioral patterns of the foster family's own children and the children in foster care; and

(5) the anticipated effect of the placements upon the family as a unit. The needs of the child placed in the home may restrict the capacity of the home regardless of the approved number of children for the home.

(c) **Tribal foster homes.** Each tribe determines the number of children in OKDHS and tribal custody allowed for placement in a tribal foster home. OKDHS makes every attempt to place Indian children in OKDHS custody in compliance with the placement preferences of the Indian Child Welfare Act, per OAC 340:75-19.

PART 5. ELIGIBILITY AND PAYMENTS

340:75-7-51. Foster care claims

(a) Reimbursement for foster care claims requires the completion and approval of a foster home assessment, pre-service training, fingerprint results and a signed foster care contract. Reimbursement may not precede the date of the contract ~~signatures~~.

(b) ~~Foster~~ Bridge resource parents are responsible for ensuring the accuracy of ~~claims~~ the warrant upon receipt. When errors occur, the procedures for adjustments listed in (1) through (4) must be completed.

(1) The ~~foster~~ Bridge resource parent immediately notifies the resource specialist upon discovery of an error in reimbursement.

(2) Oklahoma Department of Human Services (OKDHS) notifies the Bridge resource family upon discovery of an error in reimbursement.

(3) OKDHS authorizes reimbursements upon discovery for previously unclaimed services, underpayments. When an overpayment coincides with the underpayment, the overpayment is recouped before payment of the underpayment.

(~~3~~4) OKDHS authorizes repayment schedules when ~~foster~~ Bridge resource parents are paid for services not rendered or at an amount greater than authorized. ~~The county office and foster family establish an agreed upon repayment plan.~~

(A) ~~Foster~~ Bridge resource parents are responsible for reimbursing OKDHS for any overpayment, regardless of the party responsible for the initial error, per OAC 340:75-1-27. Each monthly payment toward resolving the overpayment must equal at least ten percent of the overpayment.

(B) ~~The resource specialist authorizes overpayment reimbursement schedules.~~ The ~~foster parent is sent a notice of overpayment by the~~ county of service resource specialist notifies the Bridge resource parent:

(i) of the amount of overpayment;

(ii) responsibility of the repayment; and

(iii) payment options.

(C) ~~Payments must be made by check or money order with payment assigned to OKDHS. Cash is not accepted from the foster family.~~ Repayment options are:

(i) pay in full by check or money order payable to OKDHS;

(ii) return the warrant;

(iii) deduct from the monthly reimbursement when children remain in the home; or

(iv) make extra payments each month as well as the deduction.

(D) ~~When the foster family chooses to reduce the foster family claim by an agreed upon amount until the overpayment no longer exists, a signed and notarized statement from the foster family authorizing the reduction of the claim in reimbursement is sent to OKDHS.~~ If the Bridge resource family closes their home and does not repay the overpayment, the amount of the overpayment will remain in the system indefinitely. If the Bridge resource reopens, the overpayment will be deducted from the foster care reimbursements.

~~(i) Payments are made by the day fixed by the repayment schedule each month.~~

~~(ii) Payments may be deducted from claims for current services, or the foster parent may make payments to the Finance Division by check or money order. Reference to the payment purpose is listed in the memo section of the check or transmittal letter to ensure proper credit.~~

(~~4~~5) OKDHS may authorize the issuance of a warrant when the foster care reimbursement is late or lost.

(A) The contract for services affords OKDHS 20 days to process each claim. Late claim adjustments are not made during this interval.

(B) OKDHS cancels the reimbursement warrant per Oklahoma statutes when a foster parent reports the warrant lost after 90 days.

(c) **Death of a Bridge resource parent.** In a two parent household, the surviving parent may cash the warrant. In a single parent household, the warrant is returned to Children and Family Services Division (CFSD) Foster Care Section and re-issued in the name of the estate.

340:75-7-52. Foster care contracts and rates of reimbursement

(a) **Foster care contracts.** The rules in OAC 340:75-7-52 and the provisions of a contract for services define the responsibilities of ~~foster~~ Bridge resource parents and Oklahoma Department of Human Services (OKDHS) regarding the care of children in a ~~foster~~ Bridge resource home. Foster care contracts are signed when all conditions for approval are met, per OAC 340:75-7-18, except for kinship, per OAC 340:75-7-24.

(1) Foster care contracts are perpetually renewed and considered in effect unless a specific action by one of the parties to the contract terminates the contract. ~~Foster and kinship~~ Bridge resource parents are eligible for foster care reimbursement effective the date the home is approved. Kinship Bridge resource parents are not paid retroactive to date of placement.

(2) Reimbursements are authorized for intervals of care provided to a child in foster care placed through OKDHS or a tribe with an approved Tribal/State Agreement with OKDHS.

(3) Kinship Bridge resource families may be approved for expedited reimbursements, per OAC 340:75-7-24, on a case-by-case basis.

(4) Kinship Bridge resource families who meet the degree of relationship, per OAC 340:10-9-1, may apply for assistance through Temporary Assistance for Needy Families (TANF) at the local OKDHS office pending foster home approval and entry into a contract, per OAC 340:75-7-52(a)(1) through (3).

(b) **Foster care reimbursement.** The foster care contract authorizes reimbursement to offset the cost of each child's care and a difficulty of care (DOC) reimbursement to address the additional expense of caring for a child with extraordinary needs. The foster care reimbursement is paid the month after the service is rendered. The OKDHS Committee on Rates and Standards authorizes the amount of reimbursement available through the foster care reimbursement and DOC payment rate, per OAC 340:75-7-53.

(1) Foster care reimbursements correspond to the child's age set out in OKDHS Appendix C-20, Children and Family Services Division Rates Schedule, as amended from time to time, as approved by the Commission for Human Services.

(2) Foster care reimbursements are provided to address the costs of room, board, clothing, and incidentals.

(3) ~~Foster~~ Bridge resource parents receive a clothing allowance for each child, per OAC 340:75-13-45.

(4) The medical expense of a child in foster care is covered through Medicaid when private insurance is not available to the child, per OAC 340:75-13.

(5) Reimbursement received through the foster care contract is not considered income pursuant to Section 131 of Title 26 of the United States Code Annotated and the foster family does not receive Form 1099 from OKDHS at year's end. ~~Foster~~ Bridge resource parents ~~may~~ consult their own tax advisor for advice.

(6) Foster care reimbursement and DOC reimbursement rates are a fixed monthly amount.

(7) When a partial month of foster care service is provided, reimbursement begins on the child's date of entry to the home and concludes on the day before the child's departure from the home. A prorated sum is paid based on the number of days of service provided multiplied by the daily rate, per OKDHS Appendix C-20, and is paid automatically by the KIDS system.

(8) When a change in the child's age qualifies for a new rate, the new rate becomes effective on the first day of the month following the child's birthday.

(9) When a child is out of the ~~foster~~ Bridge resource home for family reunification purposes, pre-placement visits, or is absent without leave (AWOL) for up to seven consecutive days, the ~~foster~~ Bridge resource parent receives reimbursement if the child is expected to return to the ~~foster~~ Bridge resource home at the end of the seven days.

(10) The ~~foster~~ Bridge resource parent is eligible for prorated foster care reimbursement and DOC reimbursements when the child attends an Indian boarding school, Oklahoma School for the Deaf, Oklahoma School for the Blind, or a similar residential program and returns to the ~~foster~~ Bridge resource home for weekends or school vacations. When the child returns to the ~~foster~~ Bridge resource home for a summer vacation, the monthly rate is used. The days the child spends in the Bridge resource home are documented in the KIDS system, and the payment for the Bridge resource family is automatically generated.

(11) The ~~foster~~ Bridge resource parent is eligible for foster care reimbursement and DOC reimbursement for up to ten days of each event of hospitalization for the child's treatment of health or mental health concerns when there is no evidence of ~~foster~~ Bridge resource parent misconduct contributing to the event.

(12) The foster care reimbursement is an automatic electronic filing system based on the child's placement episode in the KIDS system.

(13) A foster care contract is signed for approved Interstate Compact on the Placement of children (ICPC) foster families residing in another state providing care for children in OKDHS custody, per OAC 340:75-1-86. No ~~foster care~~ contract is signed for ICPC foster families living in Oklahoma caring for children in the custody of another state.

(14) There is no reimbursement after the effective date of cancellation or termination of the contract.

(c) **Reimbursement option.** The ~~foster~~ Bridge resource family may opt for reimbursement by OKDHS or a money payment for which the child is eligible in lieu of receiving foster home reimbursement, per OAC 340:75-7-52.1.

(d) **Cancellation of the foster care contract.** Cancellation of the foster care contract occurs when:

(1) the ~~foster~~ Bridge resource family fails to meet the terms and conditions of the contract. Cancellation of the contract results from:

(A) a felony conviction, per OAC 340:75-7-15(~~h~~i)(1);

(B) the receipt of findings of the Oklahoma State Bureau of Investigation (OSBI) records search and Federal Bureau of Investigation (FBI) national criminal history records search when a child has been placed through kinship or in the home initially approved; or

(C) a serious and significant violation of the foster care contract, OKDHS rule, or law. Serious and significant violations include, but are not limited to, behaviors by the ~~foster~~ Bridge resource parent or other person in the ~~foster~~ Bridge resource home that place the child at significant risk of harm;

(2) OKDHS closes a ~~foster~~ Bridge resource family home that no longer meets OKDHS requirements, per OAC 340:75-7-12; or

(3) the ~~foster~~ Bridge resource parent fails to implement provisions of Form 04AF023E, Written Plan of Compliance, per OAC 340:75-7-94, designed to resolve conditions that present a risk to the child and do not conform with the requirements of the foster care contract or rules, per OAC 340:75-7-52.

(e) **Termination of the foster care contract.** A ~~foster~~ Bridge resource parent requests termination of the foster care contract verbally or in writing. Verbal requests are witnessed whenever possible.

(1) Contract termination occurs subsequent to a request by the ~~foster~~ Bridge resource family only when there are no pending issues of concern.

(2) When the relationship between the ~~foster~~ Bridge resource parents is dissolved, and the person who wishes to continue providing foster care services, per OAC 340:75-7-18, is not the primary ~~foster~~ Bridge resource parent, that ~~foster~~ Bridge resource parent signs a new foster care contract. ~~The child is not removed from the home during contract transition when the foster parent is determined fit and continued placement is in the child's best interests.~~

340:75-7-52.1. Social Security benefits

(a) **Payee.** For a child in Oklahoma Department of Human Services (OKDHS) custody receiving Supplemental Security Income (SSI) or Social Security Administration (SSA) benefits, SSA, upon application, makes the kinship Bridge resource family the payee to receive these benefits. Upon application, the ~~foster~~ Bridge resource parent with whom the child has been placed at least nine months may be the payee to receive these benefits.

(b) **Kinship Bridge resource family.** The kinship Bridge resource family may receive the kinship start up and training ~~stipend~~ stipends during the family assessment process while a child is in the home.

PART 6. FOSTER HOME CARE SUPPORT SERVICES

340:75-7-65. Foster care child care and supportive services

Child Welfare (CW) staff arranges services that address the needs of ~~foster~~ Bridge resource parents as well as children in foster care. ~~Foster~~ Bridge resource parent needs are assessed as a component of treatment planning for each child in foster care and appropriate services are recorded on Form 04KI005E, Placement Plan. Service delivery and effect are monitored monthly to ensure intended effects. Form 04KI005E is modified as necessary to address the evolving needs of foster parents.

(1) **Child care paid by OKDHS.**

(A) **Foster care.** Services available to ~~foster~~ Bridge resource families include child care when both ~~foster~~ Bridge resource parents in a ~~foster~~ Bridge resource home are employed 20 hours a week or more and have the same work hours or when only one ~~foster~~ Bridge resource parent works and the other ~~foster~~ Bridge resource parent has a significant disability that precludes employment.

(i) Child care must be provided:

(I) in a licensed and contracted child care center or home; or

(II) by an approved in-home provider who cares for the child at the foster parent's home, per OAC 340:40-13-1 and 340:40-13-2.

(ii) The ~~foster~~ Bridge resource parent may request approval for child care by contacting the child's CW worker.

(iii) Child care paid by Oklahoma Department of Human Services (OKDHS) must be approved before payment may occur.

(iv) Child care services are available to tribal foster parents providing care for children in tribal custody meeting the same criteria. The tribal liaisons authorize the child care.

(v) Contract foster care may request child care services through the county of service.

(vi) Shelter host homes foster parents may be approved for child care paid by OKDHS.

(~~v~~vii) Contracted emergency foster care agencies may request, on a case-by-case basis, approval from Children and Family Services Division (CFSD) Foster Care Section to access child care.

(~~vi~~viii) The foster parent must provide written verification of gainful employment that includes the number of hours and days the foster parent works. In a foster family, when one foster parent works days and the other foster parent works during normal night time sleep hours, refer to OAC 340:40-7-7 and 340:40-7-8. When the foster parent operates a child care home, the child in foster care is only approved to attend an out-of-home child care home or center when:

(I) the foster parent's child care home consistently operates at licensed capacity;

(II) caring for the child during business hours will place the foster parent over licensed capacity; and

(III) the foster parent's licensing specialist confirms this.

(B) **Family Support Services Division (FSSD).** Child care may be available through local OKDHS FSSD staff for child care, per OAC 340:40, to:

(i) ~~tribal foster parents providing care for children in tribal custody;~~

~~(ii)~~ foster parents who have finalized an adoption on a foster child;

(~~iii~~ii) non-paid foster parents who are caring for children in OKDHS custody; and

(~~iv~~iii) children in the custody of another state placed in a kinship home through the Interstate Compact on the Placement of Children (ICPC).

(2) **Foster care child care not paid by OKDHS.** Foster care child care is not paid when the:

(A) child is placed in therapeutic foster care;

(B) foster parent has an ownership interest in the child care center;

(C) foster parent owns the child care home that the child attends;

(D) foster parent attends school or participates in training;

(E) foster parent chooses ineligible child care providers, per OAC 340:40-5-1;

(F) foster parent chooses more than one child care provider to provide service to a child on the same day;

(G) foster parent's hours of employment interfere with the provision of suitable family life; or

(H) foster parent makes informal arrangements for child care.

(3) **Child care services for a child with disabilities.** Refer to OAC 340:75-6-91.

(4) **Electronic benefit transfer (EBT) responsibilities.** Refer to OAC 340:40-10 for information regarding the EBT system that includes the manual claim process. Foster parent responsibilities include:

(A) watching the EBT training video;

(B) signing Form 08MP001E, Request for Benefits and Services;

(C) swiping the EBT card every day the child attends child care;

(D) not swiping the EBT card for any day the child does not attend child care;

(E) checking the message on the point of service (POS) machine for correct times of attendance and approval;

(F) not giving the EBT card or personal identification number (PIN) to anyone, including the child care provider; and

(G) paying for care that OKDHS does not pay because:

(i) the EBT card was not swiped for the correct days and times the child attended child care;

(ii) swipes were denied and not corrected within ten days; or

(iii) the provider loses the weekly rate payment for absent days because the correct attendance for every day the child attended that month was not swiped.

(5) **Therapeutic child care services.** Therapeutic child care services are paid by OKDHS when recommended by a mental health professional and supporting documentation is provided. Prior authorization from CFSD Administrative Services Unit (ASU) is required. ASU makes the determination of the availability of funds.

(6) **Overpayment of child care.** OKDHS seeks repayment for any child care paid in error to a licensed child care center, home, or professional in the foster parent's own home. The foster parent is responsible for reimbursing these costs to the child care provider when overpayment occurs due to the foster parent's ineligibility for child care paid through OKDHS.

(7) **Informal arrangements or babysitting.** ~~Foster~~ Bridge resource parents may make informal care arrangements with friends, neighbors, or relatives for the occasional care of children less than 12 hours, including before and after school hours.

(A) The ~~foster~~ Bridge resource parent ensures that informal care providers possess the maturity and skills to address the needs of the child in foster care.

(B) The foster parent secures prior authorization for informal care from the child's CW worker.

(C) The resource specialist considers whether the needs of the child can be met in informal care.

(D) Prior authorization may apply to multiple events using the same informal provider.

(E) A person younger than 18 years of age living outside of the home may not be an informal provider.

(F) An informal provider living in the home must be at least 16 years of age and related to the ~~foster~~ Bridge resource parent.

(G) Informal providers must be notified how to reach the ~~foster~~ Bridge resource parent and other emergency contacts.

(H) The ~~foster~~ Bridge resource parent does not permit a child in OKDHS custody to babysit a younger child, unless approved by the child's CW worker.

(I) The ~~foster~~ Bridge resource parent:

(i) may allow the child in OKDHS custody overnight stays with friends of the child;

(ii) knows the family;

(iii) reasonably believes the family and all people in the household are safe for the child to have a relationship with;

(iv) exchanges contact information, including name, address, and phone number; and

(v) uses the same discretion as to the safety and well-being of the child as with the foster parent's own child.

(8) **Alternate care.** The ~~foster~~ Bridge resource family is required to identify an alternate provider who can

care for the child in case of family emergencies, family vacations, or when the family needs a break. The alternate provider may be used for periods of time over 12 hours. The ~~foster~~ Bridge resource family is responsible for identifying an alternate provider and reimbursing the alternate provider. The alternate provider must be at least 21 years of age and willing to:

(A) submit to a background assessment by Oklahoma State Bureau of Investigation (OSBI), per OAC 340:75-7-15;

(B) submit to a CW records search for past confirmations of child maltreatment involving the alternate provider, per OAC 340:75-7-15;

(C) submit to a search of Juvenile Justice Information System (JOLTS) records for any child older than 13 years of age living in the house, per OAC 340:75-7-15;

(D) engage in an evaluation of the home to assess the location, condition, and capacity to accommodate the child in foster care;

(E) provide one reference on Form 04AF026E, Alternate Caregiver Reference Letter; and

(F) comply with discipline policy, per OAC 340:75-7-38, and confidentiality policy, per OAC 340:75-1-42.

(9) **Insurance for ~~foster~~ Bridge resource homes.** Liability insurance is provided for ~~foster~~ Bridge resource families for damages incurred by children in OKDHS custody pursuant to the terms of the policy. Questions related to ~~foster~~ Bridge resource parent liability insurance are referred to the designated insurance company. Bridge resource parents are responsible for the deductible.

(10) **Foster care associations.** OKDHS cooperates with and promotes the development of foster care associations for ~~foster~~ Bridge resource parents in each county. OKDHS provides names and addresses of ~~foster~~ Bridge resource families, who have provided written authorization for the release of this information, to persons who are developing a local foster care association.

(11) **Foster parent hotline.** The foster parent hotline, 1-800-376-9729, is maintained by the CW foster parent liaison ~~in the Office of Information and Referral~~. The foster parent liaison assists with problem resolution, policy clarification, and grievance information.

(12) **Foster parents' rights.** Foster parents' rights are found in Section 7206.1 of Title 10 of the Oklahoma Statutes. Information shared among CW staff, foster parents, and parents includes, but is not limited to:

(A) the child's legal status;

(B) upcoming court hearings;

(C) reason for foster care placement;

(D) the child's and parent(s)' prior and present living experiences; and

(E) the child's medical, psychological, and behavioral information, current photographs, and educational records.

(13) **Foster care grievance procedures.** ~~Foster~~ Bridge resource parents and children in foster care have access to OKDHS grievance procedures through the Office of Client Advocacy, per OAC 340:2-3.

(14) **Foster care mediation program.** ~~Foster~~ Bridge resource parents have access to the foster care mediation program through the Oklahoma Commission on Children and Youth (OCCY), per OAC 340:75-1-12.8.

(15) **Timely response to questions or needs.** OKDHS staff commits to responding to ~~foster~~ Bridge resource families' questions and inquiries within one working day. The resource specialist is the key person to provide necessary information to the ~~foster~~ Bridge resource family.

(16) **Information relevant to fostering.** Pre-service and in-service training is provided to enhance the ~~foster~~ Bridge resource family's skills, ability to foster, and interests. A quarterly newsletter is sent to all foster families informing of OKDHS, related issues, and articles with relevant information.

(17) **Travel reimbursement.** Bridge resource parents may be reimbursed for three trips per child per month for mileage incurred when providing transportation to a child in the custody of OKDHS placed in the Bridge resource home. Reimbursement can occur when the:

(A) CW worker would be required to provide transportation for the child if not provided by the Bridge resource parent, including:

(i) visits with parent(s);

(ii) visits with a sibling;

(iii) court hearings; or

(iv) medical, mental health, dental, or vision appointments.

(B) round trip for the single event is in excess of 25 miles.

(C) trip is documented on Form 10AD006E, Travel Claim, provided by a CW worker and processed through the local OKDHS office each month.

PART 27. CONTRACTED FOSTER CARE PROGRAM

340:75-7-280. Contracted foster care

(a) **Purpose.** Contract foster care (CFC) is available to children who are in the legal custody of, or voluntarily placed in, Oklahoma Department of Human Service (OKDHS) care. CFC services are provided by a contracted child placing agency to meet the child's needs through service coordination and delivery in conjunction with OKDHS.

(b) **Admissions.**

(1) **Therapeutic foster care (TFC) agencies.** Requests are initiated by the TFC agency to the Children and Family Services Division (CFSD) liaison. To access CFC services, the child approved for TFC services must:

(A) no longer require TFC services and be ready to step down to traditional foster care;

(B) have a sibling(s) who needs traditional foster care; or

(C) be the parent of a child who needs traditional foster care. The therapeutic foster care agency considers the placement of the child stepping down or the placements of additional children into the home. When it is in the best interest of all children in the home, the therapeutic foster care agency makes a written request to the Children and Family Services Division (CFSD) liaison no less than three days prior to the need of the placement. Placement does not occur until written approval is received from the CFSD liaison.

(2) **Other sources for CFC use.** Children under the age of six years whose legal jurisdiction is in Oklahoma, Tulsa, or Comanche Counties, are considered for CFC when ready for discharge from:

(A) a hospital;

(B) an OKDHS operated shelter; or

(C) an Emergency Foster Care (EFC) home. The CFSD foster care liaison and the CFC agency make a joint decision after considering information about the child and the placement possibilities.

(c) **Roles and responsibilities.**

(1) Child Welfare (CW) worker. The CW worker remains the primary connection among the child, parent(s), CFC agency, CFC provider, OKDHS liaison, other service providers, and court while the child is in CFC. The CW worker:

(A) visits the child placed in CFC per OAC 340:75-6-48; and

(B) provides Form 04KI004E, Placement Provider Information, to the CFC provider at the time of admission or as soon as possible after placement, but no later than 30 days after the initial placement in out-of-home care or 14 days after subsequent placements in out-of-home care. This form includes, but is not limited to, the most recent information available regarding the health and education records of the child.

(2) CFSD liaison. The CFSD liaison is the contact person for the contract agency regarding certification of homes, determining eligibility of placements, and monitors the CFC contract.

(3) Foster Care liaison. The foster care liaison is the OKDHS contact person for determining appropriate placements for children who are admitted from sources other than the TFC agency.

(4) CFC agency. The CFC agency:

(A) ensures the availability of qualified and trained providers and staff;

(B) coordinates requests for placements with the CFSD and foster care liaisons;

(C) coordinates placement and discharges with the CW welfare;

(D) coordinates with the CW worker to afford the child all services that promote the child's progress; and

(E) ensures the child's total care needs are met while in placement.

(d) **Discharge from CFC.**

(1) **Notice.** When a child discharges from CFC, the CW worker coordinates with the CFC agency and advance notice is provided according to OAC 340: 75-6-86(d).

(2) **Information accompanies the child.** All forms completed by the CFC provider while the child was in care are given to the new provider to:

(A) assist in helping the child adjust to the placement;

(B) provide information needed for continuity of care; and

(C) alert the new provider of the child's special needs and strengths.

(3) Information and items given to the new provider include:

(A) all medications, with instructions for dosage and use;

(B) equipment or supplies required for the child's special care;

(C) dates of any follow-up appointments;

(D) personal items or clothing purchased by OKDHS, including disposable diapers; and

(E) Women, Infants and Children (WIC) vouchers, non-perishable food, or other items obtained for the child.

SUBCHAPTER 11. CHILD WELFARE COMMUNITY-BASED RESIDENTIAL CARE

PART 23. SPECIALIZED COMMUNITY HOMES

340:75-11-286. Requirements for specialized community home contractors

(a) Each specialized community home (SCH) contractor serves a specially defined target population of four children in Oklahoma Department of Human Services (OKDHS) custody.

(1) Children served:

(A) vary by age, gender, and behaviors exhibited; and

(B) do not require 24-hour awake supervision.

(2) The contractor provides or obtains:

(A) individually focused therapeutic interventions to meet the treatment needs of these children; and

(B) educational and employment opportunities, cultural enrichment, and independent living skills consistent with each child's treatment plan.

(b) The SCH contractor must comply with:

(1) children's rights per OAC 340:75-11-237;

(2) all general requirements per OAC 340:75-11-240; and

(3) any other requirements in the OKDHS contract.

(c) The SCH applicant must meet the requirements for OKDHS foster homes, per OAC 340:75-7.

(d) The SCH contractor must meet the requirements described in (1) through (4).

(1) Education and experience. The SCH contractor meets one of the education and experience qualifications listed in (A) through (D).

(A) A Master or Doctor of Philosophy in Social Work degree or other related area of study and one year direct experience working with children with comparable treatment needs to those requiring treatment in the SCH.

(B) A Bachelor in Social Work degree or other related area of study and two years direct experience working with children with comparable treatment needs to those requiring treatment in the SCH.

(C) An Associate degree in a social service field and four years direct experience working with children with comparable treatment needs to those requiring treatment in the SCH; or

(D) A high school diploma or General Educational Development (GED) and six years of direct experience working with children with comparable treatment needs to those requiring treatment in the SCH plus training hours pertinent to residential child care.

(2) Outside employment. The SCH contractor is not allowed other employment outside of the operation of the SCH contract and is not eligible for paid day care.

(3) Respite care provider. During the mutual family assessment process, the SCH contractor identifies a Child Welfare approved respite care provider to provide alternative care when the SCH provider takes leave from his or her SCH contract responsibilities.

(A) The SCH contractor identifies the respite care provider at the time of the initial assessment. The respite care provider:

(i) must be at least 21 years of age; and

(ii) is not an OKDHS foster parent, a Children and Family Services Division (CFSD), Child Welfare (CW), or Office of Juvenile Affairs employee, as the respite care provider must be available on short notice when the contractor takes leave.

(B) When the SCH contractor takes leave, he or she selects one of the three options listed in (i) through (iii).

(i) The approved respite care provider utilizes the SCH to provide alternate care. Prior to approving the respite care provider, the CW worker in the county where the SCH home is located:

(I) makes personal contact with the respite care provider and conducts a personal assessment of the provider to determine his or her ability and willingness to provide alternate care;

(II) discusses SCH policy, per OAC 340:75-11-~~285~~ 286 through 340:75-11-~~292~~ 289, and foster care policy, per OAC 340:75-7, with the respite care provider;

(III) contacts two references for and completes the background investigation of the respite care provider, including Oklahoma State Bureau of Investigation (OSBI) name search, OSBI records search, and Federal Bureau of Investigation (FBI) records search and fingerprinting per OAC 340:75-7-15; and

(IV) files the personal assessment of the respite care provider in the SCH resource record.

(ii) The children go to the home of the approved respite care provider for alternate care.

(iii) The children go to their own homes or relative homes on planned leave approved by the CW county of jurisdiction workers.

(C) The SCH contractor is:

(i) encouraged to take two weeks planned time away from the home each year;

(ii) responsible for reimbursing the respite care provider from his or her salary; and

(iii) responsible for training the respite care provider.

(4) Mandatory training for SCH contractors. All SCH contractors must:

(A) prior to placement of children in the home, complete all training requirements for OKDHS foster parents, per OAC 340:75-7-14;

(B) be certified in a behavior management system directed at managing aggressive and non-aggressive acting out behavior described in OAC 340:75-11-237. Spouses or significant others must also be certified;

(C) obtain 21 hours of training each calendar year geared toward working with the children served in the SCH contract;

(D) attend the annual mandatory meetings for SCH contractors scheduled by CFSD that provide training hours; and

(E) participate in other training curricula required of OKDHS foster parents.

