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Oklahoma **TRANSPORTATION** Authority (*Name changed to* Oklahoma **TURNPIKE** Authority *11-1-05*) - *See* Title 731	
Oklahoma **TURNPIKE** Authority (*Formerly:* Oklahoma **TRANSPORTATION** Authority AND Oklahoma **TURNPIKE** Authority) - *See* also Title 745	731
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Oklahoma **TURNPIKE** Authority (*Name changed to* Oklahoma **TRANSPORATION** Authority *11-1-99 - no rules enacted in this Title - See* Title 731)	745
Oklahoma **UNIFORM** Building Code Commission	748
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Board of Regents of the **UNIVERSITY** of Science and Arts of Oklahoma *(exempted 11-1-98)*	760
Oklahoma **USED** Motor Vehicle and Parts Commission	765
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Oklahoma **WORKERS'** Compensation Commission	810

Legislative Disapprovals

Upon disapproval by the Legislature of an agency's rules, the agency must publish a notice of such legislative disapproval in the *Register.*

For additional information on legislative disapprovals, see 75 O.S., Sections 308 and 308.3.

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 15. PHARMACIES

[OAR Docket #19-637]

RULEMAKING ACTION:

Legislative disapproval of PERMANENT rules

RULES:

Subchapter 5. Hospital Pharmacies

535:15-5-7.2. Supervision of pharmacy technicians [AMENDED]

Subchapter 13. Pharmacy Supportive Personnel

535:15-13-5. Supervision of pharmacy technicians [AMENDED]

LEGISLATIVE DISAPPROVAL:

Disapproved May 28, 2019 by HJR 1022

[OAR Docket #19-637; filed 6-19-19]

Emergency Adoptions

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

a. protect the public health, safety or welfare,
b. comply with deadlines in amendments to an agency's governing law or federal programs,
c. avoid violation of federal law or regulation or other state law,
d. avoid imminent reduction to the agency's budget, or
e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its 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 cites to 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 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #19-636]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 45. Wind Energy
165:35-45-2. Definitions [AMENDED]
165:35-45-4. Notification of intent to build a wind energy facility and other notices [AMENDED]
165:35-45-5. Commission consideration [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution, and 17 O.S. Sections 160.11 *et seq*.
COMMENT PERIOD:
October 4, 2018 through October 15, 2018
PUBLIC HEARING:
October 4, 2018, October 11, 2018, November 6, 2018, November 27, 2018
ADOPTION:
November 27, 2018
APPROVED BY GOVERNOR:
December 7, 2018
EFFECTIVE:
Immediately upon Governor's approval.
EXPIRATION:
Effective through September 14, 2019, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
These rules are needed on an emergency basis due to Senate Bill 1576, which amended the Oklahoma Wind Energy Development Act, being adopted by the Legislature and signed by the Governor on May 2, 2018. These emergency rules are necessary to provide a process to implement those statutory changes. Further, the emergency rules are necessary to protect the public health, safety and welfare, avoid serious prejudice to the public interest, and protect our national security and airspace for military training routes.
GIST/ANALYSIS:
The purpose of the proposed emergency rules is to address changes to 17 O.S. Sections 160.11 *et seq.* following Senate Bill 1576 being adopted by the Legislature and signed by the Governor. The proposed changes include adding definitions of "Determination of No Hazard," "FAA," and "Mitigation Plan;" clarify that movement within the original description does not require the reporting to start over; and clarify the timing and type of documentation to be submitted to the Public Utility Division and the Oklahoma Strategic Military Planning Commission.

CONTACT PERSON:
Jeff W. Kline, Assistant General Counsel, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, PO Box 52000, Oklahoma City, OK 73105, telephone (405) 521-2308, j.kline@occemail.com.

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

SUBCHAPTER 45. WIND ENERGY

165:35-45-2. Definitions

In addition to terms defined in the Oklahoma Wind Energy Development Act, 17 O.S. § 160.11 et seq., the following word(s) or term(s), when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Determination of No Hazard" means a document issued by the Federal Aviation Administration.

"FAA" means the Federal Aviation Administration.

"Mitigation plan" means a document issued by the Military Aviation and Installation Assurance Siting Clearinghouse.

"Project description" means a graphic depiction of a wind energy facility's outer boundary, which should adequately demonstrate the project's outer perimeter, inclusive of all wind turbines.

165:35-45-4. Notification of intent to build a wind energy facility and other notices

(a) The owner of a wind energy facility shall submit notification of intent to build a facility to the Corporation Commission within six (6) months of the initial filing pertaining to commencement of construction with the Federal Aviation Administration (FAA) of an FAA Form 7460-1 (Notice of Proposed Construction or Alteration) or any subsequent form required by the FAA for evaluating the impact a proposed wind energy facility will have on air commerce safety and the preservation of navigable airspace. Such notification shall be

submitted to the Director of the Public Utility Division of the Corporation Commission.

(b) The Public Utility Division shall provide the owner of a wind energy facility with affirmation of submission of the notification of intent to build by either providing proof of receipt stamp or confirmation of receipt if submission is made electronically.

(c) In the event that an owner of a wind energy facility submits notification of intent to build a facility with the Corporation Commission and files subsequent forms with the FAA, the owner is not required to submit amended or additional notification of intent to build a wind energy facility unless the project layout is expanded beyond the original project description. Movement within the original description will not require the notice process to start over. However, subsequent to submissions under (a) above, copies of FAA submissions for individual turbine modifications, additional turbines, or renewals shall be submitted to PUD within thirty (30) calendar days of submission to the FAA.

(d) The owner of the wind energy facility shall submit copies of the notification with the board of county commissioners of every county in which all or a portion of the wind energy facility is to be located within twenty-four (24) hours of filing with the Commission. If all or a portion of the wind energy facility is to be located within the incorporated area of a municipality, copies of the notification shall also be submitted to the governing body of the municipality within twenty-four (24) hours of filing with the Commission.

(e) Within thirty (30) calendar days of submitting the notification, as described above in (a), to the PUD Director, the owner of the wind energy facility shall cause a copy of the notification to be submitted to the Oklahoma Strategic Military Planning Commission. Subsequent updates to the FAA shall also cause a copy of the update notifications to be submitted to the Oklahoma Strategic Military Planning Commission at the same time as submission to the PUD Director. When the Oklahoma Strategic Military Planning Commission submits its letter to the Military Aviation and Installation Assurance Siting Clearinghouse, such letter shall be submitted at the same time to the PUD Director and the owner of the wind energy facility.

(~~e~~f) Within six (6) months of submitting the notification with the Commission as provided for in subsection (a) of this section, the owner of the wind energy facility shall cause a copy of the notification to be published in a newspaper of general circulation in the county or counties in which all or a portion of the wind energy facility is to be located. Proof of publication shall be submitted to the Director of the Public Utility Division of the Corporation Commission.

(~~f~~g) Within sixty (60) days of publishing the notification in a newspaper as provided for in subsection ~~(e)~~(f) of this section, the owner of the wind energy facility shall hold a public meeting. Notice of the public meeting shall be published in a newspaper of general circulation and submitted to the board of county commissioners in the county or counties in which all or a portion of the wind energy facility is to be located. The notice shall contain the place, date and time of the public meeting. Proof of publication of the notice shall be submitted to the Director of the Public Utility Division of the Corporation Commission. The public meeting shall be held in one of the counties in which all or a portion of the wind energy facility is to be located.

(~~g~~h) The owner of a wind energy facility shall not commence construction on the facility until the notification and public meeting requirements of this section have been met. If an owner of a wind energy facility fails to submit the information with the Commission as required in this section, the owner shall be subject to an administrative penalty not to exceed One Thousand Five Hundred Dollars ($1,500) per day following hearing and issuance of a final order of the Commission.

(i) Subsequent to submitting the notification, as described above in (a), Determinations of No Hazard issued by the FAA, or, approved mitigation plans issued by the Military Aviation and Installation Assurance Siting Clearinghouse shall be submitted to the PUD Director by the owner of a wind energy facility as follows:

(1) Within thirty (30) calendar days of receipt of an active Determination of No Hazard issued by the FAA; or

(2) Within thirty (30) calendar days of receipt of an approved mitigation plan from the Military Aviation and Installation Assurance Siting Clearinghouse.

(3) Any Determination of No Hazard or mitigation plan issued prior to the initial submission of the notification described above in (a) shall be submitted to the PUD Director by the owner of a wind energy facility within thirty (30) calendar days of such initial notification submission.

(j) Electronic submission is preferred; however, all forms of submission will be accepted.

165:35-45-5. Commission consideration

(a) The Public Utility Division shall review and may investigate all wind energy facility information reported or submitted for compliance with the annual reporting requirements in this Subchapter or in 17 O.S. § 160.18 or with the notice requirements in this Subchapter or in 17 O.S. § 160.20 or 17 O.S. § 160.21.

(b) After receiving a report or submission from a wind energy facility pursuant to the annual reporting requirements in this Subchapter or in 17 O.S. § 160.18 or the notice requirements in this Subchapter or in 17 O.S. § 160.21, the Public Utility Division:

(1) Will determine whether the report or submission is compliant with the annual reporting or notice requirements; and

(2) Will inform the wind energy facility owner or operator of the Public Utility Division's determination within thirty (30) calendar days of receipt of the report or submission. In the event the Public Utility Division determines the wind energy facility's report or submission is not in compliance, the Public Utility Division shall contact the owner or operator to require additional information and such information shall be provided within fifteen (15) calendar days of such notice. If the facility owner fails to correct such non-compliance, the Public Utility Division

may reject the report or submission and may open an investigation to inquire further into the reported or submitted information.

[OAR Docket #19-636; filed 6-18-19]

Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption," as defined in 75 O.S., Section 250.3(5), of the proposed rules.

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 cites the *Register* publication of the finally adopted rules in the permanent rule document.

For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 308, 308.1 and 308.3.

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

[OAR Docket #19-497]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 23. Registration
10:15-23-1 [AMENDED]
Subchapter 27. Fees
10:15-27-3.1 [AMENDED]
10:15-27-5 [AMENDED]
10:15-27-7.2 [AMENDED]
10:15-27-8 [AMENDED]
10:15-27-9 [AMENDED]
10:15-27-10 [AMENDED]
10:15-27-14 [AMENDED]
10:15-27-15 [NEW]
Subchapter 30. Continuing Professional Education
10:15-30-8 [AMENDED]
Subchapter 33. Peer Review
10:15-33-4 [AMENDED]
AUTHORITY:
Oklahoma Accountancy Board; 59 O.S., § 15.5(B)(6)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 8, 2018
COMMENT PERIOD:
November 1, 2018 through December 3, 2018
PUBLIC HEARING:
December 12, 2018
ADOPTION:
February 15, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 25, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
August 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:

These rule changes eliminate obsolete language, and provide for a fee registration waiver for retired registrants and a continuing education requirement exemption for out-of-state registrants. In addition, the rule changes increase fees by $25.00 across the board, except in the case of reinstatement where the fee will be higher depending on how long the registrant's license or certificate was cancelled or revoked.

Section 10:15-23-1. The amendment removes obsolete language referencing the change from biennial to annual reporting in 2010. In addition, it adds an exemption from the annual registration fee for retired registrants.

Sections 10:15-27-3.1; 10:15-27-5; 10:15-27-7.2; 10:15-27-8; 10:15-27-9; 10:15-27-10; and 10:15-27-14. These amendments increase each fee by $25.00. However, in the case of reinstatement of a certificate or license after one year, the fee is equal to the accumulated registration and permit fee the individual would have paid had the registrant been in good standing during cancelled or revoked period.

Section 10:15-27-15. The addition of this rule grants a one-time, one-year waiver of any fees associated with the license or certificate of a low-income individual.

Section 10:15-30-8. The amendment adds an exemption from Oklahoma continuing education requirements for those registrants who reside and are registered in another state, who do not serve Oklahoma clients, and who demonstrate compliance with their resident state's continuing education requirements.

Section 10:15-33-4. The amendment removes the peer review requirement from firms whose registrations are revoked, surrendered, or cancelled.

CONTACT PERSON:
Randall A. Ross, CPA, Executive Director, or LaLisa Semrad, Staff Liaison to the OAB Rules Committee, Oklahoma Accountancy Board, 201 NW 63rd Street, Suite 210, Oklahoma City, OK 73116, (405) 521-2397, rross@oab.ok.gov or lsemrad@oab.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 23. REGISTRATION

10:15-23-1. Registration of individuals

(a) ~~Beginning in 2010, the Board will begin the implementation of an annual registration process based on each registrant's birth month.~~ All individuals shall register annually ~~on staggered dates of~~ by the last day of the individuals' birth months as provided in Section 15.14 of the Oklahoma Accountancy Act and shall file a registration statement with the Board in a format prescribed by the Board. The certificate or license shall be considered lapsed after the last day of the birth month.

(b) All registration statements shall be accompanied by a registration fee.

(1) In the case of a registrant who has reached the age of sixty-five (65), the registration fee shall be reduced, as provided in Subchapter 27.

(2) In the case of a registrant who is disabled beyond gainful employment, as provided in Section 15.14 of the Oklahoma Accountancy Act, the registration fee may be waived for the period of disability.

(3) In the case of a registrant who is retired as defined in Subchapter 1, the registration fee shall be waived.

(~~3~~4) All requests for a reduction or waiver of the registration fee shall be addressed to the Board, in writing.

(~~4~~5) The Board shall use its discretion in determining the conditions required for disability.

(c) In addition to the registration fee paid by an individual, there shall be a fee for registering after the last day of the renewal month but within twelve (12) months after the lapse date of the certificate or license.

(d) In addition to the registration fee paid by an individual, there shall be a fee for registering later than twelve (12) months following the lapse date of the certificate or license.

(e) Evaluation of qualifications and approval of registrations filed by individuals shall be performed by the Executive Director or his/her designee, subject to the review and supervision of the Board.

(f) Denial of individual registrations shall be by the Board.

(g) During the period when a certificate or license is suspended by the Board, the suspended registrant shall be required to file annually with the Board an informational report in a format prescribed by the Board. No fee shall be required with such filing.

(h) Renewal forms delivered to the Board office via carrier service with a postmark or ship date on or before the set expiration date as provided in this subsection shall be deemed timely filed.

SUBCHAPTER 27. FEES

10:15-27-3.1. Qualification and examination fees

Qualification applicants and candidates shall, for each application filed with the Board, pay a ~~Fifty Dollar ($50.00)~~Seventy-five Dollar ($75.00) fee and shall be responsible for all fees charged by the American Institute of Certified Public Accountants, National Association of State Boards of Accountancy (NASBA), and test delivery service provider which are payable to NASBA prior to scheduling the examination.

10:15-27-5. Transfer of credits

The application fee required with an application to transfer credits shall be One Hundred ~~Twenty Dollars ($120.00)~~Forty-five Dollars ($145.00).

10:15-27-7.2. Reciprocal application

Each reciprocal application shall be accompanied by an administrative fee of One Hundred ~~Twenty Dollars ($120.00)~~Forty-five Dollars ($145.00).

10:15-27-8. Registration

(a) ~~Effective January 1, 2010, the~~The annual registration fee for an individual renewing the certificate or license will be ~~Fifty Dollars ($50.00)~~Seventy-five Dollars ($75.00), or ~~Twenty-five Dollars ($25.00)~~Fifty Dollars ($50.00) for registrants age sixty-five (65) or older, and ~~may be extended until such time as the registrants' certificate and license renewals are cycled into the new staggered expiration dates of the last day of the individuals' birth months~~is due by the last day of the registrant's birth month.

(1) In addition to the registration fee there shall be a fee for registering after the last day of the individuals' birth months, but within twelve (12) months after the lapse date of the certificate or license, of ~~Fifty Dollars ($50.00)~~Seventy-five Dollars ($75.00) or for an individual who has reached the age of sixty-five (65), the fee shall be ~~Twenty-five Dollars ($25.00)~~Fifty Dollars ($50.00).

(2) In addition to the registration fee, there shall be a fee for registering later than twelve (12) months following the lapse date of the certificate or license, of One Hundred ~~Dollars ($100.00)~~Twenty-five Dollars ($125.00) or for an individual who has reached the age of sixty-five (65), the fee shall be ~~Fifty Dollars ($50.00)~~Seventy-five Dollars ($75.00).

(b) The registration fee for a firm, except a sole proprietorship, of certified public accountants or public accountants shall be ~~Fifty Dollars ($50.00)~~Seventy-five Dollars ($75.00) per year.

10:15-27-9. Permit

(a) The fee for an individual permit which is not a renewal permit shall be One Hundred Twenty-five Dollars ~~($100.00)~~($125.00).

(b) ~~Effective January 1, 2010, the~~The fee to renew an individual permit shall be One Hundred Twenty-five Dollars ~~($100.00)~~($125.00) which will be renewable ~~on staggered expiration dates on~~ by the last day of the individuals' birth months~~ and may be extended based on the registrants' previous permit expiration date until such time as the registrants' permit renewals are cycled into the new renewal period~~.

(c) A fee of One Hundred Twenty-five Dollars ~~($100.00)~~($125.00) shall be paid at the time a firm, except a sole proprietorship, which provides public accounting services to Oklahoma clients applies for a permit.

10:15-27-10. Reinstatement

The application fee required with an application for reinstatement within the first year of the revocation or cancelled date shall be One Hundred Twenty-five Dollars ~~($100.00)~~($125.00). The fee required with an application for reinstatement after a year from the revocation or cancelled date shall be equal to the accumulated registration and permit fees the individual would have paid had the individual been registered during the cancelled or revoked period, not to exceed Five Thousand Dollars ($5,000.00). The fee shall be calculated using the registration and permit fee amounts in place in the year of reinstatement. In the event that a reinstatement application is rejected by the Board, the applicant shall receive a refund of any reinstatement fee paid over the amount of One Hundred Twenty-five Dollars ($125.00).

10:15-27-14. Peer review fee

There shall be a peer review fee of One Hundred Twenty-five Dollars ~~($100.00)~~($125.00) for every modified, pass with deficiency, ~~adverse,~~ fail, or report which requires follow up filed with the Board.

10:15-27-15. Fee waiver for low-income individual

Upon presentation of satisfactory evidence that an applicant is a low-income individual, the Board shall grant a one-time one-year waiver of any fees associated with the license or certificate. This waiver shall not include fees charged by NASBA , AICPA, Prometric, or any other outside organization, nor shall it include any fines or costs assessed as a result of any disciplinary action. For purposes of this section, a "low-income individual" means an individual who is enrolled in a state or federal public assistance program, including but not limited to, the Temporary Assistance for Needy Families, Medicaid or the Supplemental Nutrition Assistance Program, or whose household adjusted gross income is below one hundred forty percent (140%) of the federal poverty line or a higher threshold to be set by the executive branch department that oversees business regulation.

SUBCHAPTER 30. CONTINUING PROFESSIONAL EDUCATION

10:15-30-8. Exceptions to CPE reporting requirements

All certificate and license holders must comply with CPE reporting requirements unless exempted below.

(1) The Board exempts from the requirements of CPE the following classifications:

(A) Retired certificate or license holders who are no longer employed or practicing public accounting;

(B) Certificate or license holders who are on active military service;

(C) Disabled certificate or license holders who are no longer employed or practicing public accounting due to medical circumstances;

(D) Certificate or license holders who are (A) not employed due to circumstances other than retirement, military service or disability or (B) certificate or license holders employed but not performing any services associated with accounting work. For purposes of this section, the term "associated with accounting work" shall include but is not limited to the following:

(i) working or supervising work performed in the areas of financial accounting and reporting; tax compliance, planning or advice; management advisory services; accounting information systems; treasury, finance or audit or preparing personal financial statements or investment plans; or

(ii) representing to the public, including an employer, that the registrant is a CPA or PA in connection with the performance or sale of any services or products involving accounting work, including such designation on a business card, letterhead, promotional brochure, advertisement, office, website or any electronic media.

(E) ~~Other good cause as determined by the Board on an individual basis~~Certificate or license holders who reside and are registered as a CPA or PA in another state, who do not serve Oklahoma clients, and who demonstrate compliance with the resident state's CPE requirements. Registrants whose state of residence does not have a CPE requirement shall comply with Oklahoma CPE reporting requirements.

(F) Other good cause as determined by the Board on an individual basis.

(2) In order to be granted an exemption based on 10:15-30-8(1) above, certificate and license holders must request an exemption each year in a format prescribed by the Board as required in 10:15-30-5(b). An exemption may be denied at any time if it is determined that the certificate or license holder was not eligible for the exemption claimed.

(3) In order for an exemption to be granted under 10:15-30-8(1) above, the Board may require the following affidavits:

(A) The registrant completes and forwards to the Board a sworn affidavit indicating that the registrant will not be associated with accounting work during the period for which the exemption is requested. A registrant who has been granted this exemption and who re-enters the work force shall be required to comply with 10:15-30-9; and

(B) The registrant forwards to the Board a sworn affidavit from the employer or organization indicating no association with accounting work. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the registrant's immediate supervisor that there is no reliance on the registrant's expertise as a CPA or PA.

(C) The registrant completes and forwards to the Board a sworn affidavit indicating that the registrant resides out of state, is registered as a CPA or PA in that state, is not serving Oklahoma clients, and is compliant with the resident state's CPE requirement.

(4) The Executive Director or his/her designee may grant extensions or exemptions for good cause on a case by case basis, and a report of such actions shall be provided to the Board.

(5) A certificate or license holder exempt from the requirement of CPE by reason of retirement or inactive status must indicate "retired" or "inactive" if they use their "CPA" or "PA" designation in any manner.

SUBCHAPTER 33. PEER REVIEW

10:15-33-4. Enrollment and participation

(a) Participation in the program is required of each firm holding a permit from the Board that performs any services which require a peer review as provided in Section 15.30 of the Oklahoma Accountancy Act.

(b) Firm enrollment is required as follows:

(1) An existing firm required to participate under subsection (a) shall enroll in the peer review program of an approved sponsoring organization within one (1) year from the performance of services that require a peer

review. The firm shall adopt the peer review due date assigned by the sponsoring organization, and must notify the Board of the date within thirty (30) days of its assignment. In addition, the firm shall schedule and begin an additional peer review within three (3) years of the previous peer review due date, or earlier as may be required by the sponsoring organization. It is the responsibility of the firm to anticipate its needs for peer review services in sufficient time to enable the reviewer to complete the peer review by the assigned review due date.

(2) An existing firm that subsequently begins providing services as set forth in subsection (a) shall notify the Board of the change in status within thirty (30) days and provide the Board with enrollment information within twelve (12) months of the date the services were first provided and have a peer review within eighteen (18) months of the year end of the engagement performed. This provision shall also apply to any new firm that provides the services set forth in subsection (a).

(c) In the event that a firm is merged, otherwise combined, dissolved, or separated, the sponsoring organization shall determine which firm is considered the succeeding firm. Any dispute of the sponsoring organization's determination shall be resolved by the Board. The succeeding firm shall retain its peer review status and the peer review due date.

(d) Any firm having a permit ~~revoked,~~ suspended, ~~surrendered, or cancelled,~~ that held a permit from the Board at the time it provided any service requiring a peer review must enroll in a Board approved peer review program as provided in subsection 10:15-33-4(a) or submit a peer review report as provided in subsection 10:15-33-6(a).

(e) The Board will accept extensions granted by the sponsoring organization to complete a peer review, provided the Board is notified by the firm within thirty (30) days of the date that an extension is granted.

(f) A firm that has been rejected by a sponsoring organization for whatever reason shall notify the Board of:

(1) Name of sponsoring organization rejecting the enrollment;

(2) Reasons for the rejection;

(3) Name of subsequently selected sponsoring organization.

(g) A firm choosing to change to another sponsoring organization may do so only once a final acceptance letter has been issued indicating that all outstanding corrective actions have been completed and outstanding fees paid.

[OAR Docket #19-497; filed 5-31-19]

TITLE 86. STATE BOARD OF BEHAVIORAL HEALTH LICENSURE
CHAPTER 10. LICENSED PROFESSIONAL COUNSELORS

[OAR Docket #19-409]

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PERMANENT final adoption

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Subchapter 1. General Provisions
86:10-1-2. [AMENDED]
Subchapter 3. Rules of Professional Conduct
86:10-3-3. [AMENDED]
86:10-3-4. [AMENDED]
Subchapter 7. Application Procedures
86:10-7-1. [AMENDED]
86:10-7-2. [AMENDED]
86:10-7-3. [REVOKED]
86:10-7-3.1. [NEW]
86:10-7-4. [AMENDED]
86:10-7-5. [AMENDED]
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86:10-7-7. [AMENDED]
86:10-7-7.1. [NEW]
86:10-7-8. [AMENDED]
86:10-7-8.1. [AMENDED]
Subchapter 11. Supervised Experience Requirement
86:10-11-1. [AMENDED]
86:10-11-3. [AMENDED]
86:10-11-5. [AMENDED]
86:10-11-6. [AMENDED]
86:10-11-7. [REVOKED]
Subchapter 15. Licensure Examinations
86:10-15-1. [AMENDED]
86:10-15-3. [REVOKED]
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86:10-15-6. [REVOKED]
86:10-15-7. [REVOKED]
Subchapter 19. Issuance of License
86:10-19-1.1. [REVOKED]
Subchapter 25. Licensure by Endorsement
86:10-25-2. [AMENDED]
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State Board of Behavioral Health Licensure; 59 O.S. 2011; 59 O.S. 2001, Section 1901 et. seq]

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The following permanent rules interpret the Oklahoma Licensed Professional Counselor Act, (59 O.S. 1991, Sections 1901 et seq.)

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

FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

86:10-1-2. Definitions

When used in this Chapter, the following words and/or terms shall have the following meaning unless the context clearly requires otherwise:

"Act" means the Licensed Professional Counselors Act, 59 O.S. §§ 1901 et seq., as amended.

"Administrative Procedures Act" ("APA") means Article I and/or Article II of the Administrative Procedures Act, 75 O.S. §§ 250 et seq.

"Applicant" means a person who has made a formal application with the Board.

"Approved LPC Supervisor" ("Supervisor") means an individual who meets the qualifications to become an approved supervisor and is approved by the Board pursuant to Section 86:10-11-4 of this Chapter.

"Board" means the State Board of Behavioral Health Licensure.

"Complainant" means any person who files a Request for Inquiry against a LPC, Candidate, or a person who delivers licensed professional counseling services without a license.

"Complaint Committee" means one Board member who is a LPC, the Executive Director, the Assistant Attorney General and may include other appropriate individuals as determined by the Committee.

"Dual relationship" means a familial, social, financial, business, professional, close personal, sexual or other non-therapeutic relationship with a client, or engaging in any activity with another person that interferes or conflicts with the LPC's or LPC Candidate's professional obligation to a client.

"Direct Client Contact Hours" means the performance of therapeutic or clinical functions that includes diagnosis, assessment and treatment of mental, emotional and behavioral disorders based primarily on verbal communications and intervention with, and in the presence of, one or more clients.

"Employee" means in accordance with 26 U.S.C. § 3121 (d):

(A) Any officer of a corporation; or

(B) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of employee.

~~**"Face-to-face counseling"** means the LPC and the client shall be in the physical presence of the other during counseling.~~

"Face-to-face supervision" means the Supervisor and the Candidate shall be in the physical presence of the other during individual or group supervision.

"Forensic services" means the application of knowledge, training and experience from the mental health field to the establishment of facts and/or the establishment of evidence in a court of law or ordered by a court of law.

"Formal Complaint" means a written statement of alleged violation(s) of the Act and/or Rules which is filed by the Assistant Attorney General. The Formal Complaint schedules an Individual Proceeding before the Board in accordance with 75 O.S. §309.

"Full time" means at least twenty (20) hours of on-the-job experience per week.

"Group supervision" means an assemblage of two (2) to six (6) Candidates.

"Home-study" or **"technology-assisted distance learning"** means the delivery of graduate coursework or continuing education through mailed correspondence or other distance learning technologies, which focuses on using synchronous or asynchronous instructional delivery methods. Home-study or technology-assisted distance learning is designed to deliver education to learners who are not in the direct physical presence of the educator.

"Licensed Professional Counselor" ("LPC") means a person holding a current license issued pursuant to the provision of the Professional Counselor Licensure Act.

"Licensed Professional Counselor Candidate" ("Candidate") means a person whose application for licensure has been accepted and who is under supervision for licensure as provided in 59 O.S. §1906.

"Licensure Committee" means two LPC Board members, the Executive Director, and may include other appropriate individuals as determined by the Committee.

"OAC" means the Oklahoma Administrative Code.

"On-site supervisor" means a person who may not be an approved LPC supervisor but is licensed by the state of Oklahoma as a Licensed Marital and Family Therapist, Licensed Professional Counselor, Licensed Behavioral Practitioner, Psychologist, Clinical Social Worker, Psychiatrist, or Licensed Alcohol and Drug Counselor employed by the agency employing the LPC Candidate whose assigned job duties include acting as the immediate supervisor to the LPC Candidate and who is available to the candidate at all times when counseling services are being rendered by the LPC Candidate.

"Request for Inquiry" ("RFI") means a written or oral statement of complaint from any person alleging possible violation(s) of the Act and/or Rules.

"Respondent" means the person against whom an Individual Proceeding is initiated.

"Staff" means the personnel of the Board.

"Technology-assisted supervision" refers to supervision that occurs through video teleconferencing, over secure internet connections, wherein a Supervisor and a Candidate are in separate physical locations.

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

86:10-3-3. Client welfare

(a) **Discrimination.** LPCs shall not, in the rendering of their professional services, participate in, condone, or promote discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law. LPCs do

not discriminate against clients, students, employees, supervisees, or research participants in a manner that has a negative impact on these persons.

(b) **Records.**

(1) **Requirement of records.** LPCs shall maintain verifiable, accurate and truthful records necessary for rendering professional services to their clients for at least five (5) years beyond termination of services. LPCs employed at an institution or facility that has a published records retention policy that is equal to the retention required by this subsection will be deemed to be in compliance with this subsection.

(2) **Confidentiality.** LPCs shall maintain the confidentiality of any information received from any person or source about a client, unless authorized in writing by the client or otherwise authorized or required by law or court order.

(3) **Confidentiality of records.** LPCs shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any counseling record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.

