

Volume 30  
Number 18  
June 3, 2013  
Pages 751 - 998

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules



**Mary Fallin, Governor**  
**Larry Parman,**  
**Secretary of State**  
**Peggy Coe, Editor-in-Chief**

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ISSN 0030-1728

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# 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.*

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

*[OAR Docket #13-714]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. Evaluation: Minimum Criteria for Effective  
Teaching and Administrative Performance

210:20-3-5. Oklahoma minimum criteria for effective  
administrative performance [REVOKED]

**SUBMITTED TO GOVERNOR:**

March 28, 2013

**SUBMITTED TO HOUSE:**

March 28, 2013

**SUBMITTED TO SENATE:**

March 28, 2013

*[OAR Docket #13-714; filed 5-6-13]*

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# Gubernatorial Approvals

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

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

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

*[OAR Docket #13-670]*

### RULEMAKING ACTION:

Gubernatorial approval of PERMANENT rules

### RULES:

Subchapter 1. General Provisions

35:10-1-3. Handbook and publication editions [AMENDED]

### GUVERNATORIAL APPROVAL:

February 18, 2013

*[OAR Docket #13-670; filed 4-29-13]*

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

*[OAR Docket #13-672]*

### RULEMAKING ACTION:

Gubernatorial approval of PERMANENT rules

### RULES:

35:13-1-1. Incorporation by reference of federal distilled spirits for fuel use regulations [AMENDED]

35:13-1-2. Deleted regulations [AMENDED]

### GUVERNATORIAL APPROVAL:

February 18, 2013

*[OAR Docket #13-672; filed 4-29-13]*

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

*[OAR Docket #13-671]*

### RULEMAKING ACTION:

Gubernatorial approval of PERMANENT rules

### RULES:

Subchapter 1. General Provisions

35:15-1-1. Purpose [AMENDED]

35:15-1-2. Definitions [AMENDED]

35:15-1-4. Exhibitions and shows [AMENDED]

35:15-1-5. Falsification of Records [NEW]

Subchapter 11. Importation of Livestock, Poultry, and Pets

Part 1. General

35:15-11-1. General import requirements [AMENDED]

Part 7. Livestock

35:15-11-15. Definitions [REVOKED]

35:15-11-18. Requirements for cervidae [REVOKED]

Subchapter 13. Testing and Inspection for Disease and Release of Livestock at Auction Markets

35:15-13-1. Definitions [AMENDED]

35:15-13-3. General requirements for a livestock auction market [AMENDED]

35:15-13-5. Approval and responsibilities of veterinarians in livestock auction markets [AMENDED]

35:15-13-6. Movement of livestock through livestock auction markets [AMENDED]

35:15-13-7. Specific approval of livestock auction markets [AMENDED]

Subchapter 17. Bovine and Bison Brucellosis

Part 1. Definitions

35:15-17-1. Definitions [AMENDED]

35:15-17-3. Identification of vaccinates [AMENDED]

Part 3. Rules Adopted from USDA Uniform Methods and Rules (UM&R) for Brucellosis Eradication

35:15-17-49. Adult vaccination [AMENDED]

Part 11. Entry Permit and Retest Requirements [AMENDED]

35:15-17-73. Brucellosis requirements for entry of cattle and bison into Oklahoma [AMENDED]

35:15-17-74. Cattle and bison from an out-of-state farm of origin [AMENDED]

35:15-17-76. Out-of-state animals held under quarantine [REVOKED]

35:15-17-78. Test eligible sexually intact animals [AMENDED]

Subchapter 22. Swine Pseudorabies and Brucellosis

Part 1. General Provisions

35:15-22-1. Definitions [AMENDED]

35:15-22-3. Change of ownership requirements [AMENDED]

35:15-22-4. Requirements for livestock auction ~~approved~~ markets [AMENDED]

Part 3. Requirements for Swine Entering Oklahoma

35:15-22-33. Entry requirements for transitional production swine [AMENDED]

35:15-22-34. Entry requirements for livestock auction market and slaughter swine [AMENDED]

35:15-22-35. Commuter herd agreement requirements [AMENDED]

Part 7. Requirements for Swine Exhibitions

35:15-22-71. Exhibition requirements [AMENDED]

35:15-22-72. Swine exhibition event requirements [AMENDED]

Part 11. Pseudorabies and Brucellosis

## Gubernatorial Approvals

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35:15-22-109. Incorporation by reference [REVOKED]  
Subchapter 34. Feral Swine  
35:15-34-2. Definitions [AMENDED]  
35:15-34-3. Importation of feral swine [REVOKED]  
35:15-34-4. Intrastate testing of feral swine [REVOKED]  
35:15-34-5. Transporter license [AMENDED]  
35:15-34-6. Sporting facilities [AMENDED]  
35:15-34-7. Handling facilities [AMENDED]  
35:15-34-8. Buying stations [REVOKED]  
35:15-34-9. Gathering stations [REVOKED]  
35:15-34-10. Carcass disposal [AMENDED]  
35:15-34-11. Inspections [AMENDED]  
35:15-34-13. License fees [AMENDED]  
35:15-34-15. Holding facilities spens [AMENDED]  
35:15-34-17. Existing facilities [REVOKED]  
35:15-34-18. Phenotypic descriptions of feral swine [NEW]  
Subchapter 36. Scrapie  
35:15-36-1. Incorporation by reference of federal regulations [AMENDED]  
35:15-36-2. Deleted regulations [AMENDED]  
Subchapter 38. Bovine Trichomoniasis  
35:15-38-1. Definitions [AMENDED]  
35:15-38-2. Import requirements for bulls [AMENDED]  
35:15-38-2.1. Intrastate change of ownership requirements for bulls [AMENDED]  
Subchapter 40. Bovine Tuberculosis  
Part 3. Rules Adopted from USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication  
35:15-40-49.1. Dairy cattle change of ownership [AMENDED]  
Subchapter 42. Tuberculosis Eradication in Cervidae  
Part 1. Definitions [REVOKED]  
35:15-42-1. Definitions [REVOKED]  
Part 3. Rules Adopted from USDA Uniform Methods and Rules for Tuberculosis Eradication in Cervidae [REVOKED]  
35:15-42-31. Authority to require test [REVOKED]  
35:15-42-32. Personnel authorized to apply tuberculin tests [REVOKED]  
35:15-42-33. Presumptive diagnostic test [REVOKED]  
35:15-42-34. Supplemental diagnostic tests [REVOKED]  
35:15-42-35. Primary/diagnostic tests [REVOKED]  
35:15-42-36. Tuberculin test interpretation [REVOKED]  
35:15-42-37. Classification of Cervidae tested [REVOKED]  
35:15-42-38. Intrastate movement [REVOKED]  
35:15-42-39. Reporting of tests [REVOKED]  
35:15-42-40. Procedures in affected herds [REVOKED]  
35:15-42-41. Disposition of tuberculin responding Cervidae [REVOKED]  
35:15-42-42. Identification of reactor Cervidae [REVOKED]  
35:15-42-43. Quarantine procedures for Cervidae [REVOKED]

35:15-42-44. Retest schedules for high risk cervid herds [REVOKED]  
35:15-42-45. Cleaning and disinfection of premises, conveyances, and materials [REVOKED]  
35:15-42-46. Identification of Cervidae [REVOKED]  
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35:15-42-51. Minimum standards for accreditation and reaccreditation for Cervidae herds [REVOKED]  
35:15-42-52. Minimum standards for monitored herd status for Cervidae [REVOKED]  
35:15-42-53. Minimum requirements for qualified herd status for Cervidae [REVOKED]  
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35:15-44-1. Purpose [AMENDED]  
35:15-44-19. Entry and export requirements [AMENDED]  
35:15-44-20. Animal identification requirements [AMENDED]  
Subchapter 47. Chronic Wasting Disease (CWD) in Cervids  
Part 1. General  
35:15-47-2. Definitions [AMENDED]  
Part 3. Herd Certification Standards  
35:15-47-6. Minimum requirements for herd certification [AMENDED]  
Part 7. Interstate Movement Requirements  
35:15-47-18. Minimum CWD requirements for interstate movement of cervids [AMENDED]

### **GUBERNATORIAL APPROVAL:**

March 13, 2013

*[OAR Docket #13-671; filed 4-29-13]*

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

*[OAR Docket #13-673]*

### **RULEMAKING ACTION:**

Gubernatorial approval of **PERMANENT** rules

### **RULES:**

Subchapter 3. Swine Feeding Operations  
35:17-3-11. Pollution Prevention Plan (PPP) [AMENDED]  
35:17-3-14. Swine Waste Management Plans [AMENDED]  
35:17-3-18. Employee education and training [AMENDED]  
35:17-3-19. Owner inspections [AMENDED]  
Subchapter 4. Concentrated Animal Feeding Operations  
35:17-4-5. Notice requirements [AMENDED]  
35:17-4-9. Pollution Prevention Plan (PPP) [AMENDED]  
Subchapter 5. Registered Poultry Feeding Operations  
35:17-5-2. Definitions [AMENDED]  
35:17-5-3. Registration, Nutrient Management Plan (NMP) and Animal Waste Management Plan (AWMP) required [AMENDED]

35:17-5-5. Nutrient Management Plan and Animal Waste Management Plan requirements [AMENDED]  
35-17-5-10.1. Violation points system [AMENDED]

**GUBERNATORIAL APPROVAL:**  
February 11, 2013

[OAR Docket #13-673; filed 4-29-13]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
CHAPTER 30. COMBINED PESTICIDE**

[OAR Docket #13-677]

**RULEMAKING ACTION:**

Gubernatorial approval of **PERMANENT** rules

**RULES:**

- Subchapter 17. Combined Pesticide
- Part 6. Pesticidal Product Producing Establishments
- 35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations [AMENDED]
- Part 8. ~~Expiration of~~ Pesticide Registrations and Permits [AMENDED]
- 35:30-17-17. Pesticide registrations [AMENDED]
- 35:30-17-17.1. Registration and renewal options [NEW]
- 35:30-17-17.2. Cancellation or discontinuance of a pesticide or device registration [NEW]
- Part 21. Standards for Disposal of Pesticide and Pesticide Containers
- 35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations [AMENDED]

**GUBERNATORIAL APPROVAL:**  
March 11, 2013

[OAR Docket #13-677; filed 4-29-13]

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

[OAR Docket #13-674]

**RULEMAKING ACTION:**

Gubernatorial approval of **PERMANENT** rules

**RULES:**

- Subchapter 3. Meat Inspection
- Part 1. General Provisions
- 35:37-3-1. Incorporation by reference of federal meat inspection regulations [AMENDED]
- Subchapter 5. Poultry Products Inspection
- Part 1. General Provisions
- 35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations [AMENDED]

37:37-5-2. Deleted regulations and exemptions [AMENDED]

**GUBERNATORIAL APPROVAL:**  
February 20, 2013

[OAR Docket #13-674; filed 4-29-13]

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

[OAR Docket #13-675]

**RULEMAKING ACTION:**

Gubernatorial approval of **PERMANENT** rules

**RULES:**

- Subchapter 1. Agriculture Environmental Permitting and AGPDES
- Part 1. General Provisions
- 35:44-1-2. Incorporation by reference of federal regulations [AMENDED]
- 35:44-1-3. Date of federal regulations incorporated [AMENDED]
- Subchapter 3. Permit Conditions and Requirements
- 35:44-3-3. Date of federal regulations incorporated [AMENDED]

**GUBERNATORIAL APPROVAL:**  
March 28, 2013

[OAR Docket #13-675; filed 4-29-13]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
CHAPTER 55. COMMERCIAL PET BREEDERS**

[OAR Docket #13-676]

**RULEMAKING ACTION:**

Gubernatorial approval of **PERMANENT** rules

**RULES:**

- Subchapter 1. Licensing [NEW]
- 35:55-1-1. Purpose [NEW]
- 35:55-1-2. Definitions [NEW]
- 35:55-1-3. License required [NEW]
- 35:55-1-4. License application [NEW]
- 35:55-1-5. Grounds for denial, suspension, or revocation of a license [NEW]
- 35:55-1-6. Inspections [NEW]
- 35:55-1-7. Changes of information [NEW]
- 35:55-1-8. Fees [NEW]
- 35:55-1-9. Annual report [NEW]
- 35:55-1-10. Renewals [NEW]
- 35:55-1-11. Complaints [NEW]

- 35:55-1-12. Display of license [NEW]
- 35:55-1-13. Exemption for training animals [NEW]
- Subchapter 3. Standards of Care [NEW]
- 35:55-3-1. Incorporation by reference [NEW]
- 35:55-3-2. Watering [NEW]
- 35:55-3-3. Compatibility [NEW]
- 35:55-3-4. Primary enclosures [NEW]
- 35:55-3-5. Waste management [NEW]
- 35:55-3-6. Veterinary care [NEW]
- 35:55-3-7. Grooming [NEW]
- 35:55-3-8. Quarantine [NEW]
- 35:55-3-9. Animal identification [NEW]
- 35:55-3-10. Euthanasia procedures [NEW]
- Subchapter 5. Transportation [NEW]
- 35:55-5-1. General transportation requirements [NEW]
- 35:55-5-2. General travel requirements [NEW]
- 35:55-5-3. Consignment to carriers [NEW]
- 35:55-5-4. Primary enclosures used to transport live pets [NEW]
- 35:55-5-5. Food and water during transportation [NEW]
- Subchapter 7. Recordkeeping and Sales [NEW]
- 35:55-7-1. Records [NEW]
- 35:55-7-2. Pet health history provided to purchaser; sale of unhealthy pets [NEW]
- 35:55-7-3. Sales invoice or statement [NEW]
- 35:55-7-4. Location of sales [NEW]
- 35:55-7-5. Prohibition on the purchase, sale, or transportation of stolen pets [NEW]
- 35:55-7-6. Other requirements or acts prohibited [NEW]

**GUBERNATORIAL APPROVAL:**

February 18, 2013

*[OAR Docket #13-676; filed 4-29-13]*

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**TITLE 160. DEPARTMENT OF CONSUMER CREDIT  
CHAPTER 3. PROCEDURE**

*[OAR Docket #13-715]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

160:3-1-4 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-715; filed 5-6-13]*

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

*[OAR Docket #13-716]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 1. General Provisions

160:45-1-2 [AMENDED]

160:45-1-3 [AMENDED]

Subchapter 5. Closed-End Credit

160:45-5-1 [AMENDED]

160:45-5-3 [AMENDED]

160:45-5-9 [NEW]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-716; filed 5-6-13]*

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**TITLE 165. CORPORATION COMMISSION  
CHAPTER 5. RULES OF PRACTICE**

*[OAR Docket #13-717]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 3. Fees

Part 3. Public Utility Assessment Fees

165:5-3-21. Definitions [AMENDED]

165:5-3-22. Fee allocation [AMENDED]

165:5-3-25. Reporting requirement [AMENDED]

Subchapter 7. Commencement of a Cause

Part 3. Oil and Gas

165:5-7-6. Drilling and spacing unit establishment or modification [AMENDED]

165:5-7-27. Enhancement or addition of injection and disposal wells [AMENDED]

Subchapter 23. Informal Resolution of Natural Gas Gathering Disputes

165:5-23-6. Helpline and Conservation Division report [AMENDED]

Appendix F. Notice of Application for Authority Authorizing Commercial Pit/Soil Farming [REVOKED]

Appendix F. Notice of Application for Authority Authorizing Commercial Pit/Soil Farming/Recycling Facility [NEW]

**GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-717; filed 5-6-13]*

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**TITLE 165. CORPORATION COMMISSION  
CHAPTER 10. OIL & GAS CONSERVATION**

*[OAR Docket #13-718]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. Administration
  - Part 1. General Provisions
    - 165:10-1-4. Citation effective date [AMENDED]
    - 165:10-1-7. Prescribed forms [AMENDED]
- Subchapter 3. Drilling, Developing, and Producing
  - Part 1. Drilling
    - 165:10-3-3. ~~Surface and production casing~~ Well casing strings [AMENDED]
    - 165:10-3-4. Casing, cementing, wellhead equipment, and cementing reports [AMENDED]
  - Part 3. Completions
    - 165:10-3-17. Well site and surface facilities [AMENDED]
  - Part 5. Operations
    - 165:10-3-28. Horizontal drilling [AMENDED]
- Subchapter 5. Underground Injection Control
  - 165:10-5-5. Application for approval of enhanced recovery injection and disposal operations [AMENDED]
  - 165:10-5-6. Testing and monitoring requirements for enhanced recovery injection wells and disposal wells [AMENDED]
  - 165:10-5-7. Monitoring and reporting requirements for wells covered by 165:10-5-1 [AMENDED]
- Subchapter 7. Pollution Abatement
  - Part 1. General Provisions
    - 165:10-7-10. Registration for land application of deleterious substances [NEW]
  - Part 3. Storage and Disposal of Fluids
    - 165:10-7-16. Use of noncommercial pits [AMENDED]
    - 165:10-7-17. Surface discharge of fluids [AMENDED]
    - 165:10-7-19. ~~One time land~~ Land application of water-based fluids from earthen pits, ~~and tanks and pipeline construction~~ [AMENDED]
- 165:10-7-24. Waste management practices reference chart [AMENDED]
- 165:10-7-26. ~~One time land~~ Land application of contaminated soils and petroleum hydrocarbon based drill cuttings [AMENDED]
- 165:10-7-31. Seismic and stratigraphic operations [AMENDED]
- Subchapter 9. Commercial Disposal Facilities
  - 165:10-9-1. Use of commercial pits [AMENDED]
  - 165:10-9-3. Commercial disposal well surface facilities [AMENDED]
- Subchapter 11. Plugging and Abandonment
  - 165:10-11-4. Notification and witnessing of plugging [AMENDED]
- Subchapter 17. Gas Well Operations and Permitted Production

- 165:10-17-7. Well tests [AMENDED]
- 165:10-17-11. Maximum permitted rates of production for unallocated gas wells [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-718; filed 5-6-13]*

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

*[OAR Docket #13-686]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 3. Intrastate Motor Carriers
  - Part 3. License Requirements
    - 165:30-3-11. Insurance [AMENDED]
- Subchapter 26. Nonconsensual Wrecker and Towing Services [NEW]
  - Part 1. Nonconsensual Wrecker and Towing Services Rate Change Applications [NEW]
    - 165:30-26-1. Purpose [NEW]
    - 165:30-26-2. Definitions [NEW]
    - 165:30-26-3. Application; application package; and staff response to filed application package [NEW]
    - 165:30-26-4. Limitations on filing rate cause [NEW]
  - Part 3. Response to Nonconsensual Towing Rate Complaints [NEW]
    - 165:30-26-10. Receipt of nonconsensual towing rate complaints [NEW]
    - 165:30-26-11. Review of nonconsensual towing rate complaints [NEW]
    - 165:30-26-12. Nonconsensual towing rate complaint resolution [NEW]
    - 165:30-26-13. Closure [NEW]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-686; filed 4-29-13]*

**TITLE 165. CORPORATION COMMISSION  
CHAPTER 55. TELECOMMUNICATIONS SERVICES**

*[OAR Docket #13-733]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. General Provisions
  - 165:55-1-4. Definitions [AMENDED]
- Subchapter 3. Certificates, Reports, and Records
  - Part 1. Certificates of Convenience and Necessity

165:55-3-1. Certificate of Convenience and Necessity [AMENDED]

Part 5. Record Requirements

165:55-3-22. Records to be provided to the Commission [AMENDED]

Subchapter 5. Rates and Tariffs

Part 3. Approval and Notice Requirements

165:55-5-11. Type of notices [AMENDED]

165:55-5-12. Reclassification of exchange [REVOKED]

Subchapter 9. Customer Billing and Deposits

Part 3. Credit Requirements

165:55-9-14. Deposits and interest [AMENDED]

Subchapter 13. Operating and Maintenance Requirements

Part 5. Service Quality Standards

165:55-13-20. Responsibility for adequate and safe service [AMENDED]

Subchapter 17. Facilitation of Local Exchange Competition

165:55-17-7. Procedures for negotiation, arbitration and approval of agreements [AMENDED]

Subchapter 23. Wireless Eligible Telecommunications Carrier

Part 1. General Provisions

165:55-23-3. Records to be provided to the Commission [AMENDED]

165:55-23-7. Content of bills [AMENDED]

165:55-23-11. Minimum service standards [AMENDED]

165:55-23-15. Lifeline program [AMENDED]

165:55-23-17. Link-up program [AMENDED]

Part 3. Transmission Objectives

165:55-23-52. Records of trouble reports [AMENDED]

## **GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-733; filed 5-8-13]*

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## **TITLE 165. CORPORATION COMMISSION CHAPTER 59. OKLAHOMA UNIVERSAL SERVICE**

*[OAR Docket #13-734]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 1. General Provisions

165:59-1-4. Definitions [AMENDED]

Subchapter 3. Oklahoma Universal Service Fund

Part 3. Oklahoma Universal Service Fund

165:59-3-14. Eligibility to receive OUSF funding [AMENDED]

Part 5. Administration of the OUSF

165:59-3-38. Violations [AMENDED]

Part 9. Requests for OUSF Fund

165:59-3-60. Requests for funding from the OUSF [AMENDED]

165:59-3-62. Procedures for requesting funding from the OUSF [AMENDED]

165:59-3-64. Identifying and measuring the level of OUSF funding [AMENDED]

Subchapter 7. Special Universal Services

165:59-7-1. Reimbursement from the OUSF for Special Universal Service [AMENDED]

165:59-7-6. Telemedicine access for eligible healthcare entities [AMENDED]

165:59-7-8. Internet access to public schools and libraries [AMENDED]

165:59-7-17. Disclosure ~~on bill~~ regarding provided Special Universal Services [AMENDED]

Subchapter 9. Oklahoma Lifeline Fund

Part 1. Lifeline Service Program

165:59-9-1. Purpose of Oklahoma Lifeline Fund [AMENDED]

165:59-9-3. Lifeline Service Program [AMENDED]

## **GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-734; filed 5-8-13]*

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

*[OAR Docket #13-688]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules.

### **RULES:**

Subchapter 13. Student Assessment

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

## **GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-688; filed 4-30-13]*

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## **TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION**

*[OAR Docket #13-689]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules.

### **RULES:**

Subchapter 3. Facilities

210:30-3-3. Mobile classrooms [REVOKED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-689; filed 4-30-13]*

**TITLE 210. STATE DEPARTMENT OF  
EDUCATION  
CHAPTER 30. SCHOOL FACILITIES AND  
TRANSPORTATION**

*[OAR Docket #13-690]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules.

**RULES:**

Subchapter 5. Transportation

210:30-5-1. District administration, operation and management of transportation [AMENDED]

210:30-5-3. Transportation of students [NEW]

210:30-5-4. Transportation for school activities [NEW]

210:30-5-5. Transportation routes and boundaries [NEW]

210:30-5-6. School buses [NEW]

210:30-5-7. Transportation of students with disabilities [NEW]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-690; filed 4-30-13]*

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

*[OAR Docket #13-691]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules.

**RULES:**

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools

Part 21. Standard XI: Accreditation Status

210:35-3-201. Statement of the standard [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-691; filed 4-30-13]*

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

*[OAR Docket #13-720]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

300:20-1-1. [AMENDED]

300:20-1-2. [AMENDED]

300:20-1-3. [AMENDED]

300:20-1-4. [AMENDED]

300:20-1-8. [AMENDED]

300:20-1-10. [AMENDED]

300:20-1-11. [REVOKED]

300:20-1-12. [AMENDED]

300:20-1-13. [AMENDED]

300:20-1-14. [AMENDED]

300:20-1-15. [AMENDED]

300:20-1-16. [REVOKED]

300:20-1-17. [NEW]

**GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-720; filed 5-6-13]*

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

*[OAR Docket #13-721]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 11. Permits for Wharves, Landings, Buoy, Breakwaters and Docking Facilities

300:35-11-11. [AMENDED]

Subchapter 13. Permits for Dikes, Excavations, Dredgings, Erosion Control Devices, Retaining Walls, and Shoreline Stabilization

300:35-13-6. [AMENDED]

Subchapter 17. Raw Water Permits

300:35-17-3. [REVOKED]

Subchapter 21. Administration of Rules and Hearings

300:35-21-4. [AMENDED]

300:35-21-8. [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-721; filed 5-6-13]*

## Gubernatorial Approvals

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### **TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING**

*[OAR Docket #13-736]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rule

#### **RULES:**

Subchapter 1. General Provisions

325:15-1-2 [AMENDED]

Subchapter 5. Occupation Licensing

325:15-5-3 [AMENDED]

325:15-5-20 [AMENDED]

#### **GOVERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-736; filed 5-8-13]*

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### **TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 20. RACING OFFICIALS AND RACING PERSONNEL**

*[OAR Docket #13-737]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rule

#### **RULE:**

325:20-1-22 [AMENDED]

#### **GOVERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-737; filed 5-8-13]*

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### **TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 25. ENTRIES AND DECLARATIONS**

*[OAR Docket #13-738]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rule

#### **RULE:**

325:25-1-5 [AMENDED]

325:25-1-32 [AMENDED]

#### **GOVERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-738; filed 5-8-13]*

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

*[OAR Docket #13-739]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rule

#### **RULE:**

325:40-1-2 [AMENDED]

325:40-1-3 [AMENDED]

#### **GOVERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-739; filed 5-8-13]*

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

*[OAR Docket #13-740]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rule

#### **RULE:**

Subchapter 15. Requirements for Independent Testing  
Laboratory License

325:80-15-1 [AMENDED]

#### **GOVERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-740; filed 5-8-13]*

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### **TITLE 380. DEPARTMENT OF LABOR CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #13-695]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 9. Licensing Procedures

380:1-9-1. [AMENDED]

#### **GOVERNATORIAL APPROVAL:**

March 11, 2013

*[OAR Docket #13-695; filed 4-30-13]*

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**TITLE 380. DEPARTMENT OF LABOR  
CHAPTER 25. BOILER AND PRESSURE  
VESSEL RULES**

[OAR Docket #13-696]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 3. Administration
- 380:25-3-5. [AMENDED]
- 380:25-3-15. [AMENDED]
- Subchapter 19. Boiler Operator Licensing
- 380:25-19-1. [AMENDED]

**GUBERNATORIAL APPROVAL:**

March 11, 2013

[OAR Docket #13-696; filed 4-30-13]

**TITLE 380. DEPARTMENT OF LABOR  
CHAPTER 50. ABATEMENT OF FRIABLE  
ASBESTOS MATERIALS RULES**

[OAR Docket #13-697]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 5. Contractor, Supervisor, and Worker  
Licensing and Requirements
- 380:50-5-5. [AMENDED]
- Subchapter 6. Training Requirements
- 380:50-6-2. [AMENDED]
- 380:50-6-3. [AMENDED]
- 380:50-6-4. [AMENDED]
- 380:50-6-5. [AMENDED]
- 380:50-6-6. [AMENDED]

**GUBERNATORIAL APPROVAL:**

March 11, 2013

[OAR Docket #13-697; filed 4-30-13]

**TITLE 380. DEPARTMENT OF LABOR  
CHAPTER 60. WORKERS'  
COMPENSATION ENFORCEMENT  
RULES**

[OAR Docket #13-698]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- 380:60-1-7. [AMENDED]
- 380:60-1-8. [AMENDED]
- 380:60-1-9. [AMENDED]

**GUBERNATORIAL APPROVAL:**

March 11, 2013

[OAR Docket #13-698; filed 4-30-13]

**TITLE 380. DEPARTMENT OF LABOR  
CHAPTER 70. ELEVATOR SAFETY ACT**

[OAR Docket #13-699]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 3. Administration
- 380:70-3-5. [AMENDED]
- Subchapter 5. Licenses
- 380:70-5-1. [AMENDED]
- 380:70-5-2. [AMENDED]
- 380:70-5-3. [AMENDED]
- 380:70-5-4. [AMENDED]
- Subchapter 11. General Requirements
- 380:70-11-1. [AMENDED]

**GUBERNATORIAL APPROVAL:**

March 11, 2013

[OAR Docket #13-699; filed 4-30-13]

**TITLE 380. DEPARTMENT OF LABOR  
CHAPTER 75. ALARM AND LOCKSMITH  
INDUSTRY RULES**

[OAR Docket #13-700]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. General Provisions [NEW]
- Subchapter 3. License Requirements [NEW]
- Subchapter 5. Special Provisions [NEW]
- Subchapter 7. Enforcement [NEW]

**GUBERNATORIAL APPROVAL:**

March 25, 2013

[OAR Docket #13-700; filed 4-30-13]

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

[OAR Docket #13-658]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

## Gubernatorial Approvals

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**RULES:**

390:1-1-6 [AMENDED]  
390:1-1-10 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-658; filed 4-26-13]*

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

*[OAR Docket #13-659]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

390:2-1-1 [AMENDED]  
390:2-1-4 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-659; filed 4-26-13]*

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

*[OAR Docket #13-660]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

390:10-1-2 [AMENDED]  
390:10-1-5 [AMENDED]  
390:10-1-6 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-660; filed 4-26-13]*

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

*[OAR Docket #13-661]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 3. Collegiate Officer Program  
390:15-3-8 [AMENDED]  
390:15-3-10 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-661; filed 4-26-13]*

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**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 20. RESERVE OFFICER  
CERTIFICATION AND TRAINING**

*[OAR Docket #13-662]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**PROPOSED RULES:**

390:20-1-3 [AMENDED]  
390:20-1-5 [AMENDED]  
390:20-1-15 [NEW]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-662; filed 4-26-13]*

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

*[OAR Docket #13-663]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

390:25-1-9 [AMENDED]  
390:25-1-11 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-663; filed 4-26-13]*

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**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 27. POLICE OFFICER ANNUAL  
FIREARMS REQUALIFICATION**

*[OAR Docket #13-664]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

390:27-1-5 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-664; filed 4-26-13]*

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

*[OAR Docket #13-665]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 7. Application Procedure

390:35-7-7 [AMENDED]

Subchapter 9. Violations and Investigations

390:35-9-5 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-665; filed 4-26-13]*

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

*[OAR Docket #13-666]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

Subchapter 1. General Provisions

390:40-1-1 [AMENDED]

390:40-1-3 [AMENDED]

Subchapter 5. Instructor Approval

390:40-5-5 [AMENDED]

Subchapter 9. Training Standards and Requirements

390:40-9-2 [AMENDED]  
**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-666; filed 4-26-13]*

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

*[OAR Docket #13-667]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

390:45-1-3 [AMENDED]

390:45-1-7 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-667; filed 4-26-13]*

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

*[OAR Docket #13-668]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

390:50-1-3 [AMENDED]

390:50-1-6 [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-668; filed 4-26-13]*

**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 55. FACILITIES MANAGEMENT**

*[OAR Docket #13-669]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

390:55-1-12 [AMENDED]

# Gubernatorial Approvals

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## **GUBERNATORIAL APPROVAL:**

April 18, 2013

*[OAR Docket #13-669; filed 4-26-13]*

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

*[OAR Docket #13-724]*

## **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

## **RULES:**

Subchapter 1. General Information

450:1-1-1.1. [AMENDED]

450:1-1-2. [AMENDED]

Subchapter 3. Contracts for Mental Health, Substance Abuse, and Residential Care Services

Part 1. Eligibility to Contract

450:1-3-5. [AMENDED]

Subchapter 9. Certification and Designation of Facility Services

450:1-9-1. [AMENDED]

450:1-9-3. [AMENDED]

450:1-9-4. [AMENDED]

450:1-9-5. [AMENDED]

450:1-9-5.1. [AMENDED]

450:1-9-5.2. [AMENDED]

450:1-9-5.3. [AMENDED]

450:1-9-6. [AMENDED]

450:1-9-6.1. [AMENDED]

450:1-9-7. [AMENDED]

450:1-9-7.1. [AMENDED]

450:1-9-7.2. [AMENDED]

450:1-9-7.3. [AMENDED]

450:1-9-7.4. [AMENDED]

450:1-9-8.1. [AMENDED]

450:1-9-9. [AMENDED]

## **GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-724; filed 5-7-13]*

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

*[OAR Docket #13-725]*

## **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

## **RULES:**

Subchapter 1. General Provisions

450:15-1-2. [AMENDED]

Subchapter 3. Consumer Rights

Part 1. Mental Health and Drug or Alcohol Abuse Services

Consumer Bill of Rights

450:15-3-3. [AMENDED]

450:15-3-8. [AMENDED]

450:15-3-27. [AMENDED]

Part 11. Resident Rights, Mental Health Residential Care Facilities

450:15-3-81. [AMENDED]

Subchapter 7. Office of Consumer Advocacy and Department Investigations

Part 1. Office of Consumer Advocacy

450:15-7-4. [AMENDED]

Part 2. Investigations

450:15-7-6. [AMENDED]

450:15-7-7. [AMENDED]

450:15-7-9. [AMENDED]

450:15-7-14. [AMENDED]

450:15-7-15. [AMENDED]

## **GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-725; filed 5-7-13]*

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

*[OAR Docket #13-726]*

## **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

## **RULES:**

Subchapter 1. General Provisions

450:17-1-2. [AMENDED]

Subchapter 3. Required Services

Part 7. Outpatient Therapy Services

450:17-3-61. [AMENDED]

Part 21. Peer Support Services

450:17-3-191. [AMENDED]

450:17-3-192. [AMENDED]

450:17-3-193. [AMENDED]

## **GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-726; filed 5-7-13]*

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

[OAR Docket #13-727]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 1. General Provisions
- 450:50-1-2. [AMENDED]
- Subchapter 3. Behavioral Health Case Manager Certification Application
- 450:50-3-1. [AMENDED]
- 450:50-3-2. [AMENDED]
- 450:50-3-3. [AMENDED]
- 450:50-3-7. [AMENDED]
- Subchapter 5. Behavioral Health Case Manager Certification Training and Web-based Competency ~~Exam~~ Exams
- 450:50-5-1. [AMENDED]
- 450:50-5-4. [AMENDED]
- 450:50-5-5. [AMENDED]
- Subchapter 7. Rules of Professional Conduct
- 450:50-7-1. [AMENDED]
- 450:50-7-3. [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 29, 2013

[OAR Docket #13-727; filed 5-7-13]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES  
CHAPTER 70. STANDARDS AND CRITERIA FOR OPIOID SUBSTITUTION-TREATMENT PROGRAMS**

[OAR Docket #13-728]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**PROPOSED RULES:**

- Chapter 70. Standards and Criteria for Opioid Substitution Treatment Programs [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 29, 2013

[OAR Docket #13-728; filed 5-7-13]

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

[OAR Docket #13-735]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 5. Establishing Other Service Credits
- 715:10-5-36 [NEW]
- Subchapter 15. Service Retirement
- 715:10-15-3 [AMENDED]
- 715:10-15-6 [AMENDED]
- 715:10-15-26 [AMENDED]
- Subchapter 17. Post-Retirement Employment
- 715:10-17-6 [AMENDED]
- Subchapter 23. State and Education Employees Group Health and Dental Insurance Program
- 715:10-23-6 [NEW]

**GUBERNATORIAL APPROVAL:**

April 25, 2013

[OAR Docket #13-735; filed 5-8-13]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION  
CHAPTER 37. MANUFACTURED HOME INSTALLERS**

[OAR Docket #13-708]

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**RULES:**

- Subchapter 6. Definitions
- 765:37-6-1 [AMENDED]
- Subchapter 7. Installation Standards for Ground Sets
- 765:37-7-1 [AMENDED]
- 765:37-7-2 [AMENDED]
- 765:37-7-3 [AMENDED]
- 765:37-7-4 [AMENDED]
- 765:37-7-5 [AMENDED]
- Subchapter 9. Assesment of Fine or Denial, Suspension, or Revocation of License
- 765:37-9-3 [NEW]

**GUBERNATORIAL APPROVAL:**

April 18, 2013

[OAR Docket #13-708; filed 5-2-13]

## Gubernatorial Approvals

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### **TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #13-711]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 1. General Provisions

770:1-1-1 [AMENDED]

770:1-1-2 [NEW]

770:1-1-3 [NEW]

Subchapter 3. Organizational Structure

770:1-3-1 [AMENDED]

Subchapter 5. Open Records Act

770:1-5-4. [AMENDED]

#### **GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-711; filed 5-3-13]*

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### **TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS CHAPTER 10. CENTER DIVISION PROGRAM**

*[OAR Docket #13-712]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 1. General Provisions

770:10-1-3 [AMENDED]

770:10-1-4 [AMENDED]

Subchapter 3. Maintenance Charges, Patient Funds and  
Assets

770:10-3-2 [AMENDED]

770:10-3-3 [AMENDED]

#### **GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-712; filed 5-3-13]*

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### **TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS CHAPTER 15. CLAIMS AND BENEFITS DIVISION PROGRAM**

*[OAR Docket #13-713]*

#### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

#### **RULES:**

Subchapter 1. General Provisions

770:15-1-1 [AMENDED]

Subchapter 3. Claims Services

770:15-3-2 [AMENDED]

770:15-3-3 [AMENDED]

Subchapter 5. Emergency Financial Assistance

770:15-5-1 [AMENDED]

770:15-5-3 [AMENDED]

#### **GUBERNATORIAL APPROVAL:**

April 29, 2013

*[OAR Docket #13-713; filed 5-3-13]*

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# Gubernatorial Disapprovals

Upon notification of disapproval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial disapproval for publication in the *Register*.  
For additional information on gubernatorial disapprovals, see 75 O.S., Section 303.2

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

*[OAR Docket #13-687]*

### **RULEMAKING ACTION:**

Gubernatorial disapproval of permanent rules

### **RULES:**

Subchapter 26. Nonconsensual Wrecker and Towing Services [NEW]

Part 3. Response to Nonconsensual Towing Rate Complaints [NEW]

165:30-26-14. Nonconsensual towing rate complaints; audits [NEW]

### **GUBERNATORIAL DISAPPROVAL:**

Written disapproval received April 18, 2013

*[OAR Docket #13-687; filed 4-29-13]*

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## **TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION**

*[OAR Docket #13-692]*

### **RULEMAKING ACTION:**

Gubernatorial disapproval of permanent rules.

### **RULES:**

Subchapter 5. Transportation

210:30-5-8. School bus driver certification [NEW]

### **GUBERNATORIAL DISAPPROVAL:**

Written disapproval received April 25, 2013

*[OAR Docket #13-692; filed 4-30-13]*

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## **TITLE 429. OKLAHOMA LOTTERY COMMISSION CHAPTER 10. RETAILER PROVISIONS**

*[OAR Docket #13-723]*

### **RULEMAKING ACTION:**

Gubernatorial disapproval of permanent rules

### **RULES:**

429:10-1-3 [AMENDED]

429:10-1-9 [AMENDED]

### **GUBERNATORIAL DISAPPROVAL:**

Written disapproval received May 1, 2013

*[OAR Docket #13-723; filed 5-7-13]*

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# Withdrawn Rules

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

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

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

## **TITLE 75. ATTORNEY GENERAL CHAPTER 35. OFFICE OF CIVIL RIGHTS ENFORCEMENT- ADMINISTRATIVE PROCESS**

*[OAR Docket #13-707]*

### **RULEMAKING ACTION:**

Withdrawal of PERMANENT rulemaking

### **WITHDRAWN RULES:**

75:35-1-1 through 75:35-1-11 [NEW]

### **DATES:**

#### **Adoption:**

April 1, 2013

#### **Submitted to Governor:**

April 1, 2013

#### **Submitted to House:**

April 1, 2013

#### **Submitted to Senate:**

April 1, 2013

#### **Withdrawn:**

May 2, 2013

*[OAR Docket #13-707; filed 5-2-13]*

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

*[OAR Docket #13-705]*

### **RULEMAKING ACTION:**

Withdrawal of PERMANENT rulemaking

### **RULES:**

Chapter 15. Curriculum and Instruction [AMENDED]

### **DATES:**

#### **Adoption:**

March 28, 2013

#### **Submitted to Governor:**

March 28, 2013

#### **Submitted to House:**

March 28, 2013

#### **Submitted to Senate:**

March 28, 2013

### **Withdrawn:**

May 1, 2013.

*[OAR Docket #13-705; filed 5-1-13]*

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

*[OAR Docket #13-742]*

### **RULEMAKING ACTION:**

Withdrawal of PERMANENT rules

### **WITHDRAWN RULES:**

Subchapter 87. Rules for Payment to Charter Schools  
210:40-87-7. Statewide Virtual Charter School Board  
[NEW]

### **DATES:**

#### **Adoption:**

March 28, 2013

#### **Submitted to Governor:**

March 28, 2013

#### **Submitted to House:**

March 28, 2013

#### **Submitted to Senate:**

March 28, 2013

#### **Withdrawn:**

May 9, 2013

*[OAR Docket #13-742; filed 5-9-13]*

## **TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY CHAPTER 55. HOME INVESTMENT PARTNERSHIPS PROGRAM RULES**

*[OAR Docket #13-706]*

### **RULEMAKING ACTION:**

Withdrawal of PERMANENT rulemaking

### **WITHDRAWN RULES:**

Subchapter 7. Program Administration  
330:55-7-6. [NEW]

### **DATES:**

#### **Adoption:**

March 27, 2013

## Withdrawn Rules

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**Submitted to Governor:**

March 28, 2013

**Submitted to House:**

March 28, 2013

**Submitted to Senate:**

March 28, 2013

**Withdrawn:**

May 1, 2013

*[OAR Docket #13-706; filed 5-1-13]*

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

*[OAR Docket #13-732]*

**RULEMAKING ACTION:**

Withdrawal of PERMANENT rulemaking

**WITHDRAWN RULES:**

Subchapter 5. Life, Accident & Health Division and  
Consumer Assistance and Claims Division Rules  
Part 9. HMO Requirements and Prohibitions  
365:40-5-43. Premiums/co-payments [AMENDED]

**DATES:**

**ADOPTION:**

March 25, 2013

**SUBMITTED TO GOVERNOR:**

March 25, 2013

**SUBMITTED TO HOUSE OF REPRESENTATIVES:**

March 25, 2013

**SUBMITTED TO SENATE:**

March 25, 2013

**WITHDRAWN:**

May 6, 2013

*[OAR Docket #13-732; filed 5-8-13]*

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**TITLE 770. OKLAHOMA DEPARTMENT OF  
VETERANS AFFAIRS  
CHAPTER 1. ADMINISTRATIVE  
OPERATIONS**

*[OAR Docket #13-709]*

**RULEMAKING ACTION:**

Withdrawal of PERMANENT rulemaking

**RULES:**

Subchapter 5. Open Records Act  
770:1-5-2. Exemptions from Act [AMENDED]

**DATES:**

**Adoption:**

March 5, 2013

**SUBMITTED TO GOVERNOR:**

March 15, 2013

**SUBMITTED TO HOUSE:**

March 15, 2013

**SUBMITTED TO SENATE:**

March 15, 2013

**WITHDRAWN:**

April 26, 2013

*[OAR Docket #13-709; filed 5-3-13]*

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**TITLE 770. OKLAHOMA DEPARTMENT OF  
VETERANS AFFAIRS  
CHAPTER 10. CENTER DIVISION  
PROGRAM**

*[OAR Docket #13-710]*

**RULEMAKING ACTION:**

Withdrawal of PERMANENT rulemaking

**WITHDRAWN RULES:**

Subchapter 1. General Provisions  
770:10-1-2. Definitions [AMENDED]  
Subchapter 3. Maintenance Charges, Patient Funds and  
Assets  
770:10-3-1. Care and maintenance charges [AMENDED]

**DATES:**

**Adoption:**

March 5, 2013

**SUBMITTED TO GOVERNOR:**

March 15, 2013

**SUBMITTED TO HOUSE:**

March 15, 2013

**SUBMITTED TO SENATE:**

March 15, 2013

**WITHDRAWN:**

April 26, 2013

*[OAR Docket #13-710; filed 5-3-13]*

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# Emergency Adoptions

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

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

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

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

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

[OAR Docket #13-743]

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 9. Examination Procedures, License and Registration Fees and Duration of License  
158:30-9-4 [AMENDED]

### AUTHORITY:

Oklahoma Construction Industries Board; 59 O.S. Sections 1000.4 and 1004(B).

### DATES:

#### Adoption:

September 12, 2012

#### Approved by Governor:

October 22, 2012

#### Effective:

Immediately up Governor's approval

#### Expiration:

Effective through July 14, 2013, unless superseded by another rule or disapproved by the Legislature.

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

N/A

#### FINDING OF EMERGENCY:

The Construction Industries Board ("CIB") no longer has any authority over what trade code, or when a trade code, is adopted by the Oklahoma Uniform Building Code Commission ("OUBCC"). Through no fault of its own, the CIB must now react to the adoption actions of the OUBCC, another state agency. The actions of the OUBCC directly impact the CIB and its approximately 4,150 plumbing licensees (contractors and journeymen) who are members of the public with interests directly affected now by the actions of the OUBCC and the current rules of the CIB governing the continuing education requirements.

Historically, the CIB has adopted the trade codes for the plumbing, electrical and mechanical trades. Adoption of these codes, generally every three years, triggers the continuing education requirements of the CIB rules. The CIB already had adopted the 2009 International Plumbing Code ("IPC"), the 2008 National Electrical Code ("NEC"), the 2009 International Mechanical Code ("IMC"), the 2009 International Fuel Gas Code ("IFGC"), and select parts of the 2009 International Residential Code ("IRC") when the OUBCC subsequently was given the sole authority to adopt all building codes for residential and commercial construction to be used by all entities within this state. 59 O.S. § 1000.23(A). Therefore, almost all of the plumbing and mechanical industry members had already taken in 2009 or 2010 their continuing education courses on the 2009 IPC, 2009 IMC, 2009 IFGC, and the 2009 IRC.

The OUBCC recently adopted the same codes, making minor revisions through the administrative rule-making process to some codes. There is

substantial confusion in the industries regarding whether continuing education is required, and if so, what subjects are allowable and when must the credit be completed.

The CIB has been advised the legal interpretation, under the current rules, is that the OUBCC's adoption of these codes triggers the continuing education requirements of the CIB. Thus, plumbing and mechanical industry members will be required to take continuing education courses over the same codes that they took three years earlier. This results in an unjustified burden on industry for the time, resources, and funds to again take the same continuing education courses and causes serious prejudice to the public interest, industry members, and their businesses.

These proposed emergency rules contain the same language for all three trades. This language would retain the requirement for continuing education, expand the course subjects to avoid retaking the same course, separate the continuing education requirement from the actions of the OUBCC, bring uniformity among the trades, and simplify and clarify the continuing education requirements for the plumbing, electrical and mechanical trades.

#### ANALYSIS:

158:30-9-4 expands course curriculum for continuing education requirements so that three-year-old courses do not need to be retaken and clarifies when continuing education is required now that another agency's actions impact the application of the current rules governing continuing education.

#### CONTACT PERSON:

Linda Ruckman 405-521-6546

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

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

#### 158:30-9-4. Continuing Education

##### (a) Continuing education requirements.

(1) ~~No plumbing contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) instructional hours of continuing education on the revisions to the current, published edition of the International Plumbing Code, International Fuel Gas Code and/or International Residential Code within one (1) year of adoption. Continuing Education requirements may also be fulfilled by a combination of not less than four (4) hours of plumbing related instruction, including revisions to the current, published edition of~~

## Emergency Adoptions

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~~the International Plumbing Code, International Fuel Gas Code and/or International Residential Code and at least two (2) hours of continuing education of manufacturers' installation of equipment or parts. By July 1, 2014, no contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education; and thereafter, the licensee shall complete six (6) hours every three years or thirty-six (36) months. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Administrator, or trade section chief, within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the Oklahoma Uniform Building Code Commission, any other code approved by the Committee as an appropriate code for topics of continuing education for licensees, and/or other trade related subject matters approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing act, the trade regulations, and other trade or safety related subject matters approved by the Committee.~~

(2) Credit will be given for CE programs approved by the Plumbing Examining Committee or its designee.

(3) Except as provided herein these rules shall apply to every journeyman or contractor licensed by the Construction Industries Board.

(4) A licensee is exempt from the educational requirements of these rules for ~~the code year during which three (3) years from the date he or she first passed an exam testing over that code. their current licensing exam.~~

(b) The following standards will govern the approval of continuing education programs by the Plumbing Examining Committee (Committee).

(1) The program must be offered by a provider having substantial, recent, experience in offering continuing education or demonstrated ability to organize and present effectively continuing education. Demonstrated ability arises partly from the extent to which individuals with trade training or educational experience are involved in the planning, instruction and supervision of the program.

(2) If written materials are provided, the materials must be thorough, high quality, readable, and must be made available to all participants at or before the time the course is presented.

(3) The program must be conducted in a comfortable physical setting which is conducive to learning.

(4) The program itself must be conducted by an individual or group qualified by practical or academic experience. The program including the named advertised participants must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(5) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee or its designee in writing prior to the start of

class. All requests for change must include the Course ID number.

(6) The training location shall be outside the regular work place or after regular working hours.

(7) Sixty (60) minutes constitutes one (1) instructional hour.

(8) CE courses shall be presented in one of the following formats:

(A) Six instructional hours presented on one day

(B) Two sessions of three instructional hours each presented within a seven day period

(C) One session of two instructional hours for the purposes of presenting a manufacturers' installation course,

(D) An approved correspondence or online course, or

(E) Another format approved by the committee.

(9) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

(C) Each attendee shall complete a course evaluation on a form provided by the Construction Industries Board.

(D) As soon as practicable but in any event on or before seven (7) days following an approved education program, the provider shall furnish to the Examining Unit the original sign-in sheets and evaluations from the course.

(E) Providers must maintain copies of all sign-in sheets and evaluations for a period of two (2) years following the conclusion of the course.

(10) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(c) Any organization desiring approval of a course shall apply to the Plumbing Examining Committee by submitting an application on a form to be obtained from the Construction Industries Board and supporting documentation at least thirty (30) days prior to the date for which the course is scheduled. An application is to be submitted for each date or set of dates that constitute a single class. Each class must be included on a separate application. The Committee or its designee will review each application for completeness of form and supporting documentation as well as course content. The applicant will be notified in writing by mail whether the program is approved or disapproved. Applicants denied approval of a course may appeal such a decision by submitting a letter of appeal to the Committee within fifteen (15) days of the receipt of the notice of disapproval. All appeals will be heard by the Committee at its next regularly scheduled meeting.

- (1) Supporting documentation includes:
  - (A) resumes or a brief summary of qualifications for all instructors providing instruction for the class,
  - (B) a class agenda designating beginning and ending of actual instructional times, sign-in times, breaks, lunches and evaluation time, and
  - (C) A class curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the product for which the installation is being provided.
- (2) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:
  - (A) Failure to comply with the continuing education provisions;
  - (B) Inadequate application or supporting documentation;
  - (C) Failure to instruct on the topic approved, or
  - (D) Unsatisfactory evaluations of the course, instructor, or materials from previous classes.
- (3) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.
- (4) The Committee may at any time re-evaluate and grant or revoke approval of an application or course.
  - (A) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.
  - (B) A provider's failure to comply with any continuing education rule constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.
- (d) **Course advertisement.**
  - (1) All advertising must include the course identification.
  - (2) Approved program courses may be advertised.
  - (3) The provider of an approved continuing education program may announce or indicate as follows: Course # \_\_\_\_\_ has been approved by the Construction Industries Board Plumbing Examining Committee for \_\_\_\_\_ hours of CE credit.
- (e) Correspondence or online course approval.
  - (1) Entities seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion which certifies completion of approved correspondence courses.

- (2) Only licensees meeting one or more of the following requirements may receive CE credit for taking an correspondence or online course:
  - (A) Any licensee residing outside of Oklahoma
  - (B) Who has an expired license that requires a CE course that is no longer available in the classroom,
  - (C) Any licensee who is currently incarcerated, or
  - (D) Any licensee who submits written proof to the Board from a physician stating the medical reason that the licensee is unable to attend a CE class.
- (3) Providers are to offer reasonable accommodations for disabled licensees attending a course when such accommodations are requested.
- (f) **Alternate Credit accrual.**
  - (1) Credit may be earned through teaching in an approved continuing education class. The Committee may award up to six (6) hours of CE credit not to exceed the number of approved hours for that CE class.
  - (2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.

*[OAR Docket #13-743; filed 5-9-13]*

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

*[OAR Docket #13-744]*

**RULEMAKING ACTION:**  
EMERGENCY adoption

**RULES:**

Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals  
158:40-9-4 [AMENDED]

**AUTHORITY:**

Oklahoma Construction Industries Board; 59 O.S. Sections 1000.4 and 1681.

**DATES:**

**Adoption:**  
September 12, 2012

**Approved by Governor:**

October 22, 2012

**Effective:**

Immediately up Governor's approval

**Expiration:**

Effective through July 14, 2013, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**FINDING OF EMERGENCY:**

The Construction Industries Board ("CIB") no longer has any authority over what trade code, or when a trade code, is adopted by the Oklahoma Uniform Building Code Commission ("OUBCC"). Through no fault of its own, the CIB must now react to the adoption actions of the OUBCC, another state agency. The actions of the OUBCC directly impact the CIB and its approximately 4,150 plumbing licensees (contractors and journeymen) who

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are members of the public with interests directly affected now by the actions of the OUBCC and the current rules of the CIB governing the continuing education requirements.

Historically, the CIB has adopted the trade codes for the plumbing, electrical and mechanical trades. Adoption of these codes, generally every three years, triggers the continuing education requirements of the CIB rules. The CIB already had adopted the 2009 International Plumbing Code ("IPC"), the 2008 National Electrical Code ("NEC"), the 2009 International Mechanical Code ("IMC"), the 2009 International Fuel Gas Code ("IFGC"), and select parts of the 2009 International Residential Code ("IRC") when the OUBCC subsequently was given the sole authority to adopt all building codes for residential and commercial construction to be used by all entities within this state. 59 O.S. § 1000.23(A). Therefore, almost all of the plumbing and mechanical industry members had already taken in 2009 or 2010 their continuing education courses on the 2009 IPC, 2009 IMC, 2009 IFGC, and the 2009 IRC.

The OUBCC recently adopted the same codes, making minor revisions through the administrative rule-making process to some codes. There is substantial confusion in the industries regarding whether continuing education is required, and if so, what subjects are allowable and when must the credit be completed.

The CIB has been advised the legal interpretation, under the current rules, is that the OUBCC's adoption of these codes triggers the continuing education requirements of the CIB. Thus, plumbing and mechanical industry members will be required to take continuing education courses over the same codes that they took three years earlier. This results in an unjustified burden on industry for the time, resources, and funds to again take the same continuing education courses and causes serious prejudice to the public interest, industry members, and their businesses.

These proposed emergency rules contain the same language for all three trades. This language would retain the requirement for continuing education, expand the course subjects to avoid retaking the same course, separate the continuing education requirement from the actions of the OUBCC, bring uniformity among the trades, and simplify and clarify the continuing education requirements for the plumbing, electrical and mechanical trades.

#### ANALYSIS:

158:40-9-4 expands course curriculum for continuing education requirements so that three-year-old courses do not need to be retaken and clarifies when continuing education is required now that another agency's actions impact the application of the current rules governing continuing education.

#### CONTACT PERSON:

Linda Ruckman 405-521-6546

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

## **SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS AND LICENSE AND REGISTRATION FEES AND RENEWALS**

### **158:40-9-4. Continuing education**

#### **(a) Continuing Education Requirements.**

~~(1) No Electrical contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) instructional hours of continuing education on a current, published edition of the National Electrical Code approved by the Committee for continuing education, any other code approved by the Committee as an appropriate code for topics of continuing education for electrical licensees, and/or other electrical subject matters~~

~~approved by the Committee within thirty six (36) months preceding the application for renewal. By July 1, 2014, no contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education; and thereafter, the licensee shall complete six (6) hours every three years or thirty-six (36) months. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Administrator, or trade section chief, within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the Oklahoma Uniform Building Code Commission, any other code approved by the Committee as an appropriate code for topics of continuing education for licensees, and/or other trade related subject matters approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing act, the trade regulations, and other trade or safety related subject matters approved by the Committee.~~

(2) Credit will be given for CE programs approved by the Electrical Examining Committee (Committee) or its designee.

(3) Except as provided herein these rules shall apply to every journeyman or contractor licensed by the Construction Industries Board.

(4) A licensee is exempt from the educational requirements of these rules ~~for the code year during which three (3) years from the date he or she first passed an exam testing over that code their current licensing exam.~~

(b) The following standards will govern the approval of continuing education programs by the Committee.

(1) The program must be offered by a provider having substantial, recent, experience in offering continuing education or demonstrated ability to organize and present effectively continuing education. Demonstrated ability arises partly from the extent to which individuals with trade training or educational experience are involved in the planning, instruction and supervision of the program.

(2) If written materials are provided, the materials must be thorough, high quality, readable, and must be made available to all participants at or before the time the course is presented.

(3) The program must be conducted in a comfortable physical setting which is conducive to learning.

(4) The program itself must be conducted by an individual or group qualified by practical or academic experience. The program including the named advertised participants must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(5) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee or its designee in writing prior to the start of class. All requests for changes must include the Course ID number.

- (6) The training location shall be outside the regular work place or after regular working hours.
- (7) Each attendee of a continuing education course shall have, or otherwise be provided with, a copy of the most recently adopted edition of the National Electrical Code for use during the duration of the course.
- (8) Sixty (60) minutes constitutes one (1) instructional hour.
- (9) CE courses shall be presented in one of the following formats:
  - (A) Six instructional hours presented on one day
  - (B) Two sessions of three instructional hours each presented within a seven day period
  - (C) An approved correspondence or online course, or
  - (D) Another format approved by the committee.
- (10) Verification of Credit.
  - (A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.
  - (B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.
  - (C) Each attendee shall complete a course evaluation on a form provided by the Construction Industries Board.
  - (D) As soon as practicable but in any event on or before seven (7) days following an approved education program, the provider shall furnish to the Examining Unit the original sign-in sheets and evaluations from the course.
  - (E) Providers must maintain copies of all sign-in sheets and evaluations for a period of two (2) years following the conclusion of the course.
- (11) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.
  - (c) Any organization desiring approval of a course shall apply to the Electrical Examining Committee by submitting an application on a form to be obtained from the Construction Industries Board and supporting documentation at least thirty (30) days prior to the date for which the course is scheduled. An application is to be submitted for each date or set of dates that constitute a single class. Each class must be included on a separate application. The Committee or its designee and the Construction Industries Board Administrator will review each application for completeness of form and supporting documentation as well as course content. The applicant will be notified in writing by mail whether the program is approved or disapproved. Applicants denied approval of a course may appeal such a decision by submitting a letter of appeal to the Committee within fifteen (15) days of the receipt of the notice of disapproval. All appeals will be heard by the Committee at its next regularly scheduled meeting.
    - (1) Supporting documentation includes:
      - (A) resumes or a brief summary of qualifications for all instructors providing instruction for the class,
      - (B) a class agenda designating beginning and ending of actual instructional times, sign-in times, breaks, lunches and evaluation time, and
      - (C) A class curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed.
    - (2) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:
      - (A) Failure to comply with the continuing education provisions;
      - (B) Inadequate application or supporting documentation;
      - (C) Failure to instruct on the topic approved, or
      - (D) Unsatisfactory evaluations of the course, instructor, or materials from previous classes.
    - (3) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.
    - (4) The Committee may at any time re-evaluate and grant or revoke approval of an application or course.
      - (A) The Committee or its designee shall be granted access to attend, observe and audit any continuing education course approved by the committee.
      - (B) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.
      - (C) A provider's failure to comply with any continuing education rule constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.
- (d) Course Advertisement.
  - (1) All advertising must include the course identification.
  - (2) Approved program courses may be advertised.
  - (3) The provider of an approved continuing education program may announce or indicate as follows: Course # \_\_\_\_\_ has been approved by the Construction Industries Board Electrical Examining Committee for \_\_\_\_\_ hours of CE credit.
- (e) **Correspondence or Online course approval.**
  - (1) Providers seeking to offer correspondence or online courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee or its designee and the Construction Industries Board Administrator prior to the courses being offered as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of

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completion that shall certify completion of an approved correspondence or online course.

(2) Providers are to offer reasonable accommodations for disabled licensees attending a course when such accommodations are requested.

(f) Alternate Credit accrual.

(1) Credit may be earned through teaching in an approved continuing education class. The Committee may award up to six (6) hours of CE credit not to exceed the number of approved hours for that CE class.

(2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.

*[OAR Docket #13-744; filed 5-9-13]*

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

*[OAR Docket #13-746]*

### **RULEMAKING ACTION:**

EMERGENCY adoption

### **RULES:**

Subchapter 1. General Provisions

158:50-1-2 [AMENDED]

158:50-1-3 [AMENDED]

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

158:50-5-1 [AMENDED]

159:50-5-2 [AMENDED]

Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration

150:50-9-1 [AMENDED]

150:50-9-2 [AMENDED]

150:50-9-7 [AMENDED]

Subchapter 11. License Revocation or Suspension and Prohibited Acts

150:50-11-2 [AMENDED]

### **AUTHORITY:**

Oklahoma Construction Industries Board; 59 O.S. Sections 1000.4 and 1850.3.

### **DATES:**

#### **Adoption:**

September 12, 2012

#### **Approved by Governor:**

October 30, 2012

#### **Effective:**

Immediately up Governor's approval

#### **Gubernatorial Approval:**

October 30, 2012

#### **Expiration:**

Effective through July 14, 2013, unless superseded by another rule or disapproved by the Legislature.

### **SUPERSEDED EMERGENCY ACTIONS:**

#### **Superseded rules:**

Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration

150:50-9-7 [AMENDED]

### **Gubernatorial approval:**

October 22, 2012

### **Register publication:**

In this issue.

### **Docket number:**

13-745

### **INCORPORATIONS BY REFERENCE:**

N/A

### **FINDING OF EMERGENCY:**

The 2009 International Plumbing Code ("IPC") adopted by the Construction Industries Board and now adopted by the Oklahoma Uniform Building Code Commission ("OUBCC") requires medical gas systems to be installed in accordance with the National Fire Protection Association ("NFPA") 99C standards. The NFPA 99C standards require medical gas installers to meet the requirements of the American Society of Sanitary Engineering ("ASSE") Series 6010. The exam process on the ASSE 6010 requirements is administered through a third-party provider of certification such as the National Inspection Testing Certification ("NITC"). Although these certifications are required by The 2009 International Plumbing Code ("IPC") adopted by the Construction Industries Board and now adopted by the Oklahoma Uniform Building Code Commission ("OUBCC") requires medical gas systems to be installed in accordance with the National Fire Protection Association ("NFPA") 99C standards. The NFPA 99C standards require medical gas installers to meet the requirements of the American Society of Sanitary Engineering ("ASSE") Series 6010. The exam process on the ASSE 6010 requirements is administered through a third-party provider of certification such as the National Inspection Testing Certification ("NITC"). Although these certifications are required by the NFPA 99C, currently there is no state oversight to ensure medical gas piping work is done by one who is properly certified. In 2011, the CIB organized regional meetings around the state involving industry, health care representative, and other stakeholders.

Piped medical gas systems are used to transport Oxygen USP, Medical Air USP, Nitrous Oxide USP, and Medical Vacuum to patients in health care facilities including: hospitals, surgery centers, nursing homes, and dental offices. These are prescription drugs that can only be administered to patients by a doctor's orders. These health care facilities are required by the State Department of Health to have a piped medical gas distribution system for the surgery and patient care areas. Serious accidents can occur from contaminated systems or crossed lines. For example, a patient receiving Nitrous Oxide instead of Oxygen could result in irreversible physical harm, and even death. Many states have passed similar legislation. As of January 2009, 37 states have adopted the NFPA: Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Iowa, Illinois, Indiana, Kentucky, Louisiana, Maryland, Maine, Michigan, Minnesota, Mississippi, Montana, North Carolina, Nebraska, New Hampshire, New Jersey, Nevada, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, Washington, Wisconsin, West Virginia, and Wyoming. Subsequently, Oklahoma, Texas, and possibly others have also adopted the NFPA 99.

Currently, there are no state rules governing the installation of these systems. Licensure and oversight of the installation and verification of medical gas piping work would assist the State Department of Health's oversight of piped medical gas systems in licensed health care facilities.

Further, statewide licensing could prevent catastrophic injury or possible loss of life and assist CIB in protecting the health, safety, and welfare of the public.

### **ANALYSIS:**

158:50-1-2 defines "Health care facility", "Medical gas piping work", "Medical gas journeyman", for purposes of regulatory compliance. Modifies "Mechanical work" for regulatory clarification. 158:50-1-3 requires licensing to install, replace or repair any medical gas or medical-surgical vacuum system. 158:50-5-1(b)(9) creates the mechanical license category and license type for medical gas journeyman. 158: 50-5-2(b)(10) clarifies the authorized activities and limitations of a medical gas journeyman licensee. 158:50-9-1(c) sets requirements for certification by examination for the Medical Gas license category. 158:50-9-2(c) establishes procedures ensuring no fee is increased or established by creation of this license through this emergency rule process. 158:50-9-7 exempts the Medical Gas category from the continuing education requirement. 158:50-11-2 adds language clarifying work done under certification.

### **CONTACT PERSON:**

Linda Ruckman 405-521-6546

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

SUBCHAPTER 1. GENERAL PROVISIONS

158:50-1-2. Definitions

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

"Act" means Mechanical Licensing Act as found at 59 O.S. § 1850.1 et seq.

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1 et seq.

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a mechanical code variance from the ICC International Mechanical Code or the International Fuel Gas Code and the International Residential Code (Chapters 12 through 24) by the Construction Industries Board under the Act.

"Associated with and responsible for" means the relationship between a mechanical contractor and mechanical firm based on the mechanical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the mechanical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Mechanical Licensing Act and this Chapter.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds, insurance, and citations under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Committee" means the Committee of Mechanical Examiners.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed mechanical contractor or mechanical journeyman.

"Gas piping" means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises up to the connection with a natural gas meter, regulator, or other source of supply.

"Ground source piping" means piping buried below the earth's surface or submerged in a water well, lake or pond and used in conjunction with a heat pump to provide heating, ventilation and/or air conditioning to a structure.

"Health care facility" includes but is not limited to hospitals, nursing homes, limited care facilities, clinics, medical or dental offices, and ambulatory care centers, whether permanent or moveable.

"Humidification", when applied to air conditioning, means and includes an increase or decrease in moisture content of the air being conditioned and supplied to the space for human occupancy by means of that integral part of the entire air conditioning system, equipment, and control devices; when applied to refrigeration, means and includes an increase or decrease in the moisture content of the air or product being conditioned for a food preservation measure or manufacturing process by means of the integral part of the entire refrigeration system, equipment, and control devices.

"HVAC" or "heating, ventilation and air conditioning" means the process of treating air by controlling its temperature, humidity, and cleanliness and of supplying such air to spaces for human occupancy by means of an integrated system of air conditioning and ventilation equipment, accessories and control devices.

"ICC" means the International Code Council.

"Limited residential journeyman" means a type and category of mechanical license that is restricted to new installations in detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this chapter.

"Mechanical License Unit" means the staff and administrative support unit to the Committee of Mechanical Examiners and the Mechanical Hearing Board.

"Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, cooling system, mechanical refrigeration system or ventilation system, medical gas system, medical-surgical vacuum systems, or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor or Department of Health, provided that minor maintenance and repairs are excluded.

"Medical gas piping work" means the lay out, assembly, installation, and maintenance of pipe systems used in health care facilities for oxygen, nitrous oxide, medical air, carbon dioxide, helium, nitrogen, instrument air, medical-surgical vacuum, waste anesthetic gas disposal, and mixtures thereof, or any other gaseous, partly gaseous substance, material or any mixtures thereof used in a health care facility. Replacing cylinders and filters, and performing routine and preventive maintenance that does not breach the integrity of the medical gas piping system and does not constitute the installation, repair, or replacement of medical gas piping shall not require a medical gas piping license.

"Medical gas journeyman" means a type and category of mechanical license that is restricted to medical gas piping.

"Minor repairs and maintenance" means minor repairs or maintenance prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his

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authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the low voltage manufacturer installed controls, the vent system of fuel burning appliances or any repair or maintenance which would violate the safe operation of the equipment.

**"Petroleum refinery"** means an industrial plant which processes petroleum for purposes of creating products derived from petroleum and includes industrial plants which produce and/or refine alternative fuels or petroleum additives. "Petroleum refinery" shall not mean gas processing plant or gas gathering pipeline operations.

**"Petroleum refinery journeyman"** means a type and category of mechanical license that is restricted to petroleum refinery process piping.

**"Petroleum refinery process piping work"** means the lay out, assembly, installation, and maintenance of pipe systems used in the petroleum refining process or product refining systems of a petroleum refinery.

**"Process"** means a series of operations performed in the making or treatment of a product.

**"Process piping"** means lay out, assembly, installation, and maintenance of pipe systems, pipe supports, and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating and fire sprinklers, not subject to regulation pursuant to the Alarm Industry Act, and industrial production and processing systems, and piping used to carry any gaseous, partly gaseous substance, or material as part of a medical gas piping system.

**"Reciprocity"** means an agreement whereby a person holding a mechanical license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

**"Refrigeration system"** means a system employing fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process.

**"Variance"** means the use of an alternative material or method of construction from that prescribed in the ICC International Mechanical Code or the International Fuel Gas Code or the International Residential Code (Chapters 12 through 24) for use at a particular location or project specified in the variance application; and

**"Variance and Appeals Board"** means the Oklahoma State Mechanical Installation Code Variance and Appeals.

### 158:50-1-3. License requirement and exemptions

(a) No person, on behalf of himself or of a mechanical firm, shall engage or offer to engage in, by advertisement or otherwise, any mechanical work who does not possess a valid and appropriate license from the Construction Industries Board unless otherwise exempt by law or this Chapter. No State agency, a political subdivision of the State, business entity or trust shall act as a mechanical firm unless a licensed, active mechanical contractor is associated with and responsible for all mechanical work of such entity.

(b) The terms air conditioning, sheet metal, and heating do not include the design, installation, construction, maintenance,

service, repair, alteration, or modification of a portable or self contained ductless air conditioning or heating unit that has a cooling capacity of less than two and one-half (2 1/2) tons or a heating capacity of 36,000 British Thermal Units per Hour (BTU/H) or less.

(c) No person shall install, replace or repair any medical gas or medical-surgical vacuum systems unless such person is licensed under the Mechanical Licensing Act as a medical gas journeyman, an unlimited mechanical contractor, process piping mechanical contractor, plumbing contractor or journeyman plumber pursuant to the laws of this state and shall provide proof of being certified by examination in accordance with the most current National Fire Protection Act ("NFPA") 99 standard or certified in the proper installation of medical gas piping by an organization approved by the Committee.

## SUBCHAPTER 5. LICENSE TYPES, LIMITATIONS OF LICENSES, CONTRACTOR SPECIAL REQUIREMENTS AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

### 158:50-5-1. License types

(a) Mechanical licenses shall be issued as journeyman, contractor or inactive contractor.

(b) Licenses shall be issued for the following categories:

- (1) HVAC limited or unlimited;
- (2) Natural Gas Piping;
- (3) Process Piping;
- (4) Refrigeration;
- (5) Sheet Metal;
- (6) Ground Source Piping;
- (7) Limited Residential; and/or
- (8) Petroleum Refinery Process Piping (journeyman only);
- (9) Medical Gas (journeyman only).

### 158:50-5-2. Limitations of licenses

(a) **License duties.**

(1) Journeyman is a person who possesses the knowledge and skills to perform mechanical work within a category or categories without direct supervision.

(2) Contractor is a person who possesses the knowledge and skills of a journeyman and who is responsible, either to himself or his employer, for planning, contracting, supervising, or furnishing labor and/or materials used for mechanical work. A mechanical contractor shall only be associated with and responsible for one mechanical firm. However, a mechanical contractor may be responsible for one firm with branch offices.

(A) Active contractor is one who is actively performing as a contractor and who has met the bond and insurance requirements for licensure.

(B) Inactive contractor is one who has met all the licensing requirements of a contractor, but has chosen not to currently perform as a contractor. An inactive

contractor is not required to provide bond or insurance, and will be regulated as a journeyman.

**(b) License categories.**

(1) A limited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:

- (A) any cooling product, system, or equipment including the process piping, that has a cooling capacity of no more than twenty-five (25) tons, and/or
- (B) all heating equipment including the process piping that have a heat input of no more than 500,000 British Thermal Units per hour per appliance.

(2) A limited residential journeyman license entitles the licensee to install:

- (A) 5-ton or less cooling systems and/or
- (B) 150,000 British Thermal Units per hour or less heating systems. Installations shall include complete new systems for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress. Accessory appurtenances (such as humidifiers and filtering systems), kitchen vent hoods, exhaust fans and clothes dryer vent exhausts for such dwellings shall not be prohibited to be installed by the holder of this category. Such installations shall not include any welding, soldering or final connection of refrigerant lines or final connection of any electrical wiring permitted to be installed in accordance with Oklahoma statutes.

(3) An unlimited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:

- (A) any cooling product, system, or equipment, including the process piping, and/or
- (B) heating equipment, including the process piping.

(4) A natural gas piping license entitles the licensee to install, alter, modify, service, maintain, or repair all natural gas piping.

(5) A process piping license entitles the licensee to install, alter, modify, service, maintain, or repair all process piping.

(6) A refrigeration license entitles the licensee to install, alter, modify, service, maintain, or repair refrigeration products, systems, or equipment, including the process piping.

(7) A sheet metal license entitles the licensee to install, alter, modify, service, maintain, or repair all ferrous and nonferrous duct systems.

(8) A ground source piping license entitles the licensee to install, alter, modify, service, maintain or repair all piping outside a structure for a ground source (earth or water) loop pipe.

(9) A petroleum refinery journeyman license entitles the licensee to install, alter, modify, service, maintain, or repair all petroleum refinery process piping and said license is limited to petroleum refinery process piping work only. A petroleum refinery journeyman shall be under the

direction and supervision of a licensed unlimited mechanical contractor or a licensed process piping mechanical contractor.

(10) A mechanical medical gas journeyman license entitles the licensee to install, alter, modify, service, maintain, or repair medical gas or medical-surgical vacuum systems, or equipment, including the piping. A medical gas journeyman shall only perform work under the direction and supervision of a licensed unlimited mechanical contractor or a licensed process piping mechanical contractor.

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

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

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

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

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

- (A) either three (3) years of verifiable experience in the mechanical trade in the category for which he is applying or
- (B) have an associates degree or Vo Tech diploma certifying completion of an educational program consisting of 1000 hours or more from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and one (1) year of verifiable experience in the mechanical trade or
- (C) have a Vo Tech diploma certifying completion of an educational program consisting of 500 or more hours from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and two (2) years of verifiable experience in the mechanical trade, or
- (D) have a verifiable out-of-state license in the mechanical classification for which the applicant is applying. The license must be:
  - (i) current, and
  - (ii) in good standing.

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

(c) **Examination.** A license cannot be issued until the applicant has passed the appropriate examination for the license type and category. Examinations and the passing score for each examination shall be approved by the Committee. Applicants

## Emergency Adoptions

for the Ground Source Piping category shall provide proof of being certified by examination in the proper installation of ground source piping by an organization approved by the Committee. Applicants for the Petroleum Refinery journeyman category shall provide proof of being certified by examination in the area of industrial pipefitter by an organization approved by the Committee. Applicants for the Medical Gas category shall provide proof of being certified by examination in accordance with the most current NFPA 99 standard or certified in the proper installation of medical gas piping by an organization approved by the Committee.

- (1) If the applicant does not pass the exam, the applicant may reapply for the exam and pay an additional retesting fee. However, no person will be allowed to re-take an exam within 30 days of the first failed exam nor within 90 days of the second or subsequent failed exam.
- (2) Any person suspected of cheating during an examination shall be immediately notified of the suspicion and shall not be allowed to finish the examination. He shall be called before the Committee during the next scheduled meeting for discussion of the incident. If the Committee determines that the person did in fact cheat, the examinee's application for licensure shall be denied and the Committee shall determine when the applicant can next apply for an examination.
- (3) No person shall be allowed any assistance in reading the contractor's examination, nor shall any persons other than the examinees or the Committee members be allowed in the examination area. However, an applicant may request that the Committee make reasonable accommodations for any disability.
- (d) **Outstanding fines.** A license cannot be issued until the applicant has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

### 158:50-9-2. License and registration fees and renewals

(a) Examination fees for contractors and journeyman. The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by these rules. The cost for each such examination referenced in section 158:50-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S. § 1000.5 (A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, and registration fees shall be annually as follows:

- (1) contractors application - \$30.00
- (2) initial contractor license - \$300.00
- (3) renewal contractor license - \$200.00

- (4) renewal contractor late fee - \$100.00
- (5) journeyman application - \$25.00
- (6) initial journeyman license - \$50.00
- (7) renewal journeyman license - \$75.00
- (8) renewal journeyman late fee - \$25.00
- (9) apprentice application - \$5.00
- (10) apprentice registration - \$20.00

(c) Pursuant to the NFPA 99C standard in the 2009 International Plumbing Code ("IPC") adopted by the Oklahoma Uniform Building Code Commission ("OUBCC"), all medical gas piping work, as defined above, is required to be performed by one being certified by examination in accordance with the most current NFPA 99 standard which assists in minimizing any risk of catastrophic injury due to contaminated or crossed medical gas distribution lines. Continuing education for the certification is determined in the recertification process pursuant to the NFPA 99 standards. Licensing of medical gas piping work is necessary to ensure medical gas piping work is performed by a person properly and currently certified as required by the NFPA standards.

(d) Upon approval, this rule will be implemented so that any uncertified person performing medical gas piping work will be required to cease all medical gas piping work until such time as they are certified in accordance with the NFPA 99 standards and then licensed under this rule. In addition to notices of this rule provided by the agency to the industry, contractors will be notified or warned of the requirements of this rule one (1) time in advance of any citation written for a violation under this rule.

(1) Mechanical journeymen who present proof of current certification will be able to add the category of Medical Gas to their current license without payment of a fee, until this rule is superseded by a permanent rule. The Medical Gas license is effective upon the posting of the application and certification, and evidence of such posting shall be a copy of the executed application form and the proof of current certification which may serve as evidence of license for a period not to exceed thirty (30) days.

(2) Regarding initial apprentice application and registration fee required pursuant to this rule, if the application is provided along with a verifiable statement from the apprentice's contractor that the registration is for medical gas piping work, the application and registration fee shall be waived, until this rule is superseded by a permanent rule. This apprenticeship registration is effective upon the posting of the application and evidence of such posting shall be a copy of the executed application form which may serve as evidence of registration for a period not to exceed thirty (30) days.

(3) Regarding initial licensing and application for the Mechanical Medical Gas (journeyman only) category for a journeyman presenting a current certification, the application and license fee shall be waived, until this rule is superseded by a permanent rule. The license is effective upon the posting of the application and the certification, and evidence of such posting shall be a copy of the executed application form and the proof of current certification which may serve as evidence of license for a period not to exceed thirty (30) days.

(4) For purposes of this rule, an individual not previously licensed as a contractor whose business activities under the Mechanical Licensing Act and this rule require the individual to become licensed as an unlimited mechanical contractor or process piping contractor, the application and license fee shall be waived. Applications shall be filed immediately upon notice of this rule. Beginning January 2, 2013, all individuals, functioning as a contractor, as defined in the Mechanical Licensing Act and rules, for whom a current certified journeyman is performing medical gas piping work, must be licensed. Further, once the contractor applicant's application is verified and determined by the CIB to have met the qualifications to take the contractor's exam, the cost of the initial (one-time) contractor's exam will be paid by CIB, until this rule is superseded by a permanent rule.

## 158:50-9-7. Continuing Education

### (a) Continuing Education Requirements:

(1) Within one year from the date of adoption of the appropriate code, and thereafter, no license will be renewed unless the licensee has completed 6 hours of continuing education. Continuing education shall consist of 6 hours training in the International Mechanical Code, International Fuel Gas Code and/or International Residential Code (as applicable pursuant to Mechanical Industry Regulations promulgated under this chapter) emphasizing revisions of the code or 4 hours training emphasizing revisions of the codes and 2 hours of trade related instruction.

(2) Credit will be given for CE programs approved by the Mechanical Examining Committee, or its designee.

(3) Except as provided herein, these rules shall apply to every licensed mechanical journeyman or contractor.

(4) A licensee is exempt from the education requirements of these rules for the code year during which the licensee first passed an exam testing over the code.

(b) **Standards.** The following standards will govern the approval of continuing education programs by the Mechanical Examining Committee.

(1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training. The training provider and instructors will be of good reputation and of good moral character.

(2) Any written material that is distributed during the session shall be readable, of high quality and shall be made available to all attendees.

(3) The program shall be presented in a comfortable location such as hotel/motel conference room, corporate meeting room, or regular classroom.

(4) The training session shall be presented outside the regular workplace or after regular working hours. An onsite conference room, that meets standards imposed by number 3 above, shall be considered outside the regular workplace.

(5) Sixty minutes shall constitute one instructional hour.

(6) CE courses shall be presented in one of the following formats.

(A) Six instructional hours presented in one day.

(B) Two sessions of three instructional hours each presented within a seven day period.

(C) One session of two instructional hours of trade related instruction.

(D) An approved correspondence course.

(E) Another format approved by the Committee.

(7) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

(C) Each attendee shall complete a course evaluation on a form provided by the Construction Industries Board.

(D) As soon as practicable but in any event on or before seven (7) days following an approved continuing education program, the provider shall furnish the original sign-in sheets and evaluations from the course to the Examining Unit of the Construction Industries Board.

(E) Providers shall maintain copies of all sign-in sheets and evaluations for a period of two (2) years following the conclusion of the course.

(8) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

### (c) Application Procedures.

(1) A completed application form, with all supporting documentation, shall be submitted to the Construction Industries Board at least 30 days prior to the scheduled start date.

(A) Supporting documents shall include the following.

(i) A resume or brief summary of qualifications of all course developers and instructors.

(ii) A course agenda designating the beginning and ending of actual instruction times, sign-in times, breaks, lunches and evaluation time.

(iii) A course curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the trade related instruction being provided.

(2) An application is to be submitted for each date, or dates, that constitute a single course.

(3) Each course must be included on a separate application.

### (d) Mechanical Examining Committee Acceptance.

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- (1) The Committee, or its designee, will review each application for completeness of form and supporting documentation, as well as course content.
  - (2) The approval of any course will be made by a majority vote of the Committee at the regularly scheduled meeting of the Mechanical Examining Committee.
  - (3) The Committee's designee may approve additional dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.
  - (4) The applicant will be notified in writing whether the program is approved or disapproved, detailing the basis of the decision if disapproved.
- (e) **Committee Rejection and Reevaluation of a Course.**
- (1) The Committee, or its designee, may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons.
    - (A) Failure to comply with the continuing education provisions.
    - (B) Inadequate application or supporting documentation.
    - (C) Failure to instruct on topic approved.
    - (D) Inadequate experience of program developer or instructor.
    - (E) Unsatisfactory evaluation of the course instructor or materials from previous classes.
  - (2) The Committee may, at any time, re-evaluate and grant or revoke approval of application or course.
    - (A) The Committee may, at any time, review courses for quality of instruction. The Committee may also investigate complaints regarding approved courses. The Committee may then take appropriate action, up to and including revocation of authority to provide CE courses.
    - (B) A provider's failure to comply with any continuing education rule constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for course work.
  - (3) The Committee, or its designee, will notify the provider, in writing, of any changes in approval status.
- (f) **Appeals.**
- (1) Applicants denied approval of a course may appeal such a decision by submitting a written letter of appeal to the committee within fifteen days of the receipt of the notice.
  - (2) All appeals will be heard by the Committee at its next regularly scheduled meeting.
- (g) **Course Presentation.**
- (1) The program, including the named advertised participants, shall be conducted as approved by the committee, subject to emergency withdrawals and minor alterations.
  - (2) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee, or its designee, in writing prior to start of class. All requests for change must include the course ID number.
- (h) **Course Advertisement.**
- (1) All advertising must include the course ID number.
  - (2) Approved program courses may be advertised.
  - (3) The provider of an approved continuing education program may announce or indicate as follows: Course # has been approved by the Construction Industries Board Mechanical Examining Committee for hours of CE credit.
- (i) **Correspondence and Online Courses.**
- (1) Applications, approvals and rejections, and appeals of all correspondence and online courses shall be the same as for classroom-based courses.
  - (2) Correspondence courses shall be required to comply with all requirements of continuous education courses, except sign-in sheets.
  - (3) Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction.
  - (4) Course providers shall provide a student with a document of completion which certifies completion of approved correspondence course.
- (j) **Alternate Credit Method.** Credit may be earned through teaching an approved continuing education course. The Committee may award up to six hours of CE credit, not to exceed the number of approved hours for that CE course.
- (k) **Continuing Education Not Required for Petroleum Refinery Journeyman.** Provisions (a) - (j) herein shall not apply to the license category of Petroleum Refinery Journeyman. The Petroleum Refinery Journeyman license may be renewed without continuing education.
- (l) Continuing Education Not Required for Medical Gas. Provisions (a) - (j) herein shall not apply to the license category of Medical Gas. The Medical Gas category may be renewed without continuing education provided that a current approved certification is submitted.

## SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

### 158:50-11-2. Prohibited acts

- (a) The following prohibited acts apply to all license holders:
- (1) No person, entity, or firm may perform mechanical work without first obtaining the appropriate license or registration pursuant to these rules.
  - (2) No licensee shall perform mechanical work in a category under which he is not licensed or work outside of the confinements of the required Medical Gas certification.
  - (3) No licensee shall perform work contrary to any provision of the adopted references in 158:50-1-4, except as otherwise provided by law or rule. Each violation of the adopted references in 158:50-1-4 can be treated as a separate violation of this Chapter.
  - (4) No person shall offer to engage in mechanical work during the period his license is suspended or revoked.

- (5) No employing mechanical firm shall employ or use and unlicensed or unregistered individual or entity to perform mechanical work.
- (6) No person, entity, or firm may transfer a license or registration.
- (7) No individual or entity, licensed pursuant to these Rules shall enter into an agreement for the use of his license with any firm or person which is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.
- (8) No person shall make a materially false or fraudulent statement in an application for license.
- (9) No person may alter a license.
- (10) No licensee shall fail to notify the Administrator of a change in his address.
- (11) No licensee shall perform mechanical work without keeping their license and any required certification on their person or in close proximity while performing mechanical work.
- (12) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.
- (13) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

(b) The following prohibited acts apply to persons issued a contractor license:

- (1) No licensee shall employ or supervise persons performing mechanical work unless those persons are licensed or registered to perform that category of work.
- (2) No licensee shall allow any apprentice to perform mechanical work at the contractor's job site unless the apprentice will have direct supervision by a person licensed to perform in that category of mechanical work.
- (3) No licensee shall allow more than three (3) apprentices per journeyman at a job site.
- (4) No licensee shall fail to maintain a bond as provided for in 158:50-5-3.
- (5) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in 158:50-5-3 (b).
- (6) No licensee shall be associated with and responsible for more than one mechanical firm.

(c) The following prohibited acts apply to persons issued a journeyman license:

- (1) No licensee shall allow an apprentice under his direct supervision to perform mechanical work for which the journeyman is not licensed to perform.
- (2) No licensee shall perform mechanical work except under the employment or supervision of a Mechanical Contractor.
- (3) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for mechanical work.

[OAR Docket #13-746; filed 5-9-13]

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

[OAR Docket #13-745]

**RULEMAKING ACTION:**  
EMERGENCY adoption

**RULES:**  
Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Applications, and Apprentice Registration  
158:50-9-7 [AMENDED]

**AUTHORITY:**  
Oklahoma Construction Industries Board; 59 O.S. Sections 1000.4 and 1850.3.

**DATES:**  
**Adopted:**  
September 12, 2012

**Approved by Governor:**  
October 22, 2012

**Effective:**  
Immediately up Governor's approval

**Expiration:**  
Effective through July 14, 2013, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**  
N/A

**INCORPORATIONS BY REFERENCE:**  
N/A

**FINDING OF EMERGENCY:**  
The Construction Industries Board ("CIB") no longer has any authority over what trade code, or when a trade code, is adopted by the Oklahoma Uniform Building Code Commission ("OUBCC"). Through no fault of its own, the CIB must now react to the adoption actions of the OUBCC, another state agency. The actions of the OUBCC directly impact the CIB and its approximately 4,150 plumbing licensees (contractors and journeymen) who are members of the public with interests directly affected now by the actions of the OUBCC and the current rules of the CIB governing the continuing education requirements.

Historically, the CIB has adopted the trade codes for the plumbing, electrical and mechanical trades. Adoption of these codes, generally every three years, triggers the continuing education requirements of the CIB rules. The CIB already had adopted the 2009 International Plumbing Code ("IPC"), the 2008 National Electrical Code ("NEC"), the 2009 International Mechanical Code ("IMC"), the 2009 International Fuel Gas Code ("IFGC"), and select parts of the 2009 International Residential Code ("IRC") when the OUBCC subsequently was given the sole authority to adopt all building codes for residential and commercial construction to be used by all entities within this state. 59 O.S. § 1000.23(A). Therefore, almost all of the plumbing and mechanical industry members had already taken in 2009 or 2010 their continuing education courses on the 2009 IPC, 2009 IMC, 2009 IFGC, and the 2009 IRC.

The OUBCC recently adopted the same codes, making minor revisions through the administrative rule-making process to some codes. There is substantial confusion in the industries regarding whether continuing education is required, and if so, what subjects are allowable and when must the credit be completed.

The CIB has been advised the legal interpretation, under the current rules, is that the OUBCC's adoption of these codes triggers the continuing education requirements of the CIB. Thus, plumbing and mechanical industry members will be required to take continuing education courses over the same codes that they took three years earlier. This results in an unjustified burden on industry for the time, resources, and funds to again take the same continuing education courses and causes serious prejudice to the public interest, industry members, and their businesses.

These proposed emergency rules contain the same language for all three trades. This language would retain the requirement for continuing education, expand the course subjects to avoid retaking the same course, separate the continuing education requirement from the actions of the OUBCC, bring uniformity among the trades, and simplify and clarify the continuing education requirements for the plumbing, electrical and mechanical trades.

# Emergency Adoptions

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## ANALYSIS:

158:50-9-7 expands course curriculum for continuing education requirements so that three-year-old courses do not need to be retaken and clarifies when continuing education is required now that another agency's actions impact the application of the current rules governing continuing education.

## CONTACT PERSON:

Linda Ruckman 405-521-6546

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

## **SUBCHAPTER 9. QUALIFICATIONS FOR MECHANICAL LICENSURE, LICENSE AND REGISTRATION FEES, DURATION OF LICENSE, MECHANICAL LICENSE APPLICATIONS, AND APPRENTICE REGISTRATION**

### **158:50-9-7. Continuing Education**

#### **(a) Continuing Education Requirements--.**

~~(1) Within one year from the date of adoption of the appropriate code, and thereafter, no license will be renewed unless the licensee has completed 6 hours of continuing education. Continuing education shall consist of 6 hours training in the International Mechanical Code, International Fuel Gas Code and/or International Residential Code (as applicable pursuant to Mechanical Industry Regulations promulgated under this chapter) or 4 hours training of the codes and 2 hours of trade related instruction. By July 1, 2014, no contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education; and thereafter, the licensee shall complete six (6) hours every three years or thirty-six (36) months. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Administrator, or trade section chief, within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the Oklahoma Uniform Building Code Commission, any other code approved by the Committee as an appropriate code for topics of continuing education for licensees, and/or other trade related subject matters approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing act, the trade regulations, and other trade or safety related subject matters approved by the Committee.~~

(2) Credit will be given for CE programs approved by the Mechanical Examining Committee, or its designee.

(3) Except as provided herein, these rules shall apply to every licensed mechanical journeyman or contractor.

(4) A licensee is exempt from the educational requirements of these rules for ~~the code year during which the licensee~~ three (3) years from the date the licensee first passed an exam testing over the code. ~~their current licensing exam.~~

(b) **Standards.** The following standards will govern the approval of continuing education programs by the Mechanical Examining Committee.

(1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training. The training provider and instructors will be of good reputation and of good moral character.

(2) Any written material that is distributed during the session shall be readable, of high quality and shall be made available to all attendees.

(3) The program shall be presented in a comfortable location such as hotel/motel conference room, corporate meeting room, or regular classroom.

(4) The training session shall be presented outside the regular workplace or after regular working hours. An onsite conference room, that meets standards imposed by number 3 above, shall be considered outside the regular workplace.

(5) Sixty minutes shall constitute one instructional hour.

(6) CE courses shall be presented in one of the following formats.

(A) Six instructional hours presented in one day.

(B) Two sessions of three instructional credit hours each presented within a seven day period.

(C) One session of two instructional credit hours of trade related instruction.

(D) An approved correspondence course.

(E) Another format approved by the Committee.

(7) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

(C) Each attendee shall complete a course evaluation on a form provided by the Construction Industries Board.

(D) As soon as practicable but in any event on or before seven (7) days following an approved continuing education program, the provider shall furnish the original sign-in sheets and evaluations from the course to the Examining Unit of the Construction Industries Board.

(E) Providers shall maintain copies of all sign-in sheets ~~and evaluations~~ for a period of two (2) years following the conclusion of the course.

- (8) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.
- (c) **Application Procedures.**
- (1) A completed application form, with all supporting documentation, shall be submitted to the Construction Industries Board at least 30 days prior to the scheduled start date.
- (A) Supporting documents shall include the following.
- (i) A resume or brief summary of qualifications of all course developers and instructors.
- (ii) A course agenda designating the beginning and ending of actual instruction times, sign-in times, breaks, lunches and evaluation time.
- (iii) A course curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the trade related instruction being provided.
- (2) An application is to be submitted for each date, or dates, that constitute a single course.
- (3) Each course must be included on a separate application.
- (d) **Mechanical Examining Committee Acceptance.**
- (1) The Committee, or its designee, will review each application for completeness of form and supporting documentation, as well as course content.
- (2) The approval of any course will be made by a majority vote of the Committee at the regularly scheduled meeting of the Mechanical Examining Committee.
- (3) The Committee's designee may approve additional dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.
- (4) The applicant will be notified in writing whether the program is approved or disapproved, detailing the basis of the decision if disapproved.
- (e) **Committee Rejection and Reevaluation of a Course.**
- (1) The Committee, or its designee, may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons.
- (A) Failure to comply with the continuing education provisions.
- (B) Inadequate application or supporting documentation.
- (C) Failure to instruct on topic approved.
- (D) Inadequate experience of program developer or instructor.
- (E) Unsatisfactory evaluation of the course instructor or materials from previous classes.
- (2) The Committee may, at any time, re-evaluate and grant or revoke approval of application or course.
- (A) The Committee may, at any time, review courses for quality of instruction. The Committee may also investigate complaints regarding approved courses. The Committee may then take appropriate action, up to and including revocation of authority to provide CE courses.
- (B) A provider's failure to comply with any continuing education rule constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for course work.
- (3) The Committee, or its designee, will notify the provider, in writing, of any changes in approval status.
- (f) **Appeals.**
- (1) Applicants denied approval of a course may appeal such a decision by submitting a written letter of appeal to the committee within fifteen days of the receipt of the notice.
- (2) All appeals will be heard by the Committee at its next regularly scheduled meeting.
- (g) **Course Presentation.**
- (1) The program, including the named advertised participants, shall be conducted as approved by the committee, subject to emergency withdrawals and minor alterations.
- (2) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee, or its designee, in writing prior to start of class. All requests for change must include the course ID number.
- (h) **Course Advertisement.**
- (1) All advertising must include the course ID number.
- (2) Approved program courses may be advertised.
- (3) The provider of an approved continuing education program may announce or indicate as follows: Course # has been approved by the Construction Industries Board Mechanical Examining Committee for hours of CE credit.
- (i) **Correspondence and Online Courses.**
- (1) Applications, approvals and rejections, and appeals of all correspondence and online courses shall be the same as for classroom-based courses.
- (2) Correspondence courses shall be required to comply with all requirements of continuous education courses, except sign-in sheets.
- (3) Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction.
- (4) Course providers shall provide a student with a document of completion which certifies completion of approved correspondence course.
- (j) **Alternate Credit Method.** Credit may be earned through teaching an approved continuing education course. The Committee may award up to six hours of CE credit, not to exceed the number of approved hours for that CE course.
- (k) **Continuing Education Not Required for Petroleum Refinery Journeyman.** Provisions (a) - (j) herein shall not apply to the license category of Petroleum Refinery Journeyman. The Petroleum Refinery Journeyman license may be renewed without continuing education.

[OAR Docket #13-745; filed 5-9-13]



# Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register*.

Permanent rules are effective ten days after publication in the *Register*, or on a later date specified by the agency in the preamble of the permanent rule document.

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that references the *Register* publication of the permanent action.

*For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.*

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

*[OAR Docket #13-680]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions  
35:10-1-3. Handbook and publication editions [AMENDED]

### AUTHORITY:

OKLA. CONST., Art. 6, § 31 and Oklahoma State Board of Agriculture 2  
O.S. §§ 2-4; 14-31 et seq.

### DATES:

#### Comment period:

December 3, 2012 through January 4, 2013

#### Public hearing:

January 4, 2013

#### Adoption:

January 29, 2013

#### Submitted to Governor:

February 6, 2013

#### Submitted to House:

February 6, 2013

#### Submitted to Senate:

February 6, 2013

#### Gubernatorial approval:

February 18, 2013

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 4, 2013.

#### Final adoption:

April 4, 2013

#### Effective:

July 1, 2013

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

##### Incorporated Standards:

Handbook 44 "Specifications, Tolerances and Other Technical Requirements for Commercial Weighing & Measuring Devices" (~~2012~~2013 Edition)

Handbook 130 "Uniform Laws and Regulations" (~~2012~~2013 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."

Handbook 133 "Checking the Net Contents of Packaged Goods" (~~2011~~2013 Edition).

##### Incorporating Rules:

35:10-1-3

##### Availability:

See contact person below.

##### ANALYSIS:

The proposed rules update any necessary dates of incorporations by reference.

### CONTACT PERSON:

Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.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, 2013:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 35:10-1-3. Handbook and publication editions

References to a Handbook or publication in these rules shall mean the following edition of the National Institute of Standards and Technology (NIST), unless a different reference is made in the text of the rule:

- (1) Handbook 44 "Specifications, Tolerances and Other Technical Requirements for Commercial Weighing & Measuring Devices" (~~2012~~2013 Edition).
- (2) Handbook 130 "Uniform Laws and Regulations" (~~2012~~2013 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."
- (3) Handbook 133 "Checking the Net Contents of Packaged Goods" (~~2011~~2013 Edition).
- (4) Handbook 105-1 "Specifications and Tolerances for Field Standard Weights" (1990 Edition).
- (5) Handbook 105-2 "Specifications and Tolerances for Field Standard Measuring Flasks" (1996 Edition).
- (6) Handbook 105-3 "Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards" (2004 Edition).
- (7) Publication 14 (2009 Edition).
- (8) Publication 12 (1991 Edition).
- (9) Federal Grain Inspection Service Moisture Handbook (2006 Edition).

*[OAR Docket #13-680; filed 4-29-13]*

# Permanent Final Adoptions

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

[OAR Docket #13-681]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

35:13-1-1. Incorporation by reference of federal distilled spirits for fuel use regulations [AMENDED]

35:13-1-2. Deleted regulations [AMENDED]

### AUTHORITY:

OKLA. CONST., Art. 6, § 31; Oklahoma State Board of Agriculture 2 O.S. §§ 2-4, 11-20 et seq.

### DATES:

#### Comment period:

December 3, 2012 through January 4, 2013

#### Public hearing:

January 4, 2013

#### Adoption:

January 29, 2013

#### Submitted to Governor:

February 5, 2013

#### Submitted to House:

February 5, 2013

#### Submitted to Senate:

February 5, 2013

#### Gubernatorial approval:

February 18, 2013

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 3, 2013.

#### Final adoption:

April 3, 2013

#### Effective:

July 1, 2013

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

##### Incorporated Standards:

27 CFR Part 19.661 et seq. (2012 Revision) with the exception of 27 CFR §§ 19.669, 19.670, 19.699, and 19.700

##### Incorporating Rules:

35:13-1-1

##### Availability:

See contact person below.

##### ANALYSIS:

The proposed rule changes update the incorporation by reference of Code of Federal Regulations citations in the fuel alcohol rules.