(e) CFSD does not enter into SCH contracts with any person related, either directly or through marriage, to:

(1) an OJA employee;

(2) a CFSD or CW employee in the county where the SCH home is located; or

(3) an OKDHS employee who substantially influenced the funding of the contract.

[OAR Docket #09-760; filed 4-22-09]

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

[OAR Docket #09-772]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 5. Course Attendance and Completion
450:21-5-2. ADSAC reporting of completions [AMENDED]
AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-451 through 3-453.1; 47 O.S. §§ 6-212.2, 11-902 and 761(D); 22 O.S. §§ 991a and 991c.
DATES:
Comment period:
December 1, 2008 thru December 31, 2008
Public hearing:
December 31, 2008
Adoption:
January 9, 2009
Submitted to Governor:
January 16, 2009
Submitted to House:
January 16, 2009
Submitted to Senate:
January 16, 2009
Gubernatorial approval:
February 18, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 25, 2009
Final adoption:
March 25, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 21 are part of the Department's review of Title 450. The proposed rules clarify existing rules and further standardize the ADSAC course process.
CONTACT PERSON:
Stephanie Kennedy, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-3871.

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, 2009:

SUBCHAPTER 5. COURSE ATTENDANCE AND COMPLETION

450:21-5-2. ADSAC reporting of completions

(a) Each certified ADSAC institution or organization shall report successful course completions to ODMHSAS ~~within thirty (30) days from the date the course is completed, in a format prescribed by ODMHSAS.~~ through the online data entry system known as ADSAC Online, or in manner prescribed by the Commissioner or designee, no later than seventy-two (72) hours after successful completion of the ADSAC course. Certified institutions or organizations shall not report a completion until all course requirements have been met, to include the participant's payment of the full required ADSAC fee.

(b) Each participant who successfully completes the course, 10 Hour or 24 Hour, shall be issued an ODMHSAS Certificate of Completion by the ADSAC that shall include the appropriate Action Code as listed below:

(1) 224-10 for persons having completed a 10 Hour course;

(2) 224-24 for persons having completed a 24 Hour course.

(c) The name, driver's license number, date of birth and address of those completing a ten (10) or twenty-four (24) hour ADSAC classes for the purposes of license reinstatement shall be submitted to ODMHSAS.

[OAR Docket #09-772; filed 4-24-09]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 22. CERTIFICATION OF ALCOHOL AND DRUG ASSESSMENT AND EVALUATIONS RELATED TO DRIVER'S LICENSE REVOCATION

[OAR Docket #09-771]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
450:22-1-15. Assessor responsibilities [AMENDED]
AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-453 and 3-460; 47 O.S. §§ 6-212.2 and 11-902; 22 O.S. §§ 991a and 991c.
DATES:
Comment period:
December 1, 2008 thru December 31, 2008
Public hearing:
December 31, 2008
Adoption:
January 9, 2009
Submitted to Governor:
January 16, 2009
Submitted to House:
January 16, 2009
Submitted to Senate:
January 16, 2009
Gubernatorial approval:
February 18, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 25, 2009
Final adoption:
March 25, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 22 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

CONTACT PERSON:
Stephanie Kennedy, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-3871.

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, 2009:

450:22-1-15. Assessor responsibilities

(a) ADSAC assessments shall be provided by individuals certified by ODMHSAS to provide such assessments.

(b) All fees due ODMHSAS shall be remitted within thirty (30) days. Any fees identified as being delinquent shall be paid within thirty (30) days of discovery of the omission.

(c) Certified assessors shall:

(1) Conduct assessments and based on assessment findings, recommend education or treatment or both;

(2) Report to the court within seventy-two (72) hours of completing an assessment if the court is anticipating such a report;

(3) Provide information in writing regarding state and local area education and treatment resources specific to the area in which the participant resides, to each individual assessed appropriate to the referral recommendations and, in a format prescribed by the Commissioner of ODMHSAS or designee;

(4) Manage and distribute all reports according to confidentiality laws under 42 CFR, Part 2, as well as all 45 C.F.R. Parts 160 & 164 (HIPAA) regulations
and inform all participants that all contacts, evaluation results and reports are protected through federal confidentiality regulations under 42 CFR, Part 2;

(5) Assure there is no conflict of interest by:

(A) referring participants to only those services in which the assessor has no vested interest;

(B) providing three (3) outside referral options in writing for each recommended service, or as many options as available within a 70-mile radius; and

(C) maintaining written assessment documentation to be available for consumers for a minimum of five (5) years after completion of all assessment requirements. Written documentation shall include, but not be limited to:

(i) completed assessment instrument(s) and associated raw data;

(ii) clinical interview notes; and

(iii) referrals and recommendations made as a result of the assessment.

(6) Provide liaison with court officials and related other agencies;

(7) The fee for those undergoing an assessment and evaluation as a result of their driving privilege being suspended or revoked pursuant to an arrest on or after November 1, 2008 is one hundred ~~seventy five~~ sixty dollars ~~($175.00)~~($160.00). The fee for those undergoing an assessment and evaluation as a result of their driving privilege being suspended or revoked pursuant to an arrest prior to November 1, 2008 is one hundred seventy five dollars ($175.00);

(A) Remit 10% of each fee collected for any assessment and evaluation completed as a result of a person's driving privilege being suspended or revoked pursuant to an arrest prior to November 1, 2008 to the State Treasurer to be credited to the Department of Mental Health and Substance Abuse Services Revolving Fund within thirty (30) days. No such 10% fee shall be remitted for any assessment and evaluation completed as a result of a person's driving privilege being suspended or revoked pursuant to an arrest on or after November 1, 2008. Completion of assessment includes payment in full by the participant for the assessment service; and

(B) No additional charges, extra fees or interest shall be attached to the assessment process.

(8) Explain possible liability and ability to pay for ODMHSAS affiliated, private and other education and treatment facilities;

(9) For those participants whose license was withdrawn due to an alcohol and drug related offense on or before June 30, 2003, and needing to participate in the ADSAC assessment process for license reinstatement, as verified by DPS, the assessor shall:

(A) provide the participant with a certificate of completion;

(B) affix the official embossed assessor seal;

(C) report completion to the Department of Public Safety through ODMHSAS; and

(D) verify the participant has completed the assessment to include payment in full.

(10) For those participants whose license was withdrawn due to receiving an alcohol and drug related offense on or after July 1, 2003, and needing to participate in the ADSAC assessment process for license reinstatement, the assessor shall:

(A) provide the participant with a certificate of completion;

(B) affix the official, embossed assessor seal and stamp, with the stamp in red ink; and

(C) report completion to the Department of Public Safety through ODMHSAS;

(D) verify he or she has completed all tasks identified by the assessment and required for license reinstatement,

(E) verify the participant has completed all recommendations identified through the assessment and required for license reinstatement; and

(F) verify the participant has completed the ADSAC assessment to include payment in full.

(11) Those participants whose most recent offense was before September 1, 1993 should be referred to DPS to verify an assessment is not required.

(12) Provide ODMHSAS ~~written~~ notification of those participants successfully completing required education

and treatment, including the participant's name, address, date of birth and driver's license number through the on-line data entry system known as ADSAC online, or in a manner prescribed by the Commissioner or designee. This notification shall be submitted to ODMHSAS within seventy-two (72) hours upon verification of successful completion of all requirements;

(13) Each assessor and assessment agency shall annually submit to ODMHSAS a written and signed statement verifying that the previously submitted information on the number of assessments conducted, number of participants assessed, and fees paid for assessments conducted for the previous twelve (12) months;

(14) Certified ADSAC assessors and agencies must provide to a caller adequate information regarding the ADSAC assessment process and scheduling requirements. The phone number published specific for each assessor must be continuously available, either answered in person, answering machine, electronic voice mail, or a professional answering service. Numbers published for the purpose of ADSAC assessment and evaluation advertisement must be answered by individuals appropriately trained in all relevant aspects of 42 CFR, Part 2 and HIPAA regulations;

(15) All assessors will complete a minimum of six (6) ADSAC assessments during each twelve (12) month period in order for assessor certification to remain active;

(16) Each assessor and program shall maintain an inventory of required and approved instruments sufficient to meet ODMHSAS requirements;

(17) Provide each individual assessed with information regarding all assessor certifications and licensures to include; name, phone number and address of the certifying or licensing body. If certified rather than licensed, the name of the licensed individual serving as supervisor with all licensures including; name, phone number and addresses of the licensing bodies pursuant to Oklahoma state statutes. Contact information for ODMHSAS, ADSAC personnel at ODMHSAS shall be included. All information shall be in a form prescribed by the Commissioner of ODMHSAS or designee;

(18) Each certified assessor shall notify ODMHSAS of any change of application information related to his or her email address, phone number, work or home address at least 15 days in advance of the change. In case of an emergency, the assessor may notify ODMHSAS of any change up to 30 days after a change has occurred;

(19) For participants who have a language other than English:

(A) The participant shall be referred to an ADSAC assessor fluent in that language, if such as assessor is available. If no assessor fluent in the language is available then an interpreter shall be present for the entire assessment process; and

(B) If an interpreter is required, the interpreter shall not be younger than eighteen (18) years of age and should not be related to the participant.

(20) Provide assessment services only at sites approved by ODMHSAS;

(21) Report all data to ODMHSAS within thirty (30) days or as otherwise directed in this Chapter;

(22) Make recommendations based on ODMHSAS required assessment instruments;

(23) Make all recommendations based on current accepted placement criteria; and

(24) Preference in clinical referrals shall be given to institutions and organizations possessing a substance abuse certification from ODMHSAS, if such service is available.

[OAR Docket #09-771; filed 4-24-09]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 70. STANDARDS AND CRITERIA FOR OPIOD SUBSTITUTION TREATMENT PROGRAMS

[OAR Docket #09-770]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
450:70-1-2. Definitions [AMENDED]
Subchapter 3. Facility Record System
Part 3. Intake and Admission Assessment
450:70-3-5. Intake assessment and record content [AMENDED]
Part 7. Treatment Planning
450:70-3-8. Individualized treatment planning [AMENDED]
Subchapter 4. Services Support and Enhancement
Part 3. Organizational and Facility Management
450:70-4-5. Service support and enhancement [AMENDED]
450:70-4-7. Operations [AMENDED]
Subchapter 6. Substance Abuse Treatment Services
Part 2. Levels of Treatment
450:70-6-7. Short term withdrawal (detoxification) [AMENDED]
450:70-6-8. Long term withdrawal (detoxification) [AMENDED]
Part 3. Phases of Treatment
450:70-6-17. Treatment phases [AMENDED]
AUTHORITY:
Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 3-601 et seq.
DATES:
Comment period:
December 1, 2008 thru December 31, 2008
Public hearing:
December 31, 2008
Adoption:
January 9, 2009
Submitted to Governor:
January 16, 2009
Submitted to House:
January 16, 2009
Submitted to Senate:
January 16, 2009
Gubernatorial approval:
February 18, 2009
Legislature approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 25, 2009
Final adoption:
March 25, 2009

Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 70 are part of the Department's review of Title 450. The proposed rules clarify existing rules and further standardize the Opioid Substitution Treatment Programs.
CONTACT PERSON:
Stephanie Kennedy, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 522-3871.

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, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

450:70-1-2. Definitions

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

"Accreditation" means the process of review and acceptance by a nationally recognized accreditation body.

"Accreditation body" means a body that has been approved by SAMHSA to accredit opioid treatment programs using opioid agonist treatment medications.

"Administer" The direct application of a prescription drug by ingestion or any other means to the body of a patient by a licensed practitioner, or the patient at the direction of, or in the presence of, a practitioner.

"Administrative withdrawal" means a patient's medically supervised withdrawal involving the gradual tapering of dose of medication over time, coinciding with the patient's usually involuntary discharge from medication assisted treatment. Administrative withdrawal typically results from non-payment of fees, violent or disruptive behavior, incarceration or other confinement.

"Approved narcotic drug" means a drug approved by the United States Food and Drug Administration for maintenance and/or detoxification of a person physiologically addicted to opioid drugs.

"American Society of Addiction Medicine Patient Placement Criteria" or **"ASAM PPC"** means the most recent clinical guide published by the American Society of Addiction Medicine to be used in matching patients to appropriate levels of care.

"Biopsychsocial assessment" means in-person interviews conducted by a treatment professional designed to elicit historical and current information regarding the behavior and experiences of a patient, and are designed to provide sufficient information for problem formulation, intervention planning, case management needs, and formulation of appropriate substance abuse-related treatment and service planning.

"Buprenorphine" means a partial agonist, Schedule III narcotic approved for use in opioid addiction treatment, marketed as Subutex or Suboxone when combined with naloxone.

"Central registry" A document or database to which an OSTP shall report patient identifying information about individuals who are applying for or undergoing medically supervised withdrawal or maintenance treatment on an approved opioid agonist to a central record system approved by the Commissioner or designee.

"Certification" means the process by which ODMHSAS or SAMHSA determine that an OSTP is qualified to provide opioid treatment under applicable State and Federal standards.

"Certified opioid substitution treatment program" means an opioid substitution treatment program with all current, required state and federal, current, valid certifications.

"Chain of custody" means the process of protecting items so that movement, possession and location are secure and documented and there is no possibility for altering or otherwise tampering with the item.

"Chronic pain disorder" means an ongoing condition or disorder consisting of chronic anxiety, depression, anger and changed lifestyle, all with a variable but significant level of genuine neurologically based pain. The pain becomes the main focus of the patient's attention, and results in significant distress and dysfunction.

"Clinical Opioid Withdrawal Scale" or **"COWS"** means a well validated, standardized assessment instrument for evaluating the severity of a patients withdrawal through the identification of objective and subjective symptoms and the severity of these symptoms.

"Clinical supervision" means an organized process by which knowledgeable and skilled supervisors systematically and routinely provide ongoing and in-depth review of direct service providers' performance.

"Comprehensive maintenance treatment" is:

(A) Dispensing or administering an approved opioid agonist medication at stable dosage levels for a period in excess of 21 days to a patient for opioid addiction, and

(B) Providing medical, clinical and educational services to the patient with opioid addiction.

"Continuing care plan" means a written plan of recommendations and specific referrals for implementation of continuing care services, including medications, shall be prepared for each patient meeting the ASAM Patient Placement Criteria dimensional continued service criteria. Continuing care plans shall be developed with the knowledge and cooperation of the patient. This continuing care plan may be included in the discharge summary. The patient's response to the continuing care plan shall be noted in the plan, or a note shall be made that the patient was not available and why. In the event of the death of a patient, a summary statement including this information shall be documented in the record.

"Co-occurring disorder" or **"COD"** means any combination of mental health and substance abuse symptoms or

diagnoses as determined by the current Diagnostic and Statistical Manual of Mental Disorders that affect a patient.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to patients with co-occurring disorders. Co-occurring disorder capable programs address co-occurring disorders diagnosis in policy and procedures, assessment, treatment planning, program content, and transition planning.

~~**"Clinical Opioid Withdrawal Scale"** or **"COWS"** means a well-validated, standardized assessment instrument for evaluating the severity of a patients withdrawal through the identification of objective and subjective symptoms and the severity of these symptoms.~~

"Courtesy Dosing" means the act of dosing a methadone patient from another clinic on a short term basis due to emergency or other extra ordinary circumstance.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of an approved treatment facility, or the routine care of a patient. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self destructive behavior; deaths and injuries (including automobile accidents) to the patient, patient family, staff and visitors; medication errors; neglect or abuse of a patient; fire; unauthorized disclosure of information; damage to or theft of property belonging to a patient or an approved treatment facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"CSAT" means Center for Substance Abuse Treatment.

"Cultural competency" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

"DEA" means Drug Enforcement Administration.

"Discharge planning" means the process, beginning at admission of determining a consumer's continued need for treatment services and developing a plan to address ongoing consumer recovery needs.

"Diskette" means a compressed wafer form of methadone intended to be dissolved in water for consumption. For the purposes of this chapter methadone diskettes will not be considered to be the same as tablet methadone. Diskettes shall be dissolved in liquid prior to being dispensed, or dissolved in liquid by the patient in full and clear view of OSTP staff.

"Dispense" means preparing, packaging, compounding and labeling for delivery, a prescription drug in the course of professional practice to an ultimate user by the lawful order of a physician.

"Diversion" means the unauthorized or illegal transfer of an opioid agonist treatment medication.

"Diversion control plan" or **"DCP"** means documented procedures to reduce the possibility that controlled substances are used for any purpose other than legitimate use.

"Drug dispensing area" means the specified and secured location established by the OSTP for dispensing opioid agonist drugs to the patients. The area shall be secure, meet all appropriate standards and be the only location within the facility where drugs are dispensed.

"Drug stocks" means the inventory of drugs stored and secured by the clinic, available for use in opioid agonist treatment.

"Drug test" means the assessment of an individual to determine the presence or absence of illicit or nonprescribed drugs or alcohol or to confirm maintenance levels of treatment medication(s), by a methodology approved by the OSTP medical director based on informed medical judgment and conforming to State and Federal law. This may include blood testing, oral-fluid and urine testing.

"DSM" means the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Exception request process" means a process recording the justification of the need to make a change in treatment protocol for an opioid patient and submitted to SAMHSA using form SMA-168.

"Facility" means any program authority, hospital, school, building, house or retreat, authorized by law to have the care, treatment or custody of the mentally ill or drug-or alcohol-dependent persons including, but not limited to, public or private hospitals, community mental health centers, clinics, satellites, institutions, organizations or agencies provided that the facility shall not mean a child guidance center operated by the State Department of Health.

"FDA" Federal Food and Drug Administration.

"Federal opioid treatment standards" means the established standards of SAMHSA, CSAT and the DEA that are used to determine whether an OSTP is qualified to engage in opioid treatment.

"HIPAA" means Healthcare Insurance Portability and Accountability Act

"Holiday" means those days recognized by the State of Oklahoma as holidays.

"ICIS" means Integrated Client Information Services.

"Individualized treatment planning" means the ongoing process by which a clinician and the patient identify and rank problems, establish agreed upon goals, and decide on the treatment process and resources to be utilized.

"Interim maintenance treatment" means maintenance treatment provided in conjunction with appropriate medical services while a patient is awaiting transfer to a program that provides comprehensive maintenance treatment.

"Liquid methadone" means a liquid concentrate of methadone meant to be mixed with water for ingestion.

"Lock box" means a container with a combination lock or key lock entry system for securing take home medications. The box must have the ability to lock and should be secure enough to thwart access by children.

"Long-term care facilities" means a facility or institution that is licensed, certified or otherwise qualified as a nursing home or long term care facility by the state in which methadone treatment services are rendered. This term includes skilled, intermediate, and custodial care facilities which operate within the terms of licensure.

"Long-term detoxification treatment" means detoxification treatment for a period of more than 30 days but less than 180 days.

"Medical and rehabilitative services" means services such as medical evaluations, counseling, and rehabilitative and other social programs (e.g., vocational and educational guidance, employment placement), intended to help patients in an OSTP to become and/or remain productive members of society.

"Medical director" means a physician, licensed to practice medicine in Oklahoma, who assumes responsibility for the administration of all medical services performed by an OSTP, either by performing them directly or by delegating specific responsibility to authorized program physicians and healthcare professionals functioning under the medical director's direct supervision, unless otherwise indicated in this chapter. This includes ensuring the program is in compliance with all federal, state, and local laws and regulations regarding the medical treatment of addiction to an opioid drug.

"Medical withdrawal" means a condition created by administering an opioid agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects of withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug-free state.

"Medication unit" means a facility established as part of, but geographically separate from, an OSTP from which licensed private practitioners or community pharmacists dispense or administer an opioid agonist treatment medication or collect samples for drug testing or analysis.

"Methadone detoxification treatment" means the process of dispensing or administering of an opioid agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects related to withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug-free state.

"Non-oral methadone" means an injectable form of methadone not allowed for use by an OSTP.

"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.

"Oklahoma state-issued identification card" means a photo identification card issued by the Oklahoma Department of Motor Vehicles for use in identification.

"Opiate drug" means any of a class of drugs also called narcotics derived from the opium poppy or containing opium and with analgesic or sedative effects that can form sustain or enhance addiction and physical dependency.

"Opioid addiction" means a cluster of cognitive, behavioral, and physiological symptoms in which an individual continues use of opioids despite significant opioid-induced problems. Opioid dependence is characterized by repeated self-administration resulting in opioid tolerance, withdrawal symptoms, and compulsive drug-taking. Dependence may occur with or without the physiological symptoms of tolerance and withdrawal.

"Opioid agonist" means a drug that has an affinity for and stimulates physiologic activity at cell receptors in the central nervous system normally stimulated by opioids. Methadone is an opioid agonist.

"Opioid agonist treatment medication" means a prescription medication, such as methadone, buprenorphine or other substance scheduled as a narcotic under the Federal Controlled Substances Act (21 U.S.C. Section 811) that is approved by the U.S. Food and Drug Administration for use in the treatment of opiate addiction or dependence.

"Opioid antagonist" means a drug that binds to cell receptors in the central nervous system that normally are bound by opioid psychoactive substances and that blocks the activity of opioids at these receptors without producing the physiologic activity produced by opioid agonists. Naltrexone is an opioid antagonist.

"Opioid dependence" see opioid addiction.

"Opioid drug" means any of a class of drugs also called narcotics, having an addiction-forming or addiction-sustaining liability similar to morphine. Originally a term for synthetic narcotics only, but for the purposes of this chapter and unless otherwise specified, currently used to describe both opium based and synthetic narcotics. These drugs have analgesic or sedative effects.

"Opioid partial agonist" means a drug that binds to, but incompletely activates, opiate receptors in the central nervous system, producing effects similar to those of an opioid agonist but, at increasing doses, does not produce as great an agonist effect as do increased doses of an agonist. Buprenorphine is a partial opioid agonist.

"Opioid treatment" means the dispensing of an opioid agonist treatment medication, along with a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical, psychological, or physical effects incident to opioid addiction. This term encompasses detoxification treatment, short-term detoxification treatment, long-term detoxification treatment, maintenance treatment or comprehensive maintenance treatment, interim maintenance treatment and treatment provided in medication units, long term care facilities or hospitals.

"Opioid Substitution Treatment Program (OSTP)" An organization which has been certified by ODMHSAS to provide opioid treatment whose certification has not been suspended, revoked, or surrendered to the department.

"Pain management" means the successful management of chronic pain or a chronic pain disorder.

"Paraprofessional" means a person who does not have an academic degree related to the scope of treatment or support services being provided but performs prescribed functions under the general supervision of that discipline.

"Patient-based planning" means an organized and systematic method of basing treatment and services on the needs of current and prospective patients.

"Patient record" or **"medical record"** means the collection of written information about a patient's evaluation or

treatment that includes the intake data, evaluation, treatment or service plan, description of treatment or services provided, medications as prescribed, continuing care plan, and discharge information on an individual patient.

"Parenteral" means injected, infused or implanted, used to describe drug administration other than oral or anal.

"Peak test" see Peak and Trough.

"Peak and trough test" means a therapeutic monitoring of serum methadone levels to determine the most appropriate dosing strategy for the individual patient, requiring at least two blood samples be drawn. The initial sample taken immediately prior to the daily dose and twenty four hours after the previous day's dose allowing the lowest level or "trough" to be identified. The second sample taken four hours after dosing allows the highest level or "peak" to be identified.

"Program physician" A licensed physician who provides medical treatment and counsel to the patients of an OSTP while under the supervision of the medical director.

"Program sponsor" A person named in the application for an OSTP permit who is responsible for the operation of the OSTP and who assumes responsibility for all its employees, including any practitioners, staff, or other persons providing medical, rehabilitative, or counseling services at the program or any of its medication units. The program sponsor need not be a licensed physician but shall employ a licensed physician for the position of medical director.

"SAMHSA" means the Substance Abuse and Mental Health Services Administration.

"Sentinel event" means a type of critical incident that is an unexpected occurrence involving the death or serious injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for an immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events (including medication overdoses by patients and associates of patients) resulting in serious injury or death.

"Short-term detoxification treatment" means detoxification treatment for a period not in excess of 30 days.

"State Methadone Authority" or "SMA" is the agency designated by the Governor or other appropriate official designated by the Governor to exercise the responsibility and authority within the State or Territory for governing the treatment of opioid addiction with an opioid drug. For Oklahoma it is the The Oklahoma Department of Mental Health and Substance Abuse Services.

"STD" means sexually transmitted disease.

"Street outreach" means methods of direct intervention/prevention with high risk populations for HIV, HCV, tuberculosis and other infectious and communicable diseases.

"Tablet methadone" means methadone in a tablet form intended to be taken orally. For the purposes of this chapter diskettes will not be considered to be tablet methadone. Tablet methadone is not allowed for use by an OSTP.

"Take-home privilege or take home medication" means one or more doses of an opioid agonist treatment medication dispensed to a patient for use off the premises.

"Therapeutic hour(s)" means the amount of time in which the patient was engaged with a treatment professional in identifying, addressing, and/or resolving those issues that have been identified in that patients treatment plan. This time frame can be no less than thirty (30) minutes.

"Transient consumer" means a methadone patient from another geographic location requiring "courtesy dosing".

"Treatment professional" means any person allowed to provide alcohol and drug counseling, or is under supervision pursuant to the Licensed Alcohol and Drug Counselors Act, or otherwise exempt by law.

"Trough test" see Peak and Trough.

"Urine analysis or **UA"** means a urine sample taken to determine if metabolites are present indicating the use of drugs.

"Withdrawal treatment" means either administrative withdrawal, or medical titration and withdrawal from any drug or medication until the patient has achieved a drug free state.

SUBCHAPTER 3. FACILITY RECORD SYSTEM

PART 3. INTAKE AND ADMISSION ASSESSMENT

450:70-3-5. Intake assessment and record content

(a) All OSTPs shall assess each individual for appropriateness for admission, ensuring the individual is placed in the least restrictive level of care.

(b) Each OSTP shall ensure that patients are admitted to short or long term detoxification treatment by a program physician, who determines that such treatment is appropriate for the specific patient by applying current and established DSM diagnostic and ASAM placement criteria.

(c) The OSTP shall have written policy and procedure stating the program shall require each patient to undergo a complete, fully documented history and physical examination by a program physician or physician with a valid Oklahoma license before admission to the opioid treatment program. A full medical examination, including the results of serology and other tests, must be completed within fourteen (14) days following admission.

(d) Patients who have had a complete history and physical including laboratory tests within the past three months may be admitted to the OSTP without a new medical examination and laboratory tests, unless the program physician requests it. The admitting program shall obtain copies of these results within fifteen (15) days of admission. If records are not obtained within fifteen (15) days, the program shall conduct a complete history and physical.

(e) The OSTP shall have written policy and procedure stating any drugs approved for use in treating opioid dependency when used by an OSTP for persons with a history of addiction, or physiologic dependence, shall only be used in treating persons with a history of addiction of two (2) years or more

as verified by the medical director or a program physician through medical examination; or persons with a one (1) year history of addiction and written documentation from an agency at which another type of addiction treatment was attempted or accomplished. Such documentation shall be received prior to admission to the program and/or induction of any drug uses as a part of an opioid substitution treatment regimen.

(f) Any patient seeking admission while under the influence, or undergoing withdrawal of alcohol or drugs shall be assessed prior to admission for medical needs. The written criteria to be used for medical needs assessment shall be approved by the OSTP Medical Director and meet state and federal requirements regarding standards of care.