(4) **Client access.** LPCs shall provide the client with a copy of the client's record in accordance with state and federal laws. In situations involving multiple clients, access to records is limited to those parts of records that do not include confidential information related to another client.

(c) **Dual relationships.** LPCs shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the LPC reasonably suspects that he or she has inadvertently entered into a dual relationship the LPC shall record that fact in the records of the affected client(s) and take reasonable steps to eliminate the source or agent creating or causing the dual relationship. If the dual relationship cannot be prevented or eliminated and the LPC cannot readily refer the client to another counselor or other professional, the LPC shall complete one or more of the following measures as necessary to prevent the exploitation of the client and/or the impairment of the LPC's professional judgment:

(1) Fully disclose the circumstances of the dual relationship to the client and secure the client's written consent to continue providing counseling;

(2) Consult with the other professional(s) to understand the potential impairment to the LPC's professional judgment and the risk of harm to the client of continuing the dual relationship.

(d) **Sexual conduct with current clients.** Sexual conduct with current clients is prohibited.

(~~d~~e) **Providing counseling to persons of prior association.** LPCs shall not undertake to provide counseling to any person with whom the LPC has had any prior sexual ~~contact~~conduct, as defined by the Board.~~or~~ LPCs shall not undertake to provide counseling to any person with whom the LPC has had familial, any prior social, financial, business, professional, close personal, or other non-therapeutic relationship with a client, or engage in any activity with another person that interferes or conflicts with the LPCs professional obligation to a client within the previous five (5) years.

(~~e~~f) **Interaction with former clients.** LPCs shall not knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former client for ~~two (2)~~five (5)years after the termination of the counseling relationship. LPCs shall not engage in any activity that is or may be sexual in nature, as defined by the Board, with a former client ~~for at least five (5) years~~ after the termination of the counseling relationship. Sexual conduct with former clients is prohibited. LPCs shall not exploit or obtain an advantage over a former client by the use of information or trust gained during the counseling relationship.

(~~f~~g) **Invasion of privacy.** LPCs shall not make inquiry into persons or matters that are not reasonably calculated to assist or benefit the counseling process.

(~~g~~h) **Private or independent practice.** No person may engage in the private or independent practice of professional counseling work or open a facility with the intent of providing private or independent counseling practice unless that person:

(1) is licensed under this Act as a Licensed Professional Counselor; and,

(2) has met all requirements of OAC Section 86:10-11-5 of the LPC Regulations and all other requirements under the Act rules; and

(3) has continued to meet all continuing education requirements set forth in Subchapter 17 of this Chapter.

(~~h~~i) **Referral.**

(1) If LPCs determine that they are unable to be of professional assistance to a client, the LPC shall not enter a counseling relationship. LPCs shall refer clients to appropriate sources when indicated. If the client declines the suggested referral, the LPC shall terminate the relationship.

(2) LPCs shall not abandon or neglect current clients in treatment without making reasonable arrangements for the continuation of such treatment.

(3) When an LPC becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LPC's duty of responsibility to the current client, including a suspension of the LPC's license or any other situation or condition described in subchapter 3 of these rules, the LPC shall promptly notify the client in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the therapeutic relationship.

86:10-3-4. Professional standards

(a) **Violations of other laws.** It shall be unprofessional conduct for an LPC to plead guilty to or no contest to or be convicted of a state or federal statute if the violation directly relates to the duties and responsibilities of the counselor or if the violation involves moral turpitude.

(b) **Drug and alcohol use.** LPCs shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.

(c) **Sexual ~~contact~~conduct.**

(1) **Current and previous clients.** ~~LPCs shall not have any type of sexual contact with current clients~~. Sexual conduct with current and previous clients is prohibited.

(2) **Supervisees.** LPCs shall not engage in sexual ~~contact~~conduct with supervisees and shall not supervise persons with whom they have had a sexual relationship within the previous five (5) years. LPCs shall not engage in sexual contact with supervisees they have supervised within the previous five (5) years.

(d) **Updating.** LPCs shall notify the Board of any change in their contact information, including by not limited to: mailing address, telephone number, ~~and~~place of employment, name and email address, within fourteen (14) days of the change~~ and shall make necessary adjustments on the Statement of Professional Disclosure, supplying an updated copy to the Board~~.

(e) **Candor to the Board.** A LPC or applicant for LPC licensure, in connection with a license application or an investigation conducted by the Board or the Board's designee pursuant to OAC 86:10-29-1 through 15, shall not:

(1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a misapprehension known by the LPC, LPC candidate or applicant for licensure to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Board or any designated representative thereof.

SUBCHAPTER 7. APPLICATION PROCEDURES

86:10-7-1. General

(a) The purpose of this subchapter is to ensure that all applicants meet those requirements specified in the Act.

(b) Unless otherwise indicated, an applicant shall submit all required information and documentation of credentials on official Board forms.

(c) The Board will not consider an application as officially submitted until receipt of the Application Form, application fee, official transcript(s), ~~three (3) Document of Recommendation forms,~~ Internship/Practicum Documentation Form, and completed criminal background check. The application fee must accompany the Application Form.

~~(d) The Board shall notify applicants of their test eligibility no later than 60 days after receiving and approving the required application materials.~~

86:10-7-2. Application materials and forms

(a) Each application shall include the following documents:

(1) Application form,

(2) Official ~~transcript~~ transcript(s), ~~mailed from the university or college,~~

~~(3) Three (3) Document of recommendation forms,~~

(~~4~~3) Internship/Practicum ~~documentation~~Documentation ~~form~~Form,

(~~5~~4) ~~Two (2) classifiable sets of fingerprints,~~Completed criminal background check, and

(~~6~~5) Fees.

(b) The Application Form requires the following:

(1) Identifying information;

(2) Possession of other credentials;

(3) Previous misconduct;

(4) Education; and

~~(5) References; and~~

(~~6~~5) Proposed professional practice.

(c) The Internship/Practicum Documentation form requires the following:

(1) Identifying information; and

(2) Time, place, location of practicum.

~~(d) The Document of Recommendation requires the following:~~

~~(1) Identifying information;~~

~~(2) Ratings of ethical and professional characteristics; and~~

~~(3) Circumstances and time period submitter has known applicant.~~

~~(e) The Statement of Professional Disclosure requires the following:~~

~~(1) Statement providing for the applicant's disclosure of professional standing; and~~

~~(2) Statement providing for making contact with OSDH for further information.~~

(~~f~~d) The Supervision Agreement requires identifying information of supervisee and supervisor as follows~~.~~:

(1) Name of candidate;

(2) Name of candidate's place of employment;

(3) Location supervised experience hours are being accrued;

(4) Candidate's contact information;

(5) Signature of Candidate;

(6) Name of Approved LPC Supervisor;

(7) Name of Approved LPC Supervisor's place of employment;

(8) LPC Approved Supervisor's contact information;

(9) Signature of LPC Approved Supervisor;

(10) Name of On-Site Supervisor;

(11) On-Site Supervisor's licensure information;

(12) Name of On-Site Supervisor's place of employment;

(13) On-Site Supervisor's contact information;

(14) Signature of On-Site Supervisor.

~~(g) The On-Site Supervisor Verification Form requires identifying information as follows:~~

~~(1) Name of applicant;~~

~~(2) Place of employment;~~

~~(3) On-Site Supervisor information;~~

~~(4) A reproduction of the regulation regarding supervision accrued in a private setting.~~

(~~h~~e) The Licensure Verification Request Form requires the following information:

(1) Name of licensee;

(2) Licensee license number; and

(3) Licensee license type.

(~~i~~f) The Out-of-State Licensure Verification Form requires the following information:

(1) Identifying information;
(2) Type of credential held in other state;
(3) License number;
(4) Issue and expiration date of license;
(5) Current standing of license;
(6) Past complaints or sanctions;
(7) Exam information;
(8) Supervision information;
(9) Graduate education;
(10) Internship documentation; and
(11) Signature and identifying information of person verifying from out-of-state.

(~~j~~g) The Mailing Addresses Request/Order Form requires the following information:
(1) Type of licensure list requested;
(2) Format requested; and
(3) Identifying information of person making request.

(~~k~~h) The Licensure Reactivation Request Form requires the following information:
(1) Licensure type;
(2) Identifying information;
(3) Employment information;
(4) Graduate education;
(5) License type and number; and
(6) Dates of inactivation and reactivation of license.

(~~l~~i) The LPC Continuing Education Approval Application Form requires the following information:
(1) name of workshop;
(2) program context;
(3) program knowledge area;
(4) name of presenter;
(5) presenter qualifications;
(6) date of presentation;
(7) number of hours requested;
(8) sponsoring agency;
(9) name of contact;
(10) phone number of contact;
(11) signature and signature date of contact;
(12) program content in relation to counseling ethics;
(13) program content in relation to counseling supervision;
(14) number of hours requested for counseling ethics; and
(15) number of hour requested for counseling supervision.

(~~m~~j) The Continuing Education Rosters for LPC Approved Supervisors requires the following information:
(1) name of licensee;
(2) signature and signature date of licensee;
(3) total clock hours of workshop(s);
(4) name of counseling supervision workshop;
(5) sponsoring agency of workshop(s);and
(6) date of workshop(s), and number of hours of each workshop.

(~~n~~k) The Termination of Supervision Agreement requires the following information:
(1) name of candidate;
(2) current place of employment of candidate;
(3) address of current place of employment of candidate;
(4) phone number of candidate;
(5) email address of candidate;
(6) signature and signature date of candidate, (if available);
(7) name of supervisor;
(8) license number of supervisor;
(9) current place of employment of supervisor;
(10) phone number of supervisor;
(11) email address of supervisor;
(12) signature and signature date of supervisor, (if available); and
(13) effective date of termination of supervision agreement.

86:10-7-3. Negative references [REVOKED]

~~The Board may ask an applicant for licensure as a professional counselor or specialty designation, whose file contains negative references of substance, to appear for an interview before the licensure is completed.~~

86:10-7-3.1. Inactive application

Applications with 24 months of inactivity shall be voided.

86:10-7-4. ~~Re-application~~Application for permanently expired license

(a) ~~Re-application~~Application after license expires for non-renewal shall include the following documents:
(1) Application form,
(2) Official transcript(s), ~~mailed from the university or college,~~
~~(3) Document of Recommendation forms,~~
(~~4~~3) Supervision Agreement,
~~(5) Statement of Professional Disclosure,~~
(~~6~~4) ~~New~~ Application Fee, and
~~(7) On-Site Supervisor Verification Form, and~~
(~~8~~5) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(b) Applicant shall ~~re-take two examinations:~~provide a passing score on:
(1) The National Counselor Examination or another equivalent examination as determined by the Board; and
(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) Exam results accrued prior to date of this application shall not be considered.

(~~c~~d) The Internship/Practicum Documentation Form on file shall carry over~~to a new application~~.

(~~d~~e) All previously submitted and approved Supervised Experience shall carry over~~to a new application~~.

~~(e) Applicant shall obtain approved supervision until the exams are taken and passed as described in OAC Rule 86:10-29-13.~~

86:10-7-5. ~~Re-application~~Application for revoked license

(a) No ~~re-application~~Application for a revoked license will be considered for a period of 5 years following the revocation. ~~Re-application~~Application after license is revoked for administrative action shall include the following documents:

(1) Application form,

(2) Official ~~transcripts~~transcript(s), ~~mailed from the university or college,~~

~~(3) Document of Recommendation forms,~~

~~(4) Supervision Agreement,~~

~~(5) Statement of Professional Disclosure,~~

(~~6~~3) ~~New~~ Application Fee, and

~~(7) On-Site Supervisor Verification Form, and~~

(~~8~~4) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(b) Applicant shall ~~re-take two examinations:~~provide a passing score on:

(1) The National Counselor Examination or another equivalent examination as determined by the Board; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) Exam results accrued prior to date of this application shall not be considered.

(~~c~~d) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(~~d~~e) All previously submitted and approved Supervised Experience shall not carry over to a new application.

(~~e~~f) Application materials shall be reviewed by the Board.

(~~f~~g) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of the revocation of licensure.

(~~g~~h) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

86:10-7-6. ~~Re-application~~Application for voided application for failure to ~~take~~provide a passing score on ~~scheduled~~ examinations

(a) ~~Re-application~~Application after application is voided for failure to ~~take~~ provide a passing score on~~scheduled~~ examinations ~~or after the eligible applicant fails an examination and does not take subsequent scheduled examinations~~ shall include the following documents:

(1) Application form,

(2) Official ~~transcript~~transcript(s), ~~mailed from the university or college,~~

~~(3) Document of Recommendation forms,~~

~~(4) Supervision Agreement~~,

~~(5) Statement of Professional Disclosure,~~

(~~6~~3) ~~New~~ Application Fee, and

~~(7) On-Site Supervisor Verification Form, and~~

(~~8~~4) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(b) Applicant shall take and pass two examinations:

(1) The National Counselor Examination or another equivalent examination as determined by the Board; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall carry over to a new application.

~~(e) Applicant shall obtain approved supervision until the the supervision requirement is complete as described in OAC Rule 86:10-11-5(h).~~

86:10-7-7. ~~Re-application~~Application for voided application for failure to complete supervised experience

(a) ~~Re-application~~Application after application is voided for failure to complete the supervised experience requirement within sixty (60) months as described in OAC Rule 86:10-11-5(i) shall include the following documents:

(1) Application form,

(2) Official transcripts, ~~mailed from the university or college,~~

~~(3) Document of Recommendation forms,~~

~~(4) Supervision Agreement~~,

~~(5) Statement of Professional Disclosure,~~

(~~6~~3) ~~New~~ Application Fee, and

~~(7) On-Site Supervisor Verification Form, and~~

(~~8~~4) ~~Two (2) classifiable sets of fingerprints~~Completed criminal background check.

(b) Applicant shall ~~re-take two examinations:~~provide a passing score on:

(1) The National Counselor Examination or another equivalent examination as determined by the Board; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) Exam results accrued prior to date of this application shall not be considered.

(~~c~~d) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(~~d~~e) All previously submitted and approved Supervised Experience shall be voided with prior application and shall not carry over to a new application.

~~(e) Applicant shall obtain approved supervision until the supervision requirement is complete as described in OAC Rule 86:10-11-5(h).~~

86:10-7-7.1. Application procedures for voided application for inactivity

(a) Application after application is voided for remaining inactive for 24 months, in accordance with 86:10-7-2.2, shall include the following documents:

(1) Application form,

(2) Official transcript(s),

(3) Supervision Agreement,

(4) Application Fee, and

(5) Completed criminal background check.

(b) Applicant shall take and pass two examinations:

(1) The National Counselor Examination or another equivalent examination as determined by the Board; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(c) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(d) All previously submitted and approved Supervised Experience shall be voided with prior application and shall not carry over to a new application.

86:10-7-8. ~~Re-application~~Application for denied application

(a) ~~Re-application~~Application after application has been denied, as prescribed in Section 1912 of the LPC Act, shall include the following documents:

(1) Application form,

(2) Official transcripts, ~~mailed from the university or college,~~

~~(3) Document of Recommendation forms,~~

~~(4) Supervision Agreement~~,

~~(5) Statement of Professional Disclosure,~~

(~~6~~3) ~~New~~ Application Fee, and

~~(7) On-Site Supervisor Verification Form, and~~

(~~8~~4) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(b) Application materials shall be reviewed by the Board.

~~(c) Applicant shall be required to take necessary examinations.~~

(c) Applicant shall provide a passing score on:

(1) The National Counselor Examination or another equivalent examination as determined by the Board; and

(2) The Oklahoma Legal and Ethical Responsibilities Examination.

(d) Exam results accrued prior to date of this application shall not be considered.

(~~d~~e) Applicant shall be required to accrue an additional 500 hours of supervised experience.

(~~e~~f) Internship/Practicum Documentation Form on file shall carry over to a new application.

(~~f~~g) All previously submitted and approved Supervised Experience shall carry over to a new application.

~~(g) Applicant shall obtain approved supervision until the exams are taken and passed Failure to do so may constitute a violation of OAC Rule 86:10-29-13.~~

86:10-7-8.1. ~~Re-application~~Application for revoked approved supervisor status

No ~~re-application~~Application for a revoked approved supervisor status, as a result of administrative action, shall be considered for a period of five (5) years following the revocation and said ~~re-application~~application shall meet the requirements described in subsection 86:10-11-4 of this Chapter.

SUBCHAPTER 11. SUPERVISED EXPERIENCE REQUIREMENT

86:10-11-1. Documents required prior to accrual of supervision hours

The following documents must be received and approved by the Board before the accrual of supervised experience can begin:

(1) Application materials;

(2) Official ~~Verification~~verification of passing results on

(A) ~~Oklahoma Legal and Ethical Responsibilities Examination~~National Counselor Exam (NCE)~~passing score~~;

(B) Oklahoma Legal and Ethical Responsibilities Examination; and

(3) Supervision agreement.

~~(4) Statement of professional disclosure; and~~

~~(5) On-Site Supervisor Verification Form.~~

86:10-11-3. Acceptability of supervised experience

(a) Supervised experience is acceptable when it consists of the performance of counseling activities as described in Section 1902, of the Act under supervision as described below.

(1) Supervision shall focus on the raw data from a supervisee's continuing clinical practice, which may be available to the supervisor through a combination of direct observation, co-therapy, written clinical notes, and audio and video recordings.

(2) Supervision is a process clearly distinguishable from personal psychotherapy, and is contracted in order to serve professional/vocational goals.

(3) Individual supervision consists of face-to-face contact with one supervisor and one supervisee.

(4) Group supervision may be conducted with two (2) to six (6) supervisees and a supervisor.

(5) Technology-assisted supervision must be approved by the Board prior to the accrual of hours. Factors to be considered by the Board include: distance between approved supervisor and candidate; financial hardship on approved supervisor or candidate; physical hardship on approved supervisor or candidate; specialty credentials; and other pertinent factors.

(b) Supervised experience begins after all applicable academic requirements, as stated in LPC Regulations, Subchapter 9, have been completed.

(c) An LPC Candidate may accrue supervised experience hours in academic, governmental or private-not-for-profit and private for-profit settings.

(d) Supervised experienced hours shall be accrued in a private for-profit or not-for-profit counseling practice setting, only if:

(1) The LPC Candidate is ~~employed at~~ an employee, as defined by 86:10-1-2, of the same facility as a person licensed in the state of Oklahoma as a Licensed Professional Counselor, a Licensed Marital and Family Therapist, a Licensed Behavioral Practitioner, a Psychologist, a Psychiatrist, a Clinical Social Worker, or a Licensed Alcohol and Drug Counselor, whose assigned job duties include being immediately available to the LPC Candidate for

supervision at any time the LPC Candidate is engaging in the practice of counseling or counseling-related services.

(2) The LPC Candidate is receiving supervision for licensure from an approved LPC supervisor who is not required to work at the same location as the LPC Candidate.

86:10-11-5. Duration of supervision

(a) Three (3) years or three-thousand (3000) clock hours of full time, on-the-job experience, which is supervised by an approved LPC supervisor, shall be completed.

(b) For each one-thousand (1000) clock hours of full time, on-the-job experience, three hundred fifty (350) hours shall be direct ~~face-to-face~~ client contact hours.

(c) "Full time" means at least twenty (20) hours per week.

(d) Weekly, face-to-face supervision shall be accrued under an LPC at the ratio of forty-five (45) minutes of supervision for every twenty (20) hours of on-the-job experience.

(e) "Group supervision" means an assemblage of counseling supervisees consisting of from two (2) to six (6) members and no more than one-half ($\frac{1}{2}$) of the required supervision hours may be received in group supervision. Technology-assisted supervision shall not account for more than 56.25 hours of the total requirement. Technology-assisted supervision shall not account for more than 56.25 hours of the total requirement.

(f) One (1) or two (2) years of supervised experience may be gained at the rate of one (1) year for each thirty (30) graduate semester credit hours or forty-five (45) graduate quarter credit hours in counseling-related course work beyond the master's degree. (Minimal educational requirements are a master's degree [at least forty-five (45) hours] or doctorate with the first forty-five (45) hours meeting the minimal educational requirements. As of January 1, 2000, minimal educational requirements are a master's degree [at least sixty (60) semester credit hours or ninety (90) quarter credit hours] or a doctorate with the first sixty (60) semester credit hours or ninety (90) quarter credit hours meeting the minimal educational requirements.)

(g) Regardless of the number of hours earned beyond the master's degree, the LPC supervisee shall receive at least one (1) year or one-thousand (1000) clock hours of supervision in the ratio described in subchapter 11, section 86:10-11-5(b-d).

(h) If an applicant completes the supervised experience requirement before passing the licensure examination, the applicant shall continue to practice under LPC supervision as described in this subchapter, unless exempted by the Act, until licensed. Failure to do so constitutes a violation of the Act and may be subject to prosecution under the District Attorney and sanction by the Board.

(i) Applicants shall complete supervised experience requirements within sixty (60) months of the date of the approval of the first supervision agreement or the application shall be voided.

(j) Approved supervisors shall perform at least two (2) observations (live or tape) per each six (6) month evaluation period for each supervisee.

(k) Approved supervisors shall consult with on-site supervisor at least once during each six (6) month evaluation period for each supervisee.

86:10-11-6. Documentation of supervised experience

(a) A supervision agreement form between the supervisor and supervisee, shall be received by the LPC Board prior to beginning the accrual of supervised hours.

(b) Supervisor and supervisee shall agree to terms set forth for the accrual of supervised experience.

(~~b~~c) The supervisor and supervisee shall sign and submit the "Evaluation of Supervised Experience," including documentation of observations and date of consultation between approved supervisor and on-site supervisor, semi-annually.

(d) Evaluation of Supervised Experience document shall include the following:

(1) Identifying information;

(2) Time, place and duration of supervised experience;

(3) Percentage of time spent in different counseling activities;

(4) Supervisor's rating of professional activity;

(5) Supervisor's comment section; and

(6) Record of supervised experience.

(e) Any Evaluation of Supervised Experience form submitted beyond 60 days of the semi-annual due date will not be credited towards the duration of supervision as described in 86:10-11-5.

86:10-11-7. Supervision agreement [REVOKED]

~~(a) The Supervision Agreement shall include the following:~~

~~(1) Supervisor and supervisee agree to terms set forth for the accrual of supervised experience; and~~

~~(2) A reproduction of the regulation regarding supervised experience.~~

~~(b) Evaluation of Supervised Experience document shall include the following:~~

~~(1) Identifying information;~~

~~(2) Time, place and duration of supervised experience;~~

~~(3) Percentage of time spent in different counseling activities;~~

~~(4) Supervisor's rating of professional activity;~~

~~(5) Supervisor's comment section; and~~

~~(6) Record of supervised experience.~~

SUBCHAPTER 15. LICENSURE EXAMINATIONS

86:10-15-1. Eligibility

An LPC applicant may be eligible to sit for the licensing examination following the submission of:

(1) Application fee and form;

(2) Practicum/Internship Documentation Form;

(3) Official transcript(s) showing completion of all academic requirements listed in subchapter 9, section 86:10-9-2; and

~~(4) Three (3) Document of Recommendation Forms; and~~

(~~5~~4) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

86:10-15-3. Frequency [REVOKED]

~~The Board shall administer the licensure examination at least one (1) time each year or as often as deemed necessary.~~

86:10-15-4. Application

(a) The Board shall mail notification of eligibility to sit for ~~examination~~examinations to the last known address of applicant~~ no later than sixty (60) days after receiving the required and completed application materials~~.

(b) Upon receiving test eligibility letter from the Board, applicant shall submit examination registration materials and fees to the Board's designee.

(c) An applicant's eligibility to sit for the Oklahoma Legal and Ethical Responsibilities Examination shall be valid once the application has been Board approved.

(d) An applicant's eligibility to sit for the National Counselor Examination for Certification may be valid for two years, at which time if they have not successfully passed the exam, their licensure application shall be voided and the applicant shall be mailed notification at last known address.

(e) An applicant who fails the NCE exam, may schedule additional examinations, within the two-year eligibility period, with the submission of subsequent exam registration materials and fees. The subsequent exam can be scheduled no sooner than 90 days after the prior exam.

86:10-15-6. Notice of results [REVOKED]

~~(a) The Board shall mail notification to the examinee at last known address of the examination results within sixty (60) days of the date of the examination.~~

~~(b) The Board shall furnish the applicant an analysis of performance.~~

~~(c) No matter what numerical or other scoring system the Board may use in arriving at examination results, the official notice of results to the examinees shall be stated in terms of "pass" or "fail".~~

~~(d) If the notice of examination results is delayed for more than ninety (90) days after the date of the examination, the Board shall mail notification to the examinee at the last known address before the ninetieth (90th) day.~~

86:10-15-7. Failure to appear [REVOKED]

~~If an applicant for licensure fails to appear for examination for reasons other than documented illness or other cause beyond the applicant's control after having agreed to do so by applying to take a particular examination, the applicant shall reapply and pay another examination fee before being admitted to a subsequent examination.~~

SUBCHAPTER 19. ISSUANCE OF LICENSE

86:10-19-1.1. Statement of Professional Disclosure [REVOKED]

~~An LPC license shall be issued only after the Board has received the applicant's Statement of Professional Disclosure.~~

SUBCHAPTER 25. LICENSURE BY ENDORSEMENT

86:10-25-2. Licensing procedures

An applicant must submit the application form and related documents as requested, licensure fees, ~~three current documents of recommendation and~~ official ~~transcripts~~transcript(s), and completed criminal background check.

SUBCHAPTER 27. CONSUMER INFORMATION

86:10-27-3. Statement of professional disclosure [REVOKED]

~~(a) The Statement of Professional Disclosure shall inform clients of the LPC's credentials, training, fees, orientation/techniques and inform the client to contact the Board should the client seek additional information about the LPC.~~

~~(b) Both LPCs and LPC candidates shall:~~

~~(1) Furnish an example copy signed by the LPC, and in the case of a candidate, signed by the LPC supervisor and the candidate, to the Board. The LPC and LPC Candidate shall submit updated copies when the situation warrants; and~~

~~(2) Have two (2) copies signed by both the client or adult caretaker and the counselor. One (1) copy shall be given to the client and the other copy shall be retained by the counselor in the client's file.~~

SUBCHAPTER 29. ENFORCEMENT

86:10-29-16. RFI confidentiality

The RFI and the identity of the Complainant shall be confidential and shall not be available for public inspection, in accordance with 51 O.S. Section 24A.14.

[OAR Docket #19-409; filed 5-29-19]

TITLE 86. STATE BOARD OF BEHAVIORAL HEALTH LICENSURE
CHAPTER 15. LICENSED MARITAL AND FAMILY THERAPISTS

[OAR Docket #19-410]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
86:15-1-3. [AMENDED]
Subchapter 3. Rules of Professional Conduct
86:15-3-1. [AMENDED]
86:15-3-3. [AMENDED]
Subchapter 5. Application for Licensure
86:15-5-2. [AMENDED]
86:15-5-2.1. [AMENDED]
86:15-5-2.3. [NEW]

Subchapter 7. Licensure Examinations
86:15-7-1. [AMENDED]
86:15-7-3. [REVOKED]
86:15-7-4. [AMENDED]
86:15-7-5. [REVOKED]
86:15-7-6. [REVOKED]
Subchapter 9. Supervised Experience Requirements
86:15-9-2. [AMENDED]
86:15-9-3. [AMENDED]
86:15-9-5. [AMENDED]
Subchapter 13. Issuance and Maintenance of License
86:15-13-4. [AMENDED]
Subchapter 15. Enforcement
86:15-15-16. [AMENDED]

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State Board of Behavioral Health Licensure; 59 O.S. 2011; 59 O.S. 2001, Section 1901 et seq.

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GIST/ANALYSIS:
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CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

86:15-1-3. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Act" means the Marital and Family Therapist Licensure Act, 59 O.S. §§ 1925.1 et seq., as amended.

"Approved LMFT supervisor" ("Supervisor") means an individual who meets the qualifications to become an approved supervisor and is approved by the Board as set forth in Section 86:15-9-3 of this Chapter.

"Board" means the State Board of Behavioral Health Licensure.

"Complainant" means any person who files a Request for Inquiry against a LMFT, Candidate, or a person who delivers marital and/or family therapy without a license.

"Complaint Committee" means one Board member who is a LMFT, the Executive Director, the Assistant Attorney General and may include other appropriate individuals as determined by the Committee.

"Direct Client Contact Hours" means the performance of therapeutic or clinical functions that includes diagnosis, assessment and treatment of mental, emotional and behavioral disorders based primarily on verbal communications and intervention with, and in the presence of, one or more clients.

"Employee" means in accordance with 26 U.S.C. § 3121 (d),:

(A) Any officer of a corporation; or

(B) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of employee.

"Extra therapeutic relationship" means a familial, social, financial, business, professional, close personal, sexual or other non therapeutic relationship with a client, or engaging in any activity with another person that interferes or conflicts with the LMFT's or LMFT Candidate's professional obligation to a client.

~~**"Face-to-face counseling"** means the LMFT and the client shall be in the physical presence of the other during counseling.~~

"Face-to-face supervision" means the Supervisor and the Candidate shall be in the physical presence of the other during individual or group supervision.

"Forensic services" means the application of knowledge, training and experience from the mental health field to the establishment of facts and/or the establishment of evidence in a court of law or ordered by a court of law.

"Formal Complaint" means a written statement of alleged violation(s) of the Act and/or Rules which is filed by the Assistant Attorney General. The Formal Complaint schedules an Individual Proceeding before the Board in accordance with 75 O.S. §309.

"Full time" means at least twenty (20) hours of on-the-job experience per week.

"Group supervision" means an assemblage of ~~two (2)~~ three (3) to six (6) Candidates.

"Home-study" or **"technology-assisted distance learning"** refers to means the delivery of graduate coursework or continuing education through mailed correspondence or other distance learning technologies, which focuses on synchronous or asynchronous instructional delivery methods. Home-study or technology-assisted distance learning is designed to deliver education to learners who are not in the direct physical presence of the educator.

"Licensed marital and family therapist" or **"LMFT"** or **"Licensee"** means a person holding a current license issued pursuant to the provisions of the Marital and Family Therapist Licensure Act;

"Licensed marital and family therapist candidate" ("Candidate") means a person whose application for licensure has been accepted and who is under supervision for licensure as provided in 59 O.S. §1925.6;

"Licensure Committee" means two LMFT Board members, the Executive Director, and may include other appropriate individuals as determined by the Committee.