##### CONTACT PERSON:

Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.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, 2013:**

### **35:13-1-1. Incorporation by reference of federal distilled spirits for fuel use regulations**

The Distilled Spirits for Fuel Use regulations found in Title 27 of the Code of Federal Regulations (CFR) (~~2014~~2012 Revision), Part 19.661 et seq. for the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, as

promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:13-1-2.

### **35:13-1-2. Deleted regulations**

The following sections of the Code of Federal Regulations governing distilled spirits for fuel use of the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau incorporated by reference under 35:13-1-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 27 CFR §§ 19.669, 19.670, 19.699, and 19.700 (~~2014~~2012 Revision).

[OAR Docket #13-681; filed 4-29-13]

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

[OAR Docket #13-682]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

35:15-1-1. Purpose [AMENDED]

35:15-1-2. Definitions [AMENDED]

35:15-1-4. Exhibitions and shows [AMENDED]

35:15-1-5. Falsification of Records [NEW]

Subchapter 11. Importation of Livestock, Poultry, and Pets

Part 1. General

35:15-11-1. General import requirements [AMENDED]

Part 7. Livestock

35:15-11-15. Definitions [REVOKED]

35:15-11-18. Requirements for cervidae [REVOKED]

Subchapter 13. Testing and Inspection for Disease and Release of Livestock at Auction Markets

35:15-13-1. Definitions [AMENDED]

35:15-13-3. General requirements for a livestock auction market [AMENDED]

35:15-13-5. Approval and responsibilities of veterinarians in livestock auction markets [AMENDED]

35:15-13-6. Movement of livestock through livestock auction markets [AMENDED]

35:15-13-7. Specific approval of livestock auction markets [AMENDED]

Subchapter 17. Bovine and Bison Brucellosis

Part 1. Definitions

35:15-17-1. Definitions [AMENDED]

35:15-17-3. Identification of vaccinates [AMENDED]

Part 3. Rules Adopted from USDA Uniform Methods and Rules (UM&R) for Brucellosis Eradication

35:15-17-49. Adult vaccination [AMENDED]

Part 11. Entry Permit and Retest Requirements [AMENDED]

35:15-17-73. Brucellosis requirements for entry of cattle and bison into Oklahoma [AMENDED]

35:15-17-74. Cattle and bison from an out-of-state farm of origin [AMENDED]

35:15-17-76. Out-of-state animals held under quarantine [REVOKED]

35:15-17-78. Test eligible sexually intact animals [AMENDED]

Subchapter 22. Swine Pseudorabies and Brucellosis

Part 1. General Provisions

35:15-22-1. Definitions [AMENDED]

35:15-22-3. Change of ownership requirements [AMENDED]

35:15-22-4. Requirements for approved livestock auction markets [AMENDED]

Part 3. Requirements for Swine Entering Oklahoma

35:15-22-33. Entry requirements for transitional production swine [AMENDED]  
 35:15-22-34. Entry requirements for livestock auction market and slaughter swine [AMENDED]  
 35:15-22-35. Commuter herd agreement requirements [AMENDED]  
 Part 7. Requirements for Swine Exhibitions  
 35:15-22-71. Exhibition requirements [AMENDED]  
 35:15-22-72. Swine exhibition event requirements [AMENDED]  
 Part 11. Pseudorabies and Brucellosis  
 35:15-22-109. Incorporation by reference [REVOKED]  
 Subchapter 34. Feral Swine  
 35:15-34-2. Definitions [AMENDED]  
 35:15-34-3. Importation of feral swine [REVOKED]  
 35:15-34-4. Intrastate testing of feral swine [REVOKED]  
 35:15-34-5. Transporter license [AMENDED]  
 35:15-34-6. Sporting facilities [AMENDED]  
 35:15-34-7. Handling facilities [AMENDED]  
 35:15-34-8. Buying stations [REVOKED]  
 35:15-34-9. Gathering stations [REVOKED]  
 35:15-34-10. Carcass disposal [AMENDED]  
 35:15-34-11. Inspections [AMENDED]  
 35:15-34-13. License fees [AMENDED]  
 35:15-34-15. Holding facilities pens [AMENDED]  
 35:15-34-17. Existing facilities [REVOKED]  
 35:15-34-18. Phenotypic descriptions of feral swine [NEW]  
 Subchapter 36. Scrapie  
 35:15-36-1. Incorporation by reference of federal regulations [AMENDED]  
 35:15-36-2. Deleted regulations [AMENDED]  
 Subchapter 38. Bovine Trichomoniasis  
 35:15-38-1. Definitions [AMENDED]  
 35:15-38-2. Import requirements for bulls [AMENDED]  
 35:15-38-2.1. Intrastate change of ownership requirements for bulls [AMENDED]  
 Subchapter 40. Bovine Tuberculosis  
 Part 3. Rules Adopted from USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication  
 35:15-40-49.1. Dairy cattle change of ownership [AMENDED]  
 Subchapter 42. Tuberculosis Eradication in Cervidae  
 Part 1. Definitions [REVOKED]  
 35:15-42-1. Definitions [REVOKED]  
 Part 3. Rules Adopted from USDA Uniform Methods and Rules for Tuberculosis Eradication in Cervidae [REVOKED]  
 35:15-42-31. Authority to require test [REVOKED]  
 35:15-42-32. Personnel authorized to apply tuberculin tests [REVOKED]  
 35:15-42-33. Presumptive diagnostic test [REVOKED]  
 35:15-42-34. Supplemental diagnostic tests [REVOKED]  
 35:15-42-35. Primary/diagnostic tests [REVOKED]  
 35:15-42-36. Tuberculin test interpretation [REVOKED]  
 35:15-42-37. Classification of Cervidae tested [REVOKED]  
 35:15-42-38. Intrastate movement [REVOKED]  
 35:15-42-39. Reporting of tests [REVOKED]  
 35:15-42-40. Procedures in affected herds [REVOKED]  
 35:15-42-41. Disposition of tuberculin responding Cervidae [REVOKED]  
 35:15-42-42. Identification of reactor Cervidae [REVOKED]  
 35:15-42-43. Quarantine procedures for Cervidae [REVOKED]  
 35:15-42-44. Retest schedules for high risk cervid herds [REVOKED]  
 35:15-42-45. Cleaning and disinfection of premises, conveyances, and materials [REVOKED]  
 35:15-42-46. Identification of Cervidae [REVOKED]  
 Part 5. Herd Status Requirements [REVOKED]  
 35:15-42-51. Minimum standards for accreditation and reaccreditation for Cervidae herds [REVOKED]  
 35:15-42-52. Minimum standards for monitored herd status for Cervidae [REVOKED]  
 35:15-42-53. Minimum requirements for qualified herd status for Cervidae [REVOKED]  
 35:15-42-54. Incorporation by Reference of Federal Regulations [NEW]  
 Subchapter 44. Farmed Cervidae  
 35:15-44-1. Purpose [AMENDED]  
 35:15-44-19. Entry and export requirements [AMENDED]  
 35:15-44-20. Animal identification requirements [AMENDED]  
 Subchapter 47. Chronic Wasting Disease (CWD) in Cervids

Part 1. General  
 35:15-47-2. Definitions [AMENDED]  
 Part 3. Herd Certification Standards  
 35:15-47-6. Minimum requirements for herd certification [AMENDED]  
 Part 7. Interstate Movement Requirements  
 35:15-47-18. Minimum CWD requirements for interstate movement of cervids [AMENDED]

**AUTHORITY:**

OKLA. CONST., Art. 6, § 31; Oklahoma State Board of Agriculture 2 O.S. §§ 2-4, 6-1 et seq., 6-91 et seq., 6-131 et seq., 6-141 et seq., 6-150 et seq., 6-181 et seq., 6-290.1 et seq., 6-501 et seq., 6-601 et seq., 9-130 et seq., and 9-143.

**DATES:**

**Comment period:**

December 3, 2012 through January 4, 2013

**Public hearing:**

January 4, 2013

**Adoption:**

January 29, 2013

**Submitted to Governor:**

February 7, 2013

**Submitted to House:**

February 7, 2013

**Submitted to Senate:**

February 7, 2013

**Gubernatorial approval:**

May 13, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 5, 2013.

**Final adoption:**

April 5, 2013

**Effective:**

July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

**Incorporated Standards:**

9 CFR Part 55, §§ 77.20 -77.41 (2012 Revision)  
 9 CFR Part 79 (2012 Revision), excluding 9 CFR §§ 79.6 and 79.7  
 9 CFR Part 81 (2012 Revision)

**Incorporating Rules:**

35:15-42-54  
 35:15-36-1  
 35:15-47-18

**Availability:**

See contact person below.

**ANALYSIS:**

The proposed rule changes update definitions, revise identification and recordkeeping requirements for certain livestock and animals, prohibit the falsification of records, delete outdated or unnecessary rules, make minor textual changes, establish standards for adult brucellosis vaccination, revise recordkeeping, fencing, fee and transport requirements for feral swine, incorporate references to the Code of Federal Regulations for scrapie, chronic wasting disease and the interstate movement of cervids, and revise testing standards for bovine trichomoniasis.

**CONTACT PERSON:**

Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.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, 2013:**

**SUBCHAPTER 1. GENERAL PROVISIONS**

# Permanent Final Adoptions

## 35:15-1-1. Purpose

(a) This Chapter relates to statutes assigned to the Animal Industry Services with responsibility for Animal Health.

(b) The division is responsible for the detection, eradication, and control of livestock and poultry diseases and parasites. Specific responsibilities include detecting, controlling and eradicating livestock diseases on farms and ranches, in auction markets, feedlots and other concentration points throughout the state; monitoring the interstate and intrastate movement of animals and poultry to verify compliance with state and federal laws, rules, and regulations; controlling the use of vaccines and biologics; and preventing the spread of diseases transmissible to man.

## 35:15-1-2. Definitions

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

**"Accredited veterinarian"** means a veterinarian approved by the United States Department of Agriculture (USDA) to perform functions required for state or cooperative state and federal animal disease control and eradication programs.

**"Backtag"** means a USDA approved identification system consisting of a tag of special tough paper, bearing identification codes relating to origin of animals, which are stuck to ~~the back of animals~~ animals a few inches from the midline and just behind the shoulder with very strong glue. The backtag is designed as temporary identification for easy reading in livestock auction markets ~~sale barns, short life and to help with traceback during investigation of the origin of disease outbreaks~~ trace the origin of livestock in Department investigations.

**"Certificate of veterinary inspection"** means an official document or its electronic equivalent approved by the chief livestock official of the state of origin issued by an accredited veterinarian at the point of origin of a shipment of animals that includes the name and address of the consignor; the name and address of the consignee; the entry permit number, if applicable; the age, sex, number, and breed of the animal; sufficient identifying marks or tags to positively identify each animal; and the results of all required tests. It shall also include a record of a physical examination of the animal verifying that each animal is free from visible evidence of any contagious, infectious, or communicable diseases and that the animals do not originate from an area of quarantine, infestation, or infection. A certificate of veterinary inspection is valid for thirty (30) days after the date of issuance. The term certificate of veterinary inspection shall also include an official health certificate, an official certificate, or a certificate.

**"Designated epidemiologist"** means an epidemiologist selected by the State Veterinarian who has been designated to perform those functions necessary for the classification of livestock suspected to be infected with a particular disease, based on an evaluation of test results and consideration of the animal and herd history, as well as other epidemiological factors.

**"Official identification"** means any official method of identification approved by USDA or the State Veterinarian,

including but not limited to a metal ear tag that provides unique identification for each animal by conforming to the national uniform ~~nine (9) character alphanumeric ear tag~~ ear tagging system and electronic identification or radio frequency identification (RFID). Backtags shall not be considered official identification unless the animal is shipped directly to slaughter. Animals identified by the ~~approved livestock auction market veterinarian for a livestock auction market~~ as too debilitated to enter the identification chute may be officially identified by a backtag or any other form of official identification and shall have a "slaughter only" tag applied. The term "official eartag" is synonymous with "official identification."

**"Quarantine"** means a written notice or order issued by an authorized agent of the ~~Board~~ Department showing the boundaries of the area or premise affected, the animals restricted, and conditions, if any. No livestock held under quarantine may be moved or released without a written permit or quarantine release signed by an authorized agent.

**"State animal health official"** means the state animal health official, or designee, who is responsible for the livestock and poultry disease control and eradication programs in a state.

## 35:15-1-4. Exhibitions and shows

(a) ~~As of August 1, 2009, each~~ Each person who presents swine for a swine exhibition, special sale, and ~~or~~ show shall provide verification of one of the following:

(1) ~~Verification of a Federal Premise Identification Number~~ a federal premise identification number; or

(2) ~~Verification of the permanent and physical location where the swine are housed when not in transit or attending a swine exhibition or show~~ a state location identifier.

~~(A) Verification shall be provided pursuant to a Physical Location Card obtained from the Oklahoma Department of Agriculture, Food, and Forestry.~~

~~(B) The information provided for a Physical Location Card~~ state location identifier shall not be included or maintained with the Federal Premise Identification Number database.

~~(C) A swine exhibition, special sale, or show shall not include a livestock market.~~

## 35:15-1-5. Falsification of Records

(a) In addition to other requirements of this chapter veterinarians shall not submit false information to the Department by:

(1) falsifying test records.

(2) misrepresenting the source animal of a test sample.

(3) failing to test all animals listed on a test record.

(4) falsifying information provided on a test chart, permit, certificate of veterinary inspection, or any form associated with this chapter.

(5) making or providing any false statement, representation, or certification to the Department, or

(6) rendering inaccurate information from any monitoring or measuring device.

(b) The submission of false information to the Department by a veterinarian shall be a violation of these rules.

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

**PART 1. GENERAL**

**35:15-11-1. General import requirements**

- (a) All persons importing livestock, as defined in 2 O.S. Section 6-150, shall have a certificate of veterinary inspection or an approved commuter herd agreement on file with the Department prior to entry into Oklahoma, however, livestock transported directly to an Oklahoma veterinarian for treatment may enter the state without a certificate of veterinary inspection provided that the animal is returned to the premises of origin within two (2) days following the cessation of treatment.
- (b) The Commissioner of Agriculture or the State Veterinarian shall be authorized to impose pre-entry test requirements on any species if it becomes known that the threat of disease exists which could place the livestock industries of Oklahoma at risk or could become a public health hazard.
- (c) Import requirements of this section may be in addition to import requirements for a species or disease found in this subchapter.

**PART 7. LIVESTOCK**

**35:15-11-15. Definitions [REVOKED]**

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

~~"Accredited tuberculosis free herd" means a herd of cervidae that has passed three (3) or more consecutive official tuberculosis tests of all eligible animals conducted at not less than nine (9) nor more than fifteen (15) month intervals, has no evidence of bovine tuberculosis, and meets the standards of Subchapter 42 of Title 35 of the Oklahoma Administrative Code.~~

~~"Certified Brucellosis Free Herd" means a herd of cervidae that has passed three (3) or more consecutive official brucellosis tests of all eligible animals conducted at not less than nine (9) nor more than fifteen (15) month intervals, has no evidence of brucellosis, and meets the standards of Subchapter 45 of Title 35 of the Oklahoma Administrative Code.~~

~~"Cervidae" means deer, elk, moose, caribou, and all related species in the cervidae family.~~

~~"Qualified tuberculosis free herd" means a herd of cervidae that has passed at least one (1) official test of all eligible animals within the previous twelve (12) months but is not classified as an accredited herd, has no evidence of bovine tuberculosis, and meets the standards of Subchapter 42 of Title 35 of the Oklahoma Administrative Code.~~

**35:15-11-18. Requirements for cervidae [REVOKED]**

- (a) All persons importing cervidae shall obtain a permit issued by the Department for a period of thirty (30) days prior to entry and meet the following requirements:
  - (1) Obtain a certificate of veterinary inspection issued by an accredited veterinarian within thirty (30) days prior to entry for all cervidae containing the following information:
    - (A) ~~Permit numbers of all permits required for entry.~~
    - (B) ~~A recordation of the method of identification for each cervid, including an official ear tag or any other visible, permanent identification device approved by the State Board of Agriculture.~~
  - (2) Obtain two (2) negative USDA approved official tests for tuberculosis conducted no less than ninety (90) days apart for all cervidae six (6) months of age or older and the second test shall be conducted within ninety (90) days prior to entry.
    - (A) ~~Cervidae from Accredited Tuberculosis Free Herds are exempt from this requirement provided each cervid is individually identified and the Accredited Tuberculosis Free Herd number and permit number are recorded on the certificate of veterinary inspection.~~
    - (B) ~~Cervidae from Qualified Tuberculosis Free Herds are exempt from this requirement provided each cervid is individually identified, the cervidae are accompanied by a certificate stating that the animal originated from a Qualified Herd, and each cervid six (6) months of age or older has passed one (1) USDA approved official test for tuberculosis that was conducted within ninety (90) days prior to entry.~~
  - (3) Obtain a negative test for brucellosis within thirty (30) days prior to entry for all cervidae six (6) months of age or older except that cervidae from Certified Brucellosis Free Herds are exempt from this requirement provided each cervid is individually identified and the Certified Brucellosis Free Herd number and permit number are recorded on the certificate of veterinary inspection.
  - (4) Have a Commercial or Non Commercial Breeders license issued by the appropriate agency in Oklahoma if importing white tail deer, black tail deer, mule deer, red deer (European elk), or elk into Oklahoma.
- (b) A person shall not import white tail deer, black tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma if the state of origin at the time of importation has any free ranging cervidae infected with chronic wasting disease (CWD). The State Veterinarian may grant an exemption from this requirement but only under quarantine restrictions.
- (c) A person shall not import white tail deer, black tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma unless the herd of origin has participated for a minimum of five (5) years in a state or federal CWD herd certification program that imposes response measures for positive and trace herds at least equal to the Oklahoma requirements except in the following circumstances:

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- (1) The herd of origin was enrolled in an equivalent state or federal CWD monitoring program prior to July 1, 2002;
- (2) The herd of origin was enrolled in an equivalent state or federal CWD monitoring program for a minimum of three (3) years prior to July 1, 2006; or
- (3) The herd of origin was enrolled in an equivalent state or federal CWD monitoring program for a minimum of four (4) years prior to July 1, 2007.
- (d) Any person importing cervidae to an approved slaughter facility operated pursuant to state or federal inspection is exempt from the provisions of this section, so long as the cervidae are transported directly to the slaughter facility without any diversions.
- (e) Any person importing cervidae of rare or endangered species, as identified and mutually agreed upon by the Board and the zoos within Oklahoma that are accredited by the American Association of Zoological Parks and Aquariums (AAZPA), is exempt from the provisions of this section if the cervidae are shipped directly between AAZPA accredited zoos and no commingling with other animals occurs during transit. A list of rare or endangered species of cervidae, for purposes of this exemption, is maintained by the Board.
- (f) The State Veterinarian may issue a special importation permit with individualized requirements for importing cervidae.

### SUBCHAPTER 13. TESTING AND INSPECTION FOR DISEASE AND RELEASE OF LIVESTOCK AT AUCTION MARKETS

#### 35:15-13-1. Definitions

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

**"Approved veterinarian"** means a licensed accredited veterinarian who has complied with all Board/Department regulations and educational requirements, and who has been approved by the Board/Department to conduct necessary tests, vaccinations, inspections, and other duties of an Auction Market Veterinarian at auctions selling cattle, horses, or swine.

**"Drive-in"** means a written record of livestock in a single consignment. Information on a drive-in shall include name and address of the consignor, license tag number of vehicle used to haul livestock, list and brief description of livestock and corresponding backtags applied, and any special notes or instructions concerning the livestock.

**"Livestock auction market veterinarian"** means a licensed, accredited veterinarian who has been approved to represent the Department by performing the veterinarian's duties at livestock auction markets.

**"Official forms"** means forms furnished or approved by the State Board of Agriculture or Animal and Plant Health Inspection Service of the United States Department of Agriculture.

**"Slaughter only"** means to go directly to a slaughter establishment or to a registered feed lot to be fed to go directly to slaughter.

**"Slaughter only tag"** means a cardboard tag applied to the hip of an animal that is to be taken directly to a slaughter establishment or to a registered feed lot to be fed before going directly to slaughter.

**"Brucellosis test eligible cattle"** means all cattle eighteen (18) months of age, as determined by the loss of first pair of temporary incisor teeth, except exposed cattle which have been "S" branded, steers, and spayed heifers.

#### 35:15-13-3. General requirements for a livestock auction market

(a) Any person owning, operating, conducting, or maintaining a livestock auction market shall be required to:

(1) Submit an application for a license to the Board/Department on an official form prior to operation.

(2) Bond the market pursuant to 2 O.S. Section 9-132, as amended or according to the provisions of the Federal Packers and Stockyards Act as amended.

(3) Employ an approved livestock auction market veterinarian for auctions selling cattle, horses, ~~or~~ swine, or other species as determined by the state veterinarian.

(b) The livestock auction market license shall cost Twenty Five Dollars (\$25.00) per year and shall expire on December 31 of each year.

(c) Both the buyer's and seller's invoices shall include the name, address of the owner and description of the cattle as to breed, sex and age. Invoices for swine shall show the predominant breed and shall show them to be feeding, breeding or slaughter swine.

(d) The approved livestock auction market veterinarian or sale company shall not be responsible for results of any tests that are made properly, or any reactor or responder animals found in the market. Ownership of all reactor or responder animals shall revert back to the consignor.

(e) ~~No cattle or swine shall be allowed to leave the market until an approval for release is secured from an approved veterinarian or an authorized agent of the Board. The market shall be responsible to see that no cattle or swine are removed without first being released by an approved veterinarian or an authorized agent of the Board. Approval for release shall be presumed upon the approved veterinarian's completion of pen inspections unless the cattle or swine are sent to the quarantine pen.~~

(f) Each market shall have a quarantine pen or pens for yarding reactor or responder animals. The pen shall be identified by painting the top of the gate either red or yellow and the word "Quarantine" spelled out on the gate. ~~The pen shall be constructed to make it easily cleaned and disinfected after each sale. Any watering troughs or feed bunks in the quarantine pen shall be located to ensure livestock in adjoining pens do not have access to them.~~

(g) ~~All reactor or responder animals shall be yarded in the quarantine pen and shall be sold last. The animals shall be~~

identified as reactors or responders on the invoices of both the buyer and seller.

(he) Refusal or failure to comply with the ~~Board~~Department rules shall be just cause for the revocation or suspension of the ~~Livestock Auction Market License~~livestock auction market license.

(hf) No person owning, operating, conducting, or maintaining a livestock auction market shall allow any of the following animals ~~identified by the following~~ to leave the livestock auction market unless it is individually identified by an official identification;~~with an exception for weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person. Weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person may be sold with a back tag and slaughter only tag to be transported directly to slaughter.~~

- (1) All beef cattle eighteen (18) months of age or older, except ~~f~~terminal fed steers, heifers, and bulls, going directly to a feedlot or slaughter which will not be reintroduced into the breeding herd;
- (2) All dairy cattle two (2) months of age or older; ~~and~~
- (3) All "M" branded cattle; ~~and~~
- (4) All roping and rodeo cattle.

(jg) The owner or operator of the livestock auction market shall keep records of each animal consigned or delivered to the livestock auction market for a period of two (2) years for disease traceback purposes, including but not limited to the following:

- (1) "Drive-in" or any other documents identifying the backtag, owners name and address, and license tag of mode of transportation;
- (2) Any records kept pursuant to the Livestock Auction Market Act;
- (3) Records of any official identification applied to the animal or already existing with the animal; and
- (4) Any records available regarding the purchaser of the animals.

(h) Each livestock auction market shall sign and have on record with the Department the most current livestock market contract for each of the species sold at the market.

**35:15-13-5. Approval and responsibilities of veterinarians in livestock auction markets**

(a) The veterinarian shall make application for approval to the ~~Board~~Department and shall be examined as to his or her ability to function as an ~~Auction Market Veterinarian~~ livestock auction market veterinarian.

(b) The livestock auction market veterinarian shall inspect ~~each bovine~~cattle, bison, ~~horse~~horses, ~~or~~ swine, or other species as determined by the State Veterinarian at the livestock auction market ~~auction~~ for the purposes of determining the condition of health and freedom from infectious or contagious diseases.

(c) The livestock auction market veterinarian shall arrive at the market in sufficient time to do all required testing, official identification, and inspection prior to the beginning of the sale.

(d) The livestock auction market veterinarian is responsible for completion of state and federal forms necessary for the release of livestock from markets and other state and federal forms required for disease control and eradication programs.

(e) In the event that an official identification is already present in the animal being tested, the livestock auction market veterinarian shall use this tag instead of retagging, and include all prefixes and numbers in recording the tag on test charts.

(f) The livestock auction market veterinarian shall use separate bleeding needles or separate syringes for each animal. The use of the same syringe or needle for all animals is prohibited.

(g) If the livestock auction market veterinarian cannot determine the class of livestock to be shipped by the description on the purchaser's invoice, the livestock auction market veterinarian shall look at each shipment prior to release.

(h) All reactor or responder cattle received for sale shall be examined as to official identification by the ~~Auction Market Veterinarian~~livestock auction market veterinarian prior to sale.

(i) Copies of all forms shall be forwarded to the office of the State Veterinarian by the livestock auction market veterinarian immediately after sale.

(j) All official ear tags, forms, certificates of veterinary inspection, or documents and official stamps and signature stamps, shall be kept in the exclusive possession of the livestock auction market veterinarian and shall be dated and signed by him only at the time it is filled out and issued.

Under no circumstances shall any official document be presigned or prestamped by the livestock auction market veterinarian. Use of any official stamp by persons other than the ~~approved~~livestock auction market veterinarian or a state or federal employee is expressly prohibited. The ~~approved~~livestock auction market veterinarian shall be solely responsible for the unauthorized or improper issuance of any official document or the use of any official stamp or signature stamp.

(k) The livestock auction market veterinarian shall ensure another ~~approved~~livestock auction market veterinarian is available at the market when the regular ~~approved~~livestock auction market veterinarian is absent from the market.

(l) The livestock auction market veterinarian shall not resign his duties without written notice to the sale company and State Veterinarian's office at least ten (10) days prior to resignation.

(m) The livestock auction market veterinarian's failure or neglect to perform any of the functions in this Section shall be cause for disapproval and immediate removal from the livestock auction market.

**35:15-13-6. Movement of livestock through livestock auction markets**

(a) All certificates of veterinary inspection, permits, and other documents, including out-of-state documents accompanying livestock into Oklahoma livestock auction markets that are incomplete or have been altered in any way are void and shall not be accepted. This includes documents that are incomplete as to official identification number and description of animal it represents. In order to be accurate and acceptable, the prefix of each official identification number shall be recorded.

~~(b) Cattle consigned directly from an out of state farm of origin to an approved livestock market in Oklahoma will not~~

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need a permit prior to entry. Out of state brucellosis test eligible cattle moving through an Oklahoma market shall be identified by market management at the time of sale.

(c) ~~The market shall maintain the identity of reactor or responder animals and restrict their sale to slaughtering establishments approved for the purpose of slaughtering reactors or responders. Reactors or responders shall only be sold directly to slaughter on a VS 1-27 and are not be returned to the country or be transported from market to market.~~

(d) ~~All cattle, regardless of age, weight, sex, or breed, shall obtain a release by an approved veterinarian or an agent of the Board and shall not be released unless they meet the importation and transportation requirements of the state of destination, including the State of Oklahoma.~~

(e) ~~All cattle livestock, including slaughter, feeding, breeding, and dairy animals, shipped or exported from the State of Oklahoma, regardless of "purpose of movement," shall be accompanied by a certificate of veterinary inspection. The cattle livestock shall also meet the state of destination importation requirements.~~

(f) ~~All swine destined for interstate shipment shall be accompanied by certificate of veterinary inspection.~~

### 35:15-13-7. Specific approval of livestock auction markets

(a) No livestock auction market shall be specifically approved until proper application is made and a determination is made by the State Veterinarian that ~~the Board~~Department regulations and standards are met.

(b) Each livestock auction market shall have a packer buyer present at each sale.

(c) All animals received at the livestock auction market shall be considered in interstate commerce and be handled in accordance with interstate regulations.

(d) All cattle, bison, horses, ~~and swine or other species~~, as determined by the State Veterinarian, shall be visually inspected by the ~~approved~~livestock auction market veterinarian prior to sale for diseased conditions such as cattle scab, sheep scab, Actinomycosis (lump jaw), Carcinomas (cancer eye), Infectious Rhinitis (bull nose) or any other infectious, contagious, or communicable disease.

(e) Any animal determined to be diseased by the livestock auction market veterinarian shall be sold direct to slaughter or quarantined for treatment pursuant to the judgment of the livestock auction market veterinarian.

(f) Each market shall furnish and maintain in good repair sufficient equipment suitable for restraining animals for careful inspection, testing, tagging, branding, and other treatments and procedures ordinarily required in providing livestock sanitary service at markets. The equipment shall be covered or housed so that necessary work can take place during inclement weather.

(g) The appointment and termination of the ~~approved~~livestock auction market veterinarian by the livestock auction market is subject to approval of both state and federal officials.

(h) Failure or neglect to perform any of the functions in this section shall be cause for withdrawal of the approval.

(i) Each livestock auction market shall sign and have on record with the Board the most current livestock market contract for each of the species sold at the market.

## SUBCHAPTER 17. BOVINE AND BISON BRUCELLOSIS

### PART 1. DEFINITIONS

#### 35:15-17-1. Definitions

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

"**Affected herd**" means a herd of cattle that has had a brucellosis reactor disclosed from an on-farm test or is the herd of origin of a market cattle identification brucellosis reactor from which a field strain *Brucella abortus* bio-variety has been isolated.

"**Animals**" means all bovine, dairy and beef breeds, and bison.

"**Approved brucella vaccine**" means a product that is approved by and produced under license of the United States Department of Agriculture for injection into cattle or bison to enhance their resistance to brucellosis.

"**Cattle**" means bison, dairy, and beef animals.

"**Commuter herd**" means all cattle under common ownership or supervision, that are located on one (1) or more premises in two (2) or more states and there is an interchange or interstate movement of animals between premises in those states as part of the normal farming, breeding or ranching operation without a change of ownership. A commuter herd agreement shall be completed and approval of commuter herd status shall be obtained from each chief animal health official of all states in which the herd resides.

"**Domestic livestock**" means those species of animals that have adapted to life in intimate association with, and provide advantage to man for use as food, fiber (furs and leather), labor and companionship. This adaptation usually involves the modification of growth or other traits through the provision of food, protection from enemies and selective breeding, thereby reducing the ability of that species to survive in the wild.

"**Exposed animals**" means animals that are part of a known affected herd or have been in contact with brucellosis reactors in marketing channels for periods of twenty-four (24) hours or periods of less than twenty-four (24) hours if the reactor has recently aborted, calved, or has a vaginal or uterine discharge. These animals are considered to be exposed regardless of the blood test results, and shall be placed under quarantine and restricted pending slaughter or testing after return to the herd of origin. These animals shall be identified with a hot iron letter "S" brand on the tailhead at least 2x2 inches prior to movement from the premise.

"**Farm of origin**" means a farm or other premises where the cattle to be shipped were born or have been kept for not less than four (4) months prior to the date of shipment and the premises within the four (4) months prior to the date of

shipment have not been used to assemble cattle from any other premises.

**"Feedlot"** means a confined drylot area for finish feeding of animals on concentrated feed with no facilities for pasturing or grazing. The feedlot may not hold any test eligible animals of unknown status or "S" branded animals.

**"Herd"** means all cattle (genus *Bos*) and bison (genus *Bison bison*) under common ownership or supervision, that are grouped on one or more parts of any single premise (lot, farm, or ranch) or on two (2) or more premises geographically separated, but have had an interchange movement or contact. Contact shall be accepted as fact unless otherwise established by the owner and consistent with the findings of the epidemiologic investigation. Groups of animals under multiple ownership on common premises, such as community pastures, grazing association allotments, etc., shall also be considered as a herd. For brucellosis eradication purposes the herds shall include all other groups of animals owned by those persons unless the veterinary medical officer, based on an epidemiologic investigation, establishes that association has not occurred.

**"Herd test"** means a test that includes all animals over six (6) months of age except steers and spayed heifers. Breeding animals tested shall be identified with official identification.

**"Individual herd plan"** means a herd management and testing plan designed by the herd owner and a veterinarian of the Cooperative Brucellosis Eradication Program that will control and eradicate brucellosis from an affected herd and shall include a similar plan for determining the true status of suspects and preventing exposure to brucellosis within the herd.

**"Official test"** means any serologic or bacteriologic test recognized by and listed in the USDA Uniform Methods and Rules of Brucellosis Eradication or the Code of Federal Regulations. The official test sample shall be collected by an accredited veterinarian or an employee of the State-Federal Brucellosis Program. The test shall be conducted in an official State-Federal Brucellosis Laboratory or licensed and approved Auction Market Laboratory, or by an employee of the State-Federal Brucellosis Program in field situations. All tests shall be confirmed in an official State-Federal Brucellosis Laboratory.

**"Official vaccinate"** means a female bovine or bison animal vaccinated against brucellosis with an approved brucella vaccine between four (4) and ~~ten (10)~~ twelve (12) months of age. All vaccination shall be conducted under the supervision of a federal or state veterinary official or accredited veterinarian. Vaccinated animals shall be permanently identified as vaccinates and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of brucellosis.

**"Permit"** means an official document (USDA VS Form 1-27 or comparable State Form) that is required to accompany "B" branded cattle, "S" branded cattle, and exposed cattle moved under official seal, issued by a veterinary services representative, state representative or accredited veterinarian that lists the official identification, USDA backtag, registration number, reactor tag number, owner's name and address, origin

and destination, number of animals covered, and the purpose of the movement. If a change in destination becomes necessary a new permit shall be prepared. No diversion from the permitted destination is allowed. Copies of the permit shall be distributed in accordance with the instructions printed on the official document.

**"Permit for entry"** means a premovement authorization for entry of cattle into a state from the animal health official in that state. The authorization shall state the conditions under which movement may be made, and these conditions may be in addition to the requirements of the USDA Uniform Methods and Rules for Brucellosis Eradication (UM&R) and Code of Federal Regulations.

**"Rodeo bulls"** means sexually intact male cattle kept for the purposes of performances at rodeos, for exhibition purposes or for breeding to produce rodeo bulls, and shall include bulls changing ownership.

**"S brand"** means identification of animals by branding with a hot iron the "S" that is at least 2x2 inches and placed on the tailhead. "S" branding is required for suspect animals and movement of exposed animals from affected herds.

**"Test eligible animals"** means all animals eighteen (18) months of age, as determined by the loss of first pair of temporary incisor teeth, except exposed animals that have been "S" branded, steers, and spayed heifers.

### 35:15-17-3. Identification of vaccinates

Brucellosis vaccinates may be calfhood vaccinated animals or adult vaccinated animals.

(1) Calfhood vaccinated animals are to be permanently identified as vaccinates by tattoo and by official vaccination eartag. Brands, registration tattoos, or other official identification may be used in lieu of official vaccination eartag. ~~For Brucella abortus Strain 19 vaccinates, the tattoo will be in a form prescribed in the UM&R for Brucellosis Eradication and approved by the United States Department of Agriculture.~~ For *Brucella abortus* Strain RB51 vaccinates, the tattoo will include the U.S. Registered Shield and "V", which will be preceded by a letter "R" and followed by a number corresponding to the last digit of the year in which the vaccination was done. Official vaccination eartags and tattoo shall be applied to the right ear. The eartag will include the state prefix and a "V," "S," "T," "U" or "W" followed by two (2) letters and four (4) numbers officially identifying the vaccinated animal. ~~Registration or individual animal identification tattoos may be substituted for official eartags.~~

(2) Adult vaccinated animals are to be permanently identified as vaccinates by tattoo and by official vaccination eartag. For *Brucella abortus* Strain RB51 vaccinates, the tattoo will include the U.S. Registered Shield and "V", which shall be preceded by the letter "A" and followed by a number corresponding to the last digit of the year in which the vaccination was performed. The accompanying VS Form 4-26 (Calfhood Vaccination Record) should be clearly marked "Adult Vaccination."

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## PART 3. RULES ADOPTED FROM USDA UNIFORM METHODS AND RULES (UM&R) FOR BRUCellosis ERADICATION

### 35:15-17-49. Adult vaccination

(a) ~~For affected, exposed, or at risk herds, Adult adult brucellosis~~ vaccinations shall adhere to current recommendations of the USDA Uniform Methods and Rules (UM&R) for Brucellosis Eradication.

(b) For cattle not vaccinated pursuant to subsection (a), above, the accredited veterinarian performing the brucellosis vaccination shall:

- (1) obtain permission from the Oklahoma state veterinarian,
- (2) obtain serum samples and submit to the State-Federal laboratory for brucellosis testing,
- (3) use the full, recommended dose of an approved brucella vaccine, and
- (4) identify the cattle and report the vaccination as required in 35:15-17-3 (b).

## PART 11. ENTRY PERMIT AND RETEST REQUIREMENTS

### 35:15-17-73. Brucellosis requirements for entry of cattle and bison into Oklahoma

All cattle and bison shall have a Certificate of Veterinary Inspection prior to entry. Test eligible cattle and bison from Class B and C states shall have a permit in addition to a Certificate of Veterinary Inspection prior to entry. All test eligible cattle and bison shall test negative within thirty (30) days prior to entry and those test eligible cattle from Class Band C States shall be quarantined and retested at owner's expense in not less than fort-five (45) nor more than one hundred twenty (120) days after entry. All test eligible cattle and bison from Class A states shall test negative within thirty (30) days prior to entry. Cattle from Certified Free Herds and "Free" states are exempt from the test requirements prior to entry provided they are officially identified and the certified free herd number or "Free" state status is recorded on the Certificate of Veterinary Inspection.

### 35:15-17-74. Cattle and bison from an out-of-state farm of origin

Cattle and bison from an out-of-state farm of origin may be consigned to an approved livestock auction market in Oklahoma without test, permit or vaccination. Before release from the livestock auction market the cattle or bison shall meet all Oklahoma entry requirements. ~~Test eligible animals from Class B and C States moving through an Oklahoma market shall be identified by the livestock market at the time of sale. These animals shall be released on an official permit and consigned directly to slaughter, to a licensed feedlot, to other approved markets, or to a premise in Oklahoma. The animals released to a premise in Oklahoma shall meet the test requirements as defined in 35:15-17-73, and will be held~~

~~under quarantine and retested at owner's expense in not less than forty five (45) days nor more than one hundred twenty (120) days. Animals going to another state shall meet state of destination requirements.~~

### 35:15-17-76. Out-of-state animals held under quarantine [REVOKED]

~~Those out of state animals held under quarantine for retest after entry may be sold and the quarantine transferred to the new owner provided that the new owner agrees to the quarantine and to retest at the new owner's expense in not less than forty five (45) nor more than one hundred twenty (120) days from the test date for entry requirements. A permit shall be obtained from the office of the state veterinarian prior to sale of quarantined cattle.~~

### 35:15-17-78. Test eligible sexually intact animals

(a) ~~Test eligible sexually~~ Sexually intact animals, greater than six (6) months of age, imported into the state in violation of any import regulation shall be quarantined to the nearest approved livestock auction market or approved slaughtering establishment.

(b) Sexually intact animals which are ~~not test eligible~~ less than six (6) months of age imported into the state in violation of any import regulation shall be quarantined to the premise of destination.

## SUBCHAPTER 22. SWINE PSEUDORABIES AND BRUCellosis

### PART 1. GENERAL PROVISIONS

#### 35:15-22-1. Definitions

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

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

**"Breeding swine"** means all sexually intact swine six (6) months of age or older as determined by an accredited veterinarian.

**"Brucellosis"** means the contagious infection and communicable disease caused by the bacteria of the genus *Brucella*.

**"Commercial production swine"** means swine that are continuously managed and have adequate facilities and practices to prevent exposure to either transitional production or feral swine.

**"Commuter herd"** means two or more groups of swine under common ownership or supervision that are located on more than one premise in more than one state and that have an interchange or movement of swine between the premises in those states as part of the normal feeding, breeding, or growing operation without a change of ownership.

**"Commuter herd agreement"** means a written herd management and testing agreement made by the chief animal health officials of all states where the commuter herd resides and the herd owner.

**"Entry permit"** means official permission from the State Veterinarian obtained prior to moving swine into Oklahoma valid for thirty (30) days after the date of issuance that may be obtained by telephone by providing the following information: name and address of the consignor; name and address of the consignee; and the number, age, sex, and breed of the swine to be imported.

**"Exposed swine"** means swine that have been in contact with, associated with, or adjacent to any animal known to be pseudorabies or brucellosis positive.

**"Farm of origin"** means the farm where the swine were born or where the swine have resided for at least the previous ninety (90) consecutive days.

**"Feeder swine"** means swine intended to be fed to a finished slaughter weight and not intended for breeding or exhibition.

**"Feral swine"** means ~~swine that are free roaming or wild~~ any hog, pig, or swine species (*Sus scrofa*) including, but not limited to, Russian and European wild boar that are running at large, free roaming, or wild upon public or private lands in this state, and shall also include any hog, pig, or swine species that has lived any part of its life running at large, free roaming, or wild. The term feral swine shall also include any feral phenotype swine, whether or not running at large, free roaming, or wild.

**"Herd"** means one or more swine maintained on common ground and includes all swine under common ownership or supervision that are geographically separated but have an interchange or movement of swine between the groups.

**"Infected herd"** means a herd in which an animal has been determined by the designated epidemiologist to be infected with pseudorabies or brucellosis using an official pseudorabies test or ~~diagnosed as having pseudorabies by an accredited veterinarian.~~

**"Isolation"** means separation of swine by a physical barrier so that other swine do not have access to the isolated swine's body, excrement, or discharges and the swine do not share a building with a common ventilation system with other swine and are kept at a distance from other swine as determined by the designated epidemiologist.

**"Livestock auction market"** means a stockyard, livestock market, or other premises approved by the Department where livestock are assembled for sale.

**"Monitored Swine Herd"** means a commercial production swine herd that undergoes regular testing for pseudorabies and brucellosis.

**"Official Blood Sample"** means a blood sample obtained and submitted by a state or federal regulatory official, an accredited veterinarian, or individuals under the supervision of an accredited veterinarian for pseudorabies or brucellosis testing of Oklahoma origin swine. No other blood samples submitted for testing shall be considered an official sample. Costs of blood sample collection and submission shall be paid

by the owner. In the event funds are made available by the United State Department of Agriculture or the State Board of Agriculture for blood sample collection or submission or for laboratory fees, these funds may be used without interruption or change in any other program functions or policies.

**"Official pseudorabies test"** means a test approved by the USDA to be conducted on swine for the diagnosis of pseudorabies or brucellosis and performed in a laboratory listed in a Veterinary Services Notice ~~and shall not include the G-1 deletion test, except for use by the Oklahoma designated epidemiologist.~~

**"Official 95/10 random sample test"** means a sampling protocol utilizing official pseudorabies and brucellosis tests that provide a ninety-five (95) percent probability of detecting infection in a herd in which at least ten (10) percent of the swine are seropositive for pseudorabies or brucellosis. Each segregated group of swine shall be considered a separate herd and sampled as follows:

- (A) less than 100 head - test 25.
- (B) 100-200 head - test 27.
- (C) 201 - 999 head - test 28.
- (D) 1,000 head and over - test 29.

**"Owner-shipper statement"** means a statement signed by the owner or shipper of swine which includes the number of swine to be moved, the points of origin and destination, the names of the consignor and consignee, and any additional required information.

**"Pseudorabies"** means the infectious and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

**"Pseudorabies monitored herd"** means ~~a swine herd that has negative test results from an official pseudorabies serologic test during the last twelve (12) months at the following rate:~~

- (A) 10 head — test all.
- (B) 11-35 head — test 10.
- (C) 36 or more — test thirty (30) percent or thirty (30) swine, whichever is less.

**"Quarantine feedlot"** means a confined area under official state quarantine and approved by the State Veterinarian.

**"Qualified pseudorabies negative herd"** means a herd where all swine over six (6) months of age have been tested using an official pseudorabies test and all swine tested negative. ~~The herd shall not have been a known infected herd within the past thirty (30) days. A minimum of ninety (90) percent of the swine in the herd shall have been on the premises and a part of the herd for at least ninety (90) days prior to the qualifying official pseudorabies tests or have entered directly from another qualified pseudorabies negative herd. All requirements in Part 5 of this Subchapter shall be met in order to maintain qualified pseudorabies negative status.~~

**"Shipping Permit"** means ~~an official document issued by the State Veterinarian for the movement of pseudorabies infected, exposed, or vaccinated swine under this Subchapter. The permit shall be obtained prior to any movement of the swine and shall include the number of swine to be moved; the~~

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purpose for moving the swine; the points of origin and destination; the names and addresses of the consignor and the consignee; and any additional information required by this Subchapter.

"**Slaughter swine**" means swine intended for or consigned directly to a slaughter establishment.

"**Swine Exhibition**" means any swine gathering that allows opportunity for commingling of swine under separate ownership, including but not limited to fairs, livestock shows, breed association shows, or sales.

"**Transitional production swine**" means feral swine that are captive or swine that have reasonable opportunities to be exposed to feral swine.

"**Validated / Qualified Herd or V/Q Herd**" means a herd of breeding swine maintained under a surveillance program whereby twenty five percent (25%) of the herd tests negative for pseudorabies and swine brucellosis on a quarterly basis.

### 35:15-22-3. Change of ownership requirements

(a) All swine shall be tested and found negative to pseudorabies and brucellosis within the previous thirty (30) days prior to changing ownership, or originate from a V/Q herd with current test status.

(b) ~~Test-eligible~~ Sexually intact swine, greater than six (6) months of age, moving directly from a premise of origin to an approved slaughter facility, or through an approved livestock auction market to an approved slaughter facility, are exempt from testing requirements provided identity to the herd of origin is maintained.

(c) Feeder swine moving directly from a premise of origin or through a livestock auction market for feeding purposes only are exempt from testing requirements, provided identification to the herd of origin is maintained.

### 35:15-22-4. Requirements for approved livestock auction markets

(a) All swine consigned to ~~an approved~~ livestock auction market shall have an official identification for each pig. The market operator shall maintain a record of all official identifications, the consignee's name and address, and the premise of origin, except for ~~the following swine:~~ swine purchased for immediate slaughter.

- (1) ~~Swine purchased for immediate slaughter, and~~
- (2) ~~Feral swine.~~

(b) All swine over six (6) months of age not purchased as direct to slaughter shall be tested for brucellosis and pseudorabies prior to leaving the livestock auction market.

## PART 3. REQUIREMENTS FOR SWINE ENTERING OKLAHOMA

### 35:15-22-33. Entry requirements for transitional production swine

(a) A person importing transitional production swine into Oklahoma shall obtain an entry permit from the Department.

(b) Transitional production swine entering Oklahoma shall be accompanied by a certificate of veterinary inspection, containing the following information:

- (1) the entry permit number,
- (2) a statement from the issuing veterinarian that to the best of the veterinarian's knowledge pseudorabies and brucellosis has not existed in the herd of origin in the past six (6) months, the swine to be imported have not been vaccinated for pseudorabies, and if applicable, the swine to be imported are offspring of a pseudorabies vaccinated sow, and
- (3) if applicable, the V/Q herd number and date of last pseudorabies and brucellosis quarterly test.

(c) Transitional production exhibition and prospective exhibition swine entering Oklahoma shall either:

- (1) be accompanied with a negative official pseudorabies and brucellosis test performed within thirty (30) days prior to entry, or
- (2) originate from a V/Q herd.

(d) An exception to import test requirements may be issued by the Department to purchasers of exhibition swine. To qualify for the exception, prospective purchasers of exhibition swine shall:

- (1) Apply for an anticipatory entry permit during the Department's office hours prior to traveling to a state where swine for exhibition purposes are proposed to be purchased;
- (2) Contact the Department on the next business day following a purchase to report the number of swine purchased and the seller of the swine or to notify the Department no swine were purchased on the anticipatory entry permit;
- (3) Obtain a certificate of veterinary inspection issued a maximum of thirty (30) calendar days prior to entry for the movement of the swine; and
- (4) Immediately quarantine any swine entering Oklahoma for exhibition purposes pursuant to this subsection until tested negative for brucellosis and pseudorabies within thirty (30) calendar days of entry.

### 35:15-22-34. Entry requirements for livestock auction market and slaughter swine

(a) All swine from an out-of-state approved livestock market and consigned to an ~~approved~~ Oklahoma livestock auction market shall be accompanied by a certificate of veterinary inspection and an entry permit.

(b) All farm origin swine shipped directly, with no diversion enroute, to an ~~approved~~ livestock auction market or slaughtering establishment operating under state or federal supervision shall be accompanied by one of the following:

- (1) a certificate of veterinary inspection, or
- (2) a way bill, bill of lading, or owner-shipper certificate that lists the consignor, the point of origin of the shipment, and the ~~approved~~ livestock auction market or slaughtering establishment to which the swine are being shipped.

(c) For market swine only, the results from an official pseudorabies and brucellosis test on a nursing sow shall constitute

evidence of the pseudorabies status of its nursing pigs, if the pigs accompany that sow.

**35:15-22-35. Commuter herd agreement requirements**

- (a) A written commuter herd agreement shall be effective upon review and approval by the State Veterinarian.
- (b) A written commuter herd agreement shall include the following:
  - (1) global positioning system (GPS) data for all premises covered by the agreement,
  - (2) the location of the premise of origin and destination for all swine imported into Oklahoma under the commuter herd agreement, and
  - (3) the acceptable surveillance and testing requirements as determined by the designated epidemiologist based on the status of the state of origin, history of the herd of origin, and the intended purpose of the swine entering Oklahoma.
- (c) All pseudorabies and brucellosis testing performed pursuant to a commuter herd agreement shall utilize an official 95/10 random sample test.
- (d) By the tenth (10th) of each month, the producer shall submit a monthly report of all swine entering Oklahoma.
- (e) A commuter herd agreement shall be completed and approved prior to any interchange or movement of commuter herd swine between states.

**PART 7. REQUIREMENTS FOR SWINE EXHIBITIONS**

**35:15-22-71. Exhibition requirements**

- (a) Each person who presents swine for a swine exhibition, special sale, or show shall provide verification of one of the following:
  - (1) A federal premise identification number; or
  - (2) ~~A physical location card obtained from the Oklahoma Department of Agriculture, Food, and Forestry. The information provided for a physical location card shall not be included or maintained with the federal premise identification number database~~ a state location identification number.
- (b) All swine shall be individually identified ~~by official identification.~~
- (c) All swine shall meet one of the following testing requirements:
  - (1) Oklahoma origin swine shall have a negative brucellosis and pseudorabies test after June 1 each year for fall exhibitions and after December 1 each year for spring exhibitions. These tests are valid for the entire respective exhibition season, unless in the opinion of the designated epidemiologist the swine have been exposed to pseudorabies or brucellosis. The swine shall also be accompanied by a copy of the official test chart or a certificate of veterinary inspection listing the test results, laboratory name, laboratory accession number, and individual identification.

- (2) Swine originating from outside of Oklahoma shall ~~have a negative brucellosis and pseudorabies test within thirty (30) days prior to each exhibition and a certificate of veterinary inspection listing test results, laboratory name, laboratory accession number, and official identification for each pig~~ meet the requirements of OAC 35:15-22-33(a) - (c).
- (3) Each swine shall originate from a V/Q herd. The V/Q herd number and official identification shall be listed on the certificate of veterinary inspection with the current quarterly test date and official identification.

**35:15-22-72. Swine exhibition event requirements**

- (a) Prior to an event, the exhibition official in charge shall obtain one of the following:
  - (1) A federal premises identification number for the location of the swine exhibition, or
  - (2) ~~A physical location card obtained from the Oklahoma Department of Agriculture, Food, and Forestry. The information provided for a physical location card shall not be included or maintained with the federal premise identification number database~~ state location identification number.
- (b) Prior to the event, the exhibition official in charge shall also obtain a swine exhibition permit from the Department by filing an application that at a minimum shall include:
  - (1) The name of the official in charge,
  - (2) The name of the exhibition,
  - (3) The date of the exhibition,
  - (4) The location of the exhibition,
  - (5) The federal premises identification number or ~~physical location card~~ state location identification number, and
  - (6) A signature certifying the exhibition official understands and agrees to the requirements for conducting a swine exhibition.
- (c) The exhibition official in charge shall verify that all swine allowed to enter the exhibition grounds meet all identification, testing, and recordation requirements prior to entry.
- (d) The exhibition official in charge shall submit, at a minimum, the following records to the Department within fifteen (15) days after the exhibition:
  - (1) Name, address, telephone number, and federal premise identification number or ~~physical location card~~ state location identification number of participants, and
  - (2) Official identification, age, breed, and sex of swine exhibited.
- (e) A swine exhibition shall not include a livestock market.

**PART 11. PSEUDORABIES AND BRUCELLOSIS**

**35:15-22-109. Incorporation by reference [REVOKED]**

- (a) ~~The pseudorabies and brucellosis regulations found in Title 9 of the Code of Federal Regulations (CFR) (2010 Revision), Part 78 and Part 85 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, is hereby adopted in its entirety.~~

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(b) All words and terms defined or used in the federal regulation incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.

## SUBCHAPTER 34. FERAL SWINE

### 35:15-34-2. Definitions

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

**"Breeding facility"** means a premise containing feral swine that are bred to domestic or feral swine.

**"Buying station"** means a premise utilized for the purchase of feral swine to be sent directly to slaughter.

**"Feral swine"** means any hog, pig, or swine species (*Sus scrofa*) including, but not limited to, Russian and European wild boar that are running at large, free roaming, or wild upon public or private lands in this state, and shall also include any hog, pig, or swine species that has lived any part of its life running at large, free roaming, or wild. The term feral swine shall also include any feral phenotype swine, whether or not running at large, free roaming, or wild.

**"Feral swine facility"** means a breeding facility, buying station, gathering station, handling facility, holding facility, pen, or sporting facility.

**"Gathering station"** means a temporary holding facility for feral swine prior to transporting or disposing in an authorized manner.

**"Handling facility"** means any premises maintaining feral swine captively for the purpose of breeding, slaughter, re-sale, dog training, competition, exhibition, personal use, or any other purpose.

**"Holding facility, pen"** means a temporary holding facility where feral swine are temporarily held for no more than thirty (30) seven (7) days with cleaning and disinfection between groups of feral swine.

**"Sporting facility"** means a premise containing feral swine intended for hunting and feral swine are only removed from the premises through hunting, directly to slaughter, or to another licensed sporting facility.

**"Transport"** means to move more than fifteen (15) feral swine fifty (50) miles or more intrastate or interstate movement of one or more feral swine.

**"Validated/qualified herd"** means a swine herd that meets the requirements of a qualified pseudorabies negative herd and a validated brucellosis negative herd.

### 35:15-34-3. Importation of feral swine [REVOKED]

(a) Any person importing live feral swine into this state shall be accompanied by a certificate of veterinary inspection signed by an accredited veterinarian that contains the following:

- (1) Official identification of each feral swine; and
- (2) Negative brucellosis and pseudorabies test results.

(b) Any person importing live feral swine into this state shall be accompanied by a written entry permit approved by the State Veterinarian.

(c) A person shall obtain a negative brucellosis and pseudorabies test within fifteen (15) days prior to entry.

(d) All live feral swine imported into this state shall be quarantined and isolated to retest for brucellosis and pseudorabies. The testing shall be conducted no earlier than thirty (30) days and no later than sixty (60) days following the date of importation.

(e) Feral swine going directly to an approved slaughtering facility shall be exempt from these requirements.

### 35:15-34-4. Intrastate testing of feral swine [REVOKED]

(a) Feral swine may be moved directly to a recognized slaughtering facility, an authorized market, a licensed sporting facility, a licensed buying station, or to a licensed gathering station without testing.

(b) Feral swine moved to locations other than those listed in (a), including licensed breeding facilities, shall be segregated from all other swine and test negative for pseudorabies and brucellosis on two consecutive tests conducted no less than thirty (30) and no more than sixty (60) days apart.

(c) The Department may conduct sampling of feral swine for the purpose of disease traceback at any time.

(d) The owner of a feral swine facility shall cooperate with the Department in the event of a sampling event.

(e) All feral swine in this state that test positive for brucellosis or pseudorabies shall be immediately sent directly to slaughter or slaughtered on the premises pursuant to an order issued by the State Veterinarian.

### 35:15-34-5. Transporter license

(a) All persons that transport live feral swine in this state shall be required to obtain a transporter license from the Department.

(b) The transporter license shall be good free of charge and active for a period of (3) five (5) years and shall not be transferable.

(c) Application for a transporter license shall be on a form prescribed by the Department and shall include the following:

- (1) Name, mailing address, physical address, email address, and telephone number of the applicant,
- (2) Drivers license number of the transporter;
- (3) A brief statement describing the area for which the applicant typically transports feral swine, and
- (4) A description of the vehicles, including trailers, used to transport feral swine, including any license tag numbers or other individual identification; and
- (5) A description of the typical locations where feral swine may be transported by the applicant.

(d) Any person transporting feral swine shall not under any circumstances release the feral swine to any property other than a licensed feral swine facility.

(e) Live feral swine shall only be transported to the following:

- (1) A licensed sporting facility;
- (2) A licensed breeding/handling facility;
- (3) A licensed buying station A holding pen;

- (4) ~~A licensed gathering station;~~
- (54) ~~Directly to an approved market or a slaughter facility, or~~
- (65) ~~Pursuant to an order issued by the State Veterinarian.~~

(f) ~~Any person that holds a sporting facility, buying station, gathering station, or holding facility license may obtain a transporter license with no additional application required.~~

**35:15-34-6. Sporting facilities**

(a) ~~An owner or operator shall obtain a Category I or Category II sporting facility license prior to operation of any new sporting facility.~~

(b) ~~The requirements for a Category I sporting facility license shall be as follows:~~

(1) ~~The owner or operator maintains a double perimeter fence at least forty-eight (48) inches tall made of solid walls, game fence, or other material constructed in a manner adequate to reasonably prevent the escape of enclosed feral swine, and the unsolicited additions of feral swine from outside the enclosure, and nose to nose contact between feral swine and any feral swine outside the enclosure.~~

(2) ~~All additions of feral swine to the sporting facility originate from a validated/qualified herd or test negative for pseudorabies and brucellosis on two consecutive tests conducted no less than thirty (30) and no more than (60) days apart.~~

(32) ~~The owner or operator shall keep records of the following:~~

- (A) ~~Number of head of feral swine added to the facility;~~
- (B) ~~Name, address, and telephone number of the person who provided the feral swine;~~
- (C) ~~Records of all animal health testing for a period of three (3) years;~~
- (D) ~~Date of release of the feral swine into the facility; and~~
- (E) ~~Number of head removed from the facility, method of removal, and the date of removal.~~

(43) ~~Any person applying for a Category I sporting facility license shall provide the following information on a form prepared by the Department:~~

- (A) ~~Name, mailing address, email address, and telephone number of the applicant owner;~~
- (B) ~~Name, mailing address, email address, and telephone number of the owner of the property operator, if different from the applicant owner;~~
- (C) ~~Name, physical address, and county of the sporting facility;~~
- (D) ~~Legal description to the nearest quarter section and GPS coordinates, if available, of the sporting facility;~~
- (E) ~~Name, address and telephone number of the location where records are kept;~~
- (FE) ~~A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;~~

(GF) ~~Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in Oklahoma or any other jurisdiction;~~

(HG) ~~Whether the property where the sporting facility is located is owned or leased;~~

(HI) ~~Driving directions from the nearest town; and~~

(JI) ~~Signature under oath "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."~~

(5) ~~Each Category I sporting facility shall be inspected at least annually.~~

(c) ~~The requirements for a Category II license shall be as follows: Sporting facilities may have a gate device installed in the perimeter fence that allow for the ingress of additional feral swine but does not allow the egress of captive feral swine. These devices shall be inspected and approved by the Department within seven (7) days of installation.~~

(1) ~~The owner or operator maintains a fence adequate to reasonably prevent the escape of enclosed feral swine and the unsolicited additions of feral swine from outside the enclosure.~~

(2) ~~The owner or operator accepts feral swine of unknown disease status.~~

(3) ~~The sporting facility is located a minimum of one and one half (1 1/2) miles from commercial swine or validated/qualified herds, unless the sporting facility was in existence on the effective date of these rules.~~

(4) ~~The owner or operator shall only allow feral swine to leave the facility when they are killed or sold directly to slaughter, or transported to another licensed sporting facility.~~

(5) ~~The owner or operator shall keep records of the following:~~

- (A) ~~Number of head of feral swine added to the facility;~~
- (B) ~~Name, address, and telephone number of the person who provided the feral swine;~~
- (C) ~~Date of release of the feral swine into the facility; and~~
- (D) ~~Number of head removed from the facility, method of removal, and the date of removal.~~

(6) ~~Any person applying for a Category II sporting facility license shall provide the following information on a form prepared by the Department:~~

- (A) ~~Name, mailing address, and telephone number of the applicant;~~
- (B) ~~Name, mailing address, and telephone number of the owner of the property, if different from the applicant;~~
- (C) ~~Name, physical address, and county of the sporting facility;~~

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~~(D) Legal description to the nearest quarter section and GPS coordinates, if available, of the sporting facility;~~

~~(E) Name, address and telephone number of the location where records are kept;~~

~~(F) A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;~~

~~(G) Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in Oklahoma or any other jurisdiction;~~

~~(H) Whether the property where the sporting facility is located is owned or leased;~~

~~(I) Driving directions from the nearest town; and~~

~~(J) Signature under oath "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."~~

~~(7) Each Category II sporting facility shall be inspected at least biannually.~~

(d) Effective July 1, 2013, the expiration date of all active licenses for sporting facilities shall be extended so that the active license expires on June 30, 2014. After July 1, 2013, sporting facilities shall be licensed for a one year term beginning July 1 of each calendar year and ending on June 30 of the following calendar year. Beginning April 1, 2014, applications for the renewal of a sporting facility license shall be due on April 1 of each calendar year.

### **35:15-34-7. Breeding/Handling facilities**

(a) An owner or operator of a breeding facility shall obtain a handling facility license prior to operate and shall comply with all animal health requirements for domestic swine operation of any new handling facility.

~~(b) In no case shall feral swine from a breeding facility be removed from the breeding facility unless they meet all of the requirements for movement of domestic swine.~~

~~(c) The breeding facility shall be located a minimum of one and one half (1 1/2) miles from commercial swine or a validated/qualified herd, unless the breeding facility qualifies as a validated/qualified herd, or was in existence on the effective date of these rules.~~

~~(d) The owner or operator of a breeding facility shall maintain a double perimeter fence at least forty-eight (48) inches tall made of solid walls, game fence, or other material constructed in a manner adequate to reasonably prevent the escape of enclosed feral swine, and the unsolicited additions of feral swine from outside the enclosure, and nose to nose contact between feral swine and any feral swine outside the enclosure.~~

~~(e) The owner or operator shall keep records of the following:~~

~~(1) Number of head of feral swine added to the facility and the date such swine were added to the facility;~~

~~(2) Name, address, and telephone number of the person who provided the feral swine;~~

~~(3) Records of all animal health testing for a period of three (3) years; Destination of any removed feral swine; and~~

~~(4) Number of head removed from the facility, method of removal, and the date of removal, and the name, mailing address, and phone number of any consignee.~~

~~(f) Any person applying for a breeding facility license shall provide the following information on a form prepared by the Department:~~

~~(1) Name, mailing address, email address and telephone number of the applicant/owner;~~

~~(2) Name, mailing address, email address, and telephone number of the owner of the property/operator, if different from the applicant/owner;~~

~~(3) Name, physical address, and county of the breeding facility;~~

~~(4) Legal description to the nearest quarter section and GPS coordinates, if available, of the breeding facility;~~

~~(5) Name, address and telephone number of the location where records are kept;~~

~~(6) A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;~~

~~(7) Method of carcass disposal for the facility, including carcass storage sites, carcass burial areas, incineration approval, rendering company, composting plan, or landfill.~~

~~(8) Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in Oklahoma or any other jurisdiction;~~

~~(9) Whether the property where the breeding facility is located is owned or leased;~~

~~(10) Driving directions from the nearest town; and~~

~~(11) Signature under oath "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."~~

(f) Effective July 1, 2013, the expiration date of all active licenses for handling facilities shall be extended so that the active license expires on June 30, 2014. After July 1, 2013, handling facilities shall be licensed for a one year term beginning July 1 of each calendar year and ending on June 30 of the following calendar year. Beginning April 1, 2014, applications for the renewal of a handling facility license shall be due on April 1 of each calendar year.

### **35:15-34-8. Buying stations [REVOKED]**

~~(a) An owner or operator shall obtain a buying station license prior to operation of any new buying station.~~

(b) The owner or operator of a buying station shall maintain a fence adequate to reasonably prevent the escape of enclosed feral swine and the unsolicited additions of feral swine from outside the enclosure.

(c) A buying station shall only be utilized as a premise for the purchase of feral swine to be sent directly to slaughter.

(d) The owner or operator shall keep records of the following:

- (1) Date and number of head of feral swine added to the facility;
- (2) Number of head removed from the facility, method of removal, and the date of removal; and
- (3) Destination of the removed feral swine.

(e) A buying station shall be located a minimum of one and one half (1 1/2) miles from commercial swine or validated/qualified herds, unless the buying facility was in existence on the effective date of these rules.

(f) Any person applying for a buying station license shall provide the following information on a form prepared by the Department:

- (1) Name, mailing address, and telephone number of the applicant;
- (2) Name, mailing address, and telephone number of the owner of the property, if different from the applicant;
- (3) Name, physical address, and county of the buying station;
- (4) Legal description to the nearest quarter section and GPS coordinates, if available, of the buying station;
- (5) Name, address and telephone number of the location where records are kept;
- (6) A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;
- (7) Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in Oklahoma or any other jurisdiction;
- (8) Whether the property where the buying station is located is owned or leased;
- (9) Driving directions from the nearest town; and
- (10) Signature under oath "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

**35:15-34-9. Gathering stations [REVOKED]**

(a) An owner or operator of a gathering station shall obtain a license to operate.

(b) The owner or operator of a gathering station shall maintain a fence adequate to reasonably prevent both the escape of enclosed feral swine and the unsolicited additions of feral swine from outside the enclosure.

(c) The owner or operator shall ensure that no individual feral swine is held for more than sixty (60) days at the gathering station.

(d) The gathering station shall be located a minimum of one and one half (1 1/2) miles from commercial swine or validated/qualified herds, unless the gathering station was in existence on the effective date of these rules.

(e) The owner or operator shall keep records of the following:

- (1) Number of head of feral swine added to the facility;
- (2) Name, address, and telephone number of the person who provided the feral swine;
- (3) Date of release of the feral swine into the facility;
- (4) Number of head removed from the facility, method of removal, and the date of removal; and
- (5) Destination of the removed feral swine.

(f) Any person applying for a gathering station license shall provide the following information on a form prepared by the Department:

- (1) Name, mailing address, and telephone number of the applicant;
- (2) Name, mailing address, and telephone number of the owner of the property, if different from the applicant;
- (3) Name, physical address, and county of the gathering station;
- (4) Legal description to the nearest quarter section and GPS coordinates, if available, of the gathering station;
- (5) Name, address and telephone number of the location where records are kept;
- (6) A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;
- (7) Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in Oklahoma or any other jurisdiction;
- (8) Whether the property where the gathering station is located is owned or leased;
- (9) Driving directions from the nearest town; and
- (10) Signature under oath "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

**35:15-34-10. Carcass disposal**

(a) Owners and operators of feral swine facilities shall comply with all carcass disposal requirements.

(b) The following methods may be used for disposal of carcasses from a feral swine facility:

- (1) Rendering,
- (2) Landfill,
- (3) Burial,
- (4) Incineration, or

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- (5) ~~Taxidermy, or~~
- (65) ~~Composting.~~
- (c) Carcass disposal areas shall be located a minimum of thirty ~~(30)feet(30) feet~~ from any live swine.
- (d) The owner or operator shall comply with Title 2, Section 2-18.1 and Title 21, Sections 1222, 1223, and 1224 at all times.

## 35:15-34-11. Inspections

- (a) Each licensed feral swine facility shall be inspected by the Department at least annually.
- (b) Any sporting facility that is licensed by the Oklahoma Department of Wildlife Conservation as a commercial hunting area may be exempt from the annual inspection upon Department approval.
- (bc) Prelicensing inspections:
  - (1) Upon submission of a complete application, the Department shall schedule an onsite meeting and inspection to review the feral swine facility.
  - (2) The Department shall review the location of the feral swine facility, including perimeter fencing, gates, ~~feed bunkers, shelter,~~ carcass disposal areas, and any other facilities for the location.
  - (3) The Department may request appropriate changes to the feral swine facility design.
  - (4) In no case shall a license for a feral swine facility be granted unless the Department has conducted a prelicensing inspection and the Department has approved the facility based on that inspection.
  - (5) The license shall be revoked for any facility that does not construct or operate the facility in accordance with the approved prelicensing inspection.

## 35:15-34-13. License fees

- (a) ~~Category I sporting facility:~~
  - (1) ~~Application fee - \$225.~~
  - (2) ~~Renewal fee - \$125.~~
- (ba) ~~Category II sporting~~ Sporting facility:
  - (1) Application fee - \$325.
  - (2) Renewal fee - \$200.
- (b) ~~Breeding facility:~~
  - (1) ~~Application fee - \$500.~~
  - (2) ~~Renewal fee - \$250.~~
- (eb) ~~Buying station~~ Handling facility:
  - (1) Application fee - \$125.
  - (2) Renewal fee - \$75.
- (d) ~~Gathering station:~~
  - (1) ~~Application fee - \$125.~~
  - (2) ~~Renewal fee - \$75.~~

## 35:15-34-15. Holding facilitiespens

- (a) A ~~gathering station~~ handling facility license shall not be required of any feral swine facility that is a temporary holding facilitypen where no individual feral swine is held for more than ~~thirty (30) seven (7) days with cleaning and disinfection between groups of feral swine.~~
- (b) Any owner or operator shall consent to inspections by the Department to determine compliance with this provision and

shall provide any available documentation to show compliance with this provision.

- (c) Any owner of a holding pen shall hold a valid transporter license.
- (d) The perimeter fence of a holding pen shall be constructed in a manner to prevent the escape of enclosed feral swine and unsolicited additions of feral swine from outside the enclosure.

## 35:15-34-17. Existing facilities [REVOKED]

~~Facilities in existence on the effective date of these rules shall not be required to comply with the 1 1/2 mile setback contained in these rules.~~

## 35:15-34-18. Phenotypic descriptions of feral swine

The Department shall use the following phenotypic descriptions to help differentiate feral swine from domestic swine:

- (1) Bristle-top coloration: Feral swine exhibit bristle tips that are lighter in color than the rest of the hair shaft.
- (2) Dark point coloration: Feral swine exhibit dark brown to black coloration of the distal portions of the snout, ears, tail, and legs. These areas lack light-colored bristle tips.
- (3) Coat coloration: Feral swine exhibit a number of coat coloration patterns. Patterns most frequently observed among wild/feral/hybrid types are wild/grizzled, solid black, solid red/brown, black and white spotted, and black and red/brown spotted patterns.
- (4) Underfur: Feral swine exhibit the presence of underfur that is lighter in color than the overlying dark brown to black bristles/guard hairs.
- (5) Juvenile coat pattern: Juvenile feral swine exhibit striped coat patterns. This consists of a light grayish-tan to brown base coat, with a dark brown to black spinal stripe and three to four irregular longitudinal stripes with dark margins along the entire body.
- (6) Skeletal structure: Feral swine skeletal structure is distinct. Structures include skull morphology, dorsal profile and external body measurements including tail length, head-body length, hind foot length, ear length, shout length and shoulder height.
- (7) Tail structure: Feral swine exhibit straight tails. They contain muscle structure to curl their tails if needed, but the tails are typically held straight. Hybrids exhibit either curly or straight tail structure.
- (8) Ear structure: Feral swine exhibit erect ear structure. Hybrids exhibit either erect or folded/floppy ear structure.

## SUBCHAPTER 36. SCRAPIE

### 35:15-36-1. Incorporation by reference of federal regulations

- (a) ~~The Scrapie in Sheep and Goats Regulations found in Title 9 of the Code of Federal Regulations (CFR) 2010 Revision, Part 79 et seq. for the United States Department of Agriculture~~

(USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety. Regulations of the United States Department of Agriculture concerning scrapie in sheep and goats found at 9 CFR Part 79 (2012 Revision) are adopted by reference with the exception of the deleted regulations specified in 35:15-36-2.

(b) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

**35:15-36-2. Deleted regulations**

The following sections of the Federal regulations governing scrapie in sheep and goats (9 CFR, Part 79 et seq.) (2012 Revision) of the USDA incorporated by reference under 35:15-36-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 79.6 and 79.7.

**SUBCHAPTER 38. BOVINE TRICHOMONIASIS**

**35:15-38-1. Definitions**

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

"**Acceptable specimen**" means a specimen determined satisfactory for diagnostic testing by the testing laboratory, including complete documentation.

"**Approved laboratory**" means any laboratory designated and approved by the state veterinarian for examining T. foetus samples.

"**Approved veterinarian**" means an accredited veterinarian who has attended trichomoniasis training that is approved by the state veterinarian, and the training shall include preputial sampling, sample handling and shipping, appropriate record keeping, and official bull trichomoniasis identification. means a licensed accredited veterinarian who has complied with all Department regulations and educational requirements, and who has been approved by the Department to conduct necessary tests, vaccinations, inspections, and other duties.

"**Bovine**" means any sexually intact male and female animal of the genus bos.

"**Change of ownership**" means control of an animal being transferred between two (2) persons by sale, lease, or lending.

"**Commingle**" means animals of opposite sex and/or belonging to different owners in the same enclosure or pasture with a reasonable opportunity for sexual contact.

"**Complete herd test**" means an official T. foetus test from each non-virgin bull in the herd.

"**Herd**" means the group of animals consisting of all male and female bovines over twelve (12) months of age that have commingled during the last twelve (12) months.

"**Official T. foetus laboratory testing**" means the laboratory procedures that shall be approved by the state veterinarian for culture and identification of T. foetus.

"**Official T. foetus bull test**" means the sampling of the preputial content of a bull by a licensed, accredited and trich

test trichomoniasis certified veterinarian or a veterinarian from the Oklahoma Department of Agriculture, Food, and Forestry. The test shall be conducted after a one week separation from all female bovine and the bull and sample shall be positively and individually officially identified and documented for laboratory submission. The test may consist of three (3) culture tests at least one (1) week apart or one (1) Real Time PCR test. Pooled samples are acceptable

"**Pooled sample**" means a method of sampling where a sample from each bull is submitted in an individual transport pouch and the laboratory mixes aliquots from up to five (5) samples together to economize the test cost.

"**Positive T. foetus bull**" means a bull that has had a positive T. foetus test.

"**Positive T. foetus herd**" means the group of all bovines which have had any opportunity for sexual contact in the previous breeding season and in which any male or female animal has had a positive diagnosis for T. foetus.

"**Negative T. foetus bull**" means a bull that qualifies by one of the following:

(A) originate from a herd not known to be infected and has had a negative official T. foetus bull test within the last year;

(B) originate from a positive herd but has a series of three negative official T. foetus bull tests at intervals of at least one week; or

(C) negative official T. foetus bull tests at intervals of at least one week; or

(D) a negative official T. foetus bull test within thirty (30) sixty (60) days prior to entry with no sexual activity for one (1) week prior to the test and between the test and movement.

"**Suspect T. foetus bull**" means a bull from a positive T. foetus herd that has not yet had three (3) consecutive negative official T. foetus bull tests.

"**Trichomonas (Trichomonas) foetus**" or "**T. foetus**" means a contagious venereal protozoan parasite disease of the trichomonas foetus species that frequently results in lifetime infection of male bovidae as an inapparent carrier and causes infertility, pyometra, abortions and reproductive inefficiency in female bovidae.

"**Unacceptable sample**" means a sample that is deemed not diagnostic by the official testing laboratory.

"**Virgin bull**" means a sexually intact male bovine less than twelve (12) months of age or a sexually intact male bovine between twelve (12) and under twenty-four (24) months of age that has had no breeding and no potential breeding contact with females.

"**Virgin bull affidavit**" means a signed affidavit from the owner, manager, or veterinarian that verifies the bull is less than twenty-four (24) months of age and has had no breeding and no potential breeding contact with females.

**35:15-38-2. Import requirements for bulls**

(a) All bulls entering Oklahoma shall be accompanied by a certificate of veterinary inspection. All non-virgin bulls shall have a negative official T. foetus test within thirty (30) sixty

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~~(60) days prior to entry with no exposure to females from seven (7) days prior to the test to the time of change of ownership.~~

(b) The pre-entry test shall be conducted at a laboratory approved by the American Association of Veterinary Diagnostic Laboratories or the Oklahoma state veterinarian.

(c) No bull that has ever previously tested positive for T. foetus shall enter Oklahoma unless the bull is consigned directly to slaughter and is individually identified for movement on a VS form 1-27.

(d) No bull from a known positive T. foetus herd shall enter Oklahoma unless the bull has three (3) consecutive negative tests at least a week apart within thirty (30) days prior to entry, in addition to a post entry test and the bulls shall be isolated from all females until the in-state test results are known.

(e) The veterinarian issuing the certificate of veterinary inspection shall list the date of the test, name of the laboratory, laboratory accession number, type of test, and result of the test for each bull represented on the certificate of veterinary inspection.

(f) Exceptions to the importation requirements are:

(1) transient rodeo or exhibition bulls that will have no sexual contact with a female bovine and are held in a secure facility to prevent contact, excluding pasture while in Oklahoma;

(2) bulls consigned direct to slaughter; or

(3) bulls consigned to a feedlot for feeding and slaughter purposes where they will be isolated from all females.

## 35:15-38-2.1. Intrastate change of ownership requirements for bulls

(a) Any bull changing ownership within the state of Oklahoma shall have a negative official T. foetus test within ~~thirty (30)~~sixty (60) days prior to change of ownership with no exposure to females from seven (7) days prior to the test to the time of change of ownership.

(b) Exceptions to this rule shall include the following:

(1) A bull accompanied by a virgin bull affidavit;

(2) A bull sold directly to slaughter; or

(3) A bull sold for feeding and slaughter ~~that will be castrated within seven (7) days of change of ownership to be fed in a registered feedlot only and leaves the feedlot only to be slaughtered.~~

(c) Any bull presented for sale at a livestock auction market without a virgin bull affidavit or verification of a negative official T. foetus test:

(1) Shall be tagged for slaughter only and sold for slaughter ~~only on a VS 1-27 form;~~

(2) May go to the purchaser's destination so long as the market veterinarian takes a sample for an official T. foetus test and the purchaser agrees to keep the bull under quarantine at the destination until receipt of negative test results.

(d) A livestock auction market shall not be liable for a virgin bull affidavit verifying no sexual contact with females within seven (7) days prior to arrival at the livestock auction market, and shall not be liable for the results of a market veterinarian's sampling and results for an official T. foetus test.

~~(e) The above requirements shall become effective on January 1, 2011.~~

## SUBCHAPTER 40. BOVINE TUBERCULOSIS

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

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

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

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

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

~~(3) Originate from an accredited tuberculosis free herd.~~

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

~~(c) For purposes of this section a biennial negative caudal fold tuberculin test shall occur at an interval of not less than twenty two (22) nor more than twenty six (26) months and be valid for a period of two (2) years.~~

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

## SUBCHAPTER 42. TUBERCULOSIS ERADICATION IN CERVIDAE

### PART 1. DEFINITIONS [REVOKED]

#### 35:15-42-1. Definitions [REVOKED]

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

~~"Accredited Herd (Cervidae)" means a herd that has passed three (3) or more consecutive negative official tuberculosis tests of all eligible animals conducted at not less than nine (9) nor more than fifteen (15) month intervals, has no evidence of bovine tuberculosis and meets the standards of this Subchapter.~~

~~"Adjacent Herd" means a group or groups of cervids, cattle, bison, or dairy goats sharing common pasture, or having other direct contact with the affected herd, and herds containing previous purchases from or exchanges with the affected herd. Herds separated by a single fence are considered contact or adjacent herds.~~

~~"Affected Herd" means a herd of cervids that contains, or has recently contained, one (1) or more animals infected with Mycobacterium bovis, and that has not passed the required tests necessary for release from quarantine.~~

~~"Annual Tests" means those tests conducted at intervals of not less than ten (10) months nor more than fourteen (14) months.~~

**"Approved Laboratory"** means a state, federal, or other USDA approved veterinary diagnostic laboratory. The primary laboratory for tuberculosis histopathology and bacteriology culture shall be the National Veterinary Services Laboratories (NVSL), Ames, IA. Food Safety and Inspection Service (FSIS) field service laboratories may be utilized for histopathology.

**"Area Veterinarian In Charge (AVIC)"** means the veterinary official of Veterinary Services (VS), APHIS, USDA, who is assigned by the Deputy Administrator to supervise and perform official APHIS animal health work.

**"Cervidae"** means all species of deer, elk and moose raised under confinement and/or agricultural conditions for the production of meat, the production of other agricultural products, sport or exhibition.

**"Comparative Cervical Tuberculin (CCT) Test"** means the intradermal injection of biologically balanced bovine purified protein derivative (PPD) tuberculin and an avian PPD tuberculin at separate sites in the midcervical area and a determination as to the probable presence of bovine tuberculosis (*Mycobacterium bovis*) by comparing the responses of the two (2) tuberculins seventy two (72) hours (+ or - 6 hours) following injection. This test shall be administered only by a full time state or federal regulatory veterinarian.

**"Designated Accredited Veterinarian"** means an accredited veterinarian trained and approved by state or federal representatives to conduct the single cervical test for tuberculosis on cervids.

**"Direct Shipment to Slaughter"** means the shipment of tuberculosis reactors, tuberculosis suspects, and tuberculosis exposed cervids from the premises of origin by permit directly to a slaughter establishment operating under state or federal inspection without diversion to assembly points of any type.

**"Exposed Animals"** means Cervidae that have associated with or been in direct contact with animals known to be tuberculous.

**"Herd"** means one or more cervids, or a group of cervids and other hoofed stock, maintained on common ground or two (2) or more groups of cervids and other hoofed stock under common ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status.

**"Herd Depopulation"** means the removal of all Cervidae exposed to bovine tuberculosis in a herd directly to slaughter prior to any restocking of the premises with cervids.

**"Herd Plan"** means a herd management and testing agreement designed by a state or federal regulatory veterinarian and the herdowner that will control and eventually eradicate bovine tuberculosis from an affected, adjacent, or exposed herd of Cervidae.

**"Monitored Herd"** means a herd raised under range conditions on which identification records are maintained for animals over one (1) year of age that are slaughtered and inspected for tuberculosis at an approved state or federal slaughtering facility or an approved laboratory. The animals slaughtered shall be identified to the herd and the number slaughtered shall be evenly distributed over a three (3) year period at a rate to

detect infection at a two percent (2%) prevalence level with ninety five percent (95%) confidence.

**"Natural Additions"** means animals born and raised in a herd.

**"Negative Animals"** means cervids that show no response to a tuberculosis test or have been classified negative by the testing veterinarian or designated epidemiologist based upon history, supplemental test, examination of carcasses or laboratory results.

**"No Gross Lesion (NGL) Animals"** means cervids that do not reveal one or more lesions of bovine tuberculosis upon postmortem examination.

**"Official Tuberculosis Test (Cervidae)"** means a test for bovine tuberculosis applied and reported by approved personnel in accordance with this Subchapter. The official tests for Cervidae are the single cervical test, the comparative cervical test, and any other test that is approved by the United States Department of Agriculture (USDA).

**"Permit"** means an official document issued by an authorized agent of the Board of Agriculture, a representative of APHIS VS, or an accredited veterinarian that is required to accompany reactor, suspect, or exposed cervids to slaughter. The permit will list the reactor tag number, or in the case of suspect or exposed cervids, an official eartag number; the owner's name and address; origin and destination locations; number of cervids covered; and the purpose of the movement. If a change in destination becomes necessary, a new permit shall be issued by authorized personnel. No diversion from the destination on the permit is allowed.

**"Qualified Herd"** means a cervid herd that has undergone at least one (1) complete official negative test of all eligible animals within the previous twelve (12) months and is not classified as an accredited herd, has no evidence of bovine tuberculosis, and meets the standards of this Subchapter.

**"Reactor"** means any cervid that shows a response to an official tuberculosis test and is classified a reactor by the testing veterinarian or designated epidemiologist.

**"Single Cervical Tuberculin (SCT) Test (Cervidae)"** means the intradermal injection of 0.1 milliliters (5,000 tuberculin units) of USDA PPD-bovis tuberculin in the midcervical region with reading by visual observation and palpation in seventy two (72) hours (+ or - 6 hours) following injection. This test shall be administered only by a state, federal or designated accredited veterinarian.

**"Suspect"** means any cervid that shows a response to the single cervical tuberculin test and is not classified as a reactor; or is not classified as negative or a reactor by a supplemental tuberculosis test.

**"Tuberculin"** means a product that is approved by and produced under USDA license for the intradermal injection of cervids for the purpose of detecting bovine tuberculosis.

**"Tuberculosis"** means a disease in Cervidae caused by *Mycobacterium bovis* (*M. bovis*).

**PART 3. RULES ADOPTED FROM USDA  
UNIFORM METHODS AND RULES FOR  
TUBERCULOSIS ERADICATION IN CERVIDAE  
[REVOKED]**

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### 35:15-42-31. Authority to require test [REVOKED]

The State Veterinarian or any accredited veterinarian as defined by USDA APHIS working under his direction upon reliable information that tuberculosis exists in any Cervidae or that any cervids may have been exposed to tuberculosis may cause an official tuberculosis test be applied to such cervids. The State Veterinarian reserves the right to supervise, or have supervised, any test conducted by an accredited veterinarian. Should the owner or caretaker refuse or neglect to comply with the instructions of the accredited veterinarian, the State Veterinarian or his duly authorized representative or authorized agent, said cervids shall be quarantined and the quarantine shall prohibit the movement of any cervids from said premises.

### 35:15-42-32. Personnel authorized to apply tuberculin tests [REVOKED]

Tuberculin tests in Cervidae shall be applied by a veterinarian employed as a full time state or federal regulatory veterinarian or by a designated accredited veterinarian. Technicians or livestock inspectors employed by state or federal governments, and approved by said governments, may conduct tuberculin tests in Cervidae when directly supervised by state or federal veterinarians.

### 35:15-42-33. Presumptive diagnostic test [REVOKED]

The single cervical tuberculin (SCT) test is the official tuberculin test for use in individual cervids and herds of such animals where their tuberculosis status is unknown.

### 35:15-42-34. Supplemental diagnostic tests [REVOKED]

The comparative cervical tuberculin (CCT) test or any other test approved by the USDA shall be used for the retesting of suspects.

### 35:15-42-35. Primary/diagnostic tests [REVOKED]

The single cervical tuberculin test is the primary test for use in herds affected with bovine tuberculosis. In such herds, the SCT test shall be applied only by a full time state or federal regulatory veterinarian. In the event new technology and advancements provide alternative testing procedures which are approved by the USDA, the State Veterinarian may alter testing procedures listed in this Subchapter to conform and utilize the new approved methods and tests.

### 35:15-42-36. Tuberculin test interpretation [REVOKED]

Decisions regarding tuberculin test interpretations will be based upon the professional judgement of the testing veterinarian after observation and palpation of the injection site and in accordance with the policies established by the cooperating state and federal officials and the test requirements discussed

in 35:15-42-37. The injection site on each animal shall be observed and palpated. Observation without palpation is not acceptable and shall constitute a violation of rules adopted by the Board of Agriculture.

### 35:15-42-37. Classification of Cervidae tested [REVOKED]

(a) ~~Single cervical tuberculin test.~~ In herds of unknown status, all responses to the SCT test shall be recorded and the animals classified as suspects and quarantined for retest with the CCT test unless in the judgement of the testing veterinarian, the reactor classification is indicated. In known affected herds all responses shall be recorded and the animals classified as reactors.

(b) ~~Comparative cervical tuberculin test.~~ All responses are to be measured to the nearest 0.5 millimeters. Animals having a response to bovine PPD of less than one (1) millimeter should be classified negative. Animals having a response to bovine PPD of one (1) millimeter through two (2) millimeters and also equal or greater than the responses to the avian PPD shall be classified as suspects. Animals having a response to bovine PPD greater than two (2) millimeters, but equal to the response to avian PPD, shall be classified as suspects except when in the judgement of the testing veterinarian, the reactor classification is indicated. Animals meeting the criteria for suspect classification on two (2) successive CCT tests shall be classified as reactors. Animals having a response to bovine PPD that is greater than two (2) millimeters and is at least 0.5 millimeters greater than the avian PPD response shall be classified as reactors.

(c) ~~Retest of suspects.~~ Suspects to the SCT test may be retested by either the CCT. The CCT may be applied within ten (10) days following the SCT test injection or after ninety (90) days. If the CCT test is applied within ten (10) days of the SCT test, the opposite side of the neck shall be used. Animals positive to the CCT test shall be classified as reactors.

(d) ~~Reclassification of animals.~~ Suspects to the SCT test may be necropsied in lieu of retesting by supplemental test and, if found without evidence of *M. bovis* infection by histopathology (including selected specimens submitted from animals having no gross lesions indicative of tuberculosis) or culture, shall be considered negative for tuberculosis.

### 35:15-42-38. Intrastate movement [REVOKED]

No Cervidae with a response to an official tuberculin test is eligible for intrastate movement unless said Cervidae are subsequently classified "negative for *M. bovis*" based on an official supplemental test or meet the requirements for movement in 35:15-42-41.

### 35:15-42-39. Reporting of tests [REVOKED]

A report of all tuberculin tests (SCT and CCT), including the individual identification of each animal by eartag number or tattoo, age, sex, and breed and a record of the size of the response where indicated and test interpretation, shall be submitted to the Oklahoma Department of Agriculture, Animal

Industry Services Division, within ten (10) days of the date the test is read.

**35:15-42-40. Procedures in affected herds  
[REVOKED]**

~~Disclosure of tuberculosis in any herd shall be followed by a complete epidemiologic investigation and written report. All cervids in the herd from which tuberculous animals originate and all cervids that are known to have associated with affected cervids or other affected animals shall be tested or an approved herd plan must be on file within thirty (30) days of the date disclosed. These procedures shall apply to adjacent and contact herds as well as to the evaluation and testing of possible source herds for the affected herd. Herds that have received exposed animals shall be tested following the slaughter or testing of the exposed animals. Every effort shall be made to insure the immediate elimination of the disease from all species of animals on the premise. The herd shall be handled as outlined under 35:15-42-43.~~

**35:15-42-41. Disposition of tuberculin responding Cervidae [REVOKED]**

~~(a) Reactors shall remain on the premises where they were disclosed until a state or federal permit for movement has been obtained. Movement for immediate slaughter will be within fifteen (15) days of classification directly to a slaughter establishment where approved state or federal inspection is maintained. Alternatively, the animals may be destroyed and a necropsy may be conducted by or under the supervision of a full time state or federal regulatory veterinarian trained in tuberculosis necropsy procedures.~~

~~(b) Herds containing suspects to the SCT test shall be quarantined until the suspect animals are:~~

- ~~(1) retested negative by the CCT test within ten (10) days of the SCT test injection;~~
- ~~(2) retested negative by the CCT test after ninety (90) days; or~~
- ~~(4) shipped under permit directly to a slaughter facility under state or federal inspection or may be necropsied by or under the supervision of a full time state or federal regulatory veterinarian trained in tuberculosis necropsy procedures. If such animals are found without evidence of M. bovis infection by histopathology (including selected specimens submitted from animals having no gross lesions indicative of tuberculosis) or culture, they shall be considered negative for tuberculosis.~~

~~(c) Suspects to the CCT test shall remain under quarantine until:~~

- ~~(1) comparative cervical suspects are tested negative using the CCT test after ninety (90) days; or~~
- ~~(3) shipped under permit directly to a slaughter facility under state or federal inspection or necropsied by or under the supervision of a full time state or federal regulatory veterinarian trained in tuberculosis necropsy procedures. Such animals shall be considered tuberculosis negative unless evidence of the disease is found by culture~~

~~or histopathology (including selected specimens submitted from animals having no gross lesions).~~

~~(d) An animal meeting the suspect criteria on two (2) successive CCT tests shall be classified as a reactor and be identified as such. The testing veterinarian must justify exceptions in writing and have the concurrence of state or federal animal health officials.~~

~~(e) All Cervidae necropsied shall be properly disposed at owner's expense by a method approved by the Board and under the supervision of a full time state or federal regulatory veterinarian~~

**35:15-42-42. Identification of reactor Cervidae  
[REVOKED]**

~~Reactor cervids shall be identified by branding with the letter "T" on the tail head, not less than two (2) inches wide nor less than three (3) inches high, and by tagging with an official eartag bearing a serial number and the inscription US Reactor, or a similar state approved reactor tag suitably attached to the left ear of each animal. In lieu of branding, the reactor(s) may be shipped to slaughter in an officially sealed vehicle or accompanied to slaughter by a state/federal regulatory official.~~

**35:15-42-43. Quarantine procedures for Cervidae  
[REVOKED]**

~~(a) All herds in which reactor animals are disclosed shall be quarantined. The remaining exposed animals must remain on the premises where the disease was disclosed unless a state or federal permit for movement to slaughter has been obtained. Movement for immediate slaughter must be direct to a slaughter establishment where approved state or federal inspection is administered. Exposed animals must be identified by official eartag and "S" branded prior to shipment, or animals must be shipped in an officially sealed vehicle. The "S" brand shall be applied to the tail head.~~

~~(b) Cervid herds in which M. bovis is confirmed (affected herds) shall remain under quarantine, if not depopulated, and must pass three (3) consecutive negative whole herd SCT test. All animals positive to the test shall be classified as reactors. The first test must be conducted not less than ninety (90) days after the last test yielding a positive animal, and two (2) additional tests must be conducted at not less than 180 day intervals. The CCT test shall not be used in affected herds until the completion of two (2) consecutive negative whole herd tests or two (2) consecutive whole herd tests with NGL reactors only in which selected tissues are negative on histopathology and culture. Five (5) annual whole herd tests of all animals shall be conducted following the release from quarantine.~~

~~(c) Cervid herds that have had a test of all eligible animals with NGL reactors only and on evidence of tuberculosis infection found by histopathology and culture of M. bovis (including selected specimens submitted from animals having no gross lesions indicative of tuberculosis) may be released without further restrictions.~~

~~(d) Cervid herds in which one (1) or more animals are found to have compatible or suggestive lesions by histopathology~~

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without the isolation of *M. bovis* may be released from quarantine following a negative 90-day retest of the entire herd and with the concurrence of the regional tuberculosis epidemiologist provided that there is no known association with *M. bovis*.

(e) Cervid herds with NGL reactors only (in which no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis*) and such herds where all eligible animals cannot be tested shall be evaluated by the state and/or regional tuberculosis epidemiologist for possible release of quarantine.

(f) The issuance of a quarantine may be waived if the State Board of Agriculture or the State Veterinarian enters into a formal cooperative agreement with the affected party that will control and eradicate *M. bovis* from the cervid herd.

### 35:15-42-44. Retest schedules for high risk cervid herds [REVOKED]

(a) In herds with a history of lesions compatible or suggestive for tuberculosis by histopathology (without isolation of *M. bovis*), two (2) annual whole herd tests shall be given after release from quarantine. Herds with a bacteriologic isolation of a microbacteria species other than *M. bovis* should be considered negative for bovine tuberculosis with no further testing requirements.

(b) In a newly assembled herd on premises where a tuberculous herd has been depopulated, two (2) annual whole herd tests shall be conducted. The first test is to be given not less than six (6) months nor more than one (1) year after assembly of the new herd. If the premises has been vacated for more than one (1) year, these requirements may be waived.

(c) Exposed animals previously sold from known affected herds shall be depopulated if possible or tested with the SCT test by full-time state or federal regulatory veterinarians. All animals positive to the test shall be classified as reactors.

(1) If bovine tuberculosis is confirmed in the exposed animal(s), the remainder of the receiving herd shall be tested with the SCT test by full-time state or federal regulatory veterinarians. All animals positive to the test shall be classified as reactors.

(2) If negative to the test, the exposed animals will subsequently be handled as if they were part of the affected herd of origin for purposes of testing, quarantine release, and the five (5) annual high risk tests; also, the remainder of the herd shall be retested in one (1) year with the SCT test. Supplemental diagnostic tests may be used if needed.

(d) Herds indicated as the source of an infected animal in slaughter traceback investigations shall be placed under quarantine within 30 days of notification to the State Veterinarian, and a complete herd test shall be scheduled within 30 days. Testing of source herds of slaughter animals having lesions of tuberculosis shall be done by full-time state or federal regulatory veterinarians. If the herd of origin is positively identified and *M. bovis* has been confirmed by bacterial isolation from the slaughtered animal, all animals responding to the SCT test shall be classified as reactors. In all other cases, supplemental diagnostic tests may be used.

(e) Herds identified as the source of animals found to have tuberculous lesions in an affected herd shall be tested by full-time state or federal regulatory veterinarians using the SCT

test. Responding animals may be classified as reactors or suspects. If classified as suspects, they may be retested by supplemental diagnostic tests.

(f) In the event new technology and advancements provide alternative testing procedures which are approved by the USDA, the State Veterinarian may alter testing schedules listed above to conform and utilize the new and improved methods and tests.

### 35:15-42-45. Cleaning and disinfection of premises, conveyances, and materials [REVOKED]

All premises, including all structures, holding facilities, conveyances, and materials that are determined by the appropriate cooperating state/federal officials to constitute a health hazard to humans or animals because of tuberculosis, shall be properly cleaned and disinfected. This shall be done within fifteen (15) days after the removal of tuberculosis affected or exposed cervids in accordance with procedures approved by state or federal officials. These officials, for reasons satisfactory to them, may extend the time limit for disinfection when a request for such extension is received prior to the expiration date of the original fifteen (15) day period allowed.

### 35:15-42-46. Identification of Cervidae [REVOKED]

All Cervidae tested shall be individually identified by official eartag, individual tattoo, or any other identification method approved by the State Veterinarian at the time of an official test. Devices easily removed and transferred are not satisfactory.

## PART 5. HERD STATUS REQUIREMENTS [REVOKED]

### 35:15-42-51. Minimum standards for accreditation and reaccreditation for Cervidae herds [REVOKED]

(a) **Animals to be tested.** Testing of herds for accreditation or reaccreditation shall include all Cervidae twelve (12) months of age or older.

(b) **Qualifying standards.** To meet the requirements for accredited herd status, the herd must pass at least two consecutive negative official tests for tuberculosis conducted at not less than nine (9) nor more than fifteen (15) month intervals with no evidence of bovine tuberculosis disclosed.

(c) **Additions.** Herd additions must originate directly from one of the following sources and have no exposure to cervids from herds of lesser status than the additions' herd of origin:

(1) An accredited herd, (or)

(2) A qualified or monitored herd provided that the individual animals for addition are negative to an official tuberculosis test conducted not more than ninety (90) days prior to entry and isolated from members of the accredited herd until negative to an official tuberculosis test conducted not less than ninety (90) days following entry, (or)

(3) Individual animals for additions from herds not meeting the requirements listed above must be isolated from all other members of the herd of origin and must

pass two (2) negative official tests for tuberculosis conducted at least ninety (90) days apart, with the second test conducted within ninety (90) days prior to movement to the premises of the accredited herd.

(d) **Reaccreditation.** To qualify for reaccreditation, the herd must pass a test within dates specified by the Department. The accreditation period will be thirty six (36) months from the anniversary date.