(g) Using a standardized and accepted instrument (such as the COWS Scale) no patient shall be admitted to opioid substitution treatment unless symptoms of opioid dependency listed below are present with at least two symptoms coming from numbers one (1) through seven (7); ~~including:~~

(1) Elevated resting pulse rate;
(2) Increased sweating;
(3) ~~Increased restlessness;~~ Tremors;
(4) Variation in pupil size;
(5) ~~Bone and/or joint pain;~~ Increased yawning;
(6) Runny nose and/or tearing;
(7) ~~Gastrointestinal distress;~~ Presence of "gooseflesh";
(8) ~~Tremors;~~ Increased restlessness;
(9) ~~Increased yawning;~~ Bone and/or joint pain;
(10) Increased anxiety or irritability; or
(11) ~~Presence of "gooseflesh"~~ Gastrointestinal distress.

(h) The OSTP shall have written policy and procedure stating the patient record shall contain adequate documentation of any prescription drug, including methadone, that a patient may be taking, including the name of the drug, the prescription number, the dose, the reason for prescribing, the name of the prescribing doctor, the pharmacy's name and telephone number, the date it was prescribed, and the length of time the patient is to be taking the drug. A release of information to the prescribing physician either by mail, facsimile or other acceptable electronic means allowing the medical director to coordinate treatment and discuss medications.

(i) The OSTP shall have written policy and procedure stating that if clinically appropriate, the program physician may waive the requirement of a one (1)-year history of opioid addiction for:

(1) A patient within six (6) months of release from a correctional institution;
(2) A patient with a pregnancy verified by the program physician; or
(3) A patient having previously received opioid substitution treatment and within two (2) years of discharge from an OSTP.

(j) The OSTP shall have written policy and procedure stating that patients with two (2) or more unsuccessful detoxification episodes within a twelve (12) month period must be assessed by the medical director or a program physician for identification of need for other forms of treatment. An OSTP shall not admit a patient for more than two (2) detoxification treatment episodes in one (1) year.

(k) The OSTP shall have written policy and procedure stating any person under the age of eighteen (18) years of age requesting maintenance treatment shall have written documentation of two (2) unsuccessful attempts at short-term detoxification or drug-free treatment within a twelve (12) month period to be considered eligible for maintenance treatment.

(1) Such documentation shall be received prior to admission to the program or the induction of any drug used as a part of an opioid substitution treatment regimen.
(2) No person under eighteen (18) years of age may be admitted to maintenance treatment unless a parent, legal guardian or otherwise legally responsible adult designated by the relevant state authority consents in writing to such treatment.

(l) The OSTP shall have written policy and procedure outlining the requirement for the reporting of persons receiving opioid substitution treatment to the ODMHSAS. This report to the Central Registry shall be made in a form requested by the Commissioner or designee and within twenty-four (24) hours of admission, change of medical status or discharge of any patient.

(m) The OSTP shall have written policy and procedure stating the admission requirements for opioid substitution treatment programs.

(n) All applicants for opioid substitution treatment shall sign a written consent for opioid treatment in the primary language of the applicant.

(o) The patient intake information shall contain, but not be limited to, the following:

(1) Date of initial contact requesting services;
(2) Identification information, including Patient's name, home address, and telephone number;
(3) Referral source;
(4) Mental status examination and findings;
(5) History and physical information;
(6) Family to be notified in case of emergency; and
(7) If the facility reports on ICIS, the ICIS intake data core content.

(p) All OSTPs shall document and assess all patients for appropriateness of admission taking into account the patient's needs as identified by, but not limited to:

(1) Acute intoxication and withdrawal potential;
(2) Biomedical conditions and complications;
(3) Emotional and behavioral conditions and complications;
(4) Readiness to change;
(5) Relapse potential; and
(6) Recovery environment.

(q) The OSTP shall have a written policy and procedure that shall be made available to all patients, outlining rehabilitation services. Minimum services include:

(1) Individual counseling until the patient is fully stabilized and as indicated in this chapter;
(2) Group and family counseling for spouses, parents, or significant others and as indicated in this chapter;
(3) Vocational or educational counseling and referral and as indicated in this chapter; and

(4) Referral for additional services as outlined by the individualized treatment plan.

(r) The OSTP shall have written policy and procedure requiring the patient to be informed of all services that are available through the agency; and of all policies and procedures that may impact the patient's treatment.

(s) The OSTP shall have written policy and procedure requiring the patient be informed of the following upon admission:

(1) The progression of opioid addiction and the patient's assessed stage of opioid addiction;

(2) The goal and benefits of opioid treatment;

(3) The signs and symptoms of overdose and when to seek emergency assistance;

(4) The characteristics of opioid agonist treatment medication, including common side-effects and potential interaction effects with non-opioid agonist treatment medications and/or illicit drugs;

(5) The requirement for staff members to report suspected or alleged abuse or neglect of a child or an incapacitated or vulnerable adult;

(6) The requirement for staff members to comply with the confidentiality requirements of 42 CFR Part 2 and 45 CFR parts 160 and 164;

(7) Drug screening and urinalysis procedures;

(8) Take-home medication requirements;

(9) Testing and treatment available for HIV, HCV, tuberculosis and other communicable diseases;

(10) The process for a patient to file a grievance with the agency for any reason, including involuntary discharge, and to have the client's grievance handled in a fair and timely manner; and

(11) The process for a patient to file a grievance with the ODMHSAS Patient Advocate office agency for any reason, including involuntary discharge.

(t) The OSTP shall have written policy and procedure requiring the OSTP to see that an individual who requires administration of opioid agonist treatment medication only for relief of chronic pain is:

(1) Identified during the physical examination or assessment;

(2) Not admitted for opioid agonist medication treatment; and

(3) Referred to appropriate medical services.

(u) The OSTP shall have written policy and procedure requiring treatment by a multi-disciplinary team of medical practitioners; including specialists in addiction medicine and pain management, for physically dependent or addicted patients with a chronic pain disorder. The OSTP shall coordinate with the physician treating the patient for pain.

(v) The OSTP shall have written policy and procedure requiring the facility to ensure that, if, during the assessment or physical examination, a determination is made that a patient may have a mental disorder, the patient is referred for assessment and treatment of the mental disorder. The OSTP will have written procedures including all required consents, for communication and collaboration with the patient's behavioral health professional to monitor and evaluate interactions between the client's opioid agonist treatment medication and any medications used to treat the patient's mental disorder.

(w) The OSTP shall have written policy and procedure requiring the OSTP to ensure that, if, during the assessment or physical examination, a determination is made that a patient may have a medical condition requiring intervention, the patient is referred for assessment and treatment of the medical condition. The OSTP will have written procedures including all required consents, for communication and collaboration with the patient's health professional to monitor and evaluate interactions between the patient's opioid agonist treatment medication and medications used to treat the patient's medical condition.

(x) The OSTP shall have written policy and procedure allowing the medical director to refuse the admission and/or opioid treatment to any patient if, in the reasonable clinical judgment of the medical director, the person would not benefit from such treatment. Prior to such a decision, appropriate staff should be consulted and the reason(s) for the decision must be documented by the medical director.

(y) The OSTP shall have written policy and procedure requiring the patient must present a valid form of photo identification which can include; valid driver's license from the State of residence, United States passport, military identification card, or state-issued identification card containing a photograph of the patient from the State of residence, Tribal ID card with photograph, or other identification approved by the State Methadone Authority. Photocopies shall be obtained upon admission and the copy must be maintained in the patient's record. The program shall document in the patient's file attempts to induce the patient to obtain state identification.

(z) OSTPs shall develop and maintain written policies and procedures that are adequate to ensure that the following dosage form and initial dosing requirements are met:

(1) Methadone shall be administered or dispensed only in oral and liquid form and shall be formulated in such a way as to reduce its potential for parenteral abuse. Diskettes shall be dissolved in liquid prior to being dispensed, or dissolved in liquid by the patient in full and clear view of OSTP staff.

(2) For each new patient enrolled in a program, the initial dose of methadone shall not exceed thirty (30) milligrams and the total dose for the first day shall not exceed forty (40) milligrams, unless the program physician documents in the patient's record that forty (40) milligrams did not suppress opiate abstinence symptoms. Any increase above forty (40) milligrams shall be based on the physician's medical judgment and documented in the chart.

(aa) Facilities must ensure that a patient's refusal of a particular service does not preclude the patient from accessing other needed mental health or substance abuse services. Should the treatment professional determine the patient's needs cannot be met within the facility, clinical documentation of assessments and referrals for the patient shall contain, at a minimum:

(1) Date of initial contact requesting services;

(2) Identification information, including Patient's name, home address and telephone number;

(3) Referral source;
(4) Mental status examination and results;
(5) History and physical;
(6) Family to be notified in case of emergency;
(7) If the facility reports on ICIS, the ICIS intake data core content;
(8) A continuing care plan;
(9) What agency was contacted; and
(10) Where and why the individual was referred.

PART 7. TREATMENT PLANNING

450:70-3-8. Individualized treatment planning

(a) Upon completion of the admission evaluation, an individualized treatment plan shall be developed. The individualized treatment plan shall include, but not be limited to:

(1) Presenting problems or diagnosis;
(2) Strengths, needs, abilities, and preferences of the patient;
(3) Goals for treatment with specific, measurable, attainable, realistic and time-limited;
(4) Type and frequency of services to be provided;
(5) Primary person responsible for providing services;
(6) Description of patient's involvement in, and responses to, the treatment plan, and his or her signature and date;
(7) Discharge or maintenance ~~criteria, other than the discharge criteria required by the level of care~~;
(8) Specific date for each planned treatment plan review and update, no less than at each phase change;
(9) Any other item required by state of federal law;
(10) Projected length of treatment;
(11) Medication Protocol;
(12) Measurable long and short term treatment goals;
(13) Primary and supportive services to be utilized with the patient;
(14) Type and frequency of therapeutic activities in which patient will participate;
(15) Documentation of the patient's participation in the development of the plan; and
(16) Staff who will be responsible for the patient's treatment.

(b) The treatment plan shall be based on the patient's presenting problems or diagnosis, intake assessment, biopsychsocial assessment, and expectations of their recovery.

(c) Treatment plans shall be dated and signed by the patient and the primary service provider. A list of the treatment team members who participate in providing services shall be included on the treatment plan.

(d) Unless otherwise indicated by this chapter, frequency of services shall be determined by mutual agreement between the facility treatment team and the patient.

(e) Time frames for completion of treatment plans from the date and time of admission shall be by the sixth (6th) visit.

(f) The treatment plan shall contain review and update of the treatment plan according to the time frame required by the treatment plan; and further, is required by any of the following situations:

(1) Change in goals and objectives based upon patient's documented progress, or identification of any new problem;
(2) Change in primary counselor assignment;
(3) Change in frequency and types of services provided;
(4) Critical incident reports; or
(5) Sentinel events.

SUBCHAPTER 4. SERVICES SUPPORT AND ENHANCEMENT

PART 3. ORGANIZATIONAL AND FACILITY MANAGEMENT

450:70-4-5. Service support and Enhancement

(a) Each OSTP shall have written policies and procedures describing operational methods, administration and organization adequate to ensure quality patient care, ability to operate in accordance with all approved accreditation elements and to meet the requirements of all pertinent Federal, State and local laws and regulations. In addition an OSTP will operate in accordance with all approved accreditation elements; including the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD), the Drug Enforcement Agency (DEA), and the Substance Abuse Mental Health Services Administration (SAMHSA).

(b) OSTPs will produce evidence of a current and valid certification from SAMHSA to be considered qualified to dispense opioid drugs in the treatment of opioid addiction. Prior to beginning the delivery of opioid substitution treatment services, an OSTP must apply for and receive temporary certification from ODMHSAS.

(c) An OSTP must produce evidence that the program has been determined under the Controlled Substances Act to be qualified and registered to dispense opioid agonist treatment medications to individuals for treatment of opioid addiction.

(d) In order to retain ODMHSAS certification an OSTP shall produce within twelve (12) months of opening, a current, valid accreditation by an accreditation body or other entity designated by SAMHSA such as Commission for the Accreditation of Residential Facilities (CARF), the Joint Commission for the Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation (COA) including a written description of the current accreditation status of the OSTP and must comply with any additional conditions for certification established by SAMHSA.

(e) An OSTP shall have an accurate and current description of organizational structure including;

(1) The names and contact information of all persons responsible for the OSTP.
(2) The current addresses of the OSTP and of each additional facility, medication unit or additional site under

the control of the OSTP providing opioid agonist treatment, and

(3) The sources of any funding other than patient fees for the OSTP including the name and address of any governmental entity that provides such funding.

(f) Each OSTP shall formally designate a program sponsor and medical director.

(1) The program sponsor shall agree in writing on behalf of the OSTP to adhere to all requirements set forth in this chapter and any regulations regarding the use of opioid agonist treatment medications in the treatment of opioid addiction which may be promulgated in the future.

(2) The medical director shall agree in writing to assume responsibility for administration of all medical services performed by the OSTP. In addition, the medical director shall be responsible for ensuring that the OSTP is in compliance with all applicable Federal, State, and local laws and regulations.

(g) The OSTP 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;

(3) The annual facility goals and objectives; and

(4) Documentation that these statements have been approved by the OSTP's governing authority.

(h) The OSTP shall have documentation demonstrating the documents listed in section (i), (1) through (4) above are available and communicated to staff.

(j) The OSTP shall have documentation demonstrating the documents listed in section (k), (1) through (4) above are available to the general public upon request.

(l) Each OSTP shall have in writing, by program component or service, the following:

(1) A description of the program;

(2) The philosophy of the program;

(3) Program goals and objectives;

(4) Identification of treatment professionals to provide these services; and

(5) Admission and exclusionary criteria to identify the type of consumers for whom the services are primarily intended.

(m) A written statement of the procedures and plans for attaining the facility goals and objectives. These procedures and plans should define specific tasks, set target dates and designate staff responsible for carrying out the procedures and plans.

(n) An OSTP shall notify the SMA within one (1) work day of any vacancy or replacement or other change in the status of the program sponsor or medical director.

(o) An OSTP, medication unit, or any part thereof including any related facility or individual shall allow inspections and surveys by duly authorized employees of ODMHSAS, SAMHSA, the accreditation body providing national accreditation, the DEA, and by authorized employees of any other relevant State or Federal governmental authority.

(p) OSTPs shall notify the SMA of plans to either close, or relocate the program not less than thirty (30) days prior to said closure, or relocation. Relocation shall be contingent upon ODMHSAS certification of any new treatment location.

(q) Each OSTP must notify the SMA in writing of clinic closure due to holidays, training prior to the date, and as soon after the event as possible in the case of emergencies.

(r) The OSTP shall have written policy and procedure establishing a standard fee for patients that shall be inclusive of all regular and normal, clinical, administrative and medical services and procedures and be no more than $65.00 per week.

(s) Unless otherwise specified in this chapter, requirements, and exceptions, for each type of opioid treatment services shall apply, as required by 42 CFR, Chapter 1, Part 8.

(t) Each OSTP shall have written policy and procedure stating that programs in the same geographical area shall develop policy and procedure designed to work together to maximize hours of operation and treatment accessibility.

(u) The OSTP shall have available specialized professional consultation or professional supervision.

450:70-4-7. Operations

(a) The program shall have policy and procedure to define operations for a minimum of forty (40) hours per week, (excluding holidays and ~~emergencies~~ emergency closure) in outpatient settings and twenty-four (24) hours per day in inpatient and residential program settings.

(b) The OSTP shall have written policy and procedure for medication dispensing available six (6) days per week in outpatient settings; and seven (7) days per week in inpatient and residential settings with approval from SAMHSA.

(c) The facility shall be publicly accessible and accommodate office space, individual and group counseling space, secure record storage, protect consumer confidentiality, and provide a safe, warm, welcoming, culturally and age appropriate environment.

(d) Hours of operation shall be during regularly scheduled times in which services are accessible to consumers and the general public, including those employed between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. To accomplish this, the OSTP shall have written policy and procedure providing at least two (2) hours per day either prior to 9:00 a.m. or after 5:00 p.m. for dispensing medication and counseling services.

(e) For facilities that do not provide twenty-four (24) hour services, the facility's hours of operation shall be conspicuously displayed on the outside of the building. For facilities in multi-office buildings, the hours shall be posted either on the building directory or the facility's office door.

(f) Clinical services shall be organized with scheduled treatment sessions that accommodate employed and parenting patients' schedules, and offer treatment services during the day, evening, or weekends.

(g) The OSTP shall develop written policy and procedures to maintain security over all stocks of medication, the manner in which it is received, stored and distributed consistent with the regulations of the Drug Enforcement Administration, state and federal law.

(h) OSTPs must maintain written policies and procedures adequate to identify the theft or diversion of take-home medications to the illicit market, including labeling containers with the OSTP's name, address, and telephone number. Programs also must ensure that take-home supplies are packaged in a manner that is designed to reduce the risk of accidental ingestion, including child-resistant containers.

(i) An OSTP must maintain a written, active "Diversion Control Plan" or "DCP" as part of its quality assurance program that contains specific measures to reduce the possibility of diversion of controlled substances from legitimate treatment use and that assigns specific responsibility to the medical and administrative staff of the OSTP for carrying out the diversion control measures and functions described in the DCP. The DCP shall include:

(1) Written policy and procedure stating a requirement that treatment and administrative activities be continuously monitored to reduce the risk of diversion,

(2) Written policy and procedure for stopping identified diversion and for preventing future diversion,

(3) A written policy and procedure policy requiring employees who are formerly (within two (2) years) addicted to drugs including opioids or alcohol; to be considered risks to the security of drug stocks and shall not have access to the drug stocks or to the drug dispensing area, and

(4) Written policies and procedures for how staff members who diverts medication are held accountable for the medication diversion.

(j) The OSTP shall have written policy and procedure stating methadone shall not be provided to a patient who is known to be currently receiving methadone from another OSTP without prior approval from the Commissioner or designee. Patients who are known to be enrolled in more than one OSTP at a time will be forced to choose one clinic for treatment. That patient must then begin treatment as a new patient, including attending the clinic on a daily basis a minimum of six days per week, for a period of six months. The patient must also be reported to the SMA.

(k) The OSTP shall have written policy and procedure stating the OSTP shall provide counseling on preventing exposure to, and the transmission of, human immunodeficiency virus (HIV), hepatitis C (HCV) and tuberculosis for each patient admitted or readmitted to maintenance or detoxification treatment.

(l) The OSTP shall have written policy and procedure stating that methadone shall be dispensed orally and in liquid form only. Non-oral forms and tablet form methadone are prohibited from use.

(m) Each OSTP shall develop written policies and procedures giving preference to the use of liquid and diskette forms of methadone. Diskettes shall be dissolved in liquid prior to being dispensed, or dissolved in liquid by the patient in full and clear view of OSTP staff.

(n) OSTPs shall have written policies and procedures adequate to ensure that each opioid agonist treatment medication used by the program is administered and dispensed in accordance with its approved product labeling.

(o) Written policy and procedure shall reflect that dosing and administration decisions shall be made by a program physician familiar with the most up-to-date product labeling. These procedures must ensure that any significant deviations from the approved labeling, including deviations with regard to dose, frequency, or the conditions of use described in the approved labeling, are specifically documented in the patient's record.

(p) The OSTP shall have written policy and procedure stating the OSTP shall use only those opioid agonist treatment medications that are approved by the Food and Drug Administration for use in the treatment of opioid addiction. In addition, OSTPs who are fully compliant with the protocol of an investigational use of a drug and other conditions set forth in the application may administer a drug that has been authorized under an investigational new drug application through all applicable Federal law for investigational use in the treatment of opioid addiction.

(q) The OSTP shall maintain written policy and procedures for handling medical emergencies; and an emergency medical number shall be posted for use by staff.

(r) Crisis intervention and counseling services shall be available when indicated.

(s) If the OSTP is closed on Sunday or for holidays, there shall be written policy and procedure describing the process for providing services to and dosing for those patients who are not assessed as appropriate to receive a single take home dose. The Medical Director shall be responsible for determining whether a patient can safely be dispensed opioid treatment drugs for unsupervised use. The basis for the decision shall be, at a minimum, the nine criteria listed in 450:70-4-8 (g), (1) through (9).

SUBCHAPTER 6. SUBSTANCE ABUSE TREATMENT SERVICES

PART 2. LEVELS OF TREATMENT

450:70-6-7. Short term withdrawal (detoxification)

(a) The OSTP shall have written policy and procedure regarding short term withdrawal (detoxification) treatment.

(b) There shall be written policy stating a patient may be admitted to short-term withdrawal (detoxification) regardless of age. Patients under the age of eighteen (18) may be admitted with written parent or guardian approval.

(c) The program physician shall document in the patient record the reason for admitting the patient to short-term withdrawal (detoxification).

(d) Take-home medication is not allowed during short-term withdrawal (detoxification).

(e) A history of one year or more ~~opiate~~ opioid dependence and an attempt at another form of treatment is not required for admission to short-term withdrawal (detoxification).

(f) No test or analysis is required except for the initial drug screening test, and a tuberculin skin test.

(g) The initial treatment plan and periodic treatment plan evaluation required for comprehensive maintenance patients

are required for short-term withdrawal (detoxification) patients.

(h) A primary counselor must be assigned by the program to monitor a patient's progress toward the goal of short-term withdrawal (detoxification) and possible drug-free treatment referral.

(i) The narcotic drug is required to be administered daily by the OSTP in reducing doses to reach a drug-free state over a period not to exceed thirty (30) days.

(j) All other requirements of comprehensive maintenance treatment apply.

450:70-6-8. Long term withdrawal (detoxification)

(a) There shall be written policy stating a patient may be admitted to long-term withdrawal detoxification regardless of age. Patients under the age of eighteen (18) with written parent or guardian approval.

(b) The narcotic drug is required to be administered daily in reducing doses to reach a drug-free state over a period not to exceed one hundred and eighty (180) days.

(c) The patient is required to be under observation while ingesting the drug at least six (6) days a week.

(d) Initial and random monthly drug screening tests must be performed on each patient.

(e) Initial and monthly treatment plans are required.

(f) All other requirements of comprehensive maintenance treatment apply.

(g) A history of two years of opioid dependence and an attempt at another form of treatment is not required for admission to long-term withdrawal (detoxification).

PART 3. PHASES OF TREATMENT

450:70-6-17. Treatment phases

(a) The OSTP shall have written policy and procedure describing practices in accordance with the principle that take-home doses of methadone are a privilege given only to those individuals who will benefit from them and who have demonstrated responsibility in taking methadone as prescribed including:

(1) The requirement of time in treatment as outlined elsewhere in this rule shall be considered as a minimum reference point after which a patient may be considered for take-home privileges. The time reference in this chapter does not mean that a patient in treatment for a particular time has a specific right to take-home medication.

(2) Programs must educate the patient regarding safe transportation and storage of methadone as well as emergency procedures in case of accidental ingestion.

(3) Before take-home privileges are allowed, the patient must have a lock box for transportation of methadone and home storage.

(4) The program shall have policies that address the responsibilities of patients granted take-home medications. The policies shall include methods of assuring patient's appropriate use and storage of medication.

(5) The program shall have policies in place addressing the disposal of take-home bottles to include; ~~bottles returned with labels intact and consequences of unreturned bottles.~~

(A) Requiring take-home bottles to be returned to the OSTP and to require labels to be intact and the consequences for not returning bottles described.

(B) Allowing patient disposal of take-home bottles to include procedures to insure the ability of the OSTP to check for diversion by requiring patients to submit used take-home bottles in "call backs".

(6) Regardless of time in treatment, the medical director, using reasonable judgment, may deny or rescind the take-home medication privileges of a patient.

(7) All take-home privileges shall be made according to the rules of this section regarding the patients' current phase of treatment.

(b) The OSTP shall have written policy and procedure stating the medical director may, based on reasonable judgment, grant emergency take-home doses of methadone based on emergency circumstances related to medical, criminal justice, family or employment. The circumstances and basis for the action must be documented in the patient record and should address the concerns outlined in this section.

(1) Take-home doses for instate emergencies is limited to a maximum of three (3) doses and out-of-state is limited to a maximum of six (6) doses.

(2) The medical director may, based on reasonable judgment, grant vacation take-home doses of methadone for up to two (2) weeks per calendar year. The circumstances and basis for the action must be documented in the patient record and should address the concerns outlined in this section.

(3) All exceptions with take-home medication must be authorized through the exception request process.

(c) The OSTP shall have written policy and procedure describing structured phases of treatment and rehabilitation to support patient progress and to establish requirements regarding patient attendance and service participation. The requirements listed below for each phase indicate minimum requirements and the frequency and extent of treatment and rehabilitation services may be increased, based on individual patient need and unless otherwise indicated in this chapter.

(1) Phase I consists of a minimum ninety (90)-day period in which the patient attends the program for observation of opioid treatment daily or at least six (6) days a week. Phase I take-home dosage privileges are limited to a single dose each week including take home dosages required due to regularly scheduled clinic closures. All approved holidays allow an additional take-home dosage. The patient shall ingest all other doses under appropriate supervision at the clinic.

(A) During Phase I, the patient shall participate in a minimum of our (4) sessions of counseling per month with at least one (1) session being individual counseling and/or case management.

(B) During Phase I, the treatment plan shall be reviewed and updated at least monthly.

(C) Prior to the patient moving to Phase II and/or receiving take-home medication, the patient shall demonstrate a level of stability as evidenced by absence of alcohol and other drug abuse, regularity of program attendance, absence of significant behavior problems, absence of recent criminal activities, and employment, actively seeking employment or attending school if not retired, disabled, functioning as a homemaker, or otherwise economically stable.

(D) Advancement in phase and/or increased take-home privilege shall not occur without significant compliance with all current treatment plan goals.

(E) Advancement in phase and/or increased take-home privilege shall not occur if there are consistent or consecutive positive urine drug screens.

(2) Phase II is designated for patients who have been admitted more than ninety (90) days, and who have successfully met all Phase I criteria.

(A) During Phase II, the program may issue no more than two (2) take-home doses of methadone at a time including take-home dosages required due to regular and/or holiday scheduled clinic closures. With the exception of any take-home doses, the patient shall ingest all other doses under appropriate supervision at the clinic.

(B) The patient shall participate in at least two (2) counseling sessions per month during the first ninety (90) days of Phase II, with at least one (1) of the sessions being individual counseling and/or case management.

(C) After the initial ninety (90) days in Phase II, the patient shall participate in at least one (1) session of individual counseling per month.

(D) The treatment plan shall be reviewed and updated at least once every three (3) months during Phase II.

(E) Advancement in phase and/or increased take-home privilege shall not occur without significant compliance with all current treatment plan goals.

(F) Advancement in phase and/or increased take-home privilege shall not occur if there are consistent or current positive urine drug screens.

(G) Reduction in phase and/or decreased take-home privilege shall occur if there are consistent or consecutive positive urine drug screens and/or substantial non-compliance with the individualized treatment plan.

(3) Phase III is designated for patients who have been admitted more than six (6) months and who have successfully completed Phase II criteria.

(A) During Phase III, the program may issue no more than four (4) take-home doses of methadone plus closed and holiday days.

(B) The patient shall participate in at least one (1) session of individual counseling and/or case management per month during Phase III.

(C) The treatment plan shall be reviewed and updated at least every six (6) months during Phase III or more frequently if circumstances warrant.

(D) Advancement in phase and/or increased take-home privilege shall not occur without significant compliance with all current treatment plan goals.

(E) Advancement in phase and/or increased take-home privilege shall not occur if there are consistent or current positive urine drug screens.

(F) Reduction in phase and/or decreased take-home privilege shall occur if there are consistent or consecutive positive urine drug screens and/or substantial non-compliance with the individualized treatment plan.

(4) Phase IV is designated for patients who have been admitted more than nine (9) months and who have successfully met progressive Phase III criteria.

(A) During Phase IV, the program may issue one(1) week take-home doses plus closed and holiday days.

(B) The patient shall participate in at least one (1) session of individual counseling and/or case management per month during this phase.

(C) The treatment plan shall be reviewed and updated at least every six (6) months during this phase.

(D) Advancement in phase and/or increased take-home privilege shall not occur without significant compliance with all current treatment plan goals.

(E) Advancement in phase and/or increased take-home privilege shall not occur if there are consistent or current positive urine drug screens.

(F) Reduction in phase and/or decreased take-home privilege shall occur if there are consistent or consecutive positive urine drug screens and/or substantial non-compliance with the individualized treatment plan.