"OAC" means the Oklahoma Administrative Code.

"On-site supervisor" means a person who may not be an approved LMFT supervisor but is licensed in the State of Oklahoma as a Licensed Marital and Family Therapist, Licensed Professional Counselor, Licensed Behavioral Practitioner, Psychologist, Clinical Social Worker, Psychiatrist, or Licensed Alcohol and Drug Counselor employed by the agency employing the LMFT Candidate whose assigned job duties include acting as the immediate supervisor to the LMFT Candidate and who is available to the candidate at all times when counseling services are being rendered by the LMFT Candidate.

"Request for Inquiry" ("RFI") means a written or oral statement of complaint from any person alleging possible violation(s) of the Act and/or Rules.

"Respondent" means the person against whom an Individual Proceeding is initiated.

"Staff" means the personnel of the Board.

"Technology-assisted supervision" refers to supervision that occurs through video teleconferencing, over secure internet connections, wherein a Supervisor and a Candidate are in separate physical locations.

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

86:15-3-1. Responsibility to clients

(a) LMFTs are dedicated to advancing the welfare of families and individuals, including respecting the rights of those persons seeking their assistance, and making reasonable efforts to ensure that their services are used appropriately.

(b) LMFTs shall not, in the rendering of their professional services, participate in, condone, or promote discrimination based on age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital status/partnership, language preference, socioeconomic status, or any basis proscribed by law. LMFTs do not discriminate against clients, students, employees, supervisees, or research participants in a manner that has a negative impact on these persons.

(c) LMFTs are cognizant of their potentially influential position with respect to clients, and they shall not exploit the trust and dependency of such persons. LMFTs therefore shall avoid extra therapeutic relationships with clients that could impair their professional judgment or increase the risk of exploitation. When extra-therapeutic relationships cannot be avoided, LMFTs shall take appropriate professional precautions to insure that judgment is not impaired and that no exploitation occurs. Examples of such extra therapeutic relationships include, but are not limited to, business or close personal relationships with clients.

(d) LMFTs shall not undertake to provide therapy to any person with whom the LMFT has had any prior sexual conduct, as defined by the Board. LMFTs shall not undertake to provide therapy to any person with whom the LMFT has had familial, any prior social, financial, business, professional, close personal, or other non-therapeutic relationship with a client, or engage in any activity with another person that interferes or conflicts with the LMFTs professional obligation to a client within the previous five (5) years. Sexual intimacy with clients is prohibited. ~~Sexual intimacy with former clients for two years following the termination of therapy is prohibited.~~

(e) Sexual conduct with current or former clients is prohibited.

(~~d~~f) LMFTs shall not use their professional relationship with clients to further their own interests.

(~~e~~g) LMFTs respect the right of clients to make decisions and help them to understand the consequences of those decisions. LMFTs shall clearly advise a client that a decision on marital status is the responsibility of the client.

(~~f~~h) LMFTs shall continue therapeutic relationships only so long as it is reasonably clear that clients are benefiting from the relationship.

(~~g~~i) LMFTs shall assist persons in obtaining other therapeutic services if a marital and family therapist is unable or unwilling, for appropriate reasons, to see a person who has requested professional help.

(~~h~~j) LMFTs shall not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment by other appropriate professionals as necessary and indicated.

(~~i~~k) When an LMFT becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the LMFTs duty of responsibility to the client, including a suspension of the LMFTs license or any other situation or condition described in subchapter 3 of these rules, the LMFT shall promptly notify the client in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the therapeutic relationship consistent with the provisions of paragraphs (g) and (h) herein.

(~~j~~l) LMFTs shall obtain informed consent of clients before taping, recording, or permitting third party observation of their activities.

86:15-3-3. Professional competence and integrity

(a) LMFTs are dedicated to maintaining high standards of professional competence and integrity.

(b) LMFTs are presumed to have violated high standards of integrity or competence if they:

(1) are convicted of a felony;

(2) are convicted of a misdemeanor (related to their qualifications or functions); or

(3) engage in conduct which could lead to conviction of felonies, or misdemeanors related to their qualifications or functions.

(4) It shall be unprofessional conduct for a LMFT to plead guilty to or no contest to or be convicted of a state or federal statute if the violation directly relates to the duties

and responsibilities of the therapist or if the violation involves moral turpitude.

(5) have their licenses or certificates suspended or revoked; or

(6) are no longer competent to practice marital and family therapy because they are impaired due to physical or mental causes or the abuse of alcohol or other substances.

(c) LMFTs shall seek appropriate professional assistance for their own personal problems or conflicts that are likely to impair their work performance and their clinical judgment.

(d) LMFTs, as teachers and supervisors, are dedicated to maintaining high standards of scholarship and presenting information that is accurate.

(e) LMFTs shall remain abreast of new developments in family therapy knowledge and practice through both educational activities and clinical experiences.

(f) LMFTs shall not engage in sexual or other harassment or exploitation of clients, students, trainees, supervisees, employees, colleagues, research subjects, or actual or potential witnesses or complainants in ethical proceedings.

(g) LMFTs shall not attempt to diagnose, treat, or advise on problems outside the recognized boundaries of their competence.

(h) LMFTs shall prevent the distortion or misuse of their clinical and research findings.

(i) LMFTs are aware that, because of their ability to influence and alter the lives of others, they must exercise special care when making public their professional recommendations and opinions through testimony or other public statements.

(j) LMFTs shall protect the welfare of the client by storing and/or destroying, when appropriate, client files.

(k) LMFTs shall not, under normal circumstances, offer professional services to clients concurrently receiving services from another professional except with the knowledge of the professional.

(l) LMFTs shall display their original, current license certificate in a prominent place in the primary location of their practice.

(m) LMFTs shall ~~keep~~notify the Board ~~updated regarding~~of any ~~changes~~change in their contact information, including but not limited to: mailing address, ~~phone~~telephone number~~,and~~ place of employment, and name and email address, within fourteen (14) days of the change. ~~Failure to do so may place the license in jeopardy due to missed renewal notices and other important communications.~~

(n) LMFTs and LMFT Candidates may perform forensic services, which may include, but are not limited to, assessments, interviews, consultations, custody evaluations, reports, or expert testimony, or other such activity that is undertaken or conducted by the candidate or licensee in contemplation that the results may, or are intended to be, later furnished to a trier of fact or other decision maker, only under the following conditions:

(1) LMFTs and LMFT Candidates must demonstrate competence by education or experience in the subject matter relevant to the issues in question, as determined by the court.

(2) LMFTs and LMFT Candidates shall provide a written notice and make reasonable attempts to obtain a signature acknowledging receipt of such notice, from each person or persons who is the subject of the forensic services. This written notice shall include:

(A) a description of what procedure will be followed in the evaluation process;

(B) how such information, interpretations, conclusions, and recommendations will be distributed;

(C) fee arrangements; and

(D) explanation of the role of the evaluator if subsequently called upon to provide expert testimony before a trier of fact

(3) LMFTs and LMFT Candidates shall maintain written records, in a form or format that is legible or readable to third persons, of all contacts and information received and used in the preparation of their report.

(4) LMFTs and LMFT Candidates must conduct a thorough examination of the person who is the subject of their forensic analysis, and such other person or persons who has/have a legally recognizable right in the subject matter of the proceeding.

(5) LMFTs and LMFT Candidates must base their findings and conclusions only upon information gained by appropriate and lawful means. Interviews of minor children shall be preceded by written consent from the joint-custodial parents or from the custodial parent or from the legal guardian or from the legal custodian appointed by the Court.

(6) LMFTs and LMFT Candidates who provide therapy services for a client shall only provide fact witness testimony, which may include diagnostic impressions, treatment plans and other factual clinical information ordinarily included in a treatment file. Fact witness testimony by LMFTs and LMFT Candidates shall not include opinions or recommendations pertaining to matter subject to a decision by the Court, in forensic matters involving that client, unless otherwise required by law or court order. LMFTs and LMFT Candidates who provide mediation, parent coordinating assistance or any other neutral participation, may not undertake to provide therapy concurrently or subsequently to any person(s) involved or directly affected by the LMFT's or LMFT Candidate's role as a neutral participant. Fact witness testimony means evidentiary statements that are limited to direct observations by the LMFT or LMFT Candidate and shall not include conclusions, opinions or recommendations.

(7) Assessments, interviews, consultations, custody evaluations, reports or other activity not performed in contemplation that the results would be furnished to a trier of fact or decision maker, must be kept confidential and cannot be utilized in the formation or publication of an opinion by the candidate or licensee.

(o) An LMFT, LMFT candidate, or applicant for LMFT licensure, in connection with a license application or an investigation conducted by the Board pursuant to OAC 86:15-15-1 through 15, shall not:

(1) knowingly make a false statement of material fact; LMFT, LMFT candidate or applicant for licensure to have arisen in the application or the matter under investigation; or

(2) fail to disclose a fact necessary to correct a misapprehension known by the LMFT, LMFT candidate or applicant for licensure to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Board or any designated representative thereof.

(p) No person may engage in the private or independent practice of marital and family therapy work or open a facility with the intent of providing private or independent therapy practice unless that person:

(1) is licensed under this Act as a Licensed Marital and Family Therapist; and,

(2) has met all requirements of OAC 86:15-9-4 and all of the LMFT Regulations; and

(3) has continued to meet all continuing education requirements set forth in Subchapter 13 of this Chapter.

SUBCHAPTER 5. APPLICATION FOR LICENSURE

86:15-5-2. Application procedures

(a) **General.**

(1) The purpose of this section is to insure that all applicants meet those requirements specified in Section 1925.6 of the Act.

(2) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official Board forms.

(3) The Board will not consider an application as officially submitted until receipt of the Application, application fee, official graduate transcripts, ~~three (3) Document of Recommendation Forms,~~ Internship/Practicum Documentation Form, and completed criminal background check. The fee must accompany the Application Form.

~~(4) The Board must receive all required application materials at least 60 days prior to the date the applicant wishes to take the examination.~~

(b) **Application materials.** The purpose of this section is to list the materials required in the application process. All ~~forms~~documents must be completed in full by the applicant~~, as per the instructions on the following individual forms~~:

(1) Application form.

(2) Official ~~graduate~~ transcript,

~~(3) Documents of recommendation.~~

(~~4~~3) Internship/practicum ~~documentation~~Documentation ~~form~~Form.

(~~5~~4) ~~Two (2) classifiable sets of fingerprints,~~Completed criminal background check, and

(~~6~~5) Application ~~Fees~~Fee.

(c) **Application forms.**

(1) Application form - identifying information; graduate education and course work; possession of other credentials; professional ethics and conduct.

(2) Internship/Practicum Documentation ~~form~~Form - identifying information; time, place, location of practicum

~~(3) Document of Recommendation - identifying information; ratings of ethical and professional characteristics; circumstances and time period submitter has know applicant~~

(~~4~~3) Supervision Agreement - supervisor and supervisee agree to terms set forth for the accrual of supervised experience; ~~a reproduction of the regulation regarding supervised experience~~requires identifying information of supervisee and supervisor as follows:

(A) Name of candidate;

(B) Name of candidate's place of employment;

(C) Location supervised experience hours are being accrued;

(D) Candidate's contact information;

(E) Signature of Candidate;

(F) Name of Approved LMFT Supervisor;

(G) Name of Approved LMFT Supervisor's place of employment;

(H) LMFT Approved Supervisor's contact information;

(I) Signature of LMFT Approved Supervisor;

(J) Name of On-Site Supervisor;

(K) On-Site Supervisor's licensure information;

(L) Name of On-Site Supervisor's place of employment;

(M) On-Site Supervisor's contact information;

(N) Signature of On-Site Supervisor.

(~~5~~4) Evaluation of Supervised Experience document - identifying information; time, place and duration of supervised experience; number of hours of direct client contact with different populations; supervisor's rating of professional activity; supervisor's comment section, and record of supervised experience.

~~(6) On-Site Supervisor Verification form - identifying information; name of applicant; place of employment; on-site supervisor information; a reproduction of the regulation regarding supervision accrued in a private setting.~~

(~~7~~5) ~~Two (2) classifiable sets of fingerprints~~Completed criminal background check.

~~(d) **Negative references.** The License Committee may ask any applicant for licensure as an LMFT, whose file contains negative references of substance, to come before the License Committee for an interview before the licensure designation process may proceed.~~

86:15-5-2.1. ~~Reapplication~~Application procedures

(a) ~~**Re-application**~~**Application for permanently expired license.**

(1) ~~Re-application~~Application after license expires for non-renewal shall include the following documents:

(A) Application form,

~~(B) Three (3) Documents of Recommendation,~~

~~(C) Supervision Agreement,~~

~~(D) On-Site Supervisor Verification Form,~~

(~~E~~B) ~~New~~ Application Fee, and

(~~F~~C) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(2) Applicant shall ~~re-take two examinations:~~provide a passing score on:

(A) The Licensing Examination in Marital and Family Therapy (~~Professional Examination Service~~ Professional Testing Center) or another equivalent examination as determined by the Board, and

(B) An oral and/or written examination covering the LMFT law and regulations as approved by the Board.

(3) Exam results accrued prior to date of this application shall not be considered.

(~~3~~4) The Internship/Practicum Documentation Form on file shall carry over~~to a new application~~.

(~~4~~5) All previously submitted and approved Supervised Experience shall carry over to a new application.

~~(5) Applicant shall obtain approved supervision until the exams are taken and passed. Failure to do so may constitute a violation of OAC Rule 86:15-15-13.~~

(b) **~~Re-application~~Application for revoked license.**

(1) No ~~re-application~~Application for a revoked license will be considered for a period of 5 years following the revocation. ~~Re-application~~Application after license is revoked as a result of administrative action shall include the following documents:

(A) Application form,

(B) Official ~~transcript~~transcript(s),

~~(C) Three (3) Documents of recommendation.~~

(~~D~~C) Internship/Practicum Documentation form,

~~(E) Supervision Agreement,~~

~~(F) On-Site Supervisor Verification Form~~,

(~~G~~D) ~~New~~ Application Fee, and

(~~H~~E) ~~Two (2) classifiable sets of fingerprints~~Completed criminal background check.

(2) Applicant shall ~~re-take two examinations:~~provide a passing score on:

(A) The Licensing Examination in Marital and Family Therapy (~~Professional Examination Service~~ Professional Testing Center) or another equivalent examination as determined by the Board, and

(B) An oral and/or written examination covering the LMFT law and regulations as approved by the Board.

(3) All previously submitted and approved Supervised Experience shall not carry over to a new application.

(4) Application materials shall be reviewed by the License Committee.

(5) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of the revocation of licensure.

(6) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

(c) **~~Re-application~~Application for voided application for failure to provide a passing score on examinations.**

(1) ~~re-application~~Application after application is voided for failure to provide a passing score on~~take scheduled examinations or after the eligible applicant fails an examination and does not take subsequent scheduled~~ examinations shall include the following documents:

(A) Application form,

(B) Official transcript(s),

~~(B) Three (3) Documents of Recommendation,~~

~~(C) Supervision Agreement,~~

~~(D) On-Site Supervisor Verification Form,~~

(~~E~~C) ~~New~~ Application Fee, and

(~~F~~D) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(2) Applicant shall ~~take two examinations~~provide a passing score on:

(A) The Licensing Examination in Marital and Family Therapy (~~Professional Examination Service~~ Professional Testing Center) or another equivalent examination as determined by the Board, and

(B) An oral and/or written examination covering the LMFT law and regulations as approved by the Board.

(3) The Internship/Practicum Documentation Form on file shall carry over to a new application.

(4) All previously submitted and approved Supervised Experience shall carry over to a new application.

~~(5) Applicant shall obtain approved supervision until the exams are taken and passed. Failure to do so may constitute a violation of OAC Rule 86:15-15-13.~~

(d) **Application procedures for voided application for inactivity.**

(1) Application after application is voided for remaining inactive for 24 months, in accordance with 86:15-5-2.3, shall include the following documents:

(A) Application form,

(B) Official transcript(s),

(C) Application Fee, and

(D) Completed criminal background check.

(2) Applicant shall take and pass two examinations:

(A) The National Examination in Marriage and Family Therapy or another equivalent examination as determined by the Board; and

(B) The Oklahoma LMFT Examination (OLMFTE).

(3) The Internship/Practicum Documentation Form on file shall carry over.

(~~d~~e) **~~Re-application~~Application for denied application.**

(1) ~~Re-application~~Application after application has been denied as prescribed in Section 1925.15 of the Act shall include the following documents:

(A) Application form,

(B) Official ~~university or college~~transcript(s),

~~(C) Three (3) Documents of recommendation.~~

(~~D~~C) Internship/Practicum Documentation form,

~~(E) Supervision Agreement,~~

~~(F) On-Site Supervisor Verification Form,~~

(~~G~~D) ~~New~~ Application Fee, and

(~~H~~E) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(2) Application materials shall be reviewed by the LMFT License Committee.

(3) Applicant shall ~~be required to take necessary examinations~~provide a passing score on:~~.~~

(A) The National Examination in Marital and Family Therapy (Professional Testing Corporation) or another equivalent examination as determined by the Board, and

(B) An oral and/or written examination covering the LMFT law and regulations as approved by the Board.

(4) Exam results accrued prior to date of this application shall not be considered.

(~~4~~5) Applicant shall be required to accrue an additional 500 hours of supervised experience.

(~~5~~6) Internship/Practicum Documentation Form on file shall carry over to a new application.

(~~6~~7) All previously submitted and approved Supervised Experience shall carry over to a new application.

~~(7) Applicant shall obtain approved supervision until the exams are taken and passed. Failure to do so may constitute a violation of OAC Rule 86:15-15-13.~~

(8) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of denial of licensure application.

(9) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

86:15-5-2.3. Inactive application

Applications with 24 months of inactivity shall be voided.

SUBCHAPTER 7. LICENSURE EXAMINATIONS

86:15-7-1. Eligibility

An LMFT applicant is eligible to sit for the licensing examination following the submission and approval of:

(1) Application Form and fee

(2) Practicum/Internship Documentation Form

(3) Official transcript(s) showing completion of all academic requirements listed in Subchapter 5 of this Chapter; and

~~(4) Three (3) Document of Recommendation Forms; and~~

(~~5~~4) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

86:15-7-3. Frequency [REVOKED]

~~The Board shall administer licensure examinations at least once a year or more often if deemed necessary.~~

86:15-7-4. Application

(a) The Board shall mail notification of eligibility to sit for examination(s) to the last known address of applicant no later than sixty (60) days after receiving the required and completed application materials.

~~(b) The Board will schedule the Licensing Examination in Marital and Family Therapy or another equivalent examination as determined by the Board and notify the applicant of test date. An applicant who wishes to take a scheduled national examination must complete an examination registration form, return it to the Board's designee and submit the required fee prior to the date of the examination.~~

(~~c~~b) An applicant's eligibility to sit for the Oklahoma LMFT Examination shall be valid once the application has been Board approved.

(~~d~~c) An applicant's eligibility to sit for the national examination shall be valid for three years, at which time if the applicant has ~~not successfully passed~~failed to provide a passing score for the ~~national exam~~Licensing Examination in Marital and Family Therapy and the Oklahoma LMFT Examination, the licensure application shall be voided and the applicant shall be mailed notification at last known address. An applicant may ~~re-apply~~apply with an additional requirement of a plan of remediation acceptable to the License Committee.

86:15-7-5. Notice of results [REVOKED]

~~(a) The Board shall mail notification of the examination results and an analysis of performance to examinee at last known address.~~

~~(b) If the notice of examination results will be delayed for more than 90 days after the date of the examination, the Board shall mail notification of the delay to the applicant at last known address before the 90th day.~~

86:15-7-6. Failure to appear [REVOKED]

~~If an applicant for licensure fails to appear for examination for reasons other than documented illness or other cause beyond the applicant's control after applying to take a particular examination, the applicant must re-register and pay another examination fee before being admitted to a subsequent examination.~~

SUBCHAPTER 9. SUPERVISED EXPERIENCE REQUIREMENTS

86:15-9-2. Acceptable supervised experience

Supervised experience is acceptable when:

(1) it begins after all applicable academic requirements as stated in Subchapter 5 have been completed, verification of Oklahoma LMFT Examination passing score and National Examination passing score has been received by the Board, and supervision agreement has been approved by the Board.

(2) official application for licensure has been made. This includes Application, application fee, Internship/Practicum Documentation Form, official graduate

transcript, ~~three (3) Document of Recommendation Forms,~~ completed criminal background check, ~~On-Site Supervisor Verification Form~~, and Supervision Agreement. Applicants who have met part or all of supervision experience requirements for clinical membership in AAMFT will be considered to have met part or all of the supervision requirements for licensure in Oklahoma.

(3) it consists of the performance of therapy activities as described in Section 1925.2, subsection 7 and 9 of the LMFT Act and contains the following characteristics:

(A) supervision focuses on the raw data from a supervisee's continuing clinical practice, which may be available to the supervisor through a combination of direct observation, co-therapy, written clinical notes, and audio and video recordings and the LMFT Act and Regulations.

(B) supervision is a process clearly distinguishable from personal psychotherapy, and is contracted in order to serve professional/vocational goals.

(C) individual supervision shall be face-to-face with one supervisor and one or two supervisees.

(D) group supervision may ~~be done with~~include three (3)~~up~~ to six supervisees and a supervisor.

(E) technology-assisted supervision must be approved by the Board prior to the accrual of hours. Factors to be considered by the Board include: distance between approved supervisor and candidate; financial hardship on approved supervisor or candidate; physical hardship on approved supervisor or candidate; specialty credentials; and other pertinent factors.

(4) supervised experience hours may be accrued in academic, governmental, or private practice settings.

(5) the supervised experience is accrued in a private for-profit or private not-for-profit therapy setting~~without having an approved LMFT supervisor providing on site supervision, if the agency employing the LMFT Candidate provides an on-site supervisor who is available to the LMFT Candidate any time services are being rendered by the LMFT Candidate, and the LMFT Candidate is receiving supervision for licensure from an approved LMFT supervisor.~~, only if:

(A) The LMFT Candidate is an employee, as defined by 86:15-1-3, of the same facility as a person licensed in the state of Oklahoma as a Licensed Professional Counselor, a Licensed Marital and Family Therapist, a Licensed Behavioral Practitioner, a Psychologist, a Psychiatrist, a Clinical Social Worker, or a Licensed Alcohol and Drug Counselor, whose assigned job duties include being immediately available to the LMFT Candidate for supervision at any time the LMFT Candidate is engaging in the practice of therapy or therapy-related services.

(B) The LMFT Candidate is receiving supervision for licensure from an approved LMFT supervisor who is not required to work at the same location as the LMFT Candidate.

86:15-9-3. Supervisor qualifications

(a) In order to be approved as a supervisor for therapists seeking MFT licensure, an individual must:

(1) be an American Association for Marriage and Family Therapy approved Supervisor familiar with Oklahoma LMFT Act and Rules duly promulgated, or

(2) be an LMFT

(A) with two (2) years of experience in marital and family therapy beyond the number of years of experience required for licensure and

(B) who has successfully completed a graduate course in therapist supervision (at least 45 contact hours) or equivalent course of study acceptable to the Board. This equivalent course of study should consist of workshops in marriage and family therapy supervision in combination with directed study of the marriage and family therapy supervision literature. Fifteen (15) of the 45 clock hours should be in a class or workshop format which includes a minimum of four supervisors-in-training; the other 30 clock hours should be reserved for the directed study. Directed study must be approved and monitored by an Approved Supervisor.

~~(b) Approved LMFT Supervisors are required to complete a minimum of three (3) clock hours, every three (3) years, of continuing education in therapy supervision specific to Oklahoma law provided by the LMFT License Committee, or its designee. Approved Supervisor designation will not be renewed until the continuing education requirement for each missed renewal period is met.~~

(~~c~~b) If continuing education requirement is not met within ~~six~~one (~~6~~1) ~~years~~year of expiration, approved supervisor status will be permanently expired and the LMFT must re-apply and meet all requirements, including passing the Oklahoma LMFT Examination, in this Subchapter to become an approved supervisor.

(~~d~~c) An active approved supervisor may request inactive status by submitting a request in writing to the Board. An inactive approved supervisor shall not provide any activities described in Subchapter 9 of this Chapter.

(~~e~~d) An inactive approved supervisor may reactivate by submitting the required therapy supervision continuing education due by the end of the current renewal period. If approved supervisor status has been inactive for three (3) or more years, the supervisor must retake and pass the Oklahoma LMFT Examination before approved status is reinstated.

(~~f~~e) An active approved supervisor status may be retired by informing the Board in writing. Retired approved supervisor status shall not be reinstated but does not prevent a person from applying for approved supervisor status at a future date.

(~~g~~f) No re-application for a revoked approved supervisor status, as a result of administrative proceeding, shall be considered for a period of five (5) years following the revocation.

(~~h~~g) Effective October 1, 2015, a supervisor may not supervise more than a total of twelve (12) candidates for licensure at a time. A supervisor who wants to supervise more than twelve (12) candidates must petition the Board for approval for each person above the maximum number. The petitions

will be determined on a case-by-case basis depending on the circumstances of the request.

86:15-9-5. Documentation of supervised experience

(a) An LMFT Supervision Agreement between supervisor and supervisee ~~as well as the On-Site Supervisor Verification form~~ must be received and approved by the Board prior to the accrual of supervision hours.

(b) Semi-annual documentation of supervision hours, evaluation of competence, date of observations (live or tape), and date of consultation between approved supervisor and on-site supervisor must be submitted by the supervisor and co-signed by the supervisee on official Supervision Evaluation Forms. Incomplete evaluations will not be accepted by the Board until all requirements for the semi-annual evaluation period have been completed.

(c) Any Evaluation of Supervised Experience form submitted beyond 60 days of the semi-annual due date will not be credited towards the duration of supervision as described in 86:15-9-5(b).

(~~c~~d) Upon completing the supervision requirement, the supervisee must complete and submit the Final Evaluation of Supervision Experience by Supervisee form for each supervisor. The Final Evaluation of Supervision Experience by Supervisee Form shall include the name of the supervisee and supervisor; period covered by supervision; ratings of supervision; recommendation of supervisor to other supervisees.

(~~d~~e) Supervisors shall maintain supervision records for at least seven (7) years beyond termination of supervision.

SUBCHAPTER 13. ISSUANCE AND MAINTENANCE OF LICENSE

86:15-13-4. Continuing education

(a) **Purpose.** The purpose of the requirements in this Section is to establish the continuing education requirements necessary for license renewal.

(b) **Number of hours required.**

(1) Licensees shall complete and furnish documentation to the Board of twenty (20) clock hours of acceptable continuing education per year. One college credit hour is equal to fifteen (15) clock hours.

(2) A minimum of three (3) clock hours of continuing education hours must be in mental health ethics from programs pre-approved by the Board or its designee. Continuing education in mental health ethics is acceptable as meeting the pre-approval requirements by the Board when the continuing education program:

(A) Addresses ethics issues specifically pertaining to the practice of therapy, as defined in Section 1925.2(7) of this Act;

(B) Addresses regulations as promulgated in Subchapter 3 of this Chapter; and

(C) Meets all requirements of subsections (b) through (e) of OAC 86:15-13-4 of this Chapter.

(D) Beginning renewal year 2009, the three clock hours of mental health ethics continuing education must be accrued in a face-to-face setting.

(E) Current LMFT Board members shall receive clock hours of acceptable continuing education in mental health ethics for attendance and participation in Board or Committee meetings.

(3) Approved LMFT Supervisors are required to complete a minimum of three (3) clock hours, every three (3) years, of continuing education in therapy supervision specific to Oklahoma law provided by the Board or its designee. Continuing education in Therapy Supervision is acceptable as meeting the pre-approval requirements by the Board when the continuing education program:

(A) Addresses issues specifically related to the practice of therapy supervision pursuant to regulations promulgated in Subchapter 9 of this Chapter; and

(B) Contains content in one or more of the following knowledge areas:

(i) Overview of a supervision model;

(ii) Supervisors' areas of focus and roles in supervision;

(iii) Supervisors' process and practical application;

(iv) Ethical dilemmas involved in therapy supervision;

(v) Methods of effectively addressing and preventing ethical dilemmas in therapy supervision;

(vi) Overview of AAMFT standards of supervision; or

(vii) Overview of Oklahoma LMFT Rules and Regulations regarding therapy supervision; and

(C) Meets all requirements of subsections (b) through (e) of OAC 86:15-13-4 of this Chapter.

(c) **Acceptable continuing education.** Continuing education is acceptable to the Board when it:

(1) approximates the content of any of the academic areas listed under Subchapter 5 of this Chapter and;

(2) is presented by a person who meets one of the following qualifications:

(A) is licensed or certified by therapy related professions;

(B) is a licensed or certified member of a non-therapy field (i.e. medicine, law) if the content of the presentation is therapy related and falls within the presenter's area of training;

(C) has experience teaching, at the graduate level, in a regionally accredited college or university from any of the knowledge areas listed in OAC 86:15-5-3 of this Chapter;

(D) the person is presenting or has presented at a national mental health conference provided by the American Association for Marriage and Family Therapy (AAMFT), American Psychological Association (APA), American Counseling Association (ACA), or any of its divisions, National Association for Social

Workers (NASW), the Association for Addiction Professionals (NAADAC), or other nationally recognized professional organization in the mental health field;

(E) is presenting in a program sponsored or provided by a state or federal government agency with responsibility for mental health and substance abuse services; and

(3) takes place in the context of one of the following:

(A) a college course, in-service training, institute, seminar, workshop, conference or a Board pre-approved technology-assisted distance learning or home-study course;

(B) a national mental health conference provided by the American Association for Marriage and Family Therapy (AAMFT), American Psychological Association (APA), American Counseling Association (ACA), or any of its divisions, National Association for Social Workers (NASW), the Association for Addiction Professionals (NAADAC), or other nationally recognized professional organization in the mental health field;

(C) a program approved or offered by a state or federal government agency with responsibility for mental health and substance abuse services; or

(D) Board or Committee meetings, for current Board members.