**35:15-42-52. Minimum standards for monitored herd status for Cervidae [REVOKED]**

(a) **Requirements.** For a herd to be eligible for monitored herd status, identification records must be maintained on animals one (1) year of age and older, slaughtered, inspected, and found negative for tuberculosis at an approved slaughter facility or at an approved diagnostic laboratory. A monitored herd must identify animals at slaughter at a rate to detect infection at a two percent (2%) prevalence level with ninety five (95%) confidence evenly distributed over a three (3) year period. The number of animals examined for a given herd size are listed below:

- (1) For a herd size of 100, examine 50 animals.
- (2) For a herd size of 200, examine 100 animals.
- (3) For a herd size of 300, examine 120 animals.
- (4) For a herd size of 400, examine 125 animals.
- (5) For a herd size of 500, examine 128 animals.
- (6) For a herd size of 600, examine 130 animals.
- (7) For a herd size of 700, examine 133 animals.
- (8) For a herd size of 800, examine 135 animals.
- (9) For a herd size of 900, examine 138 animals.
- (10) For a herd size of 1000, examine 140 animals.
- (11) For a herd size of 1200, examine 142 animals.
- (12) For a herd size of 1300, examine 144 animals.
- (13) For a herd size of 1400, examine 145 animals.
- (14) For a herd size of 1500, examine 146 animals.
- (15) For a herd size of 1600, examine 147 animals.
- (16) For a herd size of 1700, examine 148 animals.
- (17) The maximum number of animals required for post-mortem examination would be one hundred forty eight (148) animals.

(b) **Maintenance of monitored herd status.** For monitored herd status to be renewed, an annual report shall be submitted by the person, firm or corporation responsible for the management of the cervid herd to the State Veterinarian prior to the anniversary date. This report shall give the number of animals currently in the herd and the number of animals over one (1) year of age identified and slaughtered at a state or federally approved slaughter facility during the preceding year. The number of slaughter inspections reported in any given year must be at least twenty five percent (25%) of the number required to initially qualify a herd of this size for monitored herd status; provided however, that during each consecutive three (3) year period, 100% of the initial qualifying total shall be achieved.

(c) **Additions.** Herd additions must originate directly from an accredited herd or a qualified or monitored herd provided that the individual animals for addition were negative to an official tuberculosis test conducted within ninety (90) days prior

to entry. Individual animals for addition originating from herds which are not accredited, qualified, or monitored must be isolated from other members of the herd of origin and must have negative results to two (2) official tests for tuberculosis conducted at least ninety (90) days apart, provided that the second test was conducted within ninety (90) days prior to movement to the premise of the monitored herd. The additions must be kept in isolation from all members of the monitored herd until they are negative to an official tuberculosis test conducted not less than ninety (90) days following the date of entry. Animals from other than accredited, qualified, or monitored herds shall not receive monitored herd status for sale purposes until they are negative to a retest ninety (90) days after entry.

**35:15-42-53. Minimum requirements for qualified herd status for Cervidae [REVOKED]**

(a) **Animals to be tested.** Testing of herds for qualification shall include all Cervidae over twelve (12) months of age and any animals under twelve (12) months of age that are not natural additions. All natural additions shall be individually identified by official eartag and be recorded on the test charts as members of the herd at the time of the herd test.

(b) **Qualifying standards.** To meet the requirements of qualified herd status, the herd must be administered one (1) official test for tuberculosis with results indicating no evidence of bovine tuberculosis. The qualified herd status remains in effect for twelve (12) months following the qualifying test.

(c) **Additions.** Herd additions must meet the same criteria as listed under additions for the monitored herd status, 35:15-42-52. Animals added from herds other than accredited, qualified, or monitored shall not receive qualified herd status for sale or movement purposes until they are negative to a retest ninety (90) days after entry.

**35:15-42-54. Incorporation by reference of federal regulations**

Title 9, sections 77.20 through 77.41 of the Code of Federal Regulations (2012 Revision) and the requirements contained therein pertaining to the eradication of tuberculosis in cervidae, unless otherwise specified, adopted and incorporated by reference in their entirety.

**SUBCHAPTER 44. FARMED CERVIDAE**

**35:15-44-1. Purpose**

The purpose of these rules is to establish procedures and requirements for the licensing of farmed cervidae facilities. These rules shall not apply to any cervidae facilities owned or operated for the purpose of commercial hunting of farmed or captive bred cervidae regulated by the Oklahoma Department of Wildlife Conservation or cervidae facilities owned or operated for the purpose of exhibition of farmed or captive bred cervidae regulated by the United State Department of Agriculture's Animal Care Division.

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## 35:15-44-19. Entry and export requirements

(a) Import of cervidae shall be accompanied by a Certificate of Veterinary Inspection and a Cervidae Import Permit approved or provided by the Department.

(1) The import permit shall be valid for thirty (30) days from approval.

(2) Cervidae Import Permit applications shall be submitted to the Department no less than ~~four~~ (4)three (3) working days prior to the scheduled shipment.

(b) ~~Cervidae shall be officially identified prior to import have two forms of identification. One (1) of these two (2) forms of identification shall be official identification.~~

(c) All cervidae six (6) months or older shall test negative for brucellosis thirty (30) days prior to entry or originate from a certified brucellosis free herd.

(d) All cervidae six (6) months or older shall meet one of the following criteria prior to entry:

(1) Classified negative to two (2) official tuberculosis test that were conducted no less than ninety (90) days apart with the second test conducted no more than ninety (90) days prior to the date of movement and recorded on the Certificate of Veterinary Inspection.

(2) Originate from a Qualified Herd and test negative to an official tuberculosis test conducted no more than ninety (90) days prior to the date of movement. The Qualified Herd number and date of the qualifying test shall be recorded on the Certificate of Veterinary Inspection.

(3) Originate from an Accredited Free Herd provided the Accredited Free Herd number and date of last test are recorded on the Certificate of Veterinary Inspection.

(e) All cervidae, with the exception of fallow deer, shall originate from a chronic wasting disease certified herd from a county where no chronic wasting disease has been confirmed in native cervidae populations.

## 35:15-44-20. Animal identification requirements

(a) All cervids twelve (12) months or older shall be individually identified by at least one form of ~~official~~ identification approved by the Department.

(b) All cervids of any age shall be individually identified by at least one form of ~~official~~ identification prior to movement from the original herd premises.

## SUBCHAPTER 47. CHRONIC WASTING DISEASE (CWD) IN CERVIDS

### PART 1. GENERAL

#### 35:15-47-2. Definitions

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

**"Affected herd"** means a herd of cervidae that contains or has contained one or more animals infected with chronic wasting disease.

**"Certified CWD sample collector"** means an individual who has completed appropriate training recognized by the Department on the collection and preservation of samples for CWD testing and on proper record keeping, and who has been certified to perform these activities by the Department.

**"Cervidae"** means, for the purposes of this Subchapter only, white-tail deer, black-tail deer, mule deer, red deer (European elk), and elk but does not include members of the cervidae family that are not susceptible to CWD.

**"Herd"** means one or more cervidae maintained on common ground and includes all cervidae under single or multiple ownership or supervision that are geographically separated but can have an interchange of cervidae between the groups.

**"Herd plan"** means a herd management and testing agreement developed by state and federal animal health officials in conjunction with the herd owner. A herd plan shall be valid only upon approval by the State Veterinarian.

**"Suspect animal"** means a cervid that displays clinical signs suggestive of CWD, including but not limited to, weight loss, poor condition, drooling, behavioral abnormalities, incoordination, weakness, or recumbency.

### PART 3. HERD CERTIFICATION STANDARDS

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

~~(a) Herd owners shall have perimeter fencing adequate to confine their cervidae and prevent access by other cervidae.~~ Regulations of the United States Department of Agriculture concerning the control of CWD found at 9 CFR Part 55 (2012 Revision) are adopted by reference.

~~(b) Herd owners shall ensure that CWD surveillance testing is performed on all deaths occurring in cervidae over sixteen (16) months of age. The State Veterinarian may approve exemptions from this requirement on a case by case basis or if exceptionally high mortality rates occur.~~

~~(c) Herd owners shall maintain the highest quality sampling for use in the surveillance testing. The State Veterinarian may adjust the surveillance levels and may adjust, suspend, or revoke herd status if poor quality samples are routinely submitted from a premise.~~

~~(d) An accredited veterinarian or state or federal animal health official shall perform an annual verification of the herd inventory between dates specified by the Department. The annual verification shall include:~~

~~(1) A verification of the identity of all cervidae listed on the herd inventory;~~

~~(2) Specific information on the disposition of each cervid no longer with the herd;~~

~~(3) The origin of each herd addition since the last herd inventory;~~

~~(4) Information on any cervidae subgroups within the herd; and~~

~~(5) Detail of all management including movement between the subgroups for the purpose of assessing risk to other cervidae on the premises in the event a CWD positive cervid is diagnosed.~~

(e) Herd owners shall report all cervidae deaths within forty-eight (48) hours and maintain documentation on any cervidae movement.

(f) Each cervid twelve (12) months of age or older and all purchased additions shall have at least two (2) forms of permanent identification approved by the Board. At least one of the two (2) forms of identification shall be USDA approved official identification.

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

(h) Herd status.

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

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

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

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

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

(k) Herd owners shall maintain a minimum of thirty (30) feet of separation at all times between a certified herd and any non-certified confined herd.

(c) All deaths of cervids twelve (12) months of age or older, regardless of cause of death, shall have the obex and medial retropharyngeal lymph nodes samples and submitted to an approved laboratory by a certified CWD sample collector. CWD sample collectors shall submit written test results to the Department within seven (7) days after receiving said test results from the laboratory.

(d) If eligible animal deaths are not tested due to a missed sample, improper sample, or untestable sample, an additional live animal over twelve (12) months of age shall be sacrificed for sampling.

(e) The State Veterinarian may relax the minimum requirements for herd certification for extraordinary circumstances.

(f) Herd owners shall report any animals displaying clinical signs of CWD, which may include but are not limited to, weight loss, behavioral changes, excessive salivation, increased drinking and urination, and depression.

**PART 7. INTERSTATE MOVEMENT REQUIREMENTS**

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

(a) A person shall not import white tail deer, black tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma if the state of origin has ever had any free ranging cervidae infected with CWD. The State Veterinarian may grant an exemption from this requirement but only under quarantine restrictions. Regulations of the United States Department of Agriculture concerning the interstate movement of cervidae found at 9 CFR Part 81 (2012 Revision) are adopted by reference.

(b) A person shall not import white tail deer, black tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma unless the herd of origin has participated for a minimum of five (5) years in a state or federal CWD herd certification program that imposes response measures for positive and trace herds at least equal to the Oklahoma requirements, except in the following circumstances: Caribou and Reindeer shall meet all interstate movement regulations that apply to cervidae found at 9 CFR Part 81 (2012 Revision).

(1) The herd of origin was enrolled in an equivalent state or federal CWD monitoring program prior to July 1, 2002;

(2) The herd of origin was enrolled in an equivalent state or federal CWD monitoring program for a minimum of three (3) years prior to July 1, 2006; or

(3) The herd of origin was enrolled in an equivalent state or federal CWD monitoring program for a minimum of four (4) years prior to July 1, 2007.

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

[OAR Docket #13-682; filed 4-29-13]

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

[OAR Docket #13-679]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

- Subchapter 3. Swine Feeding Operations
  - 35:17-3-11. Pollution Prevention Plan (PPP) [AMENDED]
  - 35:17-3-14. Swine Waste Management Plans [AMENDED]
  - 35:17-3-18. Employee education and training [AMENDED]
  - 35:17-3-19. Owner inspections [AMENDED]
- Subchapter 4. Concentrated Animal Feeding Operations
  - 35:17-4-5. Notice requirements [AMENDED]
  - 35:17-4-9. Pollution Prevention Plan (PPP) [AMENDED]
- Subchapter 5. Registered Poultry Feeding Operations
  - 35:17-5-2. Definitions [AMENDED]
  - 35:17-5-3. Registration, Nutrient Management Plan (NMP) and Animal Waste Management Plan (AWMP) required [AMENDED]
  - 35:17-5-5. Nutrient Management Plan and Animal Waste Management Plan requirements [AMENDED]
  - 35:17-5-10.1. Violation points system [AMENDED]

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**AUTHORITY:**

OKLA. CONST., Art. 6, § 31; 2 O.S. §§ 2-4; 2A-1 - 2A-29; and 10-9 - 10-10.5.

**DATES:****Comment period:**

November 1, 2012 through December 4, 2012

**Public hearing:**

December 4, 2012

**Adoption:**

January 29, 2013

**Submitted to Governor:**

January 30, 2013

**Submitted to House:**

January 30, 2013

**Submitted to Senate:**

January 30, 2013

**Gubernatorial approval:**

February 11, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2013.

**Final adoption:**

March 28, 2013

**Effective:**

July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed amendments make changes necessary for the rules comply with changes in law, specifically, 2 O.S. §20-7 as amended by HB 2353 and 2 O.S. §20-9 amended by HB 2786, make minor grammatical corrections, add a definition for "Nutrient Management Plan", and add references to "Nutrient Management Plans".

**CONTACT PERSON:**

Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.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, 2013:**

## SUBCHAPTER 3. SWINE FEEDING OPERATIONS

### 35:17-3-11. Pollution Prevention Plan (PPP)

(a) Prior to the submission of a CAFO license application, each facility shall develop a Pollution Prevention Plan (PPP) according to the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant to the Act. The Plan shall include provisions for documentation of structural controls, documentation of operating Best Management Practices (BMPs), a Swine Waste Management Plan, a carcass disposal plan for normal and emergency disposal of carcasses, and record keeping provisions. The Plan shall identify an individual who is responsible for implementing, maintaining, and revising the PPP. The PPP for an LMFO shall also include an Odor Abatement Plan (OAP) and a Pest Management Plan (PMP).

(b) Equivalent measures contained in a site specific swine waste management plan prepared by the United States Department of Agriculture, Natural Resources Conservation Service (NRCS) may be substituted for the appropriate PPP requirements. An AWMP developed by USDA NRCS can be substituted for the documentation of land application rate calculations.

(c) With Department approval, the owner shall amend the PPP prior to any change in design, construction, operation, or maintenance, which has significant effect on the potential for the discharge of pollutants to the surface or groundwaters of the State.

(d) The owner shall implement appropriate changes to the Plan within ninety (90) calendar days of notification that the plan does not meet one or more specified minimum requirements unless otherwise provided by the Department. If notice of changes is not received by the Department within the prescribed ninety (90) calendar days, the application shall be denied.

(e) In addition to the requirements of the Act, the PPP shall include:

(1) A list of materials that are used, stored, or disposed of at the facility which may cause pollution. A contingency plan for releases of potential pollutants shall also be included. The PPP shall contain a log of any pollutant releases and clean up of those materials. Documentation of releases shall include any corrective action taken to prevent recurrence.

(2) Testing of groundwater, Nitrogen as Nitrate, total Phosphorous, and fecal coliform bacteria levels shall be performed by an Oklahoma Department of Environmental Quality certified independent testing laboratory at least annually. All testing shall establish a management record, with all costs paid by the owner. Owners of LMFOs shall sample groundwater annually for electrical conductivity, pH, ammonium-nitrogen, nitrate-nitrogen, total phosphorus, and fecal coliform bacteria.

(3) Soil tests from land application sites shall be performed by an Oklahoma Department of Environmental Quality certified testing laboratory or State operated laboratory at least annually. All testing shall establish a management record, with all costs paid by the owner. Owners of LMFOs shall perform soil tests for electrical conductivity, pH, nitrate-nitrogen, ammonium-nitrogen, organic matter, sodium, potassium, calcium, magnesium, available phosphorus, and total nitrogen. Soil test results shall be maintained at the site for as long as the facility is in operation.

(4) Sufficient testing of wastewater in waste storage facilities shall be required at least every three (3) years and performed by a qualified independent testing laboratory. Testing may be required more frequently at an individual facility at the Department's request. All owners of LMFOs shall sample waste retention structure contents annually prior to the first land application of the calendar year. Owners of LMFOs shall sample waste retention structure contents for ammonium-nitrogen, nitrate-nitrogen, total

phosphorus, electrical conductivity, pH, sodium, potassium, calcium, magnesium, total nitrogen, and total solids. Additional parameters may be required upon request of the Department.

(5) A description of management controls appropriate for the facility. The owner initiates these controls. The appropriateness and priorities of any controls shall reflect the identified sources of pollutants at the facility and conform to criteria established by the Act and the Department.

(A) The location and a description of existing surface water controls. Structural controls shall be inspected at least quarterly each year for structural integrity and maintenance. ~~Dates of inspections of the retention structure and a log of the findings of the inspections shall be maintained at the site.~~

(B) Documentation of retention structure capacity shall be submitted to the Department and shall be based upon input parameters, the assumptions and actual calculations, showing volumes for all intermediate steps, used in determining the appropriate volume capacity. All waste retention structures for LMFOs shall be designed for the maximum number of swine that are or will be licensed at the facility. Retention structure capacity shall be based upon the following, at a minimum:

- (i) The runoff volume from open lot surfaces.
- (ii) The runoff volume from areas between open lot surfaces and the retention structure.
- (iii) The rainfall multiplied by the area of the retention structure.
- (iv) The volume of rainfall from any roofed area that is directed into the retention structure.
- (v) All waste and process generated wastewater produced during a period of time not less than one-hundred-eighty (180) calendar days, including: volume of wet manure that enters a pond; plus volume of water used for manure or waste removal; plus volume of wash or cleanup water; plus other water, including drinking water that enters the retention structure.
- (vi) Volume of a 25-year, 24-hour rainfall event.
- (vii) One (1) foot of freeboard below spillway or outlet.
- (viii) A water budget based on real monthly or daily data from a rain gauge located near the facility.

(C) A description of the design standards for the retention facility embankments. The following minimum design standards are required for construction or modification of a retention structure embankment:

- (i) Soils used in the embankment shall be free of foreign material, including trash, brush, and fallen trees.
- (ii) The embankment shall be constructed in lifts no more than six (6) inches thick after compaction and compacted to a minimum of 95% of the maximum dry density and  $\pm 2\%$  of optimum

moisture content as determined by ASTM D 698 standard proctor test.

(iii) Each lift of the embankment of the retention structures shall be checked to ensure proper compaction and moisture content; all readings shall be recorded and properly documented with minimum information required for documentation to include:

- (I) project name,
- (II) date,
- (III) test method used,
- (IV) site name,
- (V) technician name,
- (VI) location of reading, including sketch, if necessary,
- (VII) percent compaction,
- (VIII) wet density, pcf,
- (IX) dry density, pcf,
- (X) moisture content,
- (XI) lift number, and
- (XII) soils lab name, report number and proctor test results used to obtain field measurements.

(iv) If retention structures are constructed with an emergency spillway, a minimum of one (1) foot of freeboard shall be maintained between the top of the 25-year, 24-hour storm volume and the bottom of the emergency spillway.

(v) An erosion control plan shall be developed and approved by the Department detailing how the owner immediately stabilizes the embankment walls to prevent erosion and deterioration. The plan shall include a preventive maintenance section. Each plan shall be approved on a case by case basis and may include the use of vegetative cover, geomembrane liners, sod, or other Department approved methods for controlling erosion.

(vi) A permanent measuring device shall be maintained in the wastewater retention structure to show the volume required to contain a 25-year, 24-hour rainfall event. The device shall be visible from the top of the levee and a separate mark shall be placed on the measuring device clearly identifying the 25-year, 24-hour rainfall event. Installation of the measuring device shall be performed in a manner to protect the integrity of liner at all times.

(vii) A rain gauge shall be kept on site and properly maintained. A log of all measurable precipitation events shall be kept with the PPP.

(viii) Documentation of method used to ensure liner of the waste retention structure is protected at or below the inlet.

(6) All owners of LMFOs shall install a leak detection system or monitoring wells in accordance with criteria approved by the Department.

(A) Samples of groundwater shall be collected by the Oklahoma Department of Agriculture, Food, and Forestry at least annually. The analysis of the

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water samples shall be performed by a qualified environmental laboratory approved by the Oklahoma Department of Environmental Quality or the relevant certification agency for the state in which the laboratory is located and approved by the Oklahoma Department of Agriculture, Food, and Forestry. All costs of analysis shall be the responsibility of the owner of the LMFO.

(i) The frequency of sampling may be reduced to once every three (3) years for those monitoring wells which have been sampled for at least three (3) consecutive years and have always been found to be dry.

(ii) If any subsequent sampling event indicates the monitoring well is no longer dry, that monitoring well shall be sampled pursuant to this subsection.

(B) All waste retention structures shall have sufficient numbers of groundwater monitoring wells upgradient and downgradient in the direction of groundwater flow. All monitoring well locations shall be approved by the Department on a case by case basis.

(C) No monitoring well shall be installed more than one hundred and fifty (150) feet from the crown of the outer berm.

(D) All new monitoring wells shall be drilled through the first aquifer encountered, but need not extend more than fifty (50) feet below the bottom of the waste retention structure. One downgradient monitoring well shall be drilled to the first aquifer encountered or the first impermeable layer, but need not extend more than one hundred (100) feet below the bottom of the waste retention structure.

(E) All monitoring wells shall be drilled and completed by an Oklahoma Water Resources Board licensed monitoring well driller.

(F) If no groundwater is encountered during the drilling operation, the bore hole shall be left open for at least forty eight (48) hours but not over thirty (30) days for the aquifer to recharge the bore hole. Thereafter, the bore hole shall be either developed into a monitoring well or plugged according to Oklahoma Water Resources Board requirements.

(G) All new monitoring wells shall meet the following minimum requirements:

(i) A minimum of two (2) inch diameter PVC casing shall be used with a sealing cap on the bottom.

(ii) The casing shall consist of minimum SDR-21 rated casing with a minimum SDR-21 rated factory screen in the saturated zone, or the bottom ten (10) feet if no groundwater is encountered.

(iii) Perforated zone shall be gravel or sand packed originating at the bottom of the screen and extending to two (2) feet above the top of the

screen, and otherwise as appropriate for the installation.

(iv) Bentonite shall be placed in the annular space of the well above the gravel or sand pack for an interval of at least two (2) feet to form an impermeable seal.

(v) A cement grout or a mixture of bentonite and cement shall be placed above the bentonite seal to prevent seepage from entering behind the pipe and causing hydrologic connection.

(vi) At least the top ten (10) feet of the annular space shall be filled with type A cement.

(vii) A concrete apron, minimum of four (4) inch thickness and two (2) feet from the casing shall be installed at the surface to prevent seepage of rain water into the bore hole. The apron shall be sloping away from the casing to avoid percolation of rain water.

(viii) A lockable protective cap shall be placed on top of the casing, which shall be a metal protective casing extending two (2) feet above the concrete apron and one (1) foot into the apron. The well shall remain securely capped and locked at all times, except during sampling events.

(ix) Within thirty (30) days of installation, a copy of the Oklahoma Water Resources Board approved Multi-Purpose Completion Form shall be submitted to the Department.

(x) Existing monitoring wells shall be evaluated on a case by case basis by the Department to determine equivalency. Monitoring wells previously required and approved by the Department shall be considered equivalent.

(H) Groundwater monitoring wells shall be sampled at least annually for electrical conductivity, pH, ammonium-nitrogen, nitrate-nitrogen, total phosphorus, and fecal coliform bacteria.

(I) Owners of LMFOs may install a leak detection system instead of monitoring wells. The system shall be approved by the Department on a case by case basis.

(7) The following records, in addition to those required by the Act, shall be maintained at the site for a minimum of three (3) years; ~~Owners of LMFOs shall retain the records on site for as long as the facility is in operation.~~

(A) Weekly measure of water level in the retention facility;

(B) Quarterly inspection and maintenance reports;

(C) ~~Other specific information required by the Department.~~ Copies of waste retention structure liner specifications and design plans and any other information required by the Department directly related to the construction, installation, or future modification or operation of the swine feeding operation;

(D) Copies of groundwater sample laboratory analyses;

(E) Waste retention structure(s) contents sample laboratory analyses;

(F) Dates of inspections of the retention structure and a log of the findings of the inspections;

(G) A rain gauge shall be kept on site and properly maintained. A log of all measurable precipitation events shall be kept with the PPP;

(H) If swine wastes are sold or given to other persons for disposal, the owner of the LMFO shall maintain a log of the following:

(i) Date of removal from the swine feeding operation,

(ii) Name of hauler, and

(iii) Amount in wet tons, dry tons, gallons, or cubic yards of waste removed from the swine feeding operation;

(I) A log of employee training and education shall be maintained at the site;

(J) A complete inspection of the site shall be performed at least annually by the owner. A report documenting the findings of the inspection shall be prepared and retained which includes the operative status of the check valves system on applicable wells;

(K) Records of incidents including spills, discharges, and other information describing the pollution potential and quantity of the discharge shall be included in the records. Inspections and maintenance activities shall be documented and recorded; and

(L) Records documenting significant observation made during the site inspection shall be retained as part of the PPP.

(8) The following records, in addition to those required by the Act, shall be maintained at the site as long as the facility is in operation:

(A) Documentation of no significant impact, if applicable;

(B) Copy of Notice of Intent (NOI) or Notice of Termination (NOT), if applicable;

~~(C) Other records as required by the Department.~~ Copy of EPACAFO General Permit, if applicable.

(D) Copies of soil samples/test/laboratory results from land application fields, and

(E) A notarized sworn statement signed by the owner accepting full responsibility for properly closing all waste retention structures upon termination of the swine feeding operation.

**35:17-3-14. Swine Waste Management Plans**

(a) A swine waste management plan or its equivalent shall be prepared, according to Departmental policy, for each facility prior to the submission of a CAFO license application. A swine waste management plan or its equivalent may include, but is not limited to, a Comprehensive Nutrient Management Plan per NRCS guidance, or a Nutrient Management Plan per EPA guidance.

(b) The swine waste management plan shall include:

(1) A plan with a proposed schedule for liquid and solid swine waste removal, including sludge.

(2) A date log indicating weekly inspection of wastewater level in the retention structure, including specific measurement of wastewater level. Facilities using pits, ponds, or other waste retention structures for storage and treatment of storm water, manure, and process generated wastewater, including flush water waste handling systems, shall maintain in their wastewater retention structure sufficient capacity to contain rainfall and rainfall runoff from a 25-year, 24-hour rainfall event. The owner shall immediately restore sufficient capacity to contain a 25-year, 24-hour rainfall event after any rainfall event or accumulation of wastes or process generated wastewater which reduces capacity, weather permitting. The 25-year, 24-hour rainfall event capacity shall be in addition to the one (1) foot of freeboard required.

(3) All calculations and all factors and assumptions used in determining land application rates, acreage, and crops for both solid and liquid swine wastes. Land application rates shall take into account the plant available nutrient contribution of any land applied swine wastes. The following requirements shall apply to land application of swine waste on land owned or leased by the owner:

(A) Runoff from swine waste is prohibited where it results in a discharge to surface or groundwaters of the State. The owner shall provide controls for runoff and erosion as appropriate for site conditions.

(B) Swine wastes shall not be applied when the ground is frozen or saturated or during rainfall events.

(C) It shall be considered acceptable emergency procedures for a facility which has been properly designed, constructed, and operated and is in danger of an imminent overflow due to chronic or catastrophic rainfall to discharge wastewaters to land application sites for filtering prior to discharging to surface or groundwaters of the State.

(D) Land application practices shall be managed so as to reduce or minimize the following:

(i) Ponding or puddling of wastewater on the site.

(ii) Adverse conditions that invite pests including flies and rodents.

(E) Facilities including waste retention structures, waste storage sites, land application sites, ponds, pipes, ditches, pumps, and diversion and irrigation equipment shall be maintained to insure the ability to fully comply with the terms of these rules and the Pollution Prevention Plan.

(F) Adequate equipment and land application area shall be available for removal of waste and wastewater as required to maintain the proper operating volume of the retention structure. A list of proposed or actual equipment shall be included.

(G) If swine wastes are sold or given to other persons for disposal, the owner of the LMFO shall maintain a log of the following:

(i) Date of removal from the operation.

(ii) Name of hauler.

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- (iii) Amount in wet tons, dry tons, gallons, or cubic yards of waste removed from the operation.
- (H) Surface disposal of swine wastes in the 100-year flood plain, as established by the Federal Emergency Management Agency (FEMA), or near water courses is prohibited unless protected from inundation and damage that may occur during that flood event by adequate berms or other structures. The land application of swine wastes at agronomic rates shall not be considered surface disposal and is not prohibited.
- (I) Runoff from swine waste storage piles shall be retained on site.
- (J) Accumulation of water in swine waste storage areas shall be avoided.
- (K) Timing and rate of applications shall be in response to crop needs, assuming usual nutrient losses, expected precipitation, and soil conditions. Timing and rate of land application of swine waste shall be based on published materials approved by the Department.
- (L) Land application shall not occur in areas defined as do not apply areas in the waste application criteria of the USDA NRCS Waste Utilization Standard Conservation Practice Standard Code 633, Nutrient Management Conservation Practice Standard Code 590, ~~or their~~ or their current replacement.
- (M) The swine waste management plan shall identify areas which due to topography, activities, or other factors have a high potential for significant soil erosion. Where these areas have the potential to contribute pollutants to surface or groundwaters of the State, the Pollution Prevention Plan shall identify measures used to limit erosion and pollutant runoff. Land subject to excessive erosion shall be avoided.
- (4) LMFO nutrient loading.
- (A) Liquid manure and bottom sludge of a waste retention structure shall be applied to land in accordance with the swine waste management plan as approved by the Department.
- (B) Liquid contents of the waste retention structure shall be applied at agronomic rates and shall not exceed the nitrogen uptake of the crop. Where local water quality is threatened by phosphorus, in no case shall the owner exceed the application rates of phosphorus in the most current USDA NRCS Waste Utilization Standard. Watersheds that are nutrient limited and groundwaters that are nutrient vulnerable shall be deemed to be threatened by phosphorus.
- (C) Calculation of loading rates shall be based upon the existing nitrogen content of the receiving soil and the optimum nitrogen requirement of a particular crop.
- (D) All soil and waste sampling shall occur on an annual basis.
- (c) Sludge material of LMFOs shall be analyzed pursuant to United States Environmental Protection Agency (USEPA) biosolids testing parameters.

### 35:17-3-18. Employee education and training

- (a) Employees responsible for work activities which relate to compliance shall be regularly trained and informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal. Employee training shall inform personnel at all levels of the general components and goals of the Pollution Prevention Plan. A log of employee training shall be maintained at the site. Training shall include but not be limited to the following topics:
- (1) Proper operation and maintenance of waste retention structures, including proper water level maintenance.
  - (2) Land application of wastes, proper operation, and maintenance of the facility.
  - (3) Good housekeeping and material management practices.
  - (4) Necessary record keeping requirements.
  - (5) Spill response and clean up.
- (b) The owner is responsible for determining the appropriate training frequency for different levels of personnel and the PPP shall identify periodic dates for training.
- (c) All LMFOs with employees whose duties include treatment, storage, or application of swine waste shall provide proof of certification of satisfactory completion of formal education and training in the areas of waste management and odor control. Proof of certification of a minimum of nine (9) hours of training and education shall be submitted either with the license application or within six (6) months of the date of the application for the license.
- ~~(d) Curricula and course content shall be developed under the supervision of Oklahoma State University Cooperative Extension Service and topics shall include:~~
- ~~(1) Proper operation and management of waste retention structures.~~
  - ~~(2) Swine waste nutrient management, including land application of waste.~~
  - ~~(3) Air quality and odor control.~~
  - ~~(4) Regulation and record keeping requirements.~~
  - ~~(5) Water quality.~~
- (d) ODAFF shall require a minimum of three (3) hours of annual refresher training for any employee of a licensed managed feeding operation whose duties include the treatment, storage, or application of swine waste.
- (e) After completing eighteen (18) hours of training, an employee shall be exempt from the annual training requirement, and shall be required to complete three (3) hours of training every three (3) years.
- (f) Appropriate curricula and course content shall be developed by the licensed managed feeding operation and submitted to the Department for approval.
- (g) Failure to obtain the prerequisite nine (9) hours of training and any continuing education training as required in this subsection shall be deemed a violation of the Oklahoma Swine Feeding Operations Act.

### 35:17-3-19. Owner inspections

- (a) The owner or the person named in the PPP as the individual responsible for drafting or implementing the plan shall be responsible for inspections and record keeping.

(b) Incidents including spills, discharges, and other information describing the pollution potential and quantity of the discharge shall be included in the records. Inspections and maintenance activities shall be documented and recorded. ~~These records shall be kept on site for a minimum of three (3) years. Owners of LMFOs shall retain the records for so long as the facility is in operation.~~

(c) The authorized person named in the PPP shall require inspection of designated equipment and facility areas. Material handling areas shall be inspected for evidence of or the potential for pollutants entering the drainage system. A follow-up procedure shall be used to insure that appropriate action has been taken in response to the inspection.

(d) In addition to the Department annual inspection, a complete inspection of the facility shall be performed at least annually by the owner. A report documenting the findings of the inspection shall be prepared, which includes the operative status of the check valves system on applicable wells. The inspection shall be conducted by the authorized person named in the PPP to verify that the description of potential pollutant sources is accurate, the drainage map has been updated or otherwise modified to reflect current conditions and the controls outlined in the PPP to reduce pollutants are being implemented and are adequate.

(e) The Department may sample wells on or near the site.

(f) Records documenting significant observation made during the site inspection shall be retained as part of the Pollution Prevention Plan. Records of all inspections shall be maintained for a period of three (3) years. ~~Owners of LMFOs shall retain all records for so long as the facility is in operation.~~

**SUBCHAPTER 4. CONCENTRATED ANIMAL FEEDING OPERATIONS**

**35:17-4-5. Notice requirements**

(a) Individual notice to all affected property owners shall be documented. Proof of notice shall include a sample letter and a certificate of mailing corresponding to the names on the mailing list provided with the CAFO license application. The certificate of mailing shall be verified by the owner and include a U.S. Post Office certified mailing number and the name and address of each affected property owner. U.S. Post Office stamped certified mail receipts, letters returned as undeliverable or refused, and domestic return receipts evidencing receipt of the notice shall be kept on file by the owner and provided to the Department upon request. Notice shall provide the following information:

- (1) An application for an animal feeding operation has been submitted to the Department.
- (2) The legal location and name of the proposed or facility.
- (3) The opportunity to send written comments to the Oklahoma Department of Agriculture, Food, and Forestry, P.O. Box 528804, Oklahoma City, OK 73152-8804.
- (4) A twenty (20) working day public review period shall begin no earlier than the day following the certified

mailing of all required individual notices. In the event a hearing is requested, the application shall be available for public review until the date of the hearing.

(5) The opportunity to request a hearing within twenty (20) working days from the date the application is first available for public viewing. Notice as required by this rule shall include the following language: "A hearing must be requested, in writing, within twenty (20) working days of the availability of this application for public review, or your right to the hearing is waived. Do not rely on the request of another party to insure a hearing. A hearing requested by another party may be dismissed without your permission if you have not personally filed a request for a hearing with the Department of Agriculture."

(6) Individual notice shall occur to all affected property owners, regardless of state residency or property location.

(7) Notice shall be given to the applicable tribal chairperson, where ascertainable, and to the United States Bureau of Indian Affairs (USBIA) when tribally owned land or former reservation land is within one (1) mile of the facility.

(b) In addition to the individual notice, proof of publication notice of a new or application for a CAFO license shall be given by the owner which complies with the provisions of the Act.

**35:17-4-9. Pollution Prevention Plan (PPP)**

(a) Prior to the submission of a CAFO license application, each facility shall develop a Pollution Prevention Plan (PPP) according to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant to the Act. The Plan shall include provisions for documentation of structural controls, documentation of operating Best Management Practices (BMPs), an Animal Waste Management Plan (AWMP), a carcass disposal plan for normal and emergency disposal of carcasses, and record keeping provisions. The Plan shall identify an individual who is responsible for implementing, maintaining, and revising the PPP.

(b) Equivalent measures contained in a site specific AWMP prepared by the United States Department of Agriculture, Natural Resources Conservation Service (NRCS) may be substituted for the appropriate PPP requirements. An AWMP developed by USDA NRCS can be substituted for the documentation of land application rate calculations.

(c) With Department approval, the owner shall amend the PPP prior to any change in design, construction, operation, or maintenance, which has significant effect on the potential for the discharge of pollutants to the surface or groundwaters of the State.

(d) The owner shall implement appropriate changes to the Plan within ninety (90) calendar days of notification that the plan does not meet one or more specified minimum requirements unless otherwise provided by the Department. If notice of changes is not received by the Department within the prescribed ninety (90) calendar days, the application shall be denied.

(e) In addition to the requirements of the Act, the PPP shall include:

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(1) A list of materials that are used, stored, or disposed of at the facility which may cause pollution. A contingency plan for releases of potential pollutants shall also be included. The PPP shall contain a log of any pollutant releases and clean up of those materials. Documentation of releases shall include any corrective action taken to prevent recurrence.

(2) Testing of groundwater, Nitrogen as Nitrate, total Phosphorous, and fecal coliform bacteria levels shall be performed by an Oklahoma Department of Environmental Quality certified independent testing laboratory at least annually. All testing shall establish a management record, with all costs paid by the owner.

(3) Soil tests from land application sites shall be performed by an Oklahoma Department of Environmental Quality certified testing laboratory or State operated laboratory at least annually. All testing shall establish a management record, with all costs paid by the owner.

(4) Sufficient testing of wastewater in waste storage facilities shall be required at least every three (3) years and performed by a qualified independent testing laboratory. Testing may be required more frequently at an individual facility at the Department's request. Additional parameters may be required upon request of the Department.

(5) A description of management controls appropriate for the facility. The owner initiates these controls. The appropriateness and priorities of any controls shall reflect the identified sources of pollutants at the facility and conform to criteria established by the Act and the Department.

(A) The location and a description of existing surface water controls. Structural controls shall be inspected at least quarterly each year for structural integrity and maintenance. Dates of inspections of the retention structure and a log of the findings of the inspections shall be maintained at the site.

(B) Documentation of retention structure capacity shall be submitted to the Department and shall be based upon input parameters, the assumptions and actual calculations, showing volumes for all intermediate steps, used in determining the appropriate volume capacity. Retention structure capacity shall be based upon the following, at a minimum:

- (i) The runoff volume from open lot surfaces.
- (ii) The runoff volume from areas between open lot surfaces and the retention structure.
- (iii) The rainfall multiplied by the area of the retention structure.
- (iv) The volume of rainfall from any roofed area that is directed into the retention structure.
- (v) All waste and process generated wastewater produced during a period of time not less than twenty-one (21) calendar days, including: volume of wet manure that enters a pond; plus volume of water used for manure or waste removal; plus volume of wash or cleanup water; plus other water, including drinking water that enters the retention structure. The minimum twenty-one (21) day storage capacity is an absolute minimum.

The minimum storage capacity may be increased depending on the number of acres available for land application, crops and crop water demands, climate conditions, operations and management.

(vi) Volume of a 25-year, 24-hour rainfall event.

(vii) One (1) foot of freeboard below spillway or outlet.

(viii) A water budget based on real monthly or daily data from a rain gauge located near the facility.

(C) A description of the design standards for the retention facility embankments. The following minimum design standards are required for construction or modification of a retention structure embankment:

(i) Soils used in the embankment shall be free of foreign material, including trash, brush, and fallen trees.

(ii) The embankment shall be constructed in lifts no more than six (6) inches thick after compaction and compacted to a minimum of 95% of the maximum dry density and  $\pm 2\%$  of optimum moisture content as determined by ASTM D 698 standard proctor test.

(iii) Each lift of the embankment of the retention structures shall be checked to ensure proper compaction and moisture content; all readings shall be recorded and properly documented with minimum information required for documentation to include:

- (I) project name,
- (II) date,
- (III) test method used,
- (IV) site name,
- (V) technician name,
- (VI) location of reading, including sketch, if necessary,
- (VII) percent compaction,
- (VIII) wet density, pcf,
- (IX) dry density, pcf,
- (X) moisture content,
- (XI) lift number, and
- (XII) soils lab name, report number and proctor test results used to obtain field measurements.

(iv) If retention structures are constructed with an emergency spillway, a minimum of one (1) foot of freeboard shall be maintained between the top of the 25-year, 24-hour storm volume and the bottom of the emergency spillway.

(v) An erosion control plan shall be developed and approved by the Department detailing how the owner immediately stabilizes the embankment walls to prevent erosion and deterioration. The plan shall include a preventive maintenance section. Each plan shall be approved on a case by case basis and may include the use of vegetative cover,

geomembrane liners, sod, or other Department approved methods for controlling erosion.

(vi) A permanent measuring device shall be maintained in the wastewater retention structure to show the volume required to contain a 25-year, 24-hour rainfall event. The device shall be visible from the top of the levee and a separate mark shall be placed on the measuring device clearly identifying the 25-year, 24-hour rainfall event. Installation of the measuring device shall be performed in a manner to protect the integrity of liner at all times.

(vii) A rain gauge shall be kept on site and properly maintained. A log of all measurable precipitation events shall be kept with the PPP.

(viii) Documentation of method used to ensure liner of the waste retention structure is protected at or below the inlet.

(76) The following records, in addition to those required by the Act, shall be maintained at the site for a minimum of three (3) years.

- (A) Weekly measure of water level in the retention facility;
- (B) Quarterly inspection and maintenance reports;
- (C) Other specific information required by the Department.

(87) The following records, in addition to those required by the Act, shall be maintained at the site as long as the facility is in operation:

- (A) Documentation of no significant impact, if applicable.
- (B) Copy of Notice of Intent (NOI) or Notice of Termination (NOT), if applicable.
- (C) Other records as required by the Department.

**SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS**

**35:17-5-2. Definitions**

In addition to the terms contained and defined in the Oklahoma Registered Poultry Feeding Operations Act, the following words or terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

**"Animal Waste Management Plan"** or **"AWMP"** means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the State as required by the State Department of Agriculture pursuant to the provisions of Section 10-9.7 at Title 2 of the Oklahoma Statutes. The plan shall be prepared by the USDA NRCS or an entity approved by the State Department of Agriculture.

**"Discharge"** means any release by pumping, pouring, emptying, or dumping of poultry waste directly or through a manmade conveyance into waters of the State.

**"Nutrient Management Plan"** means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state as required by the Oklahoma Department of Agriculture, Food and Forestry pursuant to the provisions of Section 10-9.7 of Title 2 of the Oklahoma Statutes and shall also include a certified nutrient management plan and animal waste management plan.

**"Runoff"** means any release by leaking, escaping, seeping, or leaching of poultry waste into waters of the State.

**"USDA NRCS"** means the United States Department of Agriculture Natural Resources Conservation Service.

**"Waste facility"** means any structure or combination of structures utilized to control poultry waste until it can be utilized in an authorized manner. These structures shall include all treatment and storage structures but not be limited to pits, burial sites, barns, or roof covered structures which house poultry, composters, poultry waste storage sites, or retention structures, and all appurtenances or additions.

**35:17-5-3. Registration, Nutrient Management Plan (NMP) and Animal Waste Management Plan (AWMP) required**

(a) **Registration.**

(1) Every poultry feeding operation in operation on July 1, 1998 shall register by January 1, 1999. All registrations shall be received by the State Department of Agriculture prior to January 1, 1999.

(2) Every poultry feeding operation shall be required to reregister annually by January 1 to operate.

(3) Any poultry feeding operation that has a valid license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall not be required to register pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

(4) The owner or operator of a poultry feeding operation not classified as a poultry feeding operation may register if the owner elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the State Board of Agriculture.

(5) It shall be unlawful for any person to construct or operate a new poultry feeding operation without first registering with the State Board of Agriculture.

(b) **Nutrient Management Plan and Animal Waste Management Plan.**

(1) Every poultry feeding operation shall obtain or apply for an approved ~~Animal Waste Management Plan~~ NMP and AWMP addressing both nitrogen and phosphorus by January 1, 1999.

(2) All new operators of poultry feeding operations shall obtain or apply for an ~~Animal Waste Management Plan~~ NMP and AWMP prior to construction of the facility.

(3) The ~~Animal Waste Management Plan~~ NMP and AWMP shall be prepared by USDA NRCS or an entity approved by the State Department of Agriculture.

(4) Plans shall be reviewed and updated at least every six (6) years from the date the NMP and AWMP was obtained. Plans shall also be reviewed and updated in the following circumstances:

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(A) When a change in the waste utilization standards occurs and upon notification by the State Department of Agriculture.

(B) Upon recommendation of the State Department of Agriculture.

(5) Plans shall be updated prior to the expansion of a facility.

(6) All poultry feeding operations with an existing ~~Animal Waste Management Plan~~ NMP and AWMP not based on a soil test and current USDA NRCS phosphorus standards shall update the plan or apply for an update by January 1, 1999 and the plan shall address both nitrogen and phosphorus.

(7) Implementation of the NMP and AWMP shall occur within ninety (90) days of receipt of the NMP and AWMP unless otherwise determined by the State Department of Agriculture. In no event shall the poultry feeding operation land apply poultry waste in excess of the current USDA NRCS Waste Utilization Standards, unless the State Department of Agriculture approves other standards.

(8) Beginning on January 1, 2013, registered poultry feeding operations may voluntarily submit to the Oklahoma Department of Agriculture, Food, and Forestry an annual assessment of one hundred dollars (\$100.00) for the purpose of securing the ODAFF service of drafting NMP and AWMP for their registered poultry feeding operation(s). ODAFF shall revise plans for poultry operations that pay the voluntary assessment every six years and/or when the poultry operation adds or subtracts poultry litter land application fields or when their carcass disposal method changes. ODAFF will assign a priority of drafting new or revised NMP and AWMP to operations that pay ODAFF the annual voluntary assessment over operations that do not pay the voluntary assessment. ODAFF may assign additional priority to operations based on the receipt date of the voluntary annual assessments.

### 35:17-5-5. Nutrient Management Plan and Animal Waste Management Plan requirements

(a) The ~~Animal Waste Management Plan~~ NMP and AWMP shall contain, at a minimum, the following:

(1) A description of poultry waste handling procedures and availability of equipment and type of equipment to be used.

(2) The calculations and assumptions used for determining land application rates.

(3) All nutrient analysis data, including soil and poultry waste testing.

(4) Legal description of lands to be used by an operation for land application.

(5) Soils map with description and type or series.

(6) Land application rates of poultry waste shall be based on the available nitrogen and phosphorus content of the poultry waste and soil test results.

(7) The procedures documented in the NMP and AWMP shall ensure that the handling and utilization of poultry waste complies with the following requirements:

(A) Adequate poultry waste storage shall be provided. Poultry waste shall not be stored without adequate protection from rainfall and runoff. All new poultry feeding operations shall make provisions for storage of poultry waste prior to operating. Exceptions to storage requirements for poultry waste in emergency situations shall be granted on a case by case basis. Exceptions shall include but not be limited to allowing a contract poultry grower to take such actions as are necessary to meet requirements imposed on a grower by an integrator. However, in all situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

(B) Poultry waste shall not be applied to land when the ground is saturated or during rainfall events. Poultry waste shall not be applied to land when the ground is frozen or snow covered except in conformance with the NMP and AWMP.

(C) Poultry waste shall only be applied to suitable land at appropriate times and rates as specified by the NMP and AWMP. Runoff of poultry waste from the application site is prohibited.

(D) All practices necessary to minimize movement of poultry waste to watercourses shall be utilized and documented in the NMP and AWMP.

(E) Edge of field, grassed strips shall separate water courses from runoff which may be carrying eroded soil and poultry waste.

(F) Poultry waste application shall be prohibited on land subject to excessive erosion.

(G) Land application rates of poultry waste shall provide controls for runoff as appropriate for site conditions.

(b) The NMP and AWMP shall also include a method for the disposal of carcasses. The NMP and AWMP shall include provisions for disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates. Accepted methods of carcass disposal include:

(1) Rendering

(A) Disposal of all carcasses shall occur within a reasonable period of time as approved by the State Department of Agriculture.

(B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.

(2) Burial shall only be allowed as a method of carcass disposal if no reasonable alternative exists and specific measures and practices are identified which will be utilized to protect the ground and surface waters of the State.

(3) Composting by methods as approved in the NMP and AWMP.

(4) Incineration shall only be used as a method of carcass disposal if the poultry feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division, if required.

(c) Storage and land application of poultry waste shall not cause a discharge or runoff of significant pollutants to waters of the State or cause a water quality violation to waters of the State.

(d) The operator shall notify the State Department of Agriculture within twenty-four (24) hours of a discharge.

**35:17-5-10.1. Violation points system**

In addition to the State Department of Agriculture's enforcement authority, the following violation points system shall be utilized to assess points prior to designating a poultry feeding operation as a concentrated animal feeding operation subject to the Oklahoma Concentrated Animal Feeding Operations Act pursuant to Section 9-201 et seq. of Title 2 of the Oklahoma Statutes.

(1) When any poultry feeding operation accrues a total of fifteen (15) or more points in any two (2) year time period, that poultry feeding operation shall be designated a concentrated animal feeding operation and shall comply with all aspects of the Oklahoma Concentrated Animal Feeding Operations Act.

(2) Points shall accrue based on the following violations of the Oklahoma Registered Poultry Feeding Operations Act:

(A) Knowingly making any false statement, representation, or certification in, omitting material data from, or tampering with any application for registration shall be a significant violation and accrue three (3) to five (5) points.

(B) Constructing or operating a new poultry feeding operation without first registering with the State Board of Agriculture shall accrue two (2) to five (5) points.

(C) Failure to register a poultry feeding operation by January 1, 1999 which was in operation on July 1, 1998 shall accrue two (2) to five (5) points.

(D) Failure by a poultry feeding operation to annually reregister with the State Board of Agriculture shall accrue one (1) to three (3) points.

(E) Increasing the capacity of a poultry feeding operation in excess of ten percent (10%) of the facility's original licensed capacity prior to reregistering with the State Board of Agriculture shall accrue one (1) to two (2) points.

(F) Failure of a poultry feeding operation to send written notification to the State Department of Agriculture upon changing integrators shall accrue one (1) point.

(G) Failure by the operator of a poultry feeding operation to attend the required hours of educational courses on poultry waste handling and management specified by the Oklahoma Registered Poultry Feeding Operations Act shall accrue two (2) to four (4) points.

(H) Failure by a poultry feeding operation to utilize or comply with Best Management Practices or the ~~Animal Waste Management Plan NMP and AWMP~~

and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue three (3) to five (5) points.

(I) Failure by a poultry feeding operation to utilize or comply with Best Management Practices or the ~~Animal Waste Management Plan NMP and AWMP~~ and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue one (1) to three (3) points.

(J) Failure by a poultry feeding operation to keep all records as required by the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated thereunder shall accrue one (1) to three (3) points.

(K) Failure by a poultry feeding operation to properly dispose of carcasses or failure to follow the carcass disposal plan as outlined in the ~~Animal Waste Management Plan NMP and AWMP~~ shall accrue two (2) to four (4) points.

(L) Failure to allow inspections of the poultry feeding operation facility or records for purposes of routine inspections, complaint investigations, or any other type of inspection shall be a significant violation and accrue three (3) to five (5) points.

(M) Knowingly making any false statement, representation, or certification form, notice, or report, or knowingly rendering inaccurate any monitoring device or method required to be maintained shall be a significant violation and accrue three (3) to five (5) points.

(N) Any other violation of the Oklahoma Registered Poultry Feeding Operations Act or any rule promulgated thereunder shall accrue one (1) to five (5) points, depending upon the severity of the violation as determined by the State Board of Agriculture.

(O) If a violation is deemed to be willful or intentional, up to an additional five (5) points may be added to the total points per violation by the State Board of Agriculture and the violation shall be deemed significant.

(3) All violations which are assessed four (4) or five (5) points shall only accrue points upon approval by the State Board of Agriculture. All other violations shall accrue points upon approval by the Water Quality Services Division of the State Department of Agriculture. Assessment of points by the Water Quality Services Division may be appealed in writing to the Division Director. If the accumulated number of points reaches a total of fifteen (15) points, the owner may appeal to the State Board of Agriculture.

(4) In the event that a violation is not corrected within sixty (60) days, an additional accrual of assessed points may occur.

(5) Even if the violation points do not add up to a total of fifteen (15) points, the State Board of Agriculture

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may deem a violation that results in serious harm to be so significant as to warrant immediate designation as a concentrated animal feeding operation and subject to the Oklahoma Concentrated Animal Feeding Operations Act.

(6) Any poultry feeding operation designated as a concentrated animal feeding operation shall be so designated for a minimum of one (1) year and the registration as a poultry feeding operation shall be suspended. At the State Department of Agriculture's discretion, the poultry feeding operation may reinstate the registration and the designation as a concentrated animal feeding operation may be removed so long as the poultry feeding operation complies with all conditions which the State Department of Agriculture imposes on the poultry feeding operation.

(7) Conditions for removal from the designation as a concentrated animal feeding operation shall at a minimum include compliance during the entire designation with all aspects of the Oklahoma Concentrated Animal Feeding Operations Act and its attendant rules, and correction of all conditions which caused the designation as a concentrated animal feeding operation.

[OAR Docket #13-679; filed 4-29-13]

## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. COMBINED PESTICIDE

[OAR Docket #13-685]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 17. Combined Pesticide

Part 6. Pesticidal Product Producing Establishments

35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations [AMENDED]

Part 8. ~~Expiration of Pesticide~~ Registrations and Permits [AMENDED]

35:30-17-17. Pesticide registrations [AMENDED]

35:30-17-17.1. Registration and renewal options [NEW]

35:30-17-17.2. Cancellation or discontinuance of a pesticide or device registration [NEW]

Part 21. Standards for Disposal of Pesticide and Pesticide Containers

35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations [AMENDED]

### AUTHORITY:

OKLA. CONST., Art. 6, § 31; Oklahoma State Board of Agriculture 2 O.S. §§ 2-4, 3-81 et seq.

### DATES:

#### Comment period:

December 3, 2012 through January 4, 2013

#### Public hearing:

January 4, 2013

#### Adoption:

January 29, 2013

#### Submitted to Governor:

February 7, 2013

#### Submitted to House:

February 7, 2013

#### Submitted to Senate:

February 7, 2013

#### Gubernatorial approval:

March 11, 2013

### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 5, 2013.

### Final adoption:

April 5, 2013

### Effective:

July 1, 2013

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

#### Incorporated Standards:

40 CFR Part 156.140 (2012 Revision)

40 CFR Part 165 (2012 Revision)

40 CFR Part 167 (2012 Revision) with the exception of 40 CFR § 167.90

40 CFR Part 169 (2012 Revision)

#### Incorporating Rules:

35:30-17-13

35:30-17-89.1

#### Availability:

See contact person below.

#### ANALYSIS:

The proposed rules update any necessary dates of incorporations by reference.

#### CONTACT PERSON:

Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.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, 2013:**

## SUBCHAPTER 17. COMBINED PESTICIDE

### PART 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS

#### 35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations

(a) The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) ~~2014~~2012 Revision, Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.

(b) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

### PART 8. EXPIRATION OF PESTICIDE REGISTRATIONS AND PERMITS

**35:30-17-17. Pesticide registrations**

- (a) Pesticide registrations shall be issued for a period of one (1) year and shall expire annually as follows:
  - (1) Companies whose names begins with the letters A, B, C, D, E, & F shall expire on March 31<sup>st</sup> of each year (group 1).
  - (2) Companies whose names begins with the letters G, H, I, J, K, L, & M shall expire on June 30<sup>th</sup> of each year (group 2).
  - (3) Companies whose names begins with the letters N, O, P, Q, R, & S shall expire on September 30<sup>th</sup> of each year (group 3).
  - (4) Companies whose names begins with the letters T, U, V, W, X, Y, & Z shall expire on December 31<sup>st</sup> of each year (group 4).
- (b) Pesticide registration applications must be received no later than the fifteenth day of the month following the date of expiration.
- (c) Unless provided otherwise, registrants shall be responsible for the registration of pesticides and devices and may be sanctioned by the Department if unregistered pesticides or devices are distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce by registrants, distributors or dealers.
- (d) Pesticides and devices classified under sections 24(c) or 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 et seq. shall be registered with the Department and shall comply with all registration requirements established by the Department.
- (e) The Department may waive the annual pesticide registration fee when granting experimental use permits. Before issuing an experimental use permit, the Department may require the registrant to provide a complete copy of the use plan, label, contact information for the person responsible in Oklahoma and any other information required for pesticide or device registration.

**35:30-17-17.1. Registration and renewal options.**

Registrants shall renew a pesticide or device registration using one of the following methods:

- (1) Registrants may electronically renew the registration for a pesticide or device at the website, [www.kellysolutions.com/erenews](http://www.kellysolutions.com/erenews). Revised labels, material safety data sheets and uniform product codes may also be submitted during the electronic renewal process.
- (2) Registrants may renew the pesticide or device registration by paying the annual registration fee and submitting a registration application directly to the Department on a form approved by the Department. Revised labels, material safety data sheets and uniform product codes may also be submitted during the renewal process. The registrant shall include an electronic copy of the existing or revised pesticide or device label in pdf format.

**35:30-17-17.2. Cancellation or discontinuance of a pesticide or device registration**

A pesticide or device shall be considered unregistered upon the cancellation or discontinuance of the pesticide or device registration. The registration of a pesticide or device that has been distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce shall be cancelled or discontinued using one of the following methods.

- (1) The registrant, distributors and dealers of the cancelled or discontinued pesticide or device shall recall the pesticide or device, remove the pesticide or device from the channels of trade, and submit a letter to the Department stating that the pesticide or device has been recalled and that the pesticide or device is not available in channels of trade. The Department may sanction the registrant, distributor or dealer if the unregistered pesticide or device is distributed, sold or offered for sale within this state after the cancellation or discontinuance of the pesticide or device registration.
- (2) The registrant may submit a letter to the Department indicating the registrant's intent to cancel or discontinue the registration for the pesticide or device. The registrant shall conditionally maintain the product registration for two (2) years while the pesticide or device clears the channels of trade. During the two year period of conditional registration, the registrant, distributors, and dealers shall place no new cancelled or discontinued pesticides or devices into the channels of trade. The Department shall not sanction the registrant, distributor or dealer if the cancelled or discontinued pesticide or device is distributed, sold or offered for sale within this state after the two year conditional registration period unless the pesticide or device was placed into channels of trade after the registrant notified the Department of its intent to cancel or discontinue the registration of the pesticide or device.

**PART 21. STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS**

**35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations**

- (a) The Labeling Requirements for Pesticides and Devices, Container Labeling and Pesticide Management and Disposal regulations found in Title 40 of the Code of Federal Regulations (CFR) ~~2011~~2012 Revision, Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety.
- (b) All words or terms defined or used in the federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

[OAR Docket #13-685; filed 4-29-13]

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

[OAR Docket #13-684]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 3. Meat Inspection

Part 1. General Provisions

35:37-3-1. Incorporation by reference of federal meat inspection regulations [AMENDED]

Subchapter 5. Poultry Products Inspection

Part 1. General Provisions

35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations [AMENDED]

37:37-5-2. Deleted regulations and exemptions [AMENDED]

### AUTHORITY:

OKLA. CONST., Art. 6, § 31; Oklahoma State Board of Agriculture 2 O.S. §§ 2-4; 6-181 et seq., 6-251 et seq., 6-280.1 et seq., and 6-290.1 et seq.

### DATES:

#### Comment period:

December 3, 2012 through January 4, 2013

#### Public hearing:

January 4, 2013

#### Adoption:

January 29, 2013

#### Submitted to Governor:

February 6, 2013

#### Submitted to House:

February 6, 2013

#### Submitted to Senate:

February 6, 2013

#### Gubernatorial approval:

February 18, 2013

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 4, 2013.

#### Final adoption:

April 4, 2013

#### Effective:

July 1, 2013

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

##### Incorporated Standards:

9 CFR Parts 301 to 391; 416; 417; 418; 424; 430; 441; 442 and 500 (2012 Revision)

##### Incorporating Rules:

35:37-3-1

##### Availability:

See contact person below.

##### ANALYSIS:

The proposed rule changes update the incorporation by reference of Code of Federal Regulations citations in the food safety rules.

##### CONTACT PERSON:

Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.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, 2013:**

## SUBCHAPTER 3. MEAT INSPECTION

## PART 1. GENERAL PROVISIONS

### 35:37-3-1. Incorporation by reference of federal meat inspection regulations

The Mandatory Meat Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (~~2011~~2012 Revision), Parts 301 to 391; 416; 417; ~~418~~; 424; 430; 441; 442 and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-3-3. Whenever an official mark, form, certificate or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry form, certificate or seal shall be substituted.

## SUBCHAPTER 5. POULTRY PRODUCTS INSPECTION

## PART 1. GENERAL PROVISIONS

### 35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations

(a) The Mandatory Poultry Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (~~2011~~2012 Revision), Parts 381; 416; 417; ~~418~~; 424; 430; 441; 442; and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-5-2. Whenever an official mark, form, certificate or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry mark, form, certificate or seal shall be substituted.

(b) All words and terms defined or used in the federal regulations incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.

(c) The following terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Act"** means the Oklahoma Poultry Products Inspection Act.

(2) **"Director"** means the Director of Meat Inspection.

(3) **"Poultry"** means any domesticated bird, whether live or dead, including chickens, turkeys, ducks, geese, guineas, ratites, or squabs (also known as young pigeons from one to about thirty (30) days of age).

(4) **"Poultry product"** means any poultry carcass, part, or product made wholly or in part from any poultry carcass or part that can be used as human food, except those exempted from definition as a poultry product in Title 9 of the Code of Federal Regulations (CFR), Part 381.15. This term shall not include detached ova.

(5) "Poultry byproduct" means the skin, fat, gizzard, heart, or liver, or any combination of any poultry for cooked, smoked sausage.

**35:37-5-2. Deleted regulations and exemptions**

(a) The following sections of the Federal regulations governing the mandatory poultry inspection (9 CFR, Part 381 ~~et seq.~~; 416 ~~et seq.~~; 417 ~~et seq.~~; 418; 424 ~~et seq.~~; 441 ~~et seq.~~; 442 ~~et seq.~~; and 500 ~~et seq.~~), (2011~~2012~~ Revision) of the USDA incorporated by reference under 35:15-27-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 381.6; 381.10(a)(2), (5), (6), and (7); 381.10(b); 381.10(d)(2)(i); 381.13(b); 381.16; 381.17; 381.20; 381.21; 381.37; 381.38; 381.39; 381.96; 381.101; 381.103 through 381.112; 381.123(b)(1) and (4); 381.132(c); 381.133; 381.179; 381.185; 381.186; and 381.195 through 381.225.

(b) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

- (1) The producers slaughter no more than two hundred and fifty (250) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;
- (2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;
- (3) The poultry and poultry products do not move in commerce. Poultry producers are prohibited from selling or donating uninspected poultry products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes, and other similar establishments and are prohibited from sales or donation of uninspected poultry through any type of retail market or similar establishment owned or operated by the poultry producer;
- (4) The producers submit a certificate of registration to the Board;
- (5) The poultry is healthy, the poultry is slaughtered and processed under sanitary standards, practices, and procedures that result in the preparation of poultry products that are sound, clean, and fit for human food, and each carcass, part, or poultry product bears a label that lists the customer's name, the producer's name, and the following statement, "This poultry product has not been inspected and passed";
- (6) The poultry is sold directly to the household consumer and transported by either the household consumer or the poultry producer without third-party intervention or intervening transfer or storage, and is maintained in a safe and unadulterated condition during transportation; and
- (7) The poultry producers, allow an authorized agent of the Board access to their facilities and an opportunity to examine records at all reasonable times upon notice.

[OAR Docket #13-684; filed 4-29-13]

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

[OAR Docket #13-683]

**RULEMAKING ACTION:**  
PERMANENT final adoption

**RULES:**  
Subchapter 1. Agriculture Environmental Permitting and AGPDES  
Part 1. General Provisions  
35:44-1-2. Incorporation by reference of federal regulations [AMENDED]  
35:44-1-3. Date of federal regulations incorporated [AMENDED]  
Subchapter 3. Permit Conditions and Requirements  
35:44-3-3. Date of federal regulations incorporated [AMENDED]

**AUTHORITY:**  
OKLA. CONST., Art. 6, § 31; Oklahoma State Board of Agriculture 2 O.S. §§ 2-4; 2-18.2, 2A-1 et seq., and 2A-21 et seq.; 27A O.S. § 1-3-101(D).

**DATES:**  
**Comment period:**  
December 3, 2012 through January 4, 2013

**Public hearing:**  
January 4, 2013

**Adoption:**  
January 29, 2013

**Submitted to Governor:**  
January 31, 2013

**Submitted to House:**  
January 31, 2013

**Submitted to Senate:**  
January 31, 2013

**Gubernatorial approval:**  
February 11, 2013

**Legislative approval:**  
Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2013.

**Final adoption:**  
March 28, 2013

**Effective:**  
July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**  
N/A

**INCORPORATIONS BY REFERENCE:**  
**Incorporated Standards:**  
40 CFR Parts 3, 122, 123, 124, 125, 412, and 450.

**Incorporating Rules:**  
35:44-1-2

**Availability:**  
See contact person below.

**ANALYSIS:**  
The proposed rules update any necessary dates of incorporations by reference.

**CONTACT PERSON:**  
Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.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, 2013:**

**SUBCHAPTER 1. AGRICULTURE ENVIRONMENTAL PERMITTING AND AGPDES**

## PART 1. GENERAL PROVISIONS

### 35:44-1-2. Incorporation by reference of federal regulations

(a) The following provisions of Title 40 of the Code of Federal Regulations and the requirements contained therein pertaining to the National Pollutant Discharge Elimination System are, unless otherwise specified, adopted and incorporated by reference in their entirety:

- (1) Part 3 (Electronic Reporting) in its entirety.
- (2) The following from Part 122 (NPDES Permit Regulations):
  - (A) 122.2 (definitions), excluding those definitions that are less stringent than the state of Oklahoma definitions found in Title 2 of the Oklahoma Statutes, Sections 2A-2 and 2A-22.
  - (B) 122.3 (a)-(g) and (i) (exclusions).
  - (C) 122.4 (a), (b), (d), and (i) (prohibitions).
  - (D) 122.5 (b) and (c) (effect of a permit).
  - (E) 122.6 (continuation of expiring permits).
  - (F) 122.7 (b) and (c) (confidentiality of information).
  - (G) 122.21 (a)-(b), (e)-(i), (k), (m), (o), and (p) (application for permit).
  - (H) 122.22 (signatories to permit applications and reports).
  - (I) 122.23 (concentrated animal feeding operations).
  - (J) 122.26 (storm water discharges).
  - (K) 122.27 (a), and (b)(1) and (3) (silvicultural activities).
  - (L) 122.28 (general permits).
  - (M) 122.29 (new sources and new dischargers).
  - (N) 122.41 (conditions applicable to all permits).
  - (O) 122.42 (a) and (d)-(e) (additional conditions applicable to specified categories of NPDES permits).
  - (P) 122.43 (establishing permit conditions).
  - (Q) 122.44 (establishing limitations, standards, and other permit conditions).
  - (R) 122.45 (calculating NPDES permit conditions).
  - (S) 122.46 (duration of permits).
  - (T) 122.47 (schedules of compliance).
  - (U) 122.48 (requirements for recording and reporting of monitoring results).
  - (V) 122.50 (disposal of pollutants into wells, into publicly owned treatment works or by land application).
  - (W) 122.61 (transfer of permits).
  - (X) 122.62 (modification or revocation and reissuance of permits).
  - (Y) 122.63 (minor modifications permits).
  - (Z) 122.64 (termination of permits).
- (3) The following from Part 124 (Procedures and Decisionmaking):
  - (A) 124.2 (definitions).
  - (B) 124.3(a) (application for a permit).

- (C) 124.5(a), and (c) - (d) (modification, revocation and reissuance, or termination of permits).
- (D) 124.6(a), (c) - (e) (draft permits).
- (E) 124.8 (fact sheet).
- (F) 124.10(a)(1)(ii), (iii), and (iv), (b) - (e) (public notice of permit actions and public comment period).
- (G) 124.11 (public comments and requests for public hearings).
- (H) 124.12(a) (public hearings).
- (I) 124.13 (obligation to raise issues and provide information during the public comment period).
- (J) 124.15 (issuance and effective date of permit).
- (K) 124.16 (stays of contested permit conditions).
- (L) 124.17(a) and (c) (response to comments).
- (M) 124.19 (appeal of RCRA, UIC, NPDES, and PSD permits).
- (N) 124.56 (fact sheets).
- (O) 124.59 (conditions requested by the Corps of Engineers and other government agencies).
- (P) 124.62 (decision on variances).

(4) Part 125 (Criteria and Standards), Subparts A and D.

(5) Part 412 (Effluent Limitations Guideline for Concentrated Animal Feeding Operations (CAFO) Point Source Category) in its entirety.

(6) Part 450 (Construction and Development Point Source Category) in its entirety.

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

(c) Environmental Protection Agency Form 1 (general information for all applicants), Form 2b (concentrated animal feeding operations application), Form 2c (other applications), and the storm water construction activity Notice of Intent shall be incorporated by reference.

### 35:44-1-3. Date of federal regulations incorporated

When reference is made to 40 CFR it means, unless otherwise specified, the volume of 40 CFR as published on July 1, ~~2011~~ 2012.

## SUBCHAPTER 3. PERMIT CONDITIONS AND REQUIREMENTS

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

When reference is made to 40 CFR it means, unless otherwise specified, the volume of 40 CFR as published on July 1, ~~2011~~ 2012.

[OAR Docket #13-683; filed 4-29-13]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY  
CHAPTER 55. COMMERCIAL PET BREEDERS**

[OAR Docket #13-678]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

- Subchapter 1. Licensing [NEW]
- 35:55-1-1. Purpose [NEW]
- 35:55-1-2. Definitions [NEW]
- 35:55-1-3. License required [NEW]
- 35:55-1-4. License application [NEW]
- 35:55-1-5. Grounds for denial, suspension, or revocation of a license [NEW]
- 35:55-1-6. Inspections [NEW]
- 35:55-1-7. Changes of information [NEW]
- 35:55-1-8. Fees [NEW]
- 35:55-1-9. Annual report [NEW]
- 35:55-1-10. Renewals [NEW]
- 35:55-1-11. Complaints [NEW]
- 35:55-1-12. Display of license [NEW]
- 35:55-1-13. Exemption for training animals [NEW]
- Subchapter 3. Standards of Care [NEW]
- 35:55-3-1. Incorporation by reference [NEW]
- 35:55-3-2. Watering [NEW]
- 35:55-3-3. Compatibility [NEW]
- 35:55-3-4. Primary enclosures [NEW]
- 35:55-3-5. Waste management [NEW]
- 35:55-3-6. Veterinary care [NEW]
- 35:55-3-7. Grooming [NEW]
- 35:55-3-8. Quarantine [NEW]
- 35:55-3-9. Animal identification [NEW]
- 35:55-3-10. Euthanasia procedures [NEW]
- Subchapter 5. Transportation [NEW]
- 35:55-5-1. General transportation requirements [NEW]
- 35:55-5-2. General travel requirements [NEW]
- 35:55-5-3. Consignment to carriers [NEW]
- 35:55-5-4. Primary enclosures used to transport live pets [NEW]
- 35:55-5-5. Food and water during transportation [NEW]
- Subchapter 7. Recordkeeping and Sales [NEW]
- 35:55-7-1. Records [NEW]
- 35:55-7-2. Pet health history provided to purchaser; sale of unhealthy pets [NEW]
- 35:55-7-3. Sales invoice or statement [NEW]
- 35:55-7-4. Location of sales [NEW]
- 35:55-7-5. Prohibition on the purchase, sale, or transportation of stolen pets [NEW]
- 35:55-7-6. Other requirements or acts prohibited [NEW]

**AUTHORITY:**

OKLA. CONST., Art. 6, § 31; Oklahoma State Board of Agriculture 2 O.S. §§ 2-4; 4 O.S. §30.1

**DATES:**

**Comment period:**

October 15, 2012 through November 26, 2012.

**Public hearing:**

November 26, 2012

**Adoption:**

January 29, 2013

**Submitted to Governor:**

February 6, 2013

**Submitted to House:**

February 6, 2013

**Submitted to Senate:**

February 6, 2013

**Gubernatorial approval:**

February 18, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 4, 2013.

**Final adoption:**

April 4, 2013

**Effective:**

July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded Rules:**

- Subchapter 1. Licensing [NEW]
- 35:55-1-1. Purpose [NEW]
- 35:55-1-2. Definitions [NEW]
- 35:55-1-3. License required [NEW]
- 35:55-1-4. License application [NEW]
- 35:55-1-5. Grounds for denial, suspension, or revocation of a license [NEW]
- 35:55-1-6. Inspections [NEW]
- 35:55-1-7. Changes of information [NEW]
- 35:55-1-8. Fees [NEW]
- 35:55-1-9. Annual report [NEW]
- 35:55-1-10. Renewals [NEW]
- 35:55-1-11. Complaints [NEW]
- 35:55-1-12. Display of license [NEW]
- 35:55-1-13. Exemption for training animals [NEW]
- Subchapter 3. Standards of Care [NEW]
- 35:55-3-1. Incorporation by reference [NEW]
- 35:55-3-2. Watering [NEW]
- 35:55-3-3. Compatibility [NEW]
- 35:55-3-4. Primary enclosures [NEW]
- 35:55-3-5. Waste management [NEW]
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- Subchapter 5. Transportation [NEW]
- 35:55-5-1. General transportation requirements [NEW]
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- Subchapter 7. Recordkeeping and Sales [NEW]
- 35:55-7-1. Records [NEW]
- 35:55-7-2. Pet health history provided to purchaser; sale of unhealthy pets [NEW]
- 35:55-7-3. Sales invoice or statement [NEW]
- 35:55-7-4. Location of sales [NEW]
- 35:55-7-5. Prohibition on the purchase, sale, or transportation of stolen pets [NEW]
- 35:55-7-6. Other requirements or acts prohibited [NEW]

**Gubernatorial Approval:**

June 21, 2012

**Register Publication:**

29 Ok Reg 1747

**Docket Number:**

12-836

**INCORPORATIONS BY REFERENCE:**

**Incorporated Standards:**

9 CFR Part 3 as published on July 1, 2011.

**Incorporating Rules:**

35:55-3-1

**Availability:**

See contact person below.

**ANALYSIS:**

The purpose of the proposed rules is to implement the provisions of House Bill 2921 of the 2012 Legislative session related to commercial pet breeders. House bill 2921 transferred regulation of commercial pet breeders from the Oklahoma State Board of Commercial Pet Breeders to the Oklahoma Department of Agriculture, Food, and Forestry. These rules contain provisions related to licensing requirements, application contents, inspections, fees for licenses, annual reports, renewals, complaints, exemptions for training animals, standards of care, transportation, recordkeeping, and sale of animals. Section 17 of House Bill 2921 allows the Department to enforce the rules promulgated by the Oklahoma State Board of Commercial Pet Breeders

**CONTACT PERSON:**

Bennett Abbott, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box

# Permanent Final Adoptions

528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: bennett.abbott@ag.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, 2013:**

## **SUBCHAPTER 1. LICENSING**

### **35:55-1-1. Purpose**

(a) These rules regulate commercial pet breeders pursuant to Section 30.1 et seq. of Title 4 of the Oklahoma Statutes known as the Commercial Pet Breeders Act of 2012. The administration of the Commercial Pet Breeders Act of 2012 shall be performed by the Oklahoma Department of Agriculture, Food, and Forestry and the State Board of Agriculture. Administration of the Act shall conform to the Administrative Procedures Act, Title 2 of the Oklahoma Statutes, and procedural rules found in Title 35 of the Oklahoma Administrative Code as promulgated by the State Board of Agriculture.

(b) It shall be the policy and recommendation of the State Board of Agriculture that no commercial pet breeder shall breed a female animal unless she is healthy and has reached her second estrus cycle.

### **35:55-1-2. Definitions**

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

"Adult animal" means an intact female animal twelve (12) months of age or older;

"Animal" means a dog or a cat;

"Board" means the State Board of Agriculture;

"Cat" means a mammal that is wholly or partly of the species *Felis domesticus*;

"Commercial breeder" and "commercial pet breeder" mean any individual, entity, association, trust, or corporation who possesses eleven or more intact female animals for the use of breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration;

"Commercial pet breeder license" means a license issued to any person that qualifies and is licensed as a commercial pet breeder;

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

"Dog" means a mammal that is wholly or partly of the species *Canis familiaris*;

"Facility" means the premises used by one or more commercial breeders for keeping, housing, or breeding animals. The term includes all buildings, property, and confinement areas in a single location used to conduct the commercial breeding business;

"Family member" means the parent, spouse, child, or sibling of an individual;

"Humane society" means a nonprofit organization exempt from federal income taxation as an organization described in Section 501(c)(3), Internal Revenue Code of 1986, as amended, that has as a principal purpose the prevention of animal cruelty or the sheltering of, caring for, and providing of homes for lost, stray, and abandoned animals;

"Inspector" means an authorized agent of the Board or any other qualified person authorized by the Department to conduct inspections;

"Intact female animal" means a female animal, nine (9) months of age or older, and not spayed;

"Kitten" means a cat less than twelve (12) months old;

"Local animal control authority" means a municipal or county animal control office with authority over the premises in which an animal is kept or, in an area that does not have an animal control office, the county sheriff;

"Marketing" means the solicitation for sale of animals;

"Necessary veterinary care" means at least one personal visual inspection annually by a veterinarian licensed in Oklahoma, guidance from a licensed veterinarian on preventative care, an exercise plan is approved by a licensed veterinarian, normal and prudent attention to skin, coat, and nails, prompt treatment of any illness or injury, and where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed acceptable by the American Veterinary Medical Association. If, during the course of a routine personal visual inspection, the licensed veterinarian detects signs of disease or injury in an animal, then a physical examination of the animal shall be conducted by the licensed veterinarian.

"Noncommercial breeder" means any individual, entity, association, trust, or corporation who possesses ten or fewer intact female animals for the use of breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration;

"Owner" means a person who owns ten percent (10%) or more of the ownership interest in a commercial pet breeder facility, directly or indirectly, in an entity.

"Person" means any individual, association, trust, corporation, limited liability company, partnership, or other entity;

"Pet" means a dog or cat, including a puppy or kitten;

"Possess" means to have custody of or control over, but shall not include custody or control over an animal by a person who is not a resident of Oklahoma and is in Oklahoma for the sole purpose of attending a competitive show or event held in Oklahoma;

"Puppy" means a dog less than twelve (12) months old;

and  
"Veterinarian" means a person currently licensed to practice veterinary medicine in Oklahoma.

### **35:55-1-3. License required**

(a) A person shall not act, offer to act, or hold himself or herself out as a commercial pet breeder in this state unless the person holds a commercial pet breeder license obtained pursuant to the Commercial Pet Breeders Act of 2012 for each facility that the person owns or operates in this state.

- (b) It shall be unlawful for any person to act as a commercial pet breeder licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under the Commercial Pet Breeders Act of 2012.
- (c) The commercial pet breeder license shall begin on July 1 and expire on June 30 of each calendar year.
- (d) Each commercial pet breeder shall renew the license prior to June 30 of each calendar year.
- (e) Any person who intends to become a commercial pet breeder shall obtain a commercial pet breeder license prior to operation.
- (f) Any person who does not meet the definition of a commercial pet breeder but chooses to voluntarily obtain a commercial pet breeder license shall comply with all rules as though they do meet the definition of a commercial pet breeder.
- (g) Each commercial pet breeder shall have a fixed place of business with a specific physical location and shall conform to local zoning ordinances authorizing the occupancy of a commercial pet breeder at that location.

**35:55-1-4. License application**

- (a) The Oklahoma Department of Agriculture, Food, and Forestry shall issue a commercial pet breeder license to each commercial pet breeder who:

  - (1) Meets the requirements of the Commercial Pet Breeders Act of 2012;
  - (2) Applies to the Department on the form prescribed by the Department; and
  - (3) Pays the required fee.
- (b) A commercial pet breeder shall obtain a separate license for each facility where breeding animals are kept. A separate license shall be issued for each facility of the commercial pet breeder, whether or not the breeder has eleven or more intact female animals at each facility.
- (c) If a single facility is shared by more than one person, each person shall be required to become individually licensed if eleven or more intact females used for breeding are housed at the facility, unless all animals are combined on a single license.
- (d) An applicant applying for a commercial pet breeder's license shall submit a completed license application signed under oath containing the following information:

  - (1) Name, mailing address, telephone number, and email address, if any, of the applicant;
  - (2) Name, if different, physical address and telephone number of the facility, including driving directions from the nearest municipality, and legal description of the facility location;
  - (3) Name, address, telephone number, and email address, if any, of the operator of the facility, if different from the owner;
  - (4) If the applicant is an entity, association, trust, or corporation, the name and address of each member with an ownership of ten percent (10%) or more in the facility;
  - (5) If the applicant is an entity, the name, address, telephone number, and email address, if any, of the Oklahoma registered agent;

- (6) The sales tax identification number of the commercial pet breeder, unless the commercial pet breeder only sells animals wholesale;
- (7) A list of the date, subject matter, and court or government entity for any individual required to be disclosed by this section for each of the following:

  - (A) Has ever been convicted of, or entered a plea of guilty or no contest, to any felony, or any crime involving animal cruelty, abuse, or neglect;
  - (B) Has ever received any adverse ruling from any court of competent jurisdiction or any administrative tribunal involving honesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence in a matter related to commercial pet breeding, or cruelty to animals;
  - (C) Has ever had an application for a license, registration, certificate, or endorsement related to pet breeding or animal care denied or rejected by any state or federal licensing authority in Oklahoma or another state;
  - (D) Whether any commercial pet breeder licensing board, kennel regulation board, or similar agency has ever revoked or suspended a license, registration, certificate, or endorsement;
  - (E) Has ever surrendered a license, registration, certificate, or endorsement to the Board or any state or federal commercial pet breeder or kennel licensing authority, whether located in Oklahoma or elsewhere;
- (8) Affidavit of Lawful Presence in the United States of America, as provided under 56 O.S. § 71;
- (9) A notarized statement swearing that the information submitted on the application is true and correct;
- (10) State the total number of animals owned by the commercial pet breeder on the date of application and identify how many of the animals are intact female animals, males, and juveniles;
- (11) The date of commencement of operations at that location; and
- (12) Any other relevant information required by the Board.
- (e) If an applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and identify the information on the application that is incomplete or needs additional information. The applicant may submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.
- (f) An application may be withdrawn from consideration by the applicant at any time.
- (g) Any commercial pet breeder whose application is denied due to failure to submit information in a timely manner or who withdrew the application may submit a new application and appropriate fees.

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## **35:55-1-5. Grounds for denial, suspension, or revocation of a license**

The Oklahoma Department of Agriculture, Food, and Forestry may deny a license, or renewal thereof, or revoke a license of any applicant or commercial pet breeder who fails to meet the standards of animal care or fails to follow the application process adopted by the Department, or if the person:

- (1) Is convicted of a crime involving animal cruelty;
- (2) Is convicted of violating the Commercial Pet Breeders Act of 2012 more than three times;
- (3) Is convicted of a type of felony specified by subparagraphs a through pp of paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes;
- (4) Is convicted of a felony punishable under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; or
- (5) Has held or applied for a United States Department of Agriculture license pursuant to the Animal Welfare Act and whose license was suspended or revoked, or whose application was refused due to the improper care of animals.

## **35:55-1-6. Inspections**

(a) The Oklahoma Department of Agriculture, Food, and Forestry may contract with a local veterinarian licensed by the state, other state agency or any other qualified person to conduct or assist in an initial prelicense inspection and annual inspections.

(b) The Department shall arrange for an inspection at a facility prior to issuance of an initial commercial pet breeder license for that facility.

(1) The Department shall not issue a commercial pet breeder license to any person until the Department receives an initial prelicense inspection report from the inspector in a format approved by the Department certifying that the facility meets the requirements of the Commercial Pet Breeders Act of 2012.

(2) Prior to the initial prelicense inspection, each applicant shall pay to the Department a nonrefundable inspection fee.

(c) The Department, at least annually, shall arrange for the inspection of each facility of a licensed commercial pet breeder. The inspection shall be conducted during normal business hours and the commercial pet breeder or a representative of the commercial pet breeder shall be present during the inspection.

(d) The inspector shall submit an inspection report to the Department not later than ten (10) days after the date of the inspection on a form prescribed by the Department and provide a copy of the report to the commercial breeder or the representative.

(1) The inspection report shall include an itemized list of violations, if any, and may include recommendations for correction.

(2) A copy of the inspection report shall be sent to the commercial pet breeder who shall have thirty (30) calendar days to correct any deficiencies.

## **35:55-1-7. Changes of information**

A commercial pet breeder shall notify the Oklahoma Department of Agriculture, Food, and Forestry in writing not later than ten (10) days after the date any change occurs in the address, name, management, substantial control, or ownership of the business or operation.

## **35:55-1-8. Fees**

The Board shall charge the following nonrefundable license or renewal fees:

(1) One (1) to ten (10) intact female animals: \$125.00

(2) Eleven (11) to twenty (20) intact female animals: \$200.00

(3) Twenty one (21) to fifty (50) intact female animals: \$350.00

(4) Fifty one (51) to one hundred (100) intact female animals: \$500.00

(5) One hundred and one (101) or more intact female animals: \$650.00

(6) If the commercial pet breeder submits a renewal application and fee after the expiration date, the commercial pet breeder shall pay double the renewal fee as a late charge and the filing of a late application shall also be deemed a violation.

## **35:55-1-9. Annual report**

(a) Not later than February 1 of each year, a commercial pet breeder shall submit to the Oklahoma Department of Agriculture, Food, and Forestry an annual report on a form prescribed by the Department setting forth the number of adult intact female animals held at the facility at the end of the prior year and such other information regarding the commercial pet breeder's prior year's operations as required by the Department.

(1) Number of animals at the facility on December 31;

(2) Number of animals sold during the previous calendar year;

(3) Number of animals added to the facility during the previous calendar year;

(4) Number of animals removed from the facility during the previous calendar year;

(5) Number of mortalities during the previous calendar year;

(6) List of type, date of occurrence and number of mortalities due to any animal disease at the facility during the previous calendar year; and

(7) Number of animals exchanged or refunded from the facility.

(b) The commercial pet breeder shall keep a copy of the annual report at the facility of the commercial pet breeder and, on request, make the report available to the authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.

(c) A license holder that has more than one facility shall keep separate records and file a separate report for each facility.

**35:55-1-10. Renewals**

(a) A commercial pet breeder who is not in violation of the Commercial Pet Breeders Act of 2012 or any rule adopted under the Commercial Pet Breeders Act of 2012 may renew the license by:

- (1) Submitting a renewal application to the Oklahoma Department of Agriculture, Food, and Forestry on the form prescribed by the Department containing any changes to the information provided in the initial application.
- (2) Complying with any other renewal requirements adopted by the Department; and
- (3) Paying the required fee.

(b) Any person who fails to apply for a renewal in a manner prescribed by the Department, and whose license has expired, may not engage in activities that require a license until the license has been renewed.

(c) Not later than sixty (60) days before the expiration of the license, the Department shall send written notice of the impending license expiration to the commercial pet breeder at the last known address according to the records of the Department.

**35:55-1-11. Complaints**

(a) On receipt of a valid written complaint alleging a violation of the Commercial Pet Breeders Act of 2012, an authorized agent of the State Board of Agriculture, a local animal control authority, or an inspector designated by the Department may investigate the alleged violation.

(b) Any person may submit a written and signed complaint to the Department alleging a violation of the Commercial Pet Breeders Act of 2012 or rules promulgated thereunder.

(c) Upon receipt of a written complaint, the Department notifies the person filing the complaint in writing of its receipt and status within five (5) working days.

(d) The party whom the complaint is filed against, if known, is notified within five (5) working days.

(e) The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies appropriate to the circumstances.

(f) The complainant and commercial pet breeder shall be notified in writing within seven (7) working days after the resolution of the complaint.

**35:55-1-12. Display of license**

A commercial pet breeder shall:

- (1) Prominently display a copy of the commercial pet breeder license at the facility of the commercial pet breeder;
- (2) Include the commercial pet breeder license number in each advertisement for the sale or transfer of an animal by the commercial pet breeder; and
- (3) Include in each contract for the sale or transfer of an animal by the commercial pet breeder the commercial pet breeder license number.

**35:55-1-13. Exemption for training animals**

(a) Intact female animals held solely for the purpose of training and are not bred shall be exempt from the licensing requirements of these rules.

(b) Any person who holds intact female animals solely for the purpose of training shall provide documentation to the Department showing the training of the animal. Documentation may include, but not be limited to the following:

- (1) Sales records showing the animals were trained and sold as trained;
- (2) Training records and certifications provided with the animals or provided to purchasers of the trained animals; and
- (3) Any other documentation that substantiates that the animals were held solely for training purposes and were not bred.

**SUBCHAPTER 3. STANDARDS OF CARE**

**35:55-3-1. Incorporation by reference**

(a) The following provisions of Title 9 of the Code of Federal Regulations and the requirements contained therein pertaining to Animal Welfare, Part 3 (Standards) are, unless otherwise specified, adopted and incorporated by reference in their entirety:

- (1) 3.1 (housing facilities, general)
- (2) 3.2 (indoor housing facilities)
- (3) 3.3 (sheltered housing facilities)
- (4) 3.4 (outdoor housing facilities)
- (5) 3.5 (mobile or traveling housing facilities)
- (6) 3.6 (primary enclosures), except for 3.6 (c)(1)(ii) and (c)(2)
- (7) 3.7 (compatible grouping)
- (8) 3.8 (exercise for dogs)
- (9) 3.9 (feeding)
- (10) 3.11 (cleaning, sanitization, housekeeping, and pest control)
- (11) 3.12 (employees)
- (12) 3.13 (consignments to carriers and intermediate handlers)
- (13) 3.14 (primary enclosures used to transport live dogs and cats)
- (14) 3.15 (primary conveyances [motor vehicle, rail, air, and marine])
- (15) 3.16 (food and water requirements)
- (16) 3.17 (care in transit)
- (17) 3.18 (terminal facilities)
- (18) 3.19 (handling)

(b) When reference is made to a federal entity, it shall mean the state counterpart.

(c) When reference is made to 9 C.F.R. it means, unless otherwise specified, the volume of 9 C.F.R. as published on July 1, 2011.

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### 35:55-3-2. Watering

If potable water is not continually available to the animals, it shall be offered to the animals as often as necessary to ensure their health and wellbeing, but not less than three (3) times daily for at least one (1) hour each time, unless restricted by the attending veterinarian.

### 35:55-3-3. Compatibility

(a) A commercial pet breeder shall place only compatible animals in the same primary enclosure and at a minimum shall not place the following animals together in the same primary enclosure:

- (1) Breeding female animals in heat in the same enclosure at the same time with sexually mature male animal, except for breeding purposes;
  - (2) Breeding females and their litters in the same enclosure at the same time with other adult dogs;
  - (3) Puppies or kittens under four (4) months of age with other adult animals other than their dam or foster dam, unless maintained in breeding colonies; or
  - (4) Animals exhibiting vicious or an aggressive disposition with any other animal.
- (b) A commercial pet breeder shall not place more than six (6) adult animals simultaneously in any enclosure.

### 35:55-3-4. Primary enclosures

(a) Any commercial pet breeder that applies for a commercial pet breeder license no later than September 1, 2012, shall not be required to meet any cage size requirement more stringent than United States Department of Agriculture standards. Regardless of license application date, any commercial pet breeder replacing or adding cages after September 1, 2012, shall meet the cage size requirements as of the date of replacement or addition.

(b) Any new commercial pet breeder or any commercial pet breeder replacing or adding cages after September 1, 2012 shall meet the following primary enclosure size requirements for dogs.

(1) Commercial pet breeders may house up to six (6) dogs removed from their whelping box in the same primary enclosure, but the primary enclosure shall provide at least the following amount of square feet of floor space:

(A) For an enclosure containing one dog, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 2. Mathematically, the space the commercial pet breeder shall provide for the first dog equals  $2 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$ .

(B) For an enclosure containing two dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 3. Mathematically, the space the commercial pet breeder shall provide for the first dog

equals  $3 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$ .

(C) For an enclosure containing three dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 4. Mathematically, the space the commercial pet breeder shall provide for the first dog equals  $4 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$ .

(D) For an enclosure containing four dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 5. Mathematically, the space the commercial pet breeder shall provide for the first dog equals  $5 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$ .

(E) For an enclosure containing five dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 6. Mathematically, the space the commercial pet breeder shall provide for the first dog equals  $6 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$ .

(F) For an enclosure containing six dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 7. Mathematically, the space the commercial pet breeder shall provide for the first dog equals  $7 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$ .

(2) Commercial pet breeders shall provide each female dog with nursing puppies the amount of floor space calculated pursuant to (b)(1) of this section plus sufficient floor space to allow for a whelping box and the litter, based on the intact female's breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by the attending veterinarian but at a minimum large enough to allow the mother to stretch out on her side, permitting all the puppies to nurse.

(A) If the additional amount of floor space for each nursing puppy is less than five percent (5%) of the minimum requirement for the female dog, the commercial pet breeder shall obtain approval by the attending veterinarian.

(B) As soon as the puppies are able to leave the whelping box, the calculations for additional dogs as specified in (b)(1) of this section shall apply.

(C) Any whelping box or enclosure shall provide for enough room to allow the female dog to separate from the pups in the box or enclosure.

(D) Minimum floor space required by this section shall be calculated excluding floor space taken up of by food pans, water pans, and litter boxes.

(E) Nothing in this section shall require separation of litter mates.

(c) If the floor of a primary enclosure is composed of wire, the commercial pet breeder shall provide temporary or permanent covers or inserts creating a solid surface within the primary enclosure equal to twenty five percent (25%) of the minimum size of the enclosure, as calculated under (b)(1) of this section.

**35:55-3-5. Waste management**

(a) A commercial pet breeder shall remove all animals from enclosures during cleaning and sanitization and shall hold them in an enclosure satisfying the minimum space requirements in this subchapter or in an exercise area.

(b) A commercial pet breeder shall comply with all waste disposal practices required by the Oklahoma Department of Agriculture, Food, and Forestry and other applicable municipal ordinances, state statutes, and federal codes for disposal of pet waste.

(c) A commercial pet breeder shall conduct regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids, wastes, and dead pets, in a manner that minimizes contamination and disease risks.

(d) A commercial pet breeder shall equip housing facilities and primary enclosures with disposal facilities and drainage systems that rapidly eliminate pet waste and allow animals to remain clean and dry at all times.

(1) A commercial pet breeder shall properly construct, install, and maintain all drains.

(2) If a commercial pet breeder uses a closed drainage system, the drains shall be equipped with traps and prevent the backflow of gases and the backup of sewage onto the floor or any surface that animals might touch.

(3) If a commercial pet breeder uses sump or settlement ponds, or other similar systems for drainage and animal waste disposal, the system shall be located far enough away from the pet area of the housing facility holding pets to prevent odors, diseases, pests, and vermin infestation.

(e) Trash containers in housing facilities and in food storage and food preparation areas shall be leak proof and have tightly fitted lids on them at all times.

(f) A commercial pet breeder shall ensure carcass disposal meets all state and local requirements.

(g) A commercial pet breeder shall not keep or allow to be kept animal carcasses or animal waste in food storage or preparation areas, food freezers, food refrigerators, or areas that animals may touch or reach.

(h) Cleaning and treatment of all waste including water shall be done in such a manner that there shall be no adverse effect on any animal in the area.

(i) A commercial pet breeder may stack primary enclosures containing animals over other primary enclosures containing animals so long as there is a barrier or drainage system between the upper and lower enclosures that prevents all waste and debris from falling into the lower enclosures.

(i) A commercial pet breeder shall maintain ammonia levels at all locations in housing facilities at a level that does not interfere with human or animal health or wellbeing.

**35:55-3-6. Veterinary care**

(a) A commercial pet breeder shall provide animals with necessary veterinary care to ensure animals' wellbeing.

(b) A commercial pet breeder shall provide a sick or injured animal appropriate veterinary care within twenty four (24) hours, unless on weekends, in which case a commercial pet breeder shall provide a sick or injured animal veterinary care on the next business day.

(c) A commercial pet breeder shall follow the directives of the veterinary doctor for care of the animal, including that a commercial pet breeder shall provide to the animals any medications prescribed by the veterinarian and additional food, water, exercise, or any other direction of the veterinarian.

(d) Rabies vaccine may only be administered by or under the supervision of an Oklahoma licensed veterinarian and shall be administered in compliance with rules of the Oklahoma Department of Health.

**35:55-3-7. Grooming**

(a) Commercial pet breeders shall provide grooming to all dogs, including brushing, tangle removal, nail trims, and hair trimming, and bathing frequently enough to maintain good skin health and odor control, and no signs of long standing dirt and grime.

(b) The dog's coat shall not be matted to the point that it impedes normal bodily functions, including but not limited to breeding, seeing, eating, drinking, standing, sitting, laying, and waste excretion.

**35:55-3-8. Quarantine**

In order to minimize the dissemination of disease, commercial pet breeders shall separate from other animals those animals that are under quarantine or receiving treatment for a suspected communicable disease.

**35:55-3-9. Animal identification**

(a) A commercial pet breeder shall identify each animal two (2) months of age or older and each pet prior to sale or transfer of ownership, if before two (2) months of age, with a form of permanent identification, including but not limited to an implanted permanent pet identification number microchip, tattoo, or other similar mechanism, mark, or devise approved by the Department.

(b) A commercial pet breeder may tattoo in accordance with a registering organization or Federal USDA licensing guidelines.

(c) A commercial pet breeder shall insure that the permanent identification that is placed on the animal matches their sales and breeding records.

(d) A commercial pet breeder that chooses to tattoo, but is not tattooing according to any national guidelines or regulations from a registration agency or other licensing agency shall

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tattoo in accordance with the following method: OK"License Number"- "Pet Tracking Number". Example: OK123-12.

(e) A commercial pet breeder may request an exception from permanent identification from the Department. The Department shall review the request and determine on a case by case basis if the commercial pet breeder may use another form of identification on animals.

### **35:55-3-10. Euthanasia procedures**

Animals owned or housed by a commercial pet breeder may only be euthanized by a veterinarian licensed in Oklahoma or an Oklahoma Registered Veterinary Technician under the order of an Oklahoma licensed Veterinarian following the Oklahoma Veterinary Practice Act pursuant to accepted euthanasia protocol.

## **SUBCHAPTER 5. TRANSPORTATION**

### **35:55-5-1. General transportation requirements**

When a commercial pet breeder removes animals from housing facilities for transportation, including delivery to purchasers and transportation to auctions or sale locations, they shall transport and care for the pets in a manner that ensures the pets' safety, access to food and water, continued enclosure ventilation and sanitation, adequate space, and protection from the elements and extreme temperatures in a reasonably similar manner to that required by these Rules.

### **35:55-5-2. General travel requirements**

(a) A commercial pet breeder shall provide food and water to animals scheduled to be transported during the four (4) hours before travel or before the commercial pet breeder delivers the pet to the carrier. Commercial pet breeders shall provide a small amount of food of the type the pet is regularly fed in a dry storage bag to accompany the animal during transport.

(b) When transporting pets, a commercial pet breeder shall maintain the temperature in pet holding, transportation, or cargo areas above 45 °F (7.2 °C) and below 85 °F (29.5 °C) while pets are present, except for temporary variations in temperature which in no event shall last more than four (4) consecutive hours when animals are present inside a holding, transportation or cargo area or forty five (45) minutes while animals are being transported between holding areas. A commercial pet breeder shall adequately ventilate pet holding areas through windows, doors, vents, fans, blowers, or air conditioning at all times that pets are present, and shall use auxiliary ventilation, such as exhaust fans, vents, fans, blowers, or air conditioning when the ambient temperature is 85 °F (29.5 °C) or higher.

(c) During travel, commercial pet breeders shall remove pets from their primary enclosures every twenty four (24) hours to allow the animal to urinate, defecate, and obtain exercise.

(d) Commercial pet breeders shall not sell or transfer ownership, ship, directly or indirectly, animals less than eight (8) weeks of age.

### **35:55-5-3. Consignments to carriers**

(a) A commercial pet breeder shall not deliver an animal for transport in commerce more than four (4) hours before the scheduled departure time of the car, truck, train, aircraft, or other vehicle or transport on which the pet is to be transported.

(b) Commercial pet breeders shall obtain the name, address, and telephone number of the recipient before delivering a pet for transport by a carrier, and shall provide the address to the carrier.