(G) For patients to be eligible for Phase IV or above they must be;

(i) be employed full time,

(ii) be a full time student (at least twelve (12) semester hours),

(iii) be retired, or

(iv) have proof of disability.

(5) Phase V is designated for patients who have been admitted for more than one (1) year.

(A) During Phase V, the program may issue two (2) weeks maximum take-home doses.

(B) The patient shall participate in at least one (1) session of individual counseling or case management per month during this phase.

(C) The treatment plan shall be reviewed and updated at least every six (6) months during this phase.

(D) Advancement in phase and/or increased take-home privilege shall not occur without significant compliance with all current treatment plan goals.

(E) Reduction in phase and/or decreased take-home privilege shall occur if there are consistent or consecutive positive urine drug screens and/or substantial non-compliance with the individualized treatment plan.

(F) Patients who meet criteria for Phase VI, and who have been admitted to treatment for a minimum of one (1) year, and who are receiving thirty (30) days of take-home doses on July 1, 2007 shall be allowed to continue to be eligible to receive thirty (30) days of take-home doses after July 1, 2007.

(i) If this patient is reduced in phase, the privilege of thirty (30) days take-home medication shall be withdrawn.

(ii) Once lost, the privilege to receive thirty (30) days of take-home medication shall not be available again.

(iii) If patient with the privilege to receive thirty (30) days of take-home medication changes clinics, it shall be the decision of the receiving clinic to either continue or ignore the continuation of the thirty (30) take-home medication privilege.

(6) Phase VI is designated for patients who voluntarily seek medically supervised withdrawal and abstinence from all drugs, including methadone as prescribed. A patient may enter this phase at any time in the treatment and rehabilitation process.

(A) During Phase VI, the medical director determines take-home doses based on stability.

(B) During Phase VI, the counselor determines the frequency of counseling sessions with input from the patient. At the onset of Phase VI, the patient may require an increased level of counseling and other support services.

(C) The counselor and patient develop a continuing care plan prior to the successful completion of treatment.

(d) The OSTP shall have written policy and procedure stating these guidelines when a patient is transferring to another clinic or level of care.

(1) The admitting program shall obtain from the patient an authorization for disclosure of confidential information, for the purpose of obtaining accurate and current information concerning the patient's treatment at the former program.

(2) The medical director or program physician shall not allow the patient to attend the clinic less frequently than the most recent schedule allowed at the former program unless:

(A) Copies of the patient's records are obtained to sufficiently document the patient's satisfactory adherence to all relevant federal and state regulations for the required time in treatment; and

(B) the physician has completed an evaluation of the patient.

(3) At a minimum, staff from the admitting program shall document in the patient record and staff from the transferring program must provide the following information before the initial dose of narcotic drug is administered to a transfer patient:

(A) The last date and amount of narcotic drug administered or dispensed at the former program;

(B) The length of time in continuous treatment;

(C) The most recent record of clinic attendance;

(D) The name, address, and telephone number of the program contacted;

(E) The date and time of the contact; and

(F) The name of the program employee furnishing the information.

[OAR Docket #09-770; filed 4-24-09]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 10. LICENSE

[OAR Docket #09-767]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Commission Licensing Procedures
465:10-1-7 [AMENDED]
Subchapter 3. License Identification and Changes
465:10-3-3 [AMENDED]
Subchapter 7. Off Premise Sale and Display
465:10-7-2 [AMENDED]
465:10-7-3 [AMENDED]
AUTHORITY:
Oklahoma Motor Vehicle Commission, Title 47, Sections 563(F), 564, 564.1,
and Title 75, Section 302(A)(2)
DATES:
Comment Period:
December 16, 2008 to January 16, 2009
Public hearing:
No public hearing was scheduled. No request for public hearing was received.
Adoption:
February 10, 2009
Submitted to Governor:
February 19, 2009
Submitted to House:
February 19, 2009
Submitted to Senate:
February 19, 2009
Gubernatorial approval:
March 4, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2009
Final adoption:
April 16, 2009
Effective:
May 26, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
SB1654, effective May 2008, eliminated the application process for off premise displays of new motor vehicles. The proposed amendments to the rules in Subchapters 1 and 7 cleans up language so the rules will concur with the statutes. The proposed amendment to Subchapter 3 will allow salespersons

to be licensed at more than one dealership as long as those dealerships share the same majority ownership.

CONTACT PERSON:

Marilyn Maxwell, Deputy Director, Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116, (405) 607-8227, ext 101

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 26, 2009:

SUBCHAPTER 1. COMMISSION LICENSING PROCEDURES

465:10-1-7. Consideration of other applications for license

All other applications received for licenses by the Commission (~~manufacturer~~ representative, ~~distributor representative, motor vehicle~~ salesperson, and off ~~premise display, off premise sale, and off premise sponsoring entity)~~ premise) shall be reviewed by the Executive Director. In reviewing these applications for licenses, the Executive Director shall follow the same procedures as outlined above for review of initial licenses.

SUBCHAPTER 3. LICENSE IDENTIFICATION AND CHANGES

465:10-3-3. Salespersons' license

(a) **License.** Contemporaneous with a new Salesperson being employed, an application for Salesperson License shall be submitted to the Commission on forms prescribed by the Commission along with the appropriate fee. A license for a Motor Vehicle Salesperson will not be issued, renewed, or endorsed until the employing Dealer is licensed and has certified that the applicant for said license is in his or her employ. It is not intended that the Dealer pay for licenses for its Salespersons. However, for convenience, the Dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All Salespersons' licenses will be sent to the Dealer for distribution to his or her respective applicants, and the Dealer will determine that all its personnel required to obtain license have done so. Salesperson Licenses are required for anyone involved in the selling of new or used vehicles, including sales managers and F&I personnel.

(b) **Identification card.** A Salesperson's license shall consist of an identification card. The card shall be carried upon his or her person when acting as a Salesperson.

(c) **Termination of employment.** Upon termination of employment of a licensed Salesperson, the dealership must notify the Motor Vehicle Commission in writing within ten days.

(d) **One license and employer at a time.** No Salesperson may hold more than one license at any one time or be employed by, or sell for, any Dealer other than the Dealer designated on the Salesperson's ~~license~~ license, except as follows:

(1) A Salesperson may hold more than one license only in instances where the salesperson is employed by multiple dealerships which have the same majority ownership;

(2) The Salespersons' new or renewal license application shall reflect all dealerships which have the same majority ownership for which the Salesperson seeks a Salespersons' license;

(3) The identification card or cards which are issued in accordance with OAC Title 465:10-3-3(b), shall contain the names of all commonly owned dealerships for which the Salesperson is licensed; and,

(4) The Salesperson shall only sell for the dealerships designated on the Salespersons'identification card.

(e) **Change of employment.** A licensed Salesperson shall, on change of employment, surrender the Salesperson's License Certificate to the new employer, who shall submit the License along with the appropriate Transfer form to the Commission for endorsement reflecting the change of employers.

SUBCHAPTER 7. OFF PREMISE SALE AND DISPLAY

465:10-7-2. Receipt of applications

All applications for Off Premise ~~Display or~~ Sales Licenses issued pursuant to 47 O.S. Supp. 2005, Section 564.1 (as amended), shall be submitted on forms to be furnished by the Commission and must be received by the Commission at least seven (7) calendar days prior to the date of the off premise ~~sale or display.~~ sale.

465:10-7-3. Off premise events

(a) **Off premise display events.** No sales activities shall be conducted at an off premise display, including but not limited to, negotiations, financing, and accepting credit applications. The presence of sales or finance personnel at an off premise display, creates a rebuttable presumption that sales activities are being conducted at the off premise display event.

(b) **Off premise sales events.** Sales activities may be conducted by recreational vehicle dealers at a licensed off premise sale.

(c) **License affixed to windshield.** An off premise ~~display or~~ sale license issued by the Commission pursuant to 47 O.S. Supp. 2005, Section 564.1 (as amended), shall be prominently affixed to the windshield of each new motor vehicle.

[OAR Docket #09-767; filed 4-24-09]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 15. ADVERTISING

[OAR Docket #09-766]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Finding of Violation and Enforcement
465:15-5-1. [RENUMBERED TO 465:15-5-1.2]
465:15-5-1.1. [NEW]
465:15-5-1.2. [RENUMBERED FROM 465:15-5-1]
Subchapter 7. Enforcement [REVOKED]
465:15-7-1. [REVOKED]
465:15-7-2. [REVOKED]
AUTHORITY:
Oklahoma Motor Vehicle Commission, Title 47, Sections 563(F), 565, 566, and
Title 75, Section 302(A)(2)
DATES:
Comment Period:
December 16, 2008 to January 16, 2009
Public hearing:
No public hearing was scheduled. No request for public hearing was received.
Adoption:
February 10, 2009
Submitted to Governor:
February 19, 2009
Submitted to House:
February 19, 2009
Submitted to Senate:
February 19, 2009
Gubernatorial approval:
March 4, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2009
Final adoption:
April 16, 2009
Effective:
May 26, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed rules would revoke Subchapter 7, "Enforcement" and relocate enforcement procedures to Subchapter 5. The proposed rules establish modified advertising enforcement procedures to give more flexibility to appropriately address alleged violations. The intended effect of the proposed amendments will assist the Commission with proper enforcement to protect the citizens of Oklahoma from false and misleading advertising and ensure fair treatment for all dealers.
CONTACT PERSON:
Marilyn Maxwell, Deputy Director, Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116, (405) 607-8227, ext 101

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 26, 2009:

SUBCHAPTER 5. FINDING OF VIOLATION AND ENFORCEMENT

465:15-5-1. Violation [RENUMBERED]

~~The violation of an advertising rule shall be considered by the Commission as a violation of the Oklahoma Motor Vehicle Commission Law, created by Title 47 of Oklahoma State Statute. In addition to the specific advertising regulations, referenced in Subchapter 3, any other advertising or advertising practices found by the Commission to be false or misleading shall be deemed violations of the law, and shall also be considered violations of the general prohibition.~~

465:15-5-1.1. Enforcement

Upon an allegation, by the Commission staff or by a person or entity, that an advertisement may be in violation of a rule as referenced in this Chapter, the Executive Director, or his designee, will investigate the allegation to determine if the advertisement is a potential violation. The Executive Director, or his designee, will determine the action to be taken, which may include correspondence to the dealer, an offer to enter into a proposed agreed settlement requiring acceptance by the Commission, or to schedule a hearing in accordance with OAC 465:1-7-3. The Commission has the authority, under Title 47, Sections 565 and 566, to schedule a hearing at any time concerning alleged advertising violations.

465:15-5-1.2. Violation

The violation of an advertising rule shall be considered by the Commission as a violation of the Oklahoma Motor Vehicle Commission Law, created by Title 47 of Oklahoma State Statute. In addition to the specific advertising regulations, referenced in Subchapter 3, any other advertising or advertising practices found by the Commission to be false or misleading shall be deemed violations of the law, and shall also be considered violations of the general prohibition.

SUBCHAPTER 7. ENFORCEMENT [REVOKED]

465:15-7-1. Purpose [REVOKED]

~~The rules in this Subchapter outline specific procedures the Commission shall use for enforcing the Advertising Rules and Regulations. However, at any time, the Commission has the authority, under Title 47, Section 565, to schedule a hearing concerning advertising violations.~~

465:15-7-2. Enforcement procedures [REVOKED]

~~(a) **Finding.** Upon a finding that an advertisement is in violation of the advertising regulations, referenced in Subchapter 3, the Commission shall apply the following procedures:~~

~~(1) **Violation.** Any violation for unlawful advertising for each dealership location will result in a letter advising the dealer of the violation.~~

~~(2) **Second violation.** A second violation within the last six months will result in a letter, sent by certified mail, advising the dealer of the infraction and warning that a third violation within the last six months could require the dealer to appear before a hearing by the Commission to~~

~~determine the possibility of an imposition of a fine and/or suspension or revocation of the dealer's license.~~

~~(3) **Third violation.** A third violation within the last six months will result in a letter, sent by certified mail, advising the dealer of dealer's hearing date to determine the possibility of an imposition of a fine and/or suspension or revocation of the dealer's license. A dealer may offer to pay a fine of $250.00 in lieu of a hearing. The Commission may, at its discretion, accept the fine or schedule a hearing at the next regularly scheduled meeting.~~

~~(4) **Fourth violation.** A fourth violation within the last six months will result in a letter sent by certified mail advising the dealer of dealer's hearing date to determine the possibility of an imposition of a fine and/or suspension or revocation of the dealer's license. A dealer may offer to pay a fine of $500.00 in lieu of a hearing. The Commission may, at its discretion, accept the fine or schedule a hearing at the next regularly scheduled meeting.~~

~~(5) **Fifth violation.** A fifth violation within the last six months will automatically result in a notice of hearing sent by certified mail. The dealer may not offer to pay a fine in lieu of a hearing.~~

~~(b) **Correspondence.** All certified letters should be addressed to the licensee with RETURN RECEIPT REQUESTED".~~

[OAR Docket #09-766; filed 4-24-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #09-774]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Collections and Disbursements
550:1-7-2 [AMENDED]
AUTHORITY:
Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), and 50-106(3)
DATES:
Comment period:
January 3, 2009 - February 11, 2009
Public hearing:
February 18, 2009
Adoption:
February 18, 2009
Submitted to Governor:
February 20, 2009
Submitted to House:
February 20, 2009
Submitted to Senate:
February 20, 2009
Gubernatorial approval:
March 6, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2009.
Final adoption:
April 16, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendments to OAC 550:1-7-2 remove the superfluous language that was previously needed to phase in the requirement that monthly benefit payments be made by direct deposit.
Related statutes are 11 O.S. Section 50-107 and 11 O.S. Section 50-114
CONTACT PERSON:
Marla Hensley, Administrative Assistant, Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Ste. 305, Oklahoma City, OK 73116-7335, 405-840-3555 Ext. 236.

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, 2009:

SUBCHAPTER 7. COLLECTIONS AND DISBURSEMENTS

550:1-7-2. Pension vouchers

(a) The monthly pension voucher, payable to members, eligible beneficiaries, alternate payees, or the member's estate shall be ~~mailed or~~ directly deposited on the last business day of the month. ~~Effective January 1, 2006, the monthly pension benefit payable to all members, beneficiaries, or alternate payees shall be directly deposited on the last business day of the month.~~ The monthly pension benefit will not be paid by the System until a personal depository agent is identified for direct deposit of the benefit.

~~(1) Any member, beneficiary, or alternate payee receiving a monthly pension benefit by paper voucher as of June 30, 2005, shall have until December 31, 2005, to identify a personal depository agent for direct deposit of their monthly pension benefit. Effective January 1, 2006, the monthly pension benefit will not be paid by the System until a personal depository agent is identified for direct deposit of the benefit.~~

~~(2) Any member or beneficiary receiving a monthly pension benefit by direct deposit or who is eligible to begin to receive a monthly pension benefit on or after July 1, 1999, shall have each monthly pension benefit directly deposited on the last business day of the month.~~

(b) Upon the death of a member or eligible beneficiary, the monthly pension benefit shall be payable as follows:

(1) If the member dies during the month but not on the last day of the month and there is a beneficiary, the full monthly pension benefit for the month of the member's death shall be paid to the member's beneficiary upon proper application and approval by the Board.

(2) If the member dies during the month but not on the last day of the month and there is not a beneficiary, the full monthly pension benefit for the month of the member's death shall be paid to the member's estate.

(3) If the eligible beneficiary dies during the month but not on the last day of the month and there is another eligible beneficiary, the full monthly pension benefit for the month of the eligible beneficiary's death shall be paid to the other eligible beneficiary upon proper application and approval by the Board.

(4) If the eligible beneficiary dies during the month and there is not another eligible beneficiary, the full monthly pension benefit for the month of the eligible beneficiary's death shall be paid to the eligible beneficiary's estate.

(c) The deferred option voucher shall be mailed first class as directed by the member, eligible beneficiaries, alternate payees, or member's estate.

[OAR Docket #09-774; filed 4-24-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #09-773]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Collections and Disbursements
550:1-7-4 [AMENDED]
AUTHORITY:
Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), and 50-106(3)
DATES:
Comment period:
January 3, 2009 - February 11, 2009
Public hearing:
February 18, 2009
Adoption:
February 18, 2009
Submitted to Governor:
February 20, 2009
Submitted to House:
February 20, 2009
Submitted to Senate:
February 20, 2009
Gubernatorial approval:
March 6, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2009.
Final adoption:
April 16, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
Superseded Rules:
Subchapter 7. Collections and Disbursements
550:1-7-4 [AMENDED]
Gubernatorial approval:
June 10, 2008
Register publication:
25 Ok Reg 2619
Docket number:
08-1179
INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The proposed amendments to OAC 550:1-7-4 allow for payments to be made to an estate without the estate being probated as provided for in 58 O.S. Sections 393 and 394 if the fair market value of property located in the state of Oklahoma owned by the decedent and subject to disposition by will or intestate succession at the time of the decedent's death is less than $20,000.00.
Related statutes are 11 O.S. Section 50-111.1, 11 O.S. Section 50-114 and 58 O.S. Section 393.1
CONTACT PERSON:
Marla Hensley, Administrative Assistant, Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Ste. 305, Oklahoma City, OK 73116-7335, 405-840-3555 Ext. 236.

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, 2009:

SUBCHAPTER 7. COLLECTIONS AND DISBURSEMENTS

550:1-7-4. Vouchers payable to an estate

(a) **Conditions for obtaining voucher payable to an estate.** The Oklahoma Police Pension and Retirement System will issue a voucher to an estate upon the following conditions being met:

(1) For estates whose fair market value of property located in this state owned by the decedent and subject to disposition by will or intestate succession at the time of the decedent's death, less liens and encumbrances, exceed Twenty Thousand Dollars ($20,000.00) ~~exceeds Ten Thousand Dollars ($10,000.00)~~, the personal representative of the estate of the deceased must have filed a probate action in a court of competent jurisdiction, have been issued either letters testamentary or letters of administration, and must furnish the Oklahoma Police Pension and Retirement System with the employer identification number assigned to the estate by the Internal Revenue Service.

(2) For estates whose fair market value of property located in this state owned by the decedent and subject to disposition by will or intestate succession at the time of the decedent's death, less liens and encumbrances, does not exceed Twenty Thousand Dollars ($20,000.00) ~~Ten Thousand Dollars ($10,000.00)~~, the provisions of 58 O.S. Sections 393 and 394 shall apply. In addition, the employer identification number assigned to the estate by the Internal Revenue Service must be furnished to the Oklahoma Police Pension and Retirement System.

(b) **Payment.** Vouchers payable to an estate shall be mailed by the Oklahoma Police Pension and Retirement System no earlier than the last business day of the month following Board approval.

[OAR Docket #09-773; filed 4-24-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM

[OAR Docket #09-775]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
550:10-1-5 [AMENDED]
AUTHORITY:
Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), and 50-106(3)
DATES:
Comment period:
January 3, 2009 - February 11, 2009
Public hearing:
February 18, 2009
Adoption:
February 18, 2009
Submitted to Governor:
February 20, 2009
Submitted to House:
February 20, 2009
Submitted to Senate:
February 20, 2009
Gubernatorial approval:
March 6, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2009.
Final adoption:
April 16, 2009.
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments to OAC 550:10-1-5 provide that municipalities applying for a disability benefit for a member must submit a fitness for duty physical completed by physician licensed to practice medicine in the State of Oklahoma.
Related statutes are 11 O.S. Section 50-115 and 11 O.S. Section 50-116.1
CONTACT PERSON:
Marla Hensley, Administrative Assistant, Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Ste. 305, Oklahoma City, OK 73116-7335, 405-840-3555 Ext. 236.

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, 2009:

550:10-1-5. Application for disability benefit

(a) **Member application for disability benefit.** A member applying for a disability benefit based on a permanent in-line disability must submit evidence of injury in the line of duty and/or evidence of exposure to hazardous chemicals in the line of duty. The Board may require that such evidence be in the form of a copy of an Official Oklahoma Traffic Collision Report, a copy of the official Injury Report/Incident Report filed with the Police Department, or a copy of an Order issued by the Worker's Compensation Court. If an official Injury Report/Incident Report is submitted which is not signed by the Chief of Police or by the member's Supervisor, the Board may require that an Affidavit of Authenticity be executed by the Chief of Police or the member's Supervisor certifying that such report is the official report of the Police Department with regard to the injury/incident related to the member's disability.

(b) **Municipality application for disability benefit.** A municipality applying for a disability benefit must submit a fitness for duty physical completed by physician licensed to practice medicine in the State of Oklahoma.

[OAR Docket #09-775; filed 4-24-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 15. OKLAHOMA POLICE DEFERRED OPTION PLAN

[OAR Docket #09-776]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
550:15-1-2 [AMENDED]
AUTHORITY:
Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), and 50-106(3)
DATES:
Comment period:
January 3, 2009 - February 11, 2009
Public hearing:
February 18, 2009
Adoption:
February 18, 2009
Submitted to Governor:
February 20, 2009
Submitted to House:
February 20, 2009
Submitted to Senate:
February 20, 2009
Gubernatorial approval:
March 6, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2009.
Final adoption:
April 16, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments to OAC 550:15-1-2 pertain to the methods of payment available to members participating in the Oklahoma Police Deferred Option.
Related statute is 11 O.S. Section 50-111.3
CONTACT PERSON:
Marla Hensley, Administrative Assistant, Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Ste. 305, Oklahoma City, OK 73116-7335, 405-840-3555 Ext. 236.

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, 2009:

550:15-1-2. Forward drop

(a) **Application.**

(1) The applicant must have twenty (20) years or more of credited service with the Oklahoma Police Pension and Retirement System to be eligible.

(2) The applicant must submit his/her completed application for participation in the Oklahoma Police Deferred Option Plan. Forms will be provided by the Oklahoma Police Pension and Retirement System.

(3) The effective date of membership will be the first day of the month.

(4) Once the Board has approved a member's application and the member's option account has been credited with the first contribution or benefit, the member's participation in the Oklahoma Police Deferred Option Plan is irrevocable as long as the member remains employed.

(b) **Contributions.**

(1) The final member contribution made to the Oklahoma Police Pension and Retirement System shall be for the last pay period prior to the first of the month in which the member becomes a participant in the Oklahoma Police Deferred Option Plan.

(2) The employer's contribution will continue to the Oklahoma Police Pension and Retirement System.

(3) The member's option account shall be credited fifty percent (50%) of the employer's contribution received for the member and the Oklahoma Police Pension and Retirement System shall be credited fifty percent (50%). The credit to the member's option account shall be made the next work day after receipt of the employer's contribution.

(4) Only the member's portion of the employer's contribution will be credited to the member's option account. No other contributions will be accepted.

(5) When a member has participated in the Oklahoma Police Deferred Option Plan for five (5) years or if the member terminates employment prior to the end of five (5) years, contributions will no longer be credited to the member's option account.

(c) **Benefits.**

(1) The monthly retirement benefit that would have been payable had the member elected to cease employment and receive a service retirement shall be credited into the member's option account.

(2) The member's service retirement benefit is frozen and at no time will he/she be allowed to increase his/her pension benefit due to additional years of service.

(3) The monthly retirement benefit will be credited to the member's option account the last day of the month.

(4) A member who participates in this plan shall be eligible to receive cost of living increases.

(d) **Interest.**

(1) The member's option account shall earn interest at a rate of two percent (2%) below the rate of return of the total investment portfolio of the System, but no less than the actuarial assumed interest rate established at the beginning of the fiscal year as certified by the actuary and approved by the Board in the yearly evaluation report of the actuary. This report is on a fiscal year basis ending on June 30.

(2) The Fund's annual rate of return shall be calculated and certified by the Board's financial consultant. The annual rate of return shall be for the fiscal year ending June 30.

(3) The interest shall be credited to the member's option account on an annual basis which is defined as fiscal year ending June 30. The amount of the interest credited shall be calculated at simple interest. The formula for calculating the interest shall be the amount of the deposit times the certified annual rate of return, less two percent (2%), divided by 365 days times the number of days the deposit was credited to the member's option account for the fiscal year.

(4) Each member shall receive an itemized statement at least on an annual basis beginning with interest credited at June 30, 1991.

(5) Upon completion of the five year term in the Oklahoma Police Deferred Option Plan or earlier termination of employment by the member, annual interest calculated through the last day of the month employed and certified by the Board's financial consultant will be credited to the member's option account provided the annual rate of return is greater than the actuarial assumed interest rate. If the rate of return is less than the actuarial assumed rate then the member's option account will be credited at the assumed interest rate of the last actuarial report.

(6) When a member has participated in the Oklahoma Police Deferred Option Plan for five (5) years or if the member terminates employment prior to the end of the five (5) years, the member's option account ceases to earn interest.

(7) At the conclusion of a member's participation in the Oklahoma Police Deferred Option Plan, the member must terminate employment and start receiving the member's accrued monthly retirement benefit from the System. Such termination has at all times included reemployment of a member by a participating municipality but only in a position not covered under the System or as a police chief. Thus, such a member would receive in-service distributions of such member's accrued monthly retirement benefit from the System.

(e) **Payment.**

(1) The member should make payment selection a minimum of thirty (30) days prior to termination of employment. The form on which payment selection must be submitted will be provided by the System.

(2) The member may select a lump sum payment, equal to the member's option account, which will be paid directly to the member by the Oklahoma Police Deferred Option Plan. This payment will be made after the last contribution has been received and interest applied following termination of employment and after receipt of the completed payment selection form.

(3) The member may select a direct rollover of his or her distribution in accordance with OAC 550:1-7-5. If the member does not select an Eligible Retirement Plan as described in OAC 550:1-7-5, or an annuity, the member shall receive a lump-sum payment equal to the member's option account balance.

(4) The member may select an annuity to be provided by a third party. The Oklahoma Police Deferred Option Plan shall not be subject to any fees or charges from the annuity provider.

(5) The member may select to participate in any other method of payment if approved by the State Board.

(~~5~~6) Once the member's option account has been paid to the member, as a Direct Rollover or to the member's annuity provider, the member shall not have any recourse against the Oklahoma Police Deferred Option Plan, the Oklahoma Police Pension and Retirement System, its Executive Director and staff, and/or the Board.

(~~6~~ 7) For a lump sum payment, direct rollover or a combination thereof, an exclusion ratio must be calculated and applied to the distribution amount from the Oklahoma Police Deferred Option Plan to determine the portion that may be excluded from income. This exclusion ratio will equal the member's after-tax contributions to the System divided by the expected return. The expected return is the sum of:

(A) the Oklahoma Police Deferred Option Plan option account balance plus

(B) the amount of value of the monthly pension that the member is expected to receive over time based on single life expectancy factors from Table V issued as part of the income tax regulations under Section 72 of the Internal Revenue Code of 1986.

(f) **Beneficiaries.** If the participant dies during the period of participation in the Oklahoma Police Deferred Option Plan, a beneficiary may elect to receive a lump sum payment equal to the account balance of the participant. A beneficiary who is a surviving spouse of a member may elect a Direct Rollover of the account balance in accordance with OAC 550:1-7-5. If there is no beneficiary or if the beneficiary predeceases the participant a lump sum payment shall be paid to the estate of the participant.

[OAR Docket #09-776; filed 4-24-09]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 20. PURCHASE OF TRANSFERRED CREDITED SERVICE

[OAR Docket #09-777]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
550:20-1-2 [AMENDED]
AUTHORITY:
Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), and 50-106(3)
DATES:
Comment period:
January 3, 2009 - February 11, 2009
Public hearing:
February 18, 2009
Adoption:
February 18, 2009
Submitted to Governor:
February 20, 2009
Submitted to House:
February 20, 2009
Submitted to Senate:
February 20, 2009
Gubernatorial approval:
March 6, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2009.
Final adoption:
April 16, 2009
Effective:
July 1, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments to OAC 550:20-1-2 change verbiage to non-specific gender.
Related statutes are 11 O.S. Section 50-111.2 and 11 O.S. Section 50-111.4
CONTACT PERSON:
Marla Hensley, Administrative Assistant, Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Ste. 305, Oklahoma City, OK 73116-7335, 405-840-3555 Ext. 236.