(d) **Continuing education accrual from teaching.** Continuing education may also be accrued when the LMFT teaches in programs such as institutes, seminars, workshops, and conferences, when the content conforms to OAC 86:15-13-4(c) of this subchapter, provided that such teaching is not required as part of the LMFT's regular employment. Two hours of C.E. is credited for each hour taught.

(e) **Continuing education accrual from technology-assisted distance learning or home-study courses.** Continuing education may be accrued when the LMFT completes technology-assisted distance learning or home-study programs that are approved by the Board. No more than ten (10) hours of continuing education may be accrued per renewal period through technology-assisted distance learning or home-study courses.

(f) **Professional audience.** Continuing education, whether received or presented by the LMFT must be targeted toward a professional audience.

(g) **Documentation of attendance.** LMFT's shall retain verification of attendance documents for all C.E. hours claimed for a period of two (2) years. Acceptable C.E. verification of attendance documents are:

(1) an official continuing education validation form furnished by the presenter, or,

(2) a letter on the sponsoring presenter's letterhead giving the name of the program, location, dates, subjects taught, total number of hours attended, participant's name and presenter's name and credentials, or,

(3) an official college transcript showing courses or audit credit, or

(4 For teaching) a letter on sponsoring agency's letterhead giving the name of the program, location, dates, subject taught and total number of hours taught.

(h) **Submission of continuing education roster.** LMFT's shall submit a Continuing Education Roster, on official Board forms, (not individual verification of attendance documents) with the license renewal fee. Rosters may be obtained from the LMFT office. The Continuing Education Roster shall include the name of the licensee, signature and signature date of the licensee, total clock hours of workshop(s), name of workshop(s), sponsoring agency of workshop, date of workshop, and the number of hours of each workshop. Only C.E. accrued in the preceding license renewal period is acceptable.

(i) **Audit of continuing education submissions.** In November of each year, the Board will randomly select from two (2) to twenty-five (25) percent of the number of LMFT's on active status the previous year for an audit of their claimed Continuing Education credits. These selected LMFT's must then provide the Board with verification of all credits claimed on their Continuing Education Roster on or before the renewal deadline. The Board may, at its discretion, audit and require verification of any credits claimed which it may consider questionable or fraudulent.

(j) **Penalty for failure to submit continuing education.** Failure to fulfill the C.E. requirement by the renewal date renders the license in suspension. All rights granted by the license are null and void until the requirement is fulfilled and a late renewal fee is paid. The LMFT has 12 months from the date of suspension to become reinstated. If not reinstated, the license shall be revoked.

(k) **Submission of fraudulent continuing education.** The submission of fraudulent C.E. hours will be reviewed by the License Committee for disciplinary action and may result in suspension or revocation of license.

(l) **Responsibility.** The licensee is ultimately responsible for providing or arranging for sponsors to provide the information necessary for the Board to make a determination of the suitability of the program for continuing education requirements.

(m) **Continuing Education Rosters for LMFT Approved Supervisors.**

(1) Effective January 1,2020, approved LMFT Supervisors are required to complete a minimum of three (3) clock hours of continuing education in therapy supervision each renewal period. Approved Supervisor designation will not be renewed until the continuing education requirement for each missed renewal period is met.

(2) Every ~~three (3) years~~year, LMFT Approved Supervisors are required to submit three (3) hours of continuing education in therapy supervision on the LMFT Approved Supervisor Continuing Education Roster.

(3) The LMFT Approved Supervisor Continuing Education Roster shall include name of licensee, signature and signature date of licensee, total clock hours of workshop(s), name of therapy supervision workshop, sponsoring agency of workshop(s), date of workshop(s), and number of hours of each workshop.

(4) If continuing education requirement is not met within five (5) years of expiration, approved supervisor status will be permanently expired and the LMFT must re-apply and meet requirements in the Subchapter, including the retaking of 86:15-9-3(B) to become an approved supervisor.

SUBCHAPTER 15. ENFORCEMENT

86:15-15-16. RFI confidentiality

The RFI and the identity of the Complainant shall be confidential and shall not be available for public inspection, in accordance with 51 O.S. Section 24A.14.

[OAR Docket #19-410; filed 5-29-19]

TITLE 86. STATE BOARD OF BEHAVIORAL HEALTH LICENSURE
CHAPTER 20. LICENSED BEHAVIORAL PRACTITIONERS

[OAR Docket #19-411]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
86:20-1-2. [AMENDED]
Subchapter 3. Forms
86:20-3-1. [AMENDED]
86:20-3-2. [AMENDED]
Subchapter 5. Rules of Professional Conduct
86:20-5-4. [AMENDED]
86:20-5-6. [AMENDED]
Subchapter 9. Application Procedures
86:20-9-3.1. [NEW]
86:20-9-5. [AMENDED]
86:20-9-6. [AMENDED]
86:20-9-7. [AMENDED]
86:20-9-8. [AMENDED]
86:20-9-9. [AMENDED]
86:20-9-9.1. [NEW]
86:20-9-10. [AMENDED]
Subchapter 13. Supervised Experience Requirement
86:20-13-1. [AMENDED]
86:20-13-2. [AMENDED]
86:20-13-3. [AMENDED]
86:20-13-5. [AMENDED]
86:20-13-6. [AMENDED]
86:20-13-7. [AMENDED]
Subchapter 17. Licensure Examination
86:20-17-1.1. [AMENDED]
86:20-17-2. [REVOKED]
86:20-17-3. [AMENDED]
86:20-17-5. [REVOKED]
86:20-17-6. [REVOKED]
86:20-17-6.1.[AMENDED]
Subchapter 21. Issuance of License
86:20-21-1.1. [REVOKED]
Subchapter 27. Consumer Information
86:20-27-3. [REVOKED]
Subchapter 29. Enforcement
86:20-29-16. [AMENDED]

AUTHORITY:
State Board of Behavioral Health Licensure; 59 O.S. 2011; 59 O.S. 2001, Section 1901 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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February 15, 2018 through March 19, 2018
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n/a
INCORPOATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The following permanent rules interpret the Oklahoma Licensed Professional Counselor Act, (59 O.S. 1991, Sections 1901 et seq.)
CONTACT PERSON:
Eric Ashmore, Executive Director, State Board of Behavioral Health Licensure, 3815 N. Santa Fe., Suite 110, Oklahoma City, OK 73118, (405) 522-3696, Eric.Ashmore@bbhl.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

86:20-1-2. Definitions

When used in this Chapter, the following words or terms shall have the following meaning unless the context of the sentence requires another meaning:

"Act" means the Behavioral Practitioner Act, 59 O.S. §§ 1930 *et seq.*, as amended.

"Administrative Procedures Act" ("APA") means Article I and/or Article II of the Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*

"Board" means the State Board of Behavioral Health Licensure.

"Complainant" means any person who files a Request for Inquiry against a LBP, Candidate, or a person who delivers behavioral health services without a license.

"Complaint Committee" means one Board member who is a LBP, the Executive Director, the Assistant Attorney General and may include other appropriate individuals as determined by the Committee.

"Direct Client Contact Hours" means the performance of therapeutic or clinical functions that includes diagnosis, assessment and treatment of mental, emotional and behavioral

disorders based primarily on verbal communications and intervention with, and in the presence of, one or more clients.

"Dual relationship" means a familial, social, financial, business, professional, close personal, sexual or other non-therapeutic relationship with a client, or engaging in any activity with another person that interferes or conflicts with the LBP's professional obligation to a client.

"Employee" means in accordance with 26 U.S.C. § 3121 (d),:

(A) Any officer of a corporation; or

(B) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of employee.

~~**"Face-to-face behavioral health services"** means the behavioral practitioner and the client shall be in the physical presence of the other in a behavioral health setting.~~

"Face-to-face supervision" means the supervisor and the supervisee shall be in the physical presence of the other during supervision.

"Formal Complaint" means a written statement of alleged violation(s) of the Act and/or Rules which is filed by the Assistant Attorney General. The Formal Complaint schedules an Individual Proceeding before the Board in accordance with 75 O.S. §309.

"Full time practice" means working at least 20 hours per week.

"Group supervision" means an assemblage of two (2) to six (6) Candidates.

"Home-study" or **"technology-assisted distance learning"** means the delivery of graduate coursework or continuing education through mailed correspondence or other distance learning technologies, which focuses on using synchronous or asynchronous instructional delivery methods. Home-study or technology-assisted distance learning is designed to deliver education to learners who are not in the direct physical presence of the educator.

"Hearing" means the process followed by the Board to provide Due Process to a licensee respondent in an individual proceeding.

"Individual Proceeding" means the formal process by which the Board takes administrative action against a person licensed or certified by the Board in accordance with the APA and the Act.

"Licensed behavioral practitioner" or **"LBP"** or **"Licensee"** means any person who offers professional behavioral health services to any person and is licensed pursuant to the provisions of the Licensed Behavioral Practitioner Act. The term shall not include those professions exempted by Section 1932 of this title;

"Licensed behavioral practitioner candidate" or **"LBP Candidate"** or **"Candidate"** means a person whose application for licensure has been accepted and who is under supervision for licensure as provided in Section 1935 of this title;

"Licensure Committee" means two LBP Board members, the Executive Director, and may include other appropriate individuals as determined by the Committee.

"OAC" means the Oklahoma Administrative Code.

"On-site supervisor" means a person who may not be an approved LBP supervisor but is licensed by the state of Oklahoma as a Licensed Marital and Family Therapist, Licensed Professional Counselor, Psychologist, Clinical Social Worker, Psychiatrist, or Licensed Alcohol and Drug Counselor employed by the agency employing the LBP Candidate whose assigned job duties include acting as the immediate supervisor to the LBP Candidate and who is available to the candidate at all times when behavioral health services are being rendered by the LBP Candidate.

"Request for Inquiry" ("RFI") means a written or oral statement of complaint from any person alleging possible violation(s) of the Act and/or Rules.

"Respondent" means the person against whom an individual proceeding is initiated.

"Staff" means the personnel of the Board.

"Technology-assisted supervision" refers to supervision that occurs through video teleconferencing, over secure internet connections, wherein a Supervisor and a Candidate are in separate physical locations.

SUBCHAPTER 3. FORMS

86:20-3-1. Forms

Each application shall include the following documents:

(1) Application Form;

(2) Official ~~transcript~~transcript(s), mailed from the university or college;

(3) Internship/practicum Documentation Form;

~~(4) Three (3) Document of Recommendation Forms;~~

(~~5~~4) ~~Two (2) classifiable sets of fingerprints~~Completed criminal background check; and

(~~6~~5) Fees.

86:20-3-2. Description of forms

(a) The Application Form requires the following:

(1) Identifying information of applicant;

(2) Possession of other credentials;

(3) Previous misconduct;

(4) Education;

(5) References; and

(6) Proposed professional Practice.

(b) The Internship/Practicum Documentation Form requires the following:

(1) Identifying information of applicant;

(2) Place, time, duration and nature of supervised experience;

(3) School arranging supervision and name of supervisor; and,

(4) Signature and title of supervisor.

~~(c) The Document of Recommendation requires the following:~~

~~(1) Identifying information of applicant;~~

~~(2) Scale of performance rating personal character and professional skills;~~

~~(3) Circumstances and time period rater has known applicant;~~

~~(4) Space for rater's comments;~~

~~(5) Identifying information of rater.~~

~~(d) The Statement of Professional Disclosure is composed of alternative forms depending on the status of the applicant, as follows.~~

~~(1) The LBP Candidate's Statement of Professional Disclosure requires the following:~~

~~(A) Explanation of Candidate's responsibilities;~~

~~(B) Name and contact information for person who will be responsible for the client's records in the event of the Candidate's infirmity or death;~~

~~(C) Supervisor's identifying information;~~

~~(D) Address and phone number of the Agency; and,~~

~~(E) Signatures of client and Candidate.~~

~~(2) The LBP's Statement of Professional Disclosure requires the following:~~

~~(A) Explanation of the LBP's responsibilities;~~

~~(B) Name and contact information for person who will be responsible for the client's records in the event of the LBP's infirmity or death;~~

~~(C) Address and phone number of the Agency; and,~~

~~(D) Signatures of client and LBP.~~

(~~e~~c) The Supervision Agreement requires ~~the~~identifying information of supervisee and supervisor as ~~following~~follows:

~~(1) Statement of agreement to fulfill Subchapter 13 and consequences of violation; and~~

~~(2) Identifying information and signatures of supervisee and supervisor.~~

(1) Name of candidate;

(2) Name of candidate's place of employment;

(3) Location supervised experience hours are being accrued;

(4) Candidate's contact information;

(5) Signature of Candidate;

(6) Name of Approved LBP Supervisor;

(7) Name of Approved LBP Supervisor's place of employment;

(8) LBP Approved Supervisor's contact information;

(9) Signature of LBP Approved Supervisor;

(10) Name of On-Site Supervisor;

(11) On-Site Supervisor's licensure information;

(12) Name of On-Site Supervisor's place of employment;

(13) On-Site Supervisor's contact information;

(14) Signature of On-Site Supervisor.

~~(f) The On-Site Supervisor Verification Form requires the following identifying information:~~

~~(1) Name of applicant;~~

~~(2) Place of employment;~~

~~(3) On-Site Supervisor Information;~~

~~(4) A reproduction of the regulation regarding supervision accrued in a private setting.~~

(~~g~~d) The Evaluation of Supervised Experience Form requires the following:

(1) Names of supervisee and supervisor;

(2) Name and location of supervision site;

(3) Duration of work experience and supervision;

(4) Types of professional activities and clients seen;

(5) Rating of quality of professional activities;

(6) Supervisor and supervisee comments; and

(7) Signatures of supervisee and supervisor.

(~~h~~e) The Continuing Education Roster requires the following:

(1) Licensee's name and license number;

(2) Total number of hours accrued and Licensee's signature and signature date of licensee;

(3) Listing of workshops, sponsor, content and date of continuing education experience.

(~~j~~f) The Licensure Verification Request Form requires the following information:

(1) Name of licensee;

(2) Licensee license number; and

(3) Licensee license type.

(~~j~~g) The Out-of-State Licensure Verification Form requires the following information:

(1) Identifying information;

(2) Type of credential held in other state;

(3) License number;

(4) Issue and expiration date of license;

(5) Current standing of license;

(6) Past complaints or sanctions;

(7) Exam information;

(8) Supervision information;

(9) Graduate education;

(10) Internship documentation;

(11) Signature and identifying information of person verifying from out-of-state.

(~~k~~h) The Mailing Addresses Request/Order Form requires the following information:

(1) Type of licensure list requested;

(2) Format requested;

(3) Identifying information of person making request.

(~~l~~i) The Licensure Reactivation Request Form requires the following information:

(1) Licensure type;

(2) Identifying information;

(3) Employment information;

(4) Graduate education;

(5) License type and number;

(6) Dates of inactivation and reactivation of license.

(~~m~~j) The Termination of Supervision Agreement requires the following information:

(1) name of candidate;

(2) current place of employment of candidate;

(3) address of current place of employment of candidate;

(4) phone number of candidate;

(5) email address of candidate;

(6) signature and signature date of candidate, (if available);

(7) name of supervisor;

(8) license number of supervisor;

(9) current place of employment of supervisor;

(10) phone number of supervisor;

(11) email address of supervisor;
(12) signature and signature date of supervisor, (if available); and
(13) effective date of termination of supervision agreement.

SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT

86:20-5-4. Non-professional relations with clients

(a) **Dual relationships.** LBPs shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the LBP reasonably suspects that he or she has inadvertently entered into a dual relationship the LBP shall record that fact in the records of the affected client(s) and take reasonable steps to eliminate the source or agent creating or causing the dual relationship. If the dual relationship cannot be prevented or eliminated and the LBP cannot readily refer the client to another counselor or other professional, the LBP shall complete one or more of the following measures as necessary to prevent the exploitation of the client and/or the impairment of the LBP's professional judgment:

(1) Fully disclose the circumstances of the dual relationship to the client and secure the client's written consent to continue providing counseling;

(2) Consult with other professional(s) to understand the potential impairment to the LBP's professional judgment and the risk of harm to the client of continuing the dual relationship;

(b) **Sexual ~~contact~~conduct.** The following restrictions apply to sexual ~~contacts~~conduct between LBPs and clients~~, students~~ or supervisees.

(1) **Current and previous clients.** ~~LBPs shall not engage in sexual contact with clients~~Sexual intimacy with current and previous clients is prohibited. ~~and~~LBPs shall not counsel persons with whom they have had a sexual relationship.

(2) **~~Students and supervisees~~Supervisees.** LBPs shall not engage in sexual ~~contact~~conduct with ~~students or~~ supervisees and shall not ~~teach or~~ supervise persons with whom they have had a sexual relationship.

(3) Sexual conduct with current and former clients is prohibited.

(c) **Providing counseling to persons of prior association.** LBPs shall not undertake to provide counseling to any person with whom the LBP has had ~~any close personal relationship~~any prior sexual conduct, as defined by the Board. LBPs shall not undertake to provide counseling to any person with whom the LBP has had familial, any prior social, financial, business, professional, close personal, or other non-therapeutic relationship with a client, or engage in any activity with another person that interferes or conflicts with the LBPs professional obligation to a client within the previous five (5) years.

(d) **Interaction with former clients.** LBPs shall not knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former client for ~~two (2)~~five (5) years after the termination of the counseling relationship. LBPs shall not engage in any activity that is or may be sexual in nature, as defined by the Board, with a former client ~~for at least five (5) years~~ after the termination of the counseling relationship. Sexual conduct with former clients is prohibited. LBP's shall not exploit or obtain an advantage over a former client by the use of information or trust gained during the counseling relationship.

86:20-5-6. Professional standards

(a) **Violations of other laws.** It shall be unprofessional conduct for a LBP to plead guilty to or no contest to or be convicted of a state or federal statute if the violation directly relates to the duties and responsibilities of the LBP or if the violation involves moral turpitude.

(b) **Drug and alcohol use.** LBPs shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.

(c) **Updating.** LBPs shall notify the Board of any change in their contact information, including but not limited to: mailing address, telephone number, ~~and~~place of employment, name and email address, within fourteen (14) days of the change~~ and shall make necessary adjustments on the Statement of Professional Disclosure, supplying an updated copy to the Board~~.

(d) **Candor to the Board.** An LBP, LBP candidate, or applicant for LBP licensure, in connection with a license application or an investigation conducted by the Board pursuant to OAC 86:20-29-4, shall not:

(1) knowingly make a false statement of material fact;

(2) fail to disclose a fact necessary to correct a misapprehension known by the LBP, LBP candidate or applicant for licensure to have arisen in the application or the matter under investigation; or

(3) fail to respond to a demand for information made by the Board or any designated representative thereof.

SUBCHAPTER 9. APPLICATION PROCEDURES

86:10-9-3.1. Inactive Application

Applications with 24 months of inactivity shall be voided.

86:20-9-5. Materials required of LBP applicants

In addition to the application form and fee, an applicant for LBP licensure shall file the following completed materials with the Board prior to taking the examination:

~~(1) Three documents of recommendation;~~
(~~2~~1) Internship/practicum Documentation Form;
(~~3~~2) Official ~~university~~ transcript(s); and
(~~4~~3) ~~Two (2) classifiable sets of fingerprints.~~ Completed criminal background check.

86:20-9-6. ~~Re-application~~Application for permanently expired license

(a) ~~Re-application~~Application after license expires for non-renewal shall include the following documents:

(1) Application form,

(2) Official ~~transcripts~~transcript(s), ~~mailed from the university,~~

~~(3) Document of recommendation forms,~~

~~(4) Supervision Agreement,~~

~~(5) Statement of Professional Disclosure,~~

(~~6~~3) ~~New~~Application Fee~~,~~; and

~~(7) On-Site Supervisor Verification Form;~~

(~~8~~4) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(b) Applicant shall ~~re-take two examinations~~provide a passing score on:

(1) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and

(2) The LBP State Standards Test.

(c) Exam results accrued prior to date of this application shall not be considered.

(~~c~~d) Internship Documentation Form on file may carry over~~to a new application~~.

(~~d~~e) All previously submitted and approved Supervised Experience shall carry over~~to a new application~~.

~~(e) Applicant shall obtain approved supervision until the exams are taken and passed as described in Subchapter 86:20-13-2(e)(2).~~

86:20-9-7. ~~Re-application~~Application for revoked license

(a) No ~~re-application~~Application for a revoked license will be considered for a period of 5 years following the revocation.

(b) ~~Re-application~~Application after license is revoked for administrative action shall include the following documents:

(1) Application form,

(2) Official ~~transcripts~~transcript(s), ~~mailed from the university,~~

~~(3) Document of recommendation forms,~~

~~(4) Supervision Agreement,~~

~~(5) Statement of Professional Disclosure,~~

(~~6~~3) ~~New~~Application Fee,

~~(7) On-Site Supervisor Verification Form,~~ and

(~~8~~4) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(c) Applicant shall ~~re-take two examinations~~provide a passing score on:

(1) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and

(2) The LBP State Standards Test.

(d) Internship Documentation Form on file may carry over to a new application.

(e) All previously submitted and approved Supervised Experience shall not carry over to a new application.

(f) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of revocation.

(g) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

(h) Application materials shall be reviewed by the LBP License Committee for approval.

86:20-9-8. ~~Re-application~~Application for voided application for failure to ~~take scheduled~~ provide a passing score on examinations

(a) ~~Re-application~~Application after application is voided for failure to ~~take~~ provide a passing score on ~~scheduled~~ examinations ~~or after the eligible applicant fails an examination and does not take subsequent scheduled examinations~~ shall include the following documents:

(1) Application form,

(2) Official ~~transcripts~~transcript(s), ~~mailed from the university,~~

~~(3) Document of recommendation forms,~~

~~(4) Supervision Agreement,~~

~~(5) Statement of Professional Disclosure,~~

(~~6~~3) ~~New~~Application Fee,

~~(7) On-Site Supervisor Verification Form, and~~

(~~8~~4) ~~Two (2) classifiable sets of fingerprints~~Completed criminal background check.

(b) Applicant shall ~~take~~provide a passing score on two examinations:

(1) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and

(2) The LBP State Standards Test.

(c) Internship Documentation Form may carry over to a new application

(d) All previously submitted and approved Supervised Experience shall carry over to a new application.

~~(e) Applicant shall obtain approved supervision until the exams are taken and passed and/or until the supervision requirement is complete as described in Subchapter 86:20-13-2(e)(2) of these rules.~~

86:20-9-9. ~~Re-application~~Application for voided application for failure to complete supervised experience

(a) ~~Re-application~~Application after application is voided for failure to complete the supervised experience requirement within sixty (60) months as described in Subchapter 86:20-13-2(e)(3) shall include the following documents:

(1) Application form,

(2) Official ~~transcripts~~transcript(s), ~~mailed from the university,~~

~~(3) Document of recommendation forms,~~

~~(4) Supervision Agreement form,~~

~~(5) Statement of Professional Disclosure,~~

(~~6~~3) ~~New~~Application Fee,

~~(7) On-Site Supervisor Verification Form, and~~

(~~8~~5) ~~Two (2) classifiable sets of fingerprints.~~ Completed criminal background check.

(b) Applicant shall ~~re-take two examinations~~ provide a passing score on:

(1) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and

(2) The LBP State Standards Test.

(c) Exam results accrued prior to date of this application shall not be considered.

(~~c~~d) Internship Documentation Form may carry over to a new application

(~~d~~e) All previously submitted and approved Supervised Experience shall be voided with prior application and shall not carry over to a new application.

~~(e) Applicant shall obtain approved supervision until the exams are taken and passed and/or the supervision requirement is complete as described in Subchapter 86:20-13-2(e)(2).~~

86:20-9-9.1. Application procedures for voided application for inactivity

(a) Application after application is voided for remaining inactive for 24 months, in accordance with 86:20-10-9.4, shall include the following documents:

(1) Application form,

(2) Official transcript(s),

(3) Application Fee, and

(4) Completed criminal background check.

(b) Applicant shall take and pass two examinations:

(1) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and

(2) The LBP State Standards Test.

(c) The Internship/Practicum Documentation Form on file shall carry over.

86:20-9-10. ~~Re-application~~Application for denied application

(a) ~~Re-application~~Application after licensure application has been denied as prescribed in Section 1941 of the Act, shall include the following documents:

(1) Application form,

(2) Official ~~transcripts~~transcript(s), ~~mailed from the university,~~

~~(3) Document of Recommendation forms,~~

(~~4~~3) Supervision Agreement,

~~(5) Statement of Professional Disclosure,~~

(~~6~~4) ~~New~~Application Fee, and

~~(7) On-Site Supervisor Verification Form, and~~

(~~8~~5) ~~Two (2) classifiable sets of fingerprints.~~Completed criminal background check.

(b) Application materials shall be reviewed by the LBP License Committee for approval.

(c) Applicant shall be required to take necessary examinations.

(d) Applicant shall be required to accrue an additional 500 hours of supervised experience.

(e) Internship Documentation Form on file may carry over to a new application.

(f) All previously submitted and approved Supervised Experience shall carry over ~~to a new application~~.

~~(g) Applicant shall obtain approved supervision until the exams are taken and passed as described in Subchapter 86:20-13-2(e)(2).~~

(g) Exam results accrued prior to date of this application shall not be considered.

(h) At the time of application, applicant must provide additional documentation to demonstrate rehabilitation relating to the cause of denial of licensure application.

(i) The Board may impose reasonable practice limitations that are in addition to the requirements for completion of approved supervised experience.

SUBCHAPTER 13. SUPERVISED EXPERIENCE REQUIREMENT

86:20-13-1. Supervised experience

(a) All applicants for licensure after December 31, 2001 shall complete the supervised experience required by the Act before being licensed.

(b) All applicants shall take and pass the exams as described in Subchapter 86:20-17 prior to beginning approved supervision.

86:20-13-2. Duration of supervision

(a) Each applicant shall complete three (3) years or three-thousand (3000) clock hours of full time, on-the-job experience, which is supervised by an approved LBP supervisor.

(b) For each one thousand (1000) clock hours of full time, on-the-job experience, three hundred fifty (350) hours shall be direct ~~face-to-face~~ client contact.

(c) Weekly, face-to-face supervision shall be accrued at the ratio of forty-five (45) minutes of supervision for every twenty (20) hours of on-the-job experience.

(d) No more than one-half ($\frac{1}{2}$) of the required supervision hours may be received in group supervision. Technology-assisted supervision shall not account for more than 56.25 hours of the total requirement.

(e) One (1) or two (2) years of supervised experience may be gained at the rate of one (1) year for each thirty (30) graduate hours in behavioral health services-related course work beyond the minimum number of required graduate semester hours.

(1) Regardless of the number of hours earned beyond the minimum number of required graduate semester hours, the LBP Candidate shall receive at least one (1) year or one thousand (1000) clock hours of supervision in the ratio described in this rule.

(2) If an LBP Candidate completes the supervised experience requirement before passing the licensure examination, the LBP Candidate shall continue to practice under LBP supervision as described in this subchapter, unless exempted by the Act, until licensed.

(3) LBP Candidates shall complete supervised experience requirements within sixty (60) months of the date of the approval of the first supervision agreement or the license application shall be voided.

(f) Approved supervisors shall perform at least two (2) observations (live or tape) per each six (6) month evaluation period for each supervisee.
(g) Approved supervisors shall consult with supervisor at least once during each six (6) month evaluation period for each supervisee.

86:20-13-3. Documents required for the accrual of supervised hours

The following documents must be received and approved by the Board before the accrual of supervised experience can begin:

(1) Application materials;
(2) Official ~~Verification~~verification of ~~LBP State Standards Test passing score~~passing results on;
(A) The Practitioner's Examination of Psychological Knowledge or another equivalent examination as determined by the Board; and
(B) The LBP State Standards Test; and
(3) Supervision agreement.
~~(4) Statement of professional disclosure; and~~
~~(5) On-Site Supervisor Verification Form~~.

86:20-13-5. Acceptability of supervised experience

(a) Supervised experience is acceptable when it consists of the performance of behavioral health services as described in Section 1931, of the Act as described below.

(1) Supervision shall focus on the raw data from an LBP Candidate's continuing clinical practice, which may be available to the supervisor through a combination of direct observation, co-therapy, written clinical notes, and audio and video recordings.
(2) Supervision is a process clearly distinguishable from personal psychotherapy, and is contracted in order to serve professional/vocational goals.
(3) Individual supervision consists of face-to-face contact with one supervisor and one LBP Candidate.
(4) Group supervision may be conducted with two (2) to six (6) LBP Candidates and a supervisor.
(5) Technology-assisted supervision must be approved by the Board prior to the accrual of hours. Factors to be considered by the Board include: distance between approved supervisor and candidate; financial hardship on approved supervisor or candidate; physical hardship on approved supervisor or candidate; specialty credentials; and other pertinent factors.

(b) An LBP Candidate may accrue supervised experience hours in academic, governmental or private practice settings.
(c) The supervised experience is accrued in a private not-for-profit or a private for-profit practice without having an approved LBP Supervisor providing supervision, if:

(1) The ~~agency employing the~~ LBP candidate is an employee, as defined by 86:20-1-2, that employs a person licensed in the state of Oklahoma as a Licensed Behavioral Practitioner, a Licensed Professional Counselor, a Licensed Marital and Family Therapist, a Psychologist, a Physician, a Licensed Clinical Social Worker, or a Licensed Alcohol and Drug Counselor who directs and is responsible for the professional duties of the LBP Candidate and is available to the LBP candidate any time services are being rendered by the LBP candidate.
(2) The LBP Candidate is receiving supervision for licensure from an approved LBP supervisor who is not required to work at the same location as the LBP Candidate.

86:20-13-6. Supervisor qualifications

(a) A Behavioral Practitioner, Professional Counselor, Marital and Family Therapist, Psychologist, Clinical Social Worker or Physician licensed by the state of Oklahoma is eligible as an LBP supervisor. In addition, these professionals shall have:

(1) practiced in positions similar to those the LBP proposes to practice for a period of two years past the issuance of the license;
(2) fulfilled the continuing education requirements pursuant to Section 1948 of the Act;
(3) signed an official supervision agreement;
(4) agreed to be "on call" to the LBP Candidate on a twenty-four (24) hour basis and to arrange for an alternate supervisor if not available;
(5) taken and passed the LBP State Standards Test; and
(6) agreed to teach the Oklahoman LBP Act and OAC 86:20 to the supervisee.