(c) The commercial pet breeder shall prepare a written statement of each traveling pet's condition and shall attach the certification to the outside of each traveling pet's primary enclosure in an easily visible location that allows persons looking at the primary enclosure to read the certification. The certification shall provide the following:

(1) The commercial pet breeder shall certify that it provided food and water to the pet during the four (4) hours before the pet was delivered for transport and state the time the feeding and watering occurred;

(2) Instructions for feeding or watering the animal for a twenty four (24) hour period that in no event instructs that the pet be provided no food or water, unless directed by a veterinarian;

(3) The commercial pet breeder's name, address, and license number;

(4) The recipient's name, address, and telephone number;

(5) A description of the pet;

(6) A brief summary of the pet's immunization record; and

(7) The commercial pet breeder's signature and the date and time the certification was signed.

(d) The commercial pet breeder shall instruct the carrier that when a primary enclosure containing a pet has arrived at the animal holding area at a terminal facility after transport, the carrier shall attempt to notify the intended recipient upon arrival and at least once in every 6-hour period thereafter.

(1) The time, date, and method of all attempted notifications and the actual notification of the consignee, and the name of the person who notifies or attempts to notify the consignee shall be written either on the carrier's or intermediate handler's copy of the shipping document or on the copy that accompanies the primary enclosure.

(2) The commercial pet breeder shall instruct the carrier that if the intended recipient cannot be notified within twenty four (24) hours after the pet has arrived at the terminal facility, the carrier shall return the pet to the commercial pet breeder or to a person that the commercial pet breeder shall designate, and the commercial pet breeder shall pay the carrier additional fees or costs associated with the re-delivery.

(3) The commercial pet breeder shall instruct the carrier that if the intended recipient is notified of the arrival of the pet and does not accept delivery of the pet within forty eight (48) hours after arrival of the animal, the carrier shall return the pet to the commercial pet breeder or to

a person the commercial pet breeder designates, and the commercial pet breeder shall pay the carrier or intermediate handler additional fees or costs associated with the redelivery.

(4) The commercial pet breeder shall contract with the carrier or intermediate handler for the carrier or intermediate handler to continue to provide proper care, feeding, and housing to the pet and maintain the pet in accordance with generally accepted professional and husbandry practices while in transportation and until the intended recipient accepts delivery of the animal or until the carrier returns the pet to the commercial pet breeder or a person the commercial pet breeder designates.

**35:55-5-4. Primary enclosures used to transport live pets**

(a) Each pet shall be contained in a primary enclosure such as a compartment, transport cage, or crate while being transported. Primary enclosures used to transport pet shall be constructed so that:

(1) The primary enclosure is strong enough to contain the pet securely and comfortably and to withstand the normal rigors of transportation;

(2) The interior of the primary enclosure has no sharp points or edges and no protrusions that could injure the pet contained in it;

(3) The pet is at all times securely contained within the enclosure and cannot put any part of its body outside the enclosure in a way that could result in injury to itself, to handlers, or to persons or animal nearby;

(4) The pet can be easily and quickly removed from the enclosure in an emergency;

(5) Unless the enclosure is permanently affixed to the conveyance, the enclosure shall have devices such as handles or handholds on its exterior that enable persons to lift, manipulate, and move the enclosure without tilting it, and ensure that persons handling the enclosure will not come into physical contact with the pet contained inside;

(6) Unless the enclosure is permanently affixed to the conveyance, the commercial pet breeder shall clearly mark the primary enclosure on top and on one or more sides with the words "Live Animals," in letters at least one (1) inch (2.5 cm.) high, and with arrows or other markings to indicate the correct upright position of the primary enclosure;

(7) Any material, treatment, paint, preservative, or other chemical used in or on the enclosure shall be non-toxic to the pet and not harmful to the health or well-being of the pet;

(8) The pet contained inside receives proper ventilation;

(9) The primary enclosure has a solid, leak-proof bottom or a removable, leak-proof collection tray under a slatted or mesh floor that prevents seepage of waste products, such as excreta and body fluids, outside of the enclosure. If a slatted or mesh floor is used in the enclosure, it shall be designed and constructed so that the pet cannot fit or place any part of its body between the slats or through the holes in the mesh. Unless the pets are on raised slatted

floors or raised floors made of mesh, the primary enclosure shall contain enough previously unused litter to absorb and cover excreta. The litter shall be of a suitably absorbent material that is safe and nontoxic to pets;

(10) The primary enclosure shall not allow for excreta or other wastes to fall on other pets, including that enclosures may not be stacked if the enclosures permit wastes or excreta to fall through the enclosure.

(b) Primary enclosures used to transport live pets shall be large enough to ensure that each pet contained in the primary enclosure has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position.

(c) A primary enclosure used to hold or transport pets in commerce shall be cleaned and sanitized before each use. If the dogs or cats are in transit for more than twenty four (24) hours, the commercial pet breeder shall clean the primary enclosure, replace all litters, and use other methods, such as moving the pets to another enclosure, to prevent the soiling of the pets by body wastes. If it becomes necessary to remove the pet from the enclosure in order to clean, or to move the pet to another enclosure, this procedure shall be completed in a way that safeguards the pet from injury and prevents escape.

(d) Ventilation methods shall meet the following:

(1) Unless the primary enclosure is permanently affixed to the conveyance, the primary enclosure shall have:

(A) At least one-third of the ventilation area located on the upper half of the primary enclosure; and

(B) At least one of the following:

(i) Ventilation openings located on two opposing walls of the primary enclosure and the openings shall be at least sixteen percent (16%) of the surface area of each such wall, and the total combined surface area of the ventilation openings shall be at least fourteen percent (14%) of the total combined surface area of all the walls of the primary enclosure; or

(ii) Ventilation openings on three walls of the primary enclosure, and the openings on each of the two opposing walls shall be at least eight percent (8%) of the total surface area of the two walls, and the ventilation openings on the third wall of the primary enclosure shall be at least fifty percent (50%) of the total surface area of that wall, and the total combined surface area of the ventilation openings shall be at least fourteen percent (14%) of the total combined surface area of all the walls of the primary enclosure; or

(iii) Ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each of the four walls shall be at least eight percent (8%) of the total surface area of each such wall, and the total combined surface area of the openings shall be at least fourteen percent (14%) of total combined surface area of all the walls of the primary enclosure.

(2) If a primary enclosure is permanently affixed to the primary conveyance so that there is only a front ventilation opening for the enclosure, the primary enclosure shall be

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affixed to the primary conveyance in such a way that the front ventilation opening cannot be blocked, and the front ventilation opening shall open directly to an unobstructed aisle or passageway inside the conveyance. The ventilation opening shall be at least ninety percent (90%) of the total area of the front wall of the enclosure, and shall be covered with bars, wire mesh, or smooth expanded metal having air spaces.

(e) Commercial pet breeders shall transport in the same primary enclosure no more than one animal six (6) months of age or older; one live puppy, eight (8) weeks to six (6) months of age, and weighing over twenty pounds (20 lbs.); or two live puppies or kittens up to six (6) months of age, that are of comparable size, and weighing twenty pounds (20 lbs.) or less each. Commercial pet breeders shall not transport puppies or kittens four (4) months of age or less in the same primary enclosure with adult animals other than their dams. Commercial pet breeders may only transport in the same primary enclosure compatible pets of the same species.

(f) Primary enclosures used to transport pets shall be positioned in the primary conveyance so as to allow an animal access to sufficient air for normal breathing at all times, and provide protection from the elements, including that pets shall not be wetted by precipitation when windows, doors, or other openings of animal holding or transportation areas are open. The openings of primary enclosures shall be accessible at all times for emergency removal of the pets.

(g) Shipping documents that shall accompany shipments of pets shall either be held by the operator of the primary conveyance, for surface transportation only, or shall be securely attached in a readily accessible manner to the outside of any primary enclosure that is part of the shipment, in a manner that allows them to be detached for examination and securely reattached, such as in a pocket or sleeve. Instructions for administration of drugs, medication, and other special care shall be attached to each primary enclosure in a manner that makes them easy to notice, to detach for examination, and to reattach securely. The certification of pet condition shall be affixed to the primary enclosure. Shipping documents shall state the number and species of animals being transported.

(h) If the trip is six (6) hours or more in length, a litter box shall be provided within each crate for cats. The litter box shall not cover more than fifty percent (50%) of the crate floor, and the remaining space shall be large enough for the cat to stand, lie down, and turn around.

### **35:55-5-5. Food and water during transportation**

Commercial pet breeders shall provide food at least once every twenty four (24) hours to each animal that is sixteen (16) weeks of age and at least once every twelve (12) hours to puppies and kittens less than sixteen (16) weeks of age. Commercial pet breeders shall provide potable water to each animal at least once every twelve (12) hours.

## **SUBCHAPTER 7. RECORDKEEPING AND SALES**

### **35:55-7-1. Records**

(a) A commercial pet breeder shall maintain a separate health record for each animal in the facility of the commercial breeder documenting the healthcare of the animal that shall include:

(1) The breed, sex, color, and identifying marks of the animal; and

(2) A record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the commercial pet breeder.

(b) The commercial pet breeder shall make the health records available on request to the Oklahoma Department of Agriculture, Food, and Forestry, an authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.

(c) Commercial pet breeders shall create, maintain, and keep records of operations consisting of a list describing all pets that have been born, housed or kept in the facility at any time, and stating the disposition of all pets listed. In describing the disposition of any pet, the commercial pet breeder shall record the following:

(1) If the animal was sold or otherwise transferred, the manner and location of the sale, transfer, or other disposition, and the purchaser's name and address, if the commercial pet breeder shipped or otherwise transported the animal to the purchaser;

(2) That the pet is still on the premises, or

(3) If the pet died while at the facility, the date of death and cause of the death.

(d) Commercial pet breeders shall keep the following records of all sales or disposition of pet the commercial pet breeder has owned or has housed at the licensed facility:

(1) A description of each sold or disposed pet; and

(2) With respect to each pet list the date of transaction, the location of the transaction, whether the commercial pet breeder transported or shipped the pet for delivery, including the location of the recipient, the age of the pet, and the name and address of the purchaser.

(e) Commercial pet breeders shall keep at their facility records of all pets the commercial pet breeder has purchased or otherwise acquired at any time during the preceding two (2) years, which record shall include the date of the transaction, the name and address of the seller, and a description of each pet received, including the age of each pet at the time it was acquired by the commercial pet breeder.

(f) Commercial pet breeders shall keep at their facility breeding records, which, for each adult female animal shall list the dates she was bred, the dates on which her puppies or kittens were born, and the number of puppies or kittens in each litter.

(g) For each pet, commercial pet breeders shall keep copies of documents evidencing the information that shall be contained in the pet breeder's records, including veterinary reports, sales receipts, and shipping invoices.

(h) A commercial pet breeder shall maintain all records for a minimum of two (2) years.

**35:55-7-2. Pet health history provided to purchaser; sale of unhealthy pets**

(a) At the time of the sale, commercial pet breeders shall provide to purchasers of pets a written disclosure of all treatments involving immunizations, medications, anthelmintics (dewormers) and all other treatments for parasites, administered to the purchased pet thirty (30) days prior to the sale. The disclosure shall describe the pet and describe the product used, the dosage, and the medication or product administered to the animal.

(b) Commercial pet breeders shall not knowingly sell a diseased or sick pet without fully disclosing the pet's condition to the purchaser. At the time they offer a pet for sale, commercial pet breeders shall disclose to the purchaser whether the offered animal has any known diseases, defects, or health conditions.

(1) If, within ten (10) days after receipt of a pet by the purchaser, a veterinarian states, in writing, that the pet has an undisclosed health problem or disease which existed in the animal at the time of delivery, or if within one year after receipt of the animal by the purchaser, a veterinarian states, in writing, that the pet has died or is ill due to an undisclosed hereditary or congenital defect, or is not of the breed type represented, the pet shall be considered to have been unfit for sale at the time of sale.

(A) If the animal died, the purchaser shall provide necropsy and lab results to the commercial pet breeder.

(B) If the animal is ill, the commercial pet breeder may request an additional veterinary examination by a veterinarian in the vicinity of the purchaser selected by the commercial pet breeder.

(C) If the animal is not of the breed type represented, the purchaser shall provide DNA analysis verifying the determination.

(2) A purchaser shall be entitled to return to the commercial pet breeder a pet that was unfit for sale and obtain full reimbursement of the purchase price, except that if the unfit pet has died within one year of delivery the purchaser may obtain a reimbursement of the purchase price without returning the pet upon providing proof that the pet has died.

(c) For purposes of cost reimbursement under this section, purchaser, as defined in subsection (b) of this section, shall include the consumer who ultimately purchases the pet if the commercial pet breeder sells the pet to an intermediary or retailer if consumer obtains a veterinary statement indicating that the pet had pre-existing health problems, as described in subsection (b), and if the commercial pet breeder failed to disclose the pre-existing health problems to the intermediary that purchased the pet from the commercial pet breeder. In such case, recovery would be limited to the price paid to the commercial pet breeder. Commercial pet breeders shall not be liable to consumers if they disclose pre-existing health problems to the intermediary or retailer that ultimately sells the pet to the consumer.

**35:55-7-3. Sales invoice or statement**

At the time of the sale, the commercial pet breeder shall provide the purchaser a sales statement in which the commercial pet breeder shall describe the pet, list the date of the transaction, the sales price, the name of the purchaser, the location of the sale and the method of delivery, the commercial pet breeder's license number where applicable, and list any health problem disclosures made to the purchaser. If the commercial pet breeder transports or otherwise ships the pet to the purchaser, the commercial pet breeder shall list the purchaser's address on the sales statement.

**35:55-7-4. Location of sales**

(a) Commercial pet breeders shall not market or sell or offer to sell any pets in retail parking lots or public parking lots, from the side of any road, or from any location that the person does not own if the person has not obtained the proper permit or credentials to sell from the location.

(b) Notwithstanding the foregoing, if while located at a location from which the commercial pet breeder may legally sell products the commercial pet breeder communicates with a purchaser, through phone, fax, email, or other form of communication, and agrees to sell and deliver a pet to a purchaser, the commercial pet breeder may deliver the sold pet to the purchaser to any location upon which the commercial pet breeder and purchaser agree.

**35:55-7-5. Prohibition on the purchase, sale, or transportation of stolen pets**

No commercial pet breeder shall buy, sell, or transport any stolen pet.

**35:55-7-6. Other requirements or acts prohibited**

Commercial pet breeders shall comply with all applicable state and federal laws, municipal ordinances, and reasonable requirements of the Board.

*[OAR Docket #13-678; filed 4-29-13]*

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

*[OAR Docket #13-741]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions of Child Welfare Services

Part 1. Scope and Applicability

340:75-1-2 [AMENDED]

340:75-1-13 through 340:75-1-14 [AMENDED]

340:75-1-16 through 340:75-1-18.1 [AMENDED]

340:75-1-18.4 [AMENDED]

340:75-1-20 through 340:75-1-23 [AMENDED]

340:75-1-23.1 [AMENDED AND RENUMBERED TO 340:75-6-40.8]

340:75-1-24 [REVOKED]

340:75-1-26 through 340:75-1-26.2 [AMENDED]

340:75-1-28 through 340:75-1-31 [AMENDED]

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- Part 3. Child Welfare Confidentiality  
340:75-1-42 [AMENDED]  
340:75-1-45 through 340:75-1-46 [AMENDED]  
Part 7. Interstate Compact on the Placement of Children  
340:75-1-86 [AMENDED]  
Part 9. Rules Regarding Human Immunodeficiency Virus (HIV)  
340:75-1-114 [AMENDED]  
340:75-1-115 through 340:75-1-120 [REVOKED]  
Part 10. Oklahoma Children's Services (OCS)  
340:75-1-150 through 340:75-1-152 [AMENDED]  
340:75-1-152.3 [AMENDED]  
340:75-1-152.5 through 340:75-1-152.7 [AMENDED]  
340:75-1-152.8 [REVOKED]  
340:75-1-152.9 [AMENDED]  
340:75-1-154 through 340:75-1-155 [AMENDED]  
Part 15. ~~Training for Child Welfare Workers~~ Specialist Training  
340:75-1-230 through 233 [AMENDED]  
340:75-1-240 through 340:75-1-241 [AMENDED]  
Subchapter 3. Child Protective Services  
Part 1. Purpose, Definitions, and Hotline Protocol [NEW]  
340:75-3-1 [REVOKED]  
340:75-3-2 [AMENDED AND RENUMBERED TO 340:75-3-120]  
340:75-3-4 [REVOKED]  
340:75-3-5 [AMENDED AND RENUMBERED TO 340:75-3-110]  
340:75-3-6 [AMENDED AND RENUMBERED TO 340:75-3-130]  
340:75-3-6.1 [AMENDED AND RENUMBERED TO 340:75-3-400]  
340:75-3-7 [AMENDED AND RENUMBERED TO 340:75-3-140]  
340:75-3-7.1 [REVOKED]  
340:75-3-7.4 [AMENDED AND RENUMBERED TO 340:75-3-200]  
340:75-3-7.5 [AMENDED AND RENUMBERED TO 340:75-3-210]  
340:75-3-8 [AMENDED AND RENUMBERED TO 340:75-3-220]  
340:75-3-8.1 [AMENDED AND RENUMBERED TO 340:75-3-410]  
340:75-3-8.2 [AMENDED AND RENUMBERED TO 340:75-3-420]  
340:75-3-8.3 [AMENDED AND RENUMBERED TO 340:75-3-430]  
340:75-3-8.4 [AMENDED AND RENUMBERED TO 340:75-3-440]  
340:75-3-8.7 [AMENDED AND RENUMBERED TO 340:75-3-450]  
340:75-3-9.1 [AMENDED AND RENUMBERED TO 340:75-3-460]  
340:75-3-10.1 [REVOKED]  
340:75-3-10.2 [AMENDED AND RENUMBERED TO 340:75-3-500]  
340:75-3-10.3 [REVOKED]  
340:75-3-11 [AMENDED AND RENUMBERED TO 340:75-3-510]  
340:75-3-12 [REVOKED]  
340:75-3-13 [AMENDED AND RENUMBERED TO 340:75-3-520]  
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340:75-3-110 [NEW]  
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340:75-3-120 [NEW]  
340:75-3-121 through 340:75-3-129 [RESERVED]  
340:75-3-130 [NEW]  
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340:75-3-140 [NEW]  
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Subchapter 6. Permanency Planning  
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340:75-6-1 [AMENDED]  
Part 5. Permanency Planning Services  
340:75-6-30 [AMENDED]  
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340:75-6-40.8 [NEW]  
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Part 8. ~~Role of the Child Welfare Worker~~ Specialist Role  
340:75-6-48 [AMENDED]  
340:75-6-48.2 [REVOKED]  
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340:75-7-65 [AMENDED]  
Part 8. Continuous Quality Assessment of a Resource Home  
340:75-7-94 [AMENDED]  
Part 27. Contracted Foster Care Program  
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Part 28. Foster Parent Helpline and Mediation  
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 340:75-19-22 [REVOKED]  
 340:75-19-23 through 340:75-19-26.1 [AMENDED]  
 340:75-19-28 through 340:75-19-33 [AMENDED]

**(Reference WF 12-10)**

**AGENCY NOTE: AMENDED AND RENUMBERED OR REVOKED PROVISIONS MAY BE INCLUDED IN AMENDED OR NEW SECTIONS IN THIS FILING OR A SUBSEQUENT FILING.**

**AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Oklahoma Children's Code 10A O.S. § 1-1-101 et. seq. related to existing statutory cites and language expanded in rule; House Bill (HB) 2251 and 10A O.S. §§ 1-2-102 and 1-1-105 related to the drug-endangered child; HB 3135 and 10A O.S. §§ 1-6-102 and 1-6-105 related to disclosure of confidential information; Senate Bill (SB) 1183 and 10 O.S. § 7505-5.3 and 10A O.S. § 1-7-111 related to the use of Department of Public Safety (DPS) Motor Vehicle Report for prospective foster and adoptive parents; HB 2300 and 10A O.S. § 1-1-105 related to child protective services investigation findings; 10A O.S. § 1-4-806 related to trial reunification background checks, 10A O.S. § 1-4-809 related to reasonable efforts findings by the court; HB 3049 and 57 O.S. § 590 related to the parent who is a registered sex offender; and HB 3134 and non-codified language related to the OKDHS reorganization.

**DATES:**

**Comment period:**

January 2, 2013 through February 1, 2013

**Public hearing:**

None requested

**Adoption:**

February 8, 2013

**Submitted to Governor:**

February 14, 2013

**Submitted to House:**

February 14, 2013

**Submitted to Senate:**

February 14, 2013

**Gubernatorial approval:**

March 25, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rule(s) resulted in approval on April 12, 2013.

**Final adoption:**

April 12, 2013

**Effective:**

July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

The proposed revisions to Subchapters 1, 3, 4, 6, 7, 13, 15, 18, and 19 of Chapter 75: (1) amend the rules to comply with federal and state statutes and regulations and Oklahoma Pinnacle Plan requirements related to the provision of child welfare services; and (2) update division, unit, and position titles consistent with the Oklahoma Department of Human Services (OKDHS) reorganization.

**CONTACT PERSON:**

Dena Thayer, Programs Administrator, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

**DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE DEPARTMENT OF HUMAN SERVICES, SEQUOYAH BUILDING, OKLAHOMA CITY AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT**

**TO 75 O.S., SECTION 255(B):**

**SUMMARY:**

OAC 340:75-1-2 is amended to add a definition, revise sentence structure and division name to be consistent with the agency reorganization related to the Child Welfare Services (CWS) mission, purpose, scope, and legal base.

OAC 340:75-1-13 is amended to revise punctuation related to requests from other states.

OAC 340:75-1-14 is amended to revise sentence structure related to the child welfare legal system.

OAC 340:75-1-16 is amended to revise sentence structure and cite existing statutory language regarding a child's release from state custody.

OAC 340:75-1-17 is amended to delete duplicative information found in OAC 340:75-1-18.4 and revise sentence structure related to adjudicatory hearings.

OAC 340:75-1-18 is amended to revise existing language to more closely track existing statutory language and revise sentence structure related to dispositional hearings.

OAC 340:75-1-18.1 is amended to revise sentence structure and cite existing statutory language related to permanency hearings.

OAC 340:75-1-18.4 is amended to include existing Child Abuse Prevention Treatment Act (CAPTA) requirements regarding court determinations related to when reasonable efforts are not required to reunite the child and family per House Bill (HB) 2300.

OAC 340:75-1-20 is amended to reposition existing information, add statutory cite, and revise sentence structure related to judicial reviews.

OAC 340:75-1-21 is amended to revise sentence structure related to post-adjudicatory review boards.

OAC 340:75-1-22 is amended to update a statutory cite and revise sentence structure related to administrative reviews.

OAC 340:75-1-23 is amended to revise sentence structure and add reference to OAC 340:75-6-40.7 termination of parental rights.

OAC 340:75-1-23.1 is amended and renumbered to OAC 340:75-6-40.8.

OAC 340:75-1-24 is revoked as duplicative information.

OAC 340:75-1-26 is amended to revise sentence structure.

OAC 340:75-1-26.1 is amended to revise sentence structure related to safety procedures for field visits.

OAC 340:75-1-26.2 is amended to revise sentence structure related to death certificates.

OAC 340:75-1-28 is amended to revised sentence structure related to contingency funds.

OAC 340:75-1-29 is amended to update division name consistent with the agency reorganization and revise sentence structure related to CWS case responsibility.

OAC 340:75-1-30 is amended to revise sentence structure related to Address Confidentiality Program.

OAC 340:75-1-31 is amended to revise sentence structure related to citizenship and immigration status.

OAC 340:75-1-42 is amended to update a statutory cite and revise sentence structure related to client information confidentiality.

OAC 340:75-1-45 is amended to update division name consistent with the agency reorganization, add taglines, and revise sentence structure related to disclosure of agency records pursuant to a court order.

OAC 340:75-1-46 is amended to revise sentence structure related to transfer or release of information with Consent for Release of Information form.

OAC 340:75-1-86 is amended to update sentence structure.

OAC 340:75-1-114 is amended to delete information that is repositioned in OAC 340:75-1-113 and add information from OAC 340:75-1-117 and 340:75-1-120 related to rules regarding Human Immunodeficiency Virus.

OAC 340:75-1-115, 340:75-1-116, 340:75-1-117, and 340:75-1-118 are revoked and repositioned in OAC 340:75-1-113.

OAC 340:75-1-119 and 340:75-1-120 are revoked and information reposition in OAC 340:75-1-114.

OAC 340:75-1-150 is amended to update agency reorganization terminology and revise sentence structure related to Oklahoma Children's Services (OCS).

OAC 340:75-1-151, 340:75-1-152, and 340:75-1-152.3 are amended to revise Section tagline and sentence structure related to OCS.

OAC 340:75-1-151.1, 340:75-1-152.5, and 340:75-1-152.6 are amended to revise sentence structure related to OCS.

OAC 340:75-1-151.2 is amended to revise Section tagline and moved instructive information to Instructions to Staff (ITS) related to OCS.

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OAC 340:75-1-152.7 is amended to clarify early termination of the OCS process and revise taglines and sentence structure.

OAC 340:75-1-152.8 is revoked and information repositioned in OAC 340:75-1-152.7.

OAC 340:75-1-152.9 and 340:75-1-154 are amended to revise sentence structure.

OAC 340:75-1-155 is amended to delete instructive information and moved to related ITS.

OAC 340:75-1-230 and 340:75-1-231 are amended to revise Section heading and sentence structure related to child welfare specialist training.

OAC 340:75-1-232 is amended to: (1) require that new employees successfully complete the post-CORE certification test; (2) delete instructive information to repositioning in related ITS; and (3) add statutory language related to annual training requirements.

OAC 340:75-1-233 and 340:75-1-240 are amended to revise sentence structure related to child welfare specialist training.

OAC 340:75-1-241 is amended to revise division name consistent with the agency reorganization and revise sentence structure related to child welfare specialist training.

OAC 340:75-3-1 revokes and moved to OAC 340:75-3-100 (in subsequent filing).

OAC 340:75-3-2 amended and renumbered to OAC 340:75-3-120.

OAC 340:75-3-4 revoked and moved to OAC 340:75-3-100 (in subsequent filing).

OAC 340:75-3-5 amended and renumbered to OAC 340:75-3-110.

OAC 340:75-3-6 amended and renumbered to OAC 340:75-3-130.

OAC 340:75-3-6.1 amended and renumbered to OAC 340:75-3-400.

OAC 340:75-3-7 amended and renumbered to OAC 340:75-3-140.

OAC 340:75-3-7.1 revoked and moved to OAC 340:75-3-140.

OAC 340:75-3-7.4 amended and renumbered to OAC 340:75-3-200.

OAC 340:75-3-7.5 amended and renumbered to OAC 340:75-3-210.

OAC 340:75-3-8 amended and renumbered to OAC 340:75-3-220.

OAC 340:75-3-8.1 amended and renumbered to OAC 340:75-3-410.

OAC 340:75-3-8.2 amended and renumbered to OAC 340:75-3-420.

OAC 340:75-3-8.3 amended and renumbered to OAC 340:75-3-430.

OAC 340:75-3-8.4 amended and renumbered to OAC 340:75-3-440.

OAC 340:75-3-8.7 amended and renumbered to OAC 340:75-3-450.

OAC 340:75-3-9.1 amended and renumbered to OAC 340:75-3-460.

OAC 340:75-3-10.1 revoked and moved to OAC 340:75-3-300 (in subsequent filing).

OAC 340:75-3-10.2 amended and renumbered to OAC 340:75-3-500.

OAC 340:75-3-10.3 revoked and moved to OAC 340:75-3-120.

OAC 340:75-3-11 amended and renumbered to OAC 340:75-3-510.

OAC 340:75-3-12 revoked and moved to OAC 340:75-3-140.

OAC 340:75-3-13 amended and renumbered to OAC 340:75-3-520.

OAC 340:75-3-20 amended and renumbered to OAC 340:75-3-530.

OAC 340:75-3-110 is new, renumbered from OAC 340:75-3-5, and further amended to move information in rule to ITS related to child protective services (CPS) relationships to other entities.

OAC 340:75-3-120 is new, renumbered from OAC 340:75-3-2 and 340:75-3-10.3, and further amended to: (1) clarify that terms not found in statute are defined in Instructions to Staff; (2) add definition of drug-endangered child per HB 2251; and (3) updated certain definitions to more closely track statutory language.

OAC 340:75-3-130 is new, renumbered from OAC 340:75-3-6, 340:75-3-7, 340:75-3-7.1, and 340:75-3-7.3, and further amended to revise sentence structure related to the OKDHS Abuse and Neglect Hotline.

OAC 340:75-3-140 is new, renumbered from OAC 340:75-3-12, and further amended to reposition language and revise sentence structure related to the Child Abuse and Neglect Information System also known as KIDS.

OAC 340:75-3-200 is new, renumbered from OAC 340:75-3-7.4, and further amended to revise sentence structure related to general protocols for the CPS assessment and investigation.

OAC 340:75-3-210 is new, renumbered from OAC 340:75-3-7.5, and further amended to revise sentence structure related to the CPS assessment protocol.

OAC 340:75-3-220 is new, renumbered from OAC 340:75-3-8, and further amended to revise sentence structure related to the CPS investigation protocol.

OAC 340:75-3-400 is new, renumbered from OAC 340:75-3-6.1, and further amended to delete duplicative information found in OAC 340:75-3-7.3, 340:75-3-8.3 and revise sentence structure related to reports of child abuse or neglect with specialized protocols.

OAC 340:75-3-410 is new, renumbered from OAC 340:75-3-8.1, and further amended to clarify that OCA investigates allegations of child abuse and neglect in an above foster care level setting and revise sentence structure.

OAC 340:75-3-420 is new, renumbered from OAC 340:75-3-8.2, and further amended to revise sentence structure related to protocol for investigating reports of abuse or neglect in child care centers or homes.

OAC 340:75-3-430 is new, renumbered from OAC 340:75-3-8.3, and further amended to delete instructive information moved to ITS related to protocol for investigating alleged medical neglect of infants born alive and infants born with disabilities.

OAC 340:75-3-440 is new, renumbered from OAC 340:75-3-8.4, and further amended to revise sentence structure and update position and division titles consistent with the agency reorganization related to the multidisciplinary child abuse team.

OAC 40:75-3-450 is new, renumbered from OAC 340:75-3-8.7, and further amended to: (1) revise Section tagline to "Drug-endangered child"; (2) clarify that substance abuse is considered during the safety assessment; (3) move cautionary specialist safety language to ITS; (4) require an investigation instead of an assessment when the report alleges the child is drug-endangered per HB 2251; and (5) add statutory requirement for OKDHS to maintain records regarding infants born exposed to alcohol or other harmful substances.

OAC 340:75-3-460 is new, renumbered from OAC 340:75-3-9.1, and further amended to include requirements of HB 3135 regarding child death or near-death disclosure.

OAC 340:75-3-500 is new, renumbered from OAC 340:75-3-10.2, and further amended to add new investigative findings per HB 2300.

OAC 340:75-3-510 is new, renumbered from OAC 340:75-3-11, and further amended to revise sentence structure related to reports to the district attorney regarding child abuse or neglect investigations.

OAC 340:75-3-520 is new, renumbered from OAC 340:75-3-13, and further amended to revise sentence structure related to the closure of the child protective services assessment or investigation.

OAC 340:75-3-530 is new, renumbered from OAC 340:75-3-20, and further amended to update the appeal processes related to substantiated findings of child abuse or neglect.

OAC 340:75-6-1 is amended to modify the tag line and revise sentence structure related to the purpose for permanency planning for the child in OKDHS custody.

OAC 340:75-6-30 is amended to: (1) add statutory cites and related language regarding parent-child visitation, the child's mail and phone contacts, and child's contact with siblings; and (2) revise sentence structure.

OAC 340:75-6-31.1 is amended to revise sentence structure and formatting related to family team meetings.

OAC 340:75-6-31.2 is amended to revise sentence structure related to reunification services for TANF recipients.

OAC 340:75-6-31.3 is amended to: (1) update process for criminal background checks prior to trial reunification consistent with HB 2300; and (2) update sentence structure.

OAC 340:75-6-31.4 is amended to update procedures for permanent guardianships.

OAC 340:75-6-31.5 is amended to update taglines and sentence structure related to paternity establishment.

OAC 340:75-6-40 is amended to update sentence structure related to case plans.

OAC 340:75-6-40.1 is amended to update sentence structure related to the child's individualized service plan.

OAC 340:75-6-40.2 is amended to update sentence structure related to placement provider information.

OAC 340:75-6-40.3 is amended to update sentence structure and formatting related to the family functional assessment.

OAC 340:75-6-40.4 is amended to: (1) update sentence structure and formatting related to the individualized service plan; and (2) update division name consistent with the agency reorganization.

OAC 340:75-6-40.5 and 340:75-6-40.6 are amended to update sentence structure and formatting.

OAC 340:75-6-40.8 is new to create a single subject Section related to reinstatement of parental rights that contains information repositioned from OAC 340:75-1-23.

OAC 340:75-6-44 is amended to: (1) add HB 2300 requirement regarding reasonable efforts findings; and (2) revise sentence structure and taglines.

OAC 340:75-6-45 is amended to revise sentence structure and taglines related to case planning for incarcerated parents.

OAC 340:75-6-46 is amended to revise sentence structure and Section tagline related to services to youth involved in the juvenile justice system.

OAC 340:75-6-48 is amended to add foster child visitation requirements consistent with the Oklahoma Pinnacle Plan.

OAC 340:75-6-48.2 is revoked as the information was repositioned in OAC 340:75-6-48.1.

OAC 340:75-6-48.3 is amended to revise sentence structure and Section tagline related to runaway or abducted children in OKDHS custody or under OKDHS supervision.

OAC 340:75-6-49 is amended to revise sentence structure related to religious and cultural observation.

OAC 340:75-6-50 is amended to revise sentence structure and taglines related to education.

OAC 340:75-6-85 is amended to: (1) add HB 2300 requirement regarding a registered sex offender's residence; and (2) revise sentence structure and update formatting related to placement considerations for the child in OKDHS custody.

OAC 340:75-6-85.2 is amended to revise sentence structure related to diligent search for relatives or kin.

OAC 340:75-6-85.3 is amended to revise sentence structure related to sibling placement.

OAC 340:75-6-85.4 is amended to revise sentence structure and Section tagline related to adoption as the permanency plan.

OAC 340:75-6-85.5 is amended to revise sentence structure related to supervision only cases.

OAC 340:75-6-85.6 is amended to update sentence structure related to voluntary foster care for a child born to youth in OKDHS custody.

OAC 340:75-6-86 is amended to: (1) require notice to the tribal representative involved in a case of the child's location; and (2) revise sentence structure related to the child's change in living arrangements.

OAC 340:75-6-88 is amended to revise sentence structure related to medical services for the child in OKDHS custody.

OAC 340:75-6-89 is amended to revise sentence structure related to the child's travel within or outside the United States.

OAC 340:75-6-91 is amended to revise sentence structure and division title consistent with the agency reorganization related to child care services for the CWS adult client.

OAC 340:75-6-92 is amended to delete and reposition instructive information in ITS and revise sentence structure related to services to the pregnant youth in OKDHS custody.

OAC 340:75-6-110 is amended to: (1) delete information regarding tuition waivers found in related ITS; (2) delete independent living specialized community home as a placement option due to budgetary cuts for youth in voluntary placement after 18 years of age; and (3) revise sentence structure and unit title consistent with the agency reorganization.

OAC 340:75-7-2 is amended to: (1) add definition of application; (2) update sentence structure and formatting related to adoptions.

OAC 340:75-7-10 is amended to update Section and subsection taglines and revise sentence structure related to Bridge resource family recruitment.

OAC 340:75-7-12 is amended to: (1) update the Bridge resource parent application for adoption process; and (2) state the Bridge foundational beliefs.

OAC 340:75-7-14 is amended to revise sentence structure, update taglines and unit title consistent with the agency reorganization related to training requirements for the Bridge resource parent.

OAC 340:75-7-18 is amended to: (1) reposition and update Bridge resource house assessment requirements from ITS to rule; (2) update the process for assessment of criminal and child welfare history; (3) clarify assessment of applicant's marital and relationship history and requirement for assessment of previous non-OKDHS foster care experience; and (4) revise sentence structure, taglines, and unit and position titles consistent with the agency reorganization.

OAC 340:75-7-19 is amended to update sentence structure and division, unit, and position titles consistent with the agency reorganization related to joint approval of resource homes.

OAC 340:75-7-24 is amended to revise the Section heading, sentence structure, and formatting related to kinship placement for the child in OKDHS custody.

OAC 340:75-7-37 is amended to: (1) clarify confidentiality related to photo or information sharing on any type of media or Internet sites; and (2) updating sentence structure and formatting.

OAC 340:75-7-37.1 is amended to update the Section heading and sentence structure related to the OKDHS responsibility to recruit, approve, and retain the Bridge resource family.

OAC 340:75-7-41 is amended to update processes related to placement considerations and requirements.

OAC 340:75-7-51 is amended to clarify the process and update sentence structure related to foster care claims.

OAC 340:75-7-52 is amended to update sentence structure and agency division name consistent with the agency reorganization related to foster care contracts and maintenance payments.

OAC 340:75-7-52.1 is amended to update sentence structure and taglines related to Social Security and stipend benefits.

OAC 340:75-7-53 is amended to update sentence structure, tagline, and division name consistent with the agency reorganization related to difficulty of care payments for the eligible child.

OAC 340:75-7-65 is amended to modify the tag line and revise sentence structure and update division and Section titles consistent with the agency reorganization related to foster care, child care, and supportive services for the Bridge resource.

OAC 340:75-7-94 is amended to update Section heading and sentence structure related to Bridge resource home reviews, non-compliance, investigations, closure, and fair hearings.

OAC 340:75-7-280 is amended to revise sentence structure and update position titles consistent with the agency reorganization related to contracted foster care.

OAC 340:75-7-290 is amended to revise sentence structure and tagline related to the foster parent helpline.

OAC 340:75-7-291 is amended to revise sentence structure and formatting related to foster care mediation.

OAC 340:75-13-75 is amended to delete a revoked cite and update the OKDHS unit reference.

OAC 340:75-13-80 is amended to correct a misspelling.

OAC 340:75-15-5 is amended to update introductory Section with legislative policy and intent, legal authority, and scope related to the OKDHS adoption services program.

OAC 340:75-15-6 is amended to update taglines, sentence structure and delete information related to adoptive home development to OAC 340:75-15-5.

OAC 340:75-15-7 is amended to add a definition of application, modify definition of child profile, and update sentence structure related to adoption definitions.

OAC 340:75-15-9 is amended to update sentence structure related to confidentiality.

OAC 340:75-15-42 and 340:75-15-45 are revoked as information in this Section is repositioned in OAC 340:75-15-41.1.

OAC 340:75-15-47 is amended to update sentence structure related to inter-jurisdictional fair hearings.

OAC 340:75-15-82 is amended to update sentence structure related to inter-jurisdictional fair hearings.

OAC 340:75-15-83 is revoked and combined with OAC 340:75-15-84.

OAC 340:75-15-84 is amended to: (1) insert adoption eligibility information from revoked Section OAC 340:75-15-83; (2) update the adoption application process; and (3) update sentence structure and formatting.

OAC 340:75-15-88 is amended to delete duplicative information found in OAC 340:75-15-88 ITS and update sentence structure.

OAC 340:75-15-89 is amended to update sentence structure related to the continued and annual re-assessment of the adoptive home.

OAC 340:75-15-91 is amended to update tagline and sentence structure related to the closure of the resource family home.

OAC 340:75-18-1 is amended to revise division, unit, and position titles consistent with the agency reorganization related to continuous quality improvement.

OAC 340:75-18-2 is amended to revise sentence structure related to continuous quality improvement.

OAC 340:75-19-1 is amended to combine OAC 340:75-19-1 and 340:75-19-16.

OAC 340:75-19-2 is amended to: (1) combine this Section and OAC 340:75-19-4; (2) cite the purpose of the Oklahoma Indian Child Welfare Act (OICWA) and statutory authority per 10 O.S. § 40.1; and (3) cite the applicability of the federal and state Indian Child Welfare Acts per 10 O.S. § 40.3.

OAC 340:75-19-3 is amended to update definitions related to the Indian Child Welfare Act (ICWA).

OAC 340:75-19-4 is revoked and the information repositioned in OAC 340:75-19-2.

OAC 340:75-19-5 is amended to update the Section tagline related to tribal and state court jurisdiction.

OAC 340:75-19-6 is amended to cite the legal authority for tribal inspection of OKDHS records without a court order per 10A O.S. § 1-6-103; (2) add HB 3135 requirement for disclosure of OKDHS records to federally recognized

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Indian tribes when an individual has applied to become a tribal foster, adoptive, or guardianship parent; and (3) update taglines.

OAC 340:75-19-7 is amended to update sentence structure related to transfer of jurisdiction.

OAC 340:75-19-8 is amended to: (1) cite statutory authority for OICWA required findings regarding the child's Indian heritage per 10 O.S. § 40.3 (C) 1-3; and (2) update sentence structure.

OAC 340:75-19-9 is amended to: (1) delete instructive information repositioned in related ITS; (2) revise Section tagline; and (3) update sentence structure.

OAC 340:75-19-10 is amended to: (1) add statutory cite and language regarding emergency removal and placement of the Indian child domiciled on but located off the reservation; (2) reposition language related to the emergency removal of an Indian child; and (3) update sentence structure.

OAC 340:75-19-11 is amended to: (1) update taglines; (2) include statutory cites; (3) reformat information; and (4) cite statutory authority and language regarding invalidation of an action upon showing of certain violations.

OAC 340:75-19-12 is amended to: (1) strike duplicative language; (2) cite statutory authority for adjudication of an Indian child; and (3) update related language.

OAC 340:75-19-13 is amended to include: (1) statutory cite and language related to qualified expert witness testimony per Section 1912 of Title 25 of the United States Code (25 U.S.C. § 1912); and (2) Bureau of Indian Affairs (BIA) guidelines for qualified expert witnesses.

OAC 340:75-19-14 is amended to include: (1) statutory cite and language related to placement preferences for Indian children per 25 U.S.C. § 1915(a) and (b); (2) statutory cite and language related to tribal authority to establish tribe-specific placement preferences per 25 U.S.C. 1915(c); (3) cite statutory authority per 10 O.S. § 40.6 to utilize the child's tribe in securing a placement for the Indian child; and (4) cite statutory authority and language related to placement records per 25 U.S.C. § 1915.

OAC 340:75-19-15 is to eliminate duplication of OAC 340:75-19-14.

OAC 340:75-19-16 is revoked and information repositioned in OAC 340:75-19-1.

OAC 340:75-19-17 is revoked and information repositioned in OAC 340:75-19-6.

OAC 340:75-19-18 is amended to delete information contained in related Sections and to add a statutory cite for "active efforts" per 25 U.S.C. § 1912.

OAC 340:75-19-19 is amended to add a statutory cite and update sentence structure related to termination of parental rights to the Indian child per 25 U.S.C. § 1912(f).

OAC 340:75-19-20 is amended to: (1) combine information from OAC 340:75-19-22 to this Section; (2) delete information repositioned in ITS; and (3) update sentence structure and tagline.

OAC 340:75-19-21 is amended to update sentence structure and modify tagline.

OAC 340:75-19-22 is revoked and information repositioned in OAC 340:75-19-20.

OAC 340:75-19-23 is amended to: (1) add statutory cites related to adoptive placement preference per 25 U.S.C. § 1915; and (2) update sentence structure and taglines.

OAC 340:75-19-24 is amended to: (1) add statutory cites and information related to withdrawal of voluntary consent to adoption and the time requirement for invalidation of an adoption of an Indian child per 25 U.S.C. § 1913; and (2) update taglines.

OAC 340:75-19-25 is amended to add statutory cites related to the final decree of adoption per 25 U.S.C. § 1951 and the confidentiality affidavit per 5 U.S.C. § 552.

OAC 340:75-19-26 is amended to update sentence structure only related to foster care reimbursement for the child in tribal custody.

OAC 340:75-19-26.1 is amended to update the procedure for the tribal Child Welfare worker to access therapeutic foster care for the Indian child.

OAC 340:75-19-28 is amended to update sentence structure, modify OKDHS designations due to reorganization related to difficulty of care payments for the child in tribal custody.

OAC 340:75-19-29 is amended to add a statutory cite requiring notice that evidence gathered during the Indian child's stay in voluntary foster care may be used as a basis for court action per 10A O.S. § 1-7-112.

OAC 340:75-19-30 is amended to update sentence structure related to voluntary foster care for the child in tribal custody younger than 18 years of age.

OAC 340:75-19-31 is amended to update processes and procedures related to independent living services for youth in tribal custody.

OAC 340:75-19-32 is amended to: (1) reposition information in related ITS to this Section of rule; and (2) update sentence structure and formatting related to tribal/state agreements for foster care.

OAC 340:75-19-33 is amended to delete instructive information reposition in related ITS and update sentence structure related to roles of the Child Welfare Services tribal liaison and child welfare specialist.

[OAR Docket #13-741; filed 5-9-13]

## TITLE 380. DEPARTMENT OF LABOR CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #13-701]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 9. Licensing Procedures  
380:1-9-1. [AMENDED]

### AUTHORITY:

Department of Labor; 75 O.S. §§ 301, *et seq.* Administrative Procedures Act

### DATES:

#### Comment period:

January 2, 2013 through February 4, 2013

#### Public hearing:

February 4, 2013

#### Adoption:

February 7, 2013

#### Submitted to Governor:

February 8, 2013

#### Submitted to House:

February 8, 2013

#### Submitted to Senate:

February 8, 2013

#### Gubernatorial approval:

March 11, 2013

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 5, 2013

#### Final adoption:

April 5, 2013

#### Effective:

July 1, 2013

#### SUPERSEDED EMERGENCY ACTIONS:

n/a

#### INCORPORATIONS BY REFERENCE:

n/a

#### ANALYSIS:

The proposed rule amendments will clarify general licensing requirements applicable to all licenses issued by the Department. These requirements have been a part of the Department's licensing procedures for several years and are added to the administrative rules to ensure public awareness. For those licenses which expire at the end of the applicant's birth month, the initial license fee will be prorated. References to specific license application requirements have been amended to include programs recently added to the Department's jurisdiction and to correct omission of a program area.

#### CONTACT PERSON:

Tiffany J. Wythe, Assistant General Counsel, (405) 521-6186 or tiffany.wythe@labor.ok.gov or Bettye Finch, Statistical, Asbestos and Licensing Director, (405) 521-6855 or bettye.finch@labor.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, 2013:**

**SUBCHAPTER 9. LICENSING PROCEDURES**

**380:1-9-1. Applications for licenses**

(a) References to specific license application requirements are as follows:

- (1) **Asbestos removal.** For asbestos removal licenses, see Chapter 50, Subchapter 5 of this Title.
- (2) **Welders, testing labs.** For licenses for welders and testing labs, see Chapter 20 of this Title.
- (3) **Amusement rides.** For amusement ride licenses, see Chapter 55 of this Title.
- (4) **Private employment agencies.** For private employment agency licenses, see 40 O.S. Section 53.
- (5) **Elevators.** For elevator installation, repair and inspection licenses, see Chapter 70, Subchapter 5 of this Title.
- (6) **Boilers.** For boiler and pressure vessel service, repair and installation licenses, see Chapter 25, Subchapter 13 of this Title.
- (7) **Alarm and Locksmith Industry.** For burglar alarm, fire alarm, alarm monitoring, fire sprinkler, locksmith, electronic access control, closed circuit television and nurse call licenses, see Chapter 75, Subchapter 3 of this Title.

(b) General license application requirements which apply to all licenses issued by the Department of Labor are as follows:

- (1) All license applicants must provide a valid, unexpired U.S. federal or state-issued driver's license or photo-identification card and one of the following:
  - (A) Social security card;
  - (B) Birth certificate;
  - (C) Passport; or
  - (D) W-2 form from current employer.
- (2) Pursuant to 56 O.S. Section 71, all license applicants must sign either an Affidavit of Citizenship affirming that the applicant is a United States citizen or an Affidavit Regarding Citizenship affirming that the applicant is a qualified alien lawfully present in the United States. Immigration status of qualified aliens will be verified by the Systematic Alien Verification for Entitlements (SAVE) Program. Only verified qualified aliens may be eligible for licensure. Qualified aliens must present valid documentary evidence of immigration status in person. Once eligibility is established, renewal applications of qualified aliens must be submitted in person if the qualified alien is using a new immigration document not previously submitted to the Department to prove immigration status.
- (3) All initial license applicants must be photographed by the Department of Labor or an entity approved by the Department. Renewal applicants must be photographed by the Department of Labor or an entity approved by the Department every tenth year.
- (4) Renewal applications may be approved each year, excluding the tenth year and every tenth year thereafter, by mailing an application, fee, and photocopy of the requested documentation listed above to the Department of Labor.

(5) For licenses which expire at the end of the applicant's birth month, the initial license fee may be prorated on a monthly basis if the license is issued for less than the full license period.

(b)c) Forms for application for license are furnished by the Labor Commissioner upon request.

*[OAR Docket #13-701; filed 4-30-13]*

**TITLE 380. DEPARTMENT OF LABOR  
CHAPTER 25. BOILER AND PRESSURE  
VESSEL RULES**

*[OAR Docket #13-702]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 3. Administration  
380:25-3-5. [AMENDED]  
380:25-3-15. [AMENDED]  
Subchapter 19. Boiler Operator Licensing  
380:25-19-1. [AMENDED]

**AUTHORITY:**

Department of Labor; 40 O.S. §141.3, Boiler and Pressure Vessel Safety Act

**DATES:**

**Comment period:**

January 2, 2013 through February 5, 2013

**Public hearing:**

February 5, 2013

**Adoption:**

February 7, 2013

**Submitted to Governor:**

February 8, 2013

**Submitted to House:**

February 8, 2013

**Submitted to Senate:**

February 8, 2013

**Gubernatorial approval:**

March 11, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 5, 2013

**Final adoption:**

April 5, 2013

**Effective:**

July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

In an effort to create consistent licensing requirements among the occupations regulated by the Department, the proposed rule amendment will change the expiration date for boiler operator licenses to the last day of the licensee's birth month and require the license fee to be prorated. The Department's responsibility to provide questionnaires has been clarified and unnecessary language has been deleted.

**CONTACT PERSON:**

Tiffany J. Wythe, Assistant General Counsel, (405) 521-6186 or [tiffany.wythe@labor.ok.gov](mailto:tiffany.wythe@labor.ok.gov) or Rick Flanigan, Safety Standards Director, (405) 521-2612 or [rick.flanigan@labor.ok.gov](mailto:rick.flanigan@labor.ok.gov).

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,**

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## SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2013:

### SUBCHAPTER 3. ADMINISTRATION

#### 380:25-3-5. Certificate of competency and identification card

(a) Upon written request of his/her employer a certificate of competency and an identification card may be issued by the Commissioner of Labor to:

- (1) The Chief Boiler Inspector and Deputy Inspectors employed by the state.
- (2) A special Inspector who is regularly employed by an insurance company recognized as an Authorized Inspection Agency.
- (3) An owner/User inspector who has met all the requirements of the Act and who is continuously employed by a company which operates boilers or pressure vessels or both in this state and which has a valid owner/user inspection agency as provided for in the Act.
- (4) The inspector in his name and only one employer, whereupon the certificate of competency and valid identification card shall be returned to the Chief Boiler Inspector when the inspector to whom they were issued is no longer employed by the organization employing him at the time that the certificate was issued.

(b) ~~Effective October 1, 1995, all~~ All new applicants for and current holders of, an Oklahoma certificate of competency will be required to complete an open book questionnaire covering the Oklahoma Boiler and Pressure Vessel Safety Act of 1982 and its amendments, prior to the issuance, or renewal of the certificate of competency.

- (1) This questionnaire will be required every 5 years.
- (2) Each new applicant for a certificate of competency will be provided the questionnaire at the time of application.
- ~~(3) Holders of a 1995 Oklahoma Certificate of Competency will be furnished the questionnaire no later than October 1, 1995.~~
- (43) Future questionnaires will be provided made available on or before October 1 of each year to satisfy the 5 years requirement.

#### 380:25-3-15. Restamping boilers and pressure vessels

~~(a)~~ When the stamping on a boiler or pressure vessel becomes indistinct, the Inspector shall instruct the owner or user to have it restamped. Request for permission to restamp the boiler or pressure vessel shall be made to the Chief Boiler Inspector and proof of the original stamping shall accompany the request. The Chief Boiler Inspector may grant such authorization. Restamping authorized by the Chief Boiler Inspector shall be done only in the presence of an Inspector, and shall be identical with the original stamping. If the ASME Code symbol is to be restamped, it may only be done by the original manufacturer of the boiler or pressure vessel in the presence of the Inspector who signed the manufacturers' data report

or an authorized inspector employed by the same insurance company employing the original authorized Inspector or the Chief or Deputy Inspectors. Notice of completion of such restamping shall be filed with the Chief Boiler Inspector by the Inspector who witnessed the stamping on the boiler or pressure vessel, together with a facsimile of the stamping applied.

~~(b) Section 380:25-3-15(a) applies only to boilers and pressure vessels installed or reinstalled within this state after twelve (12) months from the date upon which this Chapter become effective.~~

### SUBCHAPTER 19. BOILER OPERATOR LICENSING

#### 380:25-19-1. Boiler operator licensing

(a) Any company, corporation, business, school, city, county, or other governmental agency may adopt the boiler operator licensing program herein described, and require that individuals within its employ or jurisdiction abide by these rules when engaged in the operation and maintenance of boilers.

(b) Any individual may apply for the license herein described.

(c) No provision of this act shall place a mandatory requirement on any person to be in possession of the Boiler Operator License described in these rules other than those that may be required by individual companies, businesses, or jurisdictional authorities as allowed in 380:25-19-1 (a).

(d) Application for a Boiler Operator License shall be on forms provided by the Department of Labor.

(e) Evidence of the satisfactory completion of qualifications for, or the issuance of, a Boiler Operator License, Stationary Engineer License, or other comparable certification from another jurisdictional authority or nationally recognized organization may be used to satisfy all or part of the qualifications outlined in these rules. All such requests shall be subject to the review and approval of the Chief Boiler Inspector. Applicants for a Boiler Operator License must have completed all of the specified license requirements within the five (5) ~~calendar~~ calendar years preceding the examination date.

(f) A Boiler Operator License will be issued and renewed after the satisfactory completion of the requirements of these rules and the receipt of the licensing fee specified in Section 141.16.A.2.c, of this act. When a Boiler Operator License addressed in these rules is issued as a matter of reciprocity for the possession of a valid license from another jurisdictional authority or national organization, a fee equal to that specified in Section 141.16.A.2.c of this act will be paid to the Department of Labor. A non-refundable fee of \$5.00 per card, may be charged to and shall be collected from each individual who applies for a duplicate or replacement Boiler Operator License.

(g) A license is valid for a period of two (2) years ~~from the date of issuance and shall expire on the last day of the licensee's birth month.~~ Each such license shall be prorated in accordance with the licensing procedures adopted by the Department.

A license must designate the name of the holder, the class of the license, the issue date of the license, and the expiration

date of the license. Any license issued under this chapter is automatically renewable upon payment of the fee set forth in OAC 380:25-19-1(f). Any license not renewed within 90 days of the expiration date will be subject to all of the provisions of a new issuance.

(h) The licenses herein described are applicable to all single burner power boilers, all low pressure steam boilers, all water heating boilers, and all electric boilers. Exemption. This license shall not be applicable to those boilers associated with antique traction engines. The Boiler Operator License herein described does not grant the holder of such license the right to engage in the installation, service and/or repair of boilers for any other company, corporation, organization, facility, person or governmental agency beyond those boilers that the licensee is responsible for as a function of the licensee's permanent employment.

(i) Jurisdictions adopting the Boiler Operator Licensing requirements in these rules may enact local regulations dealing with requirements for licensed operator attendance, daily checks, documentation of operating parameters, and availability of operators during off duty hours.

(j) A Boiler Operator License may be suspended by the Commissioner of Labor or his or her designee, after due investigation for the falsification of information contained on the application, incompetence, untrustworthiness, gross carelessness or intoxication while operating or performing maintenance to boilers. Notification of proposed suspension will be provided to the licensee and his or her employer, if known. All proposed suspensions are subject to notice and an opportunity for hearing as provided by the Oklahoma Administrative Procedures Act.

(k) Boiler Operator License Classes:

(1) First Class Boiler Operator License (supervisory level license):

(A) Any person holding a First Class Boiler Operator License is qualified to operate and maintain, and to supervise others in the operation and maintenance of all single burner boilers regardless of energy input.

(B) Qualifications:

(i) A minimum of three years of experience in the operation and maintenance of Power Boilers with a heat input in excess of 12,500,000 btu/hr, and

(ii) A minimum of one year experience in a supervisory capacity, with documented responsibility for the supervision of others in the operation and maintenance of boilers in this class, or

(iii) The documented satisfactory completion of a course of instruction in Physical Plant Management, the contents of which are agreeable to the Chief Boiler Inspector as a substitute for direct supervision experience, and

(iv) A letter of recommendation from the current supervisor, or other documentation acceptable to the Chief Boiler Inspector.

(v) A passing grade on the Boiler Operator License Examination.

(2) Second Class Boiler Operator license:

(A) In addition to those boilers operable with a Third and Fourth Class Boiler Operator License, any person holding a Second Class Boiler Operator License is qualified to operate and maintain all boilers with energy inputs exceeding 12,500,000 btu/hr. or its equivalent.

(B) Qualifications:

(i) A minimum of three years documented experience in the direct operation and maintenance of boilers covered by this class of license, one year of which must be with power boilers, or

(ii) A minimum of three years of experience in the direct operation and maintenance of boilers as a Third Class Boiler Operator, and

(iii) A letter of recommendation from the current supervisor, or other documentation acceptable to the chief Boiler Inspector.

(iv) A passing grade on the Boiler Operator License Examination.

(3) Third Class Boiler Operator License:

(A) In addition to those boilers operable with a Fourth Class Boiler Operator license, any person holding a Third Class Boiler Operator License shall be qualified to operate and maintain steam boilers and water heating boilers with a temperature not to exceed 250 F. and a pressure not to exceed 160 psig., Energy inputs shall not exceed 12,500,000 Btu/hr maximum, or its equivalent.

(B) Qualifications:

(i) A minimum of two years documented experience in the direct operation and maintenance of boilers covered by this class of license, or

(ii) A minimum of one year experience in the operation and maintenance of boilers as a Fourth Class Boiler Operator, and

(iii) A letter of recommendation from the current supervisor or other documentation acceptable to the Chief Boiler Inspector.

(iv) A passing grade on the Boiler Operator License Examination.

(4) Fourth Class Boiler Operator License:

(A) Any person holding a Fourth Class Boiler Operator License is qualified to operate and maintain water heating boilers with a temperature not exceeding 250 F. and a pressure not exceeding 160 psig, any steam boiler operating at 15 psig or below. Energy inputs shall not exceed 5,000,000 btu/hr. maximum or its equivalent.

(B) Qualifications:

(i) A minimum of one year documented experience in the direct operation and maintenance of boilers and equipment covered by this class of license, or

(ii) A minimum of six months experience under the supervision of a qualified boiler operator, or

(iii) Completion of an acceptable training course, and

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- (iv) Pass the appropriate written examination.

[OAR Docket #13-702; filed 4-30-13]

## TITLE 380. DEPARTMENT OF LABOR CHAPTER 50. ABATEMENT OF FRIABLE ASBESTOS MATERIALS RULES

[OAR Docket #13-703]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 5. Contractor, Supervisor, and Worker Licensing and Requirements

380:50-5-5. [AMENDED]

Subchapter 6. Training Requirements

380:50-6-2. [AMENDED]

380:50-6-3. [AMENDED]

380:50-6-4. [AMENDED]

380:50-6-5. [AMENDED]

380:50-6-6. [AMENDED]

### AUTHORITY:

Department of Labor; 40 O.S. §453, Oklahoma Asbestos Control Act

### DATES:

#### Comment period:

January 2, 2013 through February 4, 2013

#### Public hearing:

February 4, 2013

#### Adoption:

February 7, 2013

#### Submitted to Governor:

February 8, 2013

#### Submitted to House:

February 8, 2013

#### Submitted to Senate:

February 8, 2013

#### Gubernatorial approval:

March 11, 2013

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 5, 2013

#### Final adoption:

April 5, 2013

#### Effective:

July 1, 2013

#### SUPERSEDED EMERGENCY ACTIONS:

n/a

#### INCORPORATIONS BY REFERENCE:

n/a

#### ANALYSIS:

The proposed rule amendment will allow licensees to obtain training from EPA or DOL accredited training providers which are not affiliated with educational institutions, labor unions, government agencies, or private vocational education providers. The administrative rules have also been amended to require asbestos abatement contractor applicants to provide all required documentation within the 120 day waiting period.

#### CONTACT PERSON:

Tiffany J. Wythe, Assistant General Counsel, (405) 521-6186 or tiffany.wythe@labor.ok.gov or Bettye Finch, Statistical, Asbestos and Licensing Director, (405) 521-6855 or bettye.finch@labor.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, 2013:**

## SUBCHAPTER 5. CONTRACTOR, SUPERVISOR, AND WORKER LICENSING AND REQUIREMENTS

### 380:50-5-5. Licensing of asbestos abatement contractors

Licensing requirements for asbestos abatement contractors are as follows:

(1) Applications shall be submitted on forms prescribed by the Commissioner. Submission of such application shall include a non-refundable one thousand dollar (\$1,000.00) processing fee.

(2) After the statutory one hundred twenty (120) day waiting period, if a contractor's application is accepted, the contractor will be notified by the Commissioner and required to submit at that time the five hundred dollar (\$500.00) license fee. If a contractor fails to provide all required documentation within the one hundred twenty (120) day waiting period, the application will be denied.

(3) The applicant shall designate a minimum of one, or a maximum of two, responsible parties to be named on the license. Such responsible parties shall have and maintain the training credentials required for licensing. Documentation of satisfactory completion of the required training and all subsequent refresher training shall accompany the application.

(A) In the absence of such responsible party in the employee of the contractor, the contractor will not be allowed to perform asbestos abatement work in the State of Oklahoma.

(B) The responsible party shall have successfully completed and shall have documentation provided for not fewer than two asbestos training courses. One such course shall be an asbestos abatement supervisor's course which fully meets the requirements of Section 380:50-6-3 and 380:50-6-8. The Commissioner shall maintain updated lists of additional training courses acceptable for licensing.

(C) Responsible parties may be changed or added to the license at any time, by paying a fee of fifty dollars (\$50.00) per change or addition. Documentation of satisfactory completion of required training and all applicable subsequent refresher training shall be submitted.

(4) Prior to issuance of the license, the contractor must have a respirator program meeting all requirements of OSHA or DOL, whichever is most stringent.

(5) Licenses shall be issued for a period of one year.

(6) No contractor may perform any asbestos abatement after expiration of the license.

(7) If a contractor allows the license to lapse for more than thirty (30) days, the license may not be renewed, and licensing will be permitted only after meeting all requirements for a new license, including the one hundred twenty (120) day waiting period.

(8) License applicants must be of good character. Conviction for a felony by an applicant, if a proprietor or partner; by an officer, if a corporation; or by a responsible

party, shall be grounds for denial of, or revocation of, a contractor's license.

(9) The Commissioner may refuse to issue an asbestos abatement contractor's license to any applicant, if there are records of Notice of Violation (NOV) of NESHAPS regulations by the applicant, or any principal, partner, or officer of the applicant's firm or associated firms, as maintained by EPA.

## SUBCHAPTER 6. TRAINING REQUIREMENTS

### 380:50-6-2. Initial training for asbestos workers

(a) In the State of Oklahoma, anyone seeking accreditation or licensure from the Department of Labor, must obtain their training from an EPA or DOL accredited training provider, including but not limited to educational institution, labor union, or government agency, or from a private vocational education provider licensed by the state where it operates (pursuant to 70 O.S. § 21-103 within the state of Oklahoma) and accredited by EPA or an EPA approved governmental agency.

(b) Such institutions, labor unions or government agencies may receive their DOL accreditation through the Oklahoma Accreditation Plan providing the following criteria are met:

(1) The training for asbestos abatement worker shall be specific to the discipline and shall not be combined with training for any other discipline.

(2) The Worker's course shall be no less than four days in length and shall include: lectures, demonstrations, at least 14 hours of hands-on training, individual respirator fit testing, course review and an examination. Hands on training must permit workers to have actual experience performing tasks associated with asbestos abatement. The OAP also recommends the use of audio-visual materials to complement lectures, where appropriate. One day of training equals 8 hours, including breaks and lunch.

(3) Course instruction must be provided by EPA or State approved instructors. EPA or State approval shall be based on a review of the instructor's academic credentials and/or field experience in asbestos abatement.

(4) The training course for Asbestos Abatement Worker shall adequately address the following topics:

(A) Physical characteristics of asbestos. Identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance, and a summary of abatement control options.

(B) Potential health effects related to asbestos-exposure. The nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of safe exposure levels; the synergistic effect between cigarette smoking and asbestos exposure; the latency periods for asbestos related diseases; a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancers of other organs.

(C) Employee personal protective equipment. Classes and characteristics of respirator types; limitations of respirators; proper selection, inspection;

donning, use, maintenance and storage procedures for respirators; methods for field testing of the face-piece-to-face seal (positive and negative pressure fit checks; qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors that alter respiratory fit (e.g., facial hair, etc.) the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage and handling of non-disposable clothing; regulations covering personal protective equipment.

(D) State-of-the-art work practices. Proper work practices for asbestos abatement activities, including descriptions of proper construction; maintenance of barriers and decontamination enclosure systems; positioning of warning signs; lock-out of electrical and ventilation systems; proper work techniques for minimizing fiber release; use of wet methods; use of negative pressure exhaust equipment; use of high-efficiency particulate air (HEPA) vacuums; proper clean-up, load-out and disposal procedures; work practices for removal, encapsulation, enclosure, and repair of ACM; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures and recommended and prohibited work practices.

(E) Personal hygiene. Entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, chewing gum or tobacco, or applying cosmetics in the work area; and potential exposures, such as family exposures.

(F) Additional safety hazards. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat/cold stress, air contaminants other than asbestos, fire and explosion hazards, scaffolds and ladder hazards, slips, trips and falls and confined spaces.

(G) Medical monitoring. OSHA Rule requirements for physical examinations, including a pulmonary function test, chest X-rays, and a medical history for each employee.

(H) Air monitoring. Procedures to determine airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it.

(I) Relevant Federal, State and Local regulatory requirements, procedures and standards. With particular attention directed at relevant EPA, OSHA and Oklahoma Regulations concerning asbestos abatement workers.

(J) Establishment of respiratory protection programs.

(K) Course review. A review of key aspects of the training course.

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### 380:50-6-3. Initial training for asbestos contractors and supervisors

(a) In the State of Oklahoma, anyone seeking accreditation of licensure from the Department of Labor, must obtain their training from an EPA or DOL accredited training provider, including but not limited to education institution, labor union, or government agency, or from a private vocational education provider licensed by the state where it operates (pursuant to 70 O.S. § 21-103 within the state of Oklahoma) and accredited by EPA or an EPA approved governmental agency.

(b) Such institutions, labor unions or government agencies may receive their DOL approval through the Oklahoma Accreditation Plan providing the following criteria are met:

(1) The training for asbestos contractor/supervisor shall be specific to the discipline and shall not be combined with training for any other discipline.

(2) The contractors/supervisor's course shall be no less than five days in length and shall include: lectures, demonstrations, at least 14 hours of hands-on training, individual respirator fit testing, course review and an written examination. Hands on training must permit contractor/supervisors to have actual experience performing tasks associated with asbestos abatement. The OAP also recommends the use of audio-visual materials to complement lectures, where appropriate. One day of training equals 8 hours, including breaks and lunch.

(3) Course instruction must be provided by EPA or State approved instructors. EPA or State approval shall be based on a review of the instructor's academic credentials and/or field experience in asbestos abatement.

(4) The training course for Contractors/Supervisors shall adequately address the following topics:

(A) Physical characteristics of asbestos. Identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance; review of hazard assessment considerations and a summary of abatement control options.

(B) Potential health effects related to asbestos-exposure. The nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of safe exposure levels; the synergistic effect between cigarette smoking and asbestos exposure; the latency periods for asbestos related diseases; a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancers of other organs.

(C) Employee personal protective equipment. Classes and characteristics of respirator types; limitations of respirators; proper selection, inspection; donning, use, maintenance and storage procedures for respirators; methods for field testing of the face-piece-to-face seal (positive and negative pressure fit checks); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors that alter respiratory fit (e.g., facial hair, etc.) the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage and handling of

non-disposable clothing; regulations covering personal protective equipment.

(D) State-of-the-art work practices. Proper work practices for asbestos abatement activities, including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; lock-out of electrical and ventilation systems; proper work techniques for minimizing fiber release; use of wet methods; use of negative pressure exhaust ventilation equipment; (HEPA)-vacuums; proper clean-up, load-out and disposal procedures; work practices for removal, encapsulation, enclosure, and repair of ACM; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures and recommended and prohibited work practices.

(E) Personal hygiene. Entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, chewing gum or tobacco, or applying cosmetics in the work area. Potential exposures, such as family exposures, shall also be included.

(F) Additional safety hazards. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat/cold stress, air contaminants other than asbestos, fire and explosion hazards, scaffolds and ladder hazards, slips, trips and falls and confined spaces.

(G) Medical monitoring. OSHA Protection Rule requirements for physical examinations, including a pulmonary function test, chest X-rays, and a medical history for each employee.

(H) Air monitoring. Procedures to determine airborne concentrations of asbestos fibers, including description of aggressive air sampling, sampling equipment and methods, reasons for air monitoring, types of sampling and interpretation of results.

(I) Relevant Federal, State and local regulatory requirements and standards, including: requirements of TSCA Title II; requirements of NESHAP (40 CFR Part 61), Subpart A (General Provisions) and M (National Emission Standard for Asbestos); OSHA standards for permissible exposure levels and respiratory protection; Oklahoma Requirements for permissible exposure levels; OSHA Asbestos Construction Standards.

(J) Respiratory Protection Programs and Medical Monitoring Programs.

(K) Insurance and Liability issues and Contractor issues. Workers' compensation coverage and exclusions; third party liability and defenses, insurance coverage and exclusions; environmental impairment insurance.

(L) Record keeping for asbestos abatement projects. Records required by Federal, State and Local regulations; records recommended for legal purposes.

- (M) Supervisory techniques for asbestos abatement activities. Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.
  - (N) Contract specifications. Discussions of key elements that are included in contract specifications.
  - (O) Course review. A review of key aspects of the training course.
- (c) In addition to the five day contractor/supervisor's course, anyone seeking licensure from the State of Oklahoma will be required to show current certification of the following additional training:
- (1) Cardio-Pulmonary Resuscitation from the American Heart Association, American Red Cross or other DOL approved provider
  - (2) First Aid from the American Heart Association, American Red Cross or other DOL approved provider
  - (3) NIOSH 582 or equivalent or a two day course in air monitoring practices and procedures
  - (4) OSHA Confined Space Entry
  - (5) Six months of experience on projects inspected by the DOL, including a minimum of six (6) different abatement projects or containments or one year of experience as an asbestos worker and six months as an asbestos supervisor on projects which have not been inspected by the DOL.

### 380:50-6-4. Initial training for asbestos inspectors

- (a) In the State of Oklahoma, anyone seeking accreditation or licensure from the Department of Labor must obtain their training from an **EPA** or **DOL** accredited ~~training provider, including but not limited to~~ educational institution, labor union, or government agency, or from a private vocational education provider licensed by the state where it operates (pursuant to 70 O.S. § 21-103 within the state of Oklahoma) and accredited by **EPA** or an **EPA** approved governmental agency.
- (b) Such institutions, labor unions or government agencies may receive their DOL accreditation through the Oklahoma Accreditation Plan providing the following criteria are met:
- (1) The training for **AHERA** Inspectors shall be specific to the discipline and shall not be combined with training for any other discipline.
  - (2) The **AHERA** Inspector's course shall be no less than three days in length and shall include: lectures, demonstrations, and at least 4 hours of hands-on training, individual respirator fit testing, course review and an written examination. Hands-on training should include conducting a simulated building walk-through inspection and respirator fit testing. The **OAP** also recommends the use of audio-visual materials to complement lectures, where appropriate. One day of training equals 8 hours, including breaks and lunch.
  - (3) Course instruction must be provided by **EPA** or State approved shall be based on a review of the instructor's academic credentials and/or field experience in asbestos abatement.
  - (4) The training course for **AHERA** Inspectors shall adequately address the following topics:

- (A) Background information on asbestos. Identification of asbestos and example and discussions of the uses and locations of asbestos in buildings; physical appearance of asbestos.
- (B) Potential health effects related to asbestos-exposure. The nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of safe exposure levels; the synergistic effect between cigarette smoking and asbestos exposure; the latency periods for asbestos related diseases; a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancers of other organs.
- (C) Functions/qualifications and role of inspectors. Discussions of prior experience and qualifications for inspectors and management planners; discussions of the functions of an accredited inspector as compared to those of an accredited management planner; discussion of the inspection process including inventory of ACM and physical assessment.
- (D) Legal liabilities and defenses. Responsibilities of the inspector and management planner; a discussion of comprehensive general liability policies, claims-made and occurrence policies, environmental and pollution liability possibility clauses; state liability insurance requirements; bonding and the relationship of insurance availability to bond availability.
- (E) Understanding building systems. The interrelationship between building systems, including: an overview of common building plan layout; heat, ventilation and air conditioning (HVAC) system types, physical organization and where to look for asbestos on such systems; inspecting electrical systems including appropriate safety precautions.
- (F) Public/employee/building occupant relations. Notifying employee organizations about the inspections; signs to warn building occupants; tact in dealing with occupants and the press; scheduling of inspections to minimize disruptions; and education of building occupants about actions being taken.
- (G) Pre-inspection planning and review of previous inspection records. Scheduling the inspection and obtaining access; building record review; identification of probable homogeneous areas from blueprints or as-built drawings; consultations with maintenance or building personnel; review of previous inspection, sampling and abatement records of a building; the role of the inspector in exclusions for previously performed inspections.
- (H) Inspecting for friable and non-friable ACM and assessing the condition of friable ACM. Procedures to following in conducting visual inspections for friable and non-friable ACM; types of building materials that may contain asbestos; touching materials to determine friability; open return air plenums and their importance in HVAC systems; accessing damage, significant damage and potential significant damage;

amount of suspected ACM, both in total quantity and as a percentage of the total area; type of damage; accessibility; material's potential for disturbance; known or suspected causes of damage or significant damage; and deterioration as assessment factor.

(I) Bulk sampling/documentation of asbestos. Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials (EPA 560/5-85030a October 1985)"; techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials; sampling of non-friable materials; techniques for bulk sampling; inspector's sampling and repair equipment; patching or repair of damage from sampling; discussion of polarized light microscopy; choosing an accredited laboratory to analyze bulk samples; quality control and quality assurance procedures; EPA's recommendation that all bulk samples collected from school or public and commercial buildings be analyzed by laboratory accredited under the NVLAP administered by NIST.

(J) Inspector respiratory protection and personal protective equipment. Classes and characteristics of respirator types; limitations of respirators; proper selection, inspection; donning, use, maintenance and storage procedures for respirators; methods for field testing of the facepiece- to -face seal (positive and negative pressure fit checks); qualitative and quantitative fit testing; variability between field and laboratory protection factors that alter respiratory fit (e.g., facial hair, etc.); the components of a proper respiratory protection program; selection and use of personal protective equipment; selection and use of personal protective clothing; use storage and handling of non-disposable clothing.

(K) Recordkeeping and writing the inspection report. Labeling of samples and keying sample identification to sampling location; recommendations on sample labeling; detailing of ACM inventory; photographs of selected sampling areas and samples of ACM condition; information required for including in the management plan required for school buildings under TSCA Title II, Section 203(i)(1).

(L) Regulatory review. The following topic should be covered: NESHAP, (40CFR part 61 Subparts A and M); EPA Worker Protection Rule; OSHA Construction Industry Standard; OSHA respiratory protection requirements; AHERA; applicable Oklahoma Rules; and the differences between state and federal rules.

(M) Field trip. This includes a field exercise, including a walk-through inspection; on-site discussion about information gathering and the determination of sampling locations; on-site practice in physical assessment; classroom discussion or field exercise.

(N) Course review. A review of key aspects of the training course.

### **380:50-6-5. Initial training for asbestos management planners**

(a) In the State of Oklahoma, anyone seeking accreditation or licensure from the Department of Labor, must obtain their training from an **EPA or DOL accredited training provider, including but not limited to** educational institution, labor union, or government agency, or from a private vocational education provider licensed by the state where it operates (pursuant to 70 O.S. § 21-103 within the state of Oklahoma) and approved by EPA or an EPA approved governmental agency.

(b) Such institutions, labor unions, or government agencies may receive their DOL accreditation through the Oklahoma Accreditation Program providing the following criteria are met:

(1) The training for AHERA Management Planners shall be specific to the discipline and shall not be combined with training for any other discipline.

(2) The AHERA Management Planner's course shall be no less than two days in length and shall include lectures, demonstrations, course review and a written examination. The OAP also recommends the use of audio-visual materials to complement lectures, where appropriate. One day of training equals 8 hours, including breaks and lunch.

(3) All persons seeking accreditation as a management planner shall complete a three-day inspector training course and accreditation, as a prerequisite to the two-day management planners course.

(4) Course instruction must be provided by EPA or State Approved instructors. EPA or State Instructor approval shall be based on a review of the instructor's academic credentials and/or field experience in asbestos abatement.

(5) The training course for AHERA Management Planners shall adequately address the following.

(A) Course overview. The role and responsibilities of the management planner, operations and maintenance programs, setting work priorities, protection of building occupants.

(B) Evaluation/interpretation of survey results. Review of TSCA Title II requirements for inspection and management plans for school buildings as given in section 203(i) (1) of TSCA Title 11; interpretation of field data and laboratory results; comparison of field inspector's data sheet with laboratory results and site survey.

(C) Hazard assessment. Amplification of the difference between physical assessment and hazard assessment; the role of the management planner of the management planner in hazard assessment; explanation of significant damage, damage, potential damage, and potential significant damage; use of a description {or decision tree} code for assessment of ACM; relationships of accessibility, vibration sources, use of adjoining space, and air plenums and other factors to hazard assessment.

(D) Legal Implications. Liability; insurance issues specific to planners; liabilities associated with interim control measures, in-house maintenance, repair, and

removal, use of results from previously performed inspections.

(E) Overview of abatement construction projects. Abatement as a portion of a renovation project; OSHA requirements for notification of other contractors on a multi-employer site. (29 CFR 1926.1101)

(F) Evaluation and selection of control options. Overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method, response actions described via a decision tree or other appropriate method work practice for each response action, staging and prioritizing of work in both vacant and occupied buildings; the need for containment barriers and decontamination in response actions.

(G) Role of other professionals. Use of industrial hygienists, engineering and architects in developing technical specifications for response actions; any requiring that may exist for architect sign-off of plans; team approach to designs of high-quality job specifications.

(H) Developing an operations and maintenance (O&M) plan. Purpose of the plan; discussion of applicable EPA guidance documents; what actions should be taken by custodial staff; proper cleaning procedures, steam cleaning and HEPA vacuuming; reducing disturbance of ACM; scheduling O&M for off-hours; rescheduling or canceling renovation in areas with ACM; boiler room maintenance; disposal of ACM; in-house procedures for ACM- bridging and penetrating encapsulants; pipe fittings; metal sleeves; polyvinyl chloride (PVC), canvas and wet wraps; muslin with straps, fiber mesh cloth; mineral wool and insulating cement; discussion of employee protection programs and staff training; case study in developing an O & M plan (development, implementation process, and problems that have been experienced).

(I) Regulatory review. Focusing on the OSHA Asbestos Construction Standard, the NESHAP, the EPA Worker Protection Rule and applicable State regulations.

(J) Recordkeeping for the management planner. Use of field inspector's data sheet along with laboratory results; on-going record keeping as a means to track asbestos disturbance; procedures for record keeping.

(K) Assembling and submitting the management plan. Plan requires for schools in TSCA Title II section 203(i) (1); the management plan as a planning tool.

(L) Financing abatement actions. Economic analysis and cost estimates; development of cost estimates; present costs of abatement versus future operations and maintenance costs; Asbestos Hazard School Abatement Act grants and loans.

(M) Course review. A review of key aspects of the training course.

(6) In addition to the training required for an AHERA Management Planner, persons seeking licensure in the state of Oklahoma shall also have a minimum of a bachelor's degree in engineering, industrial hygiene or other advanced fields, or an equivalent combination of experience, education and training as determined by the Commissioner of Labor.

### **380:50-6-6. Initial training for asbestos project designers**

(a) In the State of Oklahoma, anyone seeking accreditation or licensure from the Department of Labor, must obtain their training from an EPA or DOL approved training provider, including but not limited to educational institution, labor union, or government agency, or from a private vocational education provider licensed by the state where it operates (pursuant to 70 O.S. § 21-103 within the state of Oklahoma) and accredited by EPA or an EPA approved governmental agency.

(b) Such institutions, labor unions, or government agencies, may receive their DOL accreditation through the Oklahoma Accreditation Plan providing the following criteria are met:

(1) The training for AHERA Project Designers shall be specific to the discipline and shall not be combined with training for any other discipline.

(2) The AHERA Project Designer's course shall be no less than three days in length and shall include: lectures, demonstrations, a field trip, course review and a written examination. The OAP also recommends the use of audio-visual materials to complement lectures, where appropriate. One day of training equals 8 hours, including breaks and lunch.

(3) Course instruction must be provided by EPA or State approved instructors. EPA or State Instructor approval shall be based on a review of the instructor's academic credentials and/or field experience in asbestos abatement.

(4) The training course for AHERA Project Designer shall adequately address the following topics:

(A) Background information. Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings; physical appearance of asbestos.

(B) Potential health effects related to asbestos exposure. Nature of asbestos-related disease; routes of exposure; dose-response relationships and the lack of a safe exposure level; the synergistic effect between cigarette smoking and asbestos exposure; the latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma and cancers of other organs.

(C) Overview of abatement construction projects. Abatement as a portion of a renovation project; OSHA requirements for notification of other contractors on a multi-employer site.

(D) Safety system design specifications. Design, construction and maintenance of containment barriers and decontamination enclosure systems; positioning

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of warning signs; electrical and ventilation system lock-out; proper working techniques for minimizing fiber release; entry and exit procedures for the work area; use of wet methods; proper techniques for initial cleaning use of negative-pressure exhaust ventilation equipment; use of HEPA vacuums; proper clean-up and disposal of asbestos; work practice as they apply to encapsulation, enclosure and repair; use of glove-bags and a demonstration of glovebag use.

(E) Field Trip. A visit to an abatement site or other suitable building site, including on site discussions of abatement design and building walk-through inspection. Include discussion of rationale for the concept of functional spaces during the walk-through.

(F) Employee personal protective equipment. Classes and characteristics of respirator types; limitations of respirators; proper selection, inspection, donning, use, maintenance and storage procedures for respirators, methods of field testing of the face-piece-to-face seal (positive and negative pressure fit checks); qualitative and quantitative fit testing procedures; variability between field and laboratory fit (e.g., facial hair, etc.); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage and handling of non-disposable clothing.

(G) Additional safety hazards. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

(H) Fiber aerodynamic and control. Aerodynamic characteristics of asbestos fibers; importance of proper containment barriers; settling time for asbestos fibers; wet methods in abatement; aggressive air monitoring following abatement; aggressive air movement and negative pressure exhaust ventilation as a clean-up method.

(I) Designing abatement solutions. Discussions of removal, enclosure, and encapsulation methods; asbestos waste disposal.

(J) Final clearance process. Discussion of the need for written sampling rationale for aggressive final air clearance; requirements of a complete visual inspection; and the relationship of the visual inspection to final air clearance.

(K) Budgeting/cost estimating. Developing of cost estimates; present costs of abatement versus future operation and maintenance costs; setting priorities for abatement jobs to reduce costs.

(L) Writing abatement specifications. Preparation of and need for a written project design; means and methods specifications versus performance specifications; design of abatement in occupied buildings; modifications of guide specifications for a particular building' worker and building occupant health/medical considerations; replacement of ACM with non-asbestos substitutes.

(M) Preparing abatement drawings. Significance and need for drawings; use of as-built drawings as base drawings; use of inspection photographs and on-site reports; methods of preparing abatement reports; methods of preparing abatement drawings; diagramming containment barriers; relationship of drawings to design specifications; particular problems related to abatement drawings.

(N) Contract preparation and administration.

(O) Legal/liabilities/defenses. Insurance considerations; bonding; hold-harmless clauses; use of abatement contractor's liability insurance; claims-made versus occurrence policies.

(P) Replacement. Replacement of asbestos with asbestos-free substitutes.

(Q) Role of other consultants. Development of technical specifications sections by industrial hygienists or engineering; the multi-disciplinary team approach to approach to abatement design.

(R) Occupied buildings. Special design procedures required in occupied buildings; education of occupants; extra monitoring recommendations; staging of work to minimize occupant exposure; scheduling of renovation to minimize exposure.

(S) Relevant State, Federal and local regulatory requirements, procedures and standards. Including but not limited to: TSCA Title II, NESHAP, OSHA Respirator Standard, EPA Worker Protection Rule, Oklahoma Rules for the Abatement of Friable Materials, OSHA Asbestos Construction Standards, Hazard Communications Standards, etc.

(T) Course Review. A review of key aspects of the training course.

(5) In addition to the training required for an AHERA Project Designer, persons seeking accreditation or licensure must also have a minimum of a bachelor's or advanced degree in architecture, engineering or industrial hygiene or an equivalent combination of education, training and experience as determined by the Commissioner of Labor.

*[OAR Docket #13-703; filed 4-30-13]*

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### TITLE 380. DEPARTMENT OF LABOR CHAPTER 60. WORKERS' COMPENSATION ENFORCEMENT RULES

*[OAR Docket #13-704]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

380:60-1-7. [REVOKED]

380:60-1-8. [AMENDED]

380:60-1-9. [REVOKED]

**AUTHORITY:**

Department of Labor; 85 O.S. § 352, Workers' Compensation Code

**DATES:**

**Comment period:**

January 2, 2013 through February 4, 2013

**Public hearing:**

February 4, 2013

**Adoption:**

February 7, 2013

**Submitted to Governor:**

February 8, 2013

**Submitted to House:**

February 8, 2013

**Submitted to Senate:**

February 8, 2013

**Gubernatorial approval:**

March 11, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 5, 2013

**Final adoption:**

April 5, 2013

**Effective:**

July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

In 2005, the statute authorizing the Department to issue Certificates of Non-Coverage was repealed. The proposed rules delete two sections relating to Certificates of Non-Coverage as well as clarify language which erroneously implies that the Department may only cite an employer for failure to carry workers' compensation insurance if an employee illness, injury or death has occurred.

**CONTACT PERSON:**

Tiffany J. Wythe, Assistant General Counsel, (405) 521-6186 or tiffany.wythe@labor.ok.gov or Ray Andrews, Employment Standards Director, (405) 521-6600 or ray.andrews@labor.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, 2013:**

**380:60-1-7. Certificate of non-coverage [REVOKED]**

(a) "Certificate of Non Coverage Under the Workers' Compensation Act", hereinafter referred to as a Certificate of Non-Coverage (CNC), means a card issued by the Commissioner of Labor or a designee to an individual who, after proper application and reasonable investigation, is found to be exempt from the definition of employee under Section 3 of Title 85 of the Oklahoma Statutes.

(b) A non refundable fee, equal to the maximum amount permitted under Section 415.1 of Title 40 of the Oklahoma Statutes, may be charged to and shall be collected from each individual who applies and must separately accompany each application for a new or renewal Certificate of Non Coverage.

(c) A non refundable fee of \$5.00 per card, may be charged to and shall be collected from each individual who applies and must separately accompany each application for a duplicate or replacement Certificate of Non Coverage.

(d) Prior to the approval of an application for or issuance of a Certificate of Non Coverage by the Commissioner of Labor or a designee, each new applicant must:

- (1) Fully and properly complete a current, notarized application on an original form prepared and prescribed by

the Commissioner of Labor or a designee and, if submitted by mail, provide a valid self addressed stamped envelope with correct postage for return. The application shall include, at a minimum, the following conspicuous warnings or a substantially similar series of warnings in at least twelve point bold faced print designed to convey the same information:

(A) It is a crime to give or cause another to provide false, fraudulent, incomplete, or misleading information on a Certificate of Non Coverage application. Potential violations will be investigated by the Commissioner of Labor or a designee and suspected violations will be referred to the Workers' Compensation Fraud Unit in the Office of the Attorney General for prosecution.

(B) Employers are required by law to provide workers' compensation insurance coverage for employees and failure to do so may subject an employer to both civil and criminal penalties and to liability for employee injuries regardless of whether the employee holds a Certificate of Non Coverage.

(2) Provide current, acceptable supporting documentation, and all germane occupational and professional licenses required by the State of Oklahoma or any political subdivisions thereof. A List of Acceptable Documents will be provided along with the application.

(3) Provide a copy of the following items to substantiate the claimed exemption from the definition of employee under Section 3 of Title 85 of the Oklahoma Statutes:

(A) If the applicant is a sole proprietor, complete and current Schedule C from the applicant's federal income tax. If the applicant has been in business for less than a year, in lieu of the Schedule C, the applicant may provide an affidavit or contract which states the following information:

- (i) The type of work performed by the individual with whom the applicant is contracting;
- (ii) If training, tools or machinery is involved, the individual who provides them;
- (iii) Where the work is performed, and who sets the hours;
- (iv) How often the applicant reports in;
- (v) How the applicant receives compensation;
- (vi) With whom the applicant is contracting.

(B) If the applicant is a member of a partnership, limited partnership, or limited liability partnership, complete and current filings that are required by the Secretary of State and any political subdivisions of the State of Oklahoma.

(C) If the applicant is an owner of at least ten percent (10%) of the capital of a limited liability company, complete and current filings that are required by the Secretary of State and any political subdivisions of the State of Oklahoma and documentation that indicates the value of the applicant's capital if the capital must be surrendered upon separation from the company.

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- (D) If the applicant is an owner of at least ten percent (10%) of the stock issued in a corporation, complete and current filings that are required by the Secretary of State and any political subdivisions of the State of Oklahoma or an affidavit from the secretary or an officer of the corporation other than the applicant that indicates the applicant's ownership interest in the corporation, and documentation that indicates the value of the applicant's stock must be surrendered upon separation from the corporation.
- (e) Prior to the approval of an application for or issuance of a Certificate of Non Coverage by the Commissioner of Labor or a designee, all renewal applicants must provide:
- (1) A copy of any documents from the List of Acceptable Documents that have been updated or amended;
  - (2) Copy of current filed profit & loss statement. If not filed, a copy of 1099's or w-2's.
  - (3) Current copy of Professional License;
  - (4) Copy of Certificate of Good Standing or proof that the corporation is current with the franchise tax.
- (f) Prior to the approval of an application for or issuance of a Certificate of Non Coverage by the Commissioner of Labor or a designee, applicants may also provide
- (1) a complete, current, and valid copy of at least one (1) item from each of the following categories:
    - (A) A business card, check, or invoice, and
    - (B) A published advertisement, telephone book listing, or utility bill.
  - (2) a complete, current, valid copy of any combination of these items to help substantiate the claimed exemption from the definition of employee under Section 3 of Title 85 of the Oklahoma Statutes. Each applicant, however, shall have the burden of proof at all times.
- (g) If doubt about an applicant's eligibility remains after all requirements have been met, the Commissioner of Labor or a designee may require additional information or investigation prior to the approval of an application for or issuance of a Certificate of Non Coverage. Each Certificate of Non Coverage application shall be approved or denied based upon the applicant's degree and history of cooperation, compliance and eligibility in accordance with the provisions of Section 415.1 of Title 40 of the Oklahoma Statutes and 380:60-1-7 of the Oklahoma Administrative Code, and all documents provided and responses given to substantiate the claimed exemption from the definition of employee under Section 3 of Title 85 of the Oklahoma Statutes. If the Commissioner of Labor or a designee has not taken final action on a Certificate of Non Coverage application within thirty (30) calendar days from the date of receipt, the application may be denied.
- (h) Only renewal applicants may appeal the denial of a Certificate of Non Coverage by submitting a written request for reconsideration to the Commissioner of Labor or a designee within thirty (30) calendar days from the date of the denial notice. A written appeal must include a request for hearing. Once a request is received, a hearing will be set for that applicant to show cause why the denial was in error. The applicant always has the burden of proof.
- (i) At the discretion of the Commissioner of Labor or a designee, a standard Certificate of Non Coverage, issued on or after October 15, 1999, is valid for two (2) years from the date of issuance and may be renewed in accordance with the provisions of Section 415.1 of Title 40 of the Oklahoma Statutes and 380:60-1-7 of the Oklahoma Administrative Code.
- (j) A Certificate of Non Coverage must be produced on demand and, if revoked or suspended, shall immediately be surrendered to the Commissioner of Labor or a designee. A Certificate of Non Coverage may be revoked or suspended, after investigation, for the following reasons:
- (1) The holder is using the Certificate of Non Coverage to work in an occupation or occupations for which the Certificate of Non Coverage was not issued.
  - (2) The holder failed to report a material change in information provided on the Certificate of Non Coverage application to the Commissioner of Labor or a designee within thirty (30) calendar days from the date of the change.
  - (3) The holder is a sole proprietor and is working on the same job or project with one (1) or more other sole proprietors and is performing the same craft.
  - (4) The holder failed to pay all fees charged in connection with the Certificate of Non Coverage within thirty (30) calendar days from the date of issuance.
  - (5) The holder is working with one (1) or more employees who are covered by workers' compensation insurance and is performing the same or substantially similar duties.
  - (6) The holder failed to produce or surrender the Certificate of Non Coverage to the commissioner of Labor or a designee as required.
  - (7) The holder is using the Certificate of Non Coverage to work in an occupation or occupations when the holder is, in fact, an employee under Section 3 of Title 85 of the Oklahoma Statutes.
  - (8) The holder altered, misused, or tampered with the Certificate of Non Coverage or allowed another to do so.
  - (9) Any other reason not specifically listed that constitutes cause for revocation or suspension by the Commissioner of Labor or a designee including, but not limited to, any other reason required by law or administrative rule.
- (k) The Commissioner of Labor or a designee shall return a suspended Certificate of Non Coverage to the holder when all requirements for reinstatement have been met, unless the Certificate of Non Coverage has expired. The Commissioner of Labor or a designee may cancel a Certificate of Non Coverage after receipt of written notice from and return of the Certificate of Non Coverage by the holder.
- (l) All actions to revoke, suspend, or deny a renewal application for a Certificate of Non Coverage under the provisions of Section 415.1 of Title 40 of the Oklahoma Statutes and 380:60-1-7 of the Oklahoma Administrative Code shall be conducted in accordance with the Administrative Procedures Act and other applicable state and federal law.

### 380:60-1-8. Citation of employer

After verification that, within one (1) year prior to a Workers' Compensation Compliance Officer's visitation date, an

employer failed to provide continuous workers' compensation insurance coverage as required by law ~~and an employee illness, injury, or death occurred~~, the employer shall be cited and the maximum allowable civil penalty under the law will be assessed unless the employer can prove that the lapse in coverage that occurred was not the employer's fault.

**380:60-1-9. 30-day certificate of non-coverage [REVOKED]**

- ~~(a) Any applicant who, at the time of application, is unable to provide the necessary supporting documentation may request a 30-day Certificate. The applicant will still be required to complete and execute the application, and pay the required fee, prior to the issuance of a 30-day Certificate.~~
- ~~(b) A 30-day Certificate will be valid for no more than 30 days from the date of issuance, and shall expire unless the applicant is approved for a standard CNC prior thereto.~~
- ~~(c) If the required documentation is provided in a timely manner, and if it is subsequently determined that the applicant is eligible, a standard CNC will be issued to the applicant. If the 30-day Certificate was issued prior to October 15, 1999, the standard CNC shall expire one (1) year from the date the 30-day Certificate was issued. If the 30-day Certificate was issued on or after October 15, 1999, the standard CNC shall expire two (2) years from the date the 30-day Certificate was issued.~~

[OAR Docket #13-704; filed 4-30-13]

**TITLE 395. OKLAHOMA LAW ENFORCEMENT RETIREMENT SYSTEM CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM**

[OAR Docket #13-694]

**RULEMAKING ACTION:**

PERMANENT Final adoption

**RULES:**

- 395:10-1-11.1. Direct Rollovers [REVOKED]
- 395:10-1-11.3. Direct Trustee-to-Trustee Transfer by Nonspouse Beneficiary [REVOKED]

**AUTHORITY:**

Oklahoma Law Enforcement Retirement Board; Title 47 §2-300- 2-315.

**DATES:**

**Comment period:**

December 17, 2012 through February 9, 2013.

**Public hearing:**

No public hearing was or requested.

**Adoption:**

February 11, 2013

**Submitted to Governor:**

February 12, 2013

**Submitted to the House:**

February 12, 2013

**Submitted to the Senate:**

February 12, 2013

**Gubernatorial approval:**

March 11, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 10, 2013.

**Final adoption:**

April 10, 2013

**Effective:**

June 13, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The purpose of these amendments is to get our rules in compliance with IRS regulations and to change the address of our physical location.

**CONTACT PERSON:**

Ginger Poplin, Executive Director, 421 NW 13<sup>th</sup> Street, Suite 100, Oklahoma City, OK 73103, 405-522-4931.

**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 13, 2013:**

**395:10-1-11.1. Direct Rollovers [REVOKED]**

- ~~(a) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.~~
- ~~(b) Definitions:~~

~~(1) "Eligible Rollover Distribution" is generally a lump sum distribution except that an Eligible Rollover Distribution does not include monthly retirement benefits and minimum distribution payments. A portion of the distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after tax contributions. However, such portion may only:~~

~~(A) from January 1, 2002 through December 31, 2006, (i) be transferred in a direct trustee to trustee transfer to a qualified trust which is part of a defined contribution plan described in Section 401 (a) of the Internal Revenue Code of 1986, as amended, or an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, that provides for separate accounting for the after tax contributions and earnings thereon, or (ii) be transferred to an Individual Retirement Account or Annuity (IRA), as described in Section 408(a) or Section 408(b) (other than an endowment contract) of the Internal Revenue Code of 1986, as amended; or~~

~~(B) on or after January 1, 2007, (i) be transferred in a direct trustee to trustee transfer to a qualified trust described in Section 401(a) of the Internal Revenue Code of 1986, as amended, an annuity plan described in Section 403(a) of the Internal Revenue Code of 1986, as amended, or an annuity contract described in Section 403(b) of the Internal Revenue Code of 1986, as amended, that provides for separate accounting for the after tax contributions and earnings thereon, or (ii) be transferred to an Individual Retirement Account or Annuity (IRA), as described in Section 408(a) or Section 408(b) (other than an~~

endowment contract) of the Internal Revenue Code of 1986, as amended.

(2) "Eligible Retirement Plan" means an Individual Retirement Account or Annuity (IRA), as described in Section 408(a) or Section 408(b) (other than an endowment contract) of the Internal Revenue Code of 1986, as amended, Section 403(a) annuity plan, and a 401(a) qualified plan that accepts the Distributee's Eligible Rollover Distribution. An Eligible Retirement Plan also means a 403(b) annuity and an eligible 457(b) plan which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from OLETS. The definition of Eligible Retirement Plan also applies to a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to a qualified domestic order as defined in Subsection B of Section 2-303.3 of Title 47.

(3) "Distributee" means an employee or former employee. In addition, effective June 7, 1993, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic order, as defined in Subsection B of Section 2-303.3 of Title 47, are Distributee's with regard to the interest of the spouse or the former spouse. For distributions after December 31, 2006, the member's nonspouse designated beneficiary is also a Distributee.

(4) "Direct Rollover" means a payment by OLETS to the Eligible Retirement Plan specified by the Distributee or, on or after January 1, 2008, to a Roth IRA specified by the Distributee (if the Distributee meets the Roth IRA requirements). A nonspouse beneficiary is allowed to make a Direct Rollover only at an IRA (other than an endowment contract). The IRA must be: established on behalf of the designated beneficiary, treated as an inherited IRA, and titled in the name of the deceased member, for the benefit of the beneficiary. The determination of any required minimum distribution that is not eligible for roll over must be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395, as clarified by the Special Edition dated February 13, 2007, of the Employee Plans News of the Internal Revenue Service Tax Exempt and Government Entity Division.