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, 2009:

550:20-1-2. Computation

All purchases of transferred credited service pursuant to 11 O. S. Section 50-111.4, shall be based upon the actuarial cost of the incremental projected benefits to be purchased.

(1) The actuarial cost, and any tables formulated for the purpose of determining such cost during each calendar year, shall be based on the actuarial assumptions utilized in the actuarial valuation report as of the preceding July 1.

(2) The actuarial value shall be based upon the member's age, salary and service at the time of purchase, together with the earliest age for retirement and actuarially projected salary at time of retirement. For purposes of this actuarial cost, it is assumed that all members are married at the time of retirement. If purchase is not made within 30 days of Board approval, the purchase must be recalculated and the actuarial cost may increase.

(3) For purposes of this actuarial cost, the member's age shall be rounded up or down to the nearest birthday.

(4) For purposes of this actuarial cost, the mortality tables shall be formulated as a unisex table assuming post retirement mortality weighted 90% male and 10% female.

(5) In the event a member who chooses to purchase service has been employed less than twelve (12) months,

~~his~~ the member's salary shall be annualized based upon the completed calendar months of payroll information.

(6) In lieu of installment payments (for a purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of a direct trustee-to-trustee transfer or direct rollover as authorized by the statutes governing the System.

(7) Notwithstanding (6) of this subsection, purchases may be made by a cash lump sum payment, installment payments (where otherwise allowed by Oklahoma state statutes), trustee-to-trustee transfer and/or direct rollover as described in (6) of this subsection.

[OAR Docket #09-777; filed 4-24-09]

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

[OAR Docket #09-665]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Student Advisory Board
610-1-3-1. Purpose [AMENDED]
610:1-3-2. Membership [AMENDED]
610:1-3-3. Duties [AMENDED]
610:1-3-6. Amendments [AMENDED]
AUTHORITY:
70 O.S. §3204; 70 O.S. §3205.5 and 3205.6; 70 O.S. §3206; Oklahoma State Regents for Higher Education
DATES:
Comment period:
December 1, 2008 through December 31, 2008
Public hearing:
N/A
Adoption:
February 12, 2009
Submitted to Governor:
February 18, 2009
Submitted to House:
February 18, 2009
Submitted to Senate:
February 18, 2009
Gubernatorial approval:
March 4, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 15, 2009
Final adoption:
April 15, 2009
Effective:
May 25, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The permanent rule amendments address responsibilities and duties of the members of the Student Advisory Board (SAB)in order to strengthen the SAB's ability to function and to enhance its mission in keeping with statutory intent, as follows:
1. Sets mandatory meeting and attendance requirements, and provides for removal from office;
2. Provides a mechanism to conduct meetings in the chair's absence by changing the position of reporter to vice-chair, and expanding the position's powers;
3. Encourages involvement with certain student leadership events, and provides for participation; and
4. Ensures greater unanimity on future recommended policy recommendations by requiring a two-thirds approval instead of a majority of the members.
CONTACT PERSON:
David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289, 655 Research Parkway, Suite 200, Oklahoma City, OK 73104

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, 2009:

SUBCHAPTER 3. STUDENT ADVISORY BOARD

610:1-3-1. Purpose

(a) The Oklahoma State Regents for Higher Education recognize the value of a formal structure for student input and a strengthened linkage to its most important constituency-students. Consequently, the State Regents have created a Student Advisory Board to assist the State Regents in enhancing their relationship with students. The creation of this board is consistent with provisions of House Bill No. 1801 of the 1988 Oklahoma Legislature [70 O.S., §3205.5 and 3205.6] which became effective November 1, 1988.

(b) The purpose of the Student Advisory Board is to communicate to the State Regents the views and interests of all Oklahoma college and university students on those issues that relate to the constitutional and statutory responsibilities of the State Regents. In representing students, the Student Advisory Board shall combine the opinions of students with good sound research to develop the best proposals and recommendations for ~~the~~ The Oklahoma State System of Higher Education.

610:1-3-2. Membership

(a) The Student Advisory Board consists of seven members elected by delegates to the Oklahoma Student Government Association (O.S.G.A) at its annual meeting.

(b) Board members will be selected as follows:

(1) ~~wo~~ Two members will be elected at large to represent the comprehensive universities in The Oklahoma State System of Higher Education.

(2) Two members will be elected at large to represent the regional and senior universities in ~~the~~ The Oklahoma State System of Higher Education.

(3) Two members will be elected at large to represent the ~~junior~~ community colleges in ~~the~~ The Oklahoma State System of Higher Education.

(4) One member will be elected at large to represent the accredited independent colleges and universities in the state.

(c) The term of office of the Student Advisory Board is one year. A member may serve a maximum of three terms.

(d) A member must be enrolled in at least 12 semester credit hours at an Oklahoma college or university and must have a minimum cumulative grade-point average of 2.8 on a 4.0 scale. A member must attend the type of institution that he/she is elected to represent.

(e) Members will take office each year at the State Regents' May meeting.

(f) A member who wishes to resign before his/her term expires must notify in writing the State Regents and the Oklahoma Student Government Association.

(g) Members are required to attend all regularly scheduled Student Advisory Board meetings. Any member absent from three (3) regularly scheduled meetings, excluding meetings in June and July, shall be removed from office.

(~~g~~h) A member may be removed from office if he/she does not continue to meet the requirements as set forth in (d) of this Section during the term of office.

(~~h~~i) The Student Advisory Board members shall have the powers to recommend to the Board of Directors of the O.S.G.A removal of a fellow Student Advisory Board member for violations of duties set forth in 610:1-3-3.

(~~i~~j) The Board of Directors of the O.S.G.A. shall by majority vote have the power to remove a Student Advisory Board member congruent to any such recommendation made from the Student Advisory Board.

(k) A Student Advisory Board member who is removed from office shall not be considered a past member.

610:1-3-3. Duties

(a) So that members of the Student Advisory Board may adequately represent the views of other state students, each member will visit at least two other schools within the State System during his/her term of office. These other schools may not be under the same governing board as the institution that the member is attending. During these visits, the member should speak with student government leaders on important issues of student concern.

(b) The Student Advisory Board will serve as an avenue for the student community to express its opinions and interests to the State Regents.

(c) The Student Advisory Board will elect a ~~chairman~~ chair at its first meeting following election to serve as its liaison to the State Regents' office.

(d) The ~~chairman~~ chair will work with the State Regents' office through a staff liaison designated by the Chancellor.

(e) The Student Advisory Board will elect a ~~reporter~~ vice-chair at its first meeting following election to take official minutes of the Student Advisory Board meetings, ~~and~~ maintain a file of Student Advisory Board actions, and preside over Student Advisory Board meetings in the absence of the chair.

(f) Members of the Student Advisory Board will be called upon by the Chancellor to provide informal counsel and advice and to make presentations at public hearings, legislative meetings, etc.

(g) The Student Advisory Board will hold eleven (11) regular meetings each term excluding extraordinary, unforeseen circumstances which prevent holding a regular meeting.

(~~g~~h) The Student Advisory Board, by a majority vote of its members, may submit recommendations to the State Regents on matters relating to the duties and responsibilities of the State Regents.

(~~h~~i) Members of the Student Advisory Board are encouraged to attend all regularly scheduled meetings of the State Regents. The board's elected representative has speaking privileges at such meetings in accordance with State Regents' operating policy.

(j) Members of the Student Advisory Board are encouraged to attend student leadership retreats sponsored by the State Regents. Costs related to Student Advisory Board members attending State Regents sponsored student leadership retreats may be paid from the operating budget of the State Regents.

(~~i~~k) The representative at the State Regents' meetings will be responsible for recognizing other members of the Student Advisory Board for the purposes of:

(1) Speaking on issues that concern students and relate to the State Regents' duties and responsibilities.

(2) Presenting recommendations that relate to the State Regents' duties and responsibilities.

(~~j~~l) The Student Advisory Board will work with the Chancellor and the designated staff liaison in developing an annual list of priorities and goals for rendering advice to the State Regents.

(~~k~~m) The ~~chairman~~ chair or other designated spokesman of the Student Advisory Board shall have a place on the agenda of regular State Regents' meetings for the purpose of making a report.

(~~l~~n) The Student Advisory Board will submit an annual written report of its activities to the State Regents and the Oklahoma Student Government Association and will also maintain regular contact with the Association to apprise it of significant developments.

(~~m~~o) ~~he~~ The Student Advisory Board will follow the requirements of the Oklahoma Open Meeting Act [25 O.S., § 301 et seq.].

(~~n~~p) Members of the Student Advisory Board shall be reimbursed for travel expenses incurred in the official performance of their duties as members of the Student Advisory Board in accordance with the State ~~travel~~ Travel Law [74 O.S., § 500.1 et seq.]. Reimbursements will be paid from the operating budget of the State Regents and must have the prior approval of the Chancellor's office and the Student Advisory Board ~~chairman~~ chair.

(~~o~~q) Clerical and administrative assistance to the Student Advisory Board will be provided by the Chancellor's office and the designated staff liaison in the conduct of the Student Advisory Board business.

610:1-3-6. Amendments

The provisions in this Subchapter may be amended by a ~~majority~~ two-thirds (2/3) vote of the Student Advisory Board and approval of the State Regents.

[OAR Docket #09-665; filed 4-16-09]

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

[OAR Docket #09-663]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 23. Oklahoma Higher Learning Access Program
610-25-23-2. Eligibility of participants [AMENDED]
610:25-23-5. Securing OHLAP benefits [AMENDED]
610:25-23-6. Retaining eligibility in postsecondary education [AMENDED]
AUTHORITY:
70 O.S. §2601 et seq.; 70 O.S. §3206(i); Oklahoma State Regents for Higher Education
DATES:
Comment period:
December 1, 2008 through December 31, 2008
Public hearing:
N/A
Adoption:
February 12, 2009
Submitted to Governor:
February 18, 2009
Submitted to House:
February 18, 2009
Submitted to Senate:
February 18, 2009
Gubernatorial approval:
March 4, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 15, 2009
Final adoption:
April 15, 2009
Effective:
May 25, 2009
Gubernatorial approval:
October 17, 2008
Register publication:
26 Ok Reg 201
Docket number:
08-1319
SUPERSEDED EMERGENCY ACTIONS:
Subchapter 23. Oklahoma Higher Learning Access Program
610:25-23-5. Securing Program Benefits [AMENDED]
610:25-23-6 Retaining eligibility in postsecondary education [AMENDED]
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed rule amendments address four statutory changes from the 2008 legislative session.

Delaying implementation of a new second income limit requirement from 2009-10 to 2010-11.

Based on SB 1038, Oklahoma's Promise college students receiving the scholarship for the first time in 2010-11 (primarily high school graduates of 2010 and thereafter) will be subject to a second family income limit requirement. Previously, the new limit was scheduled to go into effect for 2009 graduates. Students will not receive the scholarship if their parents' income exceeds $100,000 at the time the student goes to college (if the student is independent, the student's income may not exceed $100,000). To enroll in the program in the 8th, 9th or 10th grade, a student's family income still must be under $50,000 at the time of application.

The one-year delay in the new second income limit requirement reduces the number of students who will be subject to the new limit but who had already enrolled in the program before the new limit was legislated. The delay reduces the number of students in this circumstance from about 18,000 (9,000 in the 2009 graduating class, 6,000 in the 2010 graduating class and 3,000 in the 2011 graduating class) to 9,000 (6,000 in the 2010 graduating class and 3,000 in the 2011 graduating class).

A review of the family income data for 2007-08 Oklahoma's Promise scholarship recipients showed the following:

About 84 percent of recipients reported family income by applying for federal financial aid;

Of the students with reported family incomes, about 2 percent showed incomes exceeding $100,000;

No income data was available for the remaining 16 percent of recipients.

Modifying and delaying implementation of a new statutory college GPA requirement.

SB 1038 also delayed implementation of a new college GPA requirement from 2009-10 to 2010-11. The bill also changed the GPA requirement slightly to a minimum cumulative college GPA of 2.0 for courses taken *through* the sophomore year and a minimum 2.5 GPA for courses taken *during* the junior year and thereafter.

Exempting students in the military from the requirement that they begin college within three years of graduating from high school.

Prior to this amendment in SB 1038, all students were required to start college within three years of high school graduation to receive the Oklahoma's Promise benefit. The statute did not allow any exceptions. For some students joining the military immediately after high school graduation, the normal enlistment requirement of four years of active duty could possibly prevent them from receiving their Oklahoma's Promise benefit. The statutory amendment now provides an exception for students serving in the military.

Modified income eligibility requirements for certain adopted students.

HB 2446 provides expanded income criteria for students adopted while in the custody of the Department of Human Services, a licensed private nonprofit child-placing agency, or federally recognized Indian tribe. First, these students will not be subject to an income limit at the time they apply for participation in the program in the 8th, 9th or 10th grade. Second, if and when the second income limit becomes effective, these students would be subject to higher income limits than other participants. Students adopted between birth and the age of twelve years would be subject to a $150,000 second income limit. Those adopted between the ages of thirteen and seventeen would be subject to a $200,000 second income limit.
CONTACT PERSON:
David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289, 655 Research Parkway, Suite 200, Oklahoma City, OK 73104

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, 2009:

SUBCHAPTER 23. OKLAHOMA HIGHER LEARNING ACCESS PROGRAM

610:25-23-2. Eligibility of participants

Eligibility to participate in the program must be established by both the student and his/her parent(s), custodial parent(s), or guardian(s). Students enrolled in the eighth, ninth or tenth grade at a public or private school and whose parents' income meets the financial need criteria are eligible to apply to become a program participant. Students educated by other means who are between the ages of thirteen (13) and fifteen

(15) are eligible to apply to become a program participant. Eligibility requirements to participate in the program include the following:

(1) The student must be a resident of the state of Oklahoma or be enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of Title 70 of the Oklahoma Statutes; and

(2) The student's parent(s), custodial parent(s), or guardian(s) must establish financial need.

(A) To meet the program's financial need criteria, the income of the student's parent(s) from taxable and nontaxable sources shall not exceed $50,000 per year at the time the student applies for participation in the program. A student who was adopted while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be subject to the determination of financial qualification at the time the student applies for participation in the program. ~~[70 O.S. § 2603]~~

(B) Parents of students making application to the program must use their most recent calendar (tax) year income to establish financial need eligibility. Parents of tenth-grade applicants may use the calendar (tax) year income that coincides with the spring semester of the tenth-grade if the parents' income is expected to be significantly less than the previous year.

(C) The OSRHE shall use guidelines consistent with regulations for federal Title IV student financial aid programs to determine a student's custodial parent(s).

610:25-23-5. Securing Program benefits

(a) To qualify for the program benefits for the first semester or other academic unit of postsecondary enrollment, the participant must:

(1) Be a resident of this state both at the time of application to the program and at the time the student graduates from high school, or have been enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of Title 70 of the Oklahoma Statutes.

(2) Have graduated within the previous three years from a high school or other educational program if homeschooled. The Oklahoma State Regents for Higher Education may award benefits for a student's first semester or other academic unit of postsecondary enrollment taken more than three (3) years after the student graduates from high school, or other educational program if homeschooled, if the student is a member of the Armed Forces of the United States, the Reserve Corps of the Armed Forces of the United States, or the Oklahoma National Guard, and is ordered to active duty or active duty for special work or training and due to the duty commitment the student is unable to enroll prior to the end of the three-year period. Such three-year period shall be extended by the length of the term of duty.

(3) Have a record of satisfactory compliance with the agreements and program requirements described in 610:25-23-4. Students failing to comply with the agreement and program requirements shall not be eligible for awards. Compliance shall be verified by the local contact person upon a form provided by the OSRHE. Final verification of compliance shall be determined by the OSRHE. A copy of the student's final high school transcript shall be submitted by the local contact person with the student's verification form.

(4) Have satisfied admission standards as established by the Oklahoma State Regents for Higher Education for first-time-entering students for the appropriate type of institution (OSRHE Policy Statement on Admission to, Retention in and Transfer Among Colleges and Universities of the State System) or, if attending a private institution, satisfy the admission standards determined by the private institution; provided, that no student participating in the program shall be admitted into an institution of higher education by special admission standards.

(5) Have secured admission to, and enrolled in, an institution which is a member of The Oklahoma State System of Higher Education, a postsecondary program offered pursuant to a duly approved cooperative agreement between a public technology center and an institution of The Oklahoma State System of Higher Education, or a private institution of higher learning located within this state and accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes.

(6) Be a United States citizen or lawfully present in the United States. This provision shall not apply to any student that was enrolled in the program prior to the end of 2006-07 school year.

(b) For students receiving the program benefit award for the first time in ~~2009-10~~ 2010-11 and thereafter, at the time the student begins postsecondary education and prior to receiving any program benefit award, the income from taxable and nontaxable sources of the student's parent(s) shall not exceed $100,000 per year. The determination of financial qualification as set forth in this paragraph shall be based on the income of the student, not the income of the parent(s), if the student:

(1) is determined to be independent of the student's parents for federal financial aid purposes,

(2) was in the permanent custody of the Department of Human Services at the time the student enrolled it the program, or

(3) was in the court-ordered custody of a federally-recognized Indian tribe, as defined by the federal Indian Child Welfare Act, at the time the student enrolled in the program.

(c) A student who was adopted while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by

the federal Indian Child Welfare Act, shall be subject to the following financial qualification at the time the student begins postsecondary education and prior to receiving any program benefit award:

(1) For a student adopted between birth and twelve (12) years of age, the income from taxable and nontaxable sources of the student's parent(s) may not exceed $150,000 per year.

(2) For a student adopted between thirteen (13) and seventeen (17) years of age, the income from taxable and nontaxable sources of the student's parent(s) may not exceed $200,000 per year.

(3) If the student is determined to be independent of the student's parents for federal financial aid purposes, the determination of financial qualification shall be based on the income of the student, not the income of the parent(s).

(d) Award recipients shall apply for financial aid at the institution in which they enroll.

(~~d~~e) All students eligible to receive the program benefit award for the first time in ~~2009-10~~ 2010-11 and thereafter must complete an application for federal financial aid (Free Application for Federal Student Aid or FAFSA) or its equivalent. Students not eligible to complete the FAFSA will be provided an alternate method by the OSRHE.

(~~e~~f) Any person incarcerated in a state, federal, or private correctional facility shall not be eligible to receive program benefits.

610:25-23-6. Retaining eligibility in postsecondary education

(a) To retain eligibility for program benefits while pursuing a program of higher learning in an institution of The Oklahoma State System of Higher Education, the student shall maintain good academic standing and satisfactory academic progress according to standards of the Oklahoma State Regents for Higher Education. Students attending an eligible private institution shall maintain good academic standing and satisfactory academic progress according to the standards of the institution in which they are enrolled. [70 O.S. § 2603; OSRHE Policy II-2-46.3]

(b) Effective January 1, 2008, any student receiving the program benefit award that is expelled or suspended for more than one semester from an institution of higher education for conduct reasons shall permanently lose eligibility for program benefits.

(c) For students receiving the program benefit award for the first time in ~~2009-10~~ 2010-11 and thereafter, the student must achieve a minimum cumulative grade point average of 2.0 on a 4.0 scale or its equivalent for courses taken ~~during~~ through the student's sophomore year and achieve a minimum grade point average of 2.5 on a 4.0 scale or its equivalent for courses taken during the student's junior year and thereafter.

[OAR Docket #09-663; filed 4-16-09]

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

[OAR Docket #09-664]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 27. Teacher Shortage Employment Incentive Program
610-25-27-3. Application procedure [AMENDED]
610:25-27-5. Educational loan obligations for participant(s) with outstanding student loan debt [AMENDED]
610:25-27-6. Participant eligibility for benefits of the TSEIP [AMENDED]
610:25-27-7. Benefits to be disbursed under the program [AMENDED]
610:25-27-9. Verification and notification requirements [AMENDED]
AUTHORITY:
70 O.S. §698.3; 70 O.S. §3206(i); Oklahoma State Regents for Higher Education
DATES:
Comment period:
December 1, 2008 through December 31, 2008
Public hearing:
N/A
Adoption:
February 12, 2009
Submitted to Governor:
February 18, 2009
Submitted to House:
February 18, 2009
Submitted to Senate:
February 18, 2009
Gubernatorial approval:
March 4, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 15, 2009
Final adoption:
April 15, 2009
Effective:
May 25, 2009
Gubernatorial approval:
March 11, 2008
Register publication:
25 Ok Reg 800
Docket number:
08-388
SUPERSEDED EMERGENCY ACTIONS:
Subchapter 27. Teacher Shortage Employment Incentive Program
610-25-27-3. Application procedure [AMENDED]
610:25-27-5. Educational loan obligations for participant(s) with outstanding student loan debt [AMENDED]
610:25-27-6. Participant eligibility for benefits of the TSEIP [AMENDED]
610:25-27-7. Benefits to be disbursed under the program [AMENDED]
610:25-27-9. Verification and notification requirements [AMENDED]
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The rule amendments make permanent the changes that were made by the emergency rulemaking process. The emergency rule amendments were approved by the Governor on March 11, 2008 and would expire on July 14, 2009 if not superseded by these permanent rules. The program was created by SB 1393 in 2000 and was amended by HB 1499 in 2001. These rule amendments expand the pool of eligible teachers and ensure that teachers who have met the "spirit of the law" are not prevented from participating in the program due to circumstances beyond their control.
CONTACT PERSON:
David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289, 655 Research Parkway, Suite 200, Oklahoma City, OK 73104

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, 2009:

SUBCHAPTER 27. TEACHER SHORTAGE EMPLOYMENT INCENTIVE PROGRAM

610:25-27-3. Application procedure

(a) OSRHE is authorized to distribute TSEIP Participation Agreement forms to postsecondary institutions in the State System of Higher Education that are eligible to participate in state and federal financial aid programs and have an approved program of professional teacher preparation.

(b) TSEIP Participation Agreement forms may be obtained from TSEIP coordinator in each post-secondary institution or from the OSRHE. The student is responsible for the completeness of the application.

(c) A Participation Agreement must be signed by a student while enrolled in a mathematics or science major course of study at the undergraduate or graduate level.

(d) The completed Participation Agreement must be submitted to the TSEIP coordinator no later than the date of their graduation.

(e) Post-secondary institutions TSEIP coordinators will submit copies of the TSEIP Participation Agreements to the State Regents' office within 10 days of their submission.

(f) The State Regents will notify each applicant of the receipt of his/her application in the program, the educational loan obligation, and the disbursement benefits under the TSEIP.

(g) If an eligible student failed to enroll in TSEIP before graduation, he/she can file for late enrollment into the program within one year from date of graduation. The late enrollment process is as follows:

(1) A candidate must obtain a TSEIP Participation Late Agreement Form from the college of education (COE) which recommended licensure in undergraduate or graduate education degree in secondary mathematics or science. The participant must provide explanation for the late enrollment.

(2) The form must be signed by the TSEIP coordinator of the respective COE.

(3) All documents must be submitted to the OSRHE for consideration as soon as the candidate learns about TSEIP but no later than **one year** from his/her graduation date.

(4) Additional documentation may be requested by the OSRHE before determining the eligibility of the late enrollees.

610:25-27-5. Educational loan obligations for participant(s) with outstanding student loan debt

In order to satisfy the educational loan obligation of the program, the Participant with outstanding student loan debt must:

(1) Not rely on any TSEIP benefit disbursement to replace any scheduled student loan payment that is due and owing to any student loan holder.

(2) Provide written notification to OSRHE ~~within 10 days of any written notification~~ of change of status on student loans, including notice of delinquency/default and the sale, transfer or consolidation of student loans to another lender or servicer.

(3) Be free of any obligation to repay any state or federal educational grant and not be delinquent or in default on any state or federally insured educational loan. If, at any time, it is determined that a participant owes a grant refund or is in default on a loan, and has not made satisfactory payment arrangements, Participant ~~will~~ may be withdrawn from the TSEIP.

610:25-27-6. Participant eligibility for benefits of the TSEIP

In order to qualify to receive disbursement benefits under the TSEIP, the Participant must have:

(1) Obtained an initial teaching license and then a certificate and provided eligible full-time teaching service under a regular teaching contract at an Oklahoma public school:

(A) at the secondary level,

(B) for five (5) consecutive school years,

(C) in the mathematics or science subject areas.

(2) Completed the five years of teaching, as required, with not less than seventy-five percent (75%) of the teaching assignment meeting the criteria~~, as described in (A) of this subparagraph~~ set forth in paragraph (1) herein.

(3) Completed the first full year of eligible full-time teaching service, as described above, within twenty-five (25) months from the date of graduation from a four-year institution in Oklahoma.

(4) Notwithstanding the provisions of this subparagraph, Participants may apply to the employing school for a leave of absence when a serious illness, pregnancy or other natural cause prevents the Participant from continuing the coursework requirements or from providing consecutive full-time teaching service.

(A) Leaves of absence may not exceed more than one academic year and will not be included for the purpose of calculating the consecutive five (5) years of teaching service.

(B) Participants must present official school documentation to the OSRHE that a leave of absence ~~has been~~ was granted which meets the provisions of these rules. Official notification must be given within one year that the teacher has resumed the teaching duties or Participant ~~will~~ may be withdrawn from the program.

(5) A Reduction in Force will not eliminate a Participant from fulfilling the consecutive five-year obligation if the following provisions are met:

(A) Participant must provide to the OSRHE official documentation of the Reduction in Force.

(B) Participant must resume teaching mathematics or science at the secondary level at an Oklahoma public school within eighteen (18) months after the Reduction in Force.

610:25-27-7. Benefits to be disbursed under the program

(a) Under the provisions of the TSEIP, the OSRHE, *are authorized to make the employment incentive payments to persons who actually render a minimum of five (5) years of service as teachers in the public schools of this state if not less than seventy-five percent (75%) of the teaching assignment meets the criteria* [70 O.S. §698.3(B)], specified above.

(b) An Employment Compliance Form must be submitted to OSRHE upon completion of the 5th year of eligible teaching service. An authorized school official must complete the form.

(c) Depending on the June 30 student loan balance of any qualifying ~~student~~ Participant, as of the year that all program requirements are satisfied, and contingent upon the availability of funds, OSRHE will issue disbursements of program benefits directly to the ~~lenders/services of~~ qualifying ~~students~~ participants for the repayment of eligible student loans.

(d) *The total amount of employment incentive payments for any qualified person shall not exceed an amount equal to three times the average annual cost of undergraduate resident tuition and fees for full-time enrollment at institutions which offer teacher education programs within The Oklahoma State System of Higher Education, as defined by the State Regents*. [70 O.S. § 698.3(B)]

(e) Eligible loans will be repaid by the Participant in the following priority:

(1) First, all loans guaranteed by OSRHE, ranked first by rate of interest (highest to lowest) and secondly, by loan disbursement date (oldest to newest).

(2) Second, all other eligible loans ranked first by rate of interest (highest to lowest) and secondly, by loan disbursement date (oldest to newest).

(f) Any amount of excess of the Participant's outstanding student loan balance, or the entire benefit amount for the participants with no outstanding student loan balance, shall be paid directly to any person otherwise eligible for employment incentive payments pursuant to this section.

(g) If OSRHE determines that any TSEIP disbursement was authorized based on misleading or incorrect information, the Participant must reimburse such payment to OSRHE.

610:25-27-9. Verification and notification requirements

(a) Verification requirements which must be satisfied prior to disbursement of program benefits include:

(1) An Employment Compliance Form submitted to OSRHE ~~by June 30th~~ after the fifth year of eligible teaching service. An authorized school official must complete the form.

(2) The Loan Balance Verification Form must be submitted to OSRHE ~~by June 30 of~~ in the fifth year. The lender(s) must certify that the loans are in good standing and provide a June 30 balance.

(b) Until all mutual obligations of the Participation Agreement are satisfied, Participant must respond to all communications and requests from OSRHE within the time indicated.