(~~4~~b) Effective October 1, 2015, a supervisor may not supervise more than a total of twelve (12) candidates for licensure at a time. A supervisor who wants to supervise more than twelve (12) candidates must petition the Board for approval for each person above the maximum number. The petitions will be determined on a case-by-case basis depending on the circumstances of the request.

86:20-13-7. Documentation of supervised experience

(a) A Supervision Agreement Form between the supervisor and supervisee shall be received and approved by the Board prior to beginning the accrual of supervised hours.
(b) The supervisor and LBP Candidate shall sign and submit an "Evaluation of Supervised Experience," including documentation of observations, date of consultation between approved supervisor and on-site supervisor, and the Record of Supervised Experience on a semi-annual basis. Incomplete evaluations will not be accepted by the Board until all requirements for the semi-annual evaluation period have been completed.
(c) Any Evaluation of Supervised Experience form submitted beyond 60 days of the semi-annual due date will not be credited towards the duration of supervision as described in 86:20-13-7(b).

SUBCHAPTER 17. LICENSURE EXAMINATION

86:20-17-1.1. Eligibility

An LBP applicant is eligible to take the licensing examination following the submission of:

(1) Application form and fee;
(2) Practicum/Internship Documentation Form;
(3) Official transcript(s),showing completion of all academic requirements listed in Subchapter 11, Section 86:20-11-2; and
~~(4) Three (3) Document of Recommendation Forms;~~
(~~5~~4) ~~Two (2) classifiable sets of fingerprints~~ Completed criminal background check.
~~(6) Examination fee.~~

86:20-17-2. Frequency [REVOKED]

~~The Board shall administer the licensure examination at least one (1) time each year or more often if necessary.~~

86:20-17-3. Registration

~~(a) The Board shall mail an applicant notice of eligibility to sit for examination at least sixty (60) days prior to the date of the next scheduled examination.~~
(~~b~~a) An applicant's eligibility to sit for the LBP State Standards Test shall be valid once the application has been Board approved.
~~(c) To take the Practice Examination of Psychological Knowledge examination, the applicant shall complete an examination registration form and return it to the Board with the required fee ($75) at least thirty (30) days prior to the date of the examination.~~
(~~d~~b) The application for licensure of a person who fails to register for and pass the Practice Examination of Psychological Knowledge one of the first two examinations for which the applicant is eligible shall be voided and the applicant shall be mailed notice.

86:20-17-5. Notice of results [REVOKED]

~~(a) The Board shall mail the examination results to the examinee within sixty (60) days of the date of the examination.~~
~~(b) No matter what numerical or other scoring system the Board may use in arriving at examination results, the official notice of results to the examinees shall be stated in terms of "pass" or "fail."~~

86:20-17-6. Failure to appear [REVOKED]

~~If an applicant for licensure fails to appear for examination for reasons other than documented illness or other cause beyond the applicant's control after having agreed to do so by registering to take a particular examination, the applicant shall register and pay another examination fee before being admitted to a subsequent examination.~~

86:20-17-6.1. Failure to apply

(a) The application may be voided if a person fails to apply for and take one of the first two examinations scheduled after the applicant has been mailed notification at last ~~know~~known address in writing of his/her approval for examination.
(b) The application maybe voided if a person fails to apply for and take one of the first two examinations scheduled after the applicant has failed the exam and has been mailed notification at last known address in writing of this/her approval for examination.

SUBCHAPTER 21. ISSUANCE OF LICENSE

86:20-21-1.1. Statement of Professional Disclosure [REVOKED]

~~An LBP license shall be issued only after the Board has received the applicant's Statement of Professional Disclosure.~~

SUBCHAPTER 27. CONSUMER INFORMATION

86:20-27-3. Statement of professional disclosure [REVOKED]

~~(a) The Statement of Professional Disclosure shall inform clients of the LBP's credentials, training, fees, orientation/techniques and inform the client to contact the Board should the client seek additional information about the LBP.~~
~~(b) Both LBPs and LBP candidates shall:~~
~~(1) Furnish an example copy signed by the LBP, and in the case of a candidate, signed by the LBP supervisor and the candidate, to the Board. The LBP and LBP Candidate shall submit updated copies when the situation warrants; and~~
~~(2) Have two (2) copies signed by both the client or adult caretaker and the counselor. One (1) copy shall be given to the client and the other copy shall be retained by the counselor in the client's file.~~

SUBCHAPTER 29. ENFORCEMENT

86:20-29-16. RFI confidentiality

The RFI and the identity of the Complainant shall be confidential and shall not be available for public inspection, in accordance with 51 O.S. Section 24A.14.

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TITLE 165. CORPORATION COMMISSION CHAPTER 5. RULES OF PRACTICE

[OAR Docket #19-412]

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PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
Part 1. General
165:5-1-4.1. Open records requests [AMENDED]
165:5-1-5. Filing of documents [AMENDED]
165:5-1-9. Telephonic or videoconferencing testimony [AMENDED]
Subchapter 3. Fees
Part 1. General Provisions
165:5-3-1. Fees, fines and bonds [AMENDED]

165:5-3-2. Fees for the Petroleum Storage Tank Division [AMENDED]
Part 5. Wind Energy Facility Fees [NEW]
165:5-3-40. Purpose [NEW]
165:5-3-41. Definitions [NEW]
165:5-3-42. Wind energy facility fee [NEW]
165:5-3-43. Failure to comply [NEW]
Subchapter 7. Commencement of a Cause
Part 3. Oil and Gas
165:5-7-6.2. Multiunit horizontal wells in targeted reservoirs [AMENDED]
165:5-7-9. Well location exception [AMENDED]
165:5-7-20. Unitized management of a common source of supply [AMENDED]
165:5-7-27. Enhancement or addition of injection and disposal wells [AMENDED]
165:5-7-29. Request for exception to certain underground injection well requirements [AMENDED]
Subchapter 9. Subsequent Pleadings
165:5-9-2. Subsequent pleadings [AMENDED]
Subchapter 13. Initial and Subsequent Proceedings
165:5-13-2. Setting of causes [AMENDED]
165:5-13-3. Hearings [AMENDED]
165:5-13-3.1. Optional procedure for spacing related applications [AMENDED]
165:5-13-4. Report of Administrative Law Judge [AMENDED]
Subchapter 15. Orders
165:5-15-1. General form and procedure [AMENDED]
Subchapter 21. Procedure for the Petroleum Storage Tank Docket
165:5-21-1. Purpose [AMENDED]
165:5-21-3.1. Applications for a variance [AMENDED]

AUTHORITY:
Oklahoma Corporation Commission; 17 O.S. § 52, 17 O.S. § 160.11 *et seq.*, 17 O.S. § 166.1, 17 O.S. § 166.1a, 17 O.S. § 301 *et seq.*, 27A O.S. § 1-3-101, 47 O.S. § 966 *et seq.*, 52 O.S. § 87.6 *et seq.*, 52 O.S. § 97, 52 O.S. § 139, 52 O.S. § 149.3, 52 O.S. § 287.1 *et seq.*, Article IX, Sections 18 and 19 of the Oklahoma Constitution, and OAC 165:5-1-7.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on January 25, 2019.

COMMENT PERIOD:
January 24, 2019, through February 25, 2019

PUBLIC HEARING:
February 28, 2019

ADOPTION:
February 28, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 8, 2019

LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:
May 28, 2019

EFFECTIVE:
August 1, 2019

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
The rules were adopted to update, streamline, clarify, and establish new rules concerning the Rules of Practice, including, but not limited to, addressing procedures for telephonic and videoconferencing testimony during hearings, new rules assessing fees on wind energy facilities to provide funding to the Public Utility Division in the execution of duties and responsibilities required by the Oklahoma Wind Energy Development Act, 17 O.S. § 160.11 *et seq.*, changing references from the Oklahoma Storage Tank Regulation Act to the Oklahoma Petroleum Storage Tank Consolidation Act, 17 O.S. § 301 *et seq.*, and provide for administrative review of applications for variances to the Commission's Petroleum Storage Tank Division rules, including antifreeze, underground storage tank, aboveground storage tank, and indemnity fund rules.

CONTACT PERSON:
Susan Dennehy Conrad, Deputy General Counsel, Judicial and Legislative Services, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73152-2000, telephone: (405) 521-3939, s.conrad@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. GENERAL

165:5-1-4.1. Open records requests

(a) Records available to the public pursuant to the Oklahoma Open Records Act, 51 O.S. § 24A.1 et seq., may be obtained by directing written requests for records to the respective division directors or their designated appointees. This Section does not apply to records specifically required by the Commission to be kept confidential, including records subject to proprietary agreements, confidentiality orders and sealed exhibits. Charges for copies and research of such records shall be in accordance with OAC 165:5-3-1 and the Open Records Act, 51 O.S. § 24A.5(3).

(b) Any records, reports or information obtained pursuant to the Oklahoma Petroleum Storage Tank ~~Regulation~~Consolidation Act and/or OAC 165:15, 165:16, 165:25, 165:26, 165:27~~, 165:28~~ and 165:29 shall be available to the public unless a showing satisfactory to the Commission by any person that the records, reports or information, or a particular part thereof, if made public would divulge production of sales figures, methods, processes or production unique to such person or would otherwise tend to affect adversely the competitive position of such record, report or information or particular portion thereof.

165:5-1-5. Filing of documents

(a) **Document form.** Electronic filing is the Commission's preferred filing method. All persons filing documents with the Court Clerk shall file electronically to the greatest extent possible as directed by the Court Clerk. Documents filed with the Court Clerk in paper format may be printed, typewritten or reproduced by any legible method. All documents filed in paper format must be single-sided on 8 1/2" x 11" paper and ready for digital processing by the Court Clerk. Exceptions to the required document size may be allowed by the Court Clerk for good cause shown. Exact duplicates of any allowed documents must be filed in sections on 8 1/2" X 11" paper to allow for digital processing by the Court Clerk. Quotations shall be indented. Subsequent to the filing of the original application, every page of documents filed with the Court Clerk shall contain a page number, the applicable subject matter docket listed in OAC 165:5-5-1(a), the docket number assigned

to the cause by the Court Clerk, and document type, e.g., application, motion, response, or brief. All filed documents must have a continuous pagination for the entire document, including exhibits and attachments. The original application shall include all this information, except the docket number, on each page. No document may be altered after filing; pages may not be otherwise inserted and no interlineations, additions or deletions may be made. If a filing error is made, the correct document or information, as appropriate, shall be submitted as a separate filing to the Court Clerk as soon as possible and the same number of copies as required for the original filing shall be provided to the Court Clerk.

(b) **Filing stricken by motion.** Upon the motion of the Commission or Administrative Law Judge, or the filing of a motion pursuant to OAC 165:5-9-2(b), the Administrative Law Judge is authorized to recommend to the Commission an order to strike the filing of any document containing defamatory, scurrilous or improper language, or otherwise in violation of any of the rules of this Chapter. In case of such recommendation to grant a motion to strike a filed document, the subject document shall be presented to the Commission for ruling on acceptability for filing.

(c) **Required information.** The requirements of this subsection shall not be jurisdictional. All documents shall include the party's or attorney's actual or electronic signature, typed name, business mailing address, telephone number, facsimile number and electronic mail address, if any, with additional copies as may be required by the Court Clerk. A registered user must provide an electronic mail address at the time the registered user files his or her entry of appearance or other initial filing. All documents, except notices of hearing, signed by an attorney shall contain the name of the State Bar Association to which the attorney belongs and his/her State Bar Association number.

(d) **Requirement conflicts.** Wherever any provision of the Constitution or laws of Oklahoma makes a requirement as to notice or procedure which exceeds or conflicts with any provision of the rules of this Chapter, the former shall govern.

(e) **Informal communications.** Nothing in the rules of this Chapter shall prohibit informal inquiry or complaint to the Commission by mail, facsimile, electronic mail, or in person, which matters shall be handled administratively by the staff in an effort to secure amicable adjustment or agreement among affected persons. No official order shall be issued as a result of any informal proceedings.

(f) **Facsimile transfers.**

(1) The Court Clerk shall accept pleadings submitted by facsimile transfer during regular Commission business hours pending payment of the appropriate filing fees and submission of a proper original and requisite copies within two (2) business days of the filed facsimile, in accordance with the provisions of 165:5-1-6(a). New applications must be transferred and completed prior to ~~4:00~~3:30 p.m. of each business day.

(2) Unless otherwise delivered the same day, if an application for emergency relief in a spacing, location exception, increased density or multiunit horizontal well proceeding is submitted by facsimile transfer, a copy of such emergency application shall be emailed to the Technical Services Department of the Commission at an email address to be designated by the Director of the Conservation Division, on the date of the facsimile transfer.

(3) A facsimile shall be deemed filed on the date of receipt, unless the proper original is not timely received and/or the appropriate filing fee is not paid. When the original documents are not received within two (2) business days of receipt of the facsimile and/or the appropriate filing fee is not timely paid, the facsimile will not be deemed timely filed. It is the responsibility of the filing party to notify the Court Clerk, upon submission of any original, of any document that has been previously faxed to secure a filing date earlier than the date of submission of the original document. Failure to do so may result in a filing date which does not reflect the submission having been faxed on an earlier date. If any original document requires payment of a fee prior to filing, the cashier must also be notified of the faxed document prior to payment of the required fee.

(4) Administrative filings and submissions or requests for reconsideration filed on the Oklahoma Universal Service Fund docket cannot be submitted by facsimile.

(5) Until electronic filing is available, a CD cause number may be requested by faxing a request for a cause number that contains the entire caption of the proposed application, a statement that only a cause number is being requested, and contact information for the party requesting the cause number. This will not be considered a fax filing of the application and the date of filing the application will be the date the original documents are received in the Court Clerk's office. In order to minimize gaps in the numbering of causes, the cause number requested by fax must be followed by filing original documents containing the exact same caption in the Court Clerk's office, within three (3) business days of the request, or the cause number will be cancelled and may not be reused for any purpose.

(g) **Confidential documents.** All documents and information considered to be confidential must be clearly marked as such on a cover page of the document. All documents deemed and marked as confidential shall be docketed and retained by the Court Clerk. Until the Commission determines otherwise, the cover page only of such filings will be viewable by the public for identification purposes.

165:5-1-9. Telephonic or videoconferencing testimony

(a) In an unprotested hearing, testimony may be offered by telephone or videoconferencing connection, unless the Commission or Administrative Law Judge determines that the presence of the witnesses in the courtroom is necessary for the effective and efficient presentation of evidence.

(b) In a protested hearing, testimony may be offered by telephone or videoconferencing connection with the consent of all parties of record and the Commission or Administrative Law Judge. It shall be the responsibility of the proponent of telephonic or videoconferencing testimony to obtain the

required consent before the hearing. No continuance shall be granted for failure to obtain the required consent.

(c) The cost of telephonic or videoconferencing communication shall be paid by the party requesting its use. If participation through a videoconferencing connection in a proceeding is sought by consent, the proponent must indicate the capability to establish the videoconference using its own digital device or other means of access.

(d) Each witness testifying by telephone or videoconferencing connection shall be required to sign an affidavit verifying the witness' identity, unless the circumstances of the videoconferencing testimony enable the Commission or Administrative Law Judge to verify the identity of the witness. Said affidavit, if necessary, shall be filed in the cause prior to the issuance of an order. A copy of the filed affidavit shall be submitted to the Commission or Administrative Law Judge. Appendix "J" to this Chapter contains a sample affidavit.

(e) If an interested party intends to participate in the hearing by telephone or videoconferencing connection, said party shall so notify the Applicant, prior to the hearing date and obtain the consent of the Commission or Administrative Law Judge.

(f) Applicant or applicant's attorney shall be responsible for announcing at docket call those parties who plan to testify or otherwise participate by telephone or videoconferencing connection.

SUBCHAPTER 3. FEES

PART 1. GENERAL PROVISIONS

165:5-3-1. Fees, fines and bonds

(a) **General.**

(1) **Exceptions to filing fees.** For each initial application in each category listed in (b) of this Section, a filing fee shall be paid by the person seeking to file or submit the document, unless the document is filed under authorization of and in the name of an instrumentality of the State of Oklahoma.

(A) Filing fees shall not apply to any subsequent pleading or amended application except a Form 1000 required in OAC 165:10-3-1(b)(1)(A) through (E) and OAC 165:10-3-1(c).

(B) No filing fee shall be required for any application filed pursuant to OAC 165:10-3-31, Use of vacuum at the well head.

(C) No filing fee applicable to the conservation docket shall be required for any Notice of Intent to Mediate filed with the Judicial and Legislative Services pursuant to OAC 165:5-23-1 et seq. A per participant fee provided in OAC 165:5-3-1(b)(1)(L) shall be charged for any informal dispute resolution procedure that commences.

(D) No filing fee shall be paid by a party filing a protest to an adverse action of the Commission pursuant to the International Fuel Tax Agreement ("IFTA") or the International Registration Plan ("IRP").

(E) No filing fee shall be paid by a customer filing a Consumer Services docket application against a public utility.

(F) No filing fee shall be required for any application filed on the Oklahoma Universal Service Fund ~~("OUSF")~~("OSF") docket.

(G) No filing fee shall be paid by a party filing a protest to a nonconsensual towing Violation Notification issued by the Transportation Division.

(2) **Filing fees.** Any filing fee assessed by this Section shall be due and paid at the time of filing of the document. Neither the Court Clerk's Office nor any division of the Commission shall accept an application subject to a filing fee until the required fee is paid. No filing fee shall be refundable. For documents that are being filed in paper form, all associated filing fees must be paid and the documents submitted to the Court Clerk's Office for filing prior to ~~4:00~~3:30 p.m. to allow for document processing within established hours of operation.

(3) **Other fees.** Any other fee assessed by this Section shall be due and payable at the time the service is requested. No service shall be rendered before payment of the prescribed fee. No such other fee shall be refundable.

(4) **Negotiable instruments.** Fees paid by negotiable instruments shall be made payable to the "Oklahoma Corporation Commission." Negotiable instruments include personal checks, cashier checks, certified checks, and money orders. Foreign checks must be payable through a United States bank in United States funds.

(5) **Returned payments.** A service fee of $20.00 shall be assessed on each check returned to the Commission as a result of the refusal of the bank upon which the check was drawn to honor the same. Upon the return of any check by reason of the refusal of the bank to honor it, the Commission may file a bogus check complaint with the appropriate district attorney. In the event that a payment transaction for any fee, fine or bond fails, the Commission reserves the right to require payment of that fee, fine or bond, and any future fee, fine or bond owed to the Commission by the same individual or entity, to be made by cash, cashier check, certified check, money order or another secured form of payment.

(6) **Petroleum Storage Tank Division fees.** All fees pertaining to the Petroleum Storage Tank Division are listed in OAC 165:5-3-2.

(b) **Schedule of filing fees.**

(1) **Oil and gas fees.**

(A) Commercial disposal well application - $1,500.00

(B) Commercial earthen pit application - $1,250.00

(C) Commercial soil farming site application - $1,250.00

(D) Commercial recycling facility application - $1,000.00

(E) Noncommercial injection or disposal well application - Form 1015 - $250.00

(F) Commercial facilities annual fee due on October 1 of each year:
(i) Commercial earthen pit facility - $750.00
(ii) Commercial soil farming facility - $750.00
(iii) Commercial recycling facility - $750.00
(G) Conservation docket and pollution docket base applications - $200.00
(H) Emergency application on the conservation or pollution docket - $250.00
(I) Permit to drill - Form 1000:
(i) Directional well - $350.00
(ii) Horizontal well - $400.00
(iii) Multiunit well - $600.00
(iv) Vertical well - $350.00
(J) Expedited permit to drill - Form 1000:
(i) Directional well - $600.00
(ii) Horizontal well - $600.00
(iii) Multiunit well - $800.00
(iv) Vertical well - $600.00
(K) Temporary permit to drill - Form 1000:
(i) Directional well - $350.00
(ii) Horizontal well - $350.00
(iii) Multiunit well - $350.00
(iv) Vertical well - $350.00
(L) Notice of Intent to Mediate pursuant to Chapter 23 of this Chapter - $5.00 per participant
(M) Permit for one-time land application of materials - Form 1014S - $150.00
(N) Expedited permit for one-time land application of materials - Form 1014S - $250.00
(O) Tax exemption application filed pursuant to OAC 165:10-21 - $100.00
(P) Transfers of well operatorship - Forms 1073 and 1073I - single well - $25.00
(Q) Transfers of well operatorship - Forms 1073IMW and 1073MW - multiple wells - $250.00
(R) Notification of intent to plug - Form 1001 - $100.00
(S) Operator agreement-annual fee-Form 1006B-based on the number of unplugged wells for which the operator is responsible according to Commission records:
(i) No wells being operated - $100.00
(ii) From 1-25 wells - $250.00
(iii) From 26-100 wells - $500.00
(iv) From 101-200 wells - $750.00
(v) From 201-500 wells - $750.00
(vi) Over 500 wells - $1,000.00
(T) Fluid disposal/injection reports:
(i) Commercial disposal well fluid disposal report-Form 1012C-semiannual per well-$500.00
(ii) Noncommercial disposal and injection well and LPG storage well report-Form 1012-annual per well-$25.00
(iii) Noncommercial disposal and injection well and LPG storage well report-Form 1012-more than 100 wells-annual fee-$2,500.00
(U) Permit to use earthen pit, noncommercial disposal or enhanced recovery well pit for temporary storage of saltwater, and pit associated with commercial disposal well surface facility-Form 1014:
(i) Capacity of pit less than or equal to 10,000 barrels-$250.00
(ii) Capacity of pit greater than 10,000 barrels-$1,000.00
(V) Permit for seismic operations-Form 1000S-$100.00
(W) Application for temporary exemption from well plugging-Form 1003A-$100.00
(X) Permit to vent or flare gas from well-Form 1022-$50.00
(Y) Application for multiple zone well completion, production of well through a multiple choke assembly, and commingling of well production-Form 1023-$50.00
(2) **Transportation fees.**
(A) Transportation docket application - $500.00
(B) Other transportation fees:
(i) Intrastate license.
(I) Original application filing fee - $100.00
(II) Sub application filing fee - $100.00
(III) Renewal application filing fee - $50.00
(IV) Reinstatement application filing fee - $100.00
(V) Name change application filing fee - $50.00
(VI) Identification device or per vehicle fee - $7.00
(ii) Deleterious Substance License Permit application filing fee - $350.00
(iii) International Fuel Tax Agreement (IFTA) fees.
(I) IFTA decal - $2.00 per vehicle per decal set
(II) IFTA reinstatement fee - $100.00
(iv) Trailer registration processing fee per trailer registered through the IRP System - $2.00
(v) Temporary registration and fuel permit fees (a $10.00 services fee is added to each permit in this unit):
(I) Temporary registration (72 hour trip permit) - $12.00
(II) Temporary fuel permit (120 hours) - $25.00
(III) Unladen or hunters permit (45 days) - $25.00
(vi) Harvest permit fees (power units only).
(I) Thirty day permit - $20.00 per axle
(II) Sixty day permit - $35.00 per axle
(III) 15 day extension - $8.75 per axle
(vii) Transportation Network Company annual permit fee - $5,000.00
(viii) Household goods certificate fees:

(I) Original application filing fee - $350.00
(II) Sub application filing fee - $300.00
(III) Renewal application filing fee - $300.00
(IV) Reinstatement application filing fee - $250.00
(V) Name change application filing fee - $50.00
(VI) Identification device or per vehicle fee - $7.00

(ix) Apportioned commercial motor vehicle registration services fee - $100.00 per vehicle (apportioned)

(x) Apportioned commercial motor vehicle registration application reprocessing fee - $100.00 per application

(xi) Application for lawful fence - $500.00. If the Transportation Division determines a lawful fence is required to be constructed by the railroad, the railroad shall have sixty (60) days from the date of notice to refund the application filing fee to the landowner

(3) **Utility fee.** Public utility docket application - $100.00

(4) **Enforcement fee.** Enforcement docket application - $100.00

(c) **Certified copies.** A fee of $1.00 per copied page is charged for each copy of an order or other document on file with the Commission certified by the Secretary, in addition to the fees specified in (d) of this Section.

(d) **Other fees.** The following fees shall be charged and collected at the time of request for same; none of which shall ever be refundable:

(1) Certificate of non-development (maximum of one quarter section) - $10.00

(2) Copies of any file or order -

(A) Non-certified copies - $0.25 per page; certified copies $1.00 per page

(B) Postage - actual cost

(3) Microfilmed images from coin-operated microfilm reader (coin box) - $0.25

(4) Batch reproduction on continuing basis (per page) - $0.25

(5) Copy of any document prepared in OCC offices (per page) - $0.25

(6) Copy of any Chapter of Commission rules and regulations - $10.00

(7) Copy of Oil and Gas Conservation rules - $20.00

(8) Current ownership/lienholder information - $1.00 per vehicle record page

(9) Computer generated title history - $5.00 per vehicle

(10) Manual title history - $7.50 per vehicle

(11) Copy of lien release - $7.50 per vehicle

(12) Certified copy of lien release - $10.00 per vehicle

(13) Certified copy of title history - $10.00 per vehicle

(14) Preparation of the record on appeal to the Oklahoma Supreme Court - $200.00

(e) **Computer data processing documents.** Reproduction of documents or informational searches involving computer data processing services will be in accordance with the rates established by the Oklahoma Office of Management and Enterprise Services.

(f) **Document search fee.** Except where provided otherwise by law, where the request for document copying and/or mechanical reproduction is solely for commercial purpose or clearly would cause excessive disruption of the Commission's essential functions, then a fee of $10.00 per hour (minimum of one hour) shall be charged to recover the direct cost of document search.

(g) **Fax.** A service charge of $5.00 plus $1.00 per page will be assessed for all outgoing faxes. All incoming faxes for persons not associated with the Commission shall be assessed a copy fee of $0.25 per page including the cover page.

(h) **Payments by Credit Card and other means of electronic funds transfer.**

(1) "Nationally recognized" credit card means any instrument or device, whether known as a credit card, credit plate, charge plate, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in lieu of a check, as defined by 12A Oklahoma Statute § 3-104(f), in obtaining goods, services or anything else of value or for the use of the cardholder in obtaining such goods, services, or anything else of value on credit and which, in either case, is accepted by over one thousand merchants in this state. The Oklahoma Corporation Commission shall determine which nationally recognized credit card will be accepted for any payments due and owing to the Oklahoma Corporation Commission.

(2) Implementation of payment by nationally recognized credit card and other means of electronic funds transfer will be phased in over a period of time as determined by the Commission.

(3) The Oklahoma Corporation Commission will verify that sufficient credit is available before acceptance of credit card to insure that no loss of state revenue will occur by the use of such card.

(A) If a person is at a designated receiving point and credit is not available, the person then has the opportunity to pay by other methods accepted by the Commission.

(B) If a person mails in the credit card information and credit is not available, the transaction will be handled as one with no remittance and a bill will be forthcoming.

(4) The Oklahoma Corporation Commission may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such nationally recognized card.

(5) Persons wishing to pay by credit card must be willing to submit normally required credit card information to the Commission. This includes, but is not limited to: card type (VISA, etc.), card number, card expiration date, card holder name as shown, and three digit security personal

identification number (PIN). The Commission assumes no liability for unauthorized use of this information.

(6) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account.

(7) "Electronic terminal" means an electronic device, other than a telephone operated by a person, through which a person may initiate an electronic funds transfer.

(8) "Financial institution" means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to another person.

(9) "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

165:5-3-2. Fees for the Petroleum Storage Tank Division

(a) **General.**

(1) For each initial application filed on the Petroleum Storage Tank docket, a filing fee shall be paid by the person seeking to file or submit the document, unless the document is filed under authorization of and in the name of an instrumentality of the State of Oklahoma. Filing fees shall not apply to any emergency application, subsequent pleading or amended application.

(2) Any fee assessed by this Section is either due and payable at the time of filing or due and payable at the time the service is requested. Neither service shall be rendered before payment of the prescribed fee nor shall the Court Clerk's Office or any division of the Commission accept any application subject to a filing fee until the required fee is paid. All fees are nonrefundable.

(3) The fees listed in this section may be paid by check, personal checks, cashier checks, certified checks, money orders, credit cards and other means of electronic funds transfer. Foreign checks must be payable through a United States bank in United States funds. The check or money order should be made payable to the "Oklahoma Corporation Commission - Petroleum Storage Tank Division" and will be deposited to the Oklahoma Petroleum Storage Tank Revolving Fund.

(4) Payments by credit card and other means of electronic funds transfers.

(A) "Nationally recognized" credit card means any instrument or device, whether known as a credit card, credit plate, charge plate, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in lieu of a check, as defined by 12A Oklahoma Statute § 3-104(f), in obtaining goods, services or anything else of value or for the use of the cardholder in obtaining such goods, services, or anything else of value on credit and which, in either case, is accepted by over one thousand merchants in this state. The Oklahoma Corporation Commission shall determine which nationally recognized credit card will be accepted for any payments due and owing to the Oklahoma Corporation Commission.

(B) Implementation of payment by nationally recognized credit card and other means of electronic funds transfer will be phased in over a period of time as determined by the Commission.

(C) The Oklahoma Corporation Commission will verify that sufficient credit is available before acceptance of credit card to insure that no loss of state revenue will occur by the use of such card.

(i) If a person is at a designated receiving point and credit is not available, the person then has the opportunity to pay by other methods accepted by the Commission.

(ii) If a person mails in the credit card information and credit is not available, the transaction will be handled as one with no remittance and a bill will be forthcoming.

(D) The Oklahoma Corporation Commission may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such nationally recognized card.

(E) Persons wishing to pay by credit card must be willing to submit normally required credit card information to the Commission. This includes, but is not limited to: card type (VISA, etc.), card number, card expiration date, card holder name as shown, and three digit security personal identification number (PIN). The Commission assumes no liability for unauthorized use of this information.

(F) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account.

(G) "Electronic terminal" means an electronic device, other than a telephone operated by a person, through which a person may initiate an electronic funds transfer.

(H) "Financial institution" means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to another person.

(I) "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

(b) **Fees.**

(1) **Application fee.** The fee to file an application on the Petroleum Storage Tank/Indemnity Fund docket is $100.00.

(2) **Variance review fee.** The fee for administrative review of a Petroleum Storage Tank Division variance application is $250.00.