(e) At least thirty (30) days before and effective January 1, 2007, not more than one hundred eighty (180) days before the date of distribution, the Distributee must be provided with the IRS Notice regarding rollover options and tax effects. The distribution may be paid less than thirty (30) days after the notice is given, provided that:

(1) The Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

(2) The Distributee, after receiving the notice, affirmatively elects a distribution.

### 395:10-1-11.3. Direct Trustee-to-Trustee Transfer By Nonspouse Beneficiary [REVOKED]

(a) An individual who has been designated either by a member, on a beneficiary designation form supplied by OLETS, or pursuant to state statutes governing OLETS, as a beneficiary of the deceased member, and who is not the surviving spouse of the member, may elect, at the time and in the manner prescribed by the Board, to have a direct trustee-to-trustee transfer of any portion of his or her lump sum payment from OLETS after December 31, 2006, made to an Individual Retirement Account or Annuity (IRA), as described in Section 408(a) or Section 408(b) (other than an endowment contract) of the Internal Revenue Code of 1986, as amended. If such transfer is made, then:

(1) the transfer is treated as an eligible rollover distribution;

(2) the transferee IRA is treated as an inherited account, and thus,

(A) the transferee IRA must be titled in the deceased member's name (e.g., "John Smith f/b/o Tom Smith"); and

(B) the nonspouse beneficiary may name a successor beneficiary if permitted to do so by the transferee IRA, so long as the distribution continues to meet the required minimum distribution rules under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, applicable to the original nonspouse beneficiary; and

(3) the required minimum distribution rules (other than the special rules for the surviving spouse of the employee) which are applicable when the member dies before the entire interest is distributed apply to the transferee IRA.

(b) A trustee-to-trustee transfer can be made to a trust if the beneficiaries of the trust are individuals. The transferee IRA must be titled in the name of the deceased member (e.g., "John Smith f/b/o the Smith Family Trust").

[OAR Docket #13-694; filed 4-30-13]

## TITLE 540. PHYSICIAN MANPOWER TRAINING COMMISSION CHAPTER 50. OKLAHOMA MEDICAL LOAN REPAYMENT PROGRAM

[OAR Docket #13-722]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

540:50-1-1 through 540:50-1-9 [NEW]

### AUTHORITY:

Physician Manpower Training Commission; 63 O.S., 1-2720

### DATES:

#### Comment period:

August 1, 2012 through September 12, 2012

#### Public hearing:

September 13, 2012

#### Adoption:

September 13, 2012

#### Submitted to Governor:

September 18, 2012

Submitted to House: September 18, 2012
Submitted to Senate: September 18, 2012
Gubernatorial approval: September 25, 2012
Legislative approval: Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2013
Final adoption: March 27, 2013
Effective: June 14, 2013

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules: 540:50-1-1 through 540:50-1-9 [NEW]

Gubernatorial approval: May 16, 2012

Register publication: 29 Ok Reg 893

Docket number: 12-664

INCORPORATIONS BY REFERENCE: N/A

ANALYSIS: Provisions related to the purpose, terms, conditions, eligibility, amount, method of payment and renewal of the Oklahoma Medical Loan Repayment Program to reflect statutory language.

CONTACT PERSON: Terrie L. Hardin, Executive Secretary, Physician Manpower Training Commission, 5500 North Western Avenue, Suite 201, Oklahoma City, Oklahoma 73118, 405/843-5667.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 14, 2013:

540:50-1-1. Purpose

The purpose of the Oklahoma Medical Loan Repayment Program (OMLRP) is to provide financial assistance to physicians in repaying educational loans when they elect to provide health care in rural and underserved areas of Oklahoma.

540:50-1-2. Statutory administration

The Physician Manpower Training Commission shall administer the Oklahoma Medical Loan Repayment Program. [63:1-2721(1)] The Oklahoma Medical Loan Repayment Program shall be administered by the Physician Manpower Training Commission pursuant to rules promulgated by the Commission and shall be funded based on an annual estimate of need as determined by the Commission and the actual funds available to the Program for expenditure.

540:50-1-3. Terms and conditions of loans

(a) The terms and conditions governing the Program shall be as prescribed and formulated by the Physician Manpower

Training Commission. The physician shall agree to practice in the designated need areas identified by the Commission for no fewer than two (2) consecutive years as a condition of the loan repayment. If the physician does not fulfill the service obligation, the Commission may collect from the participant the entire amount of loan payments made under the Program plus interest. [63:1-2721(D)] The contract shall specify that in case of default the physician shall be required to repay all funds that they received plus interest that equals the prime rate plus one-percent (1%).

(b) Physicians must submit proof that they are not currently obligated, and will not become obligated, to any other repayment program that has a conflicting service obligation.

540:50-1-4. Eligibility

(a) A physician shall be eligible to participate in the OMLRP if the physician:

- (1) Is licensed to practice medicine in Oklahoma;
(2) Is a new primary care residency graduate; or
(3) Is a current practicing physician and has met criteria established by the Commission. [63:1-2721(C)(1-3)]
(4) Agree to provide medical care and services to Medicaid recipients as authorized by the Oklahoma Health Care Authority [63:-12721(B)]

(b) "Primary care physicians" shall mean physicians practicing in family medicine, geriatrics, general internal medicine, general pediatrics, obstetrics/gynecology, or emergency medicine. [63:1-2721 (A)(2)]

540:50-1-5. Amount and method of payment

(a) Physicians would have to provide documentation of legitimate educational debt in the amount of \$160,000 or above to receive the maximum amount available. If total debt is less than \$160,000 a contract would be tailored, on a prorated basis, to provide an amount not to exceed legitimate educational debt of the physician. Prior to any disbursement, the Commission shall certify and properly review reports submitted by the participating physician detailing performance of activities in accordance with the Program. [63:1-2721(4)]

(b) Maximum amounts of financial assistance: first year \$25,000; second year \$35,000; third year \$45,000; and fourth year \$55,000. Payments would be made after the physician completed the first year and on each anniversary thereafter, up to a maximum of four years. Physicians would be required to sign on to the Program for a minimum of two years. At the conclusion of an initial two-year period, the Commission shall review the performance in the Program of the participating physician and determine whether an award may be granted for additional years pursuant to rules. [63:1-2721(5)]

540:50-1-6. Procedures for administering loans

The Commission shall promulgate and adopt procedures as may be necessary to carry out the administration of the program. The Commission shall delineate the following procedures:

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(1) **Promulgation of information concerning loans.** Every reasonable effort shall be made to contact all eligible physicians concerning the availability of the program. Preference will be given to graduates of the primary care residency programs affiliated with the Oklahoma State University of College of Osteopathic Medicine, the University of Oklahoma College of Medicine and the teaching hospitals affiliated with both schools of medicine. [63:1-2721(2)]

(2) **Applications.** All interested physicians shall file an application with the Physician Manpower Training Commission. This application can be submitted at any time during the year. Applications are available at [www.pmtc.ok.gov](http://www.pmtc.ok.gov) and in the office of the Physician Manpower Training Commission.

(3) **Approval by the Commission.** Applications shall be submitted to the Commission for approval at any regular Commission meeting. Applications will be reviewed in the order they are received and will be approved or denied as determined by the Commission.

(4) **Renewal of contracts.** The original contract shall be guaranteed for the initial year, and renewed each anniversary thereafter contingent upon available funding.

## **540:50-1-7. Repayment by practice or repayment of monies received**

(a) Each physician shall repay the financial assistance received by practicing full time in an approved community in Oklahoma. The period shall begin on the date the physician begins to practice in the approved community.

(b) Repayment of the total amount received, plus interest, and litigation costs as assessed by the Commission, upon failure of the physician to fulfill the contractual obligations, shall be made payable to the Commission.

## **540:50-1-8. Applicant contracts**

(a) Each physician shall enter into a contract with the Commission agreeing to the terms and conditions upon which financial assistance shall be granted to the physician.

(b) The physician shall fulfill their contractual obligation to a qualifying community as outlined in the original contract.

(c) The contract shall include such terms and provisions as will carry out the full purpose and intent of the Program, and shall be in a form prepared and approved by the Attorney General.

(d) The contract shall be signed by the Executive Director on behalf of the Commission, and by the applicant. In the event the applicant is married, the contract shall also be cosigned by the applicant's spouse.

(e) The Commission may file suit against any physician, and cosigner if applicable, for any balance due the Commission on any contract. The Commission may cancel any contract made between it and any physician upon cause deemed sufficient by the Commission.

(f) The Commission shall maintain copies of the contracts in its offices.

## **540:50-1-9. Annual reports to Governor and Legislature**

The Commission shall present a report on the operation of the Program to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate within one (1) month of the beginning of each regular session of the Legislature, including but not limited to the progress made in accomplishing the goal of the Program. [63:1-2721(E)]

[OAR Docket #13-722; filed 5-7-13]

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

[OAR Docket #13-729]

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Administrative Components of the Department

612:1-3-2. The Director of Rehabilitation Services [AMENDED]

612:1-3-2.1. The Chief of Staff of Rehabilitation Services [AMENDED]

612:1-3-8.1. Executive Officers [AMENDED]

Subchapter 11. Compliance with the Americans with Disabilities Act of 1990

Part 1. Purpose and Legal Basis

612:1-11-2. Definitions [AMENDED]

Subchapter 17. Availability of Information, Scope and Description of Open Meetings

612:1-17-3. News media contacts [AMENDED]

### **AUTHORITY:**

The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, sections 701 through 791; Oklahoma Statute Title 74, Section 166.1 et seq.

### **DATES:**

#### **Comment period:**

November 19, 2012 through February 6, 2013

#### **Public Hearing:**

February 4, 5, and 6, 2013

#### **Adoption:**

March 11, 2013

#### **Submitted to Governor:**

March 11, 2013

#### **Submitted to House:**

March 11, 2013

#### **Submitted to Senate:**

March 11, 2013

#### **Gubernatorial approval:**

April 8, 2013

#### **Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on May 8, 2013

#### **Final adoption:**

May 8, 2013

#### **Effective:**

July 1, 2013

#### **SUPERSEDED EMERGENCY ACTIONS:**

N/A

#### **INCORPORATIONS BY REFERENCE:**

N/A

#### **ANALYSIS:**

Changes to Chapter 1 involve the name change from Public Information Office to Communication Office and update to current use for mental or psychological disorder terminology.

**CONTACT PERSON:**

Ray Leard, Administrative Program Officer, Policy Development, Department of Rehabilitation Services, 3535 N.W. 58<sup>th</sup>, Suite 500, Oklahoma City, OK 73112 (405) 951-3406

**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, 2013:**

**SUBCHAPTER 3. ADMINISTRATIVE COMPONENTS OF THE DEPARTMENT**

**612:1-3-2. The Director of Rehabilitation Services**

(a) The Director of Rehabilitation Services, as the chief administrative and executive officer of the Department of Rehabilitation Services (DRS), is charged with the responsibility for day-to-day direction of the activities necessary for DRS to attain its mission as established by Title 74, Section 166.1 et seq. of Oklahoma State Statute. The work of the Director is overseen by the Commission for Rehabilitation Services.

(b) The Director directly supervises the Chief of Staff, the Chief Fiscal Officer, the ~~Public Information Communications Director~~ and External Relations ~~Officers~~ Officer, and the Civil Rights Administrator.

(c) The Director's duties include:

- (1) assuring that all of DRS is working toward its mission and the goals established by the Commission through aggressive implementation of the planning and budgeting system;
- (2) serving as staff to the Commission for Rehabilitation Services, providing necessary input for decision-making and assuring that actions approved by the Commission are carried out;
- (3) serving as ex officio member to the Rehabilitation Advisory Council, and consultant to the Independent Living Council;
- (4) developing and maintaining cooperative relationships with lawmakers and other officials, both federal and state, to assure the fulfillment of DRS's mission;
- (5) maximizing all available resources for the delivery of services to the clients DRS is charged to serve;
- (6) serving as the chief spokesperson for DRS and as an advocate for the clients it serves;
- (7) assuring the coordination of services with other state agencies; and,
- (8) selecting staff capable of carrying out the DRS mission for the areas immediately under the Director's supervision, establishing job descriptions and specifications for each of those positions, delegating authority to complete duties assigned and overseeing the accomplishment of those assigned responsibilities.

**612:1-3-2.1. The Chief of Staff of Rehabilitation Services**

(a) The Chief of Staff of Rehabilitation Services assists the Director of the Department in fulfilling the chief administrative and executive responsibilities for day-to-day direction of the activities necessary for DRS to attain its mission as established by Title 74, Section 166.1 et seq. of Oklahoma State Statute. The work of the Chief of Staff is overseen by the Director of the Department of Rehabilitation Services. In the Director's absence, the work of the Chief of Staff is overseen by the Commission for Rehabilitation Services.

(b) To the extent deemed necessary and prudent by the Director, or in the Director's absence, the Chief of Staff supervises the Division Administrators for Vocational Rehabilitation Services, Visual Services, Disability Determination, Financial Services Division, Management Services, and the Superintendents of the School for the Blind and the School for the Deaf. To the extent deemed necessary and prudent by the ~~director~~ Director, or in the Director's absence, the Chief of Staff also supervises the ~~Public Information Communications Director~~ and External Relations ~~Officers~~ Officer, the Chief Fiscal Officer, and the Civil Rights Administrator.

(c) The Chief of Staff duties include:

- (1) assuring that all of DRS is working toward its mission and the goals established by the Commission and the Director through aggressive implementation of the planning and budgeting system;
- (2) serving as staff to the Commission for Rehabilitation Services at the direction of, or in the absence of, the Director, providing necessary input for decision-making and assuring that actions approved by the Commission are carried out;
- (3) developing and maintaining cooperative relationships with lawmakers and other officials, both federal and state, to assure the fulfillment of DRS's mission;
- (4) maximizing all available resources for the delivery of services to the clients DRS is charged to serve;
- (5) serving as a spokesperson for DRS and as an advocate for the clients it serves;
- (6) assuring the coordination of services with other state agencies; and,
- (7) carrying out such other duties and assignments the Director, or in the Director's absence, the Commission deems necessary and prudent to attain the mission of DRS; delegating authority to complete duties assigned, and overseeing the accomplishment of those assigned responsibilities.

**612:1-3-8.1. Executive officers**

The executive officers in (1) through (5) report directly to the Department of Rehabilitation Services Director.

- (1) **Chief of Staff.** The Chief of Staff assists the Director of the Department in fulfilling the chief administrative and executive responsibilities for day-to-day direction of the activities necessary for DRS to attain its mission as established by Title 74, Section 166.1 et seq. of Oklahoma State Statute. The work of the Chief of Staff is overseen by the Director of the Department of Rehabilitation Services.

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In the Director's absence, the work of the Chief of Staff is overseen by the Commission for Rehabilitation Services.

(2) **Chief Fiscal Officer.** The Chief Fiscal Officer is responsible for the direction and oversight of the Department's fiscal operations, including finance, general and federal accounting, budgeting, administration and control of financial information systems, and reporting activities.

(3) **Civil Rights Administrator.** The Civil Rights Office is responsible for preparing the annual Affirmative Action Plan; ensuring that DRS is in compliance with all applicable state and federal laws, executive orders and other policies regarding discrimination based on race, sex, national origin, age, religion, and/or disability. The Civil Rights Administrator conducts investigations of discrimination and/or 504, ADA compliance complaints for Department employees and clients.

(4) **External Relations Officer.** The External Relations Officer coordinates The Department's legislative initiatives and monitors legislative actions affecting the Department.

(5) **Public Information Administrator-Communications Director.** The ~~Public Information Administrator~~ Communications Director coordinates the dissemination of public information about DRS. This is accomplished through news releases, a Department newsletter, publications in appropriate media formats, and other public relations activities. The ~~Public Information~~ Communications Office is also responsible for producing the Department's annual report.

are available to an average similarly situated employee without a disability.

**"Essential functions"** means the fundamental job duties of the employment position the individual with a disability holds or desires. The term does not include the marginal functions of the position.

**"Has a record of such impairment"** means the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

**"Illegal use of drugs"** means the use of drugs whose possession or distribution is unlawful under the Controlled Substances Act, as periodically updated by the Food and Drug Administration.

**"Is regarded as having such an impairment"** means:

(A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a covered entity as constituting such limitation;

(B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(C) has none of the impairments defined herein but is treated by a covered entity as having a substantially limiting impairment.

**"Major life activities"** means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

**"Physical or mental impairment"** means:

(A) any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(B) any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**"Qualified individual with a disability"** means an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position. For purposes of organizational policy, the Department differentiates between a qualified person with a disability in the area of employment and a qualified person with a disability in the area of DRS programs.

(A) **Employment:** An individual with a disability is one who, with or without reasonable accommodation, can perform the essential functions of the position that the individual holds or desires. For the purposes of the ADA, consideration shall be given to the employer's judgement regarding what functions of a job are essential. If an employer has prepared a

## SUBCHAPTER 11. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990

### PART 1. PURPOSE AND LEGAL BASIS

#### 612:1-11-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

**"Disability"** means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual. It also means having a record of such an impairment or being regarded as having such an impairment. "Disability" does not include:

- (A) sexual behavior disorders;
- (B) compulsive gambling, kleptomania, or pyromania;
- (C) psychoactive substance abuse disorders resulting from current illegal use of drugs; or
- (D) homosexuality and bisexuality.

**"Drug"** means a controlled substance, as defined in Schedules I through V of Section 202 of the Controlled Substances Act [21 U.S.C. 812].

**"Equal employment opportunity"** means an opportunity to enjoy equal benefits and privileges of employment as

written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(B) **Programs:** An individual with a disability is one who, with or without reasonable modifications to rules, policies, or practices; removal of architectural, communication, or transportation barriers; or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by DRS.

"Reasonable accommodation" means:

(A) modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or

(B) modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or

(C) modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

"Relationship or association with an individual with a disability" means a qualified individual with or without a disability who has a known relationship or association with an individual who has a known disability. While such individuals are protected from discrimination in terms of equal jobs and benefits, and equal programs and activities, there is no requirement for an employer to provide a person without a disability with a reasonable accommodation. This duty only applies to qualified applicants or employees with disabilities.

"Substantially limits" means:

(A) unable to perform a major life activity that the average person in the general population can perform; or

(B) significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

"Undue hardship" means, with respect to the provision of an accommodation, significant difficulty or expense incurred by a covered entity. The concept of undue hardship is not limited to financial difficulty. Undue hardship refers to any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.

**SUBCHAPTER 17. AVAILABILITY OF INFORMATION, SCOPE AND DESCRIPTION OF OPEN MEETINGS**

**612:1-17-3. News media contacts**

(a) **Philosophy.** The Department of Rehabilitation maintains an "open door" policy toward the news media. DRS and its staff are stewards of the public resources entrusted to them, and are accountable to the taxpayers of Oklahoma for the use of these resources. Access of the news media to information about DRS policies, programs and administrative activities is a key part of such accountability. When in contact with the media, staff must keep in mind the media will treat any information provided by staff as the official position of the Department.

(b) **Limitations on access to client information.** DRS must protect the privacy of recipients of DRS services where that is appropriate. At no time shall information about a particular recipient be released, unless express, written permission is given by the client. The right to privacy of clients is a higher priority than the need for releasing information to the news media. Prior to the release of information to the news media, the Department secures the client's permission by the completion of Permission for Release of Information by the client.

(c) **Response to media inquiries.** Media requests for information generally fall into two categories.

(1) The first category includes those questions about Department programs and services staff routinely answer for consumers, referral sources, and the public. When the media ask such questions, refer them to the local staff person best qualified to answer.

(2) The second category includes those inquiries related to official agency positions on budget, legislative, legal, or other sensitive matters, including consumer or public complaints. These inquiries, when coming from the media, are to be immediately referred to the ~~public information administrator~~ Communications Director. Because many of the media inquiries received at the State Office fall into this category, all media inquiries received at the State Office will be referred to the ~~public information administrator~~ Communications Director. This will allow time to prepare and/or coordinate an accurate and appropriate response.

[OAR Docket #13-729; filed 5-8-13]

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

[OAR Docket #13-730]

**RULEMAKING ACTION:**  
PERMANENT final adoption

- RULES:**
- Subchapter 1. General Provisions
  - 612:10-1-2. Definitions [AMENDED]
  - 612:10-1-7. Purchase of services and goods for individuals with disabilities [AMENDED]
  - 612:10-1-8. Vendor contracts [AMENDED]
  - Subchapter 7. Vocational Rehabilitation and Visual Services
  - Part 3. Case Processing Requirements

# Permanent Final Adoptions

612:10-7-24.1. Basic eligibility requirements for vocational rehabilitation services [AMENDED]

Part 23. Self-Employment Programs and Other Services

612:10-7-232. Placement [AMENDED]

## AUTHORITY:

The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, sections 701 through 791; Oklahoma Statute Title 74, Section 166.1 et seq.

## DATES:

### Comment period:

November 19, 2012 through February 6, 2013

### Public Hearing:

February 4, 5, and 6, 2013

### Adoption:

March 11, 2013

### Submitted to Governor:

March 11, 2013

### Submitted to House:

March 11, 2013

### Submitted to Senate:

March 11, 2013

### Gubernatorial approval:

April 8, 2013

### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 8, 2013

### Final adoption:

May 8, 2013

### Effective:

July 1, 2013

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

N/A

### ANALYSIS:

Changes to Chapter 10 align policy with state law, clarifying terms, and updating language to reflect current use of terms.

### CONTACT PERSON:

Ray Leard, Administrative Programs Officer, Policy Development, Department of Rehabilitation Services, 3535 N.W. 58<sup>th</sup>, Suite 500, Oklahoma City, OK 73112 (405) 951-3406

**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, 2013:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 612:10-1-2. Definitions

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

**"Act"** means the Rehabilitation Act [29 USC 701 et seq.].

**"ADL"** Activities of Daily Living often refer to the routine activities carried out for personal hygiene and health (including bathing, dressing, feeding) and for operation of a household.

**"Applicant"** means an individual who has completed and signed an agency application form or has otherwise requested vocational rehabilitation services; who has provided information necessary to initiate an assessment to determine eligibility and priority for services; and who is available to complete the assessment process.

**"Assistive technology"** means technology designed to be utilized in an assistive technology device or service.

**"Assistive technology device"** means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

**"Assistive technology service"** means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

**"Authorized Representative"** means a client's or applicant's parent, guardian, advocate (i.e. Client Assistance Program) or other person designated by the client or applicant as the individual authorized to deal with the Department on behalf of the client or applicant, consistent with provisions of the Act. Authorized representative does not include an employee of the Department of Rehabilitation Services, another state agency, or vendor of the Department unless the person is actually the parent, guardian, or is serving in the capacity of guardian (for example: court appointed).

**"Blind"** means persons who are blind within the meaning of the State Law relating to Vocational Rehabilitation. Legal blindness means a visual acuity of 20/200 or less in the better eye with best correction, or a visual field of 20 degrees or less.

**"Client/Consumer"** means an individual found eligible and receiving services under the Act.

**"Clubhouse model"** means a psychosocial and vocational approach to work adjustment for people with mental illness. The work-ordered day is a core element of the clubhouse, which focuses on strengths, talents and abilities. Work in the clubhouse helps members develop appropriate social skills and gain self-worth, purpose, and confidence. The clubhouse enables members to return to paid work through Transitional Employment, Supported Employment and independent employment.

**"Community rehabilitation program"** (CRP) means a program that directly provides or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and provides singly or in combination, services for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement.

**"Comparable services and benefits"** means services that are provided or paid for in whole or in part by other Federal, state or local public agencies, health insurance or employee benefits, and are available to the individual at the time needed to further the progress of the individual toward achieving his/her identified employment outcome.

**"Compensatory training"** means training required before the client can enter a formal training program or employment, such as pre-vocational or personal adjustment training.

**"Competitive employment"** means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and for which the individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who do not have disabilities.

**"Consumer Independence Support Services" (CISS)** are defined as providing independent living assessment, intensive counseling, community integration, and housing modifications to further assist consumers with severe disabilities in achieving independence.

**"Continuity of Services"** means once an individual is selected for services in accordance with policy, regardless of the priority category from which the individual was selected, the individual will receive the necessary purchased services, including post-employment services.

**"Counselor"** means the qualified rehabilitation professional, who is an employee of the designated state unit, and who has primary responsibility for the management of an individual's rehabilitation services case record, including determination of eligibility, service planning and management, counseling and guidance, and determination of successful or unsuccessful rehabilitation. Counselor is equivalent to such terms as VR/VS Specialist and VR/VS Coordinator.

**"Department"** unless otherwise indicated in the text, means the Department of Rehabilitation Services as constituted in 74 O.S., Section 166.1 et seq.

**"DRS"** means the Department of Rehabilitation Services.

**"DVR"** means the Division of Vocational Rehabilitation.

**"DVS"** means the Division of Visual Services.

**"Eligibility" or "Eligible"** means:

(A) when used in relation to an individual's qualification for Vocational Rehabilitation services, a determination that the individual has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; can benefit in terms of an employment outcome from rehabilitation services; and requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment;

(B) when used in relation to an individual's qualification for Supported Employment services, a determination that the individual is eligible for Vocational Rehabilitation services; is an individual with the most severe disabilities (priority group one); and

(i) for whom competitive employment has not traditionally occurred; or

(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(iii) who, because of the nature and severity of their disability, need intensive supported employment services, and extended services after the transition from intensive supported employment services, in order to perform such work;

(C) when used in relation to an individual's qualification for Rehabilitation Teaching services, certification that the individual is legally and/or functionally blind or has a rapidly progressive condition and may have secondary disabilities; the individual has identifiable deficiencies in independent living due to disabilities; and it is expected services will improve the individual's independence in the home and community;

(D) when used in relation to an individual's qualification for Independent Living Rehabilitation services, certification that the individual has a severe physical or mental disability; the disability results in a substantial limitation or inability to function independently in the family or community or to continue in employment; and a reasonable expectation that independent living services will significantly assist the individual improve his/her ability to function independently.

**"Employment and Retention"** (E&R) means short-term job coach support for individuals with severe disabilities who require assistance preparing for, obtaining, and maintaining employment.

**"Employment outcome"** means, with respect to an eligible individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market to the greatest extent practicable; supported employment; or any other type of employment (including self-employment, telecommuting, or business ownership) that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**"Extended employment"** means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act and any needed support services to an individual with a disability to enable the individual to continue to train or otherwise prepare for competitive employment, unless the individual through informed choice chooses to remain in extended employment.

**"Extended period of time"** means when appropriate services are provided in a timely and orderly manner, completion of the Individualized Plan for Employment (IPE) will be expected to require a minimum of 6 months.

**"Extended services"** means ongoing support services provided to individuals with the most severe disabilities after the time-limited vocational rehabilitation services have been completed and job stabilization has been achieved. They consist of specific services, including natural supports, needed to maintain the supported employment placement. Extended services are paid from funding sources other than DRS and are specifically identified in the IPE.

**"Extreme medical risk"** means a risk of substantially increasing functional impairment or risk of death if medical services are not provided expeditiously.

**"Functional capacities"** means a client's assets, strengths, and resources which maintain or increase the individual's ability to work. Functional capacities include mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills.

**"Functional limitations"** means physical or mental conditions, emergent from a disability, which impair, interfere with, or impede one or more of an individual's functional capacities.

**"Higher education"** means universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

**"Highly challenged"** describes a client receiving supported employment services who, due to the nature of the

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disability, requires a greater level of support from the job coach to achieve and maintain employment.

**"Homemaker"** means a person whose primary work is performance of duties related to upkeep and maintenance of a home.

**"IEP"** means Individualized Education Program as required by the Individuals with Disabilities Education Act.

**"Independent Living (IL) Core services"** is defined as information and referral services; independent living skills training; peer counseling; and individual and systems advocacy.

**"Independent Living Services"** as defined in the Rehabilitation Act, 29 USC Section 705 (17) and (18), include IL core services and counseling, housing procurement and modifications, personal assistance, mobility training, rehabilitation technology, life skills training, interpreters, readers, transportation, community integration, supported living, physical rehabilitation, aids and devices, social and recreational opportunities, and other services that are necessary and not inconsistent with the Act's provisions related to independent living.

**"Individual with a disability"** means an individual having one or more physical or mental conditions which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's employment activities or vocational functioning.

**"Individual with a severe disability"** means with respect to eligibility for the state's Optional Program for Hiring Applicants with Disabilities, an individual who has a physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome.

**"Individual with significant disability"** means an individual with a significant barrier to employment, as used in the Rehabilitation Act amendments of 1998, and an individual:

(A) who has a physical or mental impairment seriously limiting one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, ~~mental-retardation~~ intellectual disability, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining

eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

**"Individual with the most significant disability"** means an individual with the most significant barrier to employment as used in the Rehabilitation Act amendments of 1998, and an individual with physical or mental disabilities:

(A) who has a severe physical or mental disability that seriously limits three or more major life activities in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, ~~mental-retardation~~ intellectual disability, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

**"Integrated setting"** means:

(A) With respect to the provision of services, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals.

(B) With respect to an employment outcome, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

**"Intercurrent (acute) conditions"** means an illness or injury occurring during the actual course of an individual's rehabilitation which, if not cared for, will complicate or delay achievement of the client's employment outcome as identified in the client's IPE.

**"IPE"** means the Individualized Plan for Employment.

**"Job Club"** is a structured learning experience for a client to build skills in self-assessment, resume development, job search and research strategies, and interview techniques to assist the person to enter a career of their choice.

**"Job Coach/Employment Training Specialist"** means a qualified individual providing support services to eligible individuals in supported employment and employment and retention programs. Services directly support the eligible individual's work activity including marketing and job development, applied behavioral analysis, job and work site

assessment, training and worker assessment, job matching procedures, and teaching job skills.

**"Long-term treatment"** means medical or psychological treatment that is expected to last more than three months.

**"Maintenance"** is a service provided to assist with the out-of-ordinary or extra expenses to the individual resulting from and needed to support the individual's participation in diagnostic, evaluative, or other substantial services in the IPE. Activities of Daily Living (ADL) expenses are not eligible for maintenance payments.

**"Milestones"** means a payment system that reimburses a vendor based on incentives and outcomes. The vendor is paid when the client completes pre-defined checkpoints on the way to a desired employment goal.

**"Multiple services"** means the counseling and guidance provided as a routine part of case management plus two or more VR services. Comparable benefits and/or services can count toward meeting the definition of multiple services. Services routinely provided as a package do not count as multiple services for the purpose of determining the presence of a significant disability, even if two or more services are included in the package.

**"Natural supports"** means any assistance, relationships or interactions that allow a person to maintain employment in ways that correspond to the typical work routines and social interactions of other employees. Natural supports may be developed through relationships with people or put into place by the adaptation of the work environment itself, depending on the support needs of the person and the environment.

**"Occupational license"** means any license, permit, or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation.

**"Ongoing support services"** means services specified in the IPE according to individual need, which support and maintain an individual with the most severe disabilities in supported employment. Sponsored ongoing support services are provided from the time of placement until the individual is stabilized on the job. Ongoing support services are provided by one or more extended services providers, or by natural supports, following transition throughout the individual's term of employment. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

**"Other Qualified Rehabilitation Personnel"** means qualified rehabilitation personnel who, in addition to rehabilitation counselors, are necessary to facilitate the accomplishment of the employment outcomes and objectives of an individual (Section 100(a)(3)(E) of the Act.) Other qualified rehabilitation personnel include, but are not limited to, rehabilitation teachers of the blind who are certified at the national level as Certified Vision Rehabilitation Therapists (CVRT) or who are CRC-eligible (Section 101(a)(7)(B) of the Act). The agency has determined that nationally certified rehabilitation teachers of the blind are necessary for the provision of vocational rehabilitation services and accomplishment of employment outcomes in Homemaker cases and that in their role as Other Qualified Rehabilitation Personnel; nationally

certified rehabilitation teachers are approved to manage Homemaker cases through closure.

**"Package of services"** means several services which are usually provided together for the same purpose. The services in a package are usually, but not always, from the same category of services (see definition of multiple services, this section). Examples include, but are not limited to: surgery, anesthesia, and hospitalization; or personal computer, software, and peripheral equipment.

**"Personal assistance services"** means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability.

**"Physical and mental restoration services"** means services which are necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive, within a reasonable period of time.

**"Physical or mental disability"** means a physical or mental condition which, if not corrected, materially limits, contributes to limiting or will result in limiting an individual's activities or functioning.

**"Rehabilitation Act"** means the Rehabilitation Act [29 USC 701 et seq.].

**"Related factors"** means those factors which are not directly attributable to the impediment to employment, but which have impact on the potential for successful rehabilitation. They frequently become evident only from an assessment of the person's social, vocational, educational, and environmental circumstances.

**"Section 504 Plan"** is a plan designed as a protection for students with disabilities who may not be considered eligible for special education under IDEA in compliance with Section 504 of the Rehabilitation Act of 1973 as amended.

**"Small business enterprises"** means a small business operated by blind or other individuals with severe disabilities under the management and supervision of the state DRS. Such businesses include only those selling, manufacturing, processing, servicing, agricultural, and other activities which are suitable and practical for the effective utilization of the skills and aptitudes of individuals who are blind or individuals who have severe disabilities. Small business enterprise provides substantial gainful employment or self-employment commensurate with the time devoted by the operators to the business, the cost of establishing the business and other factors of an economic nature.

**"Stabilization"** means the period of time when job coach support is reduced to the long-term maintenance level while the individual retains employment, and personal satisfaction with the job, as well as employer satisfaction with the person's job performance. Stabilization must include appropriate individualized supports, including a minimum of two employee contacts and one employer contact per month.

**"Substantial impediment to employment"** means that a physical or mental disability (in the light of related medical, psychological, vocational, educational, cultural, social or environmental factors) that impedes an individual's occupational performance, by preventing his/her obtaining, retaining,

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or preparing for a gainful occupation consistent with his/her capacities and abilities.

**"Supported employment"** (SE) means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most severe disabilities who meet the eligibility criteria for supported employment. This term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness (see the definition for "transitional employment").

**"Transitional employment"** (TE) means, when referring to the Supported Employment Program, a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most severe disabilities due to mental illness.

**"Transportation"** is a service provided to assist with the costs of travel, including instruction in the use of public transportation vehicles and systems, which result from and are needed to support the individual's participation in diagnostic, evaluative, or other substantial and necessary VR services.

**"Unpaid family worker"** means a person who works without pay on a family farm or in a family business, operated by a family member who is related by blood or marriage.

**"VR"** means the Division of Vocational Rehabilitation, or the more general term vocational rehabilitation services, depending upon the context.

**"VS"** means the Division of Visual Services, or the more general term visual services, depending upon the context.

### **612:10-1-7. Purchase of services and goods for individuals with disabilities**

(a) All Department authorizations are made in compliance with the state purchasing policy under legal authority of the Director or by an employee to whom the Director has delegated such authority. Services, other than diagnosis, must be in an approved Individualized Plan for Employment prior to authorization. All authorizations are to be issued prior to or simultaneously with the provision of the services. Verbal authorizations may be made when needed to ensure effective delivery of services. Verbal authorization must be followed immediately by the actual authorization. Separate authorizations for each fiscal year are required when a planned service extends beyond a single fiscal year. Rehabilitation professionals may not authorize fees for services in excess of those established by the Department unless approved by the Division Administrator. A prior written purchasing agreement is required before authorization can be made to any medical vendor or post-secondary school. Other nonmedical vendors will not require a prior written purchasing agreement unless stated otherwise in the DRS policy manual section(s) for that service. When a vendor has a prior written purchasing agreement with the Department, and required approvals have been obtained, authorization may be issued for consumer services directly to that vendor. All other consumer services will be purchased pursuant to the rules in (g) and (h) of this Section. However, a requisition may be submitted to the DRS

Purchasing Section if, in the judgment of the responsible rehabilitation professional, the best interests of the consumer and/or the agency would be served by having the Purchasing Section handle the procurement. In either case, once items have been received and checked against the authorization, the appropriate DVR or DVS staff, in accordance with (g) and (h) of this Section, approves the claim, then forwards it to the DRS Financial Services Division. When a vendor does not abide by the authorization or written purchasing agreement or bills and accepts fees from the client in addition to those agreed upon, the rehabilitation professional will bring this to the immediate attention of the supervisor for action by the administration. The vendor will not be used for further rehabilitation services until agreement to discontinue the objectionable practice is reached.

(b) Since the Department is a state-federal agency, it does not pay sales, excise, or transportation taxes.

(c) All claims for medical and/or nonmedical client services must be filed on claim forms approved by the Department. When the provision of an authorization is fulfilled, payment for the authorized client services constitutes payment in full. The client will not have any financial liability other than the amount required of clients who must participate in the cost of the service provided. The individual is liable for services he/she arranged which were not planned and initiated under the auspices of DRS. When DVR and DVS funds are used to supplement third party medical resources, participation cannot exceed the difference between the third-party payment and the Department's established schedule.

(d) The client must transfer, assign, or authorize payments to the Department of any and all claims against Health Insurance or Liability Insurance companies or other third parties, to the full extent of all payments for medical services made by the Department.

(e) The Department retains right and title to any tools, equipment, durable medical equipment, or other goods costing \$500 or more purchased with DVR and DVS funds, until and unless such goods are released to the client. Upon delivery of any such goods to the client, a Receipt for Equipment and Title Agreement must be completed and approved.

(1) **Completion of Program:** Any tools, equipment or durable medical goods purchased for training or occupational purposes remain with the client after completion of the program of services if they can be used in the client's chosen vocation. If the client fails to complete the program of service, the counselor will make effort to reclaim the goods to transfer to another client.

(2) **Disposition at closure:** Case recording must reflect the disposition at the time of closure of tools, equipment, and goods provided the client. All occupational tools, equipment, and durable medical goods remain the property of the agency until released. If the client is not using the items, the counselor will pick them up if an economical savings to the agency will result, and if the transfer will not endanger the health or safety of the client.

(3) **Title Release:** Title on any tools, equipment or durable medical equipment purchased with DRS funds for training or occupational purposes will not be released to

the client until the counselor has determined the client is using the items as planned.

(f) When the rehabilitation professional determines an authorization or portion of an authorization will not be utilized, procedures to cancel the remaining services will be completed. Before the case is closed, all unliquidated authorizations must be canceled or accounted for to determine if a claim will be made against any outstanding authorization.

(g) Purchasing consumer goods or services, other than direct client payments, when there is no prior written purchasing agreement is basically a three step process. These steps include specifying the requirements for the goods or services, authorizing for the purchase, and receiving delivery of the goods or services. For audit purposes, no one person can perform more than one of these steps. A different person is required for:

- (1) identifying the requirement for the purchase;
- (2) placing the order; and
- (3) accepting the material or service.

(h) When a prior written purchasing agreement for consumer goods or services, other than direct client payments, is not required, and the service or package of services to be obtained will cost the amount of the DCS authority order limit or less, the rehabilitation professional and client will jointly choose an appropriate vendor. The rehabilitation professional will then authorize for the planned services to the chosen vendor. When a prior written purchasing agreement for consumer services, other than direct client payments, is not required, and the service or package of services will cost more than the DCS authority order limit, the rehabilitation professional will follow rules in (1) through (7) of this Subsection.

(1) The rehabilitation professional will obtain specialist recommendations for purchase requirements and approvals in accordance with agency policy.

(2) The participation of the client, or the client's authorized representative, will be obtained in deciding upon at least three vendors to be contacted by the rehabilitation professional to obtain bids for the goods or services. The rehabilitation professional will review available vendor information with the client, or client's authorized representative, to jointly determine which vendor(s) can best meet the needs of the client in terms of product and service function, quality, and vendor accessibility.

(3) At least three vendors offering the goods or services will be contacted to obtain bids. To expedite planning and service delivery, bids may be obtained verbally with a faxed or emailed bid request. Upon request, contacted vendors will be afforded at least 24 hours in which to prepare and submit the verbal bid in writing by fax or email. The rehabilitation professional will ensure that all bids are submitted in writing for the same or comparable items, and will document the bids received by using the Vendor Bid Documentation Form. All fax confirmation sheets and emailed bid documents are to be submitted with the Vendor Bid Documentation Form to the Purchasing Section.

(4) The rehabilitation professional will issue the appropriate authorization and claim to the vendor submitting

the lowest and best bid. If the rehabilitation professional managing the case is also the recognized specialist who identified the purchase requirements, then the supervisor will issue the appropriate authorization. Authorization may be issued to a vendor not submitting the lowest bid only with strong documentation that the selected vendor can best meet the needs of the client. When the bid is in excess of \$5,000.00 the successful bidder will sign a non-collusion certificate statement (to be sent with the claim), which a copy of which will be maintained in the case service record.

(5) In the case of a vehicle modification or housing modification, upon completion of the authorized services, the counselor will contact the AT Specialist to schedule inspection of the work in accordance with 612:10-7-220 and 612:10-11-38. The AT Specialist will complete the "Assistive Technology Inspection Report" verifying the modification conforms to acceptable standards and the work is satisfactory.

(6) Upon delivery of the goods or services in accordance with the IPE and authorization, a rehabilitation staff person other than the specialist who specified the purchase requirements and the rehabilitation professional who authorized the purchase will accept delivery, verify that goods received match the vendor invoice, sign the appropriate claim form, sign and attach the invoice and forward them to the DRS Financial Services Division.

(7) Upon delivery of any goods costing \$500 or more to the client, a Receipt for Equipment and Title Agreement must be completed and approved.

(8) Itemized documentation will be in the case record on all orders costing less than \$500 and the client will acknowledge their receipt. (For example, signing and dating the packaging slip, vendor's invoice, or typed list of goods.)

(9) Returned or repossessed items must be documented on for "Receipt for Equipment and Title Agreement" and the final disposition noted in Case Narrative entry.

(i) Program Managers will review case records when submitted for approvals to ensure that purchases are being awarded in a manner that ensures competition and client participation within the scope of DRS and applicable fiscal rules. ~~At least once each fiscal year a random selection of case records will be reviewed by the DRS Central/Departmental Services Unit to monitor compliance with DRS and applicable fiscal rules.~~ If a Program Manager has reason to believe that a rehabilitation professional is not making a good faith effort to award purchases in a competitive manner and in accordance with agency policy, a fiscal audit of the entire caseload will be requested to determine the appropriate action to take. At least once each fiscal year a random selection of case records will be reviewed by the DRS Central/Departmental Services Unit to monitor compliance with DRS and applicable fiscal rules.

(j) Pursuant to 74 O.S. 85.44A, any goods or services required under a court order shall be purchased in accordance with DRS fiscal rules.

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## 612:10-1-8. Vendor contracts

(a) **Nonmedical vendor contracts.** A post-secondary school (private or public) must have a prior written purchasing agreement with DRS before services can be authorized to that vendor, unless the school is participating in a direct payment program. Other nonmedical services to be purchased from a vendor will not require a prior written purchasing agreement unless stated otherwise in the DRS manual section(s) for that service, or in accordance with 612:10-1-7. Services requiring a prior written agreement cannot be authorized until a prior written agreement has been completed. Prior to the initiation of the Individualized Plan for Employment (IPE), the counselor must determine if:

- (1) a vendor agreement is needed;
- (2) there is an established rate or fee schedule; and
- (3) client's participation in cost of services is required.

(b) **Training facility agreements.** Training services are purchased from a specific vendor when an active agreement has been approved by the Department of Central Services and placed on file in the Office of State Finance and placed on file in the Central Departmental Services, Contracts Unit.

(c) **Out-of-state vendor agreements.** By state law, an agreement cannot be issued for more than 12 months. If an agreement should lapse, vendor's claims for clients' training will be denied by the Department under state law. The client will be provided an opportunity to attend the training facility of choice provided the facility has an active agreement with the Department.

(d) **Medical vendor agreements.** Medical services or supplies may be purchased only from medical vendors having active purchasing agreements with the Department.

## SUBCHAPTER 7. VOCATIONAL REHABILITATION AND VISUAL SERVICES

### PART 3. CASE PROCESSING REQUIREMENTS

#### 612:10-7-24.1. Basic eligibility requirements for vocational rehabilitation services

(a) An individual is eligible for vocational rehabilitation services under the Rehabilitation Act through the State Department of Rehabilitation Services if the individual:

- (1) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment;
- (2) is determined by a qualified vocational rehabilitation counselor to require vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment; and
- (3) can benefit in terms of an employment outcome from vocational rehabilitation services.

(b) The agency presumes that an applicant with a physical or mental impairment that constitutes or results in a substantial impediment to employment can benefit from vocational rehabilitation services in terms of an employment outcome, unless the agency demonstrates, based on clear and convincing

evidence, that the individual is incapable of benefiting from rehabilitation services due to the severity of the individual's disability.

(c) An individual who has a disability or is blind as determined pursuant to Titles II (federal old age, survivors, and disability insurance benefits) or XVI (SSI) shall be:

- (1) considered to have a significant disability under the order of selection; and
- (2) presumed to be eligible for vocational rehabilitation services, (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless clear and convincing evidence demonstrates that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the individual's disability.

(d) Eligibility requirements shall be applied without regard to:

- (1) duration of residence in the state,
- (2) type of disability,
- (3) age, except that in serving eligible individuals below working age, the client must be expected to reach working age by the time the IPE is completed, and DRS will not provide services that are the responsibility of the public school system.
- (4) gender, race, color or national origin,
- (5) type of expected employment outcome,
- (6) source of referral, or
- (7) the particular service needs or anticipated cost of services required by an applicant or applicant's family.

(e) **Disabled veterans.** Disabled veterans are eligible for vocational rehabilitation services on the same basis as other individuals with disabilities subject to the following restrictions:

- (1) Disabled veterans are not provided services which can be secured from the Veterans Administration (VA), unless use of VA services will cause a substantial delay of services.
- (2) Veterans receiving additional benefits under the G. I. Bill or the War Orphan Act may be provided services if such services do not duplicate those being received from the VA.

(f) **Applicants who are employed.** Employed persons who meet basic eligibility requirements may be provided vocational rehabilitation services when the employment is not consistent with the individual's strengths, resources, priorities, concerns, abilities, interests and capabilities.

(g) **Citizenship.** Participation in the VR program is available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees and parolees, and other immigrants authorized to work in the United States.

(h) **Criteria.** Some conditions have unique criteria that must be considered when determining eligibility.

- (1) **Alcoholism/Drugs.** Individuals may be eligible for vocational rehabilitation services based on a substance abuse diagnosis that may be made by a psychiatrist, psychologist, medical doctor or certified substance abuse

counselor. Clients must be willing to undergo random alcohol/drug screening. DRS does not pay for detoxification or replacement drug treatment. Documentation from qualified Drug and Alcohol treatment professionals indicating that the client is presently substance-free, maintaining sobriety, and actively participating in a treatment or maintenance program if recommended by the treating professional must be filed in the case record upon IPE development.

(2) **Allergies/Asthma.** Allergies/asthmatic conditions that require continuous or intermittent medical intervention and result in a substantial impediment to employment will be considered eligible for services.

(3) **Deafness and Hearing Loss.** The rehabilitation professional will base eligibility determination upon one of the measurement methods listed below. The case record must document the method chosen provides the most accurate evaluation of functional hearing level for the individual.

(A) **Eligibility criteria.** Eligibility criteria for each method of measurement are listed in (i) through (iv) of this Subsection. An individual will also be considered to have a qualifying disability when documentation indicates the hearing loss is progressive and the progression is substantial enough to result in an impediment to employment.

(i) **Average hearing loss.** Average hearing loss, which is determined by computing average of the pure tone thresholds for each ear at 1000Hz, 2000Hz, 3000Hz and 4000Hz. An individual is considered to have a qualifying disability based upon average hearing loss when:

- (I) The hearing loss in one ear is profound (91 dB or greater) and the hearing loss in the better ear is at least 15 dB; or
- (II) The hearing loss in the better ear is 30 dB or greater.

(ii) **Speech recognition threshold (SRT).** An individual is considered to have a qualifying disability when:

- (I) the speech reception threshold in one ear is 91 dB or greater and is at least 15 dB in the better ear; or
- (II) the speech reception threshold in the better ear is 30 dB or greater.

(iii) **Speech discrimination or word recognition score.** An individual is considered to have a qualifying disability when the speech discrimination or word recognition score is 70% or less.

(iv) **Articulation index.** An individual is considered to have a qualifying disability when the articulation index is 70% or less.

(B) **Severity of Hearing Loss.** All individuals who qualify as having a severe hearing loss will be referred to a Rehabilitation Counselor for the Deaf and Hard of Hearing (RCD). Relevant information provided will include copies of the initial interview narrative recording, medical information, eligibility

data entry form, Individualized Plan for Employment, pertinent copies of case narratives and DRS application form. On receipt of a referral, the RCD will contact the client and make a determination of potential for Deaf and Hard of Hearing services. The referring counselor will be informed in writing of the RCD's findings.

(i) **Severe Hearing Loss.** Average hearing loss, as calculated above, is considered severe when:

- (I) The hearing loss in one ear is profound (91 dB or greater) and the hearing loss in the better ear is at least 31 dB; or
- (II) The hearing loss in each ear is 55 dB or greater.

(ii) **Severe Speech Recognition Threshold (SRT).** An individual is considered to have severe disability when;

- (I) The SRT in one ear is 91 dB or greater and the SRT in the better ear is at least 31 dB; or
- (II) The SRT in each ear is 55 dB or greater.

(iii) **Severe Speech Discrimination or word recognition score.** An individual is considered to have a severe disability when the speech discrimination or word recognition score is 59% or less.

(4) **Diabetes:** The individual must require prescribed medication to control the condition. Those persons whose diabetes is controlled by diet and exercise alone or whose condition does not result in a substantial impediment to employment will not be considered eligible. Eligible clients will be required to undergo a visual exam by a licensed ophthalmologist at least once a year. All insulin dependent diabetics are required to attend diabetic education training as part of their IPE. This can be provided by a consumer's personal physician, in coordination with the VR specialist. If diabetic education is provided, a separate intermediate objective addressing this service must be included on the IPE.

(5) **Facial and Disfigurement Conditions.** When these conditions result in an impediment to employment an individual may be eligible for VR services.

(6) **Learning Disabilities.** Individuals must meet one of the following three criteria to be identified as learning disabled:

- (A) Have a marked discrepancy between verbal and performance intellectual level;
- (B) Be diagnosed or identified as having a specific learning disability from the local educational system; or
- (C) When the individual's achievement on individually administered, standardized test in reading, mathematics or written expression is substantially below that expected for age, schooling and level of intelligence (DSM IV).

(7) **Mental Disorders.** Treatment must be incorporated as a service in the IPE for individuals with a mental disorder.

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(8) ~~Mental Retardation~~ **Intellectual Disability.** To be eligible, individuals having an I.Q. of 69 or below and substantially limited adaptive functioning, as measured by an individual intelligence test, will be considered to have a substantial disability. Individuals eligible under IDEA with an I.Q. level higher than 69 may be considered to have a substantial impairment provided the documentation used by the school in determining eligibility under IDEA, in the counselor's judgment, confirms the individual is functioning in the ~~mentally retarded~~ **intellectual disability** range of ability. Individuals not enrolled in public school special education classes with an I.Q. higher than 69 may be considered to have a substantial impairment provided appropriate documentation confirms the individual is functioning in the ~~mentally retarded~~ **intellectual disability** range of ability.

(9) **Height.** To be eligible, a person's stature must constitute or result in a substantial impediment to employment.

(10) **Obesity.** To be eligible, a person must be considered obese according to a recognized medical classification protocol and the impairment must constitute or result in a substantial impediment to employment. Some type of weight loss plan or treatment for obesity must be included as a service in the IPE.

(11) **Visual.** The individual must be found to have at least a 25% loss of total visual efficiency with best correction, or there must be evidence the condition is progressive and will soon reach the visual loss described above. Any one or all of the following factors may be used to determine whether a 25% loss of total efficiency exists.

(A) **Central visual acuity (Snellen method or equivalent).** Acuity of 20/60 or less in the better eye after best correction (in the case of difference of acuity between reading and distance use the greater loss).

(B) **Loss of depth perception or stereopsis.**

(i) **Eligibility on the basis of depth perception loss.** When defining eligibility based on depth perception alone, it is generally accepted a total loss of depth perception would not constitute a 25% loss of visual efficiency. Other factors to consider include: Is the client's loss of depth perception acute? Did the client recently lose his or her depth perception? Did the client's past vocational experience require good depth perception? If the client is currently working, does his/her present vocation require good depth perception? After considering these factors the counselor will determine if there are functional limitations to the extent the individual would be prevented from obtaining, retaining or preparing for employment.

(ii) **Eligibility based on loss of stereopsis.** Stereopsis is defined as the blending into one-picture two images of an object seen from slightly different points of view so as to produce the impression of relief and solidity. This type of loss usually results from suppression of vision in one

eye due to alternating exotropia, esotropia, hyperopia or a difference in the refractive power of the two eyes so great that separate images cannot be fused. When determining eligibility based on lack of stereopsis the counselor will take into account most of the factors used in determining eligibility based on loss of depth perception. One major difference is stereopsis cannot be learned. In other words, if an individual does not have binocular vision, it is impossible for the individual to have stereopsis. From a functional standpoint, stereopsis is considerably different from depth perception. The individual can still do many jobs with various degrees of depth perception yet these same jobs may have certain steps that require acute stereopsis. Thus an employee losing the stereopsis part of his visual function would be at risk for injuring himself or other workers or might be considered as a target for termination.

(iii) **Limited peripheral vision.** This is restriction of visual fields by 25% or more as documented by a formal visual field examination. The examination should report the qualitative percentage of visual field loss and/or remaining percentage of visual efficiency.

(iv) **Diplopia (Double Vision).** There are different degrees of double vision. The type of double vision most disabling is the type that manifests itself in the primary direction of gaze.

(v) **Aphakia.** In cases of binocular Aphakia the central visual efficiency of the better eye will be accepted at 75% of its value (25% loss of visual efficiency) and in monocular Aphakia the central visual efficiency will be accepted at 50% of its value (50% loss of visual efficiency). Individuals with intraocular lens implants are not considered to have a visual disability as a result of an aphakic condition.

(vi) **Color deficiency.** When total absence of color discrimination or red-green deficiency exists it will be considered a disability.

(12) **Re-evaluation.** Individuals with chronic disabilities that can be removed with little or no residual limitations will not be eligible for purchase of services other than those related to the required treatment.

## PART 23. SELF-EMPLOYMENT PROGRAMS AND OTHER SERVICES

### 612:10-7-232. Placement

(a) Placement is the joint responsibility of the counselor and client. The counselor must start preparing the client for placement prior to completion of training or other employment related services.

(b) ~~In addition to placement services provided by counselors, DRS also contracts with certified vendors for Job Placement Services. In consultation with the client and the~~

provider, the counselor will determine the milestones required by the individual to achieve a competitive employment outcome. Job Placement Services consist of 3 milestones:

- (1) During "Assessment and Job Preparation" Milestone, the provider will assess the individual's specific job interests and qualifications for employment to determine a specific job match, and may include job seeking skills training or assistance with a self directed career search.
- (2) During "Job Placement" Milestone, the provider will provide job development, perform a job analysis, and develop job accommodations as needed by the client. Job placement is complete when the individual has completed the 3rd day of work.
- (3) During "Successful Rehabilitation" Milestone, the provider follows up with the client to provide work adjustment counseling a minimum of two times during the first month of employment, and monthly thereafter until case closure, to assure satisfaction and retention of the job placement. The provider follows up with the employer to assure the employment is secure and the employer is satisfied with the client. Job placement services may be provided by DRS counselors, job placement specialists employed by the agency, or through procurement of services from other entities that offer job placement assistance. In addition, the agency's Supported Employment (SE) and Employment and Retention (E&R) programs make job placement services available through contracts with certified vendors.

[OAR Docket #13-730; filed 5-8-13]

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

[OAR Docket #13-731]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions  
612:20-1-4. Information for School Districts [NEW]

**AUTHORITY:**

The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, sections 701 through 791; 2 U.S.C. 135a et seq.; Oklahoma Statute Title 74, Section 166.1 et seq.

**DATES:**

**Comment period:**

November 19, 2012 through February 6, 2013

**Public Hearing:**

February 4, 5, and 6 2013

**Adoption:**

March 11, 2013

**Submitted to Governor:**

March 11, 2013

**Submitted to House:**

March 11, 2013

**Submitted to Senate:**

March 11, 2013

**Gubernatorial approval:**

April 8, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on May 8, 2013

**Final adoption:**

May 8, 2013

**Effective:**

July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

Changes to Chapter 20 are to align policy with state law {70 O.S. 13-112.1} and Senate Bill 1119 requiring the agency to issue rules prescribing the content and form of information on the Oklahoma School for the Blind and the Oklahoma School for the Deaf programs to be supplied to public school districts.

**CONTACT PERSON:**

Ray Leard, Administrative Program Officer, Policy Development, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, OK 73112 (405) 951-3406

**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, 2013:**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**612:20-1-4. Information for school districts**

(a) The Oklahoma School for the Blind (OSB) and Oklahoma School for the Deaf (OSD) shall annually provide Oklahoma school districts with current information on the availability of OSB and OSD programs for which students may be eligible. Such information shall be made available to school districts in advance of the start of each school year for use in the individualized education program process for students with visual and/or hearing impairments, in accordance with state law.

(b) OSB and OSD program information for school districts shall be in a print format and, as appropriate, in other accessible formats. The information shall include but not be limited to information on

- (1) academic programs available at the schools for residential and day students;
- (2) specialized instruction and activities that support adjustment to visual or hearing impairments, the development of compensatory skills, the acquisition of independent living skills and the practice of learning and work skills needed for post-secondary life;
- (3) opportunities for participation in extracurricular activities and the range of sports, recreation, academic, cultural and social activities available for OSB and OSD students;
- (4) outreach services for public school students;
- (5) assistive technology instruction, devices and services available for students;
- (6) school facilities, schedules, staffing, student services, student transportation, and campus safety;

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- (7) eligibility requirements and school admission conditions for attendance at OSB and OSD;
- (8) school policies and procedures of interest to students, parents and educators; and
- (9) the array of information and technical assistance available from OSB and OSD as statewide resources through residential and outreach services for the education of students with visual or hearing impairments.

[OAR Docket #13-731; filed 5-8-13]

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

[OAR Docket #13-693]

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 5. Teacher Preparation Program Accreditation  
712:10-5-3 [AMENDED]

### **AUTHORITY:**

Oklahoma Commission for Teacher Preparation  
70 O.S. Supp. 1998, §6-180 et seq. Oklahoma Teacher Preparation Act

### **DATES:**

#### **Comment Period:**

November 14, 2012 through December 17, 2012

#### **Public Hearing:**

December 17, 2012

#### **Adoption:**

February 14, 2013

#### **Submitted to Governor:**

February 19, 2013

#### **Submitted to House:**

February 19, 2013

#### **Submitted to Senate:**

February 19, 2013

#### **Gubernatorial approval:**

March 11, 2013

#### **Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 17, 2013

#### **Final adoption:**

April 17, 2013

#### **Effective:**

July 1, 2013

#### **SUPERSEDED EMERGENCY RULES:**

n/a

#### **INCORPORATIONS BY REFERENCE:**

n/a

#### **ANALYSIS:**

The proposed Teacher Preparation Program Accreditation revisions reflect changes in the hours of required field experiences for educator candidates. The revisions also set minimum requirements for mentor teachers and reflect accountability measures for state program approval process.

#### **CONTACT PERSON:**

Renée Launey-Rodolf, Interim Executive Director, 3545 NW 58<sup>th</sup> Street, Suite 200, Oklahoma City, Ok 73112-4725, 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 JULY 1, 2013:**

## SUBCHAPTER 5. TEACHER PREPARATION PROGRAM ACCREDITATION

### **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) Periodic program reviews and revisions shall be based on, but not limited to, stated goals and objectives; and
- (iii) 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 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) Candidate-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 institution shall establish a process which seeks information and program input from teacher preparation faculty; faculty from arts and sciences and other programs and disciplines which are appropriate; candidates within the teacher education program; teachers, administrators, parents, guardians or custodians of students; and business and community leaders.
  - (2) The institution shall establish procedures to inform the public regarding the teacher education program and to solicit and receive public input.
  - (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.
- (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 professional learned societies' standards and State Department of Education Full Subject Matter Competencies for early childhood, elementary and special education.
  - (8) Teacher candidate coursework includes the study of substance abuse symptoms identification and prevention; mental illness symptoms identification and mental health issues; classroom management skills; and classroom safety and discipline issues.
  - (9) Effective September 1, 2015 Teacher candidates must have a minimum of 4560 hours of diverse field experiences prior to their student teaching experience.
  - (10) Teacher candidates are provided with advisement services to assist them in taking course work designed to maximize their opportunities for certification and employment. At a minimum, teacher candidates are provided

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information on the latest supply and demand information concerning teacher employment, state salary structure, and teaching shortage areas.

(11) Substantive collaboration and classroom interaction with students accompanies theoretical curriculum, thus allowing teacher candidates the opportunity to apply theory to actual classroom situations.

(12) Instruction integrates pedagogical competencies or skills with experiences in the school setting.

(13) Teacher candidates are provided with opportunities to have parental, family and community involvement within their pre-service programs.

(14) 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' standards.

(15) 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.

(16) 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.

(17) Effective September 1, 2015 mentor teachers are required to have minimum of three years of teaching experience in the area in which they are certified.

(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, recognized with probation, further development required, 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 removed. If the program does not submit acceptable information within the designated timeframe, the decision reverts to "not recognized."

(5) If the program decision is recognized with probation or further development required, a revised report addressing the issues identified by the reviewers must be submitted within 12 months, or the unit may submit a new program report for recognition within 12 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 12 months of the date of the recognition report. [This report will be sent to the original team if possible.] If the program does not receive a recognized decision within 12 months, admission of new candidates will not be allowed. The unit may elect to submit a new program report for recognition within 12 months. [This report will be sent to a new team of reviewers].

(7) Programs which are required to submit through NCATE and receive an initial decision of "recognized with probation" or "further development required" 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 for program recognition must be submitted to OCTP containing basic program information as well as current recognition status and future submission deadlines; however an additional review will not be required.

(B) Institutions must submit a revised program report according to applicable NCATE/SPA or OCTP guidelines as appropriate addressing concerns cited in the review. If the revised report is not recognized, the unit must submit additional revised reports according to guidelines. The unit must exhaust all available NCATE options for revision.

(C) Programs which do not meet the required 80% pass rate on the OSAT may apply to OCTP for state recognition only after the unit has exhausted all available NCATE options for revision. 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 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 or OCTP, as appropriate.

(8) Units may receive conditional approval for new programs. These programs must undergo 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.

(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.

(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.

[OAR Docket #13-693; filed 4-30-13]

**TITLE 730. DEPARTMENT OF TRANSPORTATION  
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #13-723A]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Department of Transportation  
730:1-5-1. [AMENDED]

**AUTHORITY:**

Oklahoma Department of Transportation; 51 O.S. §§ 24A.1 et seq.; 61 O.S. § 121; 69 O.S. §§ 303, 304, 306, 306.1 and 4007

**DATES:**

**Comment Period:**

January 22, 2013 through February 21, 2013

**Public Hearing:**

N/A

**Adoption:**

March 4, 2013

**Submitted to Governor:**

March 5, 2013

**Submitted to House:**

March 5, 2013

**Submitted to Senate:**

March 5, 2013

**Gubernatorial Approval:**

April 8, 2013

**Legislative Approval:**

Failure of the Legislature to disapprove the rules resulted in approval on May 2, 2013

**Final Adoption:**

May 2, 2013

**Effective:**

June 13, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed rulemaking action is to provide for an increase in the change order ceiling amount to Seventy Five Thousand Dollars (\$75,000) from Fifty

Thousand Dollars (\$50,000) as part of the authority the Director may delegate to field division engineers, in accordance with Oklahoma statutes.

**CONTACT PERSON:**

Brian Bigbie, ODOT, 200 N.E. 21<sup>st</sup> Street, Oklahoma City, Oklahoma 73102, 405-522-6002 or bbigbie@odot.org

**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 13, 2013:**

**SUBCHAPTER 5. DEPARTMENT OF TRANSPORTATION**

**730:1-5-1. Powers and duties of Director**

The Director is hereby granted all the powers and the authority necessary for the orderly operation of the Department of Transportation, not in conflict herewith or prohibited by law, including, but not limited to the following:

(1) **General duties.**

(A) To approve and pay claims for all lawful expenses of the Department.

(B) To act as the claims and request officer for the Transportation Commission and the Department.

(C) To appoint Deputy Directors and Assistant Directors as he may deem necessary, and to delegate to them appropriate authority and responsibility.

(D) To effect changes in the Department's organizational structure and personnel, with any change at the division level and above being subject to approval by the Commission.

(E) To keep the Commission informed on the Department's operations and official actions.

(F) To appoint and employ, supervise, and discharge in accordance with the Oklahoma Personnel Act and the Merit Rules for Employment all such professional, clerical, skilled and semi-skilled help, labor and other employees as may be deemed necessary for the proper and lawful discharge of the duties of the Department.

(G) To establish and maintain training and educational programs.

(H) To keep a journal and to record therein such matters as he may deem necessary or advisable, or which the Commission may direct.

(I) To be the keeper of the official seal of the Commission and the Department.

(J) To make Department budgetary transfers within statutory limitations and Commission authorization.

(K) To cooperate with governing bodies of cities and towns and the boards of county commissioners of the various counties on the basis prescribed by state and federal law, to the end that joint efforts will be coordinated to attain a maximum of transportation development and service.

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(L) To execute releases on behalf of the Commission in compromise of claims pursuant to 69 O.S. Section 1002.

(M) To approve claims for returning to local units of government any surplus funds deposited by the local unit of government to match federal or state funds used for federal aid or state aid projects, after completion of the project and final payment has been made.

(N) To act on requests by boards of county commissioners for the transfer of old bridges or sections thereof removed from the state highway system by new construction projects, and to execute agreements setting out the terms of such transfers.

(O) To use consulting engineers' services in the preparation of functional and construction plans where such services are necessary due to special technical nature of contemplated construction or when the Director determines that such consulting services are necessary in the best interest of the Department in order to accommodate a construction program approved by the Transportation Commission. Contracts with consulting engineers will contain a provision binding the consultants' employees and officers to the same rules and regulations as Department employees insofar as conflict of interest is concerned. The requirements for determining the need for such consulting engineers' services are set forth in OAC 730:30-5-1.

(P) To authorize Department personnel to initiate legal proceedings to take enforcement actions authorized by statute or regulation on behalf of the State and to recover for damages to state property under the care, custody, or control of the Department or to initiate criminal prosecution.

(Q) To, in person or by designee, appear and participate with full authority at settlement conferences as directed by federal or state courts.

(R) To issue more detailed instructions by appropriate orders, policies, or memoranda, not inconsistent with this Title for the general guidance and administration of the Department.

(2) **Contracts and agreements.**

(A) To execute or cause to be executed all contracts and agreements on behalf of the Commission and Department, unless otherwise provided by law.

(B) To issue work orders to commence work on construction contracts.

(C) To approve contract extensions or modifications made necessary by developments arising subsequent to award and execution of construction contracts, except where prior Commission approval is required by law.

(D) To approve and execute change orders and supplemental agreements in a total amount of not to exceed Five Hundred Thousand Dollars (\$500,000.00) on a contract. The Director may further delegate to field division engineers authority to approve and

execute change orders and supplemental agreements in a total amount of not to exceed ~~Fifty Thousand Dollars (\$50,000.00)~~ Seventy Five Thousand Dollars (\$75,000.00) on a contract. In no event shall the total amount of such change orders exceed the limits set forth in 61 O.S. § 121. Change orders approved by the Director or field division engineer shall be presented to the Commission at its next regular or special business meeting stating the reasons for the change order and supplemental agreement with such other information as the Commission may require.

(E) To execute and process contractual awards to the individual counties on county sponsored federal aid projects to be constructed by county forces with county and federal funds, subject to applicable regulations of the United States Department of Transportation.

(F) To execute and process contractual awards to railroad companies for railroad crossing protection projects to be constructed on a force account basis by the railroad company with railroad and/or federal funds, subject to the concurrence of the United States Department of Transportation.

(G) To approve or disapprove requests by utility companies and municipalities for permits to attach pipe lines, telephone cables, and other authorized utility lines to bridges on the state highway system, and to change permit fees in accordance with the schedule of fees provided in OAC 730:30-7-1.

(3) **Federal aid.**

(A) To act for and represent the Department in all official matters involving the United States Department of Transportation or any other agency of the United States government, for the purpose of executing federal aid programs.

(B) To make or withhold commitments, execute contracts and agreements, and to bind the Department by any other action which the Department may lawfully do relating to programmed items or projects previously approved by the Commission; provided, however, that whenever the United States Department of Transportation requires a commitment to program an item in the future, such requirement shall be submitted to the Commission for approval, before any action is taken.

(C) To execute the Federal Highway Administration's revision forms to provide for changes in termini, cost, length, and character of proposed work; provided that such changes in county programs shall be made only in accordance with plans, specifications and estimates officially submitted by the board of county commissioners of the county in which the programmed project is located or as requested by resolution of the board. On federal aid projects such changes shall be made only when the detailed information obtained after the approval of the programmed project shows a necessity to change from

those features that were provided in the approved programming item. Significant changes such as cost or length will require prior approval of the Transportation Commission before execution by the Director.

(4) **Emergency contracts.**

(A) To declare the existence of an emergency situation, provided that:

(i) As used in this subparagraph, the term "emergency" shall be limited to conditions resulting from a sudden unexpected happening or unforeseen conditions and wherein the public health or safety is endangered; and

(ii) The Director notifies the Commission of such action within ten (10) days from the date thereof by written notification containing a statement of the reasons therefore, which statement shall be recorded in the official minutes of the next regular meeting of the Commission.

(B) Upon the declaration of an emergency situation as above-defined, the Director shall be authorized to enter into any contract not exceeding Five Hundred Thousand Dollars (\$500,000.00) in amount, without complying with those provisions of the Public Competitive Bidding Act of 1974, as amended, for construction or repair of any highway, bridge or other structure or facility under the jurisdiction of the Department for the protection and preservation of the public health and safety and elimination of the danger thereto.

(C) To accept bids, award, and execute emergency contracts on projects where the Commission has, pursuant to 61 O.S. Section 130, declared that an emergency exists.

(5) **Traffic control.**

(A) To place and maintain traffic signs, markings, and other traffic control devices required under Oklahoma law to make effective the provisions of said law, and to place and maintain such additional traffic control devices as he may deem necessary to regulate traffic in accordance with state law or to guide or warn traffic. To prohibit the installation or order the removal of any signs, signals, or devices not in conformance with the "Manual on Uniform Traffic Control Devices for Streets and Highways" as prepared by the National Joint Committee on Uniform Traffic Control Devices. To maintain an official listing or record of:

- (i) Through highways and stop or yield intersections.
- (ii) Speed zones.
- (iii) One-way roadways.
- (iv) Turn restrictions.
- (v) Additional parking restrictions or prohibitions.
- (vi) Traffic control signals.

(B) To take actions necessary to effectuate the provisions of the traffic laws of the State of Oklahoma and to make temporary or experimental regulations

to cover emergencies or special conditions. No experimental regulations shall remain in effect for more than 90 days. Emergency, temporary, and experimental regulations shall have the same force and effect as regulations adopted by the Commission and must be submitted to the Commission at its first regular meeting after the regulation is put into effect.

(6) **Right-of-way.**

(A) To make a determination that the establishment of a right-of-way line is a technical matter, and delegate to the Right-of-Way Division the authority to make such decisions; and further that the Chief, Right-of-Way Division be authorized and empowered to appear in court to justify the necessity of right-of-way takings.

(B) To execute all deeds, releases, and other instruments pertaining to the disposal of surplus real property and to delegate such authority to others.

*[OAR Docket #13-723A; filed 5-7-13]*

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

*[OAR Docket #13-747]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

- Subchapter 1. General Provisions
- 785:25-1-2. Definitions [AMENDED]
- Subchapter 3. Responsibility, Classification and Design Standards
- 785:25-3-6. Minimum spillway performance standards [AMENDED]
- Subchapter 5. Applications and Approval of Construction
- 785:25-5-1. Application and fee required [AMENDED]
- 785:25-5-3. Content of plans and specifications [AMENDED]
- Subchapter 7. Post Approval Actions
- 785:25-7-5. Changes to plans and specifications after approval [AMENDED]
- 785:25-7-6. Notice of completion and filing of supplementary drawings or descriptive matter [AMENDED]
- Subchapter 9. Actions After Construction
- 785:25-9-1. Inspection of dams [AMENDED]

**AUTHORITY:**

Oklahoma Water Resources Board; 82 O.S. §§ 105.20, 105.27, 110.1 and following, and 1085.2

**DATES:**

**Comment period:**

December 3, 2012 through January 14, 2013

**Public hearing:**

January 15, 2013

**Adoption:**

February 19, 2013

**Submitted to Governor:**

March 1, 2013

**Submitted to House:**

March 1, 2013

**Submitted to Senate:**

March 1, 2013

**Gubernatorial approval:**

April 8, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 30, 2013.

# Permanent Final Adoptions

## Final adoption:

April 30, 2013

## Effective:

June 13, 2013

## SUPERSEDED EMERGENCY ACTIONS:

n/a

## INCORPORATIONS BY REFERENCE:

n/a

## ANALYSIS:

The Oklahoma Water Resources Board ("OWRB") has amended rules in Oklahoma Administrative Code ("OAC") Title 785, Chapter 25 as follows:

OAC 785:25-1-2 has been amended to include new definitions to provide clarification for terms including ag-exempt dam, breach, decommission, maximum storage, probable maximum flood and removal.

OAC 785:25-3-6 has been amended to require that dams constructed prior to 1973 that are classified as small in size and as having high hazard potential must pass a minimum design flood of 25% PMF with one foot of freeboard. In addition, a new subsection (g) has been added to address dams constructed after 1973 whose owners failed to obtain OWRB approval. This will require the dam owner to remove or decommission the dam, or in the alternative, submit certain detailed information to the OWRB, including plans, specifications, and an inspection report by a professional engineer, to allow the OWRB to determine whether the dam complies with OWRB's dam safety rules.

OAC 785:25-5-1, regarding general application requirements, has been amended to insert the term ag-exempt dam where it was previously described.

OAC 785:25-5-3, which sets forth information to be included with initial plans and specifications for construction of a dam, has been amended to move the requirement for dam breach analysis documentation to a later subsection and replaced with the requirement to file hydraulics and hydrology information. The breach analysis information has been included in OAC 785:25-7-6, which sets forth information to be filed with the Notice of Completion of dam construction.

OAC 785:25-7-5 describes a hydraulics and hydrology analysis which has been added as a requirement when changes to approved dam plans and specifications must be made.

OAC 785:25-9-1 has been amended to require additional periodic dam safety inspections for significant and high hazard dams if previous inspections indicate an unsatisfactory or poor condition assessment. Inspections may also be necessary or required after the occurrence of earthquakes. In addition, certain language requiring notification to the OWRB about scheduling inspections has been removed.

## CONTACT PERSON:

Julie Cunningham, Planning and Management Division Chief, 405-530-8800.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 13, 2013:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 785:25-1-2. Definitions

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

**"Agriculture-exempt dam"** means a low hazard potential dam which is less than 25 feet in height, has a normal storage capacity of less than 100 acre-feet of water that will be used primarily for agriculture purposes as defined in 785:20-1-2, and was or will be designed or constructed with the assistance of a local conservation district or federal agriculture related agency [82:110.5].

**"Alteration"** means only such alteration as may affect the safety of a dam or reservoir.

**"Application"** means a formal request to the Board and the first step required by law to acquire the right to perform or engage in activities regulated by the Board.

**"Board"** means and refers to the Oklahoma Water Resources Board or any employee or agent or staff member thereof.

**"Breach"** means an unintentional opening through a dam that allows the uncontrolled draining of a lake or reservoir.

**"Breach analysis"** means an engineering analysis to determine the area that would be inundated by the failure of a dam.

**"Controlled breach"** means a constructed opening through a dam to drain or partially drain a lake or reservoir.

**"Dam"** means any artificial barrier, together with appurtenant works, which does or may impound or divert water.

**"Decommission"** means to render a dam incapable of impounding water by breaching the dam embankment in such a manner that water cannot be stored or impounded, to stabilize the sediment in the lake bed and remaining embankment with grass or other vegetation to prevent erosion and control sediment, and to restore the stream channel to natural conditions.

**"Enlargement"** means any change in or addition to an existing dam or reservoir which raises or may raise the water storage elevation of the water impounded by the dam or reservoir.

**"Failure"** with respect to a dam means any uncontrolled release of water.

**"Gully plug"** means any grade stabilization structure that has less than five acre-feet of water storage available below the principal spillway elevation and less than 50 acre-feet of storage volume below the emergency spillway elevation.

**"Interested party"** means party.

**"Loss of human life"** means the human fatalities that would result from a failure of the dam, excluding the occasional passer-by or recreationist and without considering evacuation or other emergency actions.

**"Maximum storage"** means the amount of water which may be stored behind a dam with the lake level at the top of the dam embankment.

**"Notice by publication"** means unless otherwise specifically provided, publication in a daily or weekly newspaper of general circulation once a week or two (2) consecutive weeks (minimum seven day interval).

**"Owner"** means *any person who, jointly or severally, owns, controls, maintains, manages, or proposes to construct a dam or reservoir, and includes those shown by records of the county registrar of deeds to have some interest, fee, easement, or otherwise, in the land on which the dam and lake lie and may also include those persons who may derive a direct pecuniary benefit from the existence of the lake* [82:110.3].

**"Party"** means a person or agency named and participating, or properly seeking and entitled by law to participate, in hearings other than hearings on Board rules, regulations and standards.

**"Person"** means *any individual, firm, partnership, association, corporation, any trust formed for the benefit of an individual, business or any public entity, federal agency, state*

agency, the State or any political subdivision thereof, municipalities, and any other legal entity [82:110.3].

**"Removal"** means complete elimination of the dam embankment, spillways, and structures whereby the area is restored to the approximate topographic contours original to the area before the dam was constructed.

**"Repairs"** means only such repairs as may affect the safety of a dam or reservoir.

**"Reservoir"** means any surface depression which contains or will contain the water impounded by a dam.

**"Statistical twenty-four (24) hour, fifty (50) year storm"** means a storm of twenty-four (24) hour duration with a probable recurrence interval of once in fifty (50) years as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.

**"Water storage elevation"** means that elevation of water surface which may be obtained by the temporary or permanent storage of water. This elevation is normally the lowest point on the top of the dam.

**SUBCHAPTER 3. RESPONSIBILITY,  
CLASSIFICATION AND DESIGN STANDARDS**

**785:25-3-6. Minimum spillways performance standards**

(a) **General performance standards.**

(1) Except as otherwise provided in this Chapter, all dams must meet or exceed the following performance standards as determined by analysis of plans and specifications for the dam and existing site conditions.

(2) Owners of existing dams which do not meet the following performance standards must make necessary changes in the dam to meet the applicable performance standards.

(3) The discharge capacity and/or storage capacity of the project shall be capable of passing the indicated spillway design flood without infringing on the minimum freeboard requirements, provided that a design which includes overtopping of the dam may be authorized if specifically approved by the Board.

(4) The minimum performance standards expressed as magnitude of spillway design flood and minimum freeboard will be assigned to the various size and hazard potential classification determined under 785:25-3-3 as follows.

(b) **Minimum Performance Standards.**

MINIMUM SPILLWAY			
SIZE	HAZARD	DESIGN FLOOD	MINIMUM FREEBOARD
Small	Low	25% PMF	0 Feet

Small	Significant	40% PMF	0 Feet
Small	High	50% PMF	1 Foot
Intermediate	Low	25% PMF	1 Foot
Intermediate	Significant	50% PMF	1 Foot
Intermediate	High	75% PMF	3 Feet
Large	Low	50% PMF	1 Foot
Large	Significant	75% PMF	1 Foot
Large	High	100% PMF	3 Feet

(c) **Amending minimum freeboard.** The minimum freeboard requirement may be amended by the Board on a case-by-case basis for good cause shown by the owner.

(d) **Probable maximum flood.**

(1) PMF means and refers to the Probable Maximum Flood and is defined as the flood that may be expected from the most severe combination of critical meteorologic and hydrologic conditions that are reasonably possible in the region as listed in Hydrometeorological Report No. 51, National Weather Service.

(2) Since design floods are usually determined by using mathematical computations through computer modeling and since several different acceptable models are available, flood design calculations must fall within plus/minus 5% PMF of the Board's current model results.

(3) The PMF storm should be of appropriate duration to adequately reflect the size and hydrologic characteristics of the watershed in which the dam is located.

(e) **PMF on dam designated for regulation.** A dam which the Board has determined is subject to regulation because of its high hazard potential, although otherwise considered too small, shall be required to safely pass 25% PMF with no minimum freeboard.

(f) **Dams constructed prior to June 13, 1973.** ~~Any dam constructed prior to June 13, 1973 and which is classified as intermediate size and high hazard potential according to 785:25-3-3 shall be required to pass a minimum design of 50% of the PMF. Any dam constructed prior to June 13, 1973 and which is classified as large size and high hazard potential according to 785:25-3-3 shall be required to pass a minimum design flood of 75% of the PMF. Any dam constructed prior to June 13, 1973, classified as having high hazard-potential as described in 785:25-3-3 shall be required to pass a minimum design flood as follows:~~

~~(1) Small size - 25% PMF with one foot of freeboard.~~

~~(2) Intermediate size - 50% PMF with no minimum freeboard.~~

~~(3) Large size - 75% PMF with no minimum freeboard.~~

(g) **Dams constructed after 1973 without Board approval.** An owner of a dam constructed after 1973 without prior approval by the Board shall remove the dam or may request a variance or waiver from the requirement for submittal of plans and specifications as provided for in 785:25-5-2 and

## Permanent Final Adoptions

785:25-5-3, provided the owner of the dam shall submit an application containing the following:

- (1) A topographic map of the dam site showing the location of spillway and outlet works.
- (2) Drawings showing the length, width, and height of dam.
- (3) Detailed plans of spillway structures, spillway profile, and procedures for operating of the spillway structure.
- (4) Hydrologic and hydraulic analysis report as described in Hydrologic and Hydraulic Guidelines for Dams in Oklahoma, Oklahoma Water Resources Board, Dam Safety Program, August 2011.
- (5) Complete a dam breach inundation analysis and map if Board staff determines the dam may be a significant or high hazard-potential structure.
- (6) Inspection of the dam by a registered Professional Engineer and submit a written inspection report to the Board not later than 30 days after the inspection and shall contain information as set forth in a Board hazard inspection report.
- (7) Pay minimum application fee as provided in 785:5-1-9(a).
- (8) In addition the applicant may be required to submit a detailed geotechnical investigation and analysis of the dam and report on such investigation. The geotechnical investigation shall include a minimum boring layout as follows:
  - (A) One (1) crest boring extending through the embankment and foundation materials to bedrock.
  - (B) Two (2) crest borings extending through the embankment and foundation materials to bedrock, one near each abutment.
  - (C) One (1) boring extending through the embankment and foundation materials to bedrock near the mid-height on the downstream slope of the dam.
  - (D) One (1) boring extending through the embankment and foundation material to bedrock along the toe of the dam.

### SUBCHAPTER 5. APPLICATIONS AND APPROVAL OF CONSTRUCTION

#### 785:25-5-1. Application and fee required

(a) **General.**

- (1) Any person who shall desire to construct, enlarge, alter, remove or repair any dam under the Board's jurisdiction shall submit an application upon printed forms which will be furnished by the Board upon request.
- (2) For the purposes of this subchapter, repair shall not be deemed to include routine normal maintenance.
- (3) The maps, plans, drawings, and specifications of the proposed work along with the required fee shall form a part of the application.
- (4) The application and attachments shall be filed in duplicate.
- (5) Notwithstanding the provisions of paragraph (1) of this subsection, *an owner who proposes to construct*

*a new dam classified as having a low hazard potential that will be used primarily for agriculture purposes, and will be designed or constructed with the assistance of a local conservation district or federal agriculture related agency, that will be considered an agriculture-exempt dam shall be required only to notify the Board of such construction and file a notice of completion in accordance with 785:25-7-6 [82:110.5].*

(b) **Signature Of applicant.** The application shall be signed as follows:

- (1) If the applicant is an individual, the application shall be signed by the applicant or his duly appointed agent, who shall present satisfactory evidence of his authority to represent the applicant.
  - (2) A joint application shall be signed by each applicant or his duly authorized agent, provided that a joint application by husband and wife may be signed by either party (joint applicants are required to select one among them to act for and represent the others in dealing with the Board).
  - (3) If the application is by a partnership, the applicant shall be designated by the firm name followed by the words "A Partnership" and the application shall be signed by each of the general partners or, if signed by one partner or other agent, a written statement of the agent's authorization to make the application, signed by the other parties of interest, shall be attached to the application.
  - (4) In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate, and a certified copy of the letter issued by the court shall be attached to the application.
  - (5) In the case of a water district, county, municipality, etc., the application shall be signed by a duly authorized official, and a certified copy of the resolution or other authorization to make the application shall be attached.
  - (6) In the case of a private corporation, the application shall be signed by a duly authorized person and, if not attested by the secretary or assistant secretary, a copy of the authorization shall be attached to the application.
- (c) **Notary public required.** All applicants shall subscribe and swear to the application before a Notary Public, who shall also sign his name and affix his seal to the application.
- (d) **Water rights.** Water rights requested or required in connection with a planned dam or reservoir may be approved based on preliminary information; however, no construction, enlargement, alteration or repair shall proceed until the application required by this Section has been submitted and approved in accordance with the rules of this subchapter and until the water rights required are approved.

#### 785:25-5-3. Content of plans and specifications

(a) The plans and specifications shall, as a minimum, include the following:

- (1) A topographic map of the dam site showing the location of spillway and outlet works. The map shall also show all contiguous property and the owners thereof. The topographic maps for low hazard dams are not required to show test borings, test pits and borrow pits.

(2) A profile along the dam axis showing the location, elevation, depth of borings or test pits including logs or bore holes and/or test pits, provided that plans and specifications for low hazard dams are not required to contain such a profile.

(3) A maximum cross-section of the dam showing elevation and width of crest, slopes of upstream and downstream faces, thickness of riprap, zoning of earth embankment, location of cutoff and bonding trenches, elevations, size and type of outlet conduit, valves and operating mechanism.

(4) Area and capacity curves of the proposed reservoir.

(5) Detailed drawings showing plans, cross and longitudinal sections of the outlet conduits, valves and controls for operating the same, and trash racks.

(6) The discharge capacity in cubic feet per second of the spillway for each foot in water depth above the spillway crest up to the maximum high water level and the formula used in making such determinations.

(7) Detailed plans of spillway structures, cross-section of the channel leading to and from the spillway, spillway profile, and procedures for operation of the spillway structure.

(8) ~~For high hazard potential classified dams, a breach analysis, and a map showing the breach inundation area utilizing guidelines provide by the Board.~~ Hydrologic and hydraulic analysis report as described in the publication *Hydrologic and Hydraulic Guidelines for Dams in Oklahoma*, Oklahoma Water Resources Board, Dam Safety Program, August 2011.

(9) A requirement, during the period of construction, for supervision by an engineer as required in 785:25-7-2.

(10) A provision that the plans and specifications may not be substantially changed or changed in any material respect without prior written consent of the Board.

(11) A provision stating in detail all matters necessary to ensure that construction is accomplished in a responsible manner and that needed control is exercised by an engineer as required in 785:25-7-2 to ensure construction of a safe structure.

(b) The size of all plans and maps filed shall not be more than 11" x 17" and shall be drawn with an adequate number of views, in proper dimensions, and to a sufficiently large scale so that the plans and maps may be readily interpreted and studied. In addition to the plans and maps required to be filed, if plans and maps larger than 11" x 17" are submitted for review purposes, the larger plans and maps will not be retained by the Board.

**SUBCHAPTER 7. POST APPROVAL ACTIONS**

**785:25-7-5. Changes to plans and specifications after approval**

(a) If during construction, enlargement, repair, alteration, or removal of any dam or reservoir, it is found that amendments, modifications, or changes that increase the normal or maximum water elevations, increase spillway releases or

discharges, or that increase potential damages downstream will need to be made to the plans and specifications as previously approved by the Board, an amended application including hydrologic and hydraulic analysis, maps, plans, drawings, and specifications shall be submitted to the Board for approval.

(b) The owner may be required to publish notice of the date, place and time when the Board will consider the matter as was done for the original application.

(c) Other amendments, modifications or changes shown in as-built plans and specifications may be accepted by Board staff.

**785:25-7-6. Notice of completion and filing of supplementary drawings or descriptive matter**

Immediately upon completion of a new dam or reservoir or enlargement or repair of a dam or reservoir, the owner shall give notice of completion and as soon thereafter as possible shall file supplementary drawings or descriptive matter showing or describing the dam or reservoir as actually constructed, including the following:

- (1) A record of all grout holes and grouting;
- (2) A record of permanent location points and bench marks;

(3) A record of tests of concrete soils, or other materials used in the construction of the dam or reservoir; ~~and~~

(4) Any other items which may be of permanent value and have a hearing on the safety and performance of the dam or reservoir; and

(5) For dams classified as high hazard-potential, a breach analysis report and map showing the breach inundation area utilizing the publication *Hydrologic and Hydraulic Guidelines for Dams in Oklahoma*, Oklahoma Water Resources Board, Dam Safety Program, August 2011.

**SUBCHAPTER 9. ACTIONS AFTER CONSTRUCTION**

**785:25-9-1. Inspections of dams**

(a) **Oversight vested in Board.** Oversight of the maintenance and operation of constructed dams and reservoirs insofar as necessary to safeguard life and property from injury by reason of the failure thereof is vested in the Board.

(b) **Periodic inspections.** Except for low hazard potential dams, owners are required to have their dams inspected by qualified persons periodically according to a schedule prepared by the Board to meet the requirements of paragraphs (1) and (2) of this subsection and shall include review of the Emergency Action Plan and of the operation and maintenance manual to assure they are still accurate and applicable. Periodic inspections of dams shall be scheduled according to hazard potential classifications as follows:

- (1) High hazard. High hazard potential dams shall be inspected at least once annually.

(2) Significant hazard. Significant hazard shall be inspected at least once every three years.

(3) Low hazard. Low hazard potential dams shall be inspected at least once every five years, which inspection shall be conducted by the owner and shall consist of a review of the hazard classification on forms provided by the Board.

(4) Significant or high hazard dams in an unsatisfactory or poor condition, described in Section 6 of the National Dam Safety Review Board's Guidelines for Updating the 2008 National Inventory of Dams (NID), April 2008, as determined by the Board shall be inspected by a register Professional Engineer at the expense of the owner at least every six months until such time as the deficiencies have been corrected.

(c) **Expense of periodic inspections.** Periodic inspections shall be at the owner's expense (except for low hazard potential periodic inspections) and shall be conducted by a Registered Professional Engineer hired by the owner who shall have training and/or construction of dams and reservoirs, or by an engineer of any United States governmental agency acting in his official capacity. Provided that inspections of low hazard classification dams may be conducted by persons who are not Registered Professional Engineers but who are trained in inspecting dams. If a periodic inspection is conducted by the owner or his representative, a written inspection report shall be submitted to the Board not later than 30 days after the inspection and shall contain information as set forth in a Board's hazard verification report.

(d) **Unscheduled inspections.** Unscheduled (non-periodic) inspections such, as those conducted in response to complaints, after major heavy precipitation events, after earthquakes within 50 miles of a dam that measure 5.0 or greater on the Richter magnitude scale, or in emergency situations, may be conducted by Board staff, or the Board may require the owner to conduct and unscheduled inspection at the owner's expense. No fee for such inspection shall be due, provided that a request for inspection by other parties shall be governed by 785:25-9-6.

(e) **United States dams not subject to inspection.** Any dam *constructed by the United States or its duly authorized agencies shall not be subject to inspection while under the supervision of officers or the United States.* [82:105.27]

(f) **Board to notify when inspection due; violation.** The Board shall notify persons shown by its records to own the dam of the date the periodic inspection of the dam is due. ~~Such notice shall require the owner to advise the Board by a date specified when an engineer retained by the owner will conduct the inspection.~~ Failure to so notify the Board or to have the inspection completed shall constitute a violation of Board rules.

[OAR Docket #13-747; filed 5-9-13]

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

[OAR Docket #13-748]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 7. Amendments to Groundwater Rights

785:30-7-8. Consolidation of permits [NEW]

Subchapter 15. Water Trapped in Producing Mines [NEW]

Part 1. General Provisions [NEW]

785:30-15-1. Purpose, scope and applicability [NEW]

785:30-15-2. Definitions [NEW]

Part 3. Mines With and Without Exemptions [NEW]

785:30-15-3. Mines with no exemption [NEW]

785:30-15-4. Mines with preexisting exemptions [NEW]

Part 5. Augmentation and Management Plans [NEW]

785:30-15-5. Augmentation [NEW]

785:30-15-6. Management Plans [NEW]

Appendix C. Guidelines to Estimate Consumptive Use of Pit Water [NEW]

### AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. §§ 1020.1 et seq. and 1085.2

### DATES:

#### Comment period:

December 3, 2012 through January 14, 2013

#### Public hearing:

January 15, 2013

#### Adoption:

February 19, 2013

#### Submitted to Governor:

March 1, 2013

#### Submitted to House:

March 1, 2013

#### Submitted to Senate:

March 1, 2013

#### Gubernatorial approval:

April 8, 2013

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 30, 2013.

#### Final adoption:

April 30, 2013

#### Effective:

June 13, 2013

#### SUPERSEDED EMERGENCY ACTIONS:

n/a

#### INCORPORATIONS BY REFERENCE:

n/a

#### ANALYSIS:

The Oklahoma Water Resources Board ("OWRB") has adopted new rules in Oklahoma Administrative Code ("OAC") Title 785, Chapter 30 as follows:

A new rule has been adopted at OAC 785:30-7-8 which reenacts language in OAC 785:30-7-8 regarding consolidation of permits. This section was previously revoked in 1997. During 2012, however, a petition was received by the City of Enid to reinstate the rule so that the City could reduce the number of water use reports it prepares each year, thus reducing administrative costs.

A new Subchapter 15, consisting of new Sections 785:30-15-1 through 785:30-15-6, and related Appendix C, was adopted to implement the pertinent provisions of Enrolled Senate Bill No. 597 (the "Act" or "SB 597") enacted by the Oklahoma Legislature in 2011. These rules address the taking, use, and disposal of water trapped in producing mines and, among other things, establish provisions regarding (a) definitions of terms, (b) mines exempt from the Act, (c) mines not exempt from the Act, (d) augmentation of stream water or groundwater, (e) site-specific water management plans, (f) monitoring and reporting, and (g) guidelines to estimate consumptive use of pit water.

#### CONTACT PERSON:

Julie Cunningham, Planning and Management Division Chief, 405-530-8800.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 13, 2013:

SUBCHAPTER 7. AMENDMENTS TO GROUNDWATER RIGHTS

785:30-7-8. Consolidation of permits

(a) Permits to use groundwater can be consolidated for annual use reporting purposes only and under the following circumstances:

- (1) The permittee files a written application to consolidate with proper fee;
(2) Consolidation will facilitate the reporting of groundwater use;
(3) The permits are of the same class and are held by the same owner;
(4) The lands dedicated to the permits overlie the same groundwater basin;
(5) The number of wells and withdrawal rate of the wells authorized under the permits will not be changed;
(6) The lands dedicated to the permits are within the same county.

(b) The Executive Director may approve the application to consolidate if the requirements of subsection (a) of this section are shown. A new permit number, designated with the year the application to consolidate was filed, shall be given to the consolidated permit.

SUBCHAPTER 15. WATER TRAPPED IN PRODUCING MINES

PART 1. GENERAL PROVISIONS

785:30-15-1. Purpose, scope and applicability

(a) This Subchapter establishes rules for the taking, using and disposal of water trapped in producing mines that overlie a Sensitive Basin and that are not otherwise exempt from this Subchapter as provided in 82 O.S. 1020.2 and this Subchapter. Among other things, this Subchapter provides a framework to protect groundwater in a Sensitive Basin by gathering data from mines through monitoring and periodic reporting of groundwater disposition, and if the data shows a mine with a preexisting exemption is dewatering such a basin more than its share, then the mine loses its exemption unless it can demonstrate that such dewatering satisfies certain criteria.

(b) This Subchapter shall not apply to the taking, using, or disposal of salt water associated with the exploration, production or recovery of oil and gas. [82 O.S. § 1020.2(B)] This Subchapter shall not apply to the taking, using, or disposal of water trapped in producing mines outside of a [82 O.S. § 1020.2(B)] Sensitive Basin.

(c) This Subchapter shall not apply to the taking, using or disposal of water trapped in [82 O.S. 1020.2(C)] a producing mine:

- (1) that overlies a Sensitive Basin; and
(2) that satisfies one or more of the following tests:
(A) a permit that authorizes mining operations or activities for the mine was issued by the ODOM on or before August 1, 2011;
(B) the mine operator filed an initial application for a permit for the mine with the ODOM on or before August 1, 2011; or
(C) a revision to the permit for the mine is approved by the ODOM; and
(3) for which the operator maintains the exemption as provided in 785:30-15-4.

785:30-15-2. Definitions

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

"50% exceedance" means the median of mean daily flows.

"Act" means Enrolled Senate Bill No. 597 enacted by the First Regular Session of the 53rd Oklahoma Legislature, published at Chapter 374, Okla. Sess. Laws 2011 and codified primarily at 82 O.S. § 1020.2.

"Augmentation" means the beneficial discharge of water into a stream emanating from a Sensitive Basin or into a location where it is likely to flow or percolate into a Sensitive Basin.

"Consumptive use" means diversion of water from a mine pit that is not returned to the groundwater basin or subbasin, or to a mine pit or holding basin, or to a definite stream, or to the land surface from which surface runoff flows into a mine pit. The term "consumptive use" includes the estimated moisture content driven off or carried away with mined material transported off the mining site, plus the amount of evaporation from the mine pit that exceeds the amount of direct precipitation and surface runoff into the mine pit, plus any amounts for other proposed beneficial uses off the mining site. [82 O.S. §1020.2(F)]

"Groundwater augmentation basin" means an unlined pond or dedicated recharge structure used to allow water to infiltrate or recharge into a Sensitive Basin.

"Management Plan" means a site-specific water management and conservation plan that satisfies the provisions of 785:30-15-6.

"MEPS" means Mine's Equal Proportionate Share.

"Mine's Equal Proportionate Share" means the amount equivalent to the Sensitive Basin's equal proportionate share that is or would otherwise be allocated to the mine owner or operator for groundwater rights owned or leased by the owner or operator.

"ODOM" means the Oklahoma Department of Mines.

"Preexisting exemption" means an exemption from the provisions of the Act and this Subchapter as provided in 82 O.S. § 1020.2(C) and 785:30-15-1(c).

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**"Pit water"** means groundwater trapped or collecting in a producing mine pit that emanates from a Sensitive Basin.

**"Sensitive Basin"** means a sensitive sole source groundwater basin or subbasin.

**"USGS"** means the United States Geological Survey.

### **PART 3. MINES WITH AND WITHOUT EXEMPTIONS**

#### **785:30-15-3. Mines with no exemption**

(a) The taking, use or disposal of pit water by an operator of a mine that does not have an exemption as provided in 82 O.S. § 1020.2(B) and 785:30-15-1(b) nor a preexisting exemption shall be in accordance with the provisions of this Subchapter.

(b) The taking, use or disposal of pit water in an amount less than five (5) acre feet per year, or by a mine with a limited use permit from the ODOM, shall be exempt from this Subchapter as provided in 82 O.S. § 1020.2(D)(2).

(c) The operator of a mine in a Sensitive Basin that does not have a preexisting exemption shall:

- (1) develop a Management Plan that meets the requirements of Section 785:30-15-6, and
- (2) make quarterly and annual reports to the Board of the information described in Section 785:30-15-6(a)(7) on or before the deadlines provided by 82 O.S. § 1020.2(E)(1). The reports shall be in a form prescribed by the Board or other format satisfactory to the Board, and
- (3) make application to and obtain a groundwater use permit from the Board prior to any taking, use or disposal of pit water.