(c) Until all mutual obligations of the Participation Agreement are satisfied, Participant must provide written notification to OSRHE ~~within 10 days~~ of any change in legal name or address of any change in status, which affects TSEIP eligibility.

[OAR Docket #09-664; filed 4-16-09]

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

[OAR Docket #09-661]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 31. Oklahoma Tuition Equalization Grant
610-25-31-2. Definitions [AMENDED]
610:25-31-4. Fiscal policies [AMENDED]
610:25-31-5. Refunds and institutional liability [NEW]
AUTHORITY:
70 O.S. §§2630 - 2632; 70 O.S. §3206(i); Oklahoma State Regents for Higher Education
DATES:
Comment period:
December 1, 2008 through December 31, 2008
Public hearing:
N/A
Adoption:
February 12, 2009
Submitted to Governor:
February 18, 2009
Submitted to House:
February 18, 2009
Submitted to Senate:
February 18, 2009
Gubernatorial approval:
March 4, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 15, 2009
Final adoption:
April 15, 2009
Effective:
May 25, 2009
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
Two of the proposed changes are due to statutory amendments to the OTEG program in Senate Bill 1038 of the 2008 Oklahoma legislative session.

The definition of an eligible institution was amended to include institutions that are accredited by a national accrediting body recognized by the United States Department of Education. Prior to the enactment of Senate Bill 1038, only institutions accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools were eligible to participate in the OTEG program. Based on the amended statute, Hillsdale Free Will Baptist College and Family of Faith College are now eligible. Data provided by these two institutions indicate an estimated 70 additional students could qualify for OTEG awards in 2008-09.

A requirement that limited student eligibility to no more than five years after the student's first semester of postsecondary enrollment was amended to read "no more than five years after the student's first grant is received." This amendment will provide eligibility for adult students returning to college who were previously excluded from OTEG award eligibility. Data provided by institutions indicate that an estimated 580 additional students could qualify for OTEG awards in 2008-09.

The third proposed change was recommended by the State Regents' System Auditor. The language is similar to existing policy for the OTAG program and would provide direction for situations when a student is found to be ineligible after an institution has awarded and disbursed OTEG funds to the student.

CONTACT PERSON:

David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289, 655 Research Parkway, Suite 200, Oklahoma City, OK 73104

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, 2009:

SUBCHAPTER 31. OKLAHOMA TUITION EQUALIZATION GRANT PROGRAM

610:25-31-2. Definitions

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

*"**Private or Independent institution,**" means an institution of higher learning that is not a public institution within the Oklahoma State System of Higher Education. The institution must be a not-for-profit entity, domiciled within Oklahoma, accredited by the Oklahoma State Regents for Higher Education, and fully accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools or a national accrediting body recognized by the United States Department of Education.* [70 O.S., § 2632]

610:25-31-4. Fiscal Policies

(a) The enrolling private or independent institution shall forward a completed student application, documentation of full-time enrollment status, and certification of resident status to the State Regents no later than October 15 for the fall semester and March 15 for the spring semester of each academic year.

(b) Subject to the availability of funds in the Oklahoma Tuition Equalization Grant Trust Fund, an applicant is eligible to receive an award up to $2,000 per academic year, or $1,000 per academic semester.

(c) Students receiving this grant may also receive additional state-supported financial aid, but not in excess of the student's cost of attendance as determined by the institution consistent with regulations for federal financial aid.

(d) Grants are not approved for summer or intersession enrollments.

(e) A student may be awarded a grant for a period of five (5) consecutive years of study in a baccalaureate program beginning ~~with~~ when the ~~student's~~ student first ~~semester of postsecondary enrollment~~ receives the grant, or until the student is granted a baccalaureate degree, whichever occurs first. Exceptions to this requirement may be considered for hardship circumstances; however, no recipient may receive benefits beyond a cumulative period of five (5) years.

(f) If funds are not sufficient in the Oklahoma Tuition Equalization Grant Trust Fund to provide grants for all eligible applicants, the State Regents shall award grants on the basis of need. If necessary, the private or independent institution shall provide to the State Regents the Expect Family Contribution (EFC) calculated for each eligible student for federal financial aid purposes. Institutions may also be required to provide the amount of unmet financial need calculated for each student's financial aid package. Students who have previously received a grant and who continue to meet the requirements for eligibility shall have absolute priority over any student who is applying for a grant for the first time.

610:25-31-5. Refunds and institutional liability

Institutions will report to the Oklahoma State Regents for Higher Education any awards that the institution is aware are based on inaccurate application data. If funds have been disbursed to a student, and the student reported incorrect data unknown to the institution at the time of eligibility certification, the student is responsible for the return of any funds for which he/she is not eligible to receive. All refunds will be coordinated by the institution for return to the Oklahoma State Regents for Higher Education. The institution will place holds as allowed on other financial aid disbursements, future enrollments, release of transcripts, etc. in an effort to collect refunds if necessary. In the event Oklahoma Tuition Equalization Grant funds are disbursed to a student as a result of erroneous action by the institution, the institution is financially liable for the return of the ineligible funds. An institution's failure to submit refunds for which the institution is liable within a reasonable period of time could result in suspension or termination of the institution's eligibility for participation in the Oklahoma Tuition Equalization Grant program. Thirty days is considered to be a reasonable period of time. The institution may appeal a finding of institutional liability.

[OAR Docket #09-661; filed 4-16-09]

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

[OAR Docket #09-662]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 35. Oklahoma Money Matters AmeriCorps Education Award Program [REVOKED]
610-25-35-1. Purpose [REVOKED]
610:25-35-2. Definitions [REVOKED]
610:25-35-3. Program Information [REVOKED]
610:25-35-4. Field Site Selection [REVOKED]

610:25-35-5. Member Candidacy [REVOKED]
610:25-35-6. Grievance Procedures [REVOKED]
610:25-35-7. Program Capacity [REVOKED]

AUTHORITY:
70 O.S. §623; 70 O.S. §3206(i); Oklahoma State Regents for Higher Education

DATES:
Comment period:
December 1, 2008 through December 31, 2008
Public hearing:
N/A
Adoption:
February 12, 2009
Submitted to Governor:
February 18, 2009
Submitted to House:
February 18, 2009
Submitted to Senate:
February 18, 2009
Gubernatorial approval:
March 4, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 15, 2009
Final adoption:
April 15, 2009
Effective:
May 25, 2009

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
It is proposed that the rules be revoked for the following reasons. Oklahoma Money Matters (OKMM) is the State Regents' financial literacy initiative, developed under the auspices of the Oklahoma Guaranteed Student Loan Program. OKMM serves as an information clearinghouse and develops outreach programs and community partnerships to increase public awareness of the need for financial education and understanding of sound fiscal principles and practices

In May 2004, OKMM staff submitted a proposal to offer an AmeriCorps Educational Award Program, which was accepted for funding by the governing federal agency, the Corporation for National and Community Service. Through this grant program, OKMM placed AmeriCorps members in host sites around the state to educate youth and adults about money management, consumer credit and student financial aid. OKMM AmeriCorps members who successfully completed 300 hours of service within one calendar year were eligible to receive a $1,000 Education Award from the National Service Trust.

Enrollment in the OKMM AmeriCorps Education Award Program commenced February 11, 2005 and concluded July 31, 2008, the closing date of the final grant year. During the grant cycle, OKMM AmeriCorps members earned a total of 45 Education Awards. Member enrollment in the OKMM AmeriCorps program never reached forecasted levels. Additionally, grant provisions limited the scope of acceptable financial education activities, which proved challenging for field sites in communities with specialized educational needs. After careful consideration of the program's viability, OKMM elected not to compete for an AmeriCorps grant in 2008-09.

The administrative rule for the OKMM AmeriCorps program defined operational parameters for program information, field site selection, member candidacy, grievance procedures, and program capacity. As the OKMM AmeriCorps program has fulfilled the grant cycle, the APA rule for the program is no longer required.

CONTACT PERSON:
David B. Harting, Assistant General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9289, 655 Research Parkway, Suite 200, Oklahoma City, OK 73104

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, 2009:

SUBCHAPTER 35. OKLAHOMA MONEY MATTERS AMERICORPS EDUCATION AWARD PROGRAM [REVOKED]

610:25-35-1. Purpose [REVOKED]

~~The purpose of this Subchapter is to describe the Oklahoma Money Matters AmeriCorps Education Award Program (OKMM-EAP), which is designed to improve financial literacy in Oklahoma. OKMM-EAP operates under the auspices of the Oklahoma Guaranteed Student Loan Program (OGSLP), a division of the Oklahoma State Regents for Higher Education.~~

610:25-35-2. Definitions [REVOKED]

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

~~**"AmeriCorps"** means the AmeriCorps Education Awards Program, which is one of several national service programs of the AmeriCorps National Service Network.~~

~~**"Applicant"** means an individual who has applied to participate in OKMM-EAP, but is not an AmeriCorps member.~~

~~**"Corporation for National and Community Service"** means the federal organization established under the National and Community Service Act of 1990 that administers the AmeriCorps National Service Network.~~

~~**"Education Award"** means an award provided to a member who has successfully completed a required term of service in an approved national service position and who otherwise meets the eligibility criteria established by AmeriCorps. An education award may be used to pay qualified educational expenses.~~

~~**"Enrollment"** means acceptance as an AmeriCorps member, as evidenced by inclusion in the AmeriCorps national database.~~

~~**"Field Sites"** means locations across Oklahoma that host AmeriCorps members during their term of service.~~

~~**"Financial Literacy"** means knowledge of money management and financial principles.~~

~~**"Member"** means an individual who is enrolled in the Oklahoma Money Matters AmeriCorps Education Award Program.~~

~~**"Oklahoma Community Service Commission"** means the authorized alternative entity administering Oklahoma's national service programs.~~

~~**"Service Activities"** means direct, meaningful actions through organized community service efforts that count toward fulfillment of service hours in a term of service.~~

~~**"Service Hours"** means the number of hours spent performing eligible community service activities during a term of service.~~

~~**"Site Application"** means the documentation submitted by potential field sites for OKMM-EAP consideration during the field site selection process.~~

~~**"Site Supervisor"** means a qualified employee of the field site who volunteers his or her time to serve OKMM-EAP.~~

~~**"Term of Service"** means the contracted length of time during which a member must perform eligible community service activities to qualify for an education award.~~

610:25-35-3. Program Information [REVOKED]

~~To achieve its primary goal of improving financial literacy, OKMM EAP is placing AmeriCorps members in field sites around Oklahoma to educate youth and others about personal finance, student financial aid, and consumer credit. OKMM EAP goals are to build student knowledge of financial literacy principles; develop members' leadership, citizenship, and presentation skills; and encourage members life long commitment to community service. OKMM EAP members will receive an education award upon successful completion of and subject to the terms of the OKMM EAP member contract.~~

610:25-35-4. Field Site Selection [REVOKED]

~~OKMM EAP will select field sites around Oklahoma to host AmeriCorps members during their service terms.~~

~~(1) **Selection Process.**~~

~~(A) Interested entities will submit a site application to OKMM EAP. Site applications can be requested from the OKMM Director at P.O. Box 3000, Oklahoma City, Oklahoma, 73101-3000 or by calling (405) 234-4495.~~

~~(B) An evaluation committee composed of the OKMM Director and other OGSLP senior level staff will review site applications.~~

~~(C) The evaluation committee will select field sites to participate in OKMM EAP based on the criteria and restrictions defined in this section.~~

~~(2) **Selection Criteria.**~~

~~(A) OKMM EAP field sites will be educational entities and/or other organizations with an established or expressed interest in community service and financial literacy.~~

~~(B) OKMM EAP will consider the following field site characteristics when reviewing site applications:~~

~~(i) The site's community service objectives are consistent with the OKMM EAP mission of improving financial literacy in Oklahoma.~~

~~(ii) The site's planned activities are consistent with identified community need for financial education.~~

~~(iii) The site offers a range of member activities that support the OKMM EAP mission.~~

~~(iv) The site will facilitate sufficient service activities to ensure that members have adequate opportunity to fulfill the required number of service hours in the prescribed service term.~~

~~(v) The site has designated a site supervisor who is willing to meet AmeriCorps administrative requirements and has the time, interest, and ability to supervise members and facilitate member involvement.~~

~~(vi) The site provides a safe, accessible work environment for members.~~

~~(vii) The site endorses a drug-free workplace.~~

~~(C) OKMM EAP endeavors to facilitate a wide range of member activities, serving a diverse spectrum of demographic populations at sites located across Oklahoma. Consistent with that vision, favorable consideration will be given to site applications that demonstrate compatibility with these objectives.~~

~~(3) **Restrictions.**~~

~~(A) Entities that discriminate on the basis of race, color, national origin, gender, age, religion, disability, or status as a veteran in policies, practices, or procedures are ineligible to serve as field sites for OKMM EAP.~~

610:25-35-5. Member Candidacy [REVOKED]

~~(a) **Member Requirements.**~~

~~(1) Members will be a U.S. citizen, U.S. national, or lawful permanent resident alien of the United States.~~

~~(2) Members will be at least 17 years of age at enrollment.~~

~~(3) Members will hold a high school diploma or equivalency certificate.~~

~~(4) Members must sign an OKMM EAP member contract.~~

~~(b) **Criminal History and Background Investigation.**~~

~~(1) Must be obtained for all members from the Oklahoma State Bureau of Investigation (OSBI).~~

~~(2) Must include a search of the Oklahoma Department of Corrections' files maintained by the OSBI pursuant to the Sex Offenders Registration Act.~~

~~(c) **Curricular Knowledge.**~~

~~(1) Applicants are provided training in a prescribed financial literacy curriculum.~~

~~(2) Applicants are tested after participating in the training course to assess knowledge gained.~~

~~(d) **Restrictions.**~~

~~(1) An applicant whose criminal history report reveals a conviction, a plead of guilty, or a plead of nolo contendere for a felony charge is not approved to serve in OKMM EAP.~~

~~(2) An applicant who scores below 75 percent on the post-training test is not approved to serve in OKMM EAP.~~

610:25-35-6. Grievance Procedures [REVOKED]

~~OKMM EAP members may file a grievance in accordance with OKMM EAP's grievance procedures.~~

~~(1) **General Information.**~~

~~(A) These procedures apply to service related issues such as assignments, evaluations, suspensions, or release for cause, as well as issues related to non-selection of members, displacement of employees, or duplication of activities by AmeriCorps.~~

~~(B) Allegations of fraud and criminal activity must be reported immediately to the Corporation for National and Community Service.~~

~~(C) Allegations of discrimination should be in writing and directed to the Corporation for National and Community Service.~~

~~(2) **Grievance Hearing.**~~

~~(A) An aggrieved party may request a grievance hearing if informal efforts fail to result in a mutually agreeable resolution.~~

~~(i) The aggrieved party should make a written request for a hearing to the OKMM EAP Director, unless it is the Director's decision or action that has resulted in the grievance, in which case a written request for a hearing should be sent to the Oklahoma Community Service Commission. The hearing request must be made within one year of the date of the alleged occurrence.~~

~~(ii) At the time a request for a hearing is made, OKMM EAP will make available to the aggrieved party information that it relied upon in its disciplinary decision.~~

~~(iii) One or more pre-hearing conferences will be scheduled at a time mutually convenient for all parties in an effort to facilitate a mutually agreeable resolution of the matter to make a hearing unnecessary or narrow the issues to be decided at the hearing.~~

~~(B) The hearing will be conducted by Oklahoma Community Service Commission staff within 30 calendar days after the filing of the grievance.~~

~~(C) A written decision will be made within 60 calendar days after filing.~~

~~(3) **Binding Arbitration.**~~

~~(A) An aggrieved party may request binding arbitration if a grievance hearing decision is adverse or if no decision is made within 60 days after the filing of the grievance.~~

~~(i) The arbitrator will be independent and selected by agreement of the parties.~~

~~(ii) If the parties cannot agree on an arbitrator, the Corporation for National and Community Service will appoint one within 15 calendar days after receiving a request from one of the parties.~~

~~(B) An arbitration proceeding will be held within 45 calendar days after the request for arbitration, or within 30 calendar days after the appointment of an arbitrator by the Corporation for National and Community Service.~~

~~(C) An arbitration decision will be made within 30 calendar days after the commencement of the arbitration proceeding.~~

~~(D) The cost of arbitration will be divided evenly between the parties, unless the aggrieved party prevails, in which case OKMM EAP will pay the total cost of the proceeding as well as the prevailing party's attorney fee, unless prohibited by law.~~

610:25-35-7. Program Capacity [REVOKED]

~~The reach and scope of OKMM EAP is defined as follows.~~

~~(1) **Field Sites.**~~

~~(A) OKMM EAP will utilize approximately 30 field sites.~~

~~(i) Additional field sites may be added as needed.~~

~~(2) **Enrolled Members.**~~

~~(A) OKMM EAP will enroll up to 500 AmeriCorps members per year.~~

~~(3) **Restrictions.**~~

~~(A) To manage OKMM EAP's expansion, the number of sites established and the number of members enrolled will be limited commensurate with OKMM EAP's administrative capability.~~

[OAR Docket #09-662; filed 4-16-09]

TITLE 695. OVERSIGHT COMMITTEE FOR STATE EMPLOYEE CHARITABLE CONTRIBUTIONS
CHAPTER 10. OKLAHOMA STATE CHARITABLE CAMPAIGN RULES

[OAR Docket #09-769]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General ~~Provision~~Provisions
695:10-1-5 [AMENDED]
Subchapter 3. Principal Combined Fund Raising Organization
Part 3. Local Principal Combined Fund Raising Organization (Local PCFRO)
695:10-3-33 [AMENDED]
Subchapter 5. Conduct of The Charitable Campaign
695:10-5-4 [AMENDED]
AUTHORITY:
The Oversight Committee for State Charitable Contributions; 74 O.S. § 7005.
COMMENT PERIOD:
January 2, 2009 to February 9, 2009.
PUBLIC HEARING:
February 6, 2009
ADOPTION:
February 11, 2009
SUBMITTED TO GOVERNOR:
February 18, 2009
SUBMITTED TO HOUSE:
February 18, 2009
SUBMITTED TO SENATE:
February 18, 2009
GUBERNATORIAL APPROVAL:
March 4, 2009
LEGISLATIVE APPROVAL:
Failure of the Legislature to disapprove the rules resulted in approval on April 15, 2009.
FINAL ADOPTION:
April 15, 2009
EFFECTIVE:
May 25, 2009
SUPERSEDED EMERGENCY ACTIONS:
None.
INCORPORATIONS BY REFERENCE:
None.
ANALYSIS:
The proposed amendment to 695:10-3-33 is to reflect the legislatively mandated name change of the State Agency Review Committee to the Oversight Committee for the State Employee Charitable Contributions

(OCSECC). The proposed amendments to 695:10-1-5 and 695:10-5-4 add clarifying language and terms.

CONTACT PERSON:

Kara I. Smith, General Counsel, Office of Personnel Management, 2101 N. Lincoln, G-80, Oklahoma City, OK 73105, (405) 522-1736.

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, 2009:

SUBCHAPTER 1. GENERAL ~~PROVISION~~ PROVISIONS

695:10-1-5. Oversight Committee for State Employee Charitable Contributions (OCSECC); organization and meetings

(a) The membership of the OCSECC consists of 7 state employees. Section 7005 of Title 74 of the **Oklahoma Statutes** provides for the appointment and service of the membership of the OCSECC. The officers of the OCSECC are the chairman and the vice-chairman.

(1) At least annually, the OCSECC shall elect a chairman and a vice-chairman from among its members. A member may be elected for succeeding terms of office.

(2) The chairman shall call and preside at meetings and may represent the OCSECC in other matters as it may lawfully authorize. In the absence of the chairman, the vice-chairman shall assume the chairman's duties and have the chairman's authority. The vice-chairman shall also perform such duties as may be assigned by the chairman.

(b) All meetings of the OCSECC shall be held and conducted in accordance with the Open Meeting Act, Sections 301 through 314 of Title 25 of the Oklahoma Statutes.

(1) The chairman of the OCSECC may call special meetings or emergency meetings.

(2) Special or emergency OCSECC meetings shall also be called at the written request of a majority of the appointed members of the committee.

(3) A majority of the appointed members of the OCSECC shall constitute a quorum.

(4) A quorum of the members of the OCSECC shall be present to transact any business.

(5) An affirmative vote from a majority of a quorum is required for action by the OCSECC.

(6) Regularly scheduled meetings shall be held on the 2nd Wednesday of each of the following months: January, February, April, May, August, and November.

(c) The Office of Personnel Management shall provide the following support as is required by the OCSECC and pursuant to Section 7005(D) of Title 74 of the Oklahoma Statutes.

(1) Prepare meeting notices and agendas for submission to the chairman;

(2) Upon approval of the chairman, file, post and distribute meeting notices and agendas;

(3) Take and prepare minutes of meetings of the OCSECC ~~Record meetings of the OCSECC and permanently maintain audio recordings so they will be available for future transcription~~; and,

(4) Provide necessary clerical support for OCSECC during its meetings

SUBCHAPTER 3. PRINCIPAL COMBINED FUND RAISING ORGAINIZATION

PART 3. LOCAL PRINCIPAL COMBINED FUND RAISING ORGAINIZATION (LOCAL PCFRO)

695:10-3-33. Terms and conditions of service of the local PCFRO

The local PCFRO shall serve at the pleasure of the OCSECC~~SARC~~, normally for the period beginning May 1 and ending April 30 of the following

SUBCHAPTER 5. CONDUCT OF THE CHARITABLE CAMPAIGN

695:10-5-4. Campaign period

The annual campaign period in each geographic area shall be established by the LARC and/or the LPCFRO for that district in accordance with this Section. It shall be set within the period beginning August 1 and ending November 30 unless designated by the OCSECC ~~SARC~~ as part of a pacesetter ~~an early bird~~ campaign. The announced local campaign period may be up to 8 weeks in length. ~~Each LARC shall notify the SARC in writing of the beginning and ending dates of its campaign by August 1. A period initially announced for less than 8 weeks may be extended up to a total of 8 weeks for the entire period by sending the SARC written notice of the new ending date. This notice shall be postmarked on or before the original ending date.~~

[OAR Docket #09-769; filed 4-24-09]

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

[OAR Docket #09-768]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Teacher Preparation Program Accreditation
712:10-5-1 [AMENDED]
712:10-5-2 [AMENDED]
712:10-5-3 [AMENDED]
712:10-5-4 [AMENDED]
Subchapter 7. Teacher Preparation Teacher Assessment
712:10-7-1. [AMENDED]

AUTHORITY:
Oklahoma Commission for Teacher Preparation; 70 O.S. Supp. 1998, §6-180 et seq. Oklahoma Teacher Preparation Act
DATES:
Comment period:
October 3, 2008 through November 3, 2008
Public hearing:
November 3, 2008
Adoption:
November 13, 2008
Submitted to Governor:
December 16, 2008
Submitted to House:
December 16, 2008
Submitted to Senate:
December 16, 2008
Gubernatorial approval:
January 13, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009
Final adoption:
March 24, 2009
Effective:
November 1, 2009
SUPERSEDED RULES:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The rule modifies the program review process and eliminates the on-site portfolio review. The rule also provides for clarification of assessment requirements for new teacher certification areas.
CONTACT PERSON:
Ted Gillispie, Executive Director, (405)525-2612

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FOR THE IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF NOVEMBER 1, 2009:

SUBCHAPTER 7. TEACHER PREPARATION TEACHER ASSESSMENT

712:10-5-1. Teacher Preparation Program Accreditation And Review Process

(a) Oklahoma teacher education institutions function under an 'accreditation program' system which requires the evaluation of teacher education units and programs on a periodic basis.

(b) Beginning July 1, 1997 institutions which have no accredited teacher education program and which desire to initiate a certificate program shall follow the format outlined herein based on Standards for Oklahoma Accredited Teacher Education Programs and Institutional Plan (see 712:10-5-3). Institutional plans are defined as plans developed and prepared utilizing input from education stakeholders (teacher preparation faculty, arts and science faculty, teacher candidates, teachers, administrators, business and community leaders, and parents) which follow the general guidelines and standards for pre-service teacher preparation programs outlined in sections 712:10-5-3. On July 1, 1997 the Oklahoma Commission for Teacher Preparation, hereafter referred to as the Commission, shall assume responsibility for accrediting all teacher education programs in Oklahoma's public and private institutions of higher education.

(c) The program accreditation system shall be a multifaceted system based on:

(1) A competency-based teacher preparation program built around the Standards for Oklahoma Accredited Teacher Education Programs and State Department of Education Competencies, herein after referred to as SDE;

(2) Institution plans as outlined in the Standards for Oklahoma Accredited Teacher Education Programs and Institution Plan Format;

(3) On-site accreditation review team visits to the campuses of the institutions of higher education;

(4) Analysis of data related to student success rates on the general education, professional education, and subject matter assessments;

(5) Analysis of student satisfaction data;

(6) Analysis of student/teacher candidate portfolios.

(d) Beginning January 1, 1997 all institutions of higher education with teacher education programs must submit an initial institutional plan outlining how the institution will respond to those standards identified in the Oklahoma Standards for Accredited Teacher Education Programs and Initial Institution Plan (See 712:10-5-3, and OS 70 sections 6-199 through 6-202.)

(1) All initial plans will be reviewed by the Program Accreditation Committee, hereafter referred to as the PAC and recommendations forwarded for first accreditation, continuing accreditation, accreditation with stipulations, continuing accreditation with probation, or denial of accreditation will be forwarded to the Commission within sixty days of submission.

(2) All PAC members and a minimum of ten prospective members will receive performance training on how to evaluate the initial plans. Only those members demonstrating proficiency in evaluation will be allowed to evaluate the plans.

(3) The performance-based training will be conducted by the National Council for Accreditation of Teacher Education, hereinafter referred to as NCATE and/or their designee.

(4) Any Commission member or Commission appointee who is involved in any evaluation and/or accreditation decision related to any teacher education unit and/or program must complete the performance-based training related to the review and accreditation of teacher education units and/or programs prior to voting and/or participating on any accreditation decisions.

(5) Prior to being accredited each institution must meet the NCATE preconditions for accreditation and all requirements of the OCTP, and/or receive the approval of the OSRHE when applicable, and provide required documentation for each precondition.

(A) The institution is an equal opportunity employer and does not discriminate on the basis of race, sex, color, religion, age, or handicap (consistent with Section 702 of Title VII of the Civil Rights Act of

1964, which deals with exemptions for religious corporations, with respect to employment of individuals with specific religious convictions).

(B) A copy of the institution's official action pledging compliance with nondiscriminatory law and practice.

(e) Beginning July 1, 1997 the Commission will become a performance-based partner with the Oklahoma State Regents for Higher Education (State Regents) and NCATE. All teacher education programs shall be expected to meet all NCATE unit and program standards, SDE competencies, as well as all additional standards established by the Oklahoma Commission for Teacher Preparation.

(1) **Application form.** The application form containing the required information will be completed by the director of teacher education at the institution seeking Commission accreditation for the teacher education certificate programs.

(2) **Institutional plan.** The institutional plan shall be utilized by the Commission for program accreditation, State Regents program review, and NCATE accreditation. An institutional plan addressing the standards as outlined in the Oklahoma Commission for Teacher Preparation Standards for Oklahoma Accredited Teacher Education Programs and Institution Plan and criteria established in these rules and as stipulated in OS 70 sections 6-180 through 202 will be sent to the Commission office along with the application form.

(3) **Records to be kept on file at the institution.** The following items and records shall be kept on file at the institution with the director/dean of teacher education.

(A) Copy of the institution plan;

(B) Comments from the annual public forum held by the institution, the responses to comments, and how the comments were utilized in the modifications of the program;

(C) Copy of annual report to the Commission;

(D) Syllabi for courses in the areas of specialization, general education, and professional education will be kept on file with the institution; and

(E) Full faculty resumes will be on file for review. All levels of teaching personnel will be indicated.

(F) Copies of program review reports.

~~(G) Copy of the portfolio assessment report.~~

(~~H~~G) Candidate CEOE scores.