(3) **Annual storage tank permit fee.** Owners of regulated petroleum storage tanks, whether in use or not, are required to pay an annual permit fee as follows:

(A) For petroleum storage tanks - $25.00 per tank or tank compartment.

(B) For noncommercial agricultural underground storage tanks containing petroleum products - $10.00 per tank.

(C) For any tank installed or permanently closed during a calendar year, the full yearly fee shall be assessed.

(D) Invoices will be mailed out approximately 60 days in advance of the due date as noted on the invoice.

(4) **UST Installer License.** The fees for an Underground Storage Tank Installer License are:

(A) Application fee - $50.00

(B) License fee - $100.00

(C) Annual License renewal fee - $100.00

(5) **Environmental Consultant License.** The fees for an Environmental Consultant License are:

(A) Application fee - $50.00

(B) License fee - $100.00

(C) Annual License renewal fee - $100.00

(6) **UST Remover License.** The fees for an Underground Storage Tank Remover License are:

(A) Application fee - $50.00

(B) License fee - $100.00

(C) Annual License renewal fee - $100.00

(7) **AST Licensee.** The fees for an Aboveground Storage Tank Licensee are:

(A) Application fee - $50.00

(B) License fee - $100.00

(C) Annual License renewal fee - $100.00

(8) **Vapor Monitor Well Technician License.** The fees for a Vapor Monitor Well Technician License are:

(A) Application fee - $50.00

(B) Examination fee- $25.00

(C) License fee - $100.00

(D) Annual License renewal fee - $100.00

(9) **Groundwater Monitor Well Technician License.** The fees for a Groundwater Monitor Well Technician License are:

(A) Application fee - $50.00

(B) License fee - $100.00

(C) Annual License renewal fee - $100.00

(10) **Antifreeze Permit.** The manufacturer of any antifreeze displayed, distributed, manufactured, marketed, produced, sold, used and/or offered for sale or resale, held with intent to sell, or transported within the State of Oklahoma is required to pay the following fees:

(A) Application fee - $100.00 per brand per type

(B) Annual permit renewal fee - $100.00 per brand per type

(11) **Miscellaneous fees.**

(A) **Certified copies.** A fee of $1.00 per copied page is charged for each copy of an order or other document on file with the Commission certified by the Secretary, in addition to the fees specified in this Section.

(B) **Other fees.** The following fees shall be charged and collected at the time of request for same; none of which shall be refundable:

(i) Batch reproduction on continuing basis (per page) - $0.25

(ii) Copy of any document prepared in OCC offices (per page) - $0.25

(iii) Copies of any file or order -

(I) Non-certified copies - $0.25 per page; certified copies $1.00 per page

(II) Postage - actual cost

(C) **Computer data processing documents.** Reproduction of documents or informational searches involving computer data processing services will be in accordance with the rates established by the Oklahoma Office of Management and Enterprise Services.

(D) **Document search fee.** Except where provided otherwise by law, where the request for document copying and/or mechanical reproduction is solely for commercial purpose or clearly would cause excessive disruption of the Commission's essential functions, then a fee of $10.00 per hour (minimum of one hour) shall be charged to recover the direct cost of document search.

(E) **Fax.** A service charge of $5.00 plus $1.00 per page will be assessed for all outgoing faxes. All incoming faxes for persons not associated with the Commission shall be assessed a copy fee of $0.25 per page including the cover page when not submitted for filing with the Court Clerk's office.

(12) **Failure to pay fee.** Failure to pay by the designated due date, insufficient payments or returned payment of any fee within this subsection will result in the Corporation Commission being authorized to assess payment of any outstanding fee, plus for storage tank permits: a penalty of 50% of the computed total fee and/or suspend tank operation until payment of any fee or penalty assessed under this subsection is received.

PART 5. WIND ENERGY FACILITY FEES

165:5-3-40. Purpose

The purpose of this Part is to assess, pursuant to 17 O.S. § 160.22, a fee upon each wind energy facility to provide funding to the Public Utility Division in the execution of duties and responsibilities required by the Oklahoma Wind Energy Development Act.

165:5-3-41. Definitions

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

"PUD" means the Public Utility Division of the Oklahoma Corporation Commission.

"Decommissioned" means the retirement of a wind energy facility, including decontamination and/or dismantlement, and as defined in 17 O.S. § 160.14.

"Wind energy facility" means wind energy facility as defined in 17 O.S. § 160.13(9).

165:5-3-42. Wind energy facility fee

(a) Pursuant to 17 O.S. § 160.22, an annual fee of $2,000.00 shall be assessed on each wind energy facility located in the State of Oklahoma.

(b) Pursuant to 17 O.S. § 160.22, a submission fee of $5,000.00 shall be paid to the Commission for processing of each initial Notification of Intent to Build a wind energy facility in Oklahoma.

(c) For the first year of commercial generation, the annual fee shall be paid to PUD concurrently with the submission of the annual report, pursuant to OAC 165:35-45-3.

(d) The wind energy facility fee shall be paid to PUD annually on or before March 1 of each year, concurrently with the submission of the annual report, pursuant to OAC 165:35-45-3.

(e) The wind energy facility fee shall not be paid after PUD is notified that the wind energy facility is decommissioned.

(f) A public utility, as defined in OAC 165:5-3-21, that pays into the PUD Assessment pursuant to 17 O.S. §180.11, shall not be required to pay the wind energy facility fee on each wind energy facility owned by the public utility.

165:5-3-43. Failure to comply

A wind energy facility that fails or refuses to pay the required fee may be assessed fines and penalties as provided by law.

SUBCHAPTER 7. COMMENCEMENT OF A CAUSE

PART 3. OIL AND GAS

165:5-7-6.2. Multiunit horizontal wells in targeted reservoirs

(a) The application, which shall be limited to a single well, and the notice of hearing on the application, for an order approving a multiunit horizontal well in a targeted reservoir pursuant to 52 O.S. §87.8 shall be served no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon each person or governmental entity having the right to share in production from each of the affected units covered by the application.

(b) Notice of hearing regarding an application for an order approving a multiunit horizontal well in a targeted reservoir pursuant to 52 O.S. §87.8 shall be published as provided in OAC 165:5-7-1(n)(2).

(c) The application for an order approving a multiunit horizontal well in a targeted reservoir shall contain the following:

(1) The legal description of the affected units.

(2) The name and address of the applicant and proposed operator of the proposed well.

(3) The name and depth of each targeted reservoir to be affected, including any potential adjacent common source of supply.

(4) The information required by 52 O.S. §87.8(B)(4).

(5) Allegations concerning the existence of facts relating to the proposed well as provided in 52 O.S. §87.8(B)(6).

(6) Reference to any companion application, identified by the type of requested relief, such as any application for spacing, for location exception, for increased density, for pooling, for modification of any previous pooling order, or for any other relief that may be appropriate under the specific facts of a cause, if such companion application is filed in conjunction with or is pending at the time of the filing of the application for multiunit horizontal well(s).

(d) An order approving an application for a multiunit horizontal well in a targeted reservoir shall require the allocation of the reasonable drilling, completion and production costs and of the commingled production and proceeds in accordance with 52 O.S. §87.8(B) and the map(s) addressed in 52 O.S. §87.8(B)(4)(b) must be attached to the order.

(e) Any pooling application filed pursuant to 52 O.S. §87.8(B)(3) involving a multiunit horizontal well for a targeted reservoir shall be filed pursuant to OAC 165:5-7-7.

(f) In the event a multiunit horizontal well covered by 52 O.S. §87.8 is intended to be the initial unit well in any horizontal well unit that exceeds six hundred forty (640) acres plus tolerances and variances allowed by statute, the contemplated completion interval of such well shall exceed ten thousand five hundred sixty (10,560) feet, absent a showing of reasonable cause.

(g) The units that are covered by any multiunit well application filed under this Section, in which the subject multiunit horizontal well is proposed to be drilled and completed, shall not constitute "an adjoining or cornering tract of land or drilling and spacing unit, currently producing from the same common source of supply, toward which tract or unit the well location has been or is proposed to be moved" under OAC 165:5-7-9.

165:5-7-9. Well location exception

(a) The application, which shall be limited to a single well, and notice of hearing for an order granting a well location exception for a well drilled or to be drilled for oil or gas into any common source of supply at a location other than that authorized by a rule or order of the Commission shall be served by the applicant no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon the operator of each well located in an adjoining or cornering tract of land or drilling and spacing unit, currently producing from the same common source of supply, toward which tract or unit the well location has been or is proposed to be moved. The application and notice of hearing shall specify the name(s) of the well(s) and operator(s) of the well(s) towards which the location exception well is moving. The application and notice of hearing also

shall be served, in the manner required above, upon the operator of any well located in an adjoining or cornering tract of land or drilling and spacing unit currently producing from the same common source of supply, if the requested well location is closer to the offsetting well than would be permitted under the applicable well location tolerances or requirements. Provided, however, if the applicant, or any other entity to be authorized to drill or otherwise operate the subject well, is the operator of any of the wells identified above, then the application and notice of hearing shall be served, in the manner required above, upon each working interest owner in any such well.

(b) An application and notice of hearing for an order granting a well location exception pursuant to this Section may also include a request for an exception to OAC 165:10-3-28(c)(2). The application and notice of hearing shall be served in the manner required in subsection (a) of this Section, and shall contain the information required in such subsection. Where an application includes requested relief for both a location exception and exception to OAC 165:10-3-28(c)(2), such application shall separately identify respondents for the location exception and respondents for the exception to OAC 165:10-3-28(c)(2).

(c) For any well other than a directionally drilled well or a horizontal well, the application and notice of hearing for a location exception shall specify the proposed or actual surface location of the well expressed in feet from the two nearest boundaries of the drilling and spacing unit, or, if no drilling and spacing unit has been established, from the two nearest boundaries of the mineral estate(s) upon which the well will be or has been drilled.

(d) For a directionally drilled well, the application and notice of hearing for a location exception shall specify the proposed or actual subsurface location of the well's entry into and the proposed or actual subsurface location of the well's exit from the common source of supply for which the location exception is requested, expressed in feet from the two nearest boundaries of the drilling and spacing unit or, if no drilling and spacing unit has been established, from the two nearest boundaries of the mineral estate(s) upon which the well will be or has been drilled. For purposes of this section, a directionally drilled well does not include a horizontal well.

(e) For a horizontal well, the application and notice of hearing for a location exception shall specify the proposed or actual subsurface location of the completion interval, as defined by OAC 165:10-3-28, within the common source of supply for which the location exception is requested, expressed as the distance in feet from the nearest boundaries of the drilling and spacing unit or, if no drilling and spacing unit has been established, from the nearest boundaries of the mineral estate(s) upon which the well will be or has been drilled.

(f) The proposed subsurface location for a directionally drilled well or a horizontal well may be described in the application and notice of hearing as no closer than specified footages from the nearest boundaries of the drilling and spacing unit or, if no drilling and spacing unit has been established, from the nearest boundaries of the mineral estate(s) upon which the well will be drilled.

(g) At the time of hearing, a well's location, as set out in the application and notice of hearing, may be changed to another location that is not closer to the boundaries of the drilling and spacing unit or mineral estate(s) described in the application and notice of hearing, that is not closer to any offsetting well the operator of which, or any working interest owner in which, was required to be notified under this section, and that does not require notice to additional operators or working interest owners under this section.

(h) If at the time of the hearing on an application for a directionally drilled well or a horizontal well, the applicant does not have the results of the well survey required by OAC 165:10-3-27, then the Administrative Law Judge may recommend the issuance of an interim order granting the application and, if so, shall consider whether to adjust the allowable based on the potential locations of the well in each common source of supply for which the order is sought. All potential locations shall be considered in the interim order. If the directionally drilled well or the horizontal well is drilled and completed in compliance with the interim order, the well shall be assigned the allowable as set out in the interim order.

(i) If a directionally drilled or horizontal well is drilled and completed in compliance with an interim order approving a location exception, and no party of record has requested a hearing, the Commission may issue a final order approving the location exception, without further hearing, based on an administrative review by the Commission's Technical Services Department of the following documents, which the applicant must file with the Court Clerk for the record: the directional survey, a final plat showing the actual location of the lateral, and the well completion report. The applicant must also submit a proposed final order to the Commission's Technical Services Department in any cause handled through the administrative review process. In the event the directional survey shows that a directionally drilled or horizontal well was not drilled and completed in compliance with the interim location exception order, the applicant shall notify the Commission and all of the parties entitled to notice in the original hearing establishing the interim order by filing an amended application in the cause setting forth the actual subsurface locations of the well and by giving proper notice thereof. The actual subsurface locations of the well will be considered at a hearing conducted on the date specified in the interim location exception order, or on such date to which the hearing is continued.

(j) Notice of hearing on an application for an order granting a well location exception for a well drilled or to be drilled for oil or gas at a location other than that authorized by a rule or order of the Commission shall be published pursuant to OAC 165:5-7-1(n)(2).

165:5-7-20. Unitized management of a common source of supply

(a) Notice of hearing for an order creating a unit pursuant to 52 O.S. §287.1, et seq., shall be served by the applicant no less than fifteen (15) days prior to the date of the hearing, by regular mail upon each person who would be entitled to share in the production from the proposed unit.

(b) Notice of hearing for an order creating a unit pursuant to 52 O.S. §287.1, et seq., shall be published pursuant to 165:5-7-1(n)(2).

(c) Provision for amending or terminating the unit shall be in the Plan of Unitization. To amend the Plan of Unitization, the order creating the unit shall be amended and notice shall be as provided for an application seeking an order creating a unit pursuant to 52 O.S. §§287.1, et seq. When a unit is terminated in accordance with the terms of the Plan of Unitization, a copy of the certificate of dissolution filed in the county in which the lands are located shall also be filed with the ~~Commission~~Commission's Well Records Department. In such causes, no Commission action shall be required to terminate a unit if terminated in accordance with the Plan of Unitization. Where the Plan of Unitization does not provide for amendment or termination of a unit, an application may be filed seeking relief from the order creating the unit and notice shall be given as provided for the filing of an application in the original cause.

(d) The application for an order creating a unit pursuant to 52 O.S. §287.1, et seq., shall contain the following:

(1) The names and addresses of the operator or operators of the unit.

(2) A plat showing the lease, group of leases or unit(s) included within the proposed unit; the location of the proposed injection well or wells and the location of all oil and gas wells, including abandoned and drilling wells and dry holes; and the names of all operators offsetting the area encompassed within the unit.

(3) The common source of supply in which all wells are currently completed.

(4) The name, description, and depth of each common source of supply to be affected.

(5) A log of a representative well completed in the common source of supply.

(6) A description of the existing or proposed casing program for injection wells, and the proposed method of testing casing.

(7) A description of the injection medium to be used, its source and the estimated amounts to be injected daily.

(8) For a unit with an allocated pool, a tabulation showing recent gas-oil ratio and oil and water production tests for each of the producing oil and gas wells.

(9) The proposed plan of development of the area included within the unit.

(e) A copy of the application, without the attachments provided in (d)(1) through (9) of this Section, and notice of hearing shall be mailed to the owner or owners of the surface of the land upon which the unit is located. A copy of the application, with attachments and notice of hearing shall be mailed to each operator offsetting the unit as shown on the application.

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

(a) Each application for the approval of a newly drilled or newly converted injection well or disposal well shall be filed with the UIC Department on Form 1015 and shall be verified by a duly authorized representative of the operator.

(b) The application for the approval of an enhanced recovery injection or disposal well or wells shall be accompanied by:

(1) Plat.

(A) Noncommercial. A plat showing the location and total depth of the well or wells and each abandoned, producing or drilling well, and dry hole within one-quarter (1/4) mile of the proposed enhanced recovery injection well or disposal well for volumes less than 20,000 barrels per day and within one-half (1/2) mile of the proposed disposal well for volumes equal to or greater than 20,000 barrels per day, and identifying the surface owner of the land on which the enhanced recovery injection or disposal well is to be located, and each operator of a producing spacing unit or well within one-half (1/2) mile of each enhanced recovery injection or disposal well with a requested injection rate of less than five thousand barrels per day, and each operator of a producing spacing unit or well within one (1) mile of each enhanced recovery injection or disposal well with a requested injection rate of five thousand barrels per day or more.

(B) Commercial. A plat showing the location and total depth of the well or wells and each abandoned, producing or drilling well and dry hole within one-half (1/2) mile of the disposal well, and identifying the surface owner of the land on which the disposal well is to be located, and each operator of a producing spacing unit or well within one (1) mile of each disposal well.

(2) If the well has been drilled, a copy of the Completion Report (Form 1002A) and any available electric or radioactivity log of the well.

(3) A schematic diagram of the well showing:

(A) The total depth or plugback depth of the well.

(B) The depth of the injection or disposal interval indicating both the top and bottom.

(C) The geological name (geological group) of the injection or disposal zone.

(D) The depths of the tops and bottoms of the casing and cement to be used in the well.

(E) The size of the casing and tubing, and the depth of the packer.

(4) Information showing that injection into the proposed zone will not initiate fractures through the overlying strata which could enable the injection fluid or formation fluid to enter fresh water strata.

(A) When the fluid injection rate is 1,000 barrels per day or less, or an equivalent rate for any fraction of twenty-four (24) hours, an overlying strata of at least 200 feet in thickness between the lowest base of fresh water and the top of the proposed interval of injection is considered sufficient evidence of fresh water protection.

(B) When the fluid injection rate is greater than 1,000 barrels per day or an equivalent rate for any fraction of twenty-four (24) hours, an overlying strata of at least 500 feet in thickness between the lowest base of fresh water and the top of the proposed interval of injection is considered sufficient evidence of fresh water protection.

(C) When the fluid injection rate is greater than 10,000 barrels per day or an equivalent rate for any fraction of twenty-four (24) hours, an overlying strata of at least 3,000 feet in thickness between the lowest base of fresh water and the top of the proposed interval of injection is considered sufficient evidence of fresh water protection.

(~~C~~D) If the overlying strata is less than required in (A), ~~and~~ (B) and (C) of this paragraph, the Commission may administratively approve injection provided a finding is made that such injection will not initiate fractures through the overlying strata into the fresh water strata. Applicant is required to furnish the Commission sworn evidence and data in support of such findings. The Commission, when issuing a permit approving fluid injection, shall consider the following:

(i) Maximum injection rate.

(ii) Maximum surface injection pressure.

(iii) Injection fluid.

(iv) The lithology and rock characteristics of the injection zones and overlying strata.

(5) Proposed operating data:

(A) Daily injection rates and pressures. The maximum permitted surface injection pressure will be the pressure requested in the application or 1/2 psi per foot of depth to the top of the injection/disposal interval, whichever is less, unless the results of a fracture pressure step-rate test support a higher pressure.

(B) Geologic name, depth, and location of injection fluid source.

(C) Qualitative and quantitative analysis of fresh water from two (2) or more fresh water wells within one (1) mile of the proposed enhanced recovery injection or disposal well showing location of wells and dates samples were taken, or statement why samples were not submitted. The analysis shall include at a minimum chloride, sodium, and total dissolved solids. Sample collection date(s) must be no more than twelve (12) months prior to the date the application is filed.

(D) Qualitative and quantitative analysis of representative sample of water to be injected. The analysis shall include at a minimum chloride, sodium, and total dissolved solids.

(c) A copy of the application for approval of injection or disposal of water or other substances in a well shall be served by the applicant within five (5) days of the date the application is filed by regular mail or delivered to the following:

(1) The owner of the surface of the land on which the proposed injection or disposal well is to be located;

(2) For a proposed commercial disposal well, to each surface owner and surface lessee of record on each tract of land adjacent and contiguous to the site of the proposed well;

(3) For a noncommercial injection or disposal well with a requested injection rate of less than five thousand (5,000) barrels per day, to each operator of a producing spacing unit or well within one-half (1/2) mile of such proposed well;

(4) For a noncommercial injection or disposal well with a requested injection rate of five thousand (5,000) barrels per day or more, or a commercial disposal well, to each operator of a producing spacing unit or well within one (1) mile of such proposed well;

(5) For a noncommercial horizontal injection or disposal well with a requested injection rate of less than five thousand (5,000) barrels per day, to each operator of a producing spacing unit or well within one-half (1/2) mile of the lateral of such proposed well; and

(6) For a noncommercial horizontal injection or disposal well with a requested injection rate of five thousand (5,000) barrels per day or more, or a horizontal commercial disposal well, to each operator of a producing spacing unit or well within one (1) mile of the lateral of such proposed well.

(d) Notice of an application relating to injection, disposal or commercial wells shall be published one time for injection and noncommercial disposal wells and two times for a commercial disposal well in a newspaper of general circulation published in Oklahoma County, Oklahoma, and in a newspaper of general circulation published in each county in which land embraced in the application are located. The notice shall include:

(1) PD or tracking number.

(2) Name and address of applicant.

(3) Location of proposed well to nearest 10 acre tract.

(4) Well name.

(5) The geological name of the injection formation.

(6) The top and bottom of the injection interval.

(7) Maximum injection pressures.

(8) Maximum B/D or MCF/D injection rate.

(9) The type of well (injection, disposal, commercial).

(e) If a written objection to the application is filed within fifteen (15) days after the application is published for injection and noncommercial disposal wells or thirty (30) days after the last publication date for commercial disposal wells, or if hearing is required by the Commission, the application shall be set for hearing and notice thereof shall be given in the same manner as required for the filing of the application. If no objection is filed and the Commission does not require a hearing, the matter may be approved administratively by the Manager of Underground Injection Control.

(f) Any operator of a commercial disposal well facility shall file with the Manager of Document Handling for the Conservation Division an agreement to properly plug the well and reclaim the site upon termination of operations. The agreement shall be on forms available from the Conservation Division and shall be accompanied by surety. The agreement shall provide that if the Commission finds that the operator has failed or refused to comply with Commission rules or take remedial action as required by law and Commission rules, the surety shall pay to the Commission the full amount of the operator's obligation up to the limit of the surety.

(g) The Commission shall establish the amount of surety in the order or permit for the authority to operate a commercial disposal well facility. The amount of surety shall be based

on factors such as the depth of the well, dimensions of the facility, and costs of plugging the well, reclamation, monitoring, plugging of monitor wells, any pit closure, trucking of any deleterious substances, remediation and earth work. The amount may be subject to change for good cause. The surety shall be maintained for as long as monitoring is required. The type of surety shall be a corporate surety bond, certificate of deposit, irrevocable commercial letter of credit, or other type of surety approved by order or permit of the Commission. Any type of surety that expires shall be renewed prior to 30 days before the expiration date.

(h) Operators of commercial disposal well facilities authorized prior to the effective date of subsections (f) and (g) must either comply with those subsections or close such facilities within one (1) year of the effective date of those subsections.

(i) Optionally, the operator can file a Unit-wide Application for Injection (Form 1015U) that fulfills all the requirements of (b) through (e) of this Section. Upon review and approval, the operator receives a Unit-wide permit that allows the operator to file a traditional, individual well application (Form 1015) and if it fits the Unit-wide criteria, the UIC permit can be issued immediately without additional area of review, notice, or protest period.

165:5-7-29. Request for exception to certain underground injection well requirements

(a) Each application for an exception to 165:10-5-1 through 165:10-5-10 shall comply with the requirements of OAC 165:5-7-1(a) through (g).

(b) Each application shall be filed at the UIC Department and shall be verified by a duly authorized representative of the operator. The application and one complete set of attachments, with additional copies as may be required by the Court Clerk, shall be furnished to the Court Clerk.

(c) The application shall be accompanied by the information required in 165:5-7-27(b). The Manager of UIC may waive any particular information depending on the nature of the exception.

(d) Notice of the application shall be published pursuant to 165:5-7-1(n)(2).

(e) If a written objection to the application is filed within fifteen (15) days after the application is published or if hearing is required by the Commission, the application shall be set for hearing and notice thereof shall be given in the same manner as required for the filing of the application. If no objection is filed and if the Commission does not require a hearing, the matter shall be presented administratively to the Manager of Underground Injection Control who shall file ~~his~~the Manager's report and make ~~his~~the Manager's recommendations.

SUBCHAPTER 9. SUBSEQUENT PLEADINGS

165:5-9-2. Subsequent pleadings

(a) **Reply.** No documents shall be required other than the application and responses thereto. Reply to a response shall be permitted but shall not be required.

(b) **Motions.** All other objections to or requests for action or relief shall be by motion, with service by regular mail, facsimile, electronic mail or in person as provided in this subsection, stating in concise language the action or relief sought and the facts and circumstances upon which the right thereto is based.

(1) All motions shall be set on a regularly scheduled motion docket by a Notice of Hearing to be heard by an Administrative Law Judge unless determined otherwise by a prehearing/scheduling agreement or a prehearing/scheduling order. All motions filed after a cause has been set before the Commission or assigned to an Administrative Law Judge on the merits shall be set as directed by the Commission or the assigned Administrative Law Judge. The filing of a motion may not automatically delay the hearing on the merits.

(A) Prior to the record being opened on the merits or a prehearing/scheduling agreement filed or a prehearing/scheduling order issued, notice shall be given by the movant by serving at least five (5) business days prior to the date set for hearing by regular mail, facsimile, electronic mail or in person a copy of the motion and notice on each respondent.

(B) After the record in the cause has been opened on the merits or a prehearing/scheduling agreement has been filed or a prehearing/scheduling order has been issued, notice shall be given by the movant by serving, at least five (5) business days prior to the date set for hearing, by regular mail, facsimile, electronic mail or in person a copy of the motion and notice to all parties of record.

(2) Exceptions to such motions may be lodged in accordance with the provisions of OAC 165:5-13-5(a)(1) except as provided in (A) and (B) of this paragraph.

(A) In oil and gas related matters, all decisions on motions filed after the cause has been assigned to an Administrative Law Judge shall be considered in the Report of the Administrative Law Judge unless the Administrative Law Judge directs otherwise.

(B) In all other matters, the decisions on motions filed after a scheduling agreement has been filed or a scheduling order has been issued in a cause shall be considered in the Report of the Administrative Law Judge unless the Commission or Administrative Law Judge directs otherwise.

(c) **Response/objection to motions.** Any person may file and serve a response or objection to any motion at any time before the motion is heard. The title of the response or objection shall refer to the motion being considered. Responses or objections filed to motions which already have been set for hearing shall not require a Notice of Hearing.

(d) **Amendment.** Amendment of a document may be permitted at any time upon such terms as are just. An amendment may take the form of a substitute document, an amendment or supplement, deletion of language, or correction by interlineation. Response may be made to an amended document, but shall not be required. An amended application is acceptable where notice is given according to the statutes or rules under which the original application was filed. Provided, however,

no amended application shall be filed which changes the applicant's name, the type of relief requested, the legal description of the lands involved or the caption in the original application; instead, any such changes from the original application shall require the filing of a new application in accordance with Subchapter 5 of this Chapter.

(e) **Dismissal.** The applicant may dismiss the application with or without prejudice at any time prior to the record being opened at the hearing on the merits in said cause by submitting a proposed order dismissing the cause to the Judicial and Legislative Services.

(1) At any time prior to the record being opened at the hearing on the merits in a cause, a respondent may file a motion to dismiss in the same manner as provided in (b) of this Section.

(2) After the record has been opened at the hearing on the merits in a cause, the cause may be dismissed by agreement of all parties of record or recommended for dismissal with or without prejudice by the Commission or Administrative Law Judge upon the Commission's or Administrative Law Judge's own motion or upon motion of any party of record. A motion to dismiss filed hereunder shall comply with the provisions of (b) of this Section; provided that, in a cause where a motion to dismiss has been filed, notice shall be served on each respondent in the cause.

(3) Upon five (5) business days notice to parties of record, the Commission may entertain motions to dismiss for any of the following reasons:

(A) Failure to prosecute.

(B) Unnecessary duplication of proceedings or res judicata.

(C) Withdrawal.

(D) Moot question or obsolete applications.

(E) Lack of jurisdiction.

(F) Failure to submit a proposed order in a timely manner.

(G) For other good cause shown.

(4) Upon posting by the Judicial and Legislative Services fifteen (15) business days notice on a disposition docket, and ~~mailing~~emailing notice to all parties of record to a cause, the Commission may dismiss causes for any of the following reasons:

(A) Failure to submit a proposed order to the Administrative Law Judge or the Commission within thirty (30) days after the recommendation date or as directed by the Administrative Law Judge or the Commission.

(B) Failure to set a cause on a day certain.

SUBCHAPTER 13. INITIAL AND SUBSEQUENT PROCEEDINGS

165:5-13-2. Setting of causes

(a) **General.** All hearings on the merits shall be set before an Administrative Law Judge, unless otherwise ordered by the Commission.

(b) **Specially set.** By a motion, the applicant or any party of record or respondent may, at any time up to commencement of a hearing, request of the Commission that a cause be specially set before the Commission for hearing. The Commission may advance any cause by sua sponte order at any time.

(c) **Exceptions.** For purposes of OAC 165:5-13-5, all exceptions to reports on hearings on the merits in matters on the GG, CD, PD, EN, SF, PSD and US dockets shall be heard by the Commission en banc unless referred to an Oil and Gas Appellate Referee. Hearing dates for exceptions are to be secured from a docket clerk at the time of filing. The exceptions will be heard on that date or as soon thereafter as may meet the convenience of the Commission. Exceptions in all other matters shall be set before the Commission en banc.

(d) **Authority of Administrative Law Judge.** An Administrative Law Judge shall exercise all of the powers of the Commission in the conduct of a cause. An Administrative Law Judge shall rule upon admission of evidence, and objections thereto, and upon any other motion or objection arising during the pendency of the cause until the issuance of the report of the Administrative Law Judge. Review of a ruling of an Administrative Law Judge shall be by exceptions pursuant to OAC 165:5-13-5, and any objection to a ruling or other action of such Administrative Law Judge not included in such exceptions and amendments thereto, shall be deemed to have been waived.

(e) **Hearings on the PUD docket.** All hearings in causes filed pursuant to OAC 165:70 or 18 O.S. §438.31 et seq. shall be given priority status on the PUD docket in order to comply with 17 O.S. §152, 17 O.S. §137 (I) and 18 O.S. §438.31 et seq.