#### **785:30-15-4. Mines with preexisting exemptions**

(a) To maintain the exemption, an operator of a mine with a preexisting exemption must:

- (1) adopt and implement a plan to monitor and report to the Board the accumulation and disposition of pit water during the previous calendar year; and
- (2) make quarterly and annual reports of the measured or reasonably estimated groundwater and surface water volumes, separately stated, entering the pit, of the water that is diverted from the pit, of the disposition of the water from the pit, and of the consumptive use of the water from the pit on or before the deadlines provided by 82 O.S. § 1020.2(E)(1); and
- (3) at any time after March 31, 2015 demonstrate to the satisfaction of the Board within the pertinent report or reports that it has not consumptively used during the previous twelve month period, from the mining site, an amount of groundwater which combined with any amounts used from permitted groundwater wells exceeds the MEPS. Such demonstration may require providing to the Board a copy of the mine's monitoring plan and all of the data collected and procedures used to support the calculations and results reported.

(b) Subject to (c) and (d) of this Section, if at any time the mine operator fails to satisfy any of the provisions of (a) of this Section, the preexisting exemption shall be lost for that mine

and the pertinent provisions of the Act and this Subchapter shall become applicable.

(c) Whenever it may appear to the Board that a preexisting exemption has been lost for a mine due to failure under 785:30-15-4(a)(1) or (a)(2), the Board shall give the operator thereof reasonable notice and an opportunity to show cause why the exemption should continue to apply. Absent a showing by the mine operator and a determination by the Board that the exemption should continue to apply, the exemption shall be deemed lost as of the date of the operator's failure under 785:30-15-4(a)(1) or (a)(2).

(d) Whenever it may appear to the Board that a preexisting exemption has been lost for a mine due to failure under 785:30-15-4(a)(3), the Board shall give the operator thereof reasonable notice thereof and a hearing opportunity to show cause as provided in (e) of this Section why the exemption should continue to apply.

(e) The operator may avoid loss of the preexisting exemption by submitting a Management Plan which contains the information provided in 785:30-15-6(a)(1) through (10) that demonstrates to the satisfaction of the Board that such consumptive use exceedance is:

- (1) offset by augmentation of stream water flow or of groundwater by recharge as provided in 785:30-15-5; or
- (2) not likely to reduce the natural flow of springs or streams emanating from the Sensitive Basin; or
- (3) remedied by acquisition of sufficient groundwater rights within the ninety day period after the reported exceedance.

(f) If the operator does not satisfy the preceding requirements to maintain the exemption, the operator shall come into compliance with 82 O.S. § 1020.2(D) and 785:30-15-3 ninety (90) days after the date of receipt by the operator of the notice from the Board. Upon application and good cause shown by the operator, the Board may grant additional time to come into compliance.

(g) Hearings under this Section shall be conducted in accordance with Title 785, Chapter 4 of the Oklahoma Administrative Code.

### **PART 5. AUGMENTATION AND MANAGEMENT PLANS**

#### **785:30-15-5. Augmentation**

(a) **Stream augmentation.**

- (1) A mine operator may claim credit for one hundred percent (100%) of the amount of water it discharges to a stream emanating from a Sensitive Basin during a time of low flow that is less than or equal to the 50% exceedance listed by the USGS within the watershed where the mine is located. If the receiving stream or watershed is ungaged or does not have calculated median flow data available, the Board will utilize the USGS *StreamStats* extrapolation model or other method to calculate the 50% exceedance.
- (2) The Board will review the 50% exceedance for gaged streams within the watershed on an annual basis.

(3) A mine operator shall monitor the flow conditions at the designated stream gage in order to determine whether and when stream augmentation credit can be obtained. The flows, dates and volumes of water discharged to a stream for augmentation credit shall be identified by the mine operator in the quarterly and annual reports required by 82 O.S. § 1020.2(E)(1).

(4) There shall be no credit for any water discharged to streams when the unaugmented flow is greater than the 50% exceedance.

**(b) Groundwater augmentation.**

(1) A mine operator may claim credit for one hundred percent (100%) of the amount of water that is placed in a groundwater augmentation basin that meets the requirements of this Section, less any water diverted from such basin.

(2) To qualify for credit, the mine operator must satisfy the following:

(A) The operator shall make a one-time water balance demonstration to the satisfaction of the Board that recharge from the subject groundwater augmentation basin exceeds evaporation. Once such a demonstration has been made, no accounting for evaporation or vegetative losses will be required. If a material change is made to the groundwater augmentation basin, a new demonstration shall be made for the changed basin.

(B) Each groundwater augmentation basin shall have a staff gage or other measuring device at least as accurate installed such that the gage registers the lowest water level in the basin. The staff gage or other appropriate device must be readable from a readily accessible location adjacent to the basin.

(3) No specific design or maintenance requirements need be followed for dedicated recharge structures provided that they shall not be filled by pumping to such a level that they overflow.

(4) The amount of water recharged to the aquifer from a groundwater augmentation basin shall be calculated on a mass balance basis. The applicable equation is:  $GW_a = B_a * [(h_1 - h_2) - (E * 0.7)] + (I - O)$ , where:

(A)  $GW_a$  is the volume of water exiting the bottom and sides of the augmentation basin;

(B)  $B_a$  is the surface area of the augmentation basin (assumes vertical sides);

(C)  $h_1$  is the elevation of the water level in the basin at the beginning of the applicable time period determined using the installed staff gage;

(D)  $h_2$  is the elevation of the water level in the basin at the end of the applicable time period;

(E) 0.7 is the lake evaporation coefficient applied to pan evaporation;

(F) E is the calculated pan evaporation rate determined at the nearest Mesonet station determined as the sum of daily values for the applicable time period;

(G) I is the total inflow volume of water to the basin (it may be zero (0)) from all sources (including rainfall)

for the applicable time period determined by measurement or reasonable estimation; and

(H) O is the total outflow volume of water from the basin (it may be zero (0)) by all pathways except evaporation for the applicable time period determined by measurement or reasonable estimation.

**(c) Applications of augmentation credit.**

(1) Credit obtained from augmentation of stream water or groundwater or both may be used by the mine operator to reduce or offset the amount of consumptive use of pit water by the operator that exceeds the MEPS.

(2) Credit obtained from augmentation of stream water or groundwater shall not be considered in the amount used pursuant to any permit to use stream water or groundwater that the mine operator may have; provided, the taking, use or disposal of pit water for stream augmentation pursuant to a Management Plan prepared in consultation with the Board may be claimed in an annual report of stream water use in order to avoid forfeiture of a right to use stream water held by the owner or operator of the mine.

**785:30-15-6. Management Plans**

(a) Management Plans shall contain the following information. The Management Plan and each of these elements must be approved by the Board prior to mine operation for each mine with no preexisting exemption.

**(1) Characterization of area; plot plan of the proposed/initial mine site.**

- (A) Location of the initial mining pit;
- (B) Location(s) of the processing facilities; and
- (C) Location(s) and characterization of initial collection, settling, and retention impoundments.

**(2) Facility layout; water flow diagram of the proposed/initial mine site.**

- (A) All water collection, settling and retention impoundments;
- (B) Direction of all major water flow between the impoundments;
- (C) All planned groundwater, mine pit water, and stream water diversion points with estimated flows;
- (D) All stream water augmentation points;
- (E) All groundwater recharge points; and
- (F) Locations and planned quantities of all points of consumptive use.

**(3) Water Budget; anticipated flow of water into and out of mine site.**

- (A) Water flow entry and exit points;
- (B) Groundwater;
- (C) Mine pit water;
- (D) Stream water;
- (E) Precipitation runoff;
- (F) Evaporation; and
- (G) Augmentation.

**(4) Water rights information.**

- (A) Permit or application number;
- (B) Entity name;
- (C) Permitted amount; and

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- (D) Dedicated acres.
- (5) **Consumptive use of pit water.** This element shall show information derived from the guidelines to estimate consumptive use of pit water set forth in Appendix C to this Chapter.
- (6) **Augmentation.** This element shall show information regarding augmentation done in accordance with 785:30-15-5, if any.
- (7) **Determination of water amounts.** A Management Plan shall provide for the mine operator to measure or make a reasonable estimate, utilizing methods described or approved by the Board, of the following volumes, separately stated:
- (A) Groundwater that enters the pit;
  - (B) Surface water that enters the pit;
  - (C) Water that is diverted from the pit;
  - (D) Disposition of the water from the pit;
  - (E) Consumptive use of the water from the pit;
  - (F) Water diverted from a stream or pond;
  - (G) Groundwater pumped from water wells;
  - (H) Water discharged to a stream;
  - (I) Water recharged to the aquifer;
  - (J) Precipitation at the mine site;
  - (K) Evaporation from all surface water; and
  - (L) Water obtained from other sources, such as municipalities, rural water districts, or other entities.
- (8) **Monitoring groundwater levels from a groundwater observation well.** A Management Plan shall provide for the operator to drill, complete and utilize one or more groundwater observation wells that satisfy the following:
- (A) **Mine site.** A groundwater observation well shall be located in the local, if known, or regional hydrological down-gradient area of the mine site.
  - (B) **Adjacent to a mine site stream gage.** Additionally, if a stream gage is required to be installed on a perennial or intermittent stream on mine property, then a groundwater observation well shall be drilled adjacent to or near the stream gage as approved by the Board.
  - (C) **Requirements for observation wells.**
    - (i) Each groundwater observation well shall be drilled to such depth that the well encounters 100 feet or more, if present, of the saturated portion of the Sensitive Basin.
    - (ii) Water levels in the well shall be measured hourly and recorded on a data logger.
- (9) **Other monitoring on a mine site.**
- (A) If a mine operator installs a stream gage on the perennial portion of a tributary or main stem of

a stream passing through the mine site, then daily stream flows shall be recorded.

(B) If a mine operator installs a rain gage on the mining site, then daily precipitation data shall be recorded.

(10) **Quality assurance plans.** The Management Plan for each mine shall include a quality assurance plan which describes procedures and methodologies for how data will be collected, operation and maintenance of all measuring equipment, and evaluation of data to ensure data is appropriate and scientifically defensible. Such quality assurance plan shall be consistent with the Federal or State Quality Assurance Project Plan guidelines specified by the Board.

(11) **Reporting.** Each quarter and year in accordance with the schedule provided in 82 O.S. § 1020.2(E)(1), the mine operator shall file with the Board a report in a form prescribed by the Board or other format satisfactory to the Board. The report shall contain:

(A) The data and information listed in (a)(7) and (a)(8) of this Section, and

(B) Any modifications to the plot plan, facility layout, or water right details for the mine, plus an explanation of any changes in the methodologies used for the reports.

(C) The initial annual report shall include all data upon which the summary information in the report is based. Thereafter, such data shall be provided to the Board only upon request by the Board.

(b) Data recorded pursuant to this Section shall be stored in a format readily readable by most common computer programs. All data collected must be stored and available for inspection by the Board while the mine is in operation and for a period of five years after the mine is closed in a format directed by the Board.

(c) The operator of a mine with a preexisting exemption may, in consultation with the Board, prepare a Management Plan for the purposes provided in 82 O.S. § 1020.2(C) to ensure all use of pit water is considered "permitted beneficial use", 82 O.S. § 1020.2(E)(3) to avoid conflicting requirements between the Board and ODOM, and 82 O.S. § 1020.2(G) to ensure that augmentation of groundwater and stream water is not considered "waste" or "consumptive use". Provided, if a Management Plan is to be used by an operator of a mine with a preexisting exemption for the purpose of avoiding the loss of the exemption, then such plan shall contain the information prescribed in (1) through (10) of (a) of this Section and be subject to the approval of the Board.

**APPENDIX C. GUIDELINES TO ESTIMATE CONSUMPTIVE USE OF PIT WATER [NEW]**

<b>PIT GROUNDWATER VOLUME</b>	
1	Total volume of water pumped from the producing mine pit(s)
2	Volume of precipitation that falls onto the surface of water in the producing mining pit(s)
3	Portion of total precipitation that flows over the land surface that drains into the mine pit water
4	Other non-pit waters pumped from the producing mine pit
5	Add lines 2 through 4
6	<b>Pit Groundwater Volume</b> Line 1 minus Line 5
<b>DEFINED ELEMENTS OF CONSUMPTIVE USE</b>	
7	Volume of pit groundwater that is driven off (by drying) the mined material transported off the mine site
8	Volume of pit groundwater that is carried away with the mined material transported off the mining site (shipped)
9	Volume of pit groundwater that evaporates from the producing mine pit, process water ponds, and lined ponds (Excluding structures used for augmentation)
10	Volume of pit groundwater that is used for other beneficial uses off the mine site
11	<b>Defined Elements of Consumptive Use of Pit Groundwater</b> Add Lines 7 through 10
<b>PIT GROUNDWATER BALANCE</b>	
12	Line 6 minus Line 11
13	<b>Groundwater Augmentation</b> Volume of pit groundwater returned to the groundwater basin or subbasin, pursuant to a Management Plan
14	<b>Stream Augmentation</b> Volume of pit groundwater discharged to a definite stream, during flow conditions that are less than or equal to 50% exceedance, pursuant to a Management Plan
15	<b>Precipitation &amp; Run-off</b> Volume of precipitation and surface run-off into a recharge pit or holding pond used for augmentation
16	<b>Recycled Pit Groundwater</b> Volume of pit groundwater returned to a mine pit or holding basin (not included on lines 7 through 10)
17	<b>Other Non-Consumptive Losses</b> Including pit groundwater returned to the land surface from which surface runoff flows into a mine pit, and other losses (not included in lines 7 through 10)
18	Add lines 13 through 17
19	<b>Other Consumptive Use (adjusted)</b> Line 12 minus Line 18
<b>TOTAL REPORTED CONSUMPTIVE USE OF PIT</b>	
20	<b>Total Net Reported Consumptive Use</b> Line 11 plus Line 19

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## Notes

### Table Line Number

- 2 Precipitation that falls directly in contact with pit water should be measured or reasonably estimated. Precipitation measurements may be obtained from (a) on-site installed gages, if approved by the Board and if such gages are installed, calibrated and maintained according to their manufacturers' requirements, (b) Mesonet stations within 30 miles of the pit site, or (c) if approved by Board, from other appropriately instrumented, maintained and calibrated meteorological observation stations. If appropriate, estimates based on combined gages may be made utilizing an established method approved by the Board.
- 3 Includes the portion of precipitation that flows into a mining pit estimated using techniques common to hydrological practice, such as the Rational Method, the SCS Method, the Green & Ampt Method, or from runoff models.
- 7, 8 Includes the estimated moisture content driven off or carried away with the mined material transported off the mining site. Since estimates of losses are specific to each mining operation, various industrial standard measurement or calculation methods may be proposed.
- 9, 13  
and  
15 Evaporation includes the volume of any pit water (groundwater component only) that returns to the atmosphere as vapor, including all impoundments containing pit water in the mining facility that are not used for groundwater augmentation. The volume of pit water that is evaporated may be estimated using daily pan evaporation rates from Mesonet stations within 30 miles, or another widely available, real-time data source approved by the Board. A pan coefficient of 0.7 should be applied to obtain lake evaporation rates. Daily pan evaporation data is available online at:  
<http://agweather.mesonet.org/models/evapotranspiration/seasonalout.html>.  
Evaporation losses of the water from the mine pit, lined holding structures, and processing ponds will be included in the consumptive use calculation, but only the measured groundwater portion of this water will be counted. Evaporation of the groundwater portion of water from any pit or structure used for groundwater augmentation will not be considered as consumptive use.
- 10 Defined in the Act as "*amounts for other proposed beneficial uses off the mining site*" other than stream water and groundwater augmentation.

[OAR Docket #13-748; filed 5-9-13]

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

[OAR Docket #13-749]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 7. Minimum Standards for Construction of Wells

785:35-7-1. Minimum standards for construction of groundwater wells, fresh water observation wells, and water well test holes [AMENDED]

Subchapter 9. Minimum Standards for Pump Installation

785:35-9-1. Minimum standards for pump installation [AMENDED]

Subchapter 11. Plugging and Capping Requirements for Wells and Test Holes

785:35-11-1. Plugging and capping requirements for groundwater wells, fresh water observation wells, heat exchange wells and water well test holes [AMENDED]

785:35-11-2. Plugging requirements for site assessment observation wells, monitoring wells and geotechnical borings [AMENDED]

**AUTHORITY:**

Oklahoma Water Resources Board; 82 O.S. §§ 1020.1 et seq. and 1085.2

**DATES:**

**Comment period:**

December 3, 2012 through January 14, 2013

**Public hearing:**

January 15, 2013

**Adoption:**

February 19, 2013

**Submitted to Governor:**

March 1, 2013

**Submitted to House:**

March 1, 2013

**Submitted to Senate:**

March 1, 2013

**Gubernatorial approval:**

April 8, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 30, 2013.

**Final adoption:**

April 30, 2013

**Effective:**

June 13, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

The OWRB has adopted amendments of various provisions of Oklahoma Administrative Code ("OAC") 785:35 as follows.

Amendments of OAC 785:35-7-1 were adopted pertaining to the drilling and completion of a well for a "Minor" or "Small" public water supply. The language added a clarification that the pertinent owner of the well or land obtain the appropriate construction permit from the Oklahoma Department of Environmental Quality ("ODEQ") prior to the well being drilled and completed. A second amendment clarified the language in (c)(2)(D) regarding the height above natural land surface that a well casing must extend after completion of a new well and installation of well pump.

OAC 785:35-9-1 was amended to clarify the minimum standards for pump installation regarding placement of well casing connections above-grade and below-grade.

OAC 785:35-11-1 and 785:35-11-2 were amended to clarify plugging requirements for water wells, observation wells, heat exchange wells, water well test holes, monitoring wells and geotechnical borings.

These amendments were proposed in response to comments and suggestions from the Well Drillers and Pump Installers Advisory Council as well as issues that have arisen in the implementation of the program during the preceding year.

**CONTACT PERSON:**

Kent Wilkins, Planning and Management Division Assistant Chief, 405-530-8800.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 13, 2013:**

**SUBCHAPTER 7. MINIMUM STANDARDS FOR CONSTRUCTION OF WELLS**

**785:35-7-1. Minimum standards for construction of groundwater wells, fresh water observation wells, and water well test holes**

(a) **General requirements.**

(1) **Minimum standards.** The minimum standards set forth in this subchapter apply to all groundwater wells, fresh water observation wells and water well test holes whether constructed by a person having a valid license or by any other person. More stringent construction standards may be required for areas of known contamination as identified in Chapter 45, Appendix H.

(2) **Construction of wells.** Flowing and non-flowing groundwater wells, observation wells and water well test holes are to be constructed in a manner as to prevent waste and to prevent contamination of groundwater by pollution material either entering the ground around the casings or tubing, or entering the fresh groundwater from pollution sources below the ground, or by entering the fresh well water by leaking wells, casing pipe fittings, pumps, or well seals.

(3) **Proper maintenance, plugging and capping.** The well driller and/or the well owner are charged with the responsibility of taking whatever steps are reasonable in a particular situation to guard against waste and contamination of the groundwater resources, and to see that unused wells are properly capped or plugged.

(4) **Minor and small public water supply wells.** Prior to drilling a well that will be used in a minor or small public water supply system, a permit from the Oklahoma Department of Environmental Quality (ODEQ) must be obtained. Minor and small public water supply systems are defined in OAC 252:624-1-2 of the ODEQ regulations.

(b) **Minimum location standards.**

(1) Every new groundwater well, fresh water observation well and water well test hole shall be located a minimum distance from possible pollution sources as prescribed in this subsection or as otherwise authorized by a variance granted by the Executive Director. Possible pollution sources include but are not limited to existing or proposed septic tanks, sewer lines, absorption fields or beds, seepage pits, building foundations, waste pits, lagoons, oil or gas wells, and landfills. The minimum

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distance between the possible pollution source and the well or test hole shall be as follows, provided that other governmental agencies may require wells to be located at distances greater than the minimum distances set forth in this paragraph:

- (A) 10 feet from a closed or tight sanitary sewer line, 25 feet from aerobic (above ground) sprinkler spray, and 50 feet from an aerobic sprinkler head,
  - (B) 300 feet from the outside perimeter of an existing or proposed waste lagoon for a feedlot or confined animal feeding operation, and
  - (C) 50 feet from all other pollution sources, provided however, if the well is 50 feet to 75 feet and located down-gradient or level from a possible source of pollution, a twenty foot (20') surface seal shall be installed, and
  - (D) 75 feet from all other pollution sources if the well is level with the pollution source and 100 feet from all other pollution sources if the well is located down-gradient from the pollution source.
- (2) If not prohibited by the owner of the well or other governmental agency requirements, groundwater wells which will not be used for drinking water may be located closer to a possible pollution source than the minimum distances specified in paragraph (1) of this subsection if all of the following conditions are met:
- (A) the possible pollution source is not a wastewater lagoon, and not a subsurface septic system,
  - (B) before the well is drilled, the well driller advises the person wanting the well drilled that the well is subject to contamination,
  - (C) the owner of the proposed well notifies the Board that the owner will authorize the driller to drill the well closer to the possible pollution source than the minimum location standard,
  - (D) the outside water-tight casing is properly cement grouted or completed with ten (10) feet bentonite in the lower one-half (1/2) portion and ten (10) feet cement grout in the upper one-half (1/2) portion at least twenty (20) feet down from the land surface or pitless adaptor connection.
- (3) If a well driller or other person proposing to drill a well encounters a structure, object or other situation and is unsure whether it may be a possible source of pollution, he shall contact Board staff and obtain approval for location of the well.
- (c) **Casing of groundwater and fresh water observation wells.** Except for sand point wells, requirements for casing of groundwater wells and fresh water observation wells shall be as follows:
- (1) The casing shall be installed to seal off any groundwater zones containing water which does not meet the groundwater quality standards as set forth in Oklahoma's Water Quality Standards. In no case shall a well be completed in a salt water zone.
  - (2) New groundwater and fresh water observation wells shall have:

(A) Outside water-tight production casing cement grouted from land surface to a minimum depth of ten (10) feet below the land surface, and to such further depth as may be necessary, depending upon the character of the underground formations, to extend into an impervious stratum, where such stratum is found above the source aquifer.

(B) Casing seated at top of the first impervious stratum suitable for casing point. Where an impervious formation or tight confined bed does not occur at the well site, the casing shall be extended as far as practicable below the water table and wherever possible, at least ten (10) feet below the minimum seasonal stage of the water table.

(C) Casing joints threaded, welded, or glued with water well construction glue so as to be water-tight.

(D) Casing that extends at least twelve (12) inches above the natural ground level or at least eight (8) inches above the floor surface (for a total of 12 inches above natural ground level) for surface pad completions. In areas where known flooding occurs, the casing shall extend twenty-four (24) inches above the maximum level of such flooding.

(E) Casing meeting or exceeding the following:

- (i) new or clean and sanitary used carbon or stainless steel, or
- (ii) new PVC fresh water well casing which has a S.D.R. rating of twenty-six or stronger and which may be plain end with threaded connector, and with all joints made water-tight by cleaning and cementing, using manufacturer's recommended thinner and cement for use in fresh water wells, or
- (iii) fiberglass or other material which meets or exceeds N.S.F. approval for casing which is specially designed for use in a water well.

(d) **Cement grouting and concreting.** Except for sand point wells, cement grouting and concreting requirements for groundwater wells and fresh water observation wells shall be as follows. These requirements must be met before the drilling rig is taken from the site.

(1) All new groundwater wells and fresh water observation wells shall be made water-tight around the outside of the production casing by cement grouting to such depths as may be necessary to exclude pollution, but in no case shall the cement grout seals be less than ten (10) continuous feet in depth, provided that five (5) feet of bentonite may be installed immediately below five (5) feet of cement grout for the total 10 feet continuous seal. If surface pipe and production casing are used, the cement grouting and/or bentonite seal shall be installed outside the surface pipe casing in all instances beginning July 1, 2005, provided the following provisions apply:

- (A) a variance may be issued by the Director for an alternative completion design due to site specific conditions, and
- (B) if a sleeve is used at the surface for the sole purpose of attaching a pitless adaptor, the sleeve shall be

installed or embedded within the surface seal, extend a minimum of eight feet (8') below ground level in the borehole, and the surface seal shall be a minimum of one and one-half inch (1½") thick.

(C) If the surface casing does not extend twelve inches (12") above natural ground level and a pitless cap or sanitary seal is not installed, then a ten foot (10') cement grout/bentonite surface seal shall be installed in the area between the surface and production casings terminating within four feet (4') of land surface.

(D) When deemed necessary to utilize conductor or surface casing to control flowing material near surface, an additional cement/bentonite seal shall originate ten feet (10') below the base of the conductor/surface casing and shall terminate ten feet (10') above the base of the conductor/surface casing between the conductor/surface casing and production casing.

(2) The cement or cement/bentonite seal shall originate at a minimum ten (10) foot depth and terminate no deeper than four feet (4') from the natural land surface for a minimum total length of ten feet (10') after all settling of the cement or bentonite/cement has occurred, unless a written waiver is first obtained from the Board.

(3) The cement grout shall consist of a mix ratio of one (1) 94 pound sack of cement to a maximum of six (6) U.S. gallons of water. The cement and water must be mixed to the proper consistency as recommended by the cement manufacturer before the mixture is installed around the casing. A maximum of fifty percent (50%) aggregate by dry weight may be added to the portland cement to form the cement grout, provided the aggregate is a size that will not create a potential to cause bridging in the annular space.

(4) A maximum of twenty percent (20%) percent bentonite may be added to the slurry, which bentonite shall be prehydrated to the manufacturer's recommended consistency. Prehydration requires that the bentonite be properly mixed with the recommended amount of water before the mixture is installed.

(5) The well borehole shall be a minimum diameter of at least three (3) inches greater than the outside diameter of the well casing or production tubing adjacent to the borehole utilized in the surface seal.

(6) This annular space shall be filled with cement grout or cement/bentonite to the minimum ten (10) foot depth, or such further depth as may be necessary to exclude pollution.

(7) Where a pitless well adapter or unit is being installed, the grouting shall start below the junction of the pitless well adapter or unit where it attaches to the well casing and shall continue to at least ten (10) feet below this junction.

(8) If a high solids bentonite grout is used for the bentonite seal portion below the cement grout portion of the surface seal, the grout shall contain a minimum, twenty percent (20%) solids by dry weight.

(9) It is not an acceptable installation method to install dry cement around the casing and then add water.

(e) **Well development requirements for groundwater wells except sand point wells or fresh water observation wells.** Upon completion of the groundwater well or fresh water observation wells and before conducting the yield of draw-down tests, the well driller shall clean and develop the well to remove drill cuttings and drilling mud.

(f) **Disinfection of groundwater or fresh water observation wells.** Requirements for disinfection of groundwater or fresh water observation wells shall be as follows:

(1) All water used in the drilling of the well shall be potable water or uncontaminated chlorinated water having not less than 100 parts per million chlorine.

(2) A new, repaired, or modified well shall first be thoroughly cleaned and prepared for receiving pumping equipment.

(3) Thereafter, the well and pumping equipment shall be disinfected with chlorine so applied that a concentration of at least one hundred (100) parts per million of chlorine shall be obtained in all parts of the water in the well.

(4) A minimum contact period of two (2) hours shall be provided before pumping the well to flush chlorine solution from the fresh water distribution system.

(g) **Access port or water level measuring device.** Upon completion of a new groundwater or fresh water observation well and before the well is put into service, the well driller will equip the well with either an access port that will allow for the measurement of the depth to static water surface or a static water level measuring device.

(h) **Sand point well construction requirements.** Unless otherwise approved by variance, applicable minimum standards set forth in this section and the following minimum construction requirements apply to sand point wells:

(1) The sand point well shall be drilled to a total depth of no more than thirty feet (30'); and

(2) A pilot hole shall be constructed first, with cement installed to a depth of three feet (3') around surface casing, then the remaining bore hole can be installed then production casing installed.

## SUBCHAPTER 9. MINIMUM STANDARDS FOR PUMP INSTALLATION

### 785:35-9-1. Minimum standards for pump installation

(a) **General requirements.**

(1) **Minimum standards.** The minimum standards set forth in this subchapter apply to the installation of all water well pumps and pumping equipment, whether installed by a person having a valid license or by any other person.

(2) **Pump installation practices.** All pump installations shall be completed in such a manner as to prevent waste and contamination of groundwater by pollution material entering the well from pumping equipment, casing connectors, fittings, piping, sanitary seals or caps.

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- (3) **Construction materials.** All materials used in the construction of the pumping system shall be of a type and strength to prevent waste or pollution of the groundwater of the state.
- (4) **Temporary abandonment practices.** When a well is to be temporarily removed from service, the top of the well casing shall be properly sealed with a water-tight cap that cannot be easily removed.
- (b) **Well casing connections.** Minimum standards for well casing connections are as follows:
- (1) **Above-grade connection.** An above-grade connection into the top or side of a well casing shall be ~~at least eight inches (8"), but preferably twelve inches (12")~~ above the land surface and shall be constructed so as to exclude dirt or other foreign matter by at least one of the following methods, as may be applicable:
- (A) Threaded connection;
  - (B) Welded connection;
  - (C) Rubber expansion sealer;
  - (D) Bolted flanges with rubber gaskets;
  - (E) Overlapping well cap; or
  - (F) If a water well pump is mounted or sealed on a concrete pedestal, the casing shall extend at least one inch (1") into the base of the pedestal and at least eight inches (8") above the land surface.
- (2) **Below-grade connection.** A connection to a well casing made below ground, or ~~made~~ less than ~~eight inches (8")~~ twelve inches (12") above the land surface, shall be protected by a pitless adapter or pitless unit. Such pitless adapters shall be installed below the frost line. A below-ground connection shall not be submerged in water at the time of installation. Holes cut in the casing through which the pitless adapters are installed must be sized and constructed so as to guarantee a watertight seal with the pitless adapter in place.
- (3) **Above-grade capping.** For water wells with pitless adapters, the portion of the well casing above the land surface shall be capped with a water-tight, vented pitless adapter cap that cannot be easily removed.
- (c) **Pump installation.** The minimum standards for installation of pumps and pumping systems are as follows:
- (1) **Pumps and pumping equipment.**
- (A) **Priming requirements.** A pump shall be designed, installed, and maintained so that priming is not required for ordinary use. Pumps installed on irrigation systems may be primed, but the priming water shall contain a chlorine residual and be clear and free of contamination. An irrigation well equipped with a centrifugal pump may be primed without chlorination when the pump is filled with water taken directly from the well.
  - (B) **Cross connections prohibited.** Cross connections between water wells and other systems or equipment containing substances such as wastewater, pesticides or fertilizers are prohibited unless equipped with a protective device such as a break tank or back-flow preventer, which the owner agrees to install, test and maintain to assure proper operation.
- (2) **Pump discharge lines.** A buried discharge line between the well casing and the pressure tank in any installation, including a deep well turbine or a submersible pump, shall not be under negative pressure at any time.
- (3) **Vents.** All wells shall be vented with watertight joints terminating at least two feet (2') above the 100 year flood elevation or twelve inches (12"), above the land surface. The casing vent shall be screened. Vents may be offset. All submersible pumps shall be installed with a vented cap on the top of the well casing or pitless unit to prevent drawing surface water, mud, sand, or other substances into the well. Where the well casing on small diameter wells is used as a suction pipe, the casing need not be equipped with a vented cap, provided the casing is properly sealed or capped. If toxic or flammable gases are present, they shall be vented from the well. The vent shall extend to the outside atmosphere at least six (6) feet above land surface or to a point where the gases will not present a hazard. Openings in pump bases shall be sealed watertight.
- (4) **Disinfection.** The well and pumping equipment shall be disinfected with a chlorine concentration of at least one hundred (100) parts per million of chlorine throughout the well. The chlorine solution shall be introduced into the well in a manner to flush the well casing surfaces above the static water level. A minimum contact period of two (2) hours shall be provided before purging and flushing the chlorine solution from the distribution system. Disinfection in a well repair operation may be accomplished at the beginning of the operation with chlorine applied to obtain a concentration of two hundred (200) parts per million for the period of the well repair operation. The water shall be purged prior to taking of water samples or use being made of the water. The licensee or operator shall be responsible for disinfecting the well, pump or pumping equipment. The well owner may pump and flush the well following disinfection, provided the owner has been instructed regarding the proper procedures by the licensee or operator.
- (d) **Windmill Driven Pumps.** Surface completion must be constructed with cover plate designed to exclude pollution.

### SUBCHAPTER 11. PLUGGING AND CAPPING REQUIREMENTS FOR WELLS AND TEST HOLES

#### 785:35-11-1. Plugging and capping requirements for groundwater wells, fresh water observation wells, heat exchange wells and water well test holes

- (a) **Temporary capping.** When a groundwater well or fresh water observation well is temporarily removed from service, the top of the well casing will be properly sealed with a pitless adapter cap, sanitary well seal, or well casing cap that cannot easily be removed. A new well shall be properly capped before the well driller leaves the drilling site.

(b) **Time for plugging or completing water well test holes.**

Water well test holes shall be properly plugged as provided in this section by the well driller prior to removal of drilling equipment unless the test hole is completed as an observation well for aquifer testing, including the installation of surface casing and cement seals. In the alternative and prior to drilling equipment being removed from site, water well test holes may be temporarily cased with SDR 26 water well casing a minimum of 10 feet below ground and 12 inches above ground. Bentonite shall be installed from 10 feet to 2 feet below land surface and cement grout installed from 2 feet to land surface. The top of casing shall be properly sealed or capped. Permanent completion or plugging shall become the responsibility of the landowner and shall be completed within 60 days of drilling equipment being removed from the site. A written statement from the landowner acknowledging such responsibility shall be obtained and submitted to the Board with the multipurpose completion report. The multi-purpose completion report shall be submitted to the Board within sixty (60) days after plugging or temporary completion of each water well test hole.

(c) **Permanent abandonment.** The following plugging requirements apply if a groundwater well, fresh water observation well, heat exchange well or water well test hole is permanently abandoned, was drilled by a person not holding a valid license or operator certification from the Board, or if the Board determines that the well or test hole was not drilled or completed in compliance with the applicable minimum standards set forth in this Chapter or may otherwise allow pollution to groundwater.

(1) The well driller shall be responsible for plugging the well or test hole if the well drilling equipment is on the drilling site. If a well is abandoned after the well drilling equipment has been removed from the drilling site, the owner of the land where the well or test hole is located shall be responsible for plugging.

(2) If the well or test hole is uncontaminated and unless paragraph 3 or paragraph 5 below applies, fill such well or water well test hole with uncontaminated, compacted drill cuttings and/or uncontaminated surface clay, cement, bentonite pellets or granules, or high solids (a minimum of twenty percent (20%) solids by dry weight) bentonite grout to within fourteen (14) feet of the land surface, and a minimum of ten (10) feet of the annular space and interior of the well casing shall be filled with cement grout to at least four (4) feet below the land surface.

(3) To plug uncontaminated groundwater wells, fresh water observation wells, or heat exchange wells in the alluvium and terrace deposits of the Arkansas, Cimarron, Salt Fork of the Arkansas, North Canadian, Canadian, Washita, North Fork of the Red, Salt Fork of the Red River, Red River, and other streams or rivers authorized by the Board, fill the well with clean, uncontaminated silica sand to within sixteen (16) feet of the land surface, then two (2) feet of bentonite pellets or granules shall be placed on the uncontaminated silica sand, and finally, a minimum of ten (10) feet of cement grout shall be installed in the annular space and interior of the well casing to at least four (4) feet below the land surface.

(4) Hand dug water wells shall be filled with uncontaminated surface clay or grout to within six (6) feet of land surface. The lining of the well shall be removed from the top five (5) feet and a minimum of two (2) feet of cement grout shall be installed. The top four (4) feet shall be filled with compacted uncontaminated native soil, unless otherwise directed by the Board.

(5) If the well or water well test hole is contaminated, or if the well or test hole is located at an underground tank site or within 300 feet of the outside perimeter of an existing wastewater lagoon or is located on a tract of land where a wastewater lagoon is proposed, the casing shall be removed or perforated from the bottom of the casing to twenty (20) feet below land surface. The casing shall be removed from twenty (20) feet below land surface to the surface, then the well or test hole shall be plugged with cement grout from the bottom to within four (4) feet of the land surface. If the total depth of the well is in excess of twenty feet (20') below land surface, the cement grout shall be placed by pumping from the bottom of the hole to within four (4) feet of the land surface.

**785:35-11-2. Plugging requirements for site assessment observation wells, monitoring wells and geotechnical borings**

(a) **Monitoring wells, direct push monitoring wells and site assessment observation wells.** Monitoring wells, direct push monitoring wells and site assessment observation wells shall be plugged to prevent pollution of groundwater within three (3) days after completion of use or immediately if drilled by an unlicensed or uncertified person or if the Board determines that the well does not meet the minimum construction standards set forth in this Chapter. The following are minimum requirements for plugging monitoring wells and site assessment observation wells, and the owner of such wells or other federal or state agency may specify more stringent requirements:

(1) If no contaminated soil or contaminated groundwater is present in the well, cement grout shall be placed in the well through a tremie pipe and filled or pumped from the bottom of the well to an elevation four (4) feet below the land surface. In the alternative, bentonite pellets, granules or high solids (a minimum of twenty percent (20%) solids by dry weight) bentonite grout shall be placed from the bottom of the well to an elevation fourteen (14) feet below land surface and a minimum of ten (10) feet shall be filled with cement grout to an elevation four (4) feet below land surface, unless contaminated soil or contaminated groundwater is present in the well. The remaining four (4) feet to land surface shall be backfilled with compacted uncontaminated soil. If the depth of the well is fourteen (14) feet or less, cement grout shall be placed from the bottom of well to land surface.

(2) If contaminated soil or contaminated groundwater is present or was previously present in the well and the top of the screen is less than 20 feet below land surface, overdrilling of the well is required. The casing shall be removed or drilled out and the same size auger used to

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drill the borehole or larger shall be used to drill out the casing and associated seals, annular space and filter pack. Cement grout shall be placed from the bottom of the well to an elevation four (4) feet below land surface effectively grouting a minimum of 95% of the original drilled borehole depth. If the total depth of the well is in excess of twenty feet (20') below land surface, the cement grout shall be placed by pumping from the bottom of the hole to within four (4) feet of the land surface. If the top of the well screen is 20 feet or more below land surface and the well meets current minimum construction standards, then the casing need not be removed and cement grout shall be placed in the well through a tremie pipe and filled or pumped from the bottom upward to within four (4) feet of land surface. The remaining four (4) feet to land surface shall be backfilled with compacted uncontaminated soil.

(b) **Geotechnical borings except direct push geotechnical borings.** Geotechnical borings shall be plugged to prevent pollution of groundwater within thirty (30) days after completion of drilling or immediately if drilled by an unlicensed or uncertified person or if the Board determines that the well does not meet the minimum construction standards set forth in this Chapter. The following are minimum requirements for plugging geotechnical borings, and the owner of the boring or other federal or state agency may specify more stringent requirements:

(1) If no contaminated soil and groundwater is encountered in the boring, uncontaminated drill cuttings, uncontaminated surface clay, cement, and/or high solids (a minimum of twenty percent (20%) solids by dry weight) bentonite grout, pellets, or granules shall be placed from the bottom of the boring to an elevation fourteen (14) feet below land surface and a minimum of ten (10) feet shall be filled with cement grout to an elevation four (4) feet below land surface. The remaining four (4) feet to land surface shall be backfilled with compacted uncontaminated soil.

(2) If contaminated soil or contaminated groundwater is encountered in the boring, or if the boring is located at an underground storage tank site or within 300 feet of the outside perimeter of an existing wastewater lagoon or is located on a tract of land where a wastewater lagoon is proposed, cement grout shall be placed from the bottom of the borehole to an elevation four (4) feet below land surface. Cement grout shall be placed in the borehole through a tremie pipe and filled or pumped from the bottom upward. The remaining four (4) feet to land surface shall be backfilled with compacted uncontaminated soil.

(3) If the boring is twenty (20) feet or less in total depth and groundwater has not been encountered, the boring shall, at a minimum, be filled with compacted uncontaminated cuttings from the bottom of the boring to land surface.

(c) **Direct push geotechnical borings.** Direct push geotechnical borings shall be plugged to prevent pollution of groundwater within thirty (30) days after completion of drilling or immediately if drilled by an unlicensed or uncertified person or if the Board determines that the well does not

meet the minimum construction standards set forth in this Chapter as follows:

(1) Bentonite chips shall be placed and effectively compressed within the annulus space from the bottom of the borehole to within ten (10) feet of the land surface.

(2) Cement grout shall be installed through a tremie pipe in the remaining annulus space from ten (10) feet to land surface, provided that no cement grout shall be required if the boring is less than ten feet (10') in total depth and no groundwater and no contaminated soil was encountered.

(d) **Cement grout requirements.** If cement grout is used, the grout shall have a mix ratio of one 94 pound sack of cement to a maximum of six U.S. gallons of water.

(e) **Abandonment after equipment removed.** If a site assessment observation well, monitoring well or geotechnical boring is abandoned after the drilling equipment has been removed from the site, responsibility for proper plugging within the applicable time period specified in this section shall lie with the owner of the land where the well or boring is located

[OAR Docket #13-749; filed 5-9-13]

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

[OAR Docket #13-751]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 5. Surface Water Quality Standards

Part 3. Beneficial Uses and Criteria to Protect Uses

785:45-5-12. Fish and wildlife propagation [AMENDED]

785:45-5-13. Agriculture [AMENDED]

785:45-5-19. Aesthetics [AMENDED]

785:45-5-20. Fish consumption [AMENDED]

Appendix A. Designated Beneficial Uses of Surface Waters [REVOKED]

Appendix A. Designated Beneficial Uses of Surface Waters [NEW]

Appendix A.1. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 1, Middle Arkansas River [REVOKED]

Appendix A.1. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 1, Middle Arkansas River [NEW]

Appendix A.2. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 2, Lower Arkansas River Basin [REVOKED]

Appendix A.2. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 2, Lower Arkansas River Basin [NEW]

Appendix A.3. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 3, Upper Red River Basin [REVOKED]

Appendix A.3. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 3, Upper Red River Basin [NEW]

Appendix A.4. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 4, Lower Red River [REVOKED]

Appendix A.4. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 4, Lower Red River [NEW]

Appendix A.5. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 5, Canadian River [REVOKED]

Appendix A.5. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 5, Canadian River [NEW]

Appendix A.6. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 6, Upper Arkansas River [REVOKED]

- Appendix A.6. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 6, Upper Arkansas River [NEW]
- Appendix A.7. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 7, Panhandle Region [REVOKED]
- Appendix A.7. Designated Beneficial Uses of Surface Waters Water Quality Management Basin 7, Panhandle Region [NEW]
- Appendix G. Numerical Criteria to Protect Beneficial Uses [REVOKED]
- Appendix G. Numerical Criteria to Protect Beneficial Uses [NEW]
- Appendix H. Beneficial Use Designations for Certain Limited Areas of Groundwater [REVOKED]
- Appendix H. Beneficial Use Designations for Certain Limited Areas of Groundwater [NEW]

**AUTHORITY:**

Oklahoma Water Resources Board; 82 O.S., §§ 1085.30 and 1085.30a; 27A O.S., § 1-3-101; and 82 O.S. § 1085.2

**DATES:**

**Comment period:**

November 15, 2012 through January 14, 2013

**Public hearing:**

January 15, 2013

**Adoption:**

February 19, 2013

**Submitted to Governor:**

March 1, 2013

**Submitted to House:**

March 1, 2013

**Submitted to Senate:**

March 1, 2013

**Gubernatorial approval:**

April 8, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 30, 2013.

**Final adoption:**

April 30, 2013

**Effective:**

July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

The Oklahoma Water Resources Board ("OWRB") has amended various provisions of the Oklahoma Water Quality Standards ("OWQS") codified in OAC 785:45 as follows:

OAC 785:45-5-12, Fish and wildlife propagation, amendments have been adopted in (f)(1) by clarifying that the appropriate seasonal temperatures prescribed in Table 1 of Appendix G of OAC 785:45 are appropriate for calculating biochemical oxygen demand (BOD) load. The circumstance which created the need for this amendment is that the Oklahoma Department of Environmental Quality (DEQ) has encountered problems implementing the existing language. The intended effect of this amendment is to eliminate the ambiguity that causes problems in the permitting process.

OAC 785:45-5-13, Agriculture, amendments have been adopted in (e) by restoring language regarding default low flow. The circumstance which created the need for this amendment is that revisions to the Oklahoma Water Quality Standards in 1997 removed the default low flow. The intended effect of this amendment is to restore the default low flow such that protection for the Agriculture beneficial use at low flow is consistent with implementation for toxic substances.

OAC 785:45-5-19, Aesthetics, amendments have been adopted by removing the numerical color criterion applicable for permitting purposes. The circumstance which created the need for this amendment is that the U.S. Environmental Protection Agency (EPA), pursuant to its authority to approve water quality standards under the federal Clean Water Act, did not approve previous amendments in 2010 that limited the applicability of the color criterion to discharge permits. The intended effect of this amendment is to eliminate unjustifiable determinations of impaired waters based upon an outdated criterion.

OAC 785:45-5-20, Fish consumption, amendments have been adopted by restoring language that clarifies that the criteria for this beneficial use are applicable only to the subcategories of Warm Water Aquatic Community, Cool Water Aquatic Community, or Trout Fishery. The circumstance which created the need for this amendment is that the applicability language was

inadvertently deleted in 2006. The intended effect of this amendment is to restore that deleted language and to eliminate the inconsistency for implementing human health criteria in OAC 785:46.

Appendix A, Designated Beneficial Uses for Surface Waters, has been revoked and reenacted with the addition of paragraphs (c), Limitations for Additional Protection, and (d), Remarks used in Appendices A.1 through A.7. The circumstance which created the need for this amendment is that these paragraphs were inadvertently omitted in a previous revision of this Appendix. The intended effect of these amendments is to provide state environmental agencies with clear consistent water quality standards.

Appendices A.1, A.2, A.3, A.4, A.5, A.6, and A.7, which cumulatively contain all of the waterbodies throughout the state which have had specific beneficial uses designated, have all been revoked and reenacted with several Waterbody Identification numbers and names added or changed. The circumstance which created the need for these amendments is that the DEQ has updated its Waterbody ID coverage. The intended effect of these amendments is to list all the proper Waterbody ID's for each segment.

Appendix A.3, Designated Beneficial Uses of Surface Waters Water Quality Management Basin 3, Upper Red River Basin, has been revoked and reenacted to make the Warm Water Aquatic Community beneficial use subcategory applicable to a segment of Rush Creek and to edit various waterbody names and identification numbers to be consistent with new GIS coverage. The circumstance which created the need for this action is that review of recent stream data indicate that the revised beneficial use is now an existing use. The intended effect of these amendments is to satisfy Clean Water Act requirements to review and upgrade less than swimmable and fishable uses where new data indicate otherwise.

Appendix A.5, Designated Beneficial Uses of Surface Waters Water Quality Management Basin 5, Canadian River, has also been revoked and reenacted to designate the Warm Water Aquatic Community beneficial use subcategory for a segment of Wewoka Creek and to designate the Primary Body Contact Recreation beneficial use for a segment of the Canadian River. The circumstance which created the need for this action is that review of recent stream data indicate that these proposed revised beneficial uses are now existing uses. The intended effect of these amendments is to satisfy Clean Water Act requirements to review and upgrade less than swimmable and fishable uses where new data indicate otherwise.

Appendix G, Numerical Criteria to Protect Beneficial Uses, has been revoked and reenacted with several revisions. First, the preamble was modified with deletion of a contradictory phrase that Table 2 numerical limits "cannot be exceeded". The circumstances the created this need is that many parameters must be implemented as averages. The intended effect is that text in the body will determine implementation of specific parameters rather than the preamble of the Appendix. Second, Table 1, Dissolved Oxygen Criteria to Protect Fish and Wildlife Propagation and All Subcategories Thereof, has been revised to restore a footnote lost due to a scrivener's error in 2002. The circumstance which created the need for this amendment is the need for clarity in implementing dissolved oxygen criteria. The intended effect of this amendment is to provide state environmental agencies with clear consistent water quality standards. Third, Table 2, Numerical Criteria to Protect Beneficial Uses, and All Subcategories Thereof, has been revoked and reenacted with several changes. New and revised human health criteria for 25 toxic or carcinogenic chemicals have been added. The circumstance which created the need for these amendments is the absence of current water quality criteria for certain chemicals, and the publication of the new or revised scientific information, guidance documents assisting states in promulgating appropriately protective criteria, and new minimum fish consumption rates required for use in calculating the remaining criteria. The intended effect of these amendments is to provide state environmental agencies appropriately protective criteria for these compounds on which to base decisions pertinent to their individual areas of jurisdictional responsibility.

Appendix H, Beneficial Use Designations for Certain Limited Areas of Groundwater, has been revoked and reenacted with a several changes. The first change involves modifications requested by the DEQ to the already existing listing in Appendix H identifying special well construction for toxic metals in the Boone shallow groundwater at the Tar Creek Superfund Site. The circumstance which created the need for this amendment is the need for testing groundwater of the Boone aquifer in this location prior to completing a well. The intended effect of these amendments is to restrict future uses of groundwater from the shallower portion of the Boone aquifer used for potable or domestic supply that is impacted with site-related contaminants. The second change is the addition of 36.26 acres of the North-Central Oklahoma aquifer at the former Farmland Feed Mill Site in Enid, Oklahoma, with a remark limiting groundwater use. The circumstance which created the need for this

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amendment is that this site has a nitrate concentration that is greater than the allowable concentration under the drinking water standards and has been demonstrated to be technically infeasible to remediate further. The intended effect of these amendments is to limit the future uses of groundwater from the North-Central Oklahoma aquifer at this site. The third change requested by the DEQ is the addition of the site at the former Hudson Refinery Superfund Site in Payne County, Oklahoma with the default class and beneficial uses and a remark prohibiting of groundwater use for any purpose. The circumstance which created the need for this amendment is that hydrocarbon contamination of the groundwater has been documented at the site. The intended effect of these amendments is to be consistent with deed notices that have been filed in county land records prohibiting the use of groundwater for any purpose. The fourth change requested by the DEQ is the addition of the former Blackwell Zinc Company Site in Kay County, Oklahoma and a remark prohibiting groundwater well drilling at the site. The circumstance which created the need for this amendment is cadmium and zinc contamination due to historic smelter operations. The intended effect of these amendments is to be consistent with the City Ordinance No. 2801 passed by the City of Blackwell prohibiting installation of groundwater wells within the groundwater protection area. The fifth change is addition of a 20 acre site in Dewey County and to provide remarks directing special well completion requirements. The circumstance which created the need for this amendment is that residue remaining at this site, identified by the Oklahoma Corporation Commission after remediation of a petroleum release that occurred prior to 1999, has been demonstrated to be technically infeasible to remediate further. The intended effect of this amendment is to prevent the spread of residual pollution into the Rush Springs aquifer. The last change is addition of a 40 acre site in Oklahoma County and to provide remarks directing special well completion requirements. The circumstance which created the need for this amendment is historic brine spills and pipeline leaks which have been identified by the Oklahoma Corporation Commission at this site. The intended effect of this amendment is to prevent the spread of old oilfield pollution into more of the Garber Wellington aquifer.

## CONTACT PERSON:

Derek Smithee, Water Quality Programs Division Chief, 405-530-8800.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2013:**

## SUBCHAPTER 5. SURFACE WATER QUALITY STANDARDS

### PART 3. BENEFICIAL USES AND CRITERIA TO PROTECT USES

#### 785:45-5-12. Fish and wildlife propagation

(a) **List of subcategories.** The narrative and numerical criteria in this section are designed to maintain and protect the beneficial use classification of "Fish and Wildlife Propagation". This classification encompasses several subcategories which are capable of sustaining different climax communities of fish and shellfish. These subcategories are Habitat Limited Aquatic Community, Warm Water Aquatic Community, Cool Water Aquatic Community (Excluding Lake Waters), and Trout Fishery (Put and Take).

(b) **Habitat Limited Aquatic Community subcategory.**

(1) Habitat limited aquatic community means a subcategory of the beneficial use "Fish and Wildlife Propagation" where the water chemistry and habitat are not adequate to support a "Warm Water Aquatic Community" because:

(A) Naturally occurring water chemistry prevents the attainment of the use; or

(B) Naturally occurring ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of a sufficient volume of effluent to enable uses to be met; or

(C) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or

(D) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the use; or

(E) Physical conditions related to the natural features of the waterbody, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of the "Warm Water Aquatic Community" beneficial use.

(2) Habitat Limited Aquatic Community may also be designated where controls more stringent than those required by sections 301(b) and 306 of the federal Clean Water Act as amended, which would be necessary to meet standards or criteria associated with the beneficial use subcategories of Cool Water Aquatic Community or Warm Water Aquatic Community, would result in substantial and widespread economic and social impact.

(c) Warm Water Aquatic Community subcategory. Warm Water Aquatic Community means a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality and habitat are adequate to support climax fish communities.

(d) Cool Water Aquatic Community subcategory. Cool Water Aquatic Community means a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality, water temperature and habitat are adequate to support cool water climax fish communities and includes an environment suitable for the full range of cool water benthos. Typical species may include smallmouth bass, certain darters and stoneflies.

(e) Trout Fishery subcategory. Trout Fishery (Put and Take) means a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality, water temperature and habitat are adequate to support a seasonal put and take trout fishery. Typical species may include trout.

(f) Criteria used in protection of fish and wildlife propagation. The narrative and numerical criteria to maintain and protect the use of "Fish and Wildlife Propagation" and its subcategories shall include:

(1) Dissolved oxygen.

(A) Dissolved oxygen (DO) criteria are designed to protect the diverse aquatic communities of Oklahoma.

(B) Allowable loadings designed to attain these dissolved oxygen criteria are provided as follows:

- (i) For streams with sufficient historical data, the allowable load shall be based on meeting the dissolved oxygen concentration standard at the seven-day, two-year low flow and the appropriate seasonal temperatures prescribed in Table 1 of Appendix G of this Chapter.
  - (ii) For streams lacking sufficient historical data, or when the appropriate flow is less than one (1) cubic foot per second (cfs), the allowable load shall be based on meeting the dissolved oxygen concentration standard at one (1) cfs and the appropriate seasonal temperature.
  - (iii) Provided, for streams designated in OAC 785:45 Appendix A as HLAC or WWAC which have sufficient historical data as determined by the permitting authority, the allowable BOD load may be based upon meeting the dissolved oxygen concentration standard at the applicable seasonal temperature and corresponding seasonal seven-day, two-year low flow.
  - (iv) Provided further, in stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, including but not limited to the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System, a properly designed and implemented site-specific hydrologic study approved by the permitting authority and the Board may be used to determine the appropriate regulatory low flow. In such circumstances, the allowable BOD load may be based upon meeting the dissolved oxygen concentration standard at the applicable seasonal temperature and the site-specific regulatory low flow.
- (C) Except for naturally occurring conditions and as modified in (D) of this paragraph, the dissolved oxygen criteria are as set forth in Table 1 of Appendix G of this Chapter.
- (D) For purposes of assessment, listing and reporting under sections 303(d) and 305(b) of the federal Clean Water Act as amended, the procedure for determining use support of the Fish and Wildlife Propagation beneficial use or any subcategory thereof with respect to dissolved oxygen shall be as follows:
- (i) General support test for all streams. If more than two concentrations of DO in a stream are observed to be below 2.0 mg/L in any given year, the Fish and Wildlife Propagation beneficial use shall be deemed to be not supported.
  - (ii) Support tests for HLAC streams.
    - (I) The HLAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples from the stream are less than 4.0 mg/L from April 1 through June 15 and

less than 3.0 mg/L during the remainder of the year.

(II) The HLAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples from the stream are less than 4.0 mg/L from April 1 through June 15 or less than 3.0 mg/L during the remainder of the year due to other than naturally occurring conditions.

(iii) Support tests for WWAC streams.

(I) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples from the stream are less than 6.0 mg/L from April 1 through June 15 and less than 5.0 mg/L during the remainder of the year.

(II) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples from the stream are less than 6.0 mg/L and 10% or less of the samples are less than 5.0 mg/L from April 1 through June 15, or more than 10% of the samples are less than 5.0 mg/L and 10% or less of the samples are less than 4.0 mg/L from June 16 through October 15.

(III) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples from the stream are less than 5.0 mg/L from April 1 through June 15, or less than 4.0 mg/L from June 16 through October 15, or less than 5.0 mg/L from October 16 through March 31, due to other than naturally occurring conditions.

(iv) Support tests for CWAC and Trout streams.

(I) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples from the stream are less than 7.0 mg/L from March 1 through May 31 and less than 6.0 mg/L during the remainder of the year.

(II) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples from the stream are less than 7.0 mg/L and 10% or less of the samples are less than 6.0 mg/L from March 1

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through May 31, or more than 10% of the samples are less than 6.0 mg/L and 10% or less of the samples are less than 5.0 mg/L from June 1 through October 15.

(III) The CWAC or Trout subcategory of the Fish and Wildlife Propagation beneficial use designated for a stream shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples from the stream are less than 6.0 mg/L from March 1 through May 31, or less than 5.0 mg/L from June 1 through October 15, or less than 6.0 mg/L from October 16 through the last day of February, due to other than naturally occurring conditions.

(v) Support tests for WWAC lakes. The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported with respect to the DO criterion if both the Surface and Water Column criteria prescribed in (vi)(I) and (vii)(I) of this subparagraph (D) are satisfied. If either of the Surface or Water Column criteria prescribed in (vi)(II) or (vii)(II) produce a result of undetermined, then the WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined with respect to the DO criterion; provided, if either of the Surface or Water Column criteria prescribed in (vi)(III) or (vii)(III) produce a result of not supported, then the WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported with respect to the DO criterion.

(vi) Surface criteria for WWAC lakes.

(I) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported with respect to the DO criterion if 10% or less of the samples from the epilimnion during periods of thermal stratification, or the entire water column when no stratification is present, are less than 6.0 mg/L from April 1 through June 15 and less than 5.0 mg/L during the remainder of the year.

(II) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined with respect to the DO criterion if more than 10% of the samples from the epilimnion during periods of thermal stratification, or the entire water column when no stratification is present, are less than 5.0 mg/L and 10% or less of the samples are less than 4 mg/L from June 16 through October 15, or more than 10% of the samples from the surface are less than 6.0 mg/L and 10% or less of the samples are less than 5.0 mg/L from April 1 through June 15.

(III) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported with respect to the DO criterion if more than 10% of the samples from the epilimnion during periods of thermal stratification, or the entire water column when no stratification is present, are less than 5.0 mg/L from April 1 through June 15 or less than 4.0 mg/L from June 16 through October 15, or less than 5.0 mg/L from October 16 through March 31, due to other than naturally occurring conditions.

(vii) Water Column criteria for WWAC lakes.

(I) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be fully supported during periods of thermal stratification with respect to the DO criterion if less than 50% of the volume (if volumetric data is available) or 50% or less of the water column (if no volumetric data is available) of all sample sites in the lake are less than 2.0 mg/L.

(II) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be undetermined during periods of thermal stratification with respect to the DO criterion if 50% or more, but not greater than 70%, of the water column at any given sample site in the lake is less than 2.0 mg/L due to other than naturally occurring conditions.

(III) The WWAC subcategory of the Fish and Wildlife Propagation beneficial use designated for a lake shall be deemed to be not supported during periods of thermal stratification with respect to the DO criterion if 50% or more of the water volume (if volumetric data is available) or more than 70% of the water column (if no volumetric data is available) at any given sample site is less than 2.0 mg/L.

(IV) If a lake specific study including historical analysis produces a support status which is contrary to an assessment obtained from the application of (I), (II) or (III) of (D)(vii) of this section, then that lake specific result will control.

(viii) Additional application/exercise when support undetermined. In instances where application of the tests in this subparagraph (D) initially produce a result that the pertinent subcategory is undetermined with respect to the DO criterion, such shall be subject to additional investigation that considers diurnal data for further application of such tests in order to resolve the determination of use support.

(2) Temperature.

- (A) At no time shall heat be added to any surface water in excess of the amount that will raise the temperature of the receiving water more than 2.8°C outside the mixing zone.
- (B) The normal daily and seasonal variations that were present before the addition of heat from other than natural sources shall be maintained.
- (C) In streams, temperature determinations shall be made by averaging representative temperature measurements of the cross sectional area of the stream at the end of the mixing zone.
- (D) In lakes, the temperature of the water column and/or epilimnion, if thermal stratification exists, shall not be raised more than 1.7°C above that which existed before the addition of heat of artificial origin, based upon the average of temperatures taken from the surface to the bottom of the lake, or surface to the bottom of the epilimnion if the lake is stratified.
- (E) No heat of artificial origin shall be added that causes the receiving stream water temperature to exceed the maximums specified below:
- (i) The critical temperature plus 2.8°C in warm water and habitat limited aquatic community streams and lakes except in the segment of the Arkansas River from Red Rock Creek to the headwaters of Keystone Reservoir where the maximum temperature shall not exceed 34.4°C.
  - (ii) 28.9°C in streams designated cool water aquatic community.
  - (iii) 20°C in streams designated trout fishery (put and take).
- (F) Water in privately-owned reservoirs used in the process of cooling water for industrial purposes is exempt from these temperature restrictions, provided the water released from any such lake or reservoir into a stream system shall meet the water quality standards of the receiving stream.
- (3) **pH (hydrogen ion activity).** The pH values shall be between 6.5 and 9.0 in waters designated for fish and wildlife propagation; unless pH values outside that range are due to natural conditions.
- (4) Oil and grease (petroleum and non-petroleum related).
- (A) All waters having the designated beneficial use of any subcategory of fish and wildlife propagation shall be maintained free of oil and grease to prevent a visible sheen of oil or globules of oil or grease on or in the water.
  - (B) Oil and grease shall not be present in quantities that adhere to stream banks and coat bottoms of water courses or which cause deleterious effects to the biota.
- (5) Biological Criteria.
- (A) Aquatic life in all waterbodies with the beneficial use designation of Fish and Wildlife Propagation (excluding waters designated "Trout, put-and-take") shall not exhibit degraded conditions as indicated by one or both of the following:
    - (i) comparative regional reference data from a station of reasonably similar watershed size or flow, habitat type and Fish and Wildlife beneficial use subcategory designation or
    - (ii) by comparison with historical data from the waterbody being evaluated.
  - (B) Compliance with the biological criteria to protect Fish and Wildlife Propagation set forth in this paragraph shall be based upon measures including, but not limited to, diversity, similarity, community structure, species tolerance, trophic structure, dominant species, indices of biotic integrity (IBI's), indices of well being (IWB's), or other measures.
- (6) Toxic substances (for protection of fish and wildlife).
- (A) Surface waters of the state shall not exhibit acute toxicity and shall not exhibit chronic toxicity outside the chronic regulatory mixing zone. Acute test failure and chronic test failure shall be used to determine discharger compliance with these narrative aquatic life toxics criteria. The narrative criterion specified in this subparagraph (A) which prohibits acute toxicity shall be maintained at all times and shall apply to all surface waters of the state. The narrative criterion specified in this subparagraph (A) which prohibits chronic toxicity shall apply at all times outside the chronic regulatory mixing zone and within the zone of passage to all waters of the state except:
    - (i) When a discharge into surface waters designated with the Fish and Wildlife Propagation beneficial use complies with and meets the discharge permit limitations but the flow immediately upstream from the discharge is less than one (1) cubic foot per second or when the flow falls below the seven-day, two-year low-flow, whichever is larger. For purposes of the permitting process, the regulatory low flow shall be the larger of one (1) cubic foot per second or the seven-day, two-year low flow; and
    - (ii) To streams listed as ephemeral in Appendix A.
  - (B) Procedures to implement these narrative criteria are found in OAC 785:46 Subchapter 3.
  - (C) Toxicants for which there are specific numerical criteria are listed in Table 2 of Appendix G of this Chapter.
  - (D) For toxicants not specified in Table 2 of Appendix G of this Chapter, concentrations of toxic substances with bio-concentration factors of 5 or less shall not exceed 0.1 of published LC50 value(s) for sensitive representative species using standard testing methods, giving consideration to site specific water quality characteristics.
  - (E) Concentrations of toxic substances with bio-concentration factors greater than 5 shall not exceed 0.01 of published LC50 value(s) for sensitive

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representative species using standard testing methods, giving consideration to site specific water quality characteristics.

(F) Permit limits to prevent toxicity caused by discharge of chlorine and ammonia are determined pursuant to the narrative criteria contained within (A) and (B) of this paragraph.

(G) The acute and chronic numerical criteria listed in the "Fish and Wildlife Propagation" column in Table 2 of Appendix G of this Chapter apply to all waters of the state designed with any of the beneficial use sub-categories of Fish and Wildlife Propagation. The numerical criteria which prohibit acute toxicity apply outside the acute regulatory mixing zone.

(i) The numerical criteria specified in Table 2 of Appendix G which prohibit chronic toxicity shall apply at all times outside the chronic regulatory mixing zone and within the zone of passage to all waters of the state except:

(I) When a discharge into surface waters designated with the Fish and Wildlife Propagation beneficial use complies with and meets the discharge permit limitations but the flow immediately upstream from the discharge is less than one (1) cubic foot per second or when the flow falls below the seven-day, two-year low-flow, whichever is larger. For purposes of the permitting process, the regulatory low flow shall be the larger of one (1) cubic foot per second or the seven-day, two-year low flow; and

(II) To streams listed as ephemeral in Appendix A.

(ii) Equations are presented in Table 2 of Appendix G for those substances whose toxicity varies with water chemistry. Metals listed in Table 2 of Appendix G are measured as total metals in the water column.

(H) For purposes of assessment per OAC 785:46-15-5, criteria for dissolved metals identified in Table 3 of Appendix G of this Chapter may be ascertained and implemented as an alternative to the total recoverable metals criteria set forth in Table 2 of Appendix G. Such dissolved metals criteria may be determined by multiplying the total recoverable numerical criteria in OAC 785:45 Appendix G, Table 2 by the conversion factors identified in Table 3 of Appendix G.

### (7) **Turbidity.**

(A) Turbidity from other than natural sources shall be restricted to not exceed the following numerical limits:

(i) Cool Water Aquatic Community/Trout Fisheries: 10 NTUs;

(ii) Lakes: 25 NTUs; and

(iii) Other surface waters: 50 NTUs.

(B) In waters where background turbidity exceeds these values, turbidity from point sources shall be restricted to not exceed ambient levels.

(C) Numerical criteria listed in (A) of this paragraph apply only to seasonal base flow conditions.

(D) Elevated turbidity levels may be expected during, and for several days after, a runoff event.

(8) Sediments. Concentrations or loads of suspended or bedded sediments that are caused by human activity shall not impair the Fish and Wildlife Propagation use or any subcategory thereof.

### **785:45-5-13. Agriculture**

(a) General. The surface waters of the State shall be maintained so that toxicity does not inhibit continued ingestion by livestock or irrigation of crops.

(b) Definitions. The following words and terms, when used in this Section, shall have the following meaning unless the context clearly indicates otherwise:

(1) "**Long term average concentration**" means the arithmetic mean of at least ten samples taken across at least twelve months.

(2) "**Short term average concentration**" means the arithmetic mean of all samples taken during any 30-day period.

(c) **Subcategories of the Agriculture beneficial use.**

(1) The narrative and numerical criteria stated or referenced in this section and in Appendix F of this chapter are designed to maintain and protect the beneficial use classification of "Agriculture". This classification encompasses two subcategories which are capable of sustaining different agricultural applications. These subcategories are Irrigation Agriculture and Livestock Agriculture.

(2) Irrigation Agriculture means a subcategory of the Agriculture beneficial use requiring water quality conditions that are dictated by individual crop tolerances.

(3) Livestock Agriculture is a subcategory of the Agriculture beneficial use requiring much less stringent protection than crop irrigation.

(4) If a waterbody is designated in Appendix A of this Chapter with the Agriculture beneficial use but does not have a designation of a subcategory thereof, the criteria for Irrigation Agriculture shall be applicable.

(d) **Highly saline water.** Highly saline water should be used with best management practices as outlined in "Diagnosis and Reclamation of Saline Soils," United States Department of Agriculture Handbook No. 60 (1958).

(e) **General criteria for the protection of Irrigation Agriculture.** This subsection prescribes general criteria to protect the Irrigation Agriculture subcategory. For chlorides, sulfates and total dissolved solids at 180°C (see Standard Methods), the arithmetic mean of the concentration of the samples taken for a year in a particular segment shall not exceed the historical "yearly mean standard" determined from the table in Appendix F of this Chapter. For permitting purposes, the long term average concentration shall not exceed the yearly mean standard. Yearly mean standards shall be implemented by the permitting authority using the greater of 1.47 cfs or long term average flows and complete mixing of effluent and receiving water. For permitting purposes, the short term average concentration shall not exceed the sample standard. Sample standards shall

be implemented by the permitting authority using the greater of 1.0 cfs or short term average flows and complete mixing of effluent and receiving water. The data from sampling stations in each segment are averaged, and the mean chloride, sulfate, and total dissolved solids at 180°C are presented in Appendix F of this Chapter. Segment averages shall be used unless more appropriate data are available.

(f) **Historic concentrations.** The table in Appendix F of this Chapter contains statistical values from historical water quality data of mineral constituents. In cases where mineral content varies within a segment, the most pertinent data available should be used.

(g) **Criteria to protect Irrigation Agriculture subcategory.** For the purpose of protecting the Irrigation Agriculture subcategory, neither long term average concentrations nor short term average concentrations of minerals shall be required to be less than 700 mg/L for TDS, nor less than 250 mg/L for either chlorides or sulfates.

(h) **Criteria to protect Livestock Agriculture subcategory.** For the purpose of protecting the Livestock Agriculture subcategory, neither long term average concentrations nor short term average concentrations of minerals shall be required to be less than 2500 mg/L for TDS.

(i) **Support tests.** For purposes of assessment, listing and reporting under sections 303(d) and 305(b) of the federal Clean Water Act as amended, the procedure for determining use support of the Agriculture beneficial use or any subcategory thereof with respect to TDS, chlorides and sulfates shall be as follows:

(1) The Agriculture beneficial use designated for a waterbody shall be deemed to be fully supported with respect to TDS or chlorides or sulfates if both the mean of all sample concentrations calculated for that parameter from that waterbody do not exceed the yearly mean standard prescribed in OAC 785:45 Appendix F or site specific criteria prescribed in OAC 785:45 Appendix E, and no more than 10% of the sample concentrations from that waterbody exceed the sample standard prescribed in OAC 785:45 Appendix F or site specific criteria prescribed in OAC 785:45 Appendix E.

(2) The Agriculture beneficial use designated for a waterbody shall be deemed to be not supported with respect to TDS or chlorides or sulfates if either the mean of all sample concentrations calculated for that parameter from that waterbody exceeds the yearly mean standard prescribed in OAC 785:45 Appendix F or site specific criteria prescribed in OAC 785:45 Appendix E, or greater than 10% of the sample concentrations from that waterbody exceed the sample standard prescribed in Appendix F or site specific criteria prescribed in OAC 785:45 Appendix E. Provided, if the sample concentrations are each less than 700 mg/L for TDS, or less than 250 mg/L for either chlorides or sulfates, then the Agriculture beneficial use shall be deemed to be fully supported for that parameter.

**785:45-5-19. Aesthetics**

(a) To be aesthetically enjoyable, the surface waters of the state must be free from floating materials and suspended substances that produce objectionable color and turbidity.

(b) The water must also be free from noxious odors and tastes, from materials that settle to form objectionable deposits, and discharges that produce undesirable effects or are a nuisance to aquatic life.

(c) The following criteria apply to protect this use:

(1) **Color.** Surface waters of the state shall be virtually free from all coloring materials which produce an aesthetically unpleasant appearance. ~~For permitting purposes, color producing substances, from other than natural sources, shall be limited to concentrations equivalent to 70 Platinum-cobalt true color units.~~

(2) **Nutrients; numerical criterion applicable to waters designated Scenic Rivers.** The thirty (30) day geometric mean total phosphorus concentration in waters designated "Scenic River" in Appendix A of this Chapter shall not exceed 0.037 mg/L. The criterion stated in this subparagraph applies in addition to, and shall be construed so as to be consistent with, any other provision of this Chapter which may be applicable to such waters. Such criterion became effective July 1, 2002 and shall be implemented as authorized by state law through Water Quality Standards Implementation Plans and other rules, permits, settlement agreements, consent orders, compliance orders, compliance schedules or voluntary measures designed to achieve full compliance with the criterion in the stream by June 30, 2012.

**785:45-5-20. Fish consumption**

(a) **General.** The surface waters of the state shall be maintained so that toxicity does not inhibit ingestion of fish and shellfish by humans. The numerical criteria and values for substances listed in the column "Fish Consumption" in Table 2 of Appendix G of this Chapter shall apply to surface waters designated as Warm Water Aquatic Community, Cool Water Aquatic Community, or Trout Fishery.

(b) **Water column criteria to protect for the consumption of fish flesh.** The water column numerical criteria (total recoverable) identified in the "Fish Consumption" column in Table 2 of Appendix G protect human health for the consumption of fish, shellfish and aquatic life. Water column numerical criteria to protect human health for human consumption of fish flesh are considered long term average standards. For purposes of permitting discharges for attainment of these standards, the permitting authority shall use long term average receiving stream flows and complete mixing of effluent and receiving water to determine appropriate permit limits.

(c) **Fish tissue levels.** Surface waters of the state shall be maintained to prevent bio-concentration of toxic substances in fish, shellfish, or other aquatic organisms to levels that become a risk to human health.

## APPENDIX A. DESIGNATED BENEFICIAL USES OF SURFACE WATERS [REVOKED]

## APPENDIX A. DESIGNATED BENEFICIAL USES OF SURFACE WATERS [NEW]

(a) **Introduction.** The Tables in the following Appendices A.1 through A.7 identify certain waterbodies throughout the state of Oklahoma and designate beneficial uses for those waterbodies. The waterbodies are identified by their name (e.g., "Horse Creek") or other description (e.g., "Tributary of Lebos Creek at Sec. 2, T2N, R 26W, IM", "Red River from the Arkansas State Line to the Kiamichi River") and a Waterbody ID Number. The Waterbody ID numbers are used in the State of Oklahoma "Water Quality Assessment Integrated Report" published by the Oklahoma Department of Environmental Quality. The first digit of the Waterbody ID number indicates the basin number; the next three digits indicate the major drainage segment within that basin; the next two digits indicate the subdivision of the major drainage segment, the next two digits indicate a smaller section of that six digit basin, and the last four digits represent a hydrologic sequence of waterbodies, going from the most downstream point in the eight-digit watershed up to the furthest upstream point in the watershed. In some cases, two additional digits are added to indicate further delineations within the waterbody segment. Not all waterbodies have a Waterbody ID number, primarily due to limited resources and need. Where a specific Waterbody ID has not been assigned, the six-digit Water Quality Management Segment is listed until such time as the waterbody is assigned a specific Waterbody ID number. The Tables in Appendices A.1 through A.7 also set forth columns to show the beneficial uses or subcategories of uses which are designated for each identified waterbody.

(b) **Beneficial Use designations.** Designations of beneficial uses for a waterbody are reflected in the Tables in Appendices A.1 through A.7 by the presence of the following codes or a dot ("•") in the columns to the right of the waterbody name. An empty space in a column means that column's beneficial use or subcategory thereof is not designated for that waterbody.

- (1) EWS - Emergency Water Supply beneficial use
- (2) PPWS - Public and Private Water Supply beneficial use
- (3) F&W Prop. - Fish and Wildlife Propagation beneficial use
  - (A) WWAC - Warm Water Aquatic Community subcategory
  - (B) HLAC - Habitat Limited Aquatic Community subcategory
  - (C) CWAC - Cool Water Aquatic Community subcategory
  - (D) Trout - Trout Fishery (put and take) subcategory
- (4) Ag - Agriculture beneficial use
- (5) Rec - Recreation beneficial use
  - (A) PBCR - Primary Body Contact beneficial use
  - (B) SBCR - Secondary Body Contact beneficial use
- (6) Nav - Navigation beneficial use
- (7) Aes - Aesthetics beneficial use

A dot ("•") used in a column indicates that the beneficial use in that column's heading is designated for that waterbody without a more specific subcategory or other designation. The criteria to protect the beneficial uses are provided in Subchapter 5 and Appendix G of this Chapter.

(c) **Limitations for Additional Protection.**

- (1) Limitations for additional protection are described in 785:45-5-25.
- (2) Waterbodies that are subject to limitations for additional protection in 785:45-5-25 are identified by the designation of any of the following codes in the "Limitations" column to the right of the waterbody's name:

- (A) "ORW" - indicates waters designated Outstanding Resource Waters;
- (B) "HQW" - indicates waters designated High Quality Waters; and
- (C) "SWS" - indicates waters designated Sensitive Public and Private Water Supplies.

(d) **Remarks used in Appendices A.1 through A.7.** The presence of any of the following footnotes in the "Remarks" column to the right of a waterbody's name denotes special circumstances which are applicable to that waterbody.

(1) A footnote (1) designates those streams for which further investigations are pending. Beneficial use designations for those streams are provided in Subchapter 5 of this Chapter.

(2) A footnote (2) indicates that criteria for the beneficial use of Primary Body Contact Recreation apply regardless of the recreation use designated.

(3) A footnote (3) excludes the Scenic River designation from that portion of Lee Creek necessary for a dam to be built in the State of Arkansas with a crest elevation of no more than the 420 foot MSL elevation according to plans, specifications and conditions contained in U.S. Army Corps of Engineer Permit WD-050-03-3541 and in the Federal Energy Regulatory Commission License for Project No. 5251-002, which were approved by the U.S. Environmental Protection Agency. Changes in water quality caused by the impoundment of water by said dam shall not constitute a violation of Oklahoma's Water Quality Standards.

(4) The remark "CSW" designates those waters identified as Culturally Significant Waters.

(5) The remark "NLW" designates a nutrient-limited watershed. Specific delineations of nutrient-limited watersheds are provided in 785:45-5-29.

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## APPENDIX A.1. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 1, MIDDLE ARKANSAS RIVER [REVOKED]

## APPENDIX A.1. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 1, MIDDLE ARKANSAS RIVER [NEW]

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Arkansas River from mouth of Canadian River to the mouth of the Verdigris River including Webbers Falls Reservoir	120400010260, 120400010010, 120400010070, 121500010005	EWS	WWAC	•	PBCR	•	•		
Dirty Creek	120400020010	PPWS	WWAC	•	PBCR		•		
Tributary of Dirty Creek at SW 1/4, Sec. 31, T12N, R21E, IM	120400020015_00		HLAC	•	SBCR		•		
South Fork of Dirty Creek	120400020030		WWAC	•	PBCR		•		
East Pourum Creek at NE SE SE, Sec. 2, T10N, R19E, IM	120400020060		HLAC	•	SBCR		•		
Georges Fork	120400020110	EWS	WWAC	•	PBCR		•		
Tributary of Georges Fork at SE 1/4, Sec. 35, T12N, R19E, IM (Howland Creek)	120400020120_00	EWS	HLAC	•	SBCR		•		
Warner (Cohnors) Lake	120400020140	PPWS	WWAC	•	PBCR		•		
Tributary of Dirty Creek at SE 1/4, Sec. 1, T12N, R18E, IM	120400020250		WWAC	•	PBCR		•		
Lower Illinois River from headwater of Robert S. Kerr Reservoir to Tenkiller Dam	121700010010	PPWS	Trout	•	PBCR	•	•	HQW	
Upper Illinois River from Tenkiller Dam, including Tenkiller Lake upstream to Barren Fork confluence	121700020300_00, 121700020020, 121700020220	PPWS	CWAC	•	PBCR		•	HQW	NLW

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Cato Creek	121700020090	PPWS	WWAC	•	PBCR		•		
Terrapin Creek	121700020130	PPWS	WWAC	•	PBCR		•		
Caney Creek	121700040010, 121700040020	PPWS	CWAC	•	PBCR		•		
Negro Jake (Hollow) Creek	121700020270		CWAC	•	PBCR		•		
Park Hill Branch			WWAC	•	PBCR		•		
Barren Fork from mouth upstream to Hwy. 59	121700020310, 121700050010, 121700050170_00	PPWS	CWAC	•	PBCR		•	ORW	Scenic River
North Mining Camp (Hollow) Creek	121700050040		CWAC		PBCR		•		
Tyner Creek	121700050090	PPWS	CWAC	•	PBCR		•	ORW	
Dennison Hollow	121700050110	PPWS	CWAC	•	PBCR		•	ORW	
Peachtree Creek	121700050120	PPWS	CWAC	•	PBCR		•	ORW	
Scraper Hollow	121700050130	PPWS	CWAC	•	PBCR		•	ORW	
England Hollow	121700050140	PPWS	CWAC	•	PBCR		•	ORW	
Green Creek	121700050150	PPWS	CWAC	•	PBCR		•	ORW	
Shell Branch	121700050180	PPWS	CWAC	•	PBCR		•	ORW	
(East) Peavine Creek	121700050190		CWAC		PBCR		•		
Barren Fork from Hwy. 59 to Arkansas State Line	121700050170_10	PPWS	CWAC	•	PBCR		•	ORW	
Evansville Creek	121700050200	PPWS	CWAC	•	PBCR		•	ORW	
Upper Illinois River upstream of Barren Fork confluence	121700020300_10, 121700030010, 121700030080, 121700030280, 121700030350	PPWS	CWAC	•	PBCR		•	ORW	Scenic River
Luna (Branch) Creek	121700030260		CWAC		PBCR		•		
Winset Hollow Creek	121700030230	PPWS	WWAC	•	PBCR		•		
Steely Hollow Creek	121700030120		CWAC		PBCR		•		
Tahquah Creek (Town Branch)	121700030020, 121700030040	PPWS	CWAC	•	PBCR		•	ORW	

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Flint Creek	121700030290, 121700060010_00, 121700060010_10	PPWS	CWAC	•	PBCR		•	ORW	Scenic River
Sager Creek	121700060080	PPWS	CWAC	•	PBCR		•	ORW	
Ballard Creek	121700030370	PPWS	CWAC	•	PBCR		•	ORW	
Tributary of Arkansas River at Sec. 7, T12N, R21E, 1M	120400010035_00								
Greenleaf Creek including Greenleaf Lake and Watershed	120400010110, 120400010120, 120400010130, 120400010140, 120400010150, 120400010160, 120400010170, 120400010180, 120400010190, 120400010200	PPWS	WWAC	•	PBCR		•	SWS	
Star (Oxbow) Lake	120400010230		WWAC	•	PBCR		•		
Sand Creek	120400010240		HLAC	•	SBCR		•		
Bayou Manard	120400010280	PPWS	WWAC	•	PBCR		•		
Coody Creek	120400010400	PPWS	WWAC	•	PBCR		•		
Grand River Main Stem (Grand Neosho River) from mouth to Kansas State Line, including Lake Hudson and (Grand) Lake O' the Cherokees but excluding Fort Gibson Lake	121600010010, 121600010040, 121600010280, 121600020010, 121600020020, 121600020140, 121600020170, 121600030020, 121600030030, 121600030040, 121600040010, 121600040120, 121600040220	PPWS	WWAC	•	PBCR		•		NLW
Fort Gibson Lake	121600010050, 121600010200	PPWS	WWAC	•	PBCR		•		
Ranger Creek	121600010060	PPWS	WWAC	•	PBCR		•		
Fourteen Mile Creek	121600010100	PPWS	CWAC	•	PBCR		•	HQW	
Black Bird Creek	121600010130	PPWS	CWAC	•	PBCR		•		
Double Springs Creek	121600010090	PPWS	WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Clear Creek	121600010210	PPWS	CWAC	•	PBCR		•		
Spring Creek	121600010290	PPWS	CWAC	•	PBCR		•	HQW	
Snake Creek	121600010330		CWAC	•	PBCR		•	HQW	
Little Spring Creek	121600010340	PPWS	CWAC	•	PBCR		•	HQW	
Double Spring Creek	121600010390	PPWS	CWAC	•	PBCR		•		
Chouteau Creek	121600010430	PPWS	WWAC	•	PBCR		•		
Tributary of Chouteau Creek at SE 1/4, Sec. 13, T20N, R18E, IM	121600010435_00		WWAC	•	SBCR		•		
Tributary of Chouteau Creek at SE 1/4, Sec. 29, T20N, R19E, IM	121600010432_00		HLAC	•	SBCR		•		
Pryor Creek downstream from the road crossing in Sec. 30, T21N, R19E, IM	1216100000010, 1216100000050_00		WWAC	•	PBCR		•		
Pryor Creek upstream from the road crossing in Sec. 30, T21N, R19E, IM to the road crossing in Sec. 12, T21N, R18E, IM	1216100000050_10	PPWS	WWAC	•	PBCR		•		
Pryor Creek upstream from the road crossing in Sec. 12, T21N, R18E, IM	1216100000090_00, 1216100000090_10		WWAC	•	SBCR		•		
Critchfield Branch	121600010440		WWAC	•	PBCR		•		
W.R. Holway Reservoir	121600020050	PPWS	WWAC	•	PBCR		•		
Saline Creek	121600020030	PPWS	CWAC	•	PBCR		•		
Little Saline Creek	121600020070	PPWS	CWAC	•	PBCR		•		
Horse Creek	121600030160	EWS	WWAC	•	PBCR		•		
Little Horse Creek	121600030190		WWAC	•	PBCR		•		
Spavinaw Creek below Spavinaw Lake dam	121600020150_00	PPWS	CWAC	•	PBCR		•		
Spavinaw Lake and watershed upstream of Spavinaw Lake dam	121600050020, 121600050030, 121600050040, 121600050050, 121600050060,	PPWS	CWAC	•	PBCR		•	SWS	NLW

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Eucha Lake and watershed	121600050060, 121600050070,	PPWS	CWAC	•	PBCR		•	SWS	NLW
	121600050080, 121600050090,								
	121600050100, 121600050110,								
	121600050120, 121600050130,								
	121600050150, 121600050170,								
	121600050180, 121600050190,								
	121600050200, 121600050210,								
	121600050220								
	121600050140	PPWS	CWAC	•	PBCR		•	HQW	
	121600050160	PPWS	CWAC	•	PBCR		•	HQW	
121600020180	PPWS	WWAC	•	PBCR		•			
121600020190, 121600060010,	PPWS	WWAC	•	PBCR		•			
121600060060, 00									
121600060040		WWAC	•	PBCR		•			
121600060060, 10,		WWAC	•	SBCR		•			
121600060220,									
121600060300, 00									
121600060080		WWAC	•	PBCR		•			
121600060200		WWAC	•	PBCR		•			
121600060300, 10		WWAC	•	PBCR		•			
121600030090		PPWS	CWAC	•	PBCR		•		
121600030120, 00			HILAC	•	SBCR		•		
Tributary of Muskrat Creek (Hollow) in Sec. 36, T23N, R 23E, 1M (Jay Creek)									
Honey Creek	121600030445	PPWS	CWAC	•	PBCR		•	HQW	
Elm Creek	121600030310	PPWS	CWAC	•	PBCR		•		
Whitewater Creek	121600030320	PPWS	CWAC	•	PBCR		•		
Cave Springs Branch	121600030340	PPWS	CWAC	•	PBCR		•	HQW	
Elk River	121600030440	PPWS	CWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
(Council) Hollow Creek	121600030490	PPWS	CWAC	•	PBCR		•		
Sycamore Creek	121600030510	PPWS	CWAC	•	PBCR		•		
Brush Creek	121600030520	PPWS	CWAC	•	PBCR		•		
Lost Creek	121600030560	PPWS	CWAC	•	PBCR		•		
Spring River	121600070010	PPWS	CWAC	•	PBCR		•		
Shawnee Branch	121600070020	PPWS	CWAC	•	PBCR		•		
Flint Branch	121600070040	PPWS	CWAC	•	PBCR		•		
Warren Branch	121600070050	PPWS	CWAC	•	PBCR		•	HOW	
Devil's Hollow	121600070070	PPWS	CWAC	•	PBCR		•		
Five Mile Creek	121600070110	PPWS	CWAC	•	PBCR		•		
Hudson Creek	121600040040		WWAC	•	PBCR		•		
Tributary of Hudson Creek at SE 1/4, Sec. 30, T27N, R23E, IM	121600040043_00		HLAC	•	SBCR		•		
Tar Creek	121600040060		HLAC		SBCR				
Verdigis River from its mouth to Oologah Lake Dam	121500010010, 121500010060, 121500010200, 121500020010, 121500020120, 121500020260, 121500030010_00, 121500030010_10	PPWS	WWAC	•	PBCR	•	•		
Tributary of Verdigris River at SW 1/4, Sec. 20, T16N, R19E, IM(Okay Creek)	121500010280		HLAC	•	SBCR		•		
Coal Creek (near Wagoner)	121500010100	PPWS	WWAC	•	PBCR		•		
Tributary of Verdigris River at SE 1/4, Sec. 34, T17N, R17E, IM(Strawberry Creek)	121500010170		HLAC	•	SBCR		•		
Coal Creek	121500010270	PPWS	WWAC	•	PBCR		•		
Inola Creek	121500020110		WWAC	•	PBCR		•		
Pea Creek	121500020100		WWAC	•	PBCR		•		
Adams Creek	121500020150	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Salt Creek	121500020270		WWAC	•	SBCR		•		
Tributary of Salt Creek at NW 1/4, Sec. 1, T19N, R15E, IM	121500020275_00		HLAC	•	SBCR		•		
Dog Creek downstream from Lake Claremore	121500020360, 121500040010	PPWS	WWAC	•	PBCR		•		
Cat Creek	121500020390	EWS	WWAC	•	PBCR		•		
Tributary of Cat Creek at NW 1/4, Sec. 21, T21N, R16E, IM	121500	EWS	HLAC	•	SBCR		•		
Lake Claremore and Watershed	121500040010, 121500040020, 121500040030	PPWS	WWAC	•	PBCR		•	SWS	NLW
Chambers Creek	121500	EWS	HLAC	•	SBCR		•		
Mossy Creek	121500020430	EWS	HLAC	•	SBCR		•		
Spunky Creek	121500020480, 121500020470		WWAC	•	PBCR		•		
Tributary of Spunky Creek at Sec. 6, T19N, R15E	121500020500_00		HLAC	•	SBCR		•		
Tributary of Verdigris River at Sec. 28, T20N, R15E, IM	121500020465_00		HLAC	•	SBCR		•		
Bird Creek	121300010010, 121300020010, 121300030010	PPWS	WWAC	•	PBCR		•		
Mingo Creek	121300010030	EWS	WWAC	•	PBCR		•		
Unnamed tributary of Mingo Creek	121300010035_00	EWS	HLAC	•	SBCR		•		
Elm Creek	121300010020		WWAC	•	PBCR		•		
Owasso Creek	121300010055_00		HLAC	•	SBCR		•		
Tributary of Owasso Creek at SE1/4, Sec. 31, T21N, R14E, IM	121300010057_00		HLAC	•	SBCR		•		
Ranch Creek	121300010060		WWAC	•	PBCR		•		
Lake Yahola and Watershed	121300010130	PPWS	WWAC	•	PBCR		•	SWS	
Flat Rock Creek	121300010120		WWAC	•	SBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Tributary of Flat Rock Creek at SE 1/4, Sec. 18, T20N, R13E, IM (Dirty Butter Creek)	121300010140		HLAC	•	SBCR		•		
Delaware Creek	121300010150	PPWS	WWAC	•	PBCR		•		
Hominy Creek downstream from Skiatook Lake	121300040010, 121300040070	PPWS	WWAC	•	PBCR		•		
Hominy Creek upstream from and including Skiatook Lake	121300040070, 121300040080, 121300040280	PPWS	WWAC	•	PBCR		•	SWS	
Claremore Creek	121300040320	PPWS	WWAC	•	PBCR		•		
Hominy Municipal Lake and Watershed	121300040320, 121300040330	PPWS	WWAC	•	PBCR		•	SWS	
Candy Creek	121300020080	PPWS	WWAC	•	PBCR		•		
Pecan Hollow Creek	121300020090	PPWS	WWAC	•	PBCR		•	SWS	
Avant Public Utility Lake	121300020100	PPWS	WWAC	•	PBCR		•		
Waxoma Lake	121300020190	PPWS	WWAC	•	PBCR		•		
Tributary of Bird Creek at Sec. 19, T24N, R11E, IM	121300030070_00		HLAC	•	SBCR		•		
Birch Creek downstream from Birch Reservoir	121300030020	PPWS	WWAC	•	PBCR		•		
Birch Reservoir and Watershed	121300030020, 121300030030, 121300030040, 121300030050	PPWS	WWAC	•	PBCR		•	SWS	
Tributary of Birch Creek at Sec. 14, T24N, R9E, IM	121300030055_00		HLAC	•	SBCR		•	SWS	
Clear Creek	121300030200	PPWS	WWAC	•	PBCR		•		
Pawhuska Lake	121300030230	PPWS	WWAC	•	PBCR		•		
Bluestem Lake and Watershed	121300030280, 121300030290, 121300030300, 121300030310	PPWS	WWAC	•	PBCR		•	SWS	
Tributary of Verdigris River at Sec. 11, T21N, R15 E, IM (Keetonville Creek)	121500030050		HLAC	•	SBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Caney River from the mouth to the Kansas State Line	121400010010, 121400020010, 121400030010	PPWS	WWAC	•	PBCR		•		
Hulah Lake and watershed	121400030010, 121400030020, 121400030030, 121400030040, 121400030050, 121400030060, 121400030080, 121400030090, 121400030100, 121400030110, 121400030120, 121400030130, 121400030140, 121400030150, 121400030160, 121400030170, 121400030180, 121400030190, 121400030200	PPWS	WWAC	•	PBCR		•		NLW
Rabb Creek	121400010090	PPWS	WWAC	•	PBCR		•		
Neilie Bly Creek	121400010180	PPWS	WWAC	•	PBCR		•		
Hogshooter Creek	121400010300		WWAC		PBCR		•		
Keeler Creek	121400010320		WWAC	•	PBCR		•		
Tributary of Keeler Creek at NW 1/4 Sec. 19, T25N, R13E, 1M (East Keeler Creek)	121400010322		HLAC	•	SBCR		•		
Sand Creek	121400040010	PPWS	WWAC	•	PBCR		•		
Buck Creek	121400040050	PPWS	WWAC	•	PBCR		•		
Coon Creek	121400020040	PPWS	WWAC	•	PBCR		•		
Deer Creek	121400020050		WWAC	•	PBCR		•		
Lake Hudson on Butler Creek	121400020090	PPWS	WWAC	•	PBCR		•		
Little Caney River including Copan Lake and Watershed	121400020140, 121400050010, 121400050020, 121400050030, 121400050040, 121400050050, 121400050060, 121400050070, 121400050080	PPWS	WWAC	•	PBCR		•	SWS	
Pond Creek	121400030090	PPWS	WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Buck Creek	121400030170	PPWS	WWAC	•	PBCR		•		
Fourmile Creek	121500030070	PPWS	WWAC	•	PBCR		•		
Verdigris River from and including Oologah Lake to the Kansas State Line	121510010010, 121510010020, 121510020010	PPWS	WWAC	•	PBCR	•	•		
Blue Creek	121510010030	PPWS	WWAC	•	PBCR		•		
Spencer Creek including Chelsea Reservoir and Watershed	121510010040, 121510010060	PPWS	WWAC	•	PBCR		•	SWS	
Lightning Creek	121510010130	PPWS	WWAC	•	PBCR		•		
Salt Creek	121510010190	PPWS	WWAC	•	PBCR		•		
Big Creek	121510030010	PPWS	WWAC	•	PBCR		•		
California Creek	121510020050	PPWS	WWAC	•	PBCR		•		
Tributary to Oologah Lake NW 1/4, Sec. 5, T26N, R16E, 1M (Delaware Creek)	121510020060	EWS	HLAC	•	SBCR		•		
Snow Creek	121510020250	PPWS	WWAC	•	PBCR		•		
Onion Creek	121510020340	PPWS	WWAC	•	PBCR		•		
Arkansas River from mouth of Verdigris River to Keystone Dam	120410010010, 120410010080_00, 120410010080_10, 120420010010_00, 120420010010_10, 120420010130	EWS	WWAC	•	SBCR	•	•		(2)
Pecan Creek	120410010030	PPWS	WWAC	•	PBCR		•		
Cloud Creek	120410010100, 120410020010	PPWS	WWAC	•	PBCR		•		
Ash Creek	120410010110	PPWS	WWAC	•	PBCR		•		
Mountain Creek including Bixhoma Lake	120410010180	PPWS	WWAC	•	PBCR		•		
Snake Creek	120410010220	PPWS	WWAC	•	PBCR		•		
Rock Creek	120410030020	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Lake Boren	120410030080	PPWS	WWAC	•	PBCR		•		
Posey Creek	120420010030		WWAC	•	PBCR		•		
Polecat Creek downstream from Heyburn Lake	120420020050_00, 120420020050_10, 120420020290		WWAC	•	PBCR		•		
Coal Creek downstream from Sec. 35, T18N, R12E, IM	120420020030_00	PPWS	WWAC	•	PBCR		•		
Coal Creek upstream from Sec. 35, T18N, R12E, IM	120420020030_10	PPWS	HLAC	•	PBCR		•		
Rock Creek downstream from Sahoma Lake	120420020060, 120420020120		WWAC	•	PBCR		•		
Country Club Lake (Middle Lake)	120420020090	PPWS	WWAC	•	PBCR		•		
Sapulpa Lake	120420020110	PPWS	WWAC	•	PBCR		•		
Childress Creek	120420020160		HLAC	•	SBCR		•		
Jackson Creek	120420020200	PPWS	WWAC	•	PBCR		•		
Little Polecat Creek	120420020260		WWAC	•	SBCR		•		
Sahoma Lake and Watershed	120420020120, 120420020130, 120420020140	PPWS	WWAC	•	PBCR		•	SWS	
Heyburn Lake and Watershed	120420020290, 120420020300, 120420020310, 120420020320, 120420020330, 120420020340, 120420020350, 120420020360, 120420020370, 120420020380, 120420020390, 120420020400, 120420020410	PPWS	WWAC	•	PBCR		•	SWS	
Shell Creek downstream from Shell Lake	120420010230	PPWS	WWAC	•	PBCR		•		
Shell (Creek) Lake and Watershed	120420010230, 120420010240 120420010250, 120420010260, 120420010270	PPWS	WWAC	•	PBCR		•	SWS	

APPENDIX A.2. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 2, LOWER ARKANSAS RIVER BASIN [REVOKED]

APPENDIX A.2. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 2, LOWER ARKANSAS RIVER BASIN [NEW]