(4) **Timelines for evaluation process.**

(A) The Oklahoma Commission for Teacher Preparation personnel will establish an accreditation visit schedule in collaboration with the State Regents, NCATE and the institution dean/director of teacher education.

(B) Upon approval by the governing board of the institution, two copies of the institution report and supporting materials including the college catalog shall be sent to the Commission office 75 days prior to the accreditation visit. Upon receiving the names and addresses of the visiting accreditation review team, the institution shall send copies of all documentation to the members of the visiting accreditation review team.

(C) The visiting committee selection process shall be completed a minimum sixty (60) days prior to the accreditation visit.

(D) The on-site accreditation evaluation will be conducted over a three to five day period.

(E) After finalizing the team draft report which results from the accreditation visit, and within fourteen days of the accreditation visit, the team chair shall send the draft report to team members and Commission professional personnel for editing.

(F) Within twenty-one days of the visit the team members and the Commission office shall return their comments and recommendations on the report to the team chair. The chair makes corrections to the report, as appropriate, and sends a copy to the unit head at the institution for factual corrections.

(G) Within twenty-eight days of the visit but not less than five days of the receipt of the report the unit head sends factual corrections in writing to the team chair. The chair makes changes at his/her discretion, finalizes the report and sends one copy to the Commission office. The report shall be in the format determined by the Commission.

(H) The Commission staff will copy and bind the report with a cover that includes the name of the institution, its location, and the date of the visit.

(I) Utilizing the procedures outlined in 712:10-5-1(e)(8) the Commission will make a final decision regarding the accreditation of the institution's certificate program(s). That decision will be based on the findings and recommendations of the Commission Program Accreditation Committee and any additional information which may be presented by the institution under review.

~~(J) A portfolio review will be conducted three years prior to an accreditation site visit. Findings of the portfolio review will be presented to the Program Accreditation Committee and the Commission in the form of a report for information only.~~

(~~K~~J) All certification program reviews must be submitted to NCATE or to the Commission no later than ~~twelve months~~ 18 months prior to the first accreditation visit and ~~six months~~ 12 months prior to a continuing accreditation visit.

(5) **Selection of accreditation review team.** Selection of the accreditation review team will be coordinated by the Commission staff as soon as possible after the visitation dates are set. All accreditation review team members shall be determined within eight weeks prior to the accreditation review team visit. Selection of the accreditation review team shall be based on the following:

(A) All team members must have been trained by NCATE Board of Examiners and/or their designee in the assessment of NCATE standards and on the process for evaluating programs for the Commission.

(B) The membership of a first accreditation review team shall be as follows:

(i) Three to six representatives from the NCATE Board of Examiners (for NCATE accredited institutions).

(ii) State representatives appointed by the Commission including:

(I) One pre-K-12 classroom teacher;

(II) One representative from higher education who is a member of a teacher education unit. For accreditation of private institutions the representative shall be from a private institution; for public institutions this representative shall be from a public institution;

(III) One representative from the Commission;

(IV) One additional at-large member;

(iii) For any institution requesting accreditation of a career technology program(s) an additional accreditation review team member may be recommended by the State Director of Career and Technology Education.

(iv) Special Circumstances:

(I) For accreditation review teams requiring fewer members the Executive Director of the Commission shall collaborate with the Program Accreditation Committee, the director of teacher education at the institution being accredited, and NCATE and Commission staff to determine the team composition.

(v) Observers shall be determined by the Commission and from among representatives of the Oklahoma State Regents for Higher Education, State Department of Education, State Department for Career and Technology Education, professional organizations, and the community-at-large.

(I) Observers shall be actively involved in the data collection process, participate in the accreditation review team meetings, and assist the accreditation review team to understand state nuances. They may assist, but shall not be required to write any sections of the team report. They shall not be a voting member of the team.

(II) Observers are expected to participate in the entire visit and all assigned meetings and activities.

(III) The chair of the accreditation review team has the authority to dismiss any observer from the accreditation visit who does not participate in the entire site review and assigned activities.

(C) Accreditation team for continuing accreditation. The membership of a continuing accreditation review team shall be as follows:

(i) NCATE representatives as determined by NCATE (for NCATE accredited institutions);

(ii) State representatives which will number one less than the NCATE representatives;

(iii) The Executive Director for the Commission for Teacher Preparation or his/her designee shall collaborate with the director of teacher education at the institution being reviewed, NCATE, and with the PAC and Commission staff to determine the state committee representation;

(iv) Observers shall be determined by the Commission and from among representatives of the Oklahoma State Regents for Higher Education, State Department of Education, and the community-at-large. If a Career and Technology program is offered at the institution the State Director of Career and Technology Education shall nominate a team member for any institution requesting accreditation of career and technology program(s);

(v) Observers shall be actively involved in the data collection process, participate in the accreditation review team meetings, and assist the accreditation review team with understanding state nuances. They may assist but shall not be required to write any sections of the team report. They shall not be a voting member of the team.

(vi) Observers are expected to participate in the entire visit and all assigned meetings and activities.

(vii) The chair of the accreditation review team has the authority to dismiss any observer from the accreditation visit who does not participate in the entire site review and assigned activities.

(D) Accreditation teams for non-NCATE accredited institutions shall be composed of state representatives.

(E) The Executive Director for the Commission for Teacher Preparation or his/her designee shall collaborate with the director of teacher education at the institution requesting state accreditation, NCATE, the State Regents, PAC and Commission staff to determine the team representation.

(6) **Logistics of the accreditation visit.**

(A) Each institution shall arrange through the Commission for a pre-visit with the chair of the accreditation review team. The pre-visit should be conducted a minimum of sixty days prior to the team visit. The team chair must have received institutional report prior to the pre-visit.

(B) If it is to be a joint NCATE and Commission visit, the state chair, the NCATE chair and the Commission staff member responsible for program accreditation shall be included in the pre-visit. Logistical arrangements shall be finalized during the pre-visit.

(C) For state accreditation only, the state chair and the Commission staff member responsible for program accreditation shall be included in the pre-visit. Logistical arrangements shall be finalized during the pre-visit.

(D) A visitation schedule will be prepared and distributed approximately four weeks prior to the scheduled visit. The schedule will be developed cooperatively by the director of teacher education and the Commission staff in cooperation with the team chair(s).

(E) The following stakeholders shall be interviewed during the accreditation visit:

(i) Key faculty from the teacher education and the arts and sciences units;

(ii) Administrators from the university teacher education and the arts and sciences units;

(iii) Other individuals identified by the institution;

(iv) Students (both in organized group settings and in informal settings such as in hallways, student lounges, student union, etc.);

(v) Field supervisors and cooperating teachers of student teaching and internships;

(vi) Practitioners from area schools including, but not limited to, principals, school personnel directors, and teachers; and

(vii) Recent graduates.

(F) The individuals to be interviewed should be representative of the student body being served, consideration shall be made relative to ethnicity, gender, age and individuals with disabilities. Individuals being interviewed, unless unit and/or institution faculty members and administrators, shall not be employed in the unit. This shall not apply to field supervisors receiving stipends for their services.

(G) The visitation schedule shall include:

(i) Dates of the accreditation visit;

(ii) Name, location, telephone number of lodging where reservations have been made for committee members;

(iii) Location of visiting team headquarters on the campus of the institution being evaluated;

(iv) Meeting time and place for team organizational meeting;

(v) Meeting time and place for formal team interviews with constituencies listed in 712:10-5-1(e)(6)(E);

(vi) Meeting time and place for team to complete writing assignments;

(vii) Meeting time and place for team to present the exit report; and

(viii) Fax, telephone, and e-mail addresses of members of the unit.

(H) The completed accreditation review team report will be presented to the PAC, NCATE (as applicable), and the Commission.

(I) Visiting team members will be reimbursed for expenses incurred according to state guidelines. Reimbursement forms must be completed by team members on the last day of the visit.

(7) **Preparation of the team report.** The accreditation review team work will culminate in preparation of a report outlining the findings of the team. Individual writing assignments will be completed prior to the conclusion of the visit. The report will reflect the team consensus on the review.

(A) The accreditation review team report is to be based on the following:

(i) Validating and supporting documents, through interviews with students, faculty members, administrators, and school personnel;

(ii) Validating the institution plan by visiting facilities and reviewing documents; and

(iii) Specific guidelines and competencies for accredited teacher education programs.

(B) At the exit report, representatives of the accreditation review team will present a summary of its evaluation of the program. The summary will include findings for each standard and state requirement including areas for improvement.

(C) The completed reports will be due to the NCATE and Commission office 30 days after the accreditation review team on-site visit; and

(D) The recommendation of the accreditation review team regarding the program will be made to the PAC and the Oklahoma Commission for Teacher Preparation within 90 days after having received the rejoinder [see 712:10-5-1(e)(8)(B)(iv)]. For NCATE accredited institutions, final accreditation decisions will be made after the NCATE Unit Accreditation Board has forwarded its accreditation decision to the Commission.

(8) **Recommendation process.**

(A) Two copies of the final draft of the accreditation review team report will be forwarded to the Commission and one copy to each of the accreditation review team members who will be given the opportunity to suggest corrections in their respective assignment areas. Additionally, the director of teacher education will be given the opportunity to offer input regarding corrections in factual information.

(B) The head of the unit, in consultation with the chief executive officer of the institution, is required to acknowledge receipt of the report and is given the opportunity to prepare a rejoinder to the accreditation review team report. The unit can file the rejoinder and supplemental materials pertinent to the facts and conclusions found in the report of the accreditation review team.

(i) The institutional rejoinder to the accreditation review team report is a vital part of the evidence that the PAC considers as it makes its determination regarding first and continuing accreditation. The PAC considers the first/continuing accreditation report, accreditation review team report and the institutional rejoinder as it prepares its recommendations for the Program Accreditation Committee and subsequently to the full the Commission. The PAC may affirm the accreditation review team citations in areas for improvement or

modify them based on evidence provided in the institutional rejoinder or to bring consistency to its decisions across institutions.

(ii) The purpose of the rejoinder is to clarify information presented in the accreditation review team report and to correct any factual errors in the report. If the judgments of the accreditation review team are being appealed by the unit, the rejoinder must indicate the grounds for such a stance and the available documentation to support it. This information should be summarized, cited, and included in an appendix as appropriate. The rejoinder should be concise, to the point, and complete.

(iii) The following conditions must be adhered to as the institutional rejoinder is prepared by the unit:

(I) All evidence must describe what existed at the time of the accreditation visit. Changes made by the unit after the visit cannot be considered by the PAC in its deliberations. Changes after the visit should be reported to the Commission for Teacher Preparation as part of the unit's annual report;

(II) All evidence must relate directly to NCATE standards, state requirements, and all procedures that applied at the time of the accreditation visit;

(III) The rejoinder must be factual in nature. All inaccurate information in the accreditation report should be corrected and appropriate documentation submitted with the rejoinder; and

(IV) When the unit does not respond, in writing, to the unmet standards and weaknesses in the accreditation report, the PAC assumes that the unit concurs with the accreditation review team citation and decision.

(iv) The institutional rejoinder should contain the following:

(I) Letter from the unit head to the Commission Executive Director acknowledging the receipt of the accreditation report;

(II) Responses to the areas for improvement. If there is evidence that an area for improvement does not exist, the appropriate documentation should be appended;

(III) Perceptions of procedural concerns, if any, regarding the accreditation review team review or process that might have prejudiced the accreditation review team judgments; and

(IV) Appendices that contain information to support any requests for reconsideration of the accreditation review team judgments. If the data were included in the institutional report and not given adequate consideration by the accreditation review team, the appropriate pages should be cited/reproduced; if the reference exceeds three pages in the institutional report, the page numbers should be cited and not duplicated.

(v) The institutional rejoinder must be submitted to the Oklahoma Commission for Teacher Preparation within 30 days of the receipt of the accreditation review team report. When accreditation review team reports are sent to an institution during semester breaks, additional time to prepare the rejoinder will be considered. Additional time beyond the date indicated in the transmittal letter must be approved by the Commission Executive Director.

(C) Final action on the reports and institutional accreditation will proceed according to Section 712:10-5-1(e).

(D) Final action by the Commission may include the following actions:

(i) First and Continuing Accreditation

(I) First accreditation or continuing accreditation is granted to the education unit and program(s) if the Commission finds that standards have been adequately addressed to merit accreditation. This accreditation decision indicates that the unit meets each of the six NCATE standards for unit accreditation. Areas for improvement may be cited, indicating problems warranting the institution's attention. In its subsequent annual reports, the unit may describe progress made in addressing the areas for improvement cited in NCATE's action letter in preparation for its next visit. In its annual report the institution will be expected to address progress on the areas for improvement cited in the Commission accreditation report. This progress will be reviewed, annually, by the PAC. First accreditation is retroactive to the semester in which the accreditation visit occurred.

(ii) Provisional Accreditation (First).

(I) This accreditation decision indicates that the unit has not met one or more of the standards. When the PAC renders this decision, the unit has accredited status; but must satisfy provisions by meeting previously unmet standard(s) within an established time period.

(II) If provisional accreditation is granted, the PAC will require (1) submission of documentation that addresses the unmet standard(s) within six months of the accreditation decision or (2) a focused visit on the unmet standard(s) within two years of the semester of the accreditation decision. When a decision is made by the PAC to require submission of documentation, the institution may choose to waive that option in favor of the focused visit within two year. If documentation is submitted under the terms specified in the above paragraph, the PAC may (1) grant accreditation or (2) require a focused

visit within one year of the semester in which the documentation was reviewed by the PAC. After a focused visit, the PAC will (1) grant accreditation or (2) revoke accreditation.

(III) If accreditation is granted, the next on-site visit is scheduled for five years following the semester in which the accreditation visit occurred.

(iii) Accreditation with Conditions (Continuing).

(I) This accreditation decision indicates that the unit has not met one or more of the NCATE standards. When the PAC renders this decision, the unit maintains its accredited status, but must satisfy conditions by meeting the previously unmet standard(s) within an established time period.

(II) If accreditation with conditions is granted, the PAC will require (1) submission of documentation that addresses the unmet standard(s) within six months of the accreditation decision or (2) a focused visit on the unmet standard(s) within two years of the accreditation decision. When a decision is made by the PAC to require submission of documentation, the institution may choose to waive that option in favor of the focused visit within two years. If documentation is submitted under the terms specified in the above paragraph, the PAC may (1) continue accreditation or (2) require a focused visit within one year of the semester in which the documentation was reviewed by the PAC. After a focused visit, the PAC will (1) continue accreditation or (2) revoke accreditation.

(III) If accreditation is granted, the next on-site visit is scheduled for seven years following the semester in which the continuing accreditation visit occurred. This scheduling maintains the unit's original seven-year accreditation cycle.

(iv) Accreditation with probation (Continuing).

(I) Continuing Accreditation with Probation is issued if the unit has serious and significant areas for improvement related to the Standards for Oklahoma Accredited Teacher Education Programs. As a result of the continuing accreditation review, the PAC has determined that areas for improvement with respect to standards will place an institution's accreditation in jeopardy if left uncorrected.

(II) All students who have been admitted to the program must be notified by mail, within 30 days of receipt of the PAC/Commission decision, as to the probationary accreditation status of unit and/or programs.

(III) For an institution that is placed on probation an accreditation visit must be scheduled by the institution and take place within two years of the semester in which the probationary decision was rendered. The professional education unit will remain accredited at least until the result of the rescheduled accreditation visit is known. This visit will mirror the team composition process for first accreditation. All Oklahoma standards for accreditation of the teacher education unit and/or programs in effect at the time of the visit must be addressed by the unit, as part of this visit. Following the review, the PAC may decide to (1) continue accreditation, (2) continue accreditation with conditions, or (3) revoke accreditation.

(v) Denial of accreditation (First).

(I) Denial of accreditation is rendered when the PAC finds that the professional education unit and/or programs have severe and/or numerous areas for improvement that limit its capacity to offer quality programs.

(II) All students who have been admitted to the program must be notified by mail, within 30 days of receipt of the PAC/Commission decision, as to the denial of program accreditation of the unit and programs.

(III) Institutions that are denied accreditation may recommend candidates for certification for one year from the end of the semester in which accreditation is denied.

(vi) Revocation of accreditation (Continuing).

(I) Revocation of accreditation terminates current accreditation after a two-year probationary visit if the PAC/Commission finds that critical areas for improvement are not corrected. Accreditation will be terminated at the end of the semester in which the PAC/Commission revokes accreditation.

(II) All students who have been admitted to the program must be notified by mail, within 30 days of receipt of the PAC/Commission decision, as to the revocation of accreditation of the unit and programs.

(III) Institutions that lose their accreditation may recommend candidates for certification for one year from the end of the semester in which accreditation is revoked.

(IV) An on-site interim accreditation visit may be requested by the Appeals Board, hereinafter referred to as AB, acting on behalf of the Commission Administrative Committee. This visit would result from the committee's determination that compelling reasons exist to authorize reexamination of the accreditation of an institution's professional education unit and/or programs. If the AB determines that a complaint received by the committee needs to be investigated, the committee will authorize an interim accreditation review team visit to the campus. The interim accreditation review

team will consist of one member from the first or continuing accreditation review team and the remainder of the members will be appointed by the PAC following the guidelines outlined in 712-10-5(e)(5).

(V) The interim accreditation review team will prepare a report for the PAC. At the next PAC meeting following such a visit, the PAC will determine the institution's accreditation status.

(VI) The Commission may revoke accreditation if the unit and/or program(s) (a) no longer meets the Standards For Oklahoma Accredited Teacher Education Programs, (b) fails to submit annual reports and other documents required for accreditation; (c) misrepresents its accreditation status to the public; (d) fails to meet timelines of conditional or probationary accreditation or (e) fails over a three-year period to meet and maintain teacher candidate performance standards on the competency-based assessments as established by the Commission

(VII) All accreditation decisions shall be reported annually in the Commission annual report to the Education Oversight Board and all entities as outlined in OS 70 section 6-186.

(VIII) In the event that accreditation is denied or revoked, an institution may reapply for first accreditation following a three-year waiting period. Before an first visit may occur, a minimum of three years must have lapsed since accreditation was denied. Reapplication shall occur based on the Standards for Oklahoma Accredited Teacher Education Programs and Institutional Plan (See 712:10-5-3). All procedures for first accreditation will be followed during the reapplication process.

(9) **Appeals Board.**

(A) For NCATE accredited units the AB shall consider the recommendations of the NCATE appeals board for unit accreditation,

(B) For appeals related to program(s) and non-NCATE accredited institutions the following procedures shall be followed.

(C) Membership of Commission appeals board shall be:

(i) Commission chair. The Commission Chair shall be the Chair of the Appeals Board;

(ii) Chair of Program Accreditation Committee;

(iii) Program subject matter and/or standards expert(s). If the appeal is related to a specific program, the program expert shall be in the area(s) being appealed;

(iv) One PK-12 school classroom teacher;

(v) One member from the NCATE Board of Examiners (when applicable);

(vi) One teacher educator; and

(vii) One representative from the arts and sciences faculty or from school administration.

(D) The appeals board shall serve an initial term of two years, with the exception of the Commission Chair, Chair of the Program Accreditation Committee, and the program expert(s).The program subject matter expert(s) shall be appointed by the Commission Chair and serve on the AB only when an appeal is related to a program(s) appeal.

(10) **Conditions for appeals.**

(A) Any institution that is the object of an adverse decision, as determined by one of the Commission teacher education program review committees and/or unit accrediting committees, may appeal that decision to the Commission Appeals Board.

(B) An adverse decision is defined as the denial or revocation of program(s) or unit accreditation.

(C) An institution may also appeal, in writing, a provisional, conditional or probationary accreditation decision. Provisional, conditional or probationary accreditation does not terminate accreditation. An adverse decision may be appealed only on the following grounds:

(i) Stated procedures were not followed;

(ii) Evidence favorable to the institution was provided to the accreditation review team but was not considered;

(iii) Evidence was presented to the appropriate board in the form of a rejoinder or stipulation response but was not considered;

(iv) If a college or university believes that one or more of these conditions was a factor in its accreditation, the only available means of redress is through the appeals process; or

(v) There was a lack of the full number of team members due to last minute emergencies; however, that factor alone is not sufficient to uphold an appeal.

(I) The institution must convincingly demonstrate that this fact made a difference in the accreditation decision.

(II) The institution shall prove actual prejudice to it and that the prejudice changed the accreditation decision.

(III) The fact that the institution did not recommend canceling the visit would be evidence that it, at least before the visit, believed that the assembled team would be sufficient to conduct a fair and complete visit.

(D) The findings and recommendations of the AB are received by the full Commission at it first meeting following the meeting of the AB.

(E) Subsequent actions shall be based on grounds upheld by the full Commission and may include, but are not limited to:

(i) Assigning another accreditation review team to revisit an institution;

(ii) Reinstating accreditation or accreditation with provision, condition or probation; or

(iii) Upholding the initial recommendation for denial or revocation of accreditation.

(F) The status of the appellant at the time of the visit remains unchanged until the appeals process has been exhausted.

(11) **Process for appeal.** The following provisions govern the appellate process:

(A) Within 15 days of receiving notice of the adverse decision, an institution electing to appeal an adverse decision of the Commission must present the Commission Executive Director and the board or committee which issued the adverse or probation decision written notification of its intention to appeal.

(B) No later than 30 days from the date that it submits its notification, the institution must submit a brief to the Executive Director which sets forth the specifics of its appeal and includes full documentation.

(C) The Commission Chair shall convene the AB within 30 days after an appeal brief has been filed. The AB will hear and act on the appeal within this time frame.

(D) The appellant shall have the right to present a 30-minute oral argument on its brief. The appellant shall also have the right to be represented by counsel during the appeal, but may not call witnesses or introduce new evidence on its own behalf.

(E) If the adverse decision appealed is provisional, conditional or probationary accreditation, the appellant's right to appeal is limited to the submission of written documentation.

(F) In the case of an accreditation decision review, the AB has the right to seek clarification of the accreditation review team report from the state team chair, and clarification of the PAC's deliberations from the chair of the PAC.

(G) In the case of an accreditation decision review, all evidence presented in the appellant's brief and considered by the AB must be confined to conditions existing at the time of the accreditation review team visit as cited in the final report, or in the case of a petition for stipulation removal, to conditions existing at the time the petition for stipulation removal was submitted.

(12) **Cost of review.**

(A) If the appeal leads to an affirmation of the Commission's original decision, the appellant will be liable for the expenses of the AB, the second accreditation review team visit, and all expenses related to the review. All expenses will be reimbursed according to state travel reimbursement guidelines.

(B) If the AB finds in favor of the institution, the Commission will be liable for expenses of the AB and second accreditation review team. All expenses will be reimbursed according to state travel reimbursement guidelines.

(C) Access to Documents. In cases of accreditation decision review, team chairs, and the PAC chair serving as witnesses to hearings of the AB will be provided copies of pertinent action letters and reports. Appellant petitions of appeals are provided to all witnesses.

(13) **Continuing accreditation procedures.** Seven-year continuing accreditation shall follow the same basic format as the NCATE Continuing Accreditation procedures. The accreditation review team will review such things as faculty qualifications and loads, financial support of the unit, follow-up procedures, clinical and field experiences, the residency program, faculty development procedures, and annual student assessment data.

(14) **Distribution of findings.**

(A) The accreditation review team chair shall mail one copy of the final draft of its report to the Commission office.

(B) The Commission will coordinate with NCATE (for NCATE accredited institutions) for distribution of reports to other team members.

(C) After the institution has received the reports, it has 30 days to submit a rejoinder to the Commission according to procedures outlined in 712:10-5-1(e)(8)(B).

(D) When the entire process has been completed the Commission will distribute the findings to all interested stakeholders, including the State Department of Education and the Regents for Higher Education.

712:10-5-2. Structure of Accreditation Committees

(a) A Program Accreditation Committee (PAC) of the Oklahoma Commission for Teacher Preparation carries out the responsibilities for overseeing the accreditation or continuing accreditation of institution teacher education programs. Committee members shall be selected by the Oklahoma Commission for Teacher Preparation and approved by Commission membership to serve on such a committee. Except for the Commission Executive Director and program(s) subject matter experts, the initial term of membership shall be two years.

(1) Members shall have completed a training seminar related to state and NCATE accreditation and any other training deemed appropriate by the Commission.

(2) Membership shall be comprised of:

(A) A minimum of three Commission members who are not members of either an Accreditation Team or the Appeals Board;

(i) The Commission chair shall appoint PAC Chair(s) from the Commission members appointed to the PAC.

(B) Two pre-K-12 classroom teachers;

(C) The PAC chair(s) shall serve on the Commission Administrative Committee.

(D) Two teacher educators whose institutions will not be reviewed during the two-year term of appointment;

(E) One PK-12 public school administrator nominated by the State Superintendent of Public Instruction;

(F) One superintendent from an area-vocational school shall be nominated by the State Director of Career and Technology Education;

(G) Two arts and science faculty; one from a four year institution and one from a community college shall be nominated by the Chancellor for Higher Education; and

(H) The Commission Director of Program Accreditation shall serve in an advisory capacity.

(3) A minimum of two PAC members may be reappointed to additional terms to allow for continuity.

(4) Discretion and ethical judgment shall be used in making recommendations.

(5) Meeting dates shall be established in compliance with the following criteria:

(A) The PAC shall schedule a minimum of four meeting dates per academic year

(B) Other meetings shall be held as needed.

(C) Institutions with proposed programs for evaluation shall be notified of meeting dates four weeks in advance. Representatives from the institution(s) are encouraged to attend the meetings.

(6) Responsibilities and authority of the PAC shall be:

(A) Recognizing the status of all programs at each institution annually.

(B) Reviewing the Accreditation Team Report, reviewing the NCATE Unit Accreditation Board recommendations and recommending program accreditation status to the Commission;

(C) Following all procedures outlined in 712:10-5-1(e);

(D) Recommending to the Commission changes in administrative rules, regulations, policies. and procedures;

(E) Ensuring training for all accreditation review team members and PAC members;

(F) Carrying-out a systematic review and development of the standards by which programs are approved;

(G) Monitoring the performance of accreditation review team members; and

(H) Recommending training needs for accreditation review team members, institution faculty members, and PAC members.

(b) The Program Review Advisory Board (PRAB) shall provide consultation related to program reviews. The PRAB shall make final reviews on all program reports and make recommendations on program status for all non-NCATE institutions and for program areas not associated with an NCATE-recognized learned society. Program reviews will take place in conjunction with the college's/university's five- or seven-year accreditation cycle, occurring ~~six months~~ 12 months prior to a continuing accreditation visit and ~~twelve months~~ 18 months prior to a~~n~~ first accreditation visit.

(1) Members of the ~~The~~ Program Review Advisory Board (PRAB) shall be approved by the Program Accreditation Committee.

(2) The Program Review Advisory Board (PRAB) members shall serve an initial term of two years.

(3) Two or more of the ~~The~~ Program Review Advisory Board (PRAB) members may be reappointed to additional terms to allow for continuity.

(4) Members shall have completed a training seminar on the program review process.

(5) Discretion and ethical judgment shall be used in making recommendations.

(6) ~~The~~ The Program Review Advisory Board (PRAB) shall be comprised of trained reviewers in specific subject areas from the following groups:

(A) Practicing PK-12 classroom teachers

(B) Practicing PK-12 administrators

(C) Higher education faculty members

(c) The Commission Director of Program Accreditation or designee shall chair the ~~The~~ Program Review Advisory Board (PRAB) committee.

712:10-5-3. Specific State Standards For Program Accreditation

(a) The following standards apply to both undergraduate and graduate programs. The governance and administration of the total teacher education program standard is based on the premise that there must be a recognizable and functioning governance entity within the institution's administrative structure which has responsibility for designing, approving and continuously evaluating and developing teacher education programs. This governing unit may be a council, committee, department, school, college, or any other recognizable entity, which includes the administration of teacher education as one of its functions.