(f) **Hearings on the Petroleum Storage Tank docket.** All hearings regarding the exercise of the Commission's adjudicative authority pursuant to the Oklahoma Petroleum Storage Tank ~~Regulation~~Consolidation Act, 17 O.S. ~~§§301 through 317 and the Oklahoma Petroleum Storage Tank Release Indemnity Program, 17 O.S. §§ 350 through 358,~~§§301 et seq. shall be given priority status on the Petroleum Storage Tank docket ("PSD") in order to comply with 17 O.S. §-330 for the Commission to hear each case within one hundred eighty (180) days from the date of filing. See also OAC 165:5-21-9.

165:5-13-3. Hearings

(a) **Conduct of hearing.** Every hearing shall be conducted by the Commission, by an Administrative Law Judge or as provided at OAC 165:5-13-2.1. The Commission or Administrative Law Judge shall call the cause for hearing, after which proceedings shall be had as provided in this Section.

(b) **Scope of hearings.** The Commission, Administrative Law Judge or Public Utility Referee may state the purpose and scope of the hearing, or the issues upon which evidence will be heard.

(c) **Appearances.** Every person appearing shall enter his appearance by stating his name and address. Thereafter, such person shall be deemed a party of record, unless specified otherwise. An individual may appear on his own behalf. A corporation may appear only by its attorney; provided, that a representative other than an attorney may appear on behalf of a corporation for the sole purpose of making a statement or indicating corporate policy. Such a representative may not

assume an advocate's role or introduce evidence or examine witnesses in the proceeding.

(d) **Protests.**

(1) Except as otherwise permitted by this Chapter, any person desiring to protest the relief requested by the application shall file a notice of protest with the Court Clerk's office.

(2) Before the protest is filed or within a reasonable time thereafter, the protestant shall give notice to the applicant in a manner designed to advise the applicant of the protest prior to the scheduled hearing. Once filed, the written protest shall be provided to the applicant by regular mail, facsimile, electronic mail or in person.

(3) A protesting party initially may announce a protest to a case at the time of hearing, but shall subsequently file a written protest within a reasonable amount of time after the announcement of such protest.

(4) A protest form will be available on the Commission's website; however, such form is not required as long as the filed protest document contains the required information.

(5) A filed protest must contain the caption of the application and contact information of the protestant or the protestant's attorney.

(6) The provisions of this subsection shall not apply to causes filed on the PUD or OSF dockets.

(~~d~~e) **Preliminary matters.** The following shall be addressed prior to receiving evidence:

(1) The applicant, or staff counsel, may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the cause.

(2) Ruling may be made on any pending motions, including requests pertaining to discovery.

(3) Stipulations of fact and stipulated exhibits shall be received. No stipulation, settlement, or agreement between the parties of record, their attorneys, or representatives with regard to any matter involved in any cause shall be enforced unless it shall have been reduced to writing and signed by the parties of record or the representatives authorized by the rules of this Chapter to appear for them and thereafter made a part of the record, or unless it shall have been dictated into the record by them during the course of a hearing or incorporated into an order bearing their written approval. This Section does not limit a party of record's ability to waive, modify, or stipulate any right or privilege afforded by the rules of this Chapter, unless precluded by law.

(4) Parties of record may, in the discretion of the Commission or Administrative Law Judge, make opening statements where appropriate.

(5) Any other preliminary matters appropriate for disposition prior to presentation of evidence.

(~~e~~f) **Rules of evidence.** The Commission and Administrative Law Judges shall follow the rules of evidence applied in the district courts of Oklahoma, except that such rules may be relaxed where the Commission or the Administrative Law Judge deems it in the public interest to do so. The Commission or Administrative Law Judge may exclude evidence upon objection made thereto, or the evidence may be received subject to final ruling by the Commission. An exception will be deemed to be preserved by a party of record objecting to evidence upon an adverse ruling thereon. The Commission or Administrative Law Judge may exclude inadmissible evidence on his own motion and may direct cumulative evidence be discontinued.

(~~f~~g) **Order of proof.** The applicant or complainant who institutes a cause may open and close the proof. Staff counsel may open and close a cause instituted by the Commission or a staff member. Intervenors may be heard immediately following parties of record with whom allied in interest. In all cases, the Commission or Administrative Law Judge shall designate the order of proof.

(~~g~~h) **Examination of witnesses.** Every witness shall be examined and cross-examined orally and under oath by not more than one attorney for each party of record. The Commission or Administrative Law Judge shall designate the order of examination and may limit the scope of examination and cross-examination.

(~~h~~i) **Adverse party.** A party of record may call an adverse person or an officer or employee of an adverse person, in which case the witness may be impeached and otherwise cross-examined.

(~~i~~j) **Record.** All testimony shall be taken on the record.

(~~j~~k) **Prepared testimony.** Written testimony of a witness in form of questions and answers, or a narrative statement may be received in lieu of direct examination upon authentication by the witness under oath. In order to be received and relied upon at the hearing, such testimony and exhibits shall be filed and served upon all parties of record not less than five (5) days prior to the hearing, unless otherwise ordered by the Commission for good cause shown. The witness shall be subject to cross-examination. A written or oral statement by or a communication from any person, or a statement or resolution of a political subdivision, trade association, civic organization, or other organization may be received without cross-examination, but will be considered only as argument and not as proof of any recitation of facts contained therein.

(~~k~~l) **Documents.**

(1) A photographic copy of a document which is on file as part of the official records of the Commission will be received without further authentication.

(2) A photographic copy of a public record certified by the official custodian thereof will be received without further authentication. A written statement by such custodian of records that no record or entry of described character is found in his records shall be received as proof of absence of such record.

(3) A photographic copy of a document may be substituted for the original at the time the original is offered in evidence.

(4) A document may not be incorporated in the record by reference except by permission of the Commission or Administrative Law Judge. Any document so received must be precisely identified.

(5) The Commission or Administrative Law Judge may require that documents such as rate compilations,

statistical or technical data, and tabulated material be filed at a designated time prior to the hearing.

(6) The Commission or Administrative Law Judge may require that additional copies of exhibits be furnished for use by the Commission, staff counsel, and other parties of record.

(7) When evidence is offered which is contained in a book or document containing material not offered, the person offering the same shall extract or clearly identify the portion offered.

(8) The Commission or Administrative Law Judge may permit a party of record to offer a document as part of the record within a designated time after conclusion of the hearing.

(~~l~~m) **Exhibits.** All exhibits shall be identified by docket and cause number prior to submitting to the Commission.

(~~m~~n) **Summary exhibits.** An exhibit consisting of a compilation or summary of evidence, records, data, statistics, or other similar information may be received in evidence in addition to or in lieu of the evidence summarized, provided:

(1) The evidence summarized has been admitted in evidence, or is admissible; and

(2) If the evidence summarized has not been admitted, the person offering the summary exhibit has made the evidence summarized available for inspection by all other parties of record, or the information is published in a generally recognized publication which is available to all parties of record. It shall be the responsibility of a person offering a summary exhibit to comply with this subsection in advance of the hearing, and failure to make the evidence summarized available for inspection shall be grounds for refusal to admit the exhibit.

(~~n~~o) **Closing the record.** The record shall be closed when all parties of record have had an opportunity to be heard and to present evidence, and the Commission or Administrative Law Judge announces that the record of testimony and exhibits is closed. Unless a decision is then announced, the matter will be taken under advisement for later decision.

(~~o~~p) **Briefs.** The Commission or Administrative Law Judge may require or allow the filing of briefs by the parties of record, and may designate the order and time for filing briefs and reply briefs.

(~~p~~q) **Reopening the record.** Any person may file and serve, by regular mail, facsimile or electronic mail on all parties of record a motion to reopen the record for further hearing or to offer additional evidence. The Commission, at any time prior to final order in the cause, may, upon such motion or upon the motion of the Commission, order the record to be reopened for the purpose of taking testimony and receiving evidence which was not or could not have been available at the time of the hearing on the merits or for the purpose of examining its jurisdiction. A motion to reopen shall be filed and served in the same manner as provided in OAC 165:5-9-2(b). The motion and notice shall include a statement that if the Administrative Law Judge grants the motion, the record may be reopened the same day or on some other day as the Commission may determine.

(~~q~~r) **Corrections to transcript.** Except as provided in OAC 165:5-13-1(d), an official reporter shall make a stenographic and electronic record of the hearing. Errors claimed to be in a transcription of either a contested or uncontested hearing shall be noted in writing and suggested corrections may be offered to the Commission or Administrative Law Judge who presided at such hearing within ten (10) days after the transcript is filed, unless the Commission or Administrative Law Judge shall permit suggested corrections to be offered thereafter. Suggested corrections shall be served in writing upon each party of record and the Commission or Administrative Law Judge. If not objected to within twelve (12) days after being offered, the Commission or Administrative Law Judge shall direct that such suggested corrections be made and the manner of making them. In the event that parties disagree on suggested corrections, the Commission or Administrative Law Judge, with the aid of argument and testimony from the parties of record, shall then determine the manner in which the record shall be changed, if at all.

(~~r~~s) **Preparation of report or order.** The Commission or Administrative Law Judge may permit or direct any party or parties of record to prepare a proposed report or order in any protested cause. In unprotested causes, the applicant shall prepare and submit a proposed Commission order.

(1) Orders regarding non-emergency applications shall be submitted to the Administrative Law Judge within thirty (30) calendar days of the date the Administrative Law Judge announced the recommendation unless the Administrative Law Judge directs otherwise.

(2) Proposed orders regarding emergency applications shall be submitted to the Administrative Law Judge within ten (10) business days of the date the Administrative Law Judge announced the recommendation unless the Administrative Law Judge directs otherwise.

(3) Failure to submit a proposed order to the Administrative Law Judge within the time frame required by this subsection may result in the Administrative Law Judge reopening the record, with five (5) business days' notice to the parties, and the application being recommended for dismissal unless good cause is shown for the failure to supply the proposed order as required.

165:5-13-3.1. Optional procedure for spacing related applications

(a) If no protest to a spacing related application is filed prior to the docket call or is announced at docket call, an applicant for spacing, despacing, increased well density, or location exception may elect for consideration of the merits of the cause without a full evidentiary hearing. Such review of the cause shall be referred to as the optional procedure.

(b) After electing the optional procedure, the applicant shall provide the Administrative Law Judge with a proposed order and documentation supporting the application. With respect to documentation, any written testimony shall be presented in the form of a sworn, notarized affidavit which shall be marked as exhibits and entered into the record.

(c) The Administrative Law Judge shall prescribe the time period for completing the record and may request additional evidence as deemed appropriate.
(d) After closing the record, the Administrative Law Judge shall have seven (7) business days in which to make a recommendation to the Commission concerning disposition of the application.
(e) If the Administrative Law Judge's recommendation is unfavorable, the matter will be automatically set for a full evidentiary hearing before the same Administrative Law Judge. Any exceptions from the report issuing after the full evidentiary hearing will proceed pursuant to OAC 165:5-13-5.

165:5-13-4. Report of Administrative Law Judge

(a) At the conclusion of a hearing before an Administrative Law Judge, such officer shall, at the earliest practicable date, file a written report in the proceeding. The report shall contain the following:

(1) Names of parties of record and their attorneys.
(2) Brief statement of facts establishing jurisdiction of the cause.
(3) Brief summary of the evidence of each party of record who offered evidence.
(4) The pertinent facts as found by the officer upon consideration of all evidence offered.
(5) Recommended conclusions of law and recommendations as to action to be taken or relief to be granted or denied.
(6) In oil and gas conservation causes and pollution causes, such report shall be prepared only when a party of record in the hearing before the Administrative Law Judge has formally, ~~either orally or~~ in writing, protested the granting of the application, or, in the judgment of the Administrative Law Judge, the issuance of a report is required.

(b) The Administrative Law Judge shall send a copy of the report by regular mail, facsimile, electronic mail or in person to each party of record.
(c) At the expiration of ten (10) business days after the report is filed, if no exceptions are filed, the Commission shall enter such order as shall be deemed appropriate upon consideration of the report.
(d) In any conservation or pollution cause in which the Administrative Law Judge has recommended that an order issue, but the approval of staff counsel or technical staff is withheld after all efforts have been exhausted to resolve technical or legal problems with the applicant and Administrative Law Judge, the Administrative Law Judge shall issue a report in accordance with this Section, allowing any person time to file exceptions.
(e) Upon request by a Commissioner, an Administrative Law Judge shall appear at any scheduled signing agenda, Commission hearing or public deliberation to respond to questions from the Commissioners concerning the proposed order or report of the Administrative Law Judge.

SUBCHAPTER 15. ORDERS

165:5-15-1. General form and procedure

(a) **Contents of orders.** The Commission may prescribe a standardized format for all orders. Every order of the Commission shall contain the following where appropriate or except where the Commission determines otherwise:

(1) Caption, cause number on the appropriate docket and order number. Every page of the order shall also contain a page number, the applicable subject matter docket listed in OAC 165:5-5-1(a), the docket number assigned to the cause by the Court Clerk, and order type, e.g., emergency order, final order, etc.
(2) Appearances.
(3) Date and place of all hearings.
(4) Summary of allegations of applicant, and of all other parties of record.
(5) Summary of evidence of applicant, and of all other parties of record.
(6) Findings of fact, containing all ultimate facts found to have been established.
(7) Conclusions of law, containing:
(A) All legal conclusions found to be applicable to the facts; and
(B) The directive of the order stated in concise and mandatory language.
(8) Signature of the Secretary certifying as to all Commissioners participating in making the order. The signatures of the Secretary and Commissioners participating in the making of the order may be electronic signatures as provided in OAC 165:5-1-14.
(9) Seal of the Commission.
(10) Date of filing, and effective date where appropriate.

(b) **Duty to send orders.** The Court Clerk shall immediately mail or otherwise deliver a copy of the order to the applicant. Except where otherwise specifically provided in this Chapter, the applicant shall thereafter mail or otherwise deliver a copy of the order within five (5) days of the receipt of the order to all parties of record and to each respondent in the cause. Where an attorney has appeared of record for a person, service shall be on the attorney.
(c) **Effectiveness of order.** The issuance of or effectiveness of an order or its enforcement will not be stayed or postponed by the filing of any motion for rehearing or for other relief therefrom. The Commission may by order stay any order pending further hearing, and may stay or postpone the effective date thereof, or enforcement thereof for such time and on such terms as may be just.
(d) **Order titles and numbers.** An order of the Commission, descriptively titled, shall be issued for all motions and other matters set for hearing, except for continuances, and all such orders shall be given an order number; provided that when a motion is withdrawn, no order shall be required to document the withdrawal.

SUBCHAPTER 21. PROCEDURE FOR THE PETROLEUM STORAGE TANK DOCKET

165:5-21-1. Purpose

The purpose of this Subchapter is to provide rules to govern proceedings filed before the Commission concerning the Oklahoma Petroleum Storage Tank ~~Regulation Program and the Petroleum Storage Tank Release Indemnity Program~~Consolidation Act. Accordingly, all procedural rules necessary to initiate, regulate and litigate the above stated programs have been centralized in this Subchapter for user friendliness, with the exception of the rules contained in Chapter 5 which are "general" rules of procedure. To avoid repetitive rule language, the following rules apply to all proceedings subject to this Subchapter:

(1) OAC 165:5-1-3 (Definitions)
(2) OAC 165:5-1-4 (Office location; office hours; records)
(3) OAC 165:5-1-5 (Filing of documents)
(4) OAC 165:5-1-6 (Time computations and extensions; effective date)
(5) OAC 165:5-1-8 (Place of hearing)
(6) OAC 165:5-1-9 (Telephonic testimony)
(7) OAC 165:5-5-1 (Dockets; identifying initials)
(8) OAC 165:5-9-3 (Emergency applications)
(9) OAC ~~165:5-11-3~~165:5-11-2 (Prehearing conference)
(10) OAC 165:5-13-1 (Sessions and hearings)
(11) OAC 165:5-13-2 (Setting of causes)
(12) OAC 165:5-13-3 (Hearings)
(13) OAC 165:5-13-4 (Report of Administrative Law Judge)
(14) OAC 165:5-13-5 (Exceptions to Report of the Administrative Law Judge)
(15) OAC 165:5-15-1 (General form and procedure [orders])
(16) OAC 165:5-15-7 (Emergency orders)
(17) OAC 165:5-17-1 ([Post order relief] Within 10 days)
(18) OAC 165:5-17-2 (After 10 days; applicants)
(19) OAC 165:5-17-4 (Nunc Pro Tunc)
(20) OAC 165:5-17-5 (Appeals)
(21) OAC 165:5-19-1 (Contempt procedure)

165:5-21-3.1. Applications for a variance

(a) **Administrative review.** Any variance sought from rules in Chapters 15, 16, 25, 26, 27, or 29 must be made by application. At the time the application is filed, applicant must provide the Petroleum Storage Tank Division all documents or evidence supporting the proposed variance. The Petroleum Storage Tank Division shall review the application administratively without the necessity of a hearing. If the Petroleum Storage Tank Division approves the relief requested by the application, it shall submit a proposed order to the Commissioners to determine whether the variance and/or other relief, if any, should be granted.

(b) **Remedies after denial or modification.** If the Petroleum Storage Tank Division denies the relief requested by the application as reflected in the notice of denial provided to applicant, or the Petroleum Storage Tank Division cannot agree to a modification, the applicant ~~may~~will have ten (10) business days from receipt of the denial letter to withdraw its application or file a notice of hearing before an Administrative Law Judge and present ~~their~~its application for a recommendation on the merits of the variance sought. If the application for the variance is denied by the Administrative Law Judge, the ~~Applicant~~applicant may file exceptions as more fully defined under OAC 165:5-13-5. If a notice of hearing is not timely filed, the Petroleum Storage Tank Division shall submit a proposed order to the Commissioners to deny the variance.

[OAR Docket #19-412; filed 5-30-19]

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

[OAR Docket #19-413]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 10. Oil & Gas Conservation [AMENDED]
AUTHORITY:
Oklahoma Corporation Commission; 17 O.S. § 52, 27A O.S. § 1-3-101, 52 O.S. § 36.1 *et seq*., 52 O.S. § 139, 68 O.S. § 1001, 68 O.S. § 1357 and OAC 165:5-1-7.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on January 25, 2019.
COMMENT PERIOD:
January 24, 2019, through February 25, 2019
PUBLIC HEARING:
February 28, 2019
ADOPTION:
February 28, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 8, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
August 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
Incorporated standards:
American National Standards Institute, Table I, Standard Z390.1-2017
American Petroleum Institute, API Standard 2017
Incorporating rules:
165:10-3-16
Availability:
The standards are readily available to the public for examination at the office of the Director of the Oil and Gas Conservation Division, Oklahoma Corporation Commission, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Room 254, Oklahoma City, Oklahoma, during regular business hours from 8:00 a.m. to 4:30 p.m., Monday through Friday.
GIST/ANALYSIS:
The rules were adopted to update and clarify the Oil & Gas Conservation rules, modify requirements regarding well drilling, completion, recompletion or remedial operations with respect to underground gas storage facilities; expand requirements concerning notice of hydraulic fracturing operations; add a new rule regarding notice of temporary lines which may be used to transport produced water; address venting and flaring of gas from wells and operation in hydrogen sulfide areas; change requirements for applications to permit enhanced recovery injection wells and disposal wells; streamline Brownfield Program rules and reporting of nonpermitted discharges;

enhance cementing requirements for enhanced recovery injection wells and disposal wells; revise reporting requirements when operators permanently terminate injection into wells and transfer operations concerning underground injection wells; establish a date by which underground injection wells must be brought into compliance after a mechanical failure or down-hole problem occurs; standardize sampling requirements for noncommercial pits, noncommercial disposal or enhanced recovery well pits used for temporary storage of saltwater, truck wash pits, commercial pits, commercial soil farming, commercial disposal well surface facilities, and commercial recycling facilities; establish requirements for the quality of cement used in plugging wells, and revoke OAC 165:10-21-21, OAC 165:10-21-22, OAC 165:10-21-23, OAC 165:10-21-24, OAC 165:10-21-35, OAC 165:10-21-36, OAC 165:10-21-37, OAC 165:10-21-38, OAC 165:10-21-45, OAC 165:10-21-47, OAC 165:10-21-47.1, OAC 165:10-21-55, OAC 165:10-21-56, OAC 165:10-21-57, OAC 165:10-21-58, OAC 165:10-21-65, OAC 165:10-21-66, OAC 165:10-21-67, OAC 165:10-21-68, OAC 165:10-21-69, OAC 165:10-21-75, OAC 165:10-21-76, OAC 165:10-21-77, OAC 165:10-21-78, OAC 165:10-21-79, OAC 165:10-21-80, OAC 165:10-21-82, OAC 165:10-21-82.1, OAC 165:10-21-82.2, OAC 165:10-21-82.3, OAC 165:10-21-82.4, and OAC 165:10-21-85, in Subchapter 21, Applications for Tax Exemptions, in accordance with amendments to 68 O.S. § 1001 in Second Extraordinary Session, Enrolled House Bill No. 1010 (2018). OAC 165:10-1-7(b) and new rule OAC 165:10-3-10.1 require new Form 5000NTL (notice of temporary lines which may be used to transport produced water).

CONTACT PERSON:

Susan Dennehy Conrad, Deputy General Counsel, Judicial and Legislative Services, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73152-2000, telephone: (405) 521-3939, s.conrad@occemail.com.

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 OKLAHOMA CORPORATION COMMISSION, WESTERN REGIONAL SERVICE OFFICE, JIM THORPE OFFICE BUILDING, 2101 NORTH LINCOLN BOULEVARD, OKLAHOMA CITY, OKLAHOMA, AT THE OKLAHOMA CORPORATION COMMISSION, EASTERN REGIONAL SERVICE OFFICE, KERR BUILDING, 440 SOUTH HOUSTON, SUITE 114, TULSA, OKLAHOMA, 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 165:10-1-2 is amended regarding definitions; OAC 165:10-1-4 to update the list of effective dates for OAC 165:10 rulemakings; OAC 165:10-1-7 to update the list of Oil & Gas Conservation Division prescribed forms, to delete form(s) and to add new form(s); OAC 165:10-3-1 regarding permits to drill wells; OAC 165:10-3-4 concerning casing and cementing of wells; OAC 165:10-3-5 with respect to underground gas storage facilities; OAC 165:10-3-10 regarding hydraulic fracturing operations; OAC 165:10-3-10.1 is a new rule concerning notice of temporary lines which may be used to transport produced water; OAC 165:10-3-15 with respect to venting and flaring of wells; OAC 165:10-3-16 regarding operations in hydrogen sulfide areas; OAC 165:10-3-28 concerning horizontal drilling; OAC 165:10-5-5 with respect to applications for approval of enhanced recovery injection wells and disposal wells; OAC 165:10-5-6 regarding testing and monitoring requirements for enhanced recovery injection wells and disposal wells; OAC 165:10-5-7 concerning monitoring and reporting requirements for enhanced recovery injection wells, disposal wells and storage wells, and OAC 165:10-5-10 with respect to transfer of authority to operate enhanced recovery wells, salt water disposal wells, commercial salt water disposal wells and hydrocarbon storage wells.

In addition, OAC 165:10-7-5 is amended regarding reporting of nonpermitted discharges of deleterious substances; OAC 165:10-7-7 concerning informal complaints pertaining to alleged violations of Commission orders or OAC 165:10; OAC 165:10-7-16 with respect to use of noncommercial pits; OAC 165:10-7-19 regarding land application of water-based fluids from earthen pits, tanks and pipeline construction; OAC 165:10-7-20 concerning noncommercial disposal or enhanced recovery well pits used for temporary storage of saltwater; OAC 165:10-7-24 with respect to waste management practices; OAC 165:10-7-26 regarding land application of contaminated soils and petroleum hydrocarbon based drill cuttings; OAC 165:10-7-33 concerning truck wash pits; OAC 165:10-9-1 with respect to operation of commercial pits; OAC 165:10-9-2 regarding commercial soil farming; OAC 165:10-9-3 concerning commercial disposal well surface facilities; OAC 165:10-9-4 with respect to operation of commercial recycling facilities; OAC 165:10-10-4 regarding determination of eligibility for the Brownfield Program; OAC 165:10-10-7 concerning the Commission's Brownfield Program site list, and OAC 165:10-11-6 is amended with respect to plugging and plugging back procedures for wells.

OAC 165:10-21-21, OAC 165:10-21-22, OAC 165:10-21-23, OAC 165:10-21-24, OAC 165:10-21-35, OAC 165:10-21-36, OAC 165:10-21-37, OAC 165:10-21-38, OAC 165:10-21-45, OAC 165:10-21-47, OAC 165:10-21-47.1, OAC 165:10-21-55, OAC 165:10-21-56, OAC 165:10-21-57, OAC 165:10-21-58, OAC 165:10-21-65, OAC 165:10-21-66, OAC 165:10-21-67, OAC 165:10-21-68, OAC 165:10-21-69, OAC 165:10-21-75, OAC 165:10-21-76, OAC 165:10-21-77, OAC 165:10-21-78, OAC 165:10-21-79, OAC 165:10-21-80, OAC 165:10-21-82, OAC 165:10-21-82.1, OAC 165:10-21-82.2, OAC 165:10-21-82.3, OAC 165:10-21-82.4, and OAC 165:10-21-85, in Subchapter 21, Applications for Tax Exemptions, are revoked in accordance with amendments to 68 O.S. § 1001 in Second Extraordinary Session, Enrolled House Bill No. 1010 (2018).

In addition, OAC 165:10-21-90 is amended regarding sales tax exemptions for electricity and associated delivery and transmission services sold for operation of reservoir dewatering projects and/or units pursuant to 68 O.S. § 1357; OAC 165:10-21-91 concerning reservoir dewatering projects in accordance with amendments to 68 O.S. § 1001 in Second Extraordinary Session, Enrolled House Bill No. 1010 (2018); OAC 165:10-21-92 with respect to qualification for sales tax exemptions for electricity and associated delivery and transmission services sold for operation of reservoir dewatering projects and/or units pursuant to 68 O.S. § 1357; OAC 165:10-21-95 regarding sales tax exemptions for electricity sold for operation of enhanced recovery methods on a spacing unit or lease pursuant to 68 O.S. § 1357; OAC 165:10-21-97 concerning qualification for sales tax exemptions for electricity sold for operation of enhanced recovery methods on a spacing unit or lease pursuant to 68 O.S. § 1357, and OAC 165:10-29-2 is amended with respect to alternative location requirements for horizontal well units.

The full text of these rules may be obtained by interested parties at the Oklahoma Corporation Commission's Oklahoma City Court Clerk's Office located in the Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73105, at the Commission's Tulsa Court Clerk's Office located in the Kerr Building at 440 South Houston, Suite 114, Tulsa, Oklahoma, 74127, and on the Commission's website at http://www.occeweb.com.

[OAR Docket #19-413; filed 5-30-19]

TITLE 165. CORPORATION COMMISSION
CHAPTER 15. FUEL INSPECTION

[OAR Docket #19-419]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
165:15-1-1. Purpose [AMENDED]
165:15-1-2. Definitions [AMENDED]
Subchapter 3. Fuel Specialists, Testing, Accessibility, and Assistance
Part 1. General Authority
165:15-3-2. Authority to lock or seal for violation [AMENDED]
Part 3. Motor Fuels and Antifreeze
165:15-3-10. Sampling [AMENDED]
165:15-3-11. Testing methods for motor fuel [AMENDED]
Part 7. Storage Tanks and Ancillary Equipment
165:15-3-21. Containment of petroleum products [AMENDED]
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165:15-19-2. Enforcement procedure [AMENDED]
165:15-19-3. Notices of Violation [AMENDED]
165:15-19-4. Re-inspection, Formal Enforcement and ~~Fine~~Field Citation [AMENDED]
165:15-19-5. ~~Payment~~Issuance of a Field Citation and payment of fine or hearing [AMENDED]

AUTHORITY:
The Commission's statutory authority is found in 17 O.S. §§ 306(12), 307, 322; 17 O.S. § 342 (Please note that this citation changed November 1, 2018, from 52 O.S. § 325); and 17 O.S. § 347 (Please note that this citation changed November 1, 2018, from 52 O.S. § 347)

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on October 17, 2018.

COMMENT PERIOD:
October 16, 2018 to December 28, 2018.

PUBLIC HEARING:
January 30, 2019

ADOPTION:
January 30, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 8, 2019

LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:
May 28, 2019

EFFECTIVE:
August 1, 2019

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
The adopted rules add inspections to the fuel inspection rules; correct the definition of aboveground storage tank; define formal enforcement action; strike the definition for a device no longer allowed; define important building; correct applicable rule chapters and add statutes to the rule; clarify samples of Petroleum Storage Tank Division ("PSTD") regulated substances may be obtained for testing; clarify testing methods; strike a temporary release detection method no longer allowed; clarify manual tank gauging can only be used on tanks 1,000 gallons or less; update the rule numbering to reflect changes; strike motor fuel from the description of kerosene; clarify that enforcement may occur if a violation is not corrected; clarify procedures for notification and correspondence; clarify the procedure when a follow-up inspection indicates a violation has not been corrected; clarify the procedure for issuing a Field Citation; correct grammatical errors; and update terminology.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:15-1-1. Purpose

The purpose of this Chapter is to provide a comprehensive regulatory program governing the sale~~, and~~ storage, and inspection of regulated substances such as antifreeze, motor oil, motor fuel, gasoline, kerosene, aviation fuel, and diesel fuel, and specify standards governing the measuring devices and facilities used to store, sell, dispense, or deliver these products. This Chapter is intended to protect the end user by regulating the integrity and quantity of the product sold; protect the public and the environment from fire, explosion and contamination; assist the tank owner/operator regarding how to maintain a petroleum storage tank system to avoid damages or deterioration of the system, economic loss to the owner/operator, and damages to others.

165:15-1-2. Definitions

In addition to the terms defined in 17 O.S. §§ 301 et seq., ~~47 O.S. § 466 et seq., and 52 O.S. § 325.1 et seq.~~, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"API (American Petroleum Institute) gravity scale" means the gravity scale in general use by the petroleum industry in the United States.

"ASTM" means the American Society for Testing and Materials. The latest ASTM revision must be the test used and is expressly incorporated in this Chapter.

"ATG" means an automatic tank gauging system.

"Aboveground storage tank" or **"AST"** means any stationary tank, and individual compartments not included within the definition of an underground storage tank in Oklahoma Administrative Code(OAC) 165:25-1-11, which is designed to contain any PSTD regulated substances without structural support of earthen material.