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Arkansas River from the Arkansas State Line to the mouth of the Canadian River including R.S. Kerr Reservoir	220200010010, 220200020010, 220200020020	PPWS	WWAC	•	PBCR	•	•		
Lee Creek downstream from the 420 ft. elevation level	220200050010_00	PPWS	CWAC	•	PBCR		•	HQW	HQW
Lee Creek upstream from the 420 ft. elevation level	220200050010_10	PPWS	CWAC	•	PBCR		•	ORW	Scenic River(3)
Webber(s) Creek	220200050020	PPWS	CWAC	•	PBCR		•	ORW	
Briar Creek (Bear Creek)	220200050030	PPWS	CWAC	•	PBCR		•	ORW	
Little Lee Creek	220200050040	PPWS	CWAC	•	PBCR		•	ORW	Scenic River
Jenkins Creek	220200050050	PPWS	CWAC	•	PBCR		•	ORW	
Poteau River downstream from Brazil Creek	220100010010	PPWS	WWAC	•	PBCR		•		
Tributary of Cedar Creek at Sec. 8, T9N, R27E, 1M	220100010030		WWAC	•	PBCR		•		
Holl-Tuska Creek including New Spiro Lake	220100010050	PPWS	WWAC	•	PBCR		•	SWS	NLW
James Fork	220100010070	PPWS	WWAC	•	PBCR		•		
Brazil Creek	220100030010	PPWS	WWAC	•	PBCR		•		
Red Oak Pit	220100	PPWS	WWAC	•	PBCR		•		
Poteau River upstream from Brazil Creek	220100010010, 220100020010_10	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Water Lake and watershed	220100020010, 220100020020, 220100020030, 220100020040, 220100020050, 220100020070, 220100020080, 220100020090, 220100020100, 220100020110, 220100040030, 220100040040, 220100040050, 220100040060, 220100040070, 220100040080, 220100040090, 220100040110, 220100040120, 220100040160, 220100040170, 220100040180	PPWS	WWAC	•	PBCR		•		NLW
Riddle Creek	220100010120		HILAC	•	SBCR		•		
Tributary of Riddle Creek at SE 1/4 Sec. 4, T07N, R26E, IM (Cameron Creek)	220100010130		HILAC	•	SBCR		•		
Sugarcoat Creek	220100010160	PPWS	WWAC	•	PBCR		•		
Morris Creek	220100010170	PPWS	WWAC	•	PBCR		•		
Caston Creek	220100010180	PPWS	WWAC	•	PBCR		•		
Coal Creek	220100010200	EWS	WWAC	•	PBCR		•		
Fourche Maline Creek including Lake Wayne Wallace	220100040010, 220100040020, 220100040150	PPWS	WWAC	•	PBCR		•		
Little Fourche Maline Creek	220100040070	PPWS	WWAC	•	PBCR		•		
Red Oak Creek	220100040050		WWAC		PBCR		•		
Bandy Creek	220100040080		WWAC	•	PBCR		•		
Tributary of Bandy Creek at NE 1/4, Sec. 17, T5N, R19E, IM	220100		WWAC	•	SBCR		•		
Lloyd Church Lake and Watershed	220100040090, 220100040100	PPWS	WWAC	•	PBCR		•	SWS	
Tributary to Bandy Creek (Cunneo Bandy)	220100040090	PPWS	WWAC	•	PCBR		•		
Tributary of Fourche Maline Creek at SE 1/4, Sec. 12, T5N, R19E, IM	220100040110		HILAC	•	SBCR		•		
Coon Creek Lake and Watershed	220100040120, 220100040130	PPWS	WWAC	•	PBCR		•	SWS	

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Lake Wayne Wallace	220100040150	PPWS	WWAC	•	PBCR		•		
Black Fork downstream from Cedar Creek	220100020030, 220100020040	PPWS	WWAC	•	PBCR		•		
Black Fork upstream from Cedar Creek	220100020040	PPWS	CWAC	•	PBCR		•	HQW	
Cedar Creek including Cedar Lake	220100020050, 220100020060	PPWS	WWAC	•	PBCR		•		
Shawnee Creek	220100020070	PPWS	WWAC	•	PBCR		•		
Big Creek	220100020080	PPWS	CWAC	•	PBCR		•		
Tributary of Big Creek at NE 1/4, Sec. 22, T3N, R26E, 1M	220100020090	EWS	WWAC	•	PBCR		•		
Oil Branch	220100020100		WWAC	•	PBCR		•		
Garrison Creek	220200050060	PPWS	WWAC	•	PBCR		•		
Unnamed tributary of Garrison Creek at sect. 18, T11N, R27E, 1M	220200050070_00		HLAC		SBCR		•		
Camp Creek	220200010020	PPWS	CWAC	•	PBCR		•		
Big Skin Bayou Creek	220200010030	PPWS	WWAC	•	PBCR		•		
Muldrow City Lake	220200010025_00	PPWS	WWAC	•	PBCR		•		
Cache Creek	220200010060	PPWS	WWAC	•	PBCR		•		
Onion Creek	220200010100		HLAC	•	SBCR		•		
Sans Bois Creek	220200040010	PPWS	WWAC	•	PBCR		•		
Lake John Wells and Watershed	220200040030	PPWS	WWAC	•	PBCR		•	SWS	
Beaver Creek	220200040060	EWS	WWAC	•	PBCR		•		
Sallisaw Creek downstream from U.S. Hwy. 64	220200030010_10	PPWS	CWAC	•	PBCR		•		
Shiloh(h) Branch	220200030020		WWAC	•	PBCR		•		
Tributary of Shilo Branch at SW 1/4, Sec. 1, T11N, R29E, 1M	220200030035_00		HLAC	•	SBCR		•		
Little Sallisaw Creek (Cedar Creek)	220200020040	PPWS	WWAC	•	PBCR		•		
Sallisaw Creek upstream from U.S. Hwy 64	220200030010_10, 220200030010_20, 220200030010_30	PPWS	CWAC	•	PBCR		•	HQW	
Stillwell City Lake	220200030120	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Brushy Creek downstream from Brushy Creek) Reservoir	220200030030	PPWS	CWAC	•	PBCR		•		
Brushy (Creek) Reservoir and Watershed	220200030030, 220200030040, 220200030050	PPWS	CWAC	•	PBCR		•	SWS	
Greasy Creek	220200030080	PPWS	CWAC	•	PBCR		•		
Vian Creek	220200020130	PPWS	CWAC	•	PBCR		•		
Little Vian Creek	220200020140	PPWS	CWAC	•	PBCR		•		
Canadian River from mouth to Eufaula Lake Dam	220300000010	PPWS	WWAC	•	PBCR	•	•		
Taloka Creek	220300000020	PPWS	WWAC	•	PBCR		•		
Snake Creek	220300000030		WWAC	•	SBCR		•		
Emachaya Creek	220300000040	PPWS	WWAC	•	PBCR		•		
Canadian River including Eufaula Lake (excluding the North Canadian River) to its confluence with Little River	220300010020, 220600040050, 220600010060, 220600010119, 220600050010	PPWS	WWAC	•	PBCR		•		
Mud Creek	220600050060	PPWS	WWAC	•	PBCR		•		
Longtown Creek	220600010070	PPWS	WWAC	•	PBCR		•		
Gibson Creek	220600050020		HLAC	•	SBCR		•		
Tributary of Gibson Creek at NW NW	220600050023_00		HLAC	•	SBCR		•		
Sec. 18, T8N, R16E, 1M									
Gaines Creek	220600040010	PPWS	WWAC	•	PBCR		•		
Coal Creek	220600020010	PPWS	WWAC	•	PBCR		•		
Talawanda Lakes #1 and #2	220600020050, 220600020060	PPWS	WWAC	•	PBCR		•		
Lake McAlester and Watershed	220600020020, 220600020030	PPWS	WWAC	•	PBCR		•	SWS	
Deer Creek	220600020080		WWAC	•	PBCR		•		
Sandy Creek	220600020090		WWAC	•	SBCR		•		
Tributary of Sandy Creek at NW 1/4, Sec. 3, T5N, R14E, 1M	220600020093_00		WWAC	•	SBCR		•		
Tributary of Coal Creek at SW NW SW	220600		HLAC	•	SBCR		•		
Sec. 18, T5N, R12E, 1M									
Ash Creek	220600050040	PPWS	WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Mud Creek	220600050060		WWAC	•	PBCR		•		
Brushy Creek	220600030010	PPWS	WWAC	•	PBCR		•		
Blue Creek	220600030020	PPWS	WWAC	•	PBCR		•		
Peaceable Creek	220600030050	PPWS	WWAC	•	PBCR		•		
Chun Creek upstream from Sec. 15, T4N, R14E, IM	220600030060_10	EWS	WWAC	•	SBCR		•		
Tributary of Chun Creek at SW 1/4, Sec. 16, T4N, R14E, IM	220600030065_00		HLAC	•	SBCR		•		
Chun Creek in and downstream from Sec. 15, T4N, R14E, IM	220600030060_00	EWS	WWAC	•	PBCR		•		
Bull Creek downstream from Brown Lake	220600030080		WWAC	•	PBCR		•		
Brown Lake and Watershed	220600030080, 220600030090	PPWS	WWAC	•	PBCR		•	SWS	
Mill Creek	220600010100_10, 220600010100_20	PPWS	WWAC	•	PCBR		•		
Big Creek	220600010170		WWAC	•	PBCR		•		
Unnamed tributary of Canadian River at SE 1/4, Sec. 22, T6N, R10E, IM	220600010128_00		HLAC	•	SBCR		•		

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## APPENDIX A.3. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 3, UPPER RED RIVER BASIN [REVOKED]

## APPENDIX A.3. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 3, UPPER RED RIVER BASIN [NEW]

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Lake Texoma	311100010020, 311100010030, 311100010080, 310800010011, 310800010050	PPWS	WWAC	•	PBCR		•		
Glasses Creek including Carter Lake	310800010020, 310800010040	PPWS	WWAC	•	PBCR		•		
Tributary at Old Channel Washita, NE 1/4, Sec. 33, T5S, R7E, IM	310800010055_00	EWS	HLAC	•	SBCR		•		
Pennington Creek	310800010120	PPWS	CWAC	•	PBCR		•	HQW	
Spring Creek	310800010160	PPWS	WWAC	•	PBCR		•		
Mill Creek	310800010190	PPWS	WWAC	•	PBCR		•		
Tributary of Three Mile Creek at SW Sec. 7, T2S, R6E, IM to SE Sec. 12, T2S, R4E	310800010205		HLAC	•	SBCR		•		
Washita River upstream from the headwaters of Lake Texoma including Foss Reservoir	310800010010, 310800020010, 310810010010, 310810020010, 310820010010, 310830010010, 310830020010, 310830030010, 310840010010, 310840010020, 310840020010	PPWS	WWAC	•	PBCR		•		
Cool Creek	310800020010	PPWS	WWAC	•	PBCR		•		
Oil Creek	310800010240	PPWS	WWAC	•	PBCR		•		
Caddo Creek	310800030010	PPWS	WWAC	•	PBCR		•		
Sand Creek	310800030020		WWAC	•	PBCR		•		
Unnamed tributary to Caddo Creek	310800030035		HLAC		SBCR		•		
Ardmore City Lake	310800030070		WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Rock Creek downstream from Lake Scott King Dam	310800030100	PPWS	WWAC	•	PBCR		•		
Lake Scott King (Rock Creek Reservoir) including Watershed	310800030110, 310800030120	PPWS	WWAC	•	PBCR		•	SWS	
Lake Jean Neustadt	310800030140	PPWS	WWAC	•	PBCR		•		
Hickory Creek downstream from Mountain Lake	310800030190_00	PPWS	WWAC	•	PBCR		•		
Mountain Lake and Watershed	310800030190, 310800030200, 310800030210	PPWS	WWAC	•	PBCR		•	SWS	
Rock Creek including Lake of the Arbuckles	310800020080, 310800020090, 310800020100, 310800020122	PPWS	WWAC	•	PBCR		•	SWS	
Guy Sandy Creek	310800020130	PPWS	WWAC	•	PBCR		•	HQW	
Falls Creek	310800020140	PPWS	WWAC	•	PBCR		•		
Dry Sandy Creek	310800020150	PPWS	WWAC	•	PBCR		•		
Tributary of Dry Sandy Creek at Sec. 7, T1S, R2E, 1M	310800020152_00		HLAC	•	SBCR		•		
Honey Creek	310800020160	PPWS	WWAC	•	PBCR		•	HQW	
Chigley Sandy Creek	310800020190	PPWS	WWAC	•	PBCR		•		
Wildhorse Creek	310810010020, 310810030010, 310810040010, 310810040140	PPWS	WWAC	•	PBCR		•		
Sandy Creek	3108100030020	PPWS	WWAC	•	PBCR		•		
Rock Creek	310810030040	PPWS	WWAC	•	PBCR		•		
Elmore City Lake	310810030060	PPWS	WWAC	•	PBCR		•		
Salt Creek	310810030080	PPWS	WWAC	•	PBCR		•		
Black Bear Creek downstream from Lake Fuqua	310810040030, 310810040040	PPWS	WWAC	•	PBCR		•	SWS	
Lake Fuqua and Watershed	310810040030, 310810040040, 310810040050	PPWS	WWAC	•	PBCR		•	SWS	
Duncan Lake and Watershed	310810040070, 310810040080, 310810040090	PPWS	WWAC	•	PBCR		•	SWS	

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rac	Nav	Aes	Limitations	Remarks
Clear Creek downstream from Clear Creek Lake	310810040130	PPWS	WWAC	•	PBCR		•		
Clear Creek Lake and Watershed	310810040110, 310810040120, 310810040130	PPWS	WWAC	•	PBCR		•	SWS	
Lake Humphreys and Watershed	310810040140, 310810040150, 310810040160	PPWS	WWAC	•	PBCR		•	SWS	
Kickapoo Sandy Creek	310810010050	PPWS	WWAC	•	PBCR		•		
Turkey Sandy Creek	310810010060		WWAC	•	PBCR		•		
Tributary of Turkey Sandy Creek at SE 1/4, Sec. 26, T2N, R1E, IM	310810010062_00		WWAC	•	PBCR		•		
W. Sandy Creek (upper) upstream from Sec. 34, T2N, R1E, IM	310810010065_10		HLAC	•	SBCR		•		
W. Sandy Creek (lower) downstream from Sec. 27, T2N, R1E, IM	310810010065_00		WWAC	•	PBCR		•		
Red Branch	310810010070		WWAC	•	SBCR		•		
Rush Creek downstream from U.S. Hwy. 77 near Pauls Valley	310810010090_00		WWAC	•	SBCR		•		
Rush Creek upstream from U.S. Hwy. 77 near Pauls Valley	310810010090_10, 310810050010		WWAC	•	PBCR		•		
Taylor (Marlow) Lake near Rush Springs	310810050060	PPWS	WWAC	•	PBCR		•		NLW
Cherokee Sandy Creek	310810010100	PPWS	WWAC	•	PBCR		•		
R. C. Longmire Lake	310810010186		WWAC	•	PBCR		•		
Peavine Creek	310810010120	PPWS	WWAC	•	PBCR		•		
Washington Creek	310810010170, 310810010190	PPWS	WWAC	•	PBCR		•		SWS
Pauls Valley Lake and Watershed	310810010170, 310810010180, 310810010190	PPWS	WWAC	•	PBCR		•		
Owl Creek	310810010200		WWAC	•	PBCR		•		
Wiley Post Memorial Lake	310810010220	PPWS	WWAC	•	PBCR		•		
Beef Creek	310810010230	EWS	HLAC	•	SBCR		•		
Tributary of Beef Creek at SE 1/4, Sec. 15, T4N, R2W, IM	310810010232_00	EWS	HLAC	•	SBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Finn Creek	310810020020	PPWS	WWAC	•	PBCR		•		
Criner Creek	310810020050	PPWS	WWAC	•	PBCR		•		
Colbert Creek	310810020160	PPWS	WWAC	•	PBCR		•		
Roaring Creek	310810020170	PPWS	WWAC	•	PBCR		•		
East Roaring Creek	310810020180	PPWS	WWAC	•	PBCR		•		
Lafin Creek	310810020200	PPWS	WWAC	•	PBCR		•		
Winter Creek	310810020220	PPWS	WWAC	•	PBCR		•		
Little Washita River	310820020010	PPWS	WWAC	•	PBCR		•		
Lake Burschi	310800020070		WWAC	•	PBCR		•		
Gladys Creek downstream from U.S. Hwy.	310820020150_00		HLAC	•	SBCR		•		
277 Gladys Creek upstream from U.S. Hwy.	310820020150_10	PPWS	WWAC	•	PBCR		•		
277 Bitter Creek	310820010030	PPWS	WWAC	•	PBCR		•		
East Fork of Bitter Creek	310820010040	PPWS	WWAC	•	PBCR		•		
West Fork of Bitter Creek	310820010060	PPWS	WWAC	•	PBCR		•		
Tributary of Washita River at NE 1/4, Sec. 35, T7N, R7W, 1M	310820		HLAC	•	SBCR		•		
Ionine Creek	310820010160	PPWS	WWAC	•	PBCR		•		
Jack Hollow Creek	310820010170	PPWS	WWAC	•	PBCR		•		
Spring Creek including Lake Chickasha	310830040010, 310830040020	PPWS	WWAC	•	PBCR		•		NLW
Stinking Creek	310830040030	PPWS	WWAC	•	PBCR		•		
Delaware Creek	310830010030		WWAC	•	SBCR		•		
Sugar Creek	310830050010		WWAC	•	SBCR		•		
Tributary of Sugar Creek at NW 1/4, Sec. 29, T11N, R11W, 1M	310830		HLAC	•	SBCR		•		
Cobb Creek downstream from Fort Cobb Reservoir	310830060010	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Fort Cobb Lake and Watershed including Crowder Lake and watershed	310830060010, 310830060020, 310830060030, 310830060040, 310830060050, 310830060060, 310830060070, 310830060080, 310830060090, 310830060100, 310830060110, 310830060120, 310830060130, 310830060140	PPWS	WWAC	•	PBCR		•	SWS	NLW
Lake Creek	310830060040	PPWS	WWAC	•	PBCR		•	SWS	
Sinking Creek	310830020020	PPWS	WWAC	•	PBCR		•		
Fairy Mountain Creek downstream from S.H. 9	310830020060_00		WWAC	•	PBCR		•		
Rainy Mountain Creek upstream from S.H. 9	310830020060_10		WWAC	•	SBCR		•		
Oak Creek	310830020090	PPWS	WWAC	•	PBCR		•		
Lake Vanderwork and watershed	310830020100, 310830020110		WWAC	•	PBCR		•		NLW
Two Baby Creek	310830030060		WWAC	•	PBCR		•		
Cavalry Creek	310830030070	PPWS	WWAC	•	PBCR		•		
South Fork of Cavalry Creek	310830030080		WWAC	•	PBCR		•		
N. Cavalry Creek	310830030090	EWS	HLAC	•	SBCR		•		
Tributary to N. Cavalry Creek at NW 1/4, Sec. 11, T9N, R17W, IM	310830030095_00	EWS	HLAC	•	SBCR		•		
Boggy Creek	310830030100		WWAC	•	PBCR		•		
Beaver Creek	310830030190		WWAC	•	SBCR		•		
Barnitz Creek	310830030200	PPWS	WWAC	•	PBCR		•		
East Barnitz Creek	310830030210	PPWS	WWAC	•	PBCR		•		
West Barnitz Creek	310830030230	PPWS	WWAC	•	PBCR		•		
Turkey Creek downstream from Clinton Lake	310830030260		WWAC	•	PBCR		•		
Clinton Lake	310830030280	PPWS	WWAC	•	PBCR		•	SWS	NLW
Oak Creek	310830030310	PPWS	WWAC	•	PBCR		•		
Panther Creek	310840010050	PPWS	WWAC	•	PBCR		•		
Quartermaster Creek	310840010060	PPWS	WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Tributary of Quartermaster Creek at Sec. 17, T16N, R20W, 1M (North Branch)	310840010080		HLAC	•	SBCR		•		
Hay Creek	310840010100		PPWS WWAC	•	PBCR		•		
White Shield Creek	310840010120		HLAC	•	SBCR		•		
Sandstone Creek	310840020020, 310840020070		PPWS WWAC	•	PBCR		•		
Dead Indian Creek	310840020120		PPWS WWAC	•	PBCR		•		
Sergeant Major Creek	310840020140		PPWS HLAC	•	SBCR		•		
Croton Creek	310840020190		PPWS WWAC	•	PBCR		•		
Rush Creek	310840020210		PPWS WWAC	•	PBCR		•		
Burcombe Creek	311100010070		PPWS WWAC	•	PBCR		•		
Hauani Creek including Hauani Lake	311100010130, 311100010140		PPWS WWAC	•	PBCR		•		
Hickory Creek	311100020010		PPWS WWAC	•	PBCR		•		
Anadarche Creek downstream from Lake Murray	311100020020		PPWS WWAC	•	PBCR		•		
Lake Murray and Watershed	311100020020, 311100020030, 311100020040, 311100020050, 311100020060, 311100020070, 311100020080, 311100020090		PPWS WWAC	•	PBCR		•	SWS	
Fed River from headwaters of Lake Texoma to Cache Creek	311100010190, 311200000010		PPWS WWAC	•	PBCR		•		
Walnut Bayou	311100030010, 311100010250		PPWS WWAC	•	PBCR		•		
Simon Creek	311100030020		PPWS WWAC	•	PBCR		•		
Walnut Creek	311100030070		PPWS WWAC	•	PBCR		•		
Tributary of Walnut Creek at Sec. 28, T4S, R2W, 1M	311100030180_00		HLAC	•	SBCR		•		
Headton Lake	311100030130		PPWS WWAC	•	PBCR		•		
Whiskey Creek	311100030140		HLAC	•	SBCR		•		
Cottonwood Creek	311100030090		PPWS WWAC	•	PBCR		•		
Tributary of Cottonwood Creek at Sec. 28, T4S, R1W, 1M	311100030190_00		HLAC	•	SBCR		•		
Bull Creek	311100030060		HLAC	•	SBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aest	Limitations	Remarks
Mud Creek	311100040010	PPWS	WWAC	•	PBCR		•		
Clear Creek	311100040020	PPWS	WWAC	•	PBCR		•		
North Mud Creek	311100040030	PPWS	HLAC	•	PBCR		•		
Tributary of North Mud Creek at SW 1/4, Sec. 34, T4S, R4W, 1M	311100040035_00		HLAC	•	SBCR		•		
West Mud Creek	311100040200	PPWS	WWAC	•	PBCR		•		
Negro Creek	311100040100	PPWS	WWAC	•	PBCR		•		
Willow Branch	311100040110	PPWS	WWAC	•	PBCR		•		
Crooked Creek	311100040120	PPWS	WWAC	•	PBCR		•		
Dear Creek	311100040130	PPWS	WWAC	•	PBCR		•		
Comanche Lake	311100040170	PPWS	WWAC	•	PBCR		•		
Red Creek	311100010290	PPWS	WWAC	•	PBCR		•		
Fleetwood Creek	311100010300	PPWS	WWAC	•	PBCR		•		
Beaver Creek downstream from Waurika Lake	311200000030, 311200000010	PPWS	WWAC	•	PBCR		•		
Cow Creek	311200000060	EWS	WWAC	•	PBCR		•		
Dry Creek	311200000080	PPWS	WWAC	•	PBCR		•		
Cotton Creek	311200000090	PPWS	WWAC	•	PBCR		•		
Clarity (Clarity) Creek	311200000110	EWS	WWAC	•	PBCR		•		
East Cow Creek	311200000100	EWS	HLAC	•	SBCR		•		
Tributary of East Cow Creek SW 1/4, Sec. 15, T1S, R7W, 1M	311200000160_00	EWS	HLAC	•	SBCR		•		
Beaver Creek upstream from and including Waurika Lake	311210000010, 311210000020	PPWS	WWAC	•	PBCR		•	SWS	
Walker Creek	311210000030	PPWS	WWAC	•	PBCR		•	SWS	
Little Beaver Creek	311210000050	PPWS	WWAC	•	PBCR		•	SWS	
Stage Stand Creek	311210000060	PPWS	WWAC	•	PBCR		•	SWS	
Hell Creek	311210000080	PPWS	WWAC	•	PBCR		•	SWS	
Ninemile Beaver Creek	311210000130	PPWS	WWAC	•	PBCR		•		
Cache Creek	311300010010	PPWS	WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aest	Limitations	Remarks
West Cache Creek downstream from Panther Creek	311310020010, 311310020020, 311310020140	PPWS	WWAC	•	PBCR		•		
Deep Red Creek including Lake Fredrick	311310030010, 311310030110, 311310030120	PPWS	WWAC	•	PBCR		•		
Pecan Creek	311310020030	PPWS	WWAC	•	PBCR		•		
Little Deep Red Creek	311310030040	PPWS	WWAC	•	PBCR		•		
Jack Creek	311310030030	PPWS	WWAC	•	PBCR		•		
East Jack Creek	311310030070	PPWS	WWAC	•	PBCR		•		
Horse Creek	311310030080	PPWS	WWAC	•	PBCR		•		
Deadman Creek	311310030090	PPWS	WWAC	•	PBCR		•		
Blue Beaver Creek	311310020050, 311310020060	PPWS	WWAC	•	PBCR		•		
Post Oak Creek	311310020070	PPWS	WWAC	•	PBCR		•		
Crater Creek	311310020100	PPWS	WWAC	•	PBCR		•	HQW	
Panther Creek	311310020150	PPWS	WWAC	•	PBCR		•	HQW	
West Cache Creek upstream from Panther Creek	311310020140	PPWS	WWAC	•	PBCR		•	HQW	
East Cache Creek downstream from Lake Ellsworth	311300010020, 311300020010	PPWS	WWAC	•	PBCR		•		
Temple Lake (Mooney) and Watershed	311300010040, 311300010050	PPWS	WWAC	•	PBCR		•	SWS	
Walters Lake (Dave Boyer Lake) and Watershed	311300010070, 311300010080	PPWS	WWAC	•	PBCR		•	SWS	
Ninemile Creek	311300020030		WWAC	•	PBCR		•		
Tributary to Ninemile Creek within Sec. 23, T 1 N, R 11 W1M including Comanche Lake	311300020032_00		WWAC		PBCR		•		
Wolf Creek	311300020040	PPWS	WWAC	•	PBCR		•		
Medicine Creek downstream from Lake Lawtonka	311300040010, 311300040060	PPWS	WWAC	•	PBCR		•		
Elmer Thomas Lake and Watershed	311300040040, 311300040050	PPWS	WWAC	•	PBCR		•	SWS	

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Lake Lawtonka and Watershed	311300040060, 311300040070, 311300040080, 311300040090, 311300040100, 311300040110, 311300040120, 311300040130, 311300040140, 311300040150, 311300040160, 311300040170, 311300040180, 311300040190, 311300040200	PPWS	WWAC	•	PBCR		•	SWS	
Lake Ellsworth and Watershed	311300030010, 311300030020, 311300030030, 311300030040, 311300030050, 311300030060, 311300030070, 311300030080	PPWS	WWAC	•	PBCR		•	SWS	
Red River from Cache Creek to North Fork of the Red River	311310010010	EWS	WWAC	•	PBCR		•		
Rabbit Creek	311310010020	PPWS	WWAC	•	PBCR		•		
Tributary of Red River at Sec. 29, T4S, R13W, 1M	311310010035_00		HLAC	•	SBCR		•		
Blue Creek	311310010040	PPWS	WWAC	•	PBCR		•		
Subtle Creek	311310010070		WWAC	•	SBCR		•		
Tributary of Subtle Creek at SW 1/4, Sec. 20, T3S, R17W, 1M	311310010090_00		HLAC	•	SBCR		•		
North Fork of the Red River including Lugert-Althus Reservoir	311500010020, 311510010010, 311510010020, 311510020010	PPWS	WWAC	•	PBCR		•		
Stinking Creek	311500010050	PPWS	WWAC	•	PBCR		•		
Tributary of Stinking Creek at SE 1/4, Sec. 30, T2N, R19W, 1M	311500010055_00	EWS	HLAC	•	SBCR		•		
Other Creek	311500010080	PPWS	WWAC	•	PBCR		•		
West Otter Creek downstream from Tom Steed Reservoir	311500020040	PPWS	WWAC	•	PBCR		•		
Tom Steed Reservoir (Mountain Park) and Watershed	311500020040, 311500020050, 311500020060, 311500020070	PPWS	WWAC	•	PBCR		•	SWS	
Glan Creek	311500020070	PPWS	WWAC	•	PBCR		•	SWS	
Elk Creek downstream from the confluence with Little Elk Creek	311500030010, 311500030030, 311500030050, 311500030070	PPWS	WWAC	•	PBCR		•		
Elk Creek from headwaters to confluence with Little Elk Creek	311500030030_10		HLAC	•	SBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rac	Nav	Aes	Limitations	Remarks
Little Elk Creek downstream from Lake Hobart	311500030040	PPWS	WWAC	•	PBCR		•		
Hobart (Rocky Hobart) Lake	311500030060	PPWS	WWAC	•	PBCR		•	SWS	NLW
Spring Creek	311500030080	PPWS	WWAC	•	PBCR		•		
Elk City Reservoir	311500030120	PPWS	WWAC	•	PBCR		•		NLW
Elm Fork of the Red River	311800000010	PPWS	WWAC	•	PBCR		•		
Haystack Creek	311800000040	PPWS	WWAC	•	PBCR		•		
Deer Creek	311800000070	PPWS	WWAC	•	PBCR		•		
Fish Creek	311800000130	PPWS	WWAC	•	PBCR		•		
Bull Creek	311800000150	PPWS	WWAC	•	PBCR		•		
North Elm Creek (West Elm Creek)	311800000170	PPWS	WWAC	•	PBCR		•		
Flat Creek	311510010070		WWAC	•	PBCR		•		
Timber Creek	311510010090	PPWS	WWAC	•	PBCR		•		
Sand Creek	311510020040	PPWS	WWAC	•	PBCR		•		
Long Creek	311510020050	PPWS	WWAC	•	PBCR		•		
Turkey Creek	311510020060	PPWS	WWAC	•	PBCR		•		
Stavation Creek	311510020070	PPWS	WWAC	•	PBCR		•		
Buffalo Creek	311510020090	PPWS	WWAC	•	PBCR		•		
Sweetwater Creek	311510020120	PPWS	WWAC	•	PBCR		•		
Red River from confluence of the North Fork of the Red River to Buck Creek	311600010010	EWS	WWAC	•	PBCR		•		
Salt Fork of the Red River to the Texas State Line	311600020010	PPWS	WWAC	•	PBCR		•		
Turkey Creek	311600020060	PPWS	WWAC	•	PBCR		•		
Bitter Creek downstream of the boundary of Sections 3 & 2, T1N, R21W, 1M	311600020110_00	EWS	WWAC	•	SBCR		•		
Bitter Creek upstream of the boundary of Sections 3 & 2, T1N, R21W, 1M	311600020110_05, 311600020110_10	EWS	HLAC	•	SBCR		•		
Gypsum Creek	311600010020	PPWS	WWAC	•	PBCR		•		
Sandy Creek (Lebos)	311600010040	EWS	HLAC	•	SBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aest	Limitations	Remarks
Lebos Creek	311600010060_00		HLAC	•	SBCR		•		
Tributary of Lebos Creek at Sec. 2, T2N, R26W, 1M	311600010065_00		HLAC	•	SBCR		•		
Prairie Dog Town Fork of the Red River from confluence of Buck Creek to 100 degree West Longitude	311600010080	EWS	WWAC	•	PBCR		•		

APPENDIX A.4. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 4, LOWER RED RIVER [REVOKED]

APPENDIX A.4. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 4, LOWER RED RIVER [NEW]

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Fed River from the Arkansas State Line to the Kiamichi River	410100010010	PPWS	WWAC	•	PBCR		•		
Norwood Creek	410100010050	PPWS	WWAC	•	PBCR		•		
Waterhole Creek	410100010340	PPWS	WWAC	•	PBCR		•		
Buzzard Creek	410100010450		WWAC	•	PBCR		•		
Tributary of Buzzard Creek at NW 1/4, Sec. 5, T7S, R22E, 1M (Millerton Trlb)	410100010456_00		HLAC	•	SBCR		•		
Garland Creek	410100010460		WWAC		PBCR				
Tributary of Garland Creek at SE 1/4, Sec. 34, T6S, R21E, 1M (Valiant Creek)	410100010470		HLAC	•	SBCR		•		
Little River from the Arkansas State Line to Pine Creek Dam	410200010010, 410200010200, 410210010010, 410210020010	PPWS	CWAC	•	PBCR		•	HQW	
Rock Creek	410200010220	PPWS	CWAC	•	PBCR		•		
Mountain Fork River downstream from U.S. Hwy 70 bridge	410210040010_00	PPWS	CWAC	•	PBCR		•	HQW	
Mountain Fork River upstream from U.S. Hwy 70 bridge to Broken Bow Dam	410210040010_10, 410210040050, 410210050010	PPWS	Trout	•	PBCR		•	HQW	
Upper Mountain Fork River from Dam including Broken Bow Lake to the 600 foot elevation level	410210050010, 410210050020, 410210060010_00	PPWS	CWAC	•	PBCR		•	SWS	
Egypt Creek	410210050140	PPWS	CWAC	•	PBCR		•	SWS	
Other Creek	410210050190	PPWS	CWAC	•	PBCR		•	SWS	
Panther Creek	410210050360	PPWS	CWAC	•	PBCR		•	ORW	
Buffalo Creek	410210060020	PPWS	CWAC	•	PBCR		•	SWS	

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Big Hudson	410210060030		CWAC		PBCR		•		
Mine Creek	410210060060		CWAC	•	PBCR		•		
Upper Mountain Fork River upstream from the 600 foot elevation level	410210060010_10	PPWS	CWAC	•	PBCR		•	ORW	Scenic River
Baktukio Creek	410210060100	PPWS	CWAC	•	PBCR		•	ORW	
Blue Creek	410210060110	PPWS	CWAC	•	PBCR		•	ORW	
Big Eagle Creek	410210060160	PPWS	CWAC	•	PBCR		•	ORW	
Little Eagle Creek	410210060170	PPWS	CWAC	•	PBCR		•	ORW	
Dry Creek	410210060270		CWAC	•	PBCR		•		
Cucumber Creek	410210060210	PPWS	CWAC	•	PBCR		•	ORW	
Beech Creek	410210060320	PPWS	CWAC	•	PBCR		•	ORW	
Cow Creek	410210060350	PPWS	CWAC	•	PBCR		•	ORW	
Yanubbe Creek	410200010150	PPWS	CWAC	•	PBCR		•		
Tributary of Yanubbe Creek at NE 1/4, Sec. 29, T6S, R25E, IM	410200010155_00		HLAC	•	SBCR		•		
Mud Creek	410200010210	EWS	WWAC	•	SBCR		•		
Tributary of Mud Creek at SE 1/4, Sec. 31, T7S, R24E, IM	410200010218_00		HLAC	•	SBCR		•		
Yashau (Yashoo) Creek	410200010230	PPWS	CWAC	•	PBCR		•		
Lukfata Creek	410210070010	PPWS	CWAC	•	PBCR		•	HQW	
Glover River	410210080010	PPWS	CWAC	•	PBCR		•	HQW	
Cedar Creek	410210080120	PPWS	CWAC	•	PBCR		•	HQW	
Carter Creek	410210080210	PPWS	CWAC	•	PBCR		•	HQW	
Pine Creek	410210080270	PPWS	CWAC	•	PBCR		•	HQW	
West Fork	410210090070	PPWS	CWAC	•	PBCR		•	HQW	
Silver Creek	410210090100		CWAC	•	PBCR		•		
Bluff Creek	410210090160	PPWS	CWAC	•	PBCR		•	HQW	
East Fork	410210090010	PPWS	CWAC	•	PBCR		•	HQW	
Horse Head Creek	410210010060	PPWS	WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Tributary of Horse Head Creek at Sec. 10, T6S, R22E, 1M	410210010065_00		HLAC	•	SBCR		•		
Cypress Creek	410210010070	PPWS	CWAC	•	PBCR		•	HQW	
Little River upstream from and including Pine Creek Lake	410210020010, 410210020140, 410210020020, 410210030010	PPWS	CWAC	•	PBCR		•	HQW	
Pine Creek	410210020030	PPWS	CWAC	•	PBCR		•	HQW	
Terrapin Creek	410210020150	PPWS	CWAC	•	PBCR		•	HQW	
Houston Creek	410210020210	PPWS	CWAC	•	PBCR		•	HQW	
Carney Creek	410210020240	PPWS	CWAC	•	PBCR		•	HQW	
Cloudy Creek	410210020300	PPWS	CWAC	•	PBCR		•	HQW	
Jack Creek	410210020430	PPWS	CWAC	•	PBCR		•	HQW	
Black Fork	410210030020	PPWS	CWAC	•	PBCR		•	HQW	
Red River upstream from the Kiamichi River to the Blue River	410400010010	PPWS	WWAC	•	PBCR		•		
Kiamichi River including Hugo Lake to U.S. Hwy. 271 Bridge near Clayton	410300010010, 410300020010, 410300020020, 410300030010, 00	PPWS	WWAC	•	PBCR		•		
Gates Creek	410300010020, 410300010030	PPWS	CWAC	•	PBCR		•		
Lake Raymond Gary	410300010040		WWAC	•	PBCR		•		
Negro Creek	410300010060		HLAC	•	SBCR		•		
Bird Creek	410300010100	PPWS	WWAC	•	PBCR		•		
Long Creek	410300020080	PPWS	WWAC	•	PBCR		•		
North Fork	410300020060	PPWS	WWAC	•	PBCR		•		
Frazier Creek	410300020130	PPWS	CWAC	•	PBCR		•		
Rock Creek	410300020190	PPWS	CWAC	•	PBCR		•		
Cedar Creek	410300030020	PPWS	CWAC	•	PBCR		•	HQW	
Beaver Creek	410300030200	PPWS	WWAC	•	PBCR		•		
Tennille Creek	410300030270	PPWS	WWAC	•	PBCR		•		
Buck Creek	410300030420	PPWS	WWAC	•	PBCR		•		
Clayton Lake and Watershed	410300030760, 410300030780	PPWS	WWAC	•	PBCR		•	SWS	

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Kiamichi River upstream from U.S. Hwy 271 Bridge near Clayton	410300030010_10, 4103000300570, 410310010010, 410310020010	PPWS	WWAC	•	PBCR		•		
Jackfork Creek including Sandis Lake	410310010020, 410310030020, 410310030100	PPWS	WWAC	•	PBCR		•	SWS	
Buffalo Creek	410310030030	PPWS	WWAC	•	PBCR		•	SWS	
Lake Nanh Waiya	410310010050	PPWS	WWAC	•	PBCR		•		
Rock Creek	410310010170	PPWS	WWAC	•	PBCR		•		NLW
Lake Ozzie Cobb and watershed	410300020190, 410300020220	PPWS	WWAC	•	PBCR		•		
Carl Albert Lake and Watershed	410310010210, 410310010220	PPWS	WWAC	•	PBCR		•	SWS	
Tajihina Lake and Watershed	410310010230	PPWS	WWAC	•	PBCR		•	SWS	
Pigeon Creek	410310020110	PPWS	CWAC	•	PBCR		•		
Horse Creek downstream from the borders of Sections 10 & 15, T7S, R17E, IM	410400010040_00	PPWS	WWAC	•	PBCR		•		
Horse Creek upstream from the borders of Sections 10 & 15, T7S, R17E, IM	410400010040_10		WWAC	•	SBCR		•		
Tributary of Horse Creek at NE 1/4, Sec. 4, T7S, R17E, IM	410400010045_00		HLAC	•	SBCR		•		
Unnamed tributary of Red River at SW SE SE Sec. 22, T7S, R17E, IM	410400010090_00		HLAC	•	SBCR		•		
Muddy Bogy Creek	410400010070, 410400050010, 410400050270, 410400060010	PPWS	WWAC	•	PBCR		•		
Tributary of Muddy Bogy Creek at NW 1/4, Sec. 12, T2S, R11E, IM	410400050495_00		HLAC	•	SBCR		•		
Lick Creek	410400010130	PPWS	WWAC	•	PBCR		•		
Clear Bogy Creek	410400020010, 410400030010, 410400030230, 410400040010	PPWS	WWAC	•	PBCR		•		
Mayhew Creek	410400020020		WWAC	•	PBCR		•		
Unnamed tributary to Mayhew Creek at sect. 7, T6S, R14E, IM (Boswell Creek)	410400020025_00		HLAC		SBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Caney Creek	410400030020	PPWS	WWAC	•	SBCR		•		
Delaware Creek	410400030240	PPWS	WWAC	•	PBCR		•		
Sandy Creek	410400030280	PPWS	WWAC	•	PBCR		•		
Tributary of Sandy Creek at SE 1/4, Sec. 14, T2S, R8E, 1M (Wapanucka Creek)	410400030290		HLAC	•	SBCR		•		
Wide Springs Branch	410400030320	PPWS	WWAC	•	PBCR		•		
Bois D' Arc Creek	410400020160		WWAC		PBCR		•		
(Byrds) Mill Creek	410400040090	PPWS	WWAC	•	PBCR		•		
McGee Creek including McGee Creek Reservoir	410400070010, 410400070020	PPWS	WWAC	•	PBCR		•	SWS	
North Boggy Creek downstream from Atoka Reservoir	410400050410_00	PPWS	WWAC	•	PBCR		•		
Tributary of North Boggy Creek at NW1/4, Sec. 29, T1S, R12E, 1M	410400050415_00		HLAC	•	SBCR		•		
North Boggy Creek upstream from and including Atoka Reservoir	410400080010, 410400080020	PPWS	WWAC	•	PBCR		•	SWS	
Sub Penitentiary Lake (Blue Stem)	410400080060	PPWS	WWAC	•	PBCR		•		
Kiowa City Lake on trib to Buck Creek	410400080200	PPWS	WWAC	•	PBCR		•		
Coal Creek	410400050540	PPWS	WWAC	•	PBCR		•		
Tributary of Brier Creek at Sec. 35, T1N, R10E, 1M	410400050585_00		HLAC	•	SBCR		•		
Caney Creek	410400060020	PPWS	WWAC	•	PBCR		•		
Coon Creek	410400060030	PPWS	WWAC	•	PBCR		•		
Coalgate Reservoir and Watershed	410400060030, 410400060040, 410400060050	PPWS	WWAC	•	PBCR		•	SWS	
Caney Boggy Creek	410400060120	PPWS	WWAC	•	PBCR		•		
Sandy Creek	410400030280	PPWS	WWAC	•	PBCR		•		
Little Sandy Creek	410400060270		HLAC	•	SBCR		•		
Town Branch	410400060310_00		HLAC	•	SBCR		•		
Whitegrass Creek	410400010210	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Blue River downstream from the State Hwy. 48A Bridge	410600010010, 410600010290, 410600020010	PPWS	WWAC	•	PBCR		•		
Tributary of Bokchito Creek at Sec. 22, T6S, R11E, 1M	410600010095		HLAC	•	SBCR		•		
Caddo Creek	410600010140		WWAC	•	PBCR		•		
Mineral Bayou	410600010300	EWS	WWAC	•	PBCR		•		
Little Blue River	410600010340	PPWS	WWAC	•	PBCR		•		
Sandy Creek	410600010250	PPWS	WWAC	•	PBCR		•		
Blue River upstream from State Hwy. 48A Bridge to State Hwy. 7 Bridge	410600020010_10	PPWS	Trout	•	PBCR		•	HQW	
Blue River upstream from State Hwy. 7 Bridge	410700020010_20	PPWS	CWAC	•	PBCR		•	HQW	
Fed River upstream from the Blue River to Lake Texoma Dam	4107000000010	PPWS	WWAC	•	PBCR		•		
Island Bayou	4107000000040	EWS	WWAC	•	SBCR		•		
Sandy Creek	4107000000250	PPWS	WWAC	•	PBCR		•		
Tributary of Sandy Creek at Sec. 20, T8S, R8E, 1M	4107000000250_00		HLAC	•	SBCR		•		

APPENDIX A.5. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 5, CANADIAN RIVER [REVOKED]

APPENDIX A.5. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 5, CANADIAN RIVER [NEW]

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
North Canadian River from Canadian River to S.H. 99 bridge	520500010110_10, 5205100000010, 520510000110_00	PPWS	WWAC	•	PBCR		•		
Deep Fork of Canadian River downstream from Arcadia Lake	520700010120, 520700020010, 520700030010, 520700040010, 520700050010, 520710010010, 520710020010	PPWS	WWAC	•	PBCR		•		
Wolf Creek downstream from Lake Henryetta	520700010130, 520700010170_00		WWAC	•	PBCR		•		
Coal Creek	520700010140	EWS	WWAC	•	SBCR		•		
Henryetta Lake and Watershed	520700010170_10, 520700010180	PPWS	WWAC	•	PBCR		•	SWS	
Moore Creek	520700010190		WWAC	•	PBCR		•		
Burgess Creek at Montezuma Creek NE 1/4, Sec. 8, T12N, R13E, IM	520700010230	EWS	WWAC	•	PBCR		•		
Cussetah (Cossetta) Creek	520700010250		WWAC	•	PBCR		•		
Tributary of Cussetah at NE 1/4, Sec. 12, T13N, R13E, IM	520700010310_00		HILAC	•	SBCR		•		
Salt Creek downstream from Okmulgee Lake	520700020020	PPWS	WWAC	•	PBCR		•		
Dripping Springs Lake	520700020060	PPWS	WWAC	•	PBCR		•		
Okmulgee Lake and Watershed	520700020040, 520700020050, 520700020060	PPWS	WWAC	•	PBCR		•	SWS	
Adams Creek including Beggs Lake	520700020080, 520700020110	PPWS	WWAC		PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Flat Rock Creek	520700020090	PPWS	WWAC	•	PBCR		•		
New Beggs Lake	520700020130	PPWS	WWAC	•	PBCR		•		
Tributary of Adams Creek at NW 1/4, Sec. 5, T14N, R12E, 1M (West Beggs Creek)	520700020100	EWS	WWAC	•	PBCR		•		
Little Deep Fork Creek downstream from Sand Creek	520700060010, 520700060100		WWAC	•	PBCR		•		
Brown's Creek	520700060050	PPWS	WWAC		PBCR		•		
Little Deep Fork Creek upstream from Sand Creek to State Hwy. 48 Bridge	520700060130_00	PPWS	HLAC	•	SBCR		•		
Little Deep Fork Creek upstream from State Hwy. 48 Bridge	520700060130_10	PPWS	WWAC	•	PBCR		•		
Catfish Creek	520700060140	PPWS	WWAC	•	PBCR		•		
Tributary of Little Deep Fork Creek at SE 1/4, Sec. 6, T15N, R8E, 1M	520700060220_00		HLAC	•	SBCR		•		
Niyaka Creek	520700020200	PPWS	WWAC	•	PBCR		•		
Buckeye Creek	520700020270, 520700020280	PPWS	WWAC	•	PBCR		•		
Okemah Lake and Watershed	520700020280, 520700020290, 520700020300	PPWS	WWAC	•	PBCR		•	SWS	
Salt Creek	520700030100	PPWS	WWAC	•	PBCR		•		
Camp Creek downstream from Stroud Lake	520700030220	PPWS	WWAC	•	PBCR		•		
Stroud Lake and Watershed	520700030220, 520700030230, 520700030240	PPWS	WWAC	•	PBCR		•	SWS	
Gray Horse Creek	520700040030		HLAC	•	SBCR		•		
Dry Creek	520700040020	PPWS	WWAC	•	PBCR		•		
Chuckaho Creek	520700040060	PPWS	WWAC	•	PBCR		•		
West Beaver Creek	520700040170		WWAC	•	SBCR		•		
Deer Creek	520700040190	PPWS	WWAC	•	PBCR		•		
Robinson Creek	520700040180	PPWS	WWAC	•	PBCR		•		
Prague Lake	520720040025		WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Quappaw Creek	5207/00040260	PPWS	WWAC	•	PBCR		•		
Sparks City Lake	5207/00040280	PPWS	WWAC	•	PBCR		•		
Meeker Lake and Watershed	5207/00040350, 5207/00040360, 5207/00040370	PPWS	WWAC	•	PBCR		•	SWS	
Bellcow Creek including Bellcow Lake	5207/00050020, 5207/00050030, 5207/20050025	PPWS	WWAC	•	PBCR		•		
Chandler Lake and Watershed	5207/00050050, 5207/00050060, 5207/00050250	PPWS	WWAC	•	PBCR		•	SWS	
Tributary of Bellcow Creek at Sec. 6, T15N, R3E, IM	5207/00050260_00		HLAC	•	SBCR		•		
Kickapoo Creek	5207/00050090	PPWS	WWAC	•	PBCR		•		
East Captain Creek	5207/00050150	PPWS	WWAC	•	PBCR		•		
Bear Creek	5207/00050170	PPWS	WWAC	•	PBCR		•		
Smith Creek	5207/00100200	PPWS	HLAC	•	PBCR		•		
Coon Creek	5207/00100930	PPWS	WWAC	•	PBCR		•		
Coffee Creek downstream from the boundaries of Sec. 22 & 23, T14N, R02W, IM	5207/00100990_10, 5207/001010100	PPWS	HLAC	•	PBCR		•		
Coffee Creek upstream from the boundaries of Sec. 22 & 23, T14N, R02W, IM	5207/10010090_10, 5207/100101000	PPWS	WWAC	•	PBCR		•		
Arcadia Lake and Watershed	5207/10020010, 5207/10020020, 5207/10020030, 5207/10020040, 5207/10020050, 5207/10020060, 5207/10020070, 5207/10020080, 5207/10020090, 5207/10020100, 5207/10020110, 5207/10020120, 5207/10020130, 5207/10020140, 5207/10020150, 5207/10020160	PPWS	WWAC	•	PBCR		•	SWS	
Bad Creek	520500010170	PPWS	WWAC	•	PBCR		•		
Dustin Lake	520500010152	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Alabama Creek	520500010200	PPWS	WWAC	•	PBCR		•		
Waleetka Lake and Watershed	520500010210, 520500010220	PPWS	WWAC	•	PBCR		•	SWS	
Wewoka Creek downstream from the boundaries of Secs. 27 & 28, T9N, R6E, IM	520500020010, 520500020240_00	EWS	WWAC	•	PBCR		•		
Sportsman Lake	520500020220	PPWS	WWAC	•	PBCR		•		
Fish Creek	520500020030	PPWS	WWAC	•	PBCR		•		
Tributary of Wewoka Creek at SE NE SW Sec. 27, T9N, R10E, IM (Wetunka Creek)	520500020035		HLAC	•	SBCR		•		
Graves Creek	520500020060	PPWS	WWAC	•	PBCR		•		
Little Wewoka Creek	520500020090	PPWS	WWAC	•	PBCR		•		
Tributary of Wewoka Creek at Sec. 20, T8N, R8E, IM (Oakwood Cemetery Creek)	520500020280		HLAC	•	SBCR		•		
Wewoka Lake and Watershed	520500020170, 520500020180, 520500020190	PPWS	WWAC	•	PBCR		•	SWS	
Wewoka Creek upstream from the boundaries of Sec. 27 & 28, T9N, R6E, IM	520500020240_10	PPWS	HLAC	•	SBCR		•		
Tributary of Wewoka Creek at NW 1/4, Sec. 16, T9N, R5E, IM	520500020290_00		HLAC	•	SBCR		•		
Tributary of North Canadian River at Sec. 22, T10N, R11E, IM	520500		HLAC	•	SBCR		•		
Lake Wetunka	520500010270	PPWS	WWAC	•	PBCR		•		
Flat Rock Creek	520500010280_00	PPWS	WWAC	•	PBCR		•		
Sand Creek	520510000050		HLAC	•	SBCR		•		
Tributary of Sand Creek at SW 1/4, Sec. 34, T11N, R8E, IM	520510000053_00		HLAC	•	SBCR		•		
Boley Creek	520510000055		HLAC	•	SBCR		•		
Turkey Creek	520510000100	PPWS	WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Tecumseh Lake and Watershed	520510000200, 520510000210, 520510000220	PPWS	WWAC	•	PBCR		•	SWS	
Shan Creek	520510000120		HLAC	•	SBCR		•		
Tributary of Squirrel Creek at SE 1/4 of NW 1/4 of SW 1/4 of Sec. 6, T9N, R4E, IM	520510000390_00		WWAC	•	PBCR		•		
Shawnee Twin Lakes and Watershed	520510000250, 520510000280, 520510000290, 520510000300	PPWS	WWAC	•	PBCR		•	SWS	
North Deer Creek including Wes Watkins Reservoir (N. Deer Creek Lake)	520510000310, 520510000255	PPWS	WWAC	•	PBCR		•		
Tributary of the North Canadian River at NE 1/4, Sec. 36, T12N, R1E, IM	520510000320_00		HLAC	•	SCBR		•		
Horseshoe Lake	520510000330		WWAC		PBCR		•		
North Canadian River from State Hwy. 99 Bridge to Portland Street Bridge, Oklahoma City	520510000110, 520520000010_40	EWS	WWAC	•	PBCR		•		
Choctaw Creek	520520000030	EWS	HLAC	•	SBCR		•		
Tributary of Choctaw Creek at NW 1/4, Sec. 27, T12N, R1W, IM	520520000035_00		HLAC	•	PBCR		•		
Crutcho Creek from North Canadian River to S.E. 15th Street, Del City	520520000070_00		WWAC	•	PBCR		•		
Soldier Creek	520520000080		WWAC	•	PBCR		•		
Tributary of Soldier Creek at NW 1/4, Sec. 13, T11N, R02W, IM	520520000290		WWAC	•	SBCR		•		
Crutcho Creek upstream from S.E. 15th Street, Del City	520520000070_10, 520520000090		HLAC	•	SBCR		•		
Tributary of Crutcho Creek at SW 1/4, Sec. 16, T11N, R2W, IM	520520000190_00		WWAC	•	PBCR		•		
Cherry Creek	520520000110		HLAC	•	SBCR		•		
Crooked Oak Creek	520520000150		PPWS/WWAC	•	PBCR		•		
North Canadian River from Portland Street Bridge to Canton Lake Dam	520520000010_50, 520520000250, 5205300000010	PPWS	WWAC	•	PBCR		•		
Mustang Creek	520520000240		WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Lake Overholser	520520000260	PPWS	WWAC	•	PBCR		•		NLW
Shell Creek	520530000030	PPWS	WWAC	•	PBCR		•		
Purcell Creek	520530000040	PPWS	WWAC	•	PBCR		•		
Six Mile Creek	520530000050	PPWS	WWAC	•	PBCR		•		
Lake El Reno	520530000080		WWAC	•	PBCR		•		
Unnamed tributary of North Canadian River at Sec. 6, T13N, R10W, 1M and NW SE NE 1/4 of Sec. 31, T14N, R10W, 1M	520530000200_00		HLAC	•	SBCR		•		
Minnehaha Creek	520530000190	PPWS	WWAC	•	SBCR		•		
Canadian River from its confluence with Little River to Buckhead Creek	520600010010, 520600020010, 520610010010	PPWS	WWAC	•	PBCR		•		
Little River	520800010010, 520800010090, 520800010130, 520800020010	PPWS	WWAC	•	PBCR		•		
Lake Holdenville and Watershed	520800010030, 520800010040	PPWS	WWAC	•	PBCR		•	SWS	
Bird Creek	520800010050		HLAC	•	SBCR		•		
Tributary of Bird Creek at NW 1/4, Sec. 6, T6N, R9E, 1M	520800010150_00		WWAC	•	SBCR		•		
Salt Creek	520800030010	PPWS	WWAC	•	PBCR		•		
Tributary to Salt Creek at NW SW Sec. 33, T8N R5E, 1M (Maud Creek)	520800030040_00		WWAC	•	PBCR		•		
Unnamed tributary of Little River at Sec. 33, T8N, R6E, 1M	520800010200_00		HLAC	•	SBCR		•		
Lake Thunderbird and Watershed	520810000010, 520810000020, 520810000030, 520810000040, 520810000050, 520810000060, 520810000070, 520810000080, 520810000090, 520810000100, 520810000110, 520810000120, 520810000130, 520810000140, 520810000150, 520810000170, 520810000175, 520810000180	PPWS	WWAC	•	PBCR		•	SWS	NLW
Stanley Draper Lake	520810000130	PPWS	WWAC	•	PBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Tributary of Canadian River at SE 1/4, Sec. 18, T5N, R7E, IM	520600010120_00	EWS	HLAC	•	SBCR		•		
Jumper Creek including Lake Konawa	520600010080, 520600010090, 520600010100		WWAC	•	PBCR		•		
Canadian Sandy Creek	520600030010	PPWS	WWAC	•	PBCR		•		
Little Sandy Creek	520600030020	PPWS	WWAC	•	PBCR		•		
Spring Brook Creek	520600030030	PPWS	WWAC	•	PBCR		•		
Tributary of Cat Creek at Sec. 7, T6N, R4E, IM	520600020165_00		HLAC	•	SBCR		•		
Pond Creek	520600020190	PPWS	WWAC	•	PBCR		•		
Canadian River upstream from its confluence with Buckhead Creek to the US Hwy. 81 bridge	520610010010, 520610020010, 520610020150_00		WWAC	•	PBCR		•		
Buckhead Creek	520610010020	PPWS	WWAC	•	PBCR		•		
Tributary of Canadian River at NE 1/4, Sec. 35, T6N, R1W, IM	520610		HLAC	•	SBCR		•		
Walnut Creek	520610030010		WWAC	•	PBCR		•		
Purcell Lake	520610030040		WWAC	•	PBCR		•		
Bridge Creek at Sec. 22, T9N, R5W, IM	520610030100		WWAC	•	PBCR		•		
Pond Creek (return flow, City of Newcastle)	520610010210	PPWS	WWAC	•	PBCR		•		
Tributary of Pond Creek at NE 1/4, Sec. 14, T9N, R4W, IM (Tim's Creek)	520610010215		HLAC	•	SBCR		•		
Cow Creek	520610010230	PPWS	WWAC	•	PBCR		•		
Dry Creek	520610020070	PPWS	WWAC	•	PBCR		•		
Store Creek	520610020080	PPWS	WWAC	•	PBCR		•		
West Creek	520610020090		HLAC	•	SBCR		•		
Buggy Creek	520610020120	EWS	WWAC	•	PBCR		•		
Tributary of Canadian River at SW 1/4, Sec. 3, T10N, R7W, IM	520610020155_00		HLAC	•	SBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop.	Ag	Rec	Nav	Aes	Limitations	Remarks
Canadian River upstream from US Hwy. 81 bridge	520610020150_10,	EWS	WWAC	•	PBCR		•		
	520620010010, 520620020010,								
	520620030010, 520620040010,								
	520620050010								
Deer Creek	520620060010	PPWS	WWAC	•	PBCR		•		
Little Deep Creek	520620060040		HLAC	•	PBCR		•		
Little Deer Creek	520620060070	PPWS	WWAC	•	PBCR		•		
Horse Creek	520620060080	PPWS	WWAC	•	PBCR		•		
American Horse Lake	520620010100		WWAC	•	PBCR		•		
Tributary of Canadian River at SE 1/4, Sec. 4, T15N, R14W, 1M (West Fay Creek)	520620010160		HLAC	•	SBCR		•		
Squirrel Creek	520620020080	PPWS	WWAC	•	PBCR		•		
Lone Creek	520620030020	PPWS	WWAC	•	PBCR		•		
Trail Creek	520620020090	EWS	HLAC	•	SBCR		•		
Gyp Creek	520620030100	PPWS	WWAC	•	PBCR		•		
Red Creek	520620030110	PPWS	WWAC	•	PBCR		•		
Turkey Creek	520620030130	PPWS	WWAC	•	PBCR		•		
South Turkey Creek	520620030150	PPWS	WWAC	•	PBCR		•		
Hackberry Creek	520620040050	PPWS	WWAC	•	PBCR		•		
Trib to Mosquito Creek downstream from Sec. 31, T19N, R24W, 1M	520620050110	PPWS	WWAC	•	PBCR		•		
Trib to Mosquito Creek upstream from Sec. 6, T18N, R24W, 1M	520620050120	EWS	HLAC	•	SBCR		•		
Red Bluff Creek	520620050140	PPWS	WWAC	•	PBCR		•		
Commission Creek	520620050160	PPWS	WWAC	•	PBCR		•		
Lake Lloyd Vincent	520620050200		WWAC	•	PBCR		•		

APPENDIX A.6. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 6, UPPER ARKANSAS RIVER [REVOKED]

APPENDIX A.6. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 6, UPPER ARKANSAS RIVER [NEW]

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Arkansas River upstream from and including Keystone Reservoir to Kaw Dam	620900010020, 620900010090, 621200010020, 621200010040, 621200010050, 621200020010	PPWS	WWAC	•	PBCR		•		
Cimarron River upstream from Keystone Reservoir to the Kansas State Line	620900010170, 620900020010, 620900030010, 620910010010, 620910020010, 620920010010, 620920020010, 620920030010	EWS	WWAC	•	PBCR		•		
Buckeye Creek	620900010220		WWAC		PBCR		•		
Tiger Creek	620900010250		WWAC	•	PBCR		•		
Euchee Creek downstream from Sec. 5, T17N, R6E, IM	620900010290_00	EWS	WWAC	•	PBCR		•		
Euchee Creek upstream from Sec. 5, T17N, R6E, IM	620900010290_10	EWS	WWAC	•	SBCR		•		
Cottonwood Creek	620900010310	EWS	WWAC	•	PBCR		•		
Wildhorse Creek	620900010320	EWS	WWAC	•	PBCR		•		
Skull Creek	620900010360	EWS	WWAC	•	PBCR		•		
Salt Creek	620900020020	PPWS	WWAC	•	PBCR		•		
Council Creek	620900020050	PPWS	WWAC	•	PBCR		•		
Big Creek downstream from Cushing Lake	620900020100	PPWS	WWAC	•	PBCR		•		
Cushing Lake and Watershed	620900020110, 620900020120, 620900020130	PPWS	WWAC	•	PBCR		•	SWS	
Stillwater Creek downstream from Little Stillwater Creek	620900040040	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Little Stillwater Creek	620900040050	PPWS	WWAC	•	PBCR		•		
Stillwater Creek from Little Stillwater Creek to Sec. 32, T19N, R3E, 1M	620900040070_00	EWS	HLAC	•	PBCR		•		
Stillwater Creek upstream from Sec. 33, T19N, R3E to the Carl Blackwell Lake Dam	620900040070_10, 620900040270_00	EWS	HLAC	•	SBCR		•		
Brush Creek	620900040090		HLAC	•	SBCR		•		
Boomer Creek below Boomer Lake	620900040140, 620900040180	PPWS	WWAC	•	PBCR		•		
Boomer Lake and Watershed	620900040180, 620900040190	PPWS	WWAC	•	PBCR		•	SWS	
Lake McMurry and Watershed	620900040220, 620900040230, 620900040240	PPWS	WWAC	•	PBCR		•	SWS	
Carl Blackwell Lake and Watershed	620900040270_10, 620900040280, 620900040290, 620900040300	PPWS	WWAC	•	PBCR		•	SWS	
Sand Creek	620900030040		HLAC	•	SBCR		•		
Dugout Creek	620900030080	PPWS	WWAC	•	PBCR		•		
Fitzgerald Creek	620900030150	PPWS	WWAC	•	PBCR		•		
Langston Lake and Watershed	620900030170, 620900030180	PPWS	WWAC	•	PBCR		•	SWS	
Beaver Creek	620900030230	PPWS	WWAC	•	PBCR		•		
Skeleton Creek downstream from Bitter Creek	620910030010, 620910030170_00	PPWS	WWAC	•	PBCR		•		
Wolf Creek	620910030020	PPWS	WWAC	•	PBCR		•		
Other Creek	620910030040	PPWS	WWAC	•	PBCR		•		
Horse Creek	620910030110	PPWS	WWAC	•	PBCR		•		
Bitter Creek	620910030180	PPWS	WWAC	•	PBCR		•		
Skeleton Creek from Bitter Creek to Bogy Creek	620910030170_10,	EWS	HLAC	•	SBCR		•		
Hackberry Creek	620910030220	EWS	WWAC	•	SBCR		•		
Tributary of Skeleton Creek at Sec. 27, T22N, R5W, 1M (Fairmont Creek)	620910030230_00		HLAC	•	SBCR		•		

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Skeleton Creek upstream from Boggy Creek	620900030240_00	PPWS	WWAC	•	PBCR		•		
Tributary of Boggy Creek at NW 1/4, Sec. 14, T22N, R6W, IM	621010		HLAC	•	SBCR		•		
Cottonwood Creek	620910040010	PPWS	WWAC	•	PBCR		•		
Guthrie Lake and Watershed	620910040050, 620910040060	PPWS	WWAC	•	PBCR		•	SWS	
Liberty Lake and Watershed	620910040070, 620910040080	PPWS	WWAC	•	PBCR		•	SWS	
Chisholm Creek	620910040100	PPWS	WWAC	•	PBCR		•		
Deer Creek	620910040120	PPWS	WWAC	•	PBCR		•		
Bluff Creek	620910040140	PPWS	WWAC	•	PBCR		•		
Kingfisher Creek	620910050010		WWAC	•	PBCR		•		
Uncle John Creek	620910050030		WWAC	•	PBCR		•		
Winter Camp Creek	620910050080	PPWS	WWAC	•	PBCR		•		
Tributary of Winter Camp Creek at NE 1/4, Sec. 19, T15N, R8W, IM	620910050085_00	EWS	HLAC	•	SBCR		•		
Other Creek	620910050130	PPWS	WWAC	•	PBCR		•		
Turkey Creek	620910060010	PPWS	WWAC	•	PBCR		•		
Unnamed tributary of Turkey Creek at Sec. 23, T19N, R7W, IM (Narragansett Creek)	620910060025_00		HLAC	•	SBCR		•		
Dry Salt Creek	620910060140		HLAC	•	SBCR		•		
Tributary of Dry Salt Creek at NW 1/4, Sec. 15, T21N, R8W, IM	620910060145_00		HLAC	•	SBCR		•		
Cooper Creek	620910020040	PPWS	WWAC	•	PBCR		•		
Salt Creek downstream from the Blaine-Kingfisher County Line	620910020100_00	EWS	WWAC	•	SBCR		•		
Salt Creek upstream from the Blaine-Kingfisher County Line	620910020100_10	EWS	HLAC	•	SBCR		•		
Spring Creek	620910020110	PPWS	WWAC	•	PBCR		•		
Tributary of Spring Creek at Sec. 19, T19N, R10W, IM	620910020115_00		HLAC	•	SBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Tributary of Salt Creek at Sec. 11, T17N, R11W, 1M (Hitchcock Creek)	620910020120_00		HLAC	•	SBCR		•		
Hoyle Creek	620910020210	PPWS	WWAC	•	PBCR		•		
Deep Creek	620910020250	PPWS	WWAC	•	PBCR		•		
Elm Creek	620910020270	PPWS	WWAC	•	PBCR		•		
Indian Creek	620910020310	PPWS	WWAC	•	PBCR		•		
Sand Creek	620920010020	PPWS	WWAC	•	PBCR		•		
Gypsum Creek	620920010030	PPWS	WWAC	•	PBCR		•		
Cottonwood Creek	620920010080	PPWS	WWAC	•	PBCR		•		
Eagle Chief Creek	620920040010	PPWS	WWAC	•	PBCR		•		
Tributary of Eagle Chief Creek at Sec. 36, T24N, R12W, 1M (Big Timber Lake Creek)	620920040030		HLAC	•	SBCR		•		
Lake Creek	620920040100		WWAC	•	PBCR		•		
Cheyenne Creek	620920010100	PPWS	WWAC	•	PBCR		•		
Barney Creek	620920010110	PPWS	WWAC	•	PBCR		•		
Griever Creek	620920010130	PPWS	WWAC	•	PBCR		•		
East Griever Creek	620920010140	PPWS	WWAC	•	PBCR		•		
Main Creek	620920010180	PPWS	WWAC	•	PBCR		•		
Ewers Creek	620920010190	PPWS	WWAC	•	PBCR		•		
Dog Creek	620920020020	EWS	WWAC	•	PBCR		•		
Sand Creek	620920020030	PPWS	WWAC	•	PBCR		•		
Chimney Creek	620920020040	PPWS	WWAC	•	PBCR		•		
White Horse Creek	620920020050	PPWS	WWAC	•	PBCR		•		
Doe Creek	620920020060	PPWS	WWAC	•	PBCR		•		
Long Creek	620920020080	PPWS	WWAC	•	PBCR		•		
Red Horse Creek	620920020110	PPWS	WWAC	•	PBCR		•		
Anderson Creek	620920020120	PPWS	WWAC	•	PBCR		•		
Traders Creek	620920020170	PPWS	WWAC	•	PBCR		•		
Moccasin Creek	620920020180	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Sand Creek	620920020200	PPWS	WWAC	•	PBCR		•		
Buffalo Creek	620920050010	PPWS	WWAC	•	PBCR		•		
Sleeping Bear Creek	620920050030	PPWS	WWAC	•	PBCR		•		
Sand Creek	620920050050	PPWS	WWAC	•	PBCR		•		
Day Creek	620920030030	PPWS	WWAC	•	PBCR		•		
Keno Creek	620920030040	PPWS	WWAC	•	PBCR		•		
Cimarron River from Kansas State Line near Englewood, Kansas to the Kansas State Line near Forgan, Oklahoma	620930000010	PPWS	WWAC	•	PBCR		•		
Snake Creek	620930000020	PPWS	WWAC	•	PBCR		•		
Redoubt Creek	620930000030	PPWS	WWAC	•	PBCR		•		
Horse Creek	620930000060	EWS	WWAC	•	SBCR		•		
Crooked Creek	620930000100	PPWS	WWAC	•	PBCR		•		
Cottonwood Creek	620930000110	PPWS	WWAC	•	PBCR		•		
Bug Creek	621200010320	PPWS	WWAC	•	PBCR		•		
Ranch Creek including Cleveland Lake	621200010260, 621200010270	PPWS	WWAC	•	PBCR		•		
Black Bear Creek	621200030010, 621200030260	PPWS	WWAC	•	PBCR		•		
Camp Creek including Lone Chimney Lake	621200030040, 621200030060	PPWS	WWAC	•	PBCR		•		
Pawnee Lake and Watershed	621200030080, 621200030090, 621200030100, 621200030110, 621200030120	PPWS	WWAC	•	PBCR		•	SWS	
Oak Creek	621200030190	PPWS	WWAC	•	PBCR		•		
Tributary of Oak Creek at SE 1/4, Sec. 27, T21N, R3E, 1M	621200030195_00		WWAC	•	PBCR		•		
Mule Creek	621200030230	PPWS	WWAC	•	PBCR		•		
Cow Creek downstream from Lake Perry	621200030270,	PPWS	WWAC	•	PBCR		•		
Lake Perry and Watershed	621200030340, 621200030350	PPWS	WWAC	•	PBCR		•	SWS	
West Warren Creek	621200030390	PPWS	WWAC	•	PBCR		•		

# Permanent Final Adoptions

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Salt Creek	621200040010	PPWS	WWAC	•	PBCR		•		
Fairfax City Lake and Watershed	621200040030, 621200040040	PPWS	WWAC	•	PBCR		•	SWS	
Little Chief Creek	621200040070	PPWS	WWAC	•	PBCR		•		
Phillips Lake (Shidler) and Watershed	621200040170, 621200040180	PPWS	WWAC	•	PBCR		•	SWS	
Tributary of Salt Creek at SW 1/4, Sec. 34, T27N, R6E, IM	621200040270_00		HLAC	•	SBCR		•		
Elm Creek	621200040210	PPWS	WWAC	•	PBCR		•		
Doga Creek	621200020020	PPWS	WWAC	•	PBCR		•		
Greasy Creek including Sooner Lake	621200020110, 621200020130		WWAC	•	PBCR		•		
Red Rock Creek	621200050010		WWAC	•	PBCR		•		
Tributary of Red Rock Creek at NW 1/4, Sec. 7, T23N, R2E, IM (Marland Creek)	621200050070_00		HLAC	•	SBCR		•		
Salt Fork of the Arkansas River	621000010010, 621000020010, 621010010010, 621010010160, 621010010220	PPWS	WWAC	•	PBCR		•		NLW
Great Salt Plains Reservoir	621010010010, 621010010050, 621010010060, 621010010100		WWAC		PBCR		•		
Bois d'Arc Creek	621000030010	PPWS	WWAC	•	PBCR		•		
Spring Creek downstream from Sec. 3 T27N, R2E, IM	621000030070, 621000030090_00	EWS	WWAC	•	PBCR		•		
Spring Creek upstream from Sec. 10, T27N, R2E, IM to Sec. 27, T28N, R2E IM	621000030110_00	EWS	HLAC	•	SBCR		•		
Spring Creek upstream from Sec. 34, T28N, R2E, IM	621000030110_10	EWS	WWAC	•	PBCR		•		
Chikaskia River	621100000010, 621100000190	PPWS	WWAC	•	PBCR		•		
Duck Creek	621100000030	PPWS	WWAC	•	PBCR		•		
Stink Creek	621100000050	PPWS	WWAC	•	PBCR		•		
Bitter Creek	621100000100	PPWS	WWAC	•	PBCR		•		
Doe Creek	621100	PPWS	WWAC	•	PBCR		•		
Bluff Creek	621100000230	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Deer Creek	621000040010	PPWS	WWAC	•	PBCR		•		
Pond Creek	621000050010	PPWS	WWAC	•	PBCR		•		
Polecat Creek	621000050030	PPWS	WWAC	•	PBCR		•		
Bullwacker Creek	621000050080	EWS	HLAG	•	SBCR		•		
Osage Creek	621000050100	PPWS	WWAC	•	PBCR		•		
Crooked Creek	621000060010	PPWS	WWAC	•	PBCR		•		
Sand Creek	621000060030	PPWS	WWAC	•	PBCR		•		
Wagon Creek	621000020200	PPWS	WWAC	•	PBCR		•		
Tributary of Wagon Creek at Sec. 10, T25N, R9W, 1M	621000020210_00		HLAG	•	SBCR		•		
Clay Creek	621010010090	EWS	WWAC	•	PBCR		•		
East Clay Creek	621010010110	PPWS	WWAC	•	PBCR		•		
West Clay Creek	621010010130	PPWS	WWAC	•	PBCR		•		
Sandy Creek	621010020010	PPWS	WWAC	•	PBCR		•		
Little Sandy Creek	621010020030	PPWS	WWAC	•	PBCR		•		
Medicine Lodge River	621010030010	PPWS	WWAC	•	PBCR		•		
Driftwood Creek	621010030030	PPWS	WWAC	•	PBCR		•		
Turkey Creek	621010010230	PPWS	WWAC	•	PBCR		•		
Greenleaf Creek	621010010250	PPWS	WWAC	•	PBCR		•		
Yellowstone Creek	621010010270	PPWS	WWAC	•	PBCR		•		
Hoover Ditch	621200		HLAG	•	SBCR		•		
Lake Ponca and Watershed	621200020190, 621200020200, 621200020210, 621200020220	PPWS	WWAC	•	PBCR		•	SWS	
Arkansas River upstream from Kaw Dam to Kansas State Line including Kaw Lake	621210000020, 621210000030, 621210000040	PPWS	WWAC	•	PBCR		•		
Beaver Creek	621210000050	PPWS	WWAC	•	PBCR		•		

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## APPENDIX A.7. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 7, PANHANDLE REGION [REVOKED]

## APPENDIX A.7. DESIGNATED BENEFICIAL USES OF SURFACE WATERS WATER QUALITY MANAGEMENT BASIN 7, PANHANDLE REGION [NEW]

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
North Canadian River upstream from and including Canton Lake (Crystal Beach Lake) to Hwy 50	720500010010, 720500010020, 720500010140_00	PPWS	WWVAC	•	PBCR		•		
Cheyenne Creek	720500010040	PPWS	WWVAC	•	PBCR		•		
Deep Creek	720500010060	PPWS	WWVAC	•	PBCR		•		
Bent Creek	720500010070	PPWS	WWVAC	•	PBCR		•		
Camp Creek	720500010080	PPWS	WWVAC	•	PBCR		•		
Kizer Creek	720500010090	PPWS	WWVAC	•	PBCR		•		
Cottonwood Creek	720500010110	PPWS	WWVAC	•	PBCR		•		
Persimmon Creek	720500010150	PPWS	WWVAC	•	PBCR		•		
North Persimmon Creek	720500010170	PPWS	WWVAC	•	PBCR		•		
South Persimmon Creek	720500010180	PPWS	WWVAC	•	PBCR		•		
Indian Creek	720500010200	PPWS	WWVAC	•	PBCR		•		
North Canadian (Beaver) River upstream from Hwy. 50 to Optima Lake	720500010140_10, 720500010140_20, 720500020010, 720500020140, 720500020290, 720500020450								
Wolf Creek	720500020030, 720500030010	PPWS	WWVAC	•	PBCR		•	SWS	
Fort Supply Reservoir	720500030020	PPWS	WWVAC	•	PBCR		•	SWS	NLW
Sixteenmile Creek	720500030050	PPWS	WWVAC	•	PBCR		•	SWS	
Little Wolf Creek	720500030070	PPWS	WWVAC	•	PBCR		•	SWS	
Buzzard Creek	720500030080	PPWS	WWVAC	•	PBCR		•	SWS	
Twentyfive mile Creek	720500030090	PPWS	WWVAC	•	PBCR		•	SWS	

Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Willow Creek	720500030100	PPWS	WWAC	•	PBCR		•	SWS	
Rock Creek	720500030110	PPWS	WWAC	•	PBCR		•	SWS	
Otter Creek	720500020050	PPWS	WWAC	•	PBCR		•		
Clear Creek	720500020070	PPWS	WWAC	•	PBCR		•		
Kiowa Creek	720500020130	PPWS	WWAC	•	PBCR		•		
Camp Creek	720500020150	PPWS	WWAC	•	PBCR		•		
Sand Creek	720500020160	PPWS	WWAC	•	PBCR		•		
Coon Creek	720500020190	PPWS	WWAC	•	PBCR		•		
Mexico Creek	720500020210	PPWS	WWAC	•	PBCR		•		
Duck Pond Creek	720500020250	PPWS	WWAC	•	PBCR		•		
Camp Creek	720500020260	PPWS	WWAC	•	PBCR		•		
Clear Creek	720500020300	PPWS	WWAC	•	PBCR		•		
Cottonwood Creek	720500020310	PPWS	WWAC	•	PBCR		•		
South Fork of Clear Creek	720500020330	PPWS	WWAC	•	PBCR		•		
North Fork of Clear Creek	720500020340	PPWS	WWAC	•	PBCR		•		
Home Creek	720500020380	PPWS	WWAC	•	PBCR		•		
Sixmile Creek	720500020390	PPWS	WWAC	•	PBCR		•		
Willow Creek	720500020420	PPWS	WWAC	•	PBCR		•		
Sharp Creek	720500020430	PPWS	WWAC	•	PBCR		•		
Jackson Creek	720500020460	PPWS	WWAC	•	PBCR		•		
Bull Creek	720500020480	PPWS	WWAC	•	PBCR		•		
Fulton Creek	720500020510	PPWS	WWAC	•	PBCR		•		
Sand Creek	720500020520	PPWS	WWAC	•	PBCR		•		
Palo Duro Creek	720500020500	PPWS	WWAC	•	PBCR		•		
Chiquita Creek	720500020530	PPWS	WWAC	•	PBCR		•		
Hackberry Creek	720500020560	PPWS	WWAC	•	PBCR		•		
North Canadian (Beaver) River upstream from Optima Lake to Texas State Line	720510010020, 7205100000100, 720510000190_00	PPWS	WWAC	•	PBCR		•		

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Waterbody Name and Sequence	Waterbody ID Numbers	Water Supply	F&W Prop	Ag	Rec	Nav	Aes	Limitations	Remarks
Coldwater Creek	7205100000040	PPWS	WWAC	•	PBCR		•		
Pony Creek	7205100000090	PPWS	WWAC	•	PBCR		•		
Goff Creek	720510000110	PPWS	WWAC	•	PBCR		•		
Dry Sand Draw	720510000150	PPWS	WWAC	•	PBCR		•		(1)
Tepsee Creek	720510000200	PPWS	WWAC	•	PBCR		•		
Sand Creek	720510000220	PPWS	WWAC	•	PBCR		•		
North Canadian (Beaver) River upstream from Texas State Line to New Mexico State Line	720510000190_10, 720510000275	PPWS	WWAC	•	PBCR		•	HQW	
Mexico State Line	720510000240	PPWS	WWAC	•	PBCR		•		
Clenequilla Creek from mouth to New Mexico State Line	720900000010, 720900000180	PPWS	WWAC	•	PBCR		•	HQW	
Cimarron River upstream from the Colorado State Line to the New Mexico State Line		PPWS	WWAC	•	PBCR		•		
South Picket House Draw	720900000050	PPWS	WWAC	•	PBCR		•		
Cold Springs Creek	720900000100	PPWS	WWAC	•	PBCR		•		
Gallinas Cañon	720900000130	PPWS	WWAC	•	PBCR		•		
Water Canyon	720900000190	PPWS	WWAC	•	PBCR		•		
South Carrizo Creek	720900000200	PPWS	WWAC	•	PBCR		•		
Lake Carl Eiling	720900000240	PPWS	WWAC	•	PBCR		•		NLW
Cottonwood Canyon Creek	720900000210	PPWS	WWAC	•	PBCR		•		
Tesequite Creek	720900000260	PPWS	WWAC	•	PBCR		•		
North Carrizo Creek	720900000280	PPWS	WWAC	•	PBCR		•		
Carrizozo Creek	720900000320	PPWS	WWAC	•	PBCR		•		

APPENDIX G. NUMERICAL CRITERIA TO PROTECT BENEFICIAL USES [REVOKED]

APPENDIX G. NUMERICAL CRITERIA TO PROTECT BENEFICIAL USES [NEW]

(a) **Introduction.** This Appendix prescribes numerical limits for certain criteria which are necessary to protect beneficial uses as and wherever designated. Table 1 is a chart that states the numerical limits to protect the beneficial use and subcategories of Fish and Wildlife Propagation for the single parameter of dissolved oxygen as set forth in OAC 785:45-5-12(f)(1). The latter limits vary depending upon several factors including the pertinent subcategory or fishery class, the time of the year, and the seasonal temperature. Table 2 prescribes the numerical limits for certain substances or parameters in order to protect beneficial uses and subcategories as set forth in OAC 785:45-5-10(1), 785:45-5-10(6), 785:45-5-12(f)(6), and 785:45-5-20. The numerical limits may vary from one beneficial use or subcategory to another according to how the criteria are required by OAC 785:45 or OAC 785:46 to be implemented. Table 3 is a chart that sets forth conversion factors that can be used to determine criteria for dissolved metals in order to protect the beneficial use of Fish and Wildlife Propagation and all its subcategories as set forth in OAC 785:45-5-12(f)(6)(H).

(b) **Explanations for abbreviations and certain terms in Tables.**

- (1) "CAS #" refers to a parameter's Chemical Abstract Service registry number. Each of these numbers is a unique identifier of a particular compound with a particular structure; the number provides additional and further specificity for the parameter in question than simply identifying it by a systematic, generic, proprietary, or [trivial] name. The CAS number has no particular chemical significance.
- (2) Equations are prescribed for those substances the toxicity of which varies with water chemistry.
- (3) Metals that are listed in Tables 2 and 3 shall be measured as total metals in the water column.

**TABLE 1.**  
**Dissolved Oxygen Criteria to Protect Fish and Wildlife Propagation**  
**and All Subcategories Thereof <sup>1</sup>**

<b>SUBCATEGORY OF FISH AND WILDLIFE PROPAGATION (FISHERY CLASS)</b>	<b>DATES APPLICABLE</b>	<b>D.O. CRITERIA (MINIMUM) (mg/L)</b>	<b>SEASONAL TEMPERATURE (°C)</b>
<b>Habitat Limited Aquatic Community</b>			
Early Life Stages	4/1 - 6/15	4.0	25 <sup>3</sup>
Other Life Stages			
Summer Conditions	6/16 - 10/15	3.0	32
Winter Conditions	10/16 - 3/31	3.0	18
<b>Warm Water Aquatic Community</b>			
Early Life Stages	4/1 - 6/15	6.0 <sup>2</sup>	25 <sup>3</sup>
Other Life Stages			
Summer Conditions	6/16 - 10/15	5.0 <sup>2</sup>	32
Winter Conditions	10/16 - 3/31	5.0	18
<b>Cool Water Aquatic Community &amp; Trout</b>			
Early Life Stages	3/1 - 5/31	7.0 <sup>2</sup>	22
Other Life Stages			
Summer Conditions	6/1 - 10/15	6.0 <sup>2</sup>	29
Winter Conditions	10/16 - 2/28	6.0	18

<sup>1</sup> For use in calculation of the allowable load.

<sup>2</sup> Because of natural diurnal dissolved oxygen fluctuation, a 1.0 mg/l dissolved oxygen concentration deficit shall be allowed for not more than eight (8) hours during any twenty-four (24) hour period.

<sup>3</sup> Discharge limits necessary to meet summer conditions will apply from June 1 of each year. However, where discharge limits based on Early Life Stage (spring) conditions are more restrictive, those limits may be extended to July 1.

TABLE 2.  
Numerical Criteria to Protect Beneficial Uses and All Subcategories Thereof

PARAMETER	CAS #	Fish & Wildlife Propagation		Public & Private Water Supply (Raw Water)	Fish Consumption (+ Other Organisms) and Water	Fish Consumption (+ Other Organisms)
		ACUTE	CHRONIC			
		µg/L	µg/L	µg/L	µg/L	µg/L
<b>INORGANICS</b>						
Arsenic	7440382	360.0	190	40		205.0
Barium	7440393			1000		
Cadmium	7440439	e(1.128ln(hardness)) -1.6774)	e(0.7852ln(hardness)) -3.490)	20	14.49	84.13
Cadmium for trout streams		e(1.128ln(hardness)) -3.828)	e(0.7852ln(hardness)) -3.490)	20	14.49	84.13
Chromium (total)			50	50	166.3	3365.0
Copper	7440508	e(0.9422ln(hardness)) -1.3844)	e(0.8545ln(hardness)) -1.386)	1000		
Cyanide	57125	45.93	10.72	200		
Fluoride @ 90° F				4000		
Lead	7439921	e(1.273ln(hardness)) -1.460)	e(1.273ln(hardness)) -4.705)	100	5.0	25.0
Mercury	7439976	2.4	1.302	2	0.050	0.051
Nickel	7440020	e(0.8460ln(hardness)) +3.3612)	e(0.846ln(hardness)) +1.1645)		607.2	4583.0
Nitrates (as N)	14797558			10,000		
Selenium	7782492	20.0	5	10		
Silver	7440224	e(1.72ln(hardness)) -6.52)		50	104.8	64620.0
Thallium	7440280	1400.0			0.24	0.47
Zinc	7440666	e(0.8473ln(hardness)) +0.8604)	e(0.8473ln(hardness)) +0.7614)	5000		

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PARAMETER	CAS #	Fish & Wildlife Propagation		Public & Private Water Supply (Raw Water)	Fish Consumption (+ Other Organisms) and Water	Fish Consumption (+ Other Organisms)
		ACUTE µg/L	CHRONIC µg/L			
<b>ORGANICS</b>						
1-1-1 TCE	71556				3094.0	173100.0
2-4-5-TP Silvex	93721		10.0	10		
2-4-6-TNT		450.0				
2-4-D	94757			100		
Acrolein	107028				6.0	9.0
Acrylonitrile	107131	7550.0			0.51	2.5
Aldrin	309002	3.0			0.00049	0.00050
Benzene	71432		2200.0		22	510
Benzidine	92875			1		
Carbon Tetrachloride	56235				2.3	16
Chlordane	57749	2.4	0.17		0.0080	0.0081
Chloroform	67663				56.69	4708.0
Chlorpyrifos (Dursban)	2921882	0.083	0.041			
4,4'-DDD	72548				0.0031	0.0031
4,4'-DDT	50293	1.1	0.001		0.0022	0.0022
Demeton	8065483		0.1			
Detergents (total)				200		
Diazinon	333415	0.17				
Dichlorobromomethane	75274				5.5	170
Dieldrin	60571	2.5	0.0019		0.00052	0.00054
Dioxin (TCDD)	1746016				5.0E-08	5.1E-08
Endosulfan		0.22	0.056			
Endrin	72208	0.18	0.0023	0.2	0.059	0.060
Ethylbenzene	100414				530	2100
Guthion	86500		0.01			
gamma BHC (Lindane)	58899	2.0	0.08	4	0.98	1.8
Hepachlor	76448	0.52	0.0038		0.00079	0.00079

PARAMETER	CAS #	Fish & Wildlife Propagation		Public & Private Water Supply (Raw Water)	Fish Consumption (+ Other Organisms) and Water	Fish Consumption (+ Other Organisms)
		ACUTE	CHRONIC			
		µg/L	µg/L	µg/L	µg/L	µg/L
Hexachlorobenzene	118741				0.0028	0.0029
Malathion	121755		0.10			
Methoxychlor	72435		0.03	100		
Methylene blue active Substances			0.001	500		
Mirex	2385855		0.001			
Nonylphenol	25154523		28			
Parathion	56382		0.065			
PCB			0.044		0.00064	0.00064
PCE (Tetrachloroethylene)	127184		5280.0		6.9	33
Pentachlorophenol	87865	e[1.005(pH)-4.830]	e[1.005(pH)-5.290]		2.7	30
Perchlorate	7601-90-3		6600		9	
Phenol	108952		1800		10,000.0	860,000.0
Phthalate esters				3		
Bis(2-ethylhexyl) phthalate (BEHP)	117817				12	22
Butylbenzyl phthalate	85687			150	1500	1900
Diethyl phthalate	84662				17000	44000
Dimethyl phthalate	131113				2.7E+05	1.1E+06
Di- <i>n</i> -Butyl phthalate	84742				2000	4500
RDX	121824		2591.5			
Toluene	108883				875.0	1300
Toxaphene	8001352		0.78	5		15000

TABLE 3

Conversion Factors for Total to Dissolved Fractions  
[H=hardness as CaCO<sub>3</sub> (mg/L)]

METAL	CAS#	ACUTE	CHRONIC
Arsenic	7440382	1.000	1.000
Cadmium	7440439	1.136672 – 0.041838 InH	1.101672 – 0.041838 InH
Copper	7440508	0.960	0.960
Lead	7439921	1.46203 – 0.145712 InH	1.46203 – 0.145712 InH
Mercury	7439976	0.85	N/A
Nickel	7440020	0.998	0.997
Silver	7440224	0.85	N/A
Zinc	7440666	0.978	0.986

**APPENDIX H. BENEFICIAL USE DESIGNATIONS FOR CERTAIN LIMITED AREAS OF  
GROUNDWATER [REVOKED]**

**APPENDIX H. BENEFICIAL USE DESIGNATIONS FOR CERTAIN LIMITED AREAS OF  
GROUNDWATER [NEW]**

A. Within Oklahoma there are some bodies or areas of groundwater the quality of which is not suitable for the beneficial uses that are designated on a default basis in OAC 785:45-7-3(b). In most cases this unsuitability is caused by natural conditions or irreversible human-induced impacts such as pollution. Consequently, it is necessary to provide for beneficial use designations for these limited areas of groundwater which are more accurate and appropriate than the default designations in 785:45-7-3(b). The absence of an area of a groundwater formation from this appendix does not indicate that area is free from contamination or has quality suitable for any beneficial use.

B. The groundwater formations or portions thereof that require special designations are identified in the tables that follow in this Appendix. The groundwater formations or units are identified by their name (e.g., "Garber Wellington") and legal description (e.g., "2-4, 9-11, 13-16 T2N R20W " denoting section(s), Township and Range). The area identified may be localized and not necessarily inclusive of the entire hydrogeologic basin or groundwater formation. The tables also set forth a general description of the physical location above the groundwater formation or unit for use as a general point of reference. The tables also set forth columns to show the groundwater classifications and beneficial uses which are designated for each identified area of groundwater. A "Depth Zone" also is indicated, to which the beneficial uses and "Remarks" listed in following columns are applicable.

C. Designations of beneficial uses for an identified groundwater formation or portion thereof are reflected in the tables by the presence of a dot ("•") in the columns to the right of the groundwater name and location. An empty space in a column means that column's beneficial use or subcategory thereof is not designated for that groundwater. Groundwater not identified in this Appendix is subject to the default designations detailed in OAC 785:45-7-3.

D. The state environmental agency that requested the groundwater formation or unit to be so identified and designated with certain beneficial uses and/or limitations is shown in the column headed "Agency". A specific division within that agency may also be listed. Questions relating to the quality of the groundwater found in any particular formation or unit, or concerns related to any comment in the "Remarks" column, should be addressed to the agency denoted in the "Agency" column.

E. The presence of any comment in the "Remarks" column denotes special circumstances which are applicable only to the groundwater formation or unit so identified. These comments may refer to certain constituents of the groundwater at that location, special well construction requirements, or other information deemed pertinent by the agency that requested this listing.

**F. Definitions**

"ACOG" means Association of Central Oklahoma Governments  
"Corp Comm" means Oklahoma Corporation Commission  
"DEQ" means Oklahoma Department of Environmental Quality  
"SEP" means Supplemental Environmental Projects  
"RCRA" means Resource Conservation and Recovery Act  
"VCP" means Voluntary Cleanup Program

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Groundwater Formation Name (Site name)	Location	Address	Depth Zone (upper-lower limit) feet	Class* (1-4)	Water Supply	Aq	M&I	Agency	Remarks
Garber-Wellington (Thunderhead Hills)	W 1/2 of W 1/2 Sec. 20, T14N, R2W, IM; W 1/2 of NW 1/4 & NW SW 1/4 Sec. 29, T14N, R2W, IM.	Along and 1/4 mile east of Coltrane from Dartforth Rd to Sherrywood Rd, Edmond, Oklahoma County	85 - 200 ft. deep; 1/4 mile wide by at least 1 3/4 mile long	2		•		Corp Comm, Oil & Gas Division, & ACOG	Brine plume moving south about 80 ft/year. Case/cement new wells through upper affected zone.
Garber-Wellington (Double Eagle / 4 <sup>th</sup> St Superfund site)	SE 1/4 Sec. 35, T12N, R3W, IM & SW 1/4 Sec. 36, T12N, R3W, IM.	Oklahoma County	0 - 160 ft.	2		•	•	DEQ	Brine, chlorinated solvents and hydrocarbons. Special well construction required.

Groundwater Formation Name (Site name)	Location	Address	Depth Zone (upper-lower limit) feet	Class* (1-4)	Water Supply	Ag	M&I	Agency	Remarks
Boone (Tar Creek Superfund site)	Sec. 13, 14, 23, 24, 25, 26, 35, & 36 of T29N, R22E, IM. Sec. 13-36 of T29N, R23E, IM. Sec. 17-19, W 1/2 Sec. 20, W 1/2 Sec. 29, & Sec. 30-32 of T29N, R24E, IM. Sec. 1, E 1/2 Sec. 2, E 1/2 Sec. 11, Sec. 12, N 1/2 Sec. 13, NE 1/4 Sec. 14 all in T28N, R22E, IM. Sec. 1, W 1/2 Sec. 5, Sec. 6, Sec. 7, W 1/2 Sec. 8, NW 1/4 Sec. 17, N 1/2 Sec. 18 all in T28N, R23 E, IM, W 1/2 Sec. 5, Sec. 6 all in T28N, R24E, IM.	Ottawa County	0 - 350 ft.	2	•	•	•	DEQ, Land Protection Division	Acidic conditions, mine voids, and toxic metals (lead, cadmium and arsenic exceeding MCLs) may be present in the Boone aquifer. Therefore special protective well construction is required to seal off the Boone to protect the underlying Roubidoux aquifer. For Boone wells, competent groundwater testing for toxic metals is required for potable and domestic use; and treatment may be required when groundwater exceeds the MCLs for lead (15 µg/l), arsenic (10 µg/l), or cadmium (5 µg/l).

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Groundwater Formation Name (Site name)	Location	Address	Depth Zone (upper-lower limit) feet	Class* (1-4)	Water Supply	Ag	M&I	Agency	Remarks
Quaternary Terrace (Kingfisher Wellhead Protection Area)	Sec. 33, SW 1/4 Sec. 36 in T18N, R7W, IM, SW 1/4 Sec. 1, NW 1/4 & S 1/2 Sec. 2, N 1/2 Sec. 3, N 1/2 Sec. 4, NE 1/4 Sec. 11, & Sec. 12 all in T17N, R7W, IM.	Kingfisher County	0 - 100 ft.	1	•	•	•	DEQ	Zone 1 Wellhead Protection Area - No pollution sources
Southwestern Oklahoma (Altus AFB area)	Sec. 34-36 in T3N, R20W, IM, Sec. 1-3, Sec. 10-15, & Sec. 22-24 all in T2N, R20W, IM.	North of US 62, eastern edge of City of Altus and entire AFB, Jackson County	0 - 60 ft.	3	•	•	•	OWRB	TCE & by-products - Remediation activity in-place
Ogallala (Dobson Ranch)	One square acre within NW 1/4 Sec. 17, T11N, R26W, IM.	State Highway 152, approx. four miles west of Sweetwater, OK, Roger Mills County	0 - 20 ft.	2	•	•	•	DEQ - VCP	Restriction on groundwater use within the 1 square mile recorded on a deed notice due to Benzene contamination. See DEQ or county clerk for location details
Quaternary Terrace Deposits - (Cornerstone Shopping Center)	SE 1/4 Sec. 16, T12N, R4W, IM, Approx six (6) acres of WEST PARK ADDITION to Oklahoma County, Oklahoma.	3900 N. MacArthur Avenue, Oklahoma City, Oklahoma County, Oklahoma	0 - 22 ft.	2	•	•	•	DEQ - VCP	Tetrachloroethylene - Deed restriction on file. See DEQ or county clerk for location details.

Groundwater Formation Name (Site name)	Location	Address	Depth Zone (upper-lower limit) feet	Class* (1-4)	Water Supply	Ag	M&I	Agency	Remarks
Alluvium & Terrace Deposits – (OKC Urban Renewal, Phase 1)	21.6 acres of the NW 1/4 Sec. 3, T11N, R3W, IM.	An area bounded to the South of Reno Avenue, East of the BNSF railroad tracks, North of Interstate 40/or its replacement street and west of a line extended from Stiles Avenue to Interstate 40/or its replacement street in Oklahoma City, Oklahoma County, Oklahoma.	0 – 30 ft.	2	•	•	•	DEQ – VCP	Deed restriction on groundwater use. See DEQ or county clerk for location details.
Coffeyville Formation (Compass Industries Landfill Superfund site)	SE NE 1/4 & NE SE 1/4 Sec. 13, T19N, R11E, IM, & S 1/2 of NW 1/4 & N 1/2 of SW 1/4 Sec. 18, T19N, R12E, IM.	7600 W 26th St, Tulsa, Tulsa County, Oklahoma	0 – 105 ft.	2	•	•	•	DEQ – Super-fund	Deed restriction on groundwater use for any purpose. See DEQ or county clerk for location details.

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Groundwater Formation Name (Site name)	Location	Address	Depth Zone (upper-lower limit) feet	Class* (1-4)	Water Supply	Ag	M&I	Agency	Remarks
Weatherford Member of the Cloud Chief Formation & Rush Springs Sandstone Formation (Oklahoma Refining Company Superfund site)	S 1/2 of SW 1/4 Sec. 18, T5N, R9 W1M, & NW 1/4 Sec. 19, T5N, R9W, IM, & NW 1/4 Sec. 19, T5N, R9W, IM, & SE 1/4 Sec. 13, T5N, R10W, IM and E 1/2 of NE 1/4 of NE 1/4 Sec. 24, T5N, R10W, IM.	South Baskett St, Cyril, Caddo County, Oklahoma	0 – 145 ft.	2	•	•	•	DEQ – Super-fund	Deed restriction on disturbing landfill caps & on groundwater use for any purpose due to hydrocarbon contamination. See DEQ or county clerk for location details.
North Canadian Alluvium (Tenth Street Superfund site)	2.931 acres in the NW 1/4 Sec. 31, T12N, R2W, IM.	3200 NE 10th St Oklahoma City, Oklahoma	0 – 20 ft.		•	•	•	DEQ – Super-fund	Deed restriction on drilling of any type of wells through the landfill cap or into the landfill. See DEQ or county clerk for location details.
North Canadian Alluvium and Garber (Mosley Road Landfill Superfund site)	71.765 acres in NE 1/4 Sec. 21, T12N, R2W, IM.	Mosley Road Between NE 23 & NE 36 Oklahoma City, Oklahoma	0 – 150 ft.	2	•	•	•	DEQ – Super-fund	Restriction on groundwater use for any purpose. See DEQ or county clerk for location details.