(1) The governing unit membership and responsibilities include the following:

(A) Membership on the teacher education governing unit shall be defined by written policy to include:

(i) A majority of the members who have a minimum of three years teaching experience in public schools;

(ii) A majority of the members in the governance unit who are currently teacher education faculty members;

(iii) Some faculty members who shall represent the arts and sciences;

(iv) A designated director of teacher education defined as the institution's official representative for teacher education. The authority and responsibilities of this individual shall be clearly defined in written policies; and

(v) A clearly defined process whereby faculty members and administrators become members and the terms of office.

(B) The responsibilities of the teacher education governing unit shall be defined by written policy to include:

(i) Responsibilities of the officers of the unit;

(ii) Responsibilities of the unit's standing committees; and

(iii) Responsibilities in the following areas as they are related to teacher education:

(I) Admission/retention in teacher education;

(II) Field experience and student teaching (admission and placement);

(III) Development of courses and program curricula; and Program review, evaluation and planning.

(C) Program review, evaluation and revision responsibilities include:

(i) The governance unit shall conduct at least one systematic review, evaluation, and when appropriate, revision of all teacher education programs within each accreditation period;

(ii) The governance unit shall conduct an annual public forum pursuant to 712:10-5-1 and OS 70 section 6-185;

(iii) Periodic program reviews and revisions shall be based on, but not limited to, stated goals and objectives; and

(iv) The process for conducting program review, evaluation, and revision shall include, but not be limited to, participation by the following:

(I) Teacher education faculty and arts and science faculty;

(II) Graduates of the programs;

(III) Students currently in the program;

(IV) Teachers and administrators from the public schools;

(V) Parents of PK-12 students; and

(VI) Business and community leaders who are actively involved in assisting PK-12 schools.

(D) Documentation related to the budget-making process and level of financial support shall include the following:

(i) A clearly defined budget-making process for all teacher education programs; and

(ii) An analysis showing that the institution's financial support for programs in teacher education are maintained at a level appropriate for a professional preparation program.

(b) Teacher education faculty standards are to be consistent with accreditation standards.

(c) Student-related standards are to be consistent with accreditation standards.

(d) Program decisions of the professional education unit are to be guided by a conceptual framework, which establishes the shared vision for the preparation of teacher candidates.

(1) The conceptual framework must include the following structural elements: The mission of the institution and the teacher preparation program;

(A) The program's philosophy, purposes, professional commitments and dispositions;

(B) A knowledge base that provides the foundation for the framework;

(C) Performance expectations for candidates that align with professional, state and institutional standards; and

(D) A system by which candidate performance is regularly assessed.

(2) A description of the conceptual framework shall be submitted along with the institution's preconditions report by any institution seeking first accreditation.

(3) A description of the conceptual framework shall be included in all institutional reports submitted prior to first and continuing accreditation visits.

(e) The following guidelines are to be used to collect and maintain data on each institution's teacher preparation program:

(1) The institutional shall establish a process which seeks information and program input from teacher preparation faculty; faculty from arts and sciences and other program and disciplines which are appropriate; students within the teacher education program; teachers, administrators, parents, guardians or custodians of students; and business and community leaders.

(2) The institutional shall hold an annual public forum, subject to the provisions of the Oklahoma Open Meetings Act, regarding the content of the institutional plan; public comment on either the institution's teacher preparation plan or program will be solicited during the forum.

(3) The institutional plan shall be accessible to any interested party under the Oklahoma Open Records Act.

(4) The submitted institutional plan must be approved by the institution's governing board.

(5) Annual reviews and reports indicating program changes resulting from the evaluations.

(f) The following policies, procedures and guidelines are used to direct the content and candidates experiences of each institution's teacher preparation program.

(1) Programs require teacher candidates to have speaking and listening skills at a novice high level in a language other than English.

(2) General studies requirements for candidates include the arts, communication, history, literature, mathematics, philosophy, sciences, English, government, and the social sciences.

(3) Programs establish cohort or colleague groups within the institution to assist teacher candidates in achieving competencies, better adapting to the school environment and furthering professional growth.

(4) Candidates complete a well-planned sequence of courses and/or experiences in pedagogical studies that ensures student competency in the Oklahoma State Department of Education Full, Subject Matter Competencies for Teacher Licensure and Certification.

(5) The guidelines and standards for program reviews representing specialty organizations and national learned society standards are used in developing programs in each content area.

(6) Secondary and elementary/secondary teacher candidates have undergraduate majors or their equivalents, in a subject area.

(7) Teacher candidates in early childhood, elementary, and special education have subject area concentrations, which allow qualification as a generalist. To qualify as a generalist, candidates must document competency in mathematics, science, language arts, and social studies as identified in the NCATE curriculum guidelines and State Department of Education Full, Subject Matter Competencies for early childhood, elementary and special education.

(8) Teacher candidates must have a minimum of 45 hours of diverse field experiences prior to their student teaching experience.

(9) Teacher candidates are provided with advisement services to assist them in taking course work designed to maximize their opportunity for certification and employment. At a minimum, teacher candidates are made aware of the latest supply and demand information concerning teacher employment, state salary structure, and are encouraged to seek secondary endorsements if appropriate.

(10) Substantive collaboration and classroom interaction with students accompanies theoretical curriculum, thus allowing teacher candidates the opportunity to apply theory to actual classroom situations.

(11) Instruction integrates pedagogical competencies or skills with experiences in the school setting.

(12) Teacher candidates are provided with opportunities to have parental, family and community involvement within their pre-service programs.

(13) The unit establishes and publishes a set of criteria/competencies for exit from each professional education program. These criteria/competencies reflect the Oklahoma Department of Education General Teacher Competencies and/or subject matter competencies outlined in the NCATE national (professional) learned societies' guidelines.

(14) The unit establishes and publishes the criteria/competencies for exit and satisfactory completion of the residency program adhering to all rules and regulations established by the Oklahoma State Department of Education.

(15) A candidate's mastery of a program's stated exit criteria or competencies is assessed through the use of multiple sources of data such as culminating experience, portfolios, interviews, videotaped and observed performance in schools, standardized tests and course grades.

(g) The following guidelines are to be used to facilitate the professional development of faculty:

(1) Teacher education faculty continue their professional development during their tenure at an institution of higher education to ensure that the future teachers of Oklahoma are taught by professional educators fully trained in their areas of expertise. Professional development for teacher educators and arts and sciences faculty should be focused on the faculty members ability to model such effective teaching strategies as inquiry, group discussions and collaborative learning.

(h) The following policies are to be used to evaluate individual program areas at each institution:

(1) The institution shall submit program reviews for each required program area based upon the guidelines and accreditation schedule of the Commission.

(2) Following the completion of each program evaluation, the institution will receive written notification of each program's status. Recognition decisions will include the following categories: recognized, recognized with conditions, ~~recognition decision deferred~~ recognized with probation, and not recognized.

(3) If the program is recognized, it will retain its status through the semester and year of the institution's next accreditation visit. To retain recognition, another program report must be submitted before that review.

(4) If the program is recognized with conditions, a report addressing the conditions to recognition must be submitted within 18 months of the date of the status report. The report must address the conditions specified by the reviewers. Once acceptable data has been submitted, the condition(s) will be ~~be~~ removed. If the program does not submit acceptable information within the designated timeframe, the decision reverts to "not recognized."

(5) ~~If the program recognition is deferred/more information required, a revised report addressing the issues identified by the reviewers must be submitted within two months. Failure to submit a report by the date specified in the recognition decision will cause the decision to revert to "not recognized." If the revised report with satisfactory information, the program decision will be changed to "recognized" or "recognized with conditions." If the information is not satisfactory, the decision is changed to "not recognized" and the program must submit a new report.~~ If the program is recognized with probation, a revised report addressing the issues identified by the reviewers must be submitted within 12 to 14 months, or the unit may submit a new program report for recognition within 12 to 14 months. If the revised report adequately addresses the concerns cited by reviewers, the program decision will be changed to "recognized" or "recognized with conditions." If the program is unsuccessful after two attempts, the program status will be changed to "not recognized."

(6) A program can receive a decision of "not recognized" only after two submissions are unsuccessful in reaching either "recognized" or "recognized with conditions." If the program is not recognized, a revised report addressing unmet standards may be submitted within 18 months of the date of the recognition report. [This report will be sent to the original team if possible.] The unit may elect to submit a new program report for recognition within 18 months. [This report will be sent to a new team of reviewers]. The BOE team will automatically cite the non-recognized program(s) as ~~in~~an ~~Areas~~ Area for Improvement.

(7) Programs which are required to submit program reviews to NCATE and which receive an initial "recognized

with probation" or "further development required" decision from NCATE may apply to OCTP for state recognition and thus recommend teacher candidates for certification under the following conditions:

(A) The program must have an aggregated pass rate of all candidates on the Oklahoma Subject Area Test (OSAT) of 80% or more over a three-year period. An application must be submitted to OCTP containing basic program information as well as current NCATE recognition status and future submission deadlines, but will not require an additional review.

(B) Institutions must submit a revised program report to NCATE according to NCATE/SPA guidelines addressing concerns cited in the review. If the revised report is not recognized, the unit must submit a second revised report according to NCATE guidelines.

(C) Programs which do not meet the required 80% pass rate on the OSAT may apply to OCTP for state recognition only following three unsuccessful submissions to NCATE. The application for state recognition must address concerns cited by reviewers in the final report.

(D) Programs receiving state recognition under these conditions will maintain recognition until the NCATE submission period prior to the unit's next scheduled accreditation visit, at which time the unit will be expected to submit a program review to NCATE.

(~~7~~8) Units may receive conditional approval for new programs. These programs must undergo initial, mid-program, and final reviews as outlined in the New Certification Program Procedures for Established Units guidelines before receiving full recognition. Recognition will be retained through the semester and year of the unit's next accreditation visit.

(~~8~~9) Programs that do not comply with the procedures detailed in items (h)3-7 will no longer be eligible to recommend candidates for licensure and certification.

(~~9~~10) An institution with a non-compliant program may apply to the PAC for a waiver if there is evidence that the non-compliant status of a program is due to transitioning national standards.

712:10-5-4. Standards for Oklahoma Teacher Education Programs

(a) The following standards as defined by the National Council for Accreditation of Teacher Education shall apply to undergraduate and graduate programs.

(1) Standard One: Candidate Knowledge, Skills and Dispositions.

(A) Candidates preparing to work in schools as teachers or other professional school personnel know and demonstrate the content, pedagogical, and professional knowledge, skills, and dispositions necessary to help all students learn. Assessments indicate that candidates meet professional, state, and institutional standards.

(B) Elements for Standard One include content, pedagogical and professional knowledge; dispositions for all candidates; and student learning for all candidates.

(2) Standard Two: Assessment System and Unit Evaluation.

(A) The unit has an assessment system that collects and analyzes data on the qualifications of applicants, the performance of candidates and graduates, and unit operations to evaluate and improve the unit and its programs.

(B) Elements of Standard Two include data collection, analysis, and evaluation; and use of data for program improvement.

(3) Standard Three: Field Experiences and Clinical Practice.

(A) The unit and its school partners design, implement, and evaluate field experiences and clinical practice so that teacher candidates and other school personnel develop and demonstrate the knowledge, skills, and dispositions necessary to help all students learn.

(B) Elements of Standard Three include collaboration between the unit and school partner; design, implementation, and evaluation of field experiences and clinical practice; and candidates' demonstrations of the knowledge, skills and dispositions necessary for student learning.

(4) Standard Four: Diversity.

(A) The unit designs, implements, and evaluates curriculum and experiences for candidates to acquire and apply the knowledge, skills and dispositions necessary to help all students learn. These experiences include working with diverse higher education and school faculty, diverse candidates, and diverse students in P-12 schools.

(B) Elements of Standard Four include design, implementation, and evaluation of ~~student~~ candidate experiences relevant to diversity.

(5) Standard Five: Faculty Qualifications, Performance, and Development.

(A) Faculty are qualified and model best professional practices in scholarship, service and teaching, including the assessment of their own effectiveness as related to candidate performance; they also collaborate with colleagues in the disciplines and schools. The unit systematically evaluates faculty performance and facilitates professional development.

(B) Elements of Standard Five include hiring of qualified faculty, modeling of best professional practices, ongoing evaluation and professional development and collaboration.

(6) Standard Six: Unit Governance and Resources.

(A) The unit has the leadership, authority, budget, personnel, facilities, and resources including information technology resources, for the preparation of candidates to meet professional, state and institutional standards.

(B) Elements of Standard Six include evidence of leadership within the unit and across the institution, the unit budget, personnel and other resources.

(b) Teacher candidate portfolios.

(1) Institutions shall require all initial and advanced certification program(s) students to develop a portfolio following the guidelines outlined in this section.

(2) A portfolio is a documented profile of an individual's accomplishments, learning, and strengths related to the competencies, state and national standards, and outcomes established by the Commission, State Regents, SDE and the institution.

(3) The portfolio, for purposes related to institutional accreditation is a unit of measure which presents evidence that the institution is providing initial, on-going, and focused opportunities and avenues which lead to student achievement of competencies, state and national standards and outcomes determined by the Commission, Regents, SDE and the institution. ~~Portfolio reviews shall be included in all accreditation reviews. Institutional reports, including the third year status report and all annual reports shall include a report on institutional portfolio reviews and any revision in the institution's portfolio process.~~

(4) Institutions will provide for review during each regularly scheduled accreditation visit:

(A) The unit's portfolio handbook containing a written philosophy related to portfolio development and assessment which is consistent with the institution's and unit's mission and conceptual framework, as well as written policies, criteria, and institutional rubric(s) related to the assessment of the portfolio as a whole or individual artifacts contained in the portfolios for all individuals enrolled in initial and advanced programs.

(B) Two representative candidate portfolios for each program offered. OCTP will randomly select one candidate portfolio in each program area and the second will be selected by the unit. Portfolios should represent candidates at the final transition point.

(C) In addition, annual reports must include any revision in the institution's portfolio process.

(~~4~~5) Institution's pre-service and/or advanced portfolio process.

(A) The teacher education unit and programs shall:

(i) Require the portfolio development process to begin with enrollment into the professional education course work;

(ii) Have a written portfolio handbook(s) containing a written philosophy related to portfolio development and assessment which is consistent with the institution's and unit's mission and conceptual framework(s);

(iii) Have written policies, criteria, and institutional rubrics related to the portfolio assessment(s) of individual(s) enrolled in initial and advanced certification programs.

~~(5) Process for Commission portfolio assessment.~~

~~(A) The Commission shall conduct a portfolio review during year three of the 5-year accreditation period, or year 4 of the 7-year accreditation period.~~

~~(B) The institutions shall provide a list of students who are enrolled in initial and advanced certification programs the semester prior to the scheduled portfolio review. Data shall be provided indicating each student's name, classification, and certification area.~~

~~(C) A random sample, stratified across student classifications and certification areas, of students' portfolios, from each institution, shall be selected from the above mentioned list and reviewed.~~

~~(D) The executive director or designee shall appoint representative members from higher education professional educators, arts and science faculty, public school teachers and administrators, and the community at-large to the portfolio review team.~~

~~(E) All members of the portfolio review team shall be trained in the use of the Oklahoma Portfolio Assessment Rubric.~~

~~(F) Portfolio reviews shall be included in all accreditation reviews.~~

~~(G) A portfolio review report shall be submitted to the teacher preparation unit following the assessment. A rejoinder to the report may be submitted by the institution within thirty (30) days of receiving the Portfolio Review Report.~~

(c) Annual report. There will be an annual report submitted to the Oklahoma Commission for Teacher Preparation. This report will satisfy the requirements for the Commission for Teacher Preparation, State Regents for Higher Education, State Department of Education, and NCATE/AACTE. The following information will be included in the report:

(1) Changes that occurred in implementation of the standards outlined in the Institution Plan as a result of local and statewide evaluations/assessments, ~~portfolio reviews,~~ public hearings or other reasons;

(2) Progress made in addressing the areas for improvement, if any, identified by the most recent on-site visit by the on-site accreditation review team;

(3) Quantitative data related to the unit's programs as required in the AACTE/NCATE Annual Report. These data shall reflect information pertaining to supply and demand for teacher candidates;

(4) Program changes being implemented for OCTP and NCATE continued accreditation;

(5) Report on resources devoted to technology;

(6) Report on professional development activities of faculty;

(7) Report on the number of hours each faculty member taught in public schools;

(8) Report on the number of graduate students admitted conditionally and the success rates.

(9) Annually, the OCTP shall provide feedback to any institution if their annual report indicates that progress is not being made in addressing program weaknesses.

(10) Complete copies of the annual reports for public institutions will be distributed to OSRHE and summary data

for all institutions will be distributed to constituents based on reporting requirements outlined in 70 O.S., Section 6-186.

(11) OCTP will produce a report describing the accreditation status of each institution. This report will devote a section to each institution separately and include a summary of NCATE and OCTP review findings.

SUBCHAPTER 7. TEACHER PREPARATION TEACHER ASSESSMENT

712:10-7-1. Teacher assessment regulations

(a) **Examinees-initial licensure and certification.**

(1) Any individual who applies for a teaching license/certification must successfully complete the competency examination as defined by the Oklahoma Commission for Teacher Preparation. (70 O.S. 1998 Supp., 6-182(14). The competency examination is made up of three components: The Oklahoma General Education Test (OGET), the Oklahoma Subject Area Test (OSAT) and the Oklahoma Professional Teaching Exam (OPTE).

(2) See Appendix A for competency exam requirements by certification area and test codes.

(b) **Examinees - additional certification**

(1) Individuals wishing to add a certification area to an existing teaching credential must successfully complete the Oklahoma Subject Area Test for the field of the desired certification.

(2) See Appendix A for competency exam requirements by certification area and test codes

(c) **Examinees - alternative preparation program**

(1) Individuals seeking a teaching license via the Alternative Preparation Program must successfully complete the Oklahoma General Education Test and the Oklahoma Subject Area Test in their recommended certification area. A licensed teacher via the Alternative Preparation Program seeking a standard certificate must successfully complete the Oklahoma Professional Teaching Exam.

(2) See Appendix A for competency exam requirements by certification area and test codes.

(d) **Examinees-out of state certification.** Individuals seeking an Oklahoma license/certification who are certified educators in another state (s) shall meet the same assessment requirements as all other individuals seeking initial licensure/certification. individuals having successfully completed comparable examination(s), as determined by OCTP, shall be exempt from the corresponding part(s) of Oklahoma's assessment requirement.

(e) **Examinees - testing conditions and requirements compliance.**

(1) If an examinee fails to comply with the conditions and requirements specified or referenced in the Certification Examinations for Oklahoma Educators Test Registration Bulletin, including the *Conditions of Test Participation*, or take any prohibited actions, the test results may be voided, no refund will be issued, no portion of the testing fee can be applied toward the cost of any future test administrations and/or the examinee's registration may be cancelled.

(2) If an examinee's test score is found to be unverifiable by either the testing company or the Oklahoma Commission for Teacher Preparation (OCTP), the examinee will be allowed one (1) retake under controlled conditions at no cost to the examinee.

[OAR Docket #09-768; filed 4-24-09]

TITLE 735. STATE TREASURER CHAPTER 10. SECURITY FOR PUBLIC DEPOSITS

[OAR Docket #09-742]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
735:10-1-7. Collateral security through safekeeping banks other than the Federal Reserve Bank [AMENDED]
AUTHORITY:
State Treasurer, 62 O.S. 72.4 & 72.4.
DATES:
Comment period:
January 4, 2009 to February 5, 2009
Public Hearing:
February 10, 2009
Adoption:
February 11, 2009
Submitted to Governor:
February 11, 2009
Submitted to House:
February 11, 2009
Submitted to Senate:
February 11, 2009
Gubernatorial approval:
March 2, 2009
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 7, 2009
Final adoption:
April 7, 2009
Effective:
May 26, 2009
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
These Permanent Rules amend the text of Chapter 10. Security for Public Deposits Banks no longer require receipts to be returned.
CONTACT PERSON:
Susan Bateman, Office of the State Treasurer, 2300 North Lincoln Boulevard, Room 217, Oklahoma City, Oklahoma 73105-4895, telephone number (405) 521-3191.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 26, 2009:

735:10-1-7. Collateral security through safekeeping banks other than the Federal Reserve Bank

These procedures detail transactions when using a safekeeping bank other than the Federal Reserve Bank. All other transactions shall use the procedures found at 735:10-1-6. Permissible transactions under the rules are pledging, releasing and substituting collateral securities. When substituting collateral instruments for collateral securities, follow the procedures outlined in 735:10-1-15.

(1) When pledging collateral securities:

(A) The pledgor bank shall:

(i) Complete Pledge Form (OST Form 95-007) in Appendix C of this Chapter.

(ii) Forward Pledge Form to safekeeping bank.

(B) The Safekeeping Bank shall:

(i) Generate custody receipt showing pledge to the State Treasurer.

(ii) Forward to OST the Pledge Form and custody receipt.

(C) OST shall:

(i) Review documents, and if approved, execute Pledge Form and attach custody receipt.

(ii) Retain form and custody receipt. Forward one (1) copy of form to pledgor bank and one (1) to safekeeping bank.

(2) When releasing collateral securities, a pledgor bank will only be allowed to release collateral when there are no longer any State funds on deposit or the current fair market value of any remaining collateral is equal to or greater than the required amounts established in 735:10-1-3.

(A) The pledgor bank shall complete the release portion of the Pledge Form and forward to OST.

(B) OST shall:

(i) Review document, and if approved, execute release form.

(ii) Return one (1) copy of release form to pledgor bank and one (1) copy to safekeeping bank along with custody receipt.

(3) When substituting collateral securities for collateral securities, collateral may only be substituted when the current fair market value of the substitute collateral (plus any remaining pledged collateral) is equal to or greater than the maintenance percentage. This process will require a release and new pledge/substitution.

(A) The pledgor bank shall:

(i) Complete release part of Pledge Form for collateral to be released. Forward to OST.

(ii) Complete new Pledge Form (OST Form 95-007) in Appendix C of this Chapter for collateral being substituted, including the substitution part listing OST's original pledge number for the collateral being released. Forward to safekeeping bank.

(B) The Safekeeping Bank shall:

(i) Generate custody receipt showing pledge to OST.

(ii) Forward to OST new Pledge/Substitution Form and custody receipt.

(C) OST shall:

(i) Review documents, and if approved, execute release and Pledge/Substitution forms.

(ii) Retain new Pledge/Substitution Form. Forward one (1) copy to pledgor bank and one (1) copy to safekeeping bank. Return one (1) copy of release to pledgor bank along with custody receipt.

(4) For the substitution of collateral securities for collateral instruments, a substitution may only be made when the current fair market value of the substitute collateral (plus any remaining pledged collateral) is equal to or greater than the maintenance percentage. This process will require a release and new pledge/substitution.

(A) The pledgor bank shall:

(i) Complete the release part of the original Pledge Form for the collateral instrument to be released. Forward to OST.

(ii) Complete new Pledge Form (OST Form 95-007) in Appendix C of this Chapter for collateral securities being substituted, including the substitution part listing OST's original pledge number for the collateral instrument being released. Forward to safekeeping bank.

(B) The Safekeeping Bank shall:

(i) Generate custody receipt showing pledge to OST.

(ii) Forward to OST new original Pledge Form identifying the collateral securities to be substituted and the custody receipt.

(C) OST shall:

(i) Review documents, and if approved, execute release and Pledge/Substitution forms.

(ii) Retain new Pledge/Substitution Form. Forward one (1) copy to pledgor bank and one (1) copy to safekeeping bank.

(iii) Return one (1) copy of release to pledgor bank along with custody receipt.

(5) The State Treasurer, safekeeping bank and pledgor bank may send or receive pledge forms and notices by means of electronic transmission (fax, internet transmission) including E-mail or other technological means of communication acceptable to all parties. However, a hard copy of all such transactions shall be maintained by the State Treasurer, safekeeping bank and the pledgor bank consistent with their recordkeeping requirements set by statute or regulation.

[OAR Docket #09-742; filed 4-20-09]

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

1:2009-19.

EXECUTIVE ORDER 2009-19

I, Brad Henry, Governor of the State of Oklahoma, by virtue of the Oklahoma Constitution and the laws of the State of Oklahoma, hereby grant a stay of execution of Donald L. Gilson of the scheduled execution, May 5, 2009 until May 14, 2009. This stay is granted in order for this office to thoroughly evaluate the recommendation of clemency by the Oklahoma Pardon and Parole Board.

On April 14, 2009, the Oklahoma Pardon and Parole Board voted 3-2 to recommend to the Governor that clemency be granted to Donald L. Gilson and that his sentence of death be commuted to life without the possibility of parole.

In accordance with 22 O.S. Section 1001.1(G), I hereby direct that, in the event clemency is not granted, the sentence of death be carried out on Thursday, May 14, 2009.

This Executive Order shall be forwarded to the Director of the Oklahoma Department of Corrections and the Oklahoma Attorney General who shall cause the provisions of this Order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 23rd day of April, 2009.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #09-791; filed 4-27-09]

1:2009-20.

EXECUTIVE ORDER 2009-20

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby direct and order as follows:

In 2008, the State Legislature adopted House Joint Resolution 1047, directing the Oklahoma Historical Society to conduct a competition to select the official Oklahoma State Rock and Roll Song. Oklahomans nominated 454 songs which an expert panel then narrowed to 10 finalists.

The 10 finalists were "Heartbreak Hotel," co-written by Oklahoma school teacher Mae Boren Axton and recorded by Elvis Presley; "Let's Have a Party," recorded by Oklahoman Wanda Jackson; "Walk, Don't Run," recorded by the Ventures, which included Oklahoman Nokie Edwards; "After Midnight," written and recorded by Oklahoman J.J. Cale and re-released by Eric Clapton; "Never Been to Spain," by Oklahoman Hoyt Axton and made famous by Three Dog Night; "Home Sweet Oklahoma," written and recorded by Oklahoman Leon Russell; "Oklahoma," by the Call, including Oklahomans Michael Been and Scott Musick; "Move Along," by Oklahoma band the All-American Rejects; "Endless Oklahoma Sky," by John Moreland and the Black Gold Band, also from Oklahoma; and "Do You Realize??" written and recorded by the Oklahoma band the Flaming Lips.

Oklahomans were encouraged to vote online to choose the Official Oklahoma Rock and Roll Song. "Do You Realize??" by the Flaming Lips received 10,738 votes, or nearly 51 percent of the 21,061 votes cast.

"Do You Realize??," from the 2002 gold-certified album *Yoshimi Battles the Pink Robots,* displays an optimism and love of humanity that are reflective of the Oklahoma spirit. Family being central to the Oklahoma way of life, "Do You Realize??" encourages each of us to make the most of scarce moments we have with our families and loved ones.

Pursuant to the procedure set forth in House Joint Resolution 1047 (2008) and the resulting vote of the people of this state, I hereby declare, direct and order that the official Oklahoma State Rock and Roll Song shall be the words and music of the song "Do You Realize??" by The Flaming Lips, composed

and written by Wayne Coyne, Steven Drozd, Michael Ivins and Dave Fridmann.

This Executive Order shall be forwarded to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Secretary of Commerce and Tourism, the Director of the Oklahoma Film and Music Commission and the Executive Director of the Oklahoma History Center who shall cause the provisions of this Order to be implemented by all appropriate agencies of state government, and to Wayne Coyne, Steven Drozd, Michael Ivins, Kliph Scurlock, Dave Fridmann and Scott Booker.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 28th day of April, 2009.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #09-808; filed 4-30-09]

1:2009-21.

EXECUTIVE ORDER 2009-21

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution hereby declare the following:

1. Tornadoes, severe storms and flooding beginning April 25, 2009 and continuing, have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this state.
2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.
3. There is hereby declared a disaster emergency caused by the tornadoes, severe storms, and flooding in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety. The counties included in this declaration are:

Alfalfa, Dewey, Ellis, Garfield, Grant, Kay, Major, Woods and Woodward

This declaration may be amended to add counties as conditions warrant.

4. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.
5. State agencies, in responding to this continuing disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.
6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 28 day of April, 2009.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #09-823; filed 5-1-09]