"Aboveground storage tank system" means an aboveground storage tank, the individual compartments, and any connected aboveground or underground piping, dispensers and associated equipment and fixtures or transport truck connected to the storage tank system.

"Airport" means landing facility for aircraft that is routinely available for public use (whether routinely used or not). Airports as used in this Chapter do not include private residential airstrips or private airports.

"Analog type" means an indicating element or a system of indication or recording in which values are presented as a series of numbered graduations in combination with an index, and in which the most sensitive element of the indicating system moves continuously during the operation of the device.

"Ancillary equipment" means any device including, but not limited to, devices such as piping, fittings, flanges, valves, and pumps that are used to distribute, meter, or control the flow of regulated substances to or from a petroleum storage tank.

"Approval seal" means an inspection label or tag pasted on the face of a dispenser indicating its official approval, showing day, month, and year.

"Aviation gasoline" means a volatile hydrocarbon fuel suitable for use in an aircraft internal combustion engine.

"Bulk plant" means a petroleum storage tank facility where regulated substances are received by tank vessels,

pipelines, tank cars or tank vehicles and are stored or blended in mass quantities or bulk for the purpose of distribution by a tank vessel, pipeline, tank car, tank vehicle, portable tank or other container, for wholesale or retail sale.

"Calibrate" or **"Calibration"** means the comparison of the indicated volume to the volume actually delivered by a retail or wholesale device into a certified test measure, prover, or through a second accurate meter.

"Cathodic protection" means a technique designed to prevent the corrosion of a metal surface by making it the cathode of an electrochemical cell. For example, protection can be accomplished with an impressed current system or a galvanic anode system.

"Change in service" means a change in the status of a storage tank (i.e., from currently in use to temporarily out of use); change of regulated substance that a storage tank contains.

"Computing type" means a device designed to indicate and measure the total money value of product for one of a series of unit prices.

"Digital type" means a system of indicating or recording that advances intermittently in which all values are presented digitally and without graduations.

"Dry hose type" means a device in which the discharge hose must be completely drained following the mechanical operations involved in each delivery.

"Face of the dispenser" means that side of a measuring device that displays the quantity measured. The face must include an indicator and a series of graduations or present values digitally. It is the side of the dispenser where the unit price, volume dispensed, and dollar amount of the sale appear.

"Fuel" or **"motor fuel"** means any petroleum product, oxygenate, or blend of products suitable for use in an internal combustion or diesel engine.

"Fuel Specialist" means any field inspector employed by the Compliance and Inspection Department of the Petroleum Storage Tank Division of the Oklahoma Corporation Commission.

"Formal Enforcement Action" means the process of ensuring compliance with Commission regulations, rules, orders, requirements, standards, and/or state law when a violation occurs and PSTD initiates an enforcement Complaint under the contempt procedure in OAC 165:5 Subchapter 19 to be heard at the Commission by an Administrative Law Judge or the Commissioners.

"Gasoline" means a volatile unleaded fuel that is suitable for use in a spark ignition, internal combustion engine.

~~**"Gravity type"** means a type of device designed for discharge by gravity.~~

"Gum" means the evaporation residue of aircraft gasoline or the heptane insoluble portion of the evaporation residue of motor gasoline.

"Important building" means a building that is considered not expendable in an exposure fire.

"Index of an indicator" means that particular portion of an indicator that is directly used in making a reading.

"Indicating element" means that component located on the face of the dispenser that signifies the amount relative to a quantity measured by a measuring device.

"Isooctane" means a pure hydrocarbon 2,2,4-trimethylpentane used as a reference fuel that has an octane rating of one hundred.

"Kerosene" means a refined hydrocarbon fuel intended for use in heating and illumination.

"Liquid measuring device" or **"liquid fuel device"** means any and all measuring devices (retail, wholesale, or vehicle tank measure) with which gasoline, motor fuel, kerosene, motor oil, diesel fuel, or aviation gasoline is sold, dispensed, or delivered to the public or to any person for any purpose.

"MtBE" means methyl tertiary butyl used as a component in gasoline.

"Measuring device" or **"meter"** means all measuring devices (retail, wholesale, or vehicle tank measure) with which gasoline, motor fuel, kerosene, motor oil, diesel fuel, or aviation gasoline is sold, dispensed, or delivered to the public or to any person for any purpose.

"Motor fuel" or **"fuel"** means any petroleum product, oxygenate, or blend of products, that is suitable for use as a fuel in an internal combustion or diesel engine.

"NACE" means the National Association of Corrosion Engineers.

"N-heptane" means a pure hydrocarbon used as a reference fuel with an assigned octane rating of zero.

"Octane", or **"octane number",** or **"octane rating"** means the antiknock quality of gasoline as determined by either the ASTM Research Method or the ASTM Motor Method.

"Oxygenate" means ethyl alcohol, MtBE, TAME, or other oxygen-containing, ashless organic compounds.

"Permanent out of use" or **"POU"** means a petroleum storage tank system that is not in service/use, does not contain regulated substances, and is not intended to be placed back in service/use.

"Petroleum" means antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel or aviation fuel. It does not include 100% biodiesel, compressed natural gas, liquid natural gas, methanol, and propane.

"Primary indicating elements" or **"recording elements"** means those principal visual indicating elements and recording elements that may be used by an owner or operator in the normal commercial use of a device and which are readily visible to the public.

"Private airport" means an airport used only by its owner and regulated by PSTD as a fleet and commercial facility.

"Private airstrip" means a personal residential takeoff and landing facility attached to the airstrip owner's residential property.

"PSTD" means Petroleum Storage Tank Division.

"(R+M)/2" means the arithmetic mean of the ASTM Research Method (R) and the ASTM Motor Method (M) octane numbers, and is the octane rating.

"Regulated substance" means antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel or aviation fuel. It does not include compressed natural gas, liquid natural gas and propane.

"Retail device" means a measuring device or mechanism designed for single deliveries of PSTD regulated substances to individual land, air, and water vehicles.

"Retail level" means all places of business where PSTD regulated substances are dispensed or delivered directly into the tank of the consuming vehicle or receptacle, and may include bulk agents, consignment agents, distributors, or jobbers.

"SIR" means Statistical Inventory Reconciliation.

"Security Seal" or **"seal"** or **"lock/locking mechanism"** means a lead and wire seal, lock or locking device, or similar device, attached to a petroleum storage tank system for protection against access, removal, or adjustment.

"TAME" means tertiary amyl methyl ether for use as a component in gasoline.

"Temporary out of use" or **"TOU"** means the status of a petroleum storage tank system that has been taken out of service/use with the intent to permanently close or return to service.

"Tolerance" means a value fixing the limit of allowable error or departure from the highest performance or value.

"Transport calibration" or **"truck calibration"** means the volume held to the designated marker as determined by the addition of a calibration fluid to the compartment from an accurate meter or from provers.

"Underground storage tank" or **"UST"** means a regulated storage tank and individual compartments, including underground piping, that has 10 percent (10%) or more of its volume beneath the surface of the ground.

"Underground storage tank system" means an underground storage tank, the individual compartments, and any connected aboveground or underground piping, dispensers, containment sump, if any, and ancillary equipment or transport truck connected to the storage tank system.

"Visible type" means a type of device in which the measurement takes place in visible glass measuring chambers.

"Wet-hose type" means a device designed to be operated with the discharge hose full of liquid at all times.

"Wholesale device" means any device other than a retail device.

SUBCHAPTER 3. FUEL SPECIALISTS, TESTING, ACCESSIBILITY, AND ASSISTANCE

PART 1. GENERAL AUTHORITY

165:15-3-2. Authority to lock or seal for violation

A Fuel Specialist or PSTD Director's designee has the authority to place or to direct that a lock or seal be placed on any dispenser, delivery device, receptacle, or container tank used in the sale, distribution or storage of regulated substances in Oklahoma when the rules in this Chapter, ~~Chapter 25, Chapter 26, or~~OAC 165:16, 165:25, 165:26, 165:27, 165:29, state statutes, a Commission order or requirement are being violated.

PART 3. MOTOR FUELS AND ANTIFREEZE

165:15-3-10. Sampling

Samples of ~~motor fuels~~regulated substances for testing must be obtained by Fuel Specialists from the same dispensing device used for sales to customers. Samples will be taken as often as necessary to ensure quality in one of the following manners:

(1) At a retail or wholesale device dispensing a single grade of product, the first product to flow from the device will be taken for testing and considered representative of the product dispensed.

(2) When the Fuel Specialist is calibrating a retail or wholesale device dispensing single or multiple products, the Fuel Specialist may take the sample from the same five (5) gallons used in the calibration of the dispenser.

(3) At a wholesale plant using a single outlet for more than one product, the sample should be obtained directly from the storage tank or by any other convenient way that will ensure a sample representative of each product.

(4) At a retail device dispensing a blend of products or dispensing multiple products through a single nozzle, the device must be set on the desired product to be sampled and the second sample will be taken for testing.

165:15-3-11. Testing methods for motor fuel

A Fuel Specialist will test the octane rating or check for any contaminants or foreign substances as necessary for each type of motor fuel sold at any retail facility, airport, bulk plant or marina using the Zeltex machine or other Commission-approved device.

PART 7. STORAGE TANKS AND ANCILLARY EQUIPMENT

165:15-3-21. Containment of petroleum products

Because petroleum product releases can pose a threat to the public health, safety and the environment, Fuel Specialists must ensure that the proper mechanisms are in place and standards, rules, and requirements are met to prevent releases.

(1) **Spill and overfill protection.** Fuel Specialists must ensure that appropriate spill and overfill protection devices are in place and operational.

(2) **Leak detection on tanks.** Fuel specialists must check the condition of an owner or operator's selected method(s) of leak detection at a location. The requirements of each method listed below are offered as a general outline; a complete list of leak detection requirements is in ~~Chapter 25 and Chapter 26 of Commission rules~~OAC 165:25 and 165:26.

(A) **Vapor monitoring wells.** If vapor monitoring wells are an owner or operator's selected method of leak detection, the Fuel Specialist must ensure that the requirements listed below are met:

(i) Wells must be correctly installed and sufficient in number for the particular facility.

(ii) A monitoring well site assessment must be completed with documentation of Commission acceptance kept on site for review.

(iii) Wells must be properly monitored and the results recorded every 30 days on the appropriate OCC form.

(iv) Any single vapor monitoring well reading above 4,000 units/ppm for gasoline and 1,500 units/ppm for diesel shall be reported to a Commission Project Environmental Analyst by telephone at (405) 521-4683 (if after hours or on weekends or holidays, call the PSTD emergency number at (405) 823-0994) within 24 hours of the owner, operator, employees, agents, or Monitor Well Technicians knowing of the reading. If gasoline and diesel tanks are in the same tankpit, any reading above 1,500 units/ppm shall be reported. If high readings have not been reported, the Fuel Specialist shall immediately report it.

(B) **Groundwater monitoring wells.** The Fuel Specialist must ensure, if groundwater monitoring wells are an owner or operator's method of leak detection, that the requirements listed below are met:

(i) Wells must be correctly installed and sufficient in number for the particular facility.

(ii) A monitoring well site assessment must be completed with documentation of Commission acceptance kept on site for review.

(iii) Wells must be properly monitored and the results recorded every thirty (30) days on the appropriate OCC form.

(iv) Any indication of product discovered shall be reported to a Commission Project Environmental Analyst by telephone at (405) 521-4683 (if after hours or on weekends or holidays, call the PSTD emergency number at (405) 823-0994) within 24 hours of the owner, operator, employees, agents, or Monitor Well Technicians knowing of its presence. If the discovery of product has not been reported, the Fuel Specialist shall immediately report it.

~~(C) **Tank system tightness testing with inventory control.** When performed in accordance with the following requirements, this combination of functions is a stand-alone method of leak detection for tanks. This method expires ten (10) years after the corrosion protection upgrade of your tank(s) to 1998 standards or ten (10) years after a new tank is installed. This will expire June 30, 2018.~~

~~(i) **Tank tightness testing.** Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. The test must be performed by a tester certified by the manufacturer of the testing equipment, and completed once every five years.~~

~~(ii) **Inventory control.**~~

~~(I) Product inventory control (or another test of equivalent performance) must be conducted to detect a release of at least one percent (1%) of flow through plus 130 gallons every thirty (30) days.~~

~~(II) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount remaining in the tank are recorded each operating day.~~

~~(III) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth inch (1/8").~~

~~(IV) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.~~

~~(V) Deliveries are made through a drop tube that extends to within six inches (6") of the tank bottom.~~

~~(VI) Product dispensing is metered and recorded within an accuracy of six (6) cubic inches for every five (5) gallons of product withdrawn.~~

~~(VII) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth inch (1/8") at least every thirty (30) days.~~

~~(VIII) Use of PSTD Inventory Reconciliation Form or an electric-electronic equivalent is required.~~

(~~D~~C) **Statistical Inventory Reconciliation (SIR).**

(i) Deliveries, withdrawals and balance remaining must be recorded each operating day and data must be reconciled every thirty (30) days. Product deliveries must be reconciled with an appropriate device, and data must be reconciled every thirty (30) days. SIR records must demonstrate the following:

(I) Report a quantitative result with a calculated leak rate;

(II) Be capable of detecting a leak rate of 0.2 gallon per hour or a release of one hundred fifty (150) gallons within thirty (30) days, with a probability of detection of 0.95 and a probability of false alarm of 0.05; and

(III) Use a threshold that does not exceed one-half (1/2) the minimum detectible leak rate.

(ii) The tank must be equipped with a drop tube and measured for water at least every thirty (30) days.

(iii) Records must be submitted to a certified SIR vendor for evaluation. Only third party certifications that have been reviewed and approved by the National Work Group on Leak Detection Evaluations (NWGLDE), found at the NWGLDE website, will be accepted (www.nwglde.org).

(iv) Results of SIR analysis must be on premises for inspector review every thirty (30) days.

(v) The equipment used must be capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth inch (1/8").

(vi) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.

(vii) SIR analysis reports must include a summary report of the quantitative results.

(~~E~~D) **Automatic tank gauging (ATG).**

(i) The ATG must be in operating condition. It must perform a test at least once every thirty (30) days capable of detecting a 0.1 or 0.2 gallons per hour (gph) leak rate; and if the system detects a 0.2 gph leak rate, inventory reconciliation must be completed in conjunction with it.

(ii) If the Fuel Specialist has concerns about the operation of the system, they may require notice and be present when an authorized person is printing relevant reports from the ATG.

(~~F~~E) **Manual tank gauging.** If manual tank gauging is the selected form of release detection Fuel Specialists must determine that the test duration is appropriate, and that tank tightness testing is performed in conjunction with manual tank gauging in accordance with ~~Chapter 25 or Chapter 26 of Commission rules~~OAC 165:25 and 165:26. Manual tank gauging ~~is only accepted as a method of leak detection on tanks with a capacity of up to 2,000 gallons~~may only be used on tanks 1,000 gallons or less.

(~~G~~F) **Interstitial monitoring.** Sampling or testing must be capable of detecting a leak at least every thirty (30) days in accordance with the manufacturer's instructions.

(~~H~~G) **Other methods.** If a method of leak detection other than those listed in this Chapter is used, it must be approved by PSTD and checked by the Fuel Specialist.

(3) **Leak detection on pressurized lines.** The Fuel Specialist must check for leak detection on pressurized piping. A complete list of requirements is in ~~Chapter 25 and Chapter 26 of Commission rules~~OAC 165:25 and 165:26. All pressurized piping must have electronic/automatic or mechanical line leak detectors capable of detecting a three (3) gallons per hour leak. New installations and facilities replacing a piping system must have double-walled piping. An annual line tightness test is required unless the alternative criteria listed in (C) below are met.

(A) **Electronic/automatic and mechanical line leak detectors; sump sensors, floats and similar mechanical devices.**

(i) Automatic electronic or mechanical line leak detectors must be installed on all pressurized lines. Double-walled piping systems must have dispenser and tank sumps with a sensor, float or similar mechanical device installed at each submersible pump or at the lowest sump at the lowest island for each tank, whichever is at the lowest end of the piping gradient.

(ii) The line leak detectors, floats and other devices must be tested annually according to manufacturer's specifications.

(B) **Annual line tightness testing.** An annual line tightness test, either hydrostatic or electronic, must be performed unless the requirements of (C) below are met.

(C) **Alternative to line tightness testing.** A certified electronic line leak detector may be used in lieu of an automatic mechanical line leak detector and annual tightness test only if:

(i) The system is capable of detecting and tests for a leak of three (3) gallons per hour before or after each operation of the submersible turbine pump; and

(ii) The system is capable of detecting and tests for a leak of 0.2 gallons per hour at least once every thirty (30) days; and

(iii) The system is capable of detecting and tests for a leak of 0.1 gallons per hour annually, and the system is tested annually in accordance with manufacturer's specifications.

(D) **Vapor monitoring wells.** If vapor monitoring wells are an owner or operator's selected method of leak detection, the Fuel Specialist must ensure that the requirements listed below are met:

(i) There must be a sufficient number of wells limited to a ~~twenty (20) foot~~twenty foot (20') radius around the lines, and the wells must be properly marked and secured.

(ii) Wells must be correctly installed, and the PSTD approved monitoring well site assessment must be made available to the Fuel Specialist.

(iii) Wells must be properly monitored and the results recorded every thirty (30) days.

(E) **Interstitial monitoring.**

(i) All double-walled piping must be sloped to allow a leak to flow to the sump at the tank or dispensers.

(ii) Containment sumps connected to product piping must be equipped with at least one sump sensor at the lowest end of the piping gradient.

(iii) Sump sensors must detect any liquid or leaking petroleum product in accordance with the manufacturer's specifications.

(4) **Suction piping.** A line tightness test must be performed every three (3) years according to manufacturer's specifications unless one of the line leak detection methods listed above is used, or unless it is safe suction piping that meets the specifications of (5) below.

(5) **Safe suction piping.** No annual line tightness test and no leak detection method is required if piping meets these specifications: below-grade piping must operate

under vacuum, be sloped to allow product to drain back into the tank, and have only one check valve installed on each line directly below the pump. Compliance with these standards must be readily determined by the Fuel Specialist.

(6) **Cathodic protection.** The Fuel Specialist must ensure that cathodic protection is installed and in proper working order for all metal tanks and piping that routinely contain regulated substances or product and are in contact with the ground. Cathodic protection can be an impressed current or galvanic system with these requirements:

(A) A site map and anode information should be made available to the Fuel Specialist and all tanks and lines must be protected.

(B) Continuity tests must be conducted, and the soil-to-structure potential must be at least -0.85 volts.

(C) Rectifier and cathodic protection tests must be performed by a qualified cathodic protection tester once every three years.

(D) Rectifier readings on impressed current systems must be recorded at least every sixty (60) days and kept on site for review.

165:15-3-22. Equipment installation

Fuel Specialists must ensure that tanks and ancillary equipment are installed properly and conform to Commission standards. These standards apply to all facilities. Requirements are listed in detail in ~~Chapter 25 and Chapter 26 of Commission rules~~OAC 165:25 and 165:26.

(1) **Unattended self-service stations.**

(A) Operating instructions must be conspicuously posted.

(B) There must be a properly placed emergency shutoff device and conspicuously posted emergency instructions. A telephone or other approved means of communication to notify the fire department.

(2) **Emergency pressure release venting.** Aboveground storage tanks must have some form of construction or device that will relieve excessive internal pressure caused by exposure to fires, and have some form of emergency pressure venting. This applies to all compartments and interstitial spaces of tanks, and any enclosed spaces around tanks that can contain liquid.

(3) **Release vent construction.** An aboveground tank must have some form of pressure-relieving construction to appropriately control and direct a tank rupture. The tank owner or operator must present, upon request, evidence certifying the construction if the owner has the information.

(4) **Venting and venting specifications.** The Fuel Specialist will ensure that vent piping size, height, width, placement and construction meet approved standards, vent vapors upward and do not present collision or fire hazards.

(5) **Piping requirements.** The Fuel Specialist must ensure piping is appropriately constructed and protected from physical damage and corrosion where appropriate. Appropriate valves must be in place in piping to prevent leaks and fires. Aboveground storage tank piping and associated parts such as flanges and bolts must be constructed to resist fire to the appropriate extent.

(A) All new aboveground or underground piping must be installed in accordance with requirements of either ~~Chapter 25 or Chapter 26 of Commission rules~~OAC 165:25 and 165:26.

(B) Pressurized piping must have automatic line leak detectors with one sensor, float or similar mechanical device at each submersible pump, or at the lowest sump at the lowest island for each tank, whichever is at the lowest end of the piping gradient.

(6) **Equipment and materials.** All pipes, valves, couplings, faucets, flexible connectors, fittings and other pressure-containing parts must meet material specifications and pressure and temperature limitations, adhering to Commission standards. Underground equipment must be cathodically protected where appropriate and aboveground equipment must resist fire to the approved extent. Impact/shear valves and breakaway valves must be in place to prevent leaks and stop their flow in an emergency.

(7) **Electrical equipment.** All electrical equipment must meet the requirements NFPA 70, the National Electrical Code, as it applies to wet, damp and hazardous conditions. All electrical wiring and equipment must be suitable for the locations in which it is installed, and required emergency switches must be ~~provided~~installed and appropriately placed.

(8) **Vault requirements.** Vaults are not required, can be used above or below grade, and must meet NFPA 30 and NFPA 30A requirements. The Fuel Specialist will ensure that those standards are met.

(9) **Fill pipes.** Fill pipes must be properly installed and labeled, and overfill sump lids must be color-coded or properly labeled with permanent markings.

(10) **Collision barriers.** Aboveground storage tanks and all dispensers exposed to traffic must be resistant to damage from the impact of a motor vehicle or be protected by suitable collision barriers. Secondary containment may serve as a collision barrier.

(11) **Fencing requirements.** All aboveground tanks must be enclosed by an appropriate security fence.

(12) **Spill Prevention Control and Countermeasure Plan.** Owners or operators of aboveground storage tanks must have a Spill Prevention Control and Countermeasure Plan (SPCC Plan) completed in strict accordance with the requirements of Environmental Protection Agency 40 CFR 112, and updated every five (5) years. Each facility location must have its own plan.

(13) **Corrosion protection.** Any portion of a tank or its piping system that routinely contain regulated substances or product and in contact with the soil must be protected from corrosion by a properly engineered, installed and maintained cathodic protection system in accordance with recognized standards of design listed in OAC 165:26 Subchapter 2, Part 4 of Commission rules. A tank sitting on a concrete pad will be considered in contact with the soil unless it is insulated from the concrete by some dielectric material.

(14) **Storage tank spacing and buffer distances.**

(A) Aboveground storage tanks must be appropriately spaced; the Fuel Specialist will determine whether the spacing is in accordance with OAC 165:26 Subchapter 2, Part 1, of Commission rules.

(B) Minimum distances from aboveground storage tanks must also be maintained between tanks and the nearest important building,~~on the same property~~ fuel dispensers, public ways, and property lines.

(15) **Secondary containment requirements for aboveground storage tanks.** Double-walled tanks do not require additional containment if conditions listed in OAC 165:26-2-31 are satisfied.

PART 9. LARGE VOLUME METERS

165:15-3-25. Testing and inspection of large volume meters

(a) All large meters at refinery terminals and pipeline terminals used to deliver a petroleum product for sale to another party must be calibrated for accuracy every six (6) months or every ten (10) million gallons, whichever comes first. The tolerances in Appendix A apply.

(b) The owner, operator or lessor must have a certified source calibrate all meters.

(c) A certified source must complete all calibrations when maintenance or recalibration is required. If calibration is performed more than twice a year, the next calibration is due six (6) months from last calibration.

(d) The owner, operator or lessor of meters is responsible for notifying the Compliance and Inspection Department in advance of the calibration so a Fuel Specialist ~~can~~may witness it~~,~~. ~~and for mailing a~~ A copy of the test results shall be provided to the Compliance and Inspection Department within ten (10) working days of completion of the test.

SUBCHAPTER 9. DESCRIPTION OF MOTOR FUEL

165:15-9-1. General representation; lettering

Whenever the description of any motor fuel subject to the rules of this Chapter is displayed on any receptacle, ~~pump~~dispenser, or other delivery device used in its sale to the public, the type, grade, and quality of the motor fuel must be equal to or greater than the representation on the measuring device. The sign must be in ~~1/4 to 1/2 inch~~one-quarter inch (1/4") to one-half inch (1/2") text letters that are easily legible from at least ~~5 feet~~five feet (5').

SUBCHAPTER 13. LABELING OF TANKS AND PRODUCT LINES

165:15-13-1. General identification and color coding requirements

(a) All storage tanks subject to the rules of this Chapter must be marked with a tag, lettering, or other permanent marking on the fill neck and color coded on the overfill sump lids to identify the type, grade, or quality of ~~motor fuel~~regulated substance they contain.

(b) East of 99 degrees west longitude, color coded markings must be:

(1) Unleaded motor fuel, 91 octane or above: red.
(2) Unleaded motor fuel, 89 or 90 octane: blue.
(3) Unleaded motor fuel, 86 through 88 octane: white.
(4) Diesel motor fuel: yellow.
(5) Kerosene ~~motor fuel~~: brown.
(6) Dyed diesel: half yellow, half red.
(7) Unleaded 87 octane E10: white with black "X" and a black border around lid.
(8) Premium unleaded 91 octane E10: red with black "X" and a black border around lid.
(9) Biodiesel: bronze with yellow and black border around lid.
(10) Ethanol blending tank for E85: orange with black "X" and a black border around lid.

(c) West of 99 degrees west longitude, color coded markings must be:

(1) Unleaded motor fuel, 90 octane or above: red.
(2) Unleaded motor fuel, 88 or 89 octane: blue.
(3) Unleaded motor fuel, 86 or 87 octane: white.
(4) Diesel motor fuel: yellow.
(5) Kerosene ~~motor fuel~~: brown.
(6) Dyed diesel: half yellow, half red.
(7) Unleaded 87 octane E10: white with black "X" and a black border around lid.
(8) Premium unleaded 91 octane E10: red with black "X" and a black border around lid.
(9) Biodiesel: bronze with yellow and black border around lid.
(10) Ethanol blending tank for E85: orange with black "X" and a black border around lid.

(d) Products containing extenders (oxygenates) such as ethanol shall be designated by the addition of a black border around a black "X".

(e) Vapor-recovery connections and manholes shall be marked with orange circles.

(f) Observation and monitoring wells shall be marked with a black triangle on a white background.

(g) At all facilities with more than one tank, the color coding applied to the fill cap or manhole cover shall extend beyond the edge of the cap or cover onto adjacent concrete or pavement.

(h) The tag labeling and color coding must be waterproofed and fuel-proofed material so that the type, grade, or quality of the motor fuel is readily visible to persons adding to or taking a sample from the line or storage tank.

SUBCHAPTER 19. ~~VIOLATIONS AND CONTEMPT~~INSPECTIONS, NOTICES OF VIOLATION, FIELD CITATIONS, AND FORMAL ENFORCEMENT ACTIONS

165:15-19-2. Enforcement procedure

In addition to the contempt procedures described in ~~Chapter 5 of Commission rules~~OAC 165:5, the following procedure for violations may be followed:

(1) The PSTD Director or designee may issue a Field Citation for any violation or violations of the rules of this Chapter, and/or 17 O.S. §§301 et seq., ~~47 O.S. §466 et seq., and/or 52 O.S. §321 et seq.,~~ and amendments thereto.

(2) A copy of the Field Citation must be furnished to the owner or operator.

(3) The Field Citation must be authorized by the PSTD Director.

(4) Prior to issuing a Field Citation to an owner or operator, the approval of the Director of the Petroleum Storage Tank Division must be obtained.

165:15-19-3. Notices of Violation

(a) When a Petroleum Storage Tank Division Fuel Specialist finds a violation of any statute, rule, requirement or order of the Commission regarding the regulation of petroleum storage tanks, the Fuel Specialist may issue a Notice of Violation (NOV).

(b) Each violation that can have an NOV issued is listed in this Chapter, ~~Chapter 16, Chapter 25, and Chapter 26 of Commission rules~~OAC 165:16, 165:25, and 165:26.

(1) A Notice of Violation is to alert the tank owner or operator that a violation has been found. The NOV will describe the violation and ~~act as a notification that a Field Citation may be issued or~~advise that further ~~Commission~~PSTD enforcement action ~~shall~~may occur if the violation is not corrected. If the violation cannot be corrected, the violation will be referred to the PSTD Compliance and Inspection Manager or Director's designee who may initiate Formal Enforcement Action or issue a Field Citation.

(2) At PSTD's discretion, egregious violations can be immediately turned over to the Commission's Judicial and Legislative Services Division for ~~formal enforcement action~~ Formal Enforcement Action.

(3) In all situations where an NOV is issued, it must explain to the person to whom it is given what the offense is and how the person can correct it.

(c) A Notice of Violation will state the following information:

(1) A clear description of the violation(s).

(2) A date by which the violation(s) are required to be corrected.

(3) The name of the Fuel Specialist issuing the NOV, along with a telephone number and address so that the tank owner or operator can ask the Fuel Specialist questions.

(d) NOV(s) are issued to the owner or operator of the storage tank facility. If the owner or operator is not present, NOVs can be given to store personnel, but~~. All~~all notifications and/or correspondence will be mailed or electronically delivered to the owner and/or operator.

165:15-19-4. Re-inspection, Formal Enforcement and ~~Fine~~Field Citation

(a) After the date that the violation is required to be corrected, a Fuel Specialist will re-inspect the storage tank facility to verify that the violation has been corrected.

(b) If the re-inspection shows that the violation has not been corrected, the Fuel Specialist ~~will~~ may:

(1) Refer the violation to the Division's Compliance and Inspection Manager ~~for enforcement action~~or the Director's designee who may initiate Formal Enforcement Action or issue a Field Citation; and/or

(2) ~~The storage tank facility may be shut~~Shut down the storage tank facility pending a correction of the problem or a hearing on the issue.

~~(3) Re-inspection of violations that are uncorrected shall be subject to an administrative penalty set forth in OAC 165:25 Appendix S or 165:26 Appendix G.~~

165:15-19-5. ~~Payment~~Issuance of a Field Citation