Groundwater Formation Name (Site name)	Location	Address	Depth Zone (upper-lower limit) feet	Class* (1-4)	Water Supply	Ag M&I	Agency	Remarks
Tallant Formation (Blackstar Performance)	SE 1/4 Sec. 25, T20N, R8E, IM & NE 1/4 Sec. 25, T20N, R8E, IM.	East of Highway OK-48, about 4 miles north of Highway OK-51 intersection, in Teriton, Pawnee County, Oklahoma	0 - 30 ft., depth of contamination not yet defined.	2	•	•	DEQ - RCRA	1,1,1-Trichloro-ethane & 1,1-Dichloroethane - Depth of contamination unknown, private wells to 200 feet are impacted. See DEQ for additional details.
N. Canadian Terrace Deposits underlain by Hennessey Group (OKC Solvent Plume)	Approximately 80 acres in NE 1/4 Sec. 27, T12N, R4 W, IM & NW 1/4 Sec. 27, T12N, R4W, IM.	Between NW 23rd and NW 19th and N Meridian and Ann Arbor, Oklahoma City, Oklahoma County, Oklahoma	0 - 30 ft., depth of contamination not yet defined.	2	•	•	DEQ - SEP	Tetrachloroethylene (max. 1200 ppb) & Trichloroethylene (max. 35 ppb) - Plume not delineated; private wells impacted. See DEQ for details.
Garber-Wellington (Eagle Industries)	Approximately 6 acres in SE 1/4 Sec. 7, T11N, R1W, IM.	North of SE 29th & West of Westminster Road, Midwest City, Oklahoma County, Oklahoma	0 - 50 ft., depth of contamination not yet defined.	2	•	•	DEQ - RCRA	Trichloroethylene (max 2280 ppb) - Plume not delineated. See DEQ for details.
East Central Oklahoma bedrock	SE SE SE 1/4 Sec. 5, T7N, R9E, IM.	Hughes County	200 ft. deep; aerial extent unknown	2	•	•	Corp Comm, Oil & Gas Division	Brine affecting aquifer. Disposal well offsetting old (now plugged) oil well was the most likely conduit.

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Groundwater Formation Name (Site name)	Location	Address	Depth Zone (upper-lower limit) feet	Class* (1-4)	Water Supply	Ag M&I	Agency	Remarks
Garber-Wellington Sandstone Formation	NW SE 1/4 Sec. 1, T9N, R2E, IM.	Pottawatomie County	160 - 200 ft. deep; 20 Acres	2	•	•	Corp Comm, Oil & Gas Division	Brine affecting aquifer. Now plugged disposal well was the most likely source.
Rush Springs Sandstone, Marlow Formation (Cyril Plume)	Portions of Sections 1 & 12, T5N, R10W, IM & Sec. 6 & 7, T5N, R9W, IM & Sec. 36, T6N, R10W, IM & Sec. 31, T6N, R9W, IM.	2-3 miles north of Cyril, Caddo County.	Up to 450 ft. deep; some saline groundwater discharge into Little Washita River tributaries; ~960 acre plume	2	•	•	Corp Comm, Oil & Gas Division	~960 acre plume moving S-SW @ 90'/year. 30 year monitoring program started in 1999. Cyril municipal wells affected were abandoned.
Blaine (Drummond Flats)	NE 1/4 Sec. 33, T22N, R8W, IM.	From NE corner of Drummond 4 miles north, 1 west, 1 south and 3/8 west. Near Turkey creek.	20 - 50 ft. in affected wells.	2	•	•	Corp Comm, Oil & Gas Division	Drummond Flats, water has historical contamination.
Terrace Deposits (Drummond Flats)	SW 1/4 Sec. 12, R21N, R9W, IM.	From Ames, 1/2 mile east, 4 miles north, 3 3/4 east, north into site.	About 40 ft. deep in affected wells.	2	•	•	Corp Comm, Oil & Gas Division	Drummond Flats, water has historical contamination.
Arkansas River Alluvium (Sand Springs Petrochemical Superfund site)	W 1/2 of NW 1/4 Sec. 13, T19N, R11 E, IM & NW 1/4 Sec. 14, T19N, R11E, IM.	Tulsa County	0 - 37 ft.	2	•	•	DEQ	Metals, VOC - Special Well Construction Required.

Groundwater Formation Name (Site name)	Location	Address	Depth Zone (upper-lower limits) feet	Class* (1-4)	Water Supply	Ag	M&I	Agency	Remarks
North-Central Oklahoma (former Farmland Feedmill site)	36.26 acres in SW/4 Sec. 19, T22N, R6W, IM.	3013 South Van Buren Street, Enid, Garfield County, Oklahoma	0 - 30 ft. depth of contamination not defined.	2	•	•	•	DEQ, Water Quality Division	Restriction on groundwater use due to nitrate contamination. Nitrate concentrations exceed drinking water standards. Therefore, drinking water wells should not be constructed in this area. See DEQ Water Quality Division for location details.
Vanoss Group (Hudson Refinery Superfund site)	NE NW 1/4 Sec. 4, T17N, R5E, IM & SW 1/4 Sec. 33, T18N, R5E, IM.	Payne County	18 - 168 ft.	2	•	•	•	DEQ, Land Protection Division	Deed restriction was filed with county prohibiting groundwater use for any purpose due to hydrocarbon contamination. See DEQ-Land Protection Division or county clerk for location details.

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Groundwater Formation Name (Site name)	Location	Address	Depth Zone (upper-lower limits) feet	Class* (1-4)	Water Supply	Ag M&I	Agency	Remarks
North-Central Oklahoma (Blackwell Zinc Company ("BZC" site))	Portions of Sec. 14, 15, 16, 21, 22, 23, 26, 27 & 28, T27N, R1W, 1M. Generally located to the north and south between 500 ft. north of Doolin Avenue and Adams Avenue and to the west and east between 21st Street and 200 ft. east of Main Street, City of Blackwell	Kay County	0 - 40 ft.	2	•	•	DEQ, Land Protection Division	City of Blackwell Ordinance No. 2801 prohibiting installation of groundwater wells within the groundwater protective area due to cadmium, & zinc contamination. Contact DEQ Land Protection Division or city for location details.
Hennessey Shale/Garber-Wellington	NE NE 1/4 Sec. 31, T14N, R3W, 1M.	West of the intersection of N. 178 <sup>th</sup> Street & Pennsylvania, Oklahoma County	0 - 50 ft.	2	•	•	Corp Comm, ACOG, & OWRB	Chloride impacted groundwater in upper zone of Hennessey Shale/Garber-Wellington formations, case and cement to a depth of 50 ft.

F	Location	Address	Depth Zone (upper-lower limit) feet	Class* (1-4)	Water Supply	Ag	M&I	Agency	Remarks
Rust & (P) for	NW NW NW 1/4 Sec. 35, T16N, R16W, 1M	SE & SW corners of intersection of County Road N2310 & County Road E0820 in Putnam, Dewey County, Oklahoma	0 - 50 ft.	2	•	•	•	Corp Comm	Petroleum hydrocarbons impacting shallow aquifer. Case of from zero to fifty (0- 50) ft. below ground surface, completing any water well below this zone

[OAR Docket #13-751; filed 5-9-13]

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

[OAR Docket #13-752]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

785:46-1-6. Determination of regulatory low flow [AMENDED]

Subchapter 9. Implementation of Criteria to Protect the Agriculture Beneficial Use

785:46-9-3. Regulatory flows [AMENDED]

Subchapter 15. Use Support Assessment Protocols

785:46-15-7. Assessment of public and private water supply support [AMENDED]

Subchapter 19. Implementation of Dissolved Oxygen Criteria to Protect Fish and Wildlife Propagation

785:46-19-3. Reasonable potential determination [AMENDED]

### AUTHORITY:

Oklahoma Water Resources Board; 82 O.S., § 1085.30; 27A O.S., § 1-3-101; and 82 O.S., § 1085.2

### DATES:

**Comment period:**

November 15, 2012 through January 14, 2013

**Public hearing:**

January 15, 2013

**Adoption:**

February 19, 2013

**Submitted to Governor:**

March 1, 2013

**Submitted to House:**

March 1, 2013

**Submitted to Senate:**

March 1, 2013

**Gubernatorial approval:**

April 8, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 30, 2013.

**Final adoption:**

April 30, 2013

**Effective:**

July 1, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

The Oklahoma Water Resources Board ("OWRB") had adopted various amended provisions of Oklahoma Administrative Code ("OAC") 785:46 as follows:

OAC 785:46-1-6, Determination of regulatory low flow, has been amended in (b) to be updated to the latest version of the United States Geological Survey (USGS) publication entitled "Statistical Summaries of Streamflow in and near Oklahoma through 2007". The circumstance which created the need for this amendment is that the currently cited version is out of date. The intended effect of this amendment is to allow application of the most current information for implementing the criteria. Subsection (c)(2) has also been amended such that if additional daily flow data have been collected, a new regulatory flow may be calculated. The circumstance which created the need for this amendment is that the current rule does not allow update of the regulatory flow when new data are available. The intended effect of this amendment is to allow application of the most current information for implementing the applicable water quality standards.

OAC 785:46-9-3, Regulatory flows, has been amended in at least two ways. The first is by restoring default regulatory low flows proposed in a corresponding revision to OAC 785:45. The circumstance which created the need for this amendment is that revisions to the Oklahoma Water Quality

Standards in 1997 removed the default low flow. The intended effect of this amendment is to restore the default low flow such that protection for the Agriculture beneficial use at low flow is consistent with implementation for toxic substances. The second amendment is to update references to the latest version of the USGS publication entitled "Statistical Summaries of Streamflow in and near Oklahoma through 2007". The circumstance which created the need for this amendment is that the currently cited version is out of date. The intended effect of this amendment is to allow application of the most current information for implementing the criteria.

OAC 785:46-15-7, Assessment of Public and Private Water Supply support, has been amended in (b) to correct conflicting language between (b)(1) and (b)(2). The intended effect of this amendment is to clarify that data should be evaluated based upon frequency when a criterion is exceeded rather than duration.

OAC 785:46-19-3, Reasonable potential determination for dissolved oxygen, has been amended by clarifying that the appropriate seasonal temperatures prescribed in Table 1 of Appendix G of OAC 785:45 are appropriate for calculating biochemical oxygen demand (BOD) load. The circumstance which created the need for this amendment is that the Oklahoma Department of Environmental Quality has encountered problems implementing the existing language. The intended effect of this amendment is to eliminate this ambiguity that causes problems in the permitting process.

**CONTACT PERSON:**

Derek Smithee, Water Quality Programs Division Chief, 405-530-8800.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2013:**

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 785:46-1-6. Determination of regulatory low flow

##### (a) General.

(1) 7Q2. The 7Q2 is calculated as a moving average of seven consecutive days for each year in a given record. These seven-day low flow values are ranked in ascending order. An order number (m) is calculated based upon the number of years of record (n), with a recurrence interval (R) of two years, as  $m = (n+1)/R$ , where R = two years. A value of flow corresponding to the m<sup>th</sup> order is taken as the seven-day, two-year low flow for those historical data.

(2) Seasonal 7Q2. The seasonal 7Q2 is calculated as a moving average of seven consecutive days for the applicable dates specified in Table 1 of Appendix G of OAC 785:45 in a given period of record. These seven-day low flow values are ranked in ascending order. An order number (m) is calculated based upon the number of seasons (n) specified in Table 1 of OAC 785:45 Appendix G during the period of record, with a recurrence interval (R) of two years, as  $m = (n+1)/R$ , where R = two years. A value of flow corresponding to the m<sup>th</sup> order is taken as the seasonal seven-day, two-year low flow for those historical data.

(b) **Primary method for determination.** If the 7Q2 or seasonal 7Q2 for a given stream or stream segment is determinable from the United States Geological Survey ~~publications~~ publication entitled "Statistical Summaries of Streamflow in Oklahoma through 1999" or "Statistical Summaries of Streamflow Records in Oklahoma and Parts of Arkansas,

~~Kansas, Missouri and Texas Through 1984", "Statistical Summaries of Streamflow in and near Oklahoma Through 2007"~~ or the latest version of the Water Quality Management Plan published by the Department of Environmental Quality, then that 7Q2 and seasonal 7Q2 shall be conclusive except as provided otherwise in this section.

(c) **Alternative methods for determination of 7Q2 or seasonal 7Q2.**

(1) In lieu of determining the 7Q2 or seasonal 7Q2 as provided in (b) of this Section, the 7Q2 for a given stream or stream segment may be determined by an affected person or the permitting authority if all of the following conditions are satisfied:

(A) A hydrological modification affecting the flow in the stream is documented to the satisfaction of the Oklahoma Water Resources Board and permitting authority;

(B) At least 10 years of daily flow data comporting with the requirements of this section are available; and

(C) Data from the entire period of record for the stream, unless a different time frame of record is approved by the Board and the permitting authority, are used in the calculation.

(2) If the 7Q2 or seasonal 7Q2 for a given stream or stream segment is not determinable as provided in (b) or (c)(1) of this Section or if additional daily flow data have been collected, then the 7Q2 or seasonal 7Q2 for that stream or stream segment may be determined by an affected person or the permitting authority using the calculations provided in (a) of this Section, provided at least 10 years of daily flow data are available for that stream.

(3) If the flow is affected by contributions from gauged tributaries or other permitted discharges, then the 7Q2 or seasonal 7Q2 for a given stream or stream segment may be determined taking those contributions at 7Q2 or seasonal 7Q2, or both, into account on a case-by-case basis if approved by either the Board or the permitting authority.

(4) If the 7Q2 or seasonal 7Q2 for a given stream or stream segment is not determinable as provided in (b), (c)(1), (c)(2) or (c)(3) of this Section, then the 7Q2 or seasonal 7Q2 for that stream or stream segment may be determined by an affected person or the permitting authority using an estimate based upon limited data only if both the method for estimating, and the estimate itself, are approved by both the Board and permitting authority.

(d) Additional rules for 7Q2 and seasonal 7Q2 determinations.

(1) Any 7Q2 or seasonal 7Q2 determined with a period of record less than 20 years shall be invalid for any purpose except the issuance of the permit or establishment of the site specific criteria based upon and developed contemporaneously with such 7Q2 or seasonal 7Q2. Any subsequent renewal of such permit must be based upon a fresh determination of the 7Q2 or seasonal 7Q2 until the pertinent period of record equals or exceeds 20 years.

(2) Any subsequent renewal of a permit based upon a 7Q2 or seasonal 7Q2 determined pursuant to (c)(3) or

(c)(4) of this Section must be based upon a fresh determination of the 7Q2 or seasonal 7Q2 that takes into account all discharge and flow data from the time the 7Q2 or seasonal 7Q2 was previously determined.

(3) Any subsequent renewal of a permit based upon a 7Q2 or seasonal 7Q2 determined pursuant to (c)(1) of this Section must be based upon a fresh determination of the 7Q2 or seasonal 7Q2 that takes into account whether the hydrological modification continues to exist.

(e) **Alternative method for determination of regulatory low flow.** In stream segments where dams or other structures have substantially affected the historic flow regime of the stream segment, including but not limited to the portions of the Verdigris and Arkansas Rivers constituting the McClellan-Kerr Arkansas River Navigation System, on a site-specific basis a properly designed and implemented hydrologic study approved by the permitting authority and the Board may be used to determine the appropriate regulatory low flow.

**SUBCHAPTER 9. IMPLEMENTATION OF CRITERIA TO PROTECT THE AGRICULTURE BENEFICIAL USE**

**785:46-9-3. Regulatory flows**

(a) **General.** Six regulatory flows are required for implementation of yearly mean standards and sample standards. They include stream flows, regulatory flows for lakes and regulatory effluent flows.

(b) **Long term average flows for streams.** ~~Mean~~The greater of 1.47 cfs or mean annual average flow, A, will be used by the permitting authority for long term average flows to implement yearly mean standards. Mean annual average flows may be obtained from the USGS publication entitled ~~"Statistical Summaries of Streamflow in Oklahoma through 1999" or "Statistical Summaries of Streamflow Records in Oklahoma and Parts of Arkansas, Kansas, Missouri and Texas through 1984" on streams with USGS gages~~ "Statistical Summaries of Streamflow in and near Oklahoma Through 2007". They may also be estimated on streams without gages using the Oklahoma Water Resources Board publication entitled "Estimation of Mean Annual Average Flows" (OWRB Technical Report 96-2).

(c) **Long term average flow for lakes.** Mean annual average discharge from the lake, A, shall be used to implement the Agriculture beneficial use.

(d) **Regulatory long term effluent flows.** If the permitting authority determines that sufficient data is available to calculate the mean annual effluent discharge, then such discharge shall be the long term effluent flow, Qel. If the permitting authority determines insufficient data is available to calculate the mean annual effluent discharge, then the design flow shall be the long term effluent flow, Qel.

(e) **Short term average flow for streams.** OAC 785:45-5-4(d) requires that short term average flow, Qs, be used to implement sample standards. The short term average flow is determined so that short term and long term wasteload allocations are equally likely to be more stringent, depending

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on the historical concentration distribution for a particular segment.  $Q_p = 0.68A - Q_s$  shall equal the greater of 1.0 cfs or 0.68 A, where A is mean annual average stream flow.

(f) **Short term average flows for lakes.** Short term average flows for lakes are also determined by the formula in OAC 785:46-9-3(e). In this case A is the mean annual average lake discharge.

(g) **Short term average effluent flows.** If the permitting authority determines that sufficient data is available to calculate the highest monthly average discharge for industrial discharges, then such discharge shall be the short term average effluent flow, Qes. If the permitting authority determines insufficient data is available to calculate the highest monthly average discharge for industrial discharges, then the design flow shall be the short term average effluent flow, Qes.

### SUBCHAPTER 15. USE SUPPORT ASSESSMENT PROTOCOLS

#### 785:46-15-7. Assessment of Public and Private Water Supply support

(a) **Scope.** The provisions of this Section shall be used to determine whether the beneficial use of Public and Private Water Supply or any subcategory thereof designated in OAC 785:45 for a waterbody is supported.

(b) **Toxicants.**

(1) The Public and Private Water Supply beneficial use designated for a waterbody shall be deemed to be fully supported with respect to any substance with criteria for such use listed in OAC 785:45 Appendix G if the sample concentrations from that waterbody do not exceed the criterion for that substance prescribed in OAC 785:45 Appendix G more than 10% of the measurements, or drinking water use restrictions are not in effect.

(2) The Public and Private Water Supply beneficial use designated for a waterbody shall be deemed to be not supported with respect to any substance with criteria for such use listed in OAC 785:45 Appendix G if the sample concentrations from that waterbody exceed the criterion for that substance prescribed in OAC 785:45 Appendix G more than 10% of the ~~time~~ measurements, or drinking water use restrictions imposed by an agency with jurisdiction in effect require closure of the water supply.

(c) **Bacteria.** The screening level for total coliform bacteria shall be 5000 colonies per 100 ml. The tests for use support shall follow the default protocol in 785:46-15-4.

(d) **Threatened water supplies.** Waters of the state designated in OAC 785:45 as Public and Private Water Supply shall be presumed to be threatened when toxicants are detected but do not exceed the applicable criteria prescribed in OAC 785:45 Appendix G, or some drinking water use restrictions have been put into effect by an agency with jurisdiction, or the potential for adverse impacts to water quality exists, or more than one such conditions exist.

(e) **Oil and grease.**

(1) The Public and Private Water Supply beneficial use designated for a waterbody shall be deemed to be fully

supported with respect to oil and grease if a visible sheen or bottom deposits of oil or grease are observed on that waterbody in 10% or less of the observations, and drinking water use restrictions that require more than conventional treatment related to oil and grease have not been put into effect by an agency with jurisdiction.

(2) The Public and Private Water Supply beneficial use designated for a waterbody shall be deemed to be not supported with respect to oil and grease if a visible sheen or bottom deposits of oil or grease are observed on that waterbody in more than 10% of the observations, or drinking water use restrictions that require more than conventional treatment related to oil and grease have been put into effect by an agency with jurisdiction.

### SUBCHAPTER 19. IMPLEMENTATION OF DISSOLVED OXYGEN CRITERIA TO PROTECT FISH AND WILDLIFE PROPAGATION

#### 785:46-19-3. Reasonable potential determination

(a) A permit limit for oxygen demanding substances is required if there is a reasonable potential that the dissolved oxygen criteria will not be satisfied. Such a reasonable potential is demonstrated whenever an existing discharger proposes to increase the concentration or load of oxygen demanding substances, a new discharge of oxygen demanding substances is created, or a receiving waterbody is reclassified to a subcategory of the Fish and Wildlife Propagation beneficial use with a more stringent dissolved oxygen criterion.

(b) The permitting authority may base its determination of the reasonable potential upon meeting the dissolved oxygen standard at the applicable regulatory low flow and at the applicable seasonal temperatures prescribed in Table 1 of Appendix G of OAC 785:45.

[OAR Docket #13-752; filed 5-9-13]

## TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 50. FINANCIAL ASSISTANCE

[OAR Docket #13-750]

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

Subchapter 7. Water and Sewer Program (Bond Proceed Loans and Emergency Grants) Requirements and Procedures

785:50-7-5. Emergency grant priority points system [AMENDED]

Subchapter 8. Rural Economic Action Plan (REAP) Grant Program Requirements and Procedures

785:50-8-4. Applicable Law; Deadline for Applications; Eligible Project Costs [AMENDED]

785:50-8-5. REAP grant priority point system [AMENDED]

Subchapter 9. Clean Water State Revolving Fund Regulations

Part 1. General Provisions

785:50-9-9. Definitions [AMENDED]

Part 3. General Program Requirements

785:50-9-21. Eligible Project [AMENDED]

Part 7. SRF Environmental Review Process

785:50-9-60. Requirement of Environmental Review [AMENDED]  
785:50-9-61. Environmental Information Required by the Board [AMENDED]

**AUTHORITY:**

Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. §§ 1085.31 et seq.; 82 O.S. §§ 1085.51 et seq.; 62 O.S. § 2003.

**DATES:**

**Comment period:**

December 3, 2012 through January 14, 2013

**Public hearing:**

January 15, 2013

**Adoption:**

February 19, 2013

**Submitted to Governor:**

March 1, 2013

**Submitted to House:**

March 1, 2013

**Submitted to Senate:**

March 1, 2013

**Gubernatorial approval:**

April 8, 2013

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on April 30, 2013.

**Final adoption:**

April 30, 2013

**Effective:**

June 13, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

The Oklahoma Water Resources Board ("OWRB") has adopted amendments to various provisions of Oklahoma Administrative Code ("OAC") 785:50 as follows:

Sections 785:50-7-5 and 785:50-8-5 have been amended to change language regarding the decennial census in the grant priority point systems. These changes correspond with the most up to date information provided by the United States Census Bureau and corresponding median household income. The intended effect is to make this language consistent with the U.S. Census Bureau information as it is updated.

Sections 785:50-7-5 and 785:50-8-5 have been amended to change language regarding water rates, sewer rates, and water and sewer rates in the priority point system. These changes modify language so that the rates correspond to current market conditions. The intended effect is to provide an update to the water rates, sewer rates, and water and sewer rates in accordance with the priority points.

Section 785:50-8-4 has been amended to change language regarding the date that REAP grant applications are due. The change modifies language so that it clarifies the actual date that the application is due. The intended effect is to make the language easier for the public to read and prevent any misunderstanding of the application due date.

Section 785:50-9-9 has been amended to include a definition of "Water Reuse". This change is proposed to clarify what is considered an eligible project under a Water Reuse definition. The intended effect is to ensure that the definition is consistent with state and the U.S. Environmental Protection Agency (EPA) guidelines.

Section 785:50-9-21 has been amended to provide language to include Recycled Water as an eligible funding category. This amendment will correspond to the changes made by the Oklahoma Department of Environmental Quality and guidelines provided by the EPA. The intended effect is to include all eligible funding categories that are allowed for Clean Water State Revolving Fund projects under federal and state law and EPA guidelines.

Section 785:50-9-60 has been amended to include the requirements of environmental decisions more than 5 years old. This amendment will correspond to the changes created by the National Environmental Policy Act (NEPA) and EPA guidelines. The intended effect is to make the rules consistent with the environmental review process and provide flexibility.

Section 785:50-9-61 has been amended to change the language in the Environmental Information Document (EID) to correspond with the requirements according to NEPA and the EPA. This amendment will clarify what is required in an EID and remove redundancy. The intended effect is to

make the rules consistent with the environmental process under the guidelines of federal law.

Section 785:50-9-61 has been amended to clarify the language regarding transcript of hearing in the environmental review process and adding an audio component when appropriate. This amendment will clarify what is required in a transcript of hearing in conjunction with modern technology capabilities. The intended effect is to update the language to include modern technology and clarify the requirements for the public.

**CONTACT PERSON:**

Kate Burum, Staff Attorney and Funds Manager, 405-530-8800.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 13, 2013:**

**SUBCHAPTER 7. WATER AND SEWER PROGRAM (BOND PROCEED LOANS AND EMERGENCY GRANTS) REQUIREMENTS AND PROCEDURES**

**785:50-7-5. Emergency grant priority point system**

(a) **Basis of priority system and formula.**

(1) **General description.** The priority system consists of a mathematical equation rating the applicants and the proposed project in accordance with the requirements of the statutes by means of a formula awarding points for each criteria used in the evaluation. The maximum point total under the system is one hundred twenty (120). The Board may consider each month, and in order from the highest rating, those applications awarded point ratings of 60 or more priority points. If the Board determines that the applicant with the highest point rating cannot promptly proceed with the project due to delays, including but not limited to those caused by legal problems, engineering problems, feasibility problems or availability of other funding sources, the Board may pass over consideration of such application then proceed to consider in order the next highest rated application. Applications which are bypassed shall retain their ratings and thus remain eligible for further consideration. Applications preliminarily determined by Board staff to have point ratings of 59 or fewer shall be deemed denied; provided, such applications may be reevaluated if the applicant submits additional information showing changed circumstances within 120 days after the date of staff's determination, and such information improves the applicant's preliminary point rating.

(2) **Statutory criteria.** The basis of the priority formula has been developed from the enacting legislation.

The two primary statutory criteria are:

- (A) The emergency situation of the applicant.
- (B) Whether or not the applicant can reasonably finance the project without assistance from the state.

(3) **Total priority points.** Total priority points will be calculated and awarded for individual projects. Therefore, eligible entities will be required to complete separate applications for each project for which grant funds are

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requested. Priority lists compiled and published by other Oklahoma State agencies and/or seniority dates of applications submitted shall be utilized to decide ties in point totals among applicants.

(b) **Priority formula for eligible entities other than school districts.**

(1) **Formula.** The following formula has been devised to rank grant applications:  $P = E + WR + I + L + MHI + FP + AR + BP - AN$ , Where:

- (A) P = Priority ranking
- (B) E = Emergency ranking
- (C) WR = Water and sewer rate structure
- (D) I = Indebtedness per customer
- (E) L = Amount of local contribution toward project
- (F) MHI = Median household income
- (G) FP = Applicant's ability to finance project
- (H) AR = Amount of grant requested
- (I) BP = Benefit of project to other systems
- (J) AN = Application number

(2) **Explanation.** Each of these criteria are explained below:

(A) **Emergency rankings (E).** Emergencies are ranked by severity with Category 1 being the most severe and Category 3 being the least severe. Points awarded range from a maximum of 50 points for Category 1 and a minimum of 30 points for Category 3. If an applicant requests funds to correct more than one emergency category need, only the amount of assistance needed to correct the most severe need will be considered in the calculation for the application ranking. The applicant will be informed that separate and additional applications must be filed for other needs and projects. An applicant who receives funding for a project under any of the listed emergencies may not reapply under the same emergency. The three (3) emergency ranking categories are as follows:

(i) **Category 1.** Total loss of a water supply or sewage system or loss of a major component of a system due to a natural or unforeseen disaster which could not have been prevented by the exercise of reasonable care by the applicant. Examples of such disasters may include but are not necessarily limited to: tornado; flood; fire; severe weather; landslide; sudden loss of a water supply system; sudden collapse of a major structural portion of a system; signs of imminent failure of a public water supply lake dam, spillway or outlet structure such as settlement or slumping of the crest, excessive seepage, slides, cracks or sloughs along the upstream and downstream slopes of the dam. Also included under this category is the construction of a new water system to serve areas where residents are supplied by domestic sources or domestic systems whose quantity does not supply the basic needs of the residents. In such cases where new or extended systems are proposed, the Board shall consider and determine whether an

adequate population density is available to utilize the proposed system. Notwithstanding any other provisions of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 1 emergencies receive 50 points.

(ii) **Category 2.** Water or sewer emergencies which could not have been prevented by the exercise of reasonable care by the applicant and which cause immediate danger or an imminent health hazard to the community or other nearby citizens. Such emergencies may include but are not necessarily limited to: users or systems whose water supply is deemed to be dangerous or unhealthy; systems whose supply source becomes contaminated by man-made pollution caused by a person other than the applicant; overflow of raw sewage into homes or streets due to structural failure in the collection mains and/or structural, mechanical, or electrical failure at a lift station due to disasters which could not have been prevented by the exercise of reasonable care by the applicant, including but not limited to tornado, flooding, fire, or landslides; sewage treatment systems which discharge raw or inadequately treated sewage effluent whose quality and/or quantity causes an immediate and imminent health or safety danger to a public water supply due to a structural, mechanical or electrical failure of a process unit(s) caused by disasters which could not have been prevented by the exercise of reasonable care by the applicant, including but not limited to tornado, flooding, fire, or landslides. Also included under this category is the construction of a new water system to serve areas where residents are supplied by domestic sources or domestic systems whose quality is dangerous or unhealthy as a consequence of circumstances that could not have been prevented by the exercise of reasonable care by the applicant. In such cases where new or extended systems are proposed, the Board shall consider and determine whether an adequate population density is available to utilize the proposed system. Notwithstanding any other provision of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 2 emergencies receive 40 points.

(iii) **Category 3.** Water system improvements needed to meet the average and/or maximum daily demands of a system's customers caused by a large

increase in the number of customers. The increase could result from annexation or the sale of treated water to another entity(ies) based on an engineering study that indicates purchasing to be the most cost effective alternative. Also included under this category is the construction of a new or extended water or sewer system to serve areas where residents are without sewer system service or without water. In such cases where new or extended systems are proposed, the Board shall consider and determine whether an adequate population density is available to utilize the proposed system. Notwithstanding any other provision of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 3 emergencies receive 30 points.

**(B) Water and Sewer rate structure (WR)**

**(i) For Systems Providing Water Service**

**Only:**

- (I) If the cost per 5000 gallons is \$3446.00 or greater, the applicant shall be given 10 points.
- (II) If the cost per 5000 gallons is \$3442.00 to \$33.9945.99, the applicant shall be given 9 points.
- (III) If the cost per 5000 gallons is \$2939.00 to \$30.9941.99, the applicant shall be given 8 points.
- (IV) If the cost per 5000 gallons is \$2635.00 to \$28.9938.99, the applicant shall be given 7 points.
- (V) If the cost per 5000 gallons is \$2432.00 to \$25.9934.99, the applicant shall be given 6 points.
- (VI) If the cost per 5000 gallons is \$2428.00 to \$23.9931.99, the applicant shall be given 5 points.
- (VII) If the cost per 5000 gallons is \$4825.00 to \$20.9927.99, the applicant shall be given 4 points.
- (VIII) If the cost per 5000 gallons is \$4621.00 to \$17.9924.99, the applicant shall be given 3 points.
- (IX) If the cost per 5000 gallons is \$4317.00 to \$15.9920.99, the applicant shall be given 2 points.
- (X) If the cost per 5000 gallons is less than \$4013.50 to \$12.9916.99, the applicant shall be given 1 point.
- (XI) If the cost per 5000 gallons is less than \$4013.50, the applicant shall be given 0 points.

**(ii) For Systems Providing Water and Sewer Services:**

- (I) If the cost per 5000 gallons is \$3953.00 or greater, the applicant shall be given 10 points.
- (II) If the cost per 5000 gallons is \$3849.00 to \$38.9952.99, the applicant shall be given 9 points.
- (III) If the cost per 5000 gallons is \$3546.00 to \$37.9948.99, the applicant shall be given 8 points.
- (IV) If the cost per 5000 gallons \$3443.00 to \$34.9945.99, the applicant shall be given 7 points.
- (V) If the cost per 5000 gallons is \$2940.00 to \$30.9942.99, the applicant shall be given 6 points.
- (VI) If the cost per 5000 is \$2736.00 to \$28.9939.99, the applicant shall be given 5 points.
- (VII) If the cost per 5000 gallons is \$2633.00 to \$26.9935.99, the applicant shall be given 4 points.
- (VIII) If the cost per 5000 gallons is \$2430.00 to \$25.9932.99, the applicant shall be given 3 points.
- (IX) If the cost per 5000 gallons is \$2426.00 to \$23.9929.99, the applicant shall be given 2 points.
- (X) If the cost per 5000 gallons is \$4723.00 to \$20.9925.99, the applicant shall be given 1 point.
- (XI) If the cost per 5000 gallons is less than \$4723.00, the applicant shall be given 0 points.

**(iii) For Systems Providing Sewer Service Only:**

- (I) If the cost per connection per month is \$2331.00 or greater, the applicant shall be given 10 points.
- (II) If the cost of connection per month is \$2429.00 to \$2230.99, the applicant shall be given 9 points.
- (III) If the cost of connection per month is \$4926.00 to \$2028.99, the applicant shall be given 8 points.
- (IV) If the cost of connection per month is \$4724.00 to \$4825.99, the applicant shall be given 7 points.
- (V) If the cost of connection per month is \$4522.00 to \$4623.99, the applicant shall be given 6 points.
- (VI) If the cost of connection per month is \$4319.00 to \$4421.99, the applicant shall be given 5 points.
- (VII) If the cost of connection per month is \$4417.00 to \$4218.99, the applicant shall be given 4 points.
- (VIII) If the cost of connection per month is \$4014.00 to \$4016.99, the applicant shall be given 3 points.

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- (IX) If the cost of connection per month is ~~\$812.00~~ to ~~\$913.99~~, the applicant shall be given 2 points.
- (X) If the cost of connection per month is ~~\$79.50~~ to ~~\$711.99~~, the applicant shall be given 1 point.
- (XI) If the cost of connection per month is less than ~~\$79.50~~, the applicant shall be given 0 points.
- (iv) The Board will deduct 3 points from the total of the Water and Sewer Rate Structure ranking for any system which charges a flat water or sewer rate (unmetered) without regard to the amount of water or sewer used, and 2 points for a decreasing block rate which lowers the cost per 1000 gallons for customers using larger amounts of water. No points will be added or subtracted for systems using a fixed rate per 1,000 gallons above the minimum. Two points will be added for systems using an increasing block rate. Entities who dedicate sales tax for water and/or sewer improvements will be awarded 1 additional point. Under the category the maximum number of points is 13 and the minimum is -3 points.
- (C) **Indebtedness per customer (I).** The indebtedness per customer ranking is calculated by taking the applicant's monthly requirements for debt service on debt incurred for water and/or sewer system purposes and dividing it by the number of customers served.
- (i) If the indebtedness per customer is ~~\$15.00~~20.00 or greater, the applicant shall be given 10 points.
- (ii) If the indebtedness per customer is ~~\$13.00~~17.50 to ~~\$14.99~~19.99, the applicant shall be given 9 points
- (iii) If the indebtedness per customer is ~~\$11.00~~16.00 to ~~\$12.99~~17.49, the applicant shall be given 8 points.
- (iv) If the indebtedness per customer is ~~\$10.00~~14.50 to ~~\$10.99~~15.99, the applicant shall be given 7 points.
- (v) If the indebtedness per customer is ~~\$9.00~~13.00 to ~~\$9.99~~14.49, the applicant shall be given 6 points.
- (vi) If the indebtedness per customer is ~~\$8.00~~11.50 to ~~\$8.99~~12.99, the applicant shall be given 5 points.
- (vii) If the indebtedness per customer is ~~\$7.00~~10.00 to ~~\$7.99~~11.49, the applicant shall be given 4 points.
- (viii) If the indebtedness per customer is ~~\$6.00~~8.50 to ~~\$6.99~~9.99, the applicant shall be given 3 points.
- (ix) If the indebtedness per customer is ~~\$5.00~~57.00 to ~~\$5.99~~8.49, the applicant shall be given 2 points.
- (x) If the indebtedness per customer is ~~\$4.00~~5.50 to ~~\$4.99~~6.99, the applicant shall be given 1 point.
- (xi) If the indebtedness per customer is less than ~~\$4.00~~5.50, the applicant shall be given 0 points.
- (D) **Local participation (L).**
- (i) The Board will not approve nor fund any grant application unless the applicant contributes at least fifteen percent (15%) of the total cost of the proposed project.
- (ii) The local participation ranking is based on the percent of the total project cost which is locally funded through cash contributions, or incurrence of additional debt through a loan. Grant funds received through other agencies will not be counted as local funding. Points awarded for participation are as follows:
- (I) If the percentage of the project cost locally funded is 90% or greater, the applicant shall be given 10 points.
- (II) If the percentage of the project cost locally funded is at least 80% but less than 90%, the applicant shall be given 9 points.
- (III) If the percentage of the project cost locally funded is at least 70% but less than 80%, the applicant shall be given 8 points.
- (IV) If the percentage of the project cost locally funded is at least 60% but less than 70%, the applicant shall be given 7 points.
- (V) If the percentage of the project cost locally funded is at least 50% but less than 60%, the applicant shall be given 6 points.
- (VI) If the percentage of the project cost locally funded is at least 40% but less than 50%, the applicant shall be given 5 points.
- (VII) If the percentage of the project cost locally funded is at least 30% but less than 40%, the applicant shall be given 4 points.
- (VIII) If the percentage of the project cost locally funded is at least 25% but less than 30%, the applicant shall be given 3 points.
- (IX) If the percentage of the project cost locally funded is at least 20% but less than 25%, the applicant shall be given 2 points.
- (X) If the percentage of the project cost locally funded is at least 15% but less than 20%, the applicant shall be given 1 point.
- (XI) If the percentage of the project cost locally funded is less than 15%, the application shall not be approved nor funded.
- (E) **Median household income (MHI).** The median household income is calculated according to the ~~latest~~most current federal decennial census or American Community Survey data available.
- (i) The county median figure for median household income will be used in cases where data for the applicant's service area is not available.
- (ii) Points are awarded as follows:

- (I) If the median household income is less than ~~\$13,000~~17,000, the applicant shall be given 10 points.
- (II) If the median household income is ~~\$13,000~~17,000 to ~~\$15,999~~20,999, the applicant shall be given 9 points.
- (III) If the median household income is ~~\$16,000~~21,000 to ~~\$17,999~~23,999, the applicant shall be given 8 points.
- (IV) If the median household income is ~~\$18,000~~24,000 to ~~\$20,999~~28,999, the applicant shall be given 7 points.
- (V) If the median household income is ~~\$21,000~~29,000 to ~~\$23,999~~31,999, the applicant shall be given 6 points.
- (VI) If the median household income is ~~\$24,000~~32,000 to ~~\$28,999~~36,999, the applicant shall be given 5 points.
- (VII) If the median household income is ~~\$29,000~~37,000 to ~~\$30,999~~39,999, the applicant shall be given 4 points.
- (VIII) If the median household income is ~~\$31,000~~40,000 to ~~\$33,999~~44,999, the applicant shall be given 3 points.
- (IX) If the median household income is ~~\$34,000~~45,000 to ~~\$36,999~~47,999, the applicant shall be given 2 points.
- (X) If the median household income is ~~\$37,000~~48,000 to ~~\$38,999~~51,999, the applicant shall be given 1 point.
- (XI) If the median household income is ~~\$39,000~~52,000 or greater, the applicant shall be given 0 points.

**(F) Ability to finance project (FP)**

- (i) The maximum points possible under this criterion for the ability of the applicant to finance the project without assistance from the state is 12.
- (ii) The FP ranking gives a standardized account of the amount the existing water/sewer rates would have to be raised in order for the applicant to finance the project through a loan. A standard interest rate and term of 10% for 25 years is assumed. The cost per customer per month is calculated using the following formula: FP equals the product of AR multiplied by (0.1102), divided by the product of (12) multiplied by (C), Where:
  - (I) FP = Estimate of the amount monthly water/sewer rates would have to be raised to finance the amount of grant request for the project.
  - (II) AR = Amount of grant request. For this calculation, the amount of available reserve not dedicated to the project will be deducted from the amount requested.
  - (III) 0.1102 = Annual rate factor for a 25 year loan at 10%
  - (IV) 12 = Number of months per year.
  - (V) C = Number of customers

(iii) In cases where the applicant's current revenues exceed expenses by a large margin, the Board will appropriately adjust the (AR) figure to accurately represent the applicant's ability to finance the project.

(iv) Points in the FP ranking are awarded as follows:

- (I) If the ability to finance the project is \$10.00 or greater, the applicant shall be given 12 points.
- (II) If the ability to finance the project is \$8.00 to \$9.99, the applicant shall be given 11 points.
- (III) If the ability to finance the project is \$6.00 to \$7.99, the applicant shall be given 10 points.
- (IV) If the ability to finance the project is \$5.00 to \$5.99, the applicant shall be given 9 points.
- (V) If the ability to finance the project is \$4.00 to \$4.99, the applicant shall be given 8 points.
- (VI) If the ability to finance the project is \$3.00 to \$3.99, the applicant shall be given 7 points.
- (VII) If the ability to finance the project is \$2.00 to \$2.99, the applicant shall be given 6 points.
- (VIII) If the ability to finance the project is \$1.75 to \$1.99, the applicant shall be given 5 points.
- (IX) If the ability to finance the project is \$1.50 to \$1.75, the applicant shall be given 4 points.
- (X) If the ability to finance the project is \$1.25 to \$1.49, the applicant shall be given 3 points.
- (XI) If the ability to finance the project is \$1.00 to \$1.24, the applicant shall be given 2 points.
- (XII) If the ability to finance the project is \$0.75 to \$0.99, the applicant shall be given 1 point.
- (XIII) If the ability to finance the project is less than \$0.75, the applicant shall be given 0 points.

**(G) Amount of grant requested (AR).**

- (i) Points under this category for amount of grant requested are distributed as follows:
  - (I) \$95,001 to \$100,000: -5
  - (II) \$90,001 to \$95,000: -4
  - (III) \$85,001 to \$90,000: -3
  - (IV) \$80,001 to \$85,000: -2
  - (V) \$75,001 to \$80,000: -1
  - (VI) \$70,001 to \$75,000: 0
  - (VII) \$65,001 to \$70,000: +1
  - (VIII) \$60,001 to \$65,000: +2
  - (IX) \$55,001 to \$60,000: +3

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- (X) \$50,000 to \$55,000: +4
- (XI) \$45,001 to \$50,000: +5
- (XII) \$40,001 to \$45,000: +6
- (XIII) \$35,001 to \$40,000: +7
- (XIV) \$30,001 to \$35,000: +8
- (XV) \$25,001 to \$30,000: +9
- (XVI) \$25,000 or less: +10

(ii) If a project exceeds \$75,000 and the amount of funds needed over and above the OWRB grant request are being secured through a loan from OWRB, then there will be no deduction of points under this category.

(H) **Project benefit to other systems (BP).** If the applicant's project will benefit other adjacent systems as well as applicant's, or result in or lead to consolidation of systems, an additional five (5) priority points will be included in the total of priority points assigned to the application.

(I) **Number of grants.** Since it is anticipated that entities who have received emergency grants might submit additional grant applications for approval, points will be deducted from such applications according to the following schedule; provided, points shall not be deducted from such any emergency grant which was funds 10 or more years prior to the date of Board action on the pending application and which has been subjected to a Board audit:

- (i) 1 prior grant = 5 reduction points
- (ii) 2 prior grants = 8 reduction points
- (iii) 3 prior grants = 10 reduction points
- (iv) 4 prior grants = 12 reduction points
- (v) 5 or more prior grants = 14 reduction points

(c) **Priority formula for school districts.**

(1) School districts, created under Article V of the 1971 School Code, 70 O.S. 1981, §5-101 et seq., are political subdivisions of the State, and therefore are eligible for financial assistance under the Board's program.

(2) In evaluating and prioritizing grant applications from school districts similar criteria to those applied to municipalities, towns and rural water districts will be utilized.

(3) In developing a priority formula for school district applicants, again, the two primary statutory criteria are:

- (A) The emergency situation of the school district.
- (B) Whether the school district can reasonably finance the emergency project without the Board's assistance.

(4) The emergency aspect of each project is ranked with a maximum of 50 points being given to the most serious situations and a minimum of 10 points to the least serious. The emergency categories and points given for each are the same as those listed in (b)(2) of this Section.

(5) The school district's financial situation is given an maximum of 66 points and is derived by analyzing the following:

- (A) Local tax levies
- (B) Bonded indebtedness
- (C) Local contribution

(D) Median household income within the school district's geographical area

(E) Applicant's ability to finance project

(F) Amount of grant requested

(G) Application number

(6) Priority lists compiled and published by other Oklahoma state agencies shall be utilized to assess the seriousness of the emergency.

(7) Using the previously mentioned analysis, the following formula has been devised to rank school districts' grant applications:  $P = E + LT + BI + L + MHI + FP + AR - AN$ , Where:

(A) P = Priority ranking total points

(B) E = Emergency ranking

(C) LT = Local tax levies

(D) BI - Bonded indebtedness

(E) L = School's contribution toward the project

(F) MHI = median household income of population within a school district

(G) FP = Applicant's ability to finance project

(H) AR = Amount of grant requested

(I) AN = Application number

(8) The criteria E, MHI, FP, AR and AN are the same as that set forth in (b) of this section. LT, BI and L are explained as follows:

(A) **Local tax levies (LT).** Points awarded under this category for local tax levies are based on the total amount of miles levied, as follows:

- (i) 95 to 100.00 mills = 13 points
- (ii) 90 to 94.99 mills = 11 points
- (iii) 85 to 89.99 mills = 10 points
- (iv) 80 to 84.99 mills = 8 points
- (v) 70 to 79.99 mills = 6 points
- (vi) 60 to 69.99 mills = 4 points
- (vii) 55 to 59.99 mills = 2 points
- (viii) 50 to 54.99 mills = 1 point
- (ix) 45 to 49.99 mills = 0 points
- (x) 40 to 44.99 mills = -1 points
- (xi) Less than 40 mills = -2 points

(B) **Bonded indebtedness (BI).**

(i) Priority points for Bonded Indebtedness are as follows: Percentage of Indebtedness Points

- (I) 95% to 100% of debt limitation = 10 points
- (II) 90% to 94.99% of debt limitation = 8 points
- (III) 80% to 89.99% of debt limitation = 7 points
- (IV) 75% to 79.99% of debt limitation = 6 points
- (V) 70% to 74.99% of debt limitation = 5 points
- (VI) 65% to 69.99 of debt limitation = 4 points
- (VII) 60% to 64.99% of debt limitation = 3 points
- (VIII) 55% to 59.99% of debt limitation = 2 points

- (IX) 50% to 54.99% of debt limitation = 1 point
- (X) 45% to 49.99% of debt limitation = 0 points
- (XI) 40% to 44.99% of debt limitation = -1 point
- (XII) 30% to 39.99% of debt limitation = -2 points
- (XIII) Less than 30% of debt limitation = -3 points

(ii) A deduction of one (1) point from the indebtedness ranking total will be made for applicants with 75% of existing debts financed at rates of 5% or less, and one (1) point will be added if 75% of existing debts are financed at rates greater than 10%.

**(C) Local participation (L).**

(i) In order to achieve the maximum benefit from available grant funds, the Board will not approve nor fund any grant application unless the applicant contributes at least fifteen percent (15%) of the total cost of the proposed project.

(ii) The local participation ranking is based on the percent of the total project cost which is locally funded through cash contributions or incurrence of additional debt through a loan. Points awarded are as follows:

- (I) If the percentage of the project cost locally funded is 90% or greater, the applicant shall be given 10 points.
- (II) If the percentage of the project cost locally funded is at least 80% but less than 90%, the applicant shall be given 9 points.
- (III) If the percentage of the project cost locally funded at least 70% but less than 80%, the applicant shall be given 8 points.
- (IV) If the percentage of the project cost locally funded at least 60% but less than 70%, the applicant shall be given 7 points.
- (V) If the percentage of the project cost locally funded at least 50% but less than 60%, the applicant shall be given 6 points.
- (VI) If the percentage of the project cost locally funded is at least 50% but less than 60%, the applicant shall be given 5 points.
- (VII) If the percentage of the project cost locally funded is at least 40% but less than 40%, the applicant shall be given 4 points.
- (VIII) If the percentage of the project cost locally funded is at least 25% but less than 30%, the applicant shall be given 3 points.
- (IX) If the percentage of the project cost locally funded is at least 20% but less than 25%, the applicant shall be given 2 points.
- (X) If the percentage of the project cost locally funded is at least 15% but less than 20%, the applicant shall be given 1 point.

(XI) If the percentage of the project cost locally funded is less than 15%, the application shall not be approved nor funded.

(iii) Under the Ability to Finance Project (FP) category the Number of Customers (C) as previously discussed will be replaced by the Number of Families within a school district. Points awarded under the FP category are the same as discussed and shown in (b) of this Section.

**SUBCHAPTER 8. RURAL ECONOMIC ACTION PLAN (REAP) GRANT PROGRAM REQUIREMENTS AND PROCEDURES**

**785:50-8-4. Applicable law; deadline for applications; eligible project costs**

(a) The Board shall administer applications for REAP funds in accordance with any provisions of law applicable to such applications and REAP funds.

(b) To be considered for and receive funding from funds available for REAP in any given fiscal year, an application must be completed in accordance with the Board's rules and prescribed application form in all material respects with all attachments, and filed by the applicant and received by the Board on or before ~~September 1 or, if September 1 is not a business day, then the next business day after September 1~~ 5 p.m. the first business day of September of that fiscal year. Any application not properly completed and filed shall not be considered for or funded from funds that may become available during that fiscal year. Provided, if no applications are received before the deadline from the area of a given COG, then the Board staff may extend the deadline for that COG through the first business day of November and contact an appropriate official for the COG and notify him or her of the available funds.

(c) A REAP grant application submitted for consideration in a prior fiscal year that was not approved for funding out of funds made available in that prior fiscal year shall expire and be deemed denied unless the applicant files and the Board receives a timely written request to consider said application during the current fiscal year, together with updated application materials as may be reasonably required by the Board. To be timely, such request and updated application materials must be received by the board on or before September 1, of the current fiscal year.

(d) For purposes of evaluating, approving and funding an application for a REAP grant, categories of project costs which are eligible for assistance shall including, in addition to those project costs described in 785:50-3-1:

- (1) Architecture and/or engineer fees related to the project.
- (2) Fees for soil testing.
- (3) Fees for surveying.
- (4) Payments to contractor(s) for construction of the improvements.
- (5) Legal fees and expenses of counsel for the applicant which are related to the project.
- (6) Services of full-time or part-time inspector.

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(7) Administrative expenses shall not be eligible project costs.

## 785:50-8-5. REAP grant priority point system

### (a) Basis of priority system and formula.

(1) **General description.** The priority system consists of a mathematical equation rating the qualified entities and the proposed project in accordance with the requirements of state law by means of a formula awarding points for each criterion used in the evaluation. The maximum point total under the system is one hundred fifteen (115). The Board may consider each month, and in order from the highest rating, those applications awarded point ratings of 40 or more priority cots. If the Board determines that the qualified entity with the highest point rating cannot promptly proceed with the project due to delays, including but not limited to those caused by legal problems, engineering problems, feasibility problems or availability of other funding sources, the Board may pass over consideration of such application then proceed to consider in order the next highest rated application. Applications which are bypassed shall retain their ratings and thus remain eligible for further consideration. Applications preliminarily determined by Board staff to have point ratings of 39 or fewer shall be deemed denied; provided, such applications may be reevaluated if the applicant submits additional information showing changed circumstances within 120 days after the date of staff's determination, and such information improves the applicant's preliminary point rating.

(2) **Statutory criteria.** The basis of the priority formula has been developed from the enacting legislation. The primary statutory criteria are:

(A) There shall be a higher priority for any city or town with a population less than one thousand seven hundred fifty (1,750) according to the latest federal decennial census than for any jurisdiction with a greater population according to the census;

and

(B) *Among other cities or towns, those municipalities having relatively weaker fiscal capacity shall have a priority for project funding in preference to other municipalities* [62:2003]. In order to give a priority evaluation to each applicant, the Board shall evaluate all applications according to the fiscal capacity criteria set forth in this Section.

(3) **Total priority points.** Total priority points will be calculated and awarded for individual projects. Therefore, qualified entities will be required to complete separate applications for each project for which grant funds are requested. Priority lists compiled and published by other Oklahoma State agencies and/or seniority dates of applications submitted shall be utilized to decide ties in point totals among qualified entities.

### (b) Priority formula for eligible entities other than school districts and counties.

(1) **Formula.** The following formula has been devised to rank grant applications:  $T = P + WR + I + MHI + FP + N + AR + BP + PG$ , Where:

- (A) T = Total of priority points
- (B) P = Population
- (C) WR = Water and sewer rate structure
- (D) I = Indebtedness per customer
- (E) MHI = Median household income
- (F) FP = Applicant's ability to finance project
- (G) N = Need
- (H) AR = Amount of grant requested
- (I) BP = Project benefit to other systems
- (J) PG = Previous grant assistance

(2) **Explanation.** Each of these criteria are explained below:

(A) **Population (P).** Municipalities which have a population of less than 1,750 according to the latest federal decennial census shall be given 55 priority points. Rural water or sewer districts which have less than 525 non-pasture customers shall be given 55 points.

### (B) Water and Sewer rate structure (WR).

(i) For systems providing water service only, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(i).

(ii) For systems providing both water and sewer services, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(ii).

(iii) For systems providing sewer service only, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(iii).

(iv) The Board will deduct 3 points from the total of the Water and Sewer Rate Structure ranking for any system which charges a flat water rate (unmetered) without regard to the amount of water used, and 2 points for a decreasing block rate which lowers the cost per 1000 gallons for customers using larger amounts of water. No points will be added or subtracted for systems using a fixed rate per 1,000 gallons above the minimum. Two points will be added for systems using an increasing block rate. Entities who dedicate sales tax for water and/or sewer improvements will be awarded 1 additional point. Under this category the maximum number of points is 13 and the minimum is -3 points.

(C) **Indebtedness per customer (I).** The indebtedness per customer ranking is calculated by taking the applicant's monthly requirements for debt service on debt incurred for water and/or sewer system purposes and dividing it by the number of customers served.

(i) If the indebtedness per customer is ~~\$45.00~~20.00 or greater, the applicant shall be given 10 points.

(ii) If the indebtedness per customer is ~~\$13.00~~17.50 to ~~\$14.99~~19.99, the applicant shall be given 9 points

(iii) If the indebtedness per customer is ~~\$11.00~~16.00 to ~~\$12.99~~17.49, the applicant shall be given 8 points.

(iv) If the indebtedness per customer is ~~\$10.00~~14.50 to ~~\$10.99~~15.99, the applicant shall be given 7 points.

(v) If the indebtedness per customer is ~~\$9.00~~13.00 to ~~\$9.99~~14.49, the applicant shall be given 6 points.

(vi) If the indebtedness per customer is ~~\$8.00~~11.50 to ~~\$8.99~~12.99, the applicant shall be given 5 points.

(vii) If the indebtedness per customer is ~~\$7.00~~10.00 to ~~\$7.99~~11.49, the applicant shall be given 4 points.

(viii) If the indebtedness per customer is ~~\$6.00~~8.50 to ~~\$6.99~~9.99, the applicant shall be given 3 points.

(ix) If the indebtedness per customer is ~~\$5.00~~7.00 to ~~\$5.99~~8.49, the applicant shall be given 2 points.

(x) If the indebtedness per customer is ~~\$4.00~~5.50 to ~~\$4.99~~6.99, the applicant shall be given 1 point.

(xi) If the indebtedness per customer is less than ~~\$4.00~~5.50, the applicant shall be given 0 points.

(D) **Median household income (MHI).** The median household income is calculated according to the ~~latest~~most current federal decennial census or American Community Survey data available.

(i) The county median figure for median household income will be used in cases where data for the applicant's service area is not available.

(ii) Points for this MHI criterion are awarded according to the scale set forth in Section 50-7-5(b)(2)(E)(ii).

(E) **Ability to finance project (FP).**

(i) The maximum points possible under this criterion for the ability of the applicant to finance the project without assistance from the state is 12.

(ii) The FP ranking gives a standardized account of the amount the existing water/sewer rates would have to be raised in order for the applicant to finance the project through a loan. A standard interest rate and term of 10% for 25 years is assumed. The cost per customer per month is calculated using the following formula:  $FP = AR (0.1102)/(12)(C)$ , Where:

(I) FP = Estimate of the amount monthly water/sewer rates would have to be raised to finance the amount of grant requested for the project.

(II) AR = Amount of grant requested.

(III) 0.1102 = Annual rate factor for a 25 year loan at 10%

(IV) 12 = Number of months per year.

(V) C = Number of customers

(iii) In cases where the applicant's current revenues exceed expenses by a large margin, the Board will appropriately adjust the (AR) figure

to accurately represent the applicant's ability to finance the project.

(iv) Points in the FP ranking, based upon the cost per customer per month calculated as set forth in (ii) of this subparagraph, are awarded as follows:

(I) If the FP is \$10.00 or greater, the applicant shall be given 12 points.

(II) If the FP is \$8.00 to \$9.99, the applicant shall be given 11 points.

(III) If the FP is \$6.00 to \$7.99, the applicant shall be given 10 points

(IV) If the FP is \$5.00 to \$5.99, the applicant shall be given 9 points.

(V) If the FP is \$4.00 to \$4.99, the applicant shall be given 8 points.

(VI) If the FP is \$3.00 to \$3.99, the applicant shall be given 7 points.

(VII) If the FP is \$2.00 to \$2.99, the applicant shall be given 6 points.

(VIII) If the FP is \$1.75 to \$1.99, the applicant shall be given 5 points.

(IX) If the FP is \$1.50 to \$1.74, the applicant shall be given 4 points.

(X) If the FP is \$1.25 to \$1.49, the applicant shall be given 3 points.

(XI) If the FP is \$1.00 to \$1.24, the applicant shall be given 2 points.

(XII) If the FP is \$0.75 to \$0.99, the applicant shall be given 1 point.

(XIII) If the FP is less than \$0.75, the applicant shall be given 0 points.

(F) **Need (N).** An applicant who is subject to an enforcement order issued by a governmental agency with environmental jurisdiction shall be given 5 priority points for a proposed project which will remedy the violation out of which the order arose if the order specifies a project construction start date which is on or before June 30 of the Board's current fiscal year for funding REAP grants.

(G) **Amount of grant requested (AR).** Points under this category for amount of grant requested are determined as follows:

(i) If the AR is \$140,001 to \$150,000, the applicant shall be given -5 points.

(ii) If the AR is \$130,001 to \$140,000, the applicant shall be given -4 points.

(iii) If the AR is \$120,001 to \$130,000, the applicant shall be given -3 points.

(iv) If the AR is \$110,001 to \$120,000, the applicant shall be given -2 points.

(v) If the AR is \$100,001 to \$110,000, the applicant shall be given -1 point.

(vi) If the AR is \$100,000, the applicant shall be given 0 points.

(vii) If the AR is \$80,000 to \$99,999, the applicant shall be given 1 point.

(ix) If the AR is \$60,000 to \$79,999, the applicant shall be given 2 points.

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- (x) If the AR is \$40,000 to \$59,999, the applicant shall be given 3 points.
- (xi) If the AR is \$20,000 to \$39,999, the applicant shall be given 5 points.
- (xii) Any portion of an AR that is more than \$150,000 shall be denied.

(H) **Project benefit to other systems (BP).** If the applicant's project will benefit other adjacent systems as well as applicant's or result in or lead to consolidation of systems, an additional five (5) priority points will be included in the total of priority points assigned to the application.

(I) **Previous grant assistance (PG).** No qualified entity shall receive more than \$150,000 in REAP grant assistance in any twelve (12) month period. For purposes of this subparagraph a political subdivision and all its public trusts and similar subordinate entities together shall be treated as one and the same qualified entity; provided, rural water or sewer districts shall not be construed to be subordinate entities of counties unless the effect would be to make multiple grants to substantially the same entity and/or service area. If a qualified entity has been approved for or received one (1) or more REAP grants from the Board in the past, points shall be deducted from the application according to all of the following provisions that apply:

- (i) If the qualified entity has been approved for or received one (1) REAP grant in the preceding twelve (12) month period, the application will be given -8 points.
- (ii) If the qualified entity has been approved for or received more than one (1) REAP grant in the preceding twelve (12) month period, the application will be given -10 points for each REAP grant so received.
- (iii) If the qualified entity has been approved for or received one (1) REAP grant more than twelve (12) months in the past, the application will be given -5 points.
- (iv) If the qualified entity has been approved for or received two (2) REAP grants more than twelve (12) months in the past, the application will be given -8 points.
- (v) If the qualified entity has been approved for or received three (3) REAP grants more than twelve (12) months in the past, the application will be given -10 points.
- (vi) If the qualified entity has been approved for or received four (4) REAP grants more than twelve (12) months in the past, application will be given -12 points.
- (vii) If the qualified entity has been approved for or received five (5) or more REAP grants more than twelve (12) months in the past, the application will be given -14 points.

(c) **Priority formula for school districts and counties.**

(1) School districts created under Article V of the School Code, 70 O.S. 1991, §5-101 et seq., and counties

are political subdivisions of the State, and therefore are eligible for financial assistance under the Board's REAP grant program.

(2) In evaluating and prioritizing grant applications from school districts and counties, similar criteria to those applied to municipalities and rural water districts will be utilized.

(3) In developing a priority formula for school district and county applicants, the primary criteria are average daily membership (for schools only), fiscal capacity, need, amount requested, and previous grant assistance.

(4) The following formula has been devised to rank REAP grant applications by counties and school districts:  
 $T = ADM + LT + BI + MHI + FP + N + AR + PG$ , Where:

- (A) T = Total of priority points
- (B) ADM = Average daily membership
- (C) Lt = Local tax levies
- (D) BI = Bonded indebtedness
- (E) MHI = Median household income of population within the school district or area of county to be served
- (F) FP = Applicant's ability to finance project
- (G) N = Need
- (H) AR = Amount of grant requested
- (I) PG = Previous grant assistance

(5) The criteria MHI, FP, N, AR and PG are the same as that set forth in (b) of this Section. The criteria ADM, LT and BI are explained as follows:

(A) **Average daily membership (ADM).** School districts with an average daily membership of less than 525 students shall be given 55 priority points.

(B) **Local tax levies (LT).** Points awarded under this category for local tax levies are based on the total amount of mills levied, as follows:

- (i) If the mills are 95 to 100; the applicant shall be given 13 points.
- (ii) If the mills are 90 to 94.99, the applicant shall be given 11 points.
- (iii) If the mills are 85 to 89.00, the applicant shall be given 10 points.
- (iv) If the mills are 80 to 84.99, the applicant shall be given 8 points.
- (v) If the mills are 70 to 79.99, the applicant shall be given 6 points.
- (vi) If the mills are 60 to 69.99, the applicant shall be given 4 points.
- (vii) If the mills are 55 to 59.99, the applicant shall be given 2 points.
- (viii) If the mills are 50 to 54.99, the applicant shall be given 1 point.
- (ix) If the mills are 45 to 49.99, the applicant shall be given 0 points.
- (x) If the mills are 40 to 49.99, the applicant shall be given -1 point.
- (xi) If the mills are less than 40, the applicant shall be given -2 points.

(C) **Bonded indebtedness (BI).**

- (i) Priority points for Bonded Indebtedness are as follows:
  - (I) If the percentage is 95% to 100%, the applicant shall be given 10 points.
  - (II) If the percentage is 90% to 94.99%, the applicant shall be given 8 points.
  - (III) If the percentage is 80% to 89.99%, the applicant shall be given 7 points.
  - (IV) If the percentage is 75% to 79.99%, the applicant shall be given 6 points.
  - (V) If the percentage is 65% to 69.99%, the applicant shall be given 5 points.
  - (VI) If the percentage is 65% to 69.99%, the applicant shall be given 4 points.
  - (VII) If the percentage is 60% to 64.99%, the applicant shall be given 3 points.
  - (VIII) If the percentage is 55% to 59.99%, the applicant shall be given 2 points.
  - (IX) If the percentage is 50% to 54.99%, the applicant shall be given 1 point.
  - (X) If the percentage is 45% to 49.99%, the applicant shall be given 0 points.
  - (XI) If the percentage is 40% to 44.99%, the application shall be given -1 point.
  - (XII) If the percentage is 30% to 39.99%, the applicant shall be given -2 points.
  - (XIII) If the percentage is less than 30%, the applicant shall be given -3 points.
- (ii) A deduction of one (1) point from the indebtedness ranking total will be made for applicants with 75% of existing debts financed at rates of 5% or less, and one (1) point will be added if 75% of existing debts are financed at rates greater than 10%.

**SUBCHAPTER 9. CLEAN WATER STATE REVOLVING FUND REGULATIONS**

**PART 1. GENERAL PROVISIONS**

**785:50-9-9. Definitions**

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

**"303(d) List"** means the list of impaired waters of the State, or most recent approved revision thereof, developed pursuant to Section 303(d) of the Clean Water Act as amended and maintained on file at the Board.

**"Act"** means The Federal Clean Water Act, as amended.

**"Applicant"** means any municipality, as defined, that submits a preapplication/application for financial assistance in accordance with this subchapter.

**"Architectural or engineering services"** means consultation, investigations, reports, or services for design-type projects within the scope of the practice of architecture or professional engineering.

**"As a result of"** means funds in the Clean Water SRF including the capitalization grant, repayments of first round loans, bond proceeds, and the State match.

**"Binding commitment"** means binding commitments are legal obligations by the State to the local recipient that define the terms and the timing for assistance under Clean Water SRF.

**"Board"** means the Oklahoma Water Resources Board authorized by law to make final adjudications, execute contracts, adopt rules and carry out other powers and duties set forth by law or, for duties authorized by law to be delegated to the Executive Director, the Executive Director or any employee or agent or staff member thereof as assigned by the Executive Director.

**"Brownfield"** means an abandoned, idled or underused industrial or commercial facility or other redevelopment of the real property is complicated by environmental contamination caused by regulated substances [27A:2-15-103(2)].

**"Brownfield activities"** means those activities which are conducted under the Oklahoma Brownfields Voluntary Redevelopment Act for eligible entities that have obtained a draft or final permit pursuant to the National Pollution Discharge Elimination Act or Oklahoma Pollutant Discharge Elimination System Act, which are designed to improve water quality, and which are exempt from funds administered under the Nonpoint Source Management Program of the federal Clean Water Act.

**"Brownfield assessment"** means any phase I, phase II, phase III or other study required by the Department which is used to assess a brownfield.

**"Building"** means the erection, acquisition, alteration, remodeling, improvement or extension of treatment works.

**"Capitalization grant"** means an agreement between EPA and State whereby federal dollars are made available to partially fund a Clean Water SRF.

**"Collector sewer"** means the common lateral sewers, within a publicly owned treatment system which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual systems, or from private property, and which include service "Y" connections designed for connection with those facilities including:

- (A) Crossover sewers connected more than one property on one side of a major street, road, or highway to a lateral sewer on the other side when more cost effective than parallel sewers; and
- (B) Pumping units and small diameter lines serving individual structures or groups of structures.

**"Combined sewer"** means a sewer that is designed as a sanitary sewer and a storm sewer.

**"Conservation Commission"** means the Oklahoma Conservation Commission.

**"Construction"** means any one or more of the following: brownfield assessment; preliminary planning to determine feasibility, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other actions or undertakings necessary to a project; erection, building, acquisition, alteration, remodeling, improvement, or extension of a project; or the inspection or supervision of any of the foregoing items.

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**"Consultant"** means a person duly licensed, registered or certified to practice a profession as required by Oklahoma law who is providing services or advice in that professional capacity. Examples include, but are not limited to, accountants, architects, attorneys, engineers, and financial advisors.

**"Contingency section"** means that portion of the planning portion of the priority list consisting of projects which may receive loans due to bypass provision or due to additional funds becoming available.

**"Cross-cutting laws and orders"** means Federal laws and authorities that apply to all activities supported with funds "directly made available by" capitalization grants.

**"DBE"** means Disadvantaged Business Enterprises.

**"DBE participation"** means the federal requirement for negotiation of a "fair share" objective for minority, disadvantaged and women owned businesses applies to assistance in an amount equal to the capitalization grant.

**"Department"** means the Oklahoma Department of Environmental Quality.

**"Enforceable requirements of the Act"** means those conditions or limitations of NPDES or other discharge permits which, if violated, could result in the issuance of a compliance order or initiation of a civil or criminal action. If a permit has not been issued, the term shall include any requirement which would be included in the permit when issued. Where no permit applies, the term shall include any requirement which is necessary to meet applicable criteria for best practicable wastewater treatment technology (BPWTT).

**"Equivalency projects"** means project cited by the Board as meeting the requirement of the capitalization grant.

**"Excessive infiltration/inflow"** means the quantities of infiltration/inflow above 120 gallons per capita per day (GPCD), which can be economically eliminated from a sewer system as determined in a cost-effectiveness analysis that compares the costs for correcting the infiltration/inflow conditions to the total costs for transportation and treatment of the infiltration/inflow.

**"Fundable portion"** means that portion of the Project Priority List which includes projects scheduled for financial assistance during the funding year.

**"Funding year"** means the first year of the planning period represented by a project priority list.

**"Infiltration"** means water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from inflow.

**"Inflow"** means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from infiltration.

**"In perpetuity"** means maintaining the principal amounts of the federal capitalization grants and state matching funds within the CWSRF.

**"Intended Use Plan"** means a document prepared each year by the State, which identifies the intended uses of the funds in the CWSRF and describes how those uses support the goals of the CWSRF.

**"Interceptor sewer"** means a sewer which is designed for one or more of the following purposes:

(A) To intercept wastewater from a final point in a collector sewer and convey such wastes directly to a treatment facility or another interceptor.

(B) To replace an existing wastewater treatment facility and transport the wastes to an adjoining collector sewer or interceptor sewer for conveyance to a treatment plant.

(C) To transport wastewater from one or more municipal collector sewers to another municipality or to a regional plant for treatment.

(D) To intercept an existing major discharge of raw or inadequately treated wastewater for transport directly to another interceptor or to a treatment plant.

**"Loan"** means an agreement between the State and the local recipient through which the Clean Water SRF provides funds for eligible assistance on terms consistent with the federal Water Quality Act of 1987 or otherwise approved by the Environmental Protection Agency.

**"MGD"** means millions of gallons per day.

**"Municipality"** means a city, town, county, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created under State law, or an Indian tribe or an authorized Indian tribal organization, having jurisdiction over disposal of sewage, industrial wastes, or other waste, or a designated and approved management agency consistent with the State Water Quality Management Plan.

**"NEPA"** means the National Environmental Policy Act.

**"Nonexcessive infiltration"** means the quantity of infiltration which cannot be economically and effectively eliminated from a sewer system as determined in a cost-effectiveness analysis.

**"Nonexcessive inflow"** means the rainfall induced peak inflow rate which does not result in chronic operational problems related to hydraulic overloading of the treatment works during storm events. These problems may include surcharging, backups, bypasses, and overflows.

**"Nonpoint source"** means a source of pollution which is diffuse and does not have a single point of origin or is introduced into a receiving stream from a specific outlet.

**"Nonpoint source activities"** means capital works, capital improvements, capital equipment, environmental cleanups, land acquisition, or implementation of management practices for the purpose of protecting or improving surface or underground water quality through watershed management or reduction of nonpoint source pollution as authorized by the Act.

**"NPDES"** means National Pollutant Discharge Elimination System.

**"Operable treatment works"** means a treatment works that, upon completion, will meet the enforceable requirements of the Act.

"**Operation and maintenance**" means activities required to assure the dependable and economical function of treatment works.

(A) "**Maintenance**" means preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance and replacement of equipment.

(B) "**Operation**" means control of the unit processes and equipment which make up the treatment works. This includes financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

"**OWQS**" means the Oklahoma Water Quality Standards promulgated by the Board at Oklahoma Administrative Code Title 785, Chapter 45, as amended.

"**Planning**" means the process of evaluating alternative solutions to water pollution problems, and through a systematic screening procedure, selecting the most cost effective environmentally sound alternative.

"**Planning portion**" means that part of the Project Priority List containing all projects outside the fundable portion of the list that may, under anticipated allotment levels, receive funding during the five-year planning period represented by the list.

"**Project**" means the water quality project for which Clean Water SRF assistance is provided. Water quality projects include:

- (A) construction and design, or construction of an operable treatment works or segment thereof the principal purpose of which is for the treatment of domestic users' discharges within the jurisdiction, community, sewer service area, region or district concerned; ~~or~~
- (B) storm water and Brownfield activities;
- (C) nonpoint source activities; or
- (D) other water quality projects as defined by 82 O.S. §1085.52, as amended.

"**Project completion**" means the date operations of the project are initiated or are capable of being initiated, whichever is earlier.

"**Project Priority List**" means a contiguous list of projects in order of priority for which Clean Water SRF assistance is expected during a five-year planning period.

"**Project priority points**" means the total number of points assigned to a project by using the priority ranking formula.

"**Reallotment**" means allotment of previously allotted unused funds.

"**Recipient**" means a municipality or other entity which receives assistance under the Clean Water SRF program.

"**Repayment**" means principal and interest payments on loans which must be credited directly to the Clean Water SRF.

"**Replacement**" means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

"**Responsible bidder**" means a prospective contractor that currently meets the minimum standards of financial and technical ability to perform the tasks identified in the project specifications.

"**Revenue programs**" means a formally documented determination of sewer use charges which is designed to provide revenues for operation and maintenance (including replacement) cost, and/or any combination of revenue generating programs necessary to meet local debt service requirements.

"**Sewer System Evaluation Survey (SSES)**" means a study which shall identify the location, estimated flow rate, method of rehabilitation, and cost of rehabilitation versus the cost of transportation and treatment for each defined source of infiltration/inflow.

"**State match**" means funds equaling at least 20% of the amount of the capitalization grant which the State must deposit into the Clean Water SRF.

"**State Revolving Fund**" or "**SRF**" means funds for loans or providing other assistance for pollution control projects established through capitalization grants from EPA and State matching funds.

"**Storm sewer**" means a sewer designed to carry only storm waters, surface runoff, street wash waters, and drainage.

"**Treatment works**" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances. In addition "**treatment works**" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, including on-site systems and waste in combined storm water and sanitary sewer systems.

"**User charge**" means a charge levied on users of a treatment works for the user's share of the cost of operation and maintenance (including replacement) of such works.

"**Water Reuse**" means wastewater that is treated to be used for other purposes, may also be called recycled water or reclaimed water.

### PART 3. GENERAL PROGRAM REQUIREMENTS

#### 785:50-9-21. Eligible project

(a) The categories of wastewater treatment projects eligible for assistance are as follows:

(1) Category I - Secondary Treatment. The treatment facility necessary to discharge an effluent meeting the secondary treatment definition. This category may include outfall lines and lines which take existing treatment plants out of operation by transporting the effluent to a different plant;

(2) Category II - Advanced Treatment. The additional treatment necessary to meet more stringent than secondary effluent requirements as established in water quality management plans;

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- (3) Category IIIA - Infiltration/Inflow Correction. The correction of infiltration/inflow conditions including all costs necessary for removing excessive I/I from the sewer system, such as replacement or relining sewer sections, flow routing systems, etc;
- (4) Category IIIB - Sewer System Rehabilitation. Replacement or major rehabilitation of sewers, where it has been determined that such replacement or rehabilitation is necessary to the total integrity and performance of the wastewater treatment works;
- (5) Category IVA - New Collector Sewer Systems. Sewage collection system is the common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures or from private property, and which include service connection "Y" fittings designed for connection with those facilities. Pumping units, and pressurized lines, for individual structures or groups of structures when such units are cost effective and are owned and maintained by the applicant are included in this category;
- (6) Category IVB - New Interceptor Sewer Systems and Appurtenances. A sewer whose primary purpose is to transport wastewaters from collector sewers to a treatment facility;
- (7) Category V - Combined Sewer Overflow Correction. Correction of combined sewer overflows including cost of new collectors, interceptors, storm sewers, retention basin, etc., necessary to alleviate the overflow problem;
- (8) Category VI - Storm Sewers. storm water and Brownfield activities;
- (9) Category VII - Nonpoint source activities;~~and~~
- (10) Category VIII - Water Reuse; and
- ~~(4011)~~ Other water quality projects as defined under 82 O.S. §1085.51, as amended.
- (b) The Board will determine annually the amount of funding necessary and the project categories that will be placed on the fundable portion of the Priority List.
- (c) Costs associated with the planning or assessing, design and building of the eligible categories of projects are considered allowable by the Board. Eligible construction costs will be based on the lowest responsible bidder.
- (d) Eligibility for equivalency projects is subject to the applicable Federal requirements including those identified in 785:50-9-38(e) and 785:50-9-45(2) through (4).
- (e) Additionally, the Board shall consider the following issues in determining project eligibility:
- (1) **Capacity funding limitations.** The eligible capacity shall be determined using average dry weather flow and peak flows in accordance with population and per capita flow estimates provided by the applicant. Project capacity must be consistent with environmental constraints.
- (A) Eligible capacity for treatment plants will be up to a period of the design life of the project from the estimated date of initiation of construction.
- (B) Eligible capacity for interceptors and outfalls will be up to 40 years from the estimated date of initiation of construction.
- (C) Eligible capacity shall be calculated by multiplying the Board approved local population projection by an appropriate local per capita flow figure. The flow thus calculated will be deemed to include all the eligible project flows (residential, commercial, federal facilities, industrial, and infiltration/inflow). Eligible capacity will be determined during the development of the planning documents.
- (D) The applicant will be responsible for documenting, in the planning document, the peaking factors used for the project.
- (E) Eligible capacity will be determined when planning documents are approved by the Board.
- (2) **Collection systems.** The common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual systems, or from private property, and which include service "Y" connections.
- (3) **Population and flow projections.** Section 208 Areawide Water Quality Management Plan population and flow projections will be used to determine the eligible project capacity. A discussion of the local projections should be included in the planning document.
- (4) **Land costs.** Allowable costs for land and rights-of-way include the cost (including associated legal, administrative and engineering costs) of land acquired in fee simple or by lease or easement that will be an integral part of the treatment process or that will be used for the ultimate disposal of residues resulting from such treatment, including:
- (A) The cost of a reasonable amount of land, considering irregularities in application patterns and the need for buffer areas, berms, and dikes;
- (B) The cost of land acquired for a soil absorption system for a group of two or more homes;
- (C) The cost of land acquired for composting or temporary storage of compost residues which result from wastewater treatment; and
- (D) The cost of land acquired for storage of treated wastewater in land treatment systems before land application. The total land area for construction of a pond for both treatment and storage of wastewater is allowable if the volume necessary for storage is greater than the volume necessary for treatment. Otherwise, the allowable cost will be determined by the ratio of storage volume to the total volume of the pond.
- (5) **On-site systems.** Treatment and collection systems constructed at or near the wastewater source where the system serving individual structures or groups of structures are cost-effective and are owned and operated by the loan recipient.
- (6) **Brownfield remediation.** The types of storm water and Brownfield activities that may be qualified

for Clean Water SRF funding include, but are not limited to: excavation and disposal of underground storage tanks; constructing wetlands or other filtering mechanisms; capping wells; excavation, removal and disposal of contaminated soil or sediments; tunnel demolition; well abandonment; and all phases or brownfield assessments or planning required by the Department.

**PART 7. SRF ENVIRONMENTAL REVIEW PROCESS**

**785:50-9-60. Requirement of environmental review**

As required by the provisions of Section 602(b) (6) of the Clean Water Act, the Board shall conduct an interdisciplinary environmental review consistent with the National Environmental Policy Act of the project proposed for funding through the Clean Water State Revolving Fund Loan Account. This review will insure that the project will comply with the applicable local, state and federal laws and Board regulations relating to the protection and enhancement of the environment. Based upon the staff's review, the Board will make formal determinations regarding the potential social and environmental impacts of the proposed project. As necessary, the determination will include mitigative provisions as a condition of financial assistance for building and no financial assistance will be provided until a final environmental determination has been made. Nothing in this Part shall prohibit any public, private or governmental party from seeking administrative or legal relief from the determinations of the Board. Potential applicants to the Clean Water State Revolving Fund Loan Account should obtain guidance from the staff regarding the scope of the environmental review to be conducted by the Board and the environmental information which the applicant will be required to submit in support of the proposed project.

(1) **Basic environmental determination.** There are three (3) basic environmental determinations that will apply to projects proposed to be implemented with assistance from the Clean Water State Revolving Fund Loan Account. These are: a determination to categorically exclude a project from a formal environmental review; a finding of no significant impact (FNSI) based upon a formal environmental review supported by an environmental information document (EID); and a determination to provide or not to provide financial assistance based upon a Record of Decision following the preparation of an environmental impact statement (EIS). The appropriate determination will be based on the following criteria.

(A) The categorical exclusion determination applies to categories of projects that have shown over time not to entail significant impacts on the quality of the human environment.

(i) Projects which meet any of the following criteria may be categorically excluded from formal environmental review requirements.

(I) The project is directed solely toward rehabilitation of existing facilities, functional

replacement of equipment, or toward the construction of related facilities adjoining the existing facilities that do not affect the degree of treatment or the capacity of the works (i.e. infiltration and inflow correction, rehabilitation of existing equipment and structures, and the construction of small structures adjacent to or on existing sites).

(II) The project is in a community of less than 10,000 population and is for minor expansions or upgrading of existing treatment works or on-site disposal systems are proposed.

(III) The project is in an unsewered community involving the replacement of existing onsite systems, providing the new onsite systems do not result in substantial increases in the volume of discharge or the loadings of pollutants from existing sources, or relocate existing discharge.

(IV) The project involves re-issuance of a NPDES permit for a new source providing the conclusions of the NEPA document are still valid (including the appropriate mitigation), there will be no degradation of the receiving waters, and the permit conditions do not change or are more environmentally protective.

(V) The project is for an award of grants authorized by Congress under EPA's annual Appropriations Act that are solely for the reimbursement of the costs of a project that was completed prior to the date the appropriation was enacted.

(VI) The project relates to existing infrastructure systems (such as sewer systems; and stormwater systems, including combined sewer overflow systems) that involve minor upgrading, or minor expansion of system capacity or rehabilitation (including functional replacement) of the existing system and system components (such as the sewer collection network and treatment system; and stormwater systems, including combined sewer overflow systems) or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. This category does not include actions that: involve new or relocated discharges to surface or ground water; will likely result in the substantial increase in the volume or the loading of pollutant to the receiving water; will provide capacity to serve a population 30% greater than the existing population; are not supported by the state, or other regional growth plan or strategy; or directly or indirectly involve or relate to upgrading or extending infrastructure systems primarily for the purposes of future development.

(ii) Categorical exclusions will not be granted for projects that entail:

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- (I) the construction of new collection lines;
  - (II) a new discharge or relocation of an existing discharge;
  - (III) a substantial increase in the volume or loading of pollutants;
  - (IV) providing capacity for a population thirty (30) percent greater than the existing population;
  - (V) known or expected impacts to cultural resources, threatened or endangered species, or other environmentally sensitive areas; and
  - (VI) the construction of facilities that are known or expected to be not cost-effective or are likely to cause significant public controversy.
- (iii) The responsible official must review actions eligible for categorical exclusion to determine whether any extraordinary circumstances are involved. Extraordinary circumstances are when:
- (I) The proposed action is known or expected to have potentially significant environmental impacts on the quality of the human environment either individually or cumulatively over time.
  - (II) The proposed action is known or expected to have disproportionately high and adverse human health or environmental effects on any community, including minority communities, low-income communities, or federally-recognized Indian tribal communities.
  - (III) The proposed action is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.
  - (IV) The proposed action is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value, including but not limited to, property listed on or eligible for the National Register of Historic Places.
  - (V) The proposed action is known or expected to significantly affect environmentally important natural resource areas such as wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat.
  - (VI) The proposed action is known or expected to cause significant adverse air quality effects.
  - (VII) The proposed action is known or expected to have a significant effect on the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or growth and distribution of population including altering the character of existing residential areas,

or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use plans or federal land management plans.

(VIII) The proposed action is known or expected to cause significant public controversy about a potential environmental impact of the proposed action.

(IX) The proposed action is known or expected to be associated with providing financial assistance to a federal agency through an inter-agency agreement for a project that is known or expected to have potentially significant environmental impacts

(X) The proposed action is known or expected to conflict with federal, state or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws or regulations.

(iv) Categorical exclusions will be granted for the following projects without additional required documentation:

(I) Procedural, ministerial, administrative, financial, personnel, and management actions necessary to support the normal conduct of EPA business.

(II) Acquisition actions (compliant with applicable procedures for sustainable procurement) and contracting actions necessary to support the normal conduct of EPA business.

(III) Actions involving information collection, dissemination, or exchange; planning; monitoring and sample collection wherein no significant alteration of existing ambient conditions occurs; educational and training programs; literature searches and studies; computer studies and activities; research and analytical activities; development of compliance assistance tools; and architectural and engineering studies. These actions include those conducted directly by EPA and EPA actions relating to contracts or assistance agreements involving such actions.

(IV) Actions relating to or conducted completely within a permanent, existing contained facility, such as a laboratory, or other enclosed building, provided that reliable and scientifically-sound methods are used to appropriately dispose of wastes and safeguards exist to prevent hazardous, toxic, and radioactive materials in excess of allowable limits from entering the environment. Where such activities are conducted at laboratories, the Lab Director or other appropriate official must certify in writing that the laboratory follows good laboratory practices and adheres to all applicable federal, state, local, and federally-recognized Indian tribal laws and regulations. This category does not

include activities related to construction and/or demolition within the facility.

(V) Actions involving emergency preparedness planning and training activities.

(VI) Actions involving the acquisition, transfer, lease, disposition, or closure of existing permanent structures, land, equipment, materials, or personal property provided that the property: has been used solely for office functions; has never been used for laboratory purposes by any party; does not require site remediation; and will be used in essentially the same manner such that the type and magnitude of the impacts will not change substantially. This category does not include activities related to construction and/or demolition of structures on the property.

(VII) Actions involving providing technical advice to federal agencies, state or local governments, federally-recognized Indian tribes, foreign governments, or public or private entities.

(VIII) Actions involving approval of EPA participation in international "umbrella" agreements for cooperation in environmental-related activities that would not commit the United States to any specific projects or actions.

(IX) Actions involving containment or removal and disposal of asbestos-containing material or lead-based paint from EPA owned or operated facilities when undertaken in accordance with applicable regulations.

(X) Actions involving new source NPDES permit modifications that make only technical corrections to the NPDES permit (such as correcting typographical errors) that do not result in a change in environmental impacts or conditions.

(v) The Board may exclude, by amendment to these regulations, other categories of projects for which there is sufficient documentation demonstrating that they are not likely to have significant effects on the quality of the human environment.

(B) The FNSI will be based upon an environmental review by the staff supported by an EID prepared by the applicant in conformance with 785:50-9-61(2)(A). Based upon its review, the staff will prepare an environmental assessment (EA) resulting in the issuance of either a FNSI or a public notice that the preparation of an EIS will be required. All applicants whose projects do not meet the criteria for either a categorical exclusion or EIS will be required to prepare an EID. The Board's issuance of a FNSI will be based upon an EA documenting that the potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures.

(C) The Record of Decision may only be based upon an EIS in conformance with the format and guidelines described in 785:50-9-61(3). An EIS will be required when the Board determines any of the following:

(i) the project will significantly affect the pattern and type of land use or growth and distribution of the population;

(ii) the effects of the project's construction or operation will conflict with local or state laws or policies;

(iii) the project may have significant adverse impacts upon:

(I) wetlands,

(II) floodplains,

(III) threatened and endangered species or their habitats,

(IV) cultural resources including parklands, reserves, other public lands or areas of recognized scenic, recreational, agricultural, archeological or historic value;

(iv) the project will displace population or significantly alter the characteristics of existing residential areas;

(v) the project may directly or indirectly (i.e., through induced development) have significant adverse effect upon local ambient air quality, local noise levels, surface and ground water quality or quantity, fish, shellfish, wildlife or their natural habitats;

(vi) the project may generate significant public controversy;

(vii) the treated effluent will be discharged into a body of water where the present classification is too lenient or is being challenged as too low to protect present or recent uses, and the effluent will not be of sufficient quality to meet the requirements of those uses.

### (2) **Other determinations that are required of the Board.**

(A) Recognizing that a project may be altered at some time after an environmental determination on the project has been issued, the Board will provide that, prior to approval, the plans and specifications, assistance application, and related documents will be examined for consistency with the environmental determination. If inconsistencies are found, the Board may revoke a categorical exclusion and require the preparation of an EID or an EIS, consistent with the criteria of this subsection, or require the preparation of amendments to an EID or supplements to an EIS, as appropriate. Based upon the staff's review of the amended project, the Board will:

(i) reaffirm the original determination through the issuance of a public notice or statement of finding;

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(ii) issue a FNSI for a project for which a categorical exclusion has been revoked, or issue a public notice that the preparation of an EIS will be required;

(iii) issue an amendment to a FNSI, or revoke a FNSI and issue a public notice that the preparation of an EIS will be required, or

(iv) issue a supplement to a record of decision, or revoke a record of decision and issue a public notice that financial assistance will not be provided.

~~(B) When five (5) or more years have elapsed between the last environmental determination and the submittal of an application to the Fund, the Board will re-evaluate the project, environmental conditions and public views, and prior to the approval of application, proceed~~When the environmental determination is five years old or older, and for which the subject action has not yet been implemented, the Board staff must re-evaluate the proposed action, environmental conditions, and public views to determine whether to conduct a supplemental environmental review of the action and complete an appropriate decision document in accordance with 785:50-9-60(2)(A) or reaffirm original determination.

### (3) Other determinations that are available to the Board.

(A) An applicant may request advance authority to construct part of the proposed wastewater treatment project prior to completion of the necessary environmental review when the part of the project will:

(i) immediately remedy a severe public health, water quality or environmental problem;

(ii) not preclude any reasonable alternatives identified for the complete system;

(iii) not cause significant or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire project; and

(iv) not be highly controversial.

(B) Based upon the review of the information required by Section 785:50-9-61, the Board will issue a FNSI so conditioned as to prohibit construction of the remainder of the project until a complete environmental review has been performed and a subsequent environmental determination has been issued.

(C) The Board may choose to accept determinations made by a federal agency in a previously issued environmental decision in lieu of conducting a formal environmental review when the proposed project will not cause adverse impacts to the environment and is not highly controversial.

### (4) Projects exempt from environmental review. The Board is not required to perform an environmental review of the following projects:

(A) Nonpoint source projects that

(i) cannot be defined as Section 212 projects; and

(ii) are not funded with funds directly made from a capitalization grant

(B) Projects that consist of design and planning fees only.

### 785:50-9-61. Environmental information required by the Board

Documentation required in this subsection will be submitted to the Board.

(1) Except as otherwise provided in OAC 785:50-9-60(1)(A)(iii), applicants seeking a categorical exclusion will provide the Board with sufficient documentation to demonstrate compliance with the criteria of Section 785:50-9-60(1)(i) of this Chapter and shall satisfy the provisions of 40 C.F.R. Section 6.204. At a minimum, this will consist of:

(A) a brief, complete description of the proposed project and its costs;

(B) statement identifying the categorical exclusion that applies to the action;

(C) a statement explaining why no extraordinary circumstances apply to the proposed action; and

(D) a plan map or maps of the proposed project showing:

(i) the location of all construction areas,

(ii) the planning area boundaries, and

(iii) any known environmentally sensitive areas.

(2) An EID must be submitted by those applicants whose proposed projects do not meet the criteria for a categorical exclusion and for which the Board has made a preliminary determination that an EIS will not be required. The Board will provide guidance on both the format and contents of the EID to potential applicants prior to initiation of planning.

(A) At a minimum, the contents of an EID will include:

~~(i) the purpose and need for the project~~The description and need for the proposed action;

~~(ii) the environmental setting of the project and the future of the environment without the project~~the alternatives, including the no action alternative (which must be assessed even when the proposed action is specifically required by consent order);

~~(iii) the alternatives to the project as proposed and their potential environmental impacts~~the affected environment, including baseline conditions that may be impacted by the proposed action and alternatives;

~~(iv) a description of the proposed project~~the environmental impacts of the proposed action and alternatives, including any unresolved conflicts concerning alternative uses of available resources;

~~(v) the potential environmental impacts of the project as proposed~~including those which cannot

~~be avoided—the environmental impacts of the proposed action and alternatives on the other applicable environmental laws and executive orders;~~

~~(vi) the relationship between the short term uses of man's environment and the maintenance and enhancement of long term productivity; a listing or summary of any coordination or consultation undertaken with any federal agency, state or local government, or federally-recognized Indian tribe regarding compliance with applicable laws and executive orders; and~~

~~(vii) any irreversible and irretrievable commitments of resources to the proposed project; identification and description of any mitigation measures considered, including any mitigation measures that must be adopted to ensure the action will not have significant impacts.~~

~~(viii) a description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of public participation process; and~~

~~(ix) documentation of coordination with appropriate governmental agencies.~~

(B) Prior to the applicant's adoption of the planning document, the applicant will hold a public hearing on the proposed project and the EID, and provide the Board with a transcript of the hearing. The Board will provide guidance to the applicant regarding the contents of the hearing notice and of the hearing. The hearing will generally be advertised at least thirty (30) days in advance in a local newspaper of general circulation. Concurrent with the advertisement, a notice of the public hearing and availability of the documents will be sent to all local, state, and federal agencies and public and private parties that may have an interest in the proposed project. Included with the transcript will be a list of attendees, and testimony, and the applicant's responses to the issues raised. The transcript of hearing can be audio recorded but must be provided to the Board in the form of either a cd, a dvd or a digital file in mp3 or mp4 format.

(C) The applicant will make copies of the EID available to all federal, state, and local agencies and others with an interest in the project. The Board will provide guidance to the applicant regarding coordination requirements.

(3) The format of an EIS will encourage sound analysis and clear presentation of alternatives, including the no action alternative and the selected alternative, and their environmental, economic and social impacts. The following format must be followed by the applicant unless the Board determines there are compelling reasons to do otherwise.

(A) A cover sheet identifying the applicant, the project(s), the program through which financial assistance is requested, and the date of publication.

(B) An executive summary of the critical issues of the EIS in sufficient detail that the reader may become

familiar with the proposed project and its cumulative effects. The summary will include:

- (i) a description of the existing problem;
- (ii) a description of each alternative;
- (iii) a listing of each alternative's potential environmental impacts, mitigative measures and any areas of controversy; and
- (iv) any major conclusions.

(C) The body of the EIS, which will contain the following information.

(i) A complete and clear description of the purpose and need for the proposed project that clearly identifies its goals and objectives.

(ii) A balanced description of each alternative considered by the applicant. The description will include the size and location of the facilities and pipelines, land requirements, and construction schedules. The alternative of no action will be discussed and the applicant's preferred alternative(s) will be identified. Alternatives that are eliminated from examinations will be presented with the reasons for their elimination.

(iii) A description of the alternatives available to the Board including:

(I) providing financial assistance to the proposed project;

(II) requiring that the proposed project be modified prior to providing financial assistance to reduce adverse impacts, or providing assistance with conditions requiring the implementation of mitigative measures; and

(III) not providing financial assistance.

(iv) A description of the alternatives available to other local, state, and federal agencies which may have the ability to issue or deny a permit, provide financial assistance or otherwise affect or have an interest in any of the alternatives.

(v) A description of the affected environment and environmental consequences of each alternative. The affected environment on which the evaluation of each alternative will be based includes, as a partial listing, hydrology, geology, air quality, noise, biology, socioeconomic, land use, and cultural resources of the facilities planning area. The Board will provide guidance, as necessary, to the applicant regarding the evaluation of the affected environment. The discussion will present the total impacts of each alternative in manner that will facilitate comparison. The effects of the no action alternative must be included to serve as a baseline for comparison of the adverse and beneficial impacts of the other alternatives. A description of the existing environment will be included in the no action section to provide background information. The detail in which the affected environment is described will be commensurate with the complexity of the situation and the significance of the anticipated impacts.

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(D) The draft EIS will be provided to all local, state and federal agencies and public groups with an interest in the proposed project and be made available to the public for review. The final EIS will include all objections and suggestions made before and during the draft EIS review process, along with the issues of public concern expressed by individuals or interested groups. The final EIS must include discussions of any such comments pertinent to the project or the EIS. All commentors will be identified. If a comment has led to a change in either the project or the EIS, the reason should be given. The Board will always endeavor to resolve any conflicts that may have arisen, particularly among permitting agencies, prior to the issuance of the final EIS. In all cases, the comment period will be no less than 45 days.

(E) Material incorporated into an EIS by reference will be organized to the extent possible into a Supplemental Information Document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested persons within the comment periods specified in 785:50-9-61(3)(D) and 785:50-9-61(3)(G)(ii) and (iii).

(F) When an EIS is prepared by contractors, either in the service of the applicant or the Board, the Board will independently evaluate the EIS prior to issuance of the Record of Decision (ROD) and take responsibility for its scope and contents. The Board staff who undertake this evaluation will be identified under the list of preparers along with those of the contractor and any other parties responsible for the content of the EIS.

(G) The public participation required for an EIS is extensive; but should, depending upon the nature and scope of the proposed project, be supplemented by the applicant. The following requirements represent the minimum allowable to the applicant and the Board.

(i) Upon making the determination that an EIS will be required of a proposed project, the Board will publish in the Oklahoma Register and distribute a notice of intent to prepare an EIS.

(ii) As soon as possible after the notice of intent has been issued, the Board will convene a meeting of the affected federal, state and local agencies, the applicant, and other interested parties to determine the scope of the EIS. A notice of this scoping meeting may be incorporated into the Notice of Intent or prepared as in (2)(B) of this subsection except that in no case will the notification

period be less than forty-five (45) days. As part of the scoping meeting the Board will, at a minimum:

(I) determine the significance of issues for and the scope of those significant issues to be analyzed in depth in the EIS;

(II) identify the preliminary range of alternatives to be considered;

(III) identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(IV) discuss the method for EIS preparation and the public participation strategy;

(V) identify consultation requirement of other laws and regulations;

(VI) determine the relationship between the preparation of the EIS and the completion of the facilities plan and any necessary arrangements for coordination of the preparation of both documents.

(iii) Following the scoping process the Board will begin the identification and evaluation of all potentially viable alternatives to adequately address the range of issues developed in the scoping. A summary of this including a list of the significant issues identified will be provided to the applicant and other interested parties. Preparation of the EIS will be done, at the discretion of the Board: directly, by its own staff; by consultants to the Board; or by a consultant, contracted by the applicant subject to approval by the Board. In the latter two cases, the consultant will be required to execute a disclosure statement prepared by the Board signifying they have no financial or other conflicting interest in the outcome of the project. Both the draft EIS and final EIS will be distributed and made available for public review in a fashion consistent with the requirements of (2)(B) of this section except that the advertisement and comment period for the public participation will be no less than forty-five (45) days. The Board will publish, in the Daily Oklahoman and a newspaper(s) of general circulation in the project area, a notice of availability of the EIS giving locations at which it will be available for public review at least forty-five (45) days prior to making any environmental determination.

[OAR Docket #13-750; filed 5-9-13]

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# 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

### 1:2013-15.

#### EXECUTIVE ORDER 2013-15

I, Mary Fallin, 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, in recognition of Peace Officers Memorial Day, direct that appropriate steps be taken to fly all American flags and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Wednesday, May 15, 2013, to honor Federal, State, and local officers killed or disabled in the line of duty.

This executive order shall be forwarded to the Division of Capitol Assets Management who shall cause the provision of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 3rd day of May, 2013.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Chris Morriss  
Assistant Secretary of State

*[OAR Docket #13-719; filed 5-6-13]*

### 1:2013-16.

#### EXECUTIVE ORDER 2013-16

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to 25 O.S. § 90.19, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Friday, May 10, 2013, to honor Specialist Charles P. McClure, 21, an Oklahoma soldier, who died on May 2, 2013, while on active duty

supporting Operation Enduring Freedom in Afghanistan. His service to our country and state will never be forgotten.

This executive order shall be forwarded to the Division of Capital Assets Management, who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 9th day of May, 2013.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Chris Morriss  
Assistant Secretary of State

*[OAR Docket #13-753; filed 5-9-13]*

### 1:2013-17.

#### EXECUTIVE ORDER 2013-17

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to 25 O.S. § 90.19, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Saturday, May 11, 2013, to honor First Lieutenant Brandon J. Landrum, 26, an Oklahoma soldier, who died on May 4, 2013, while on active duty supporting Operation Enduring Freedom in Afghanistan. His service to our country and state will never be forgotten.

This executive order shall be forwarded to the Division of Capital Assets Management, who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

## Executive Orders

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IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 10th day of May, 2013.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Larry V. Parman  
Secretary of State

*[OAR Docket #13-755; filed 5-10-13]*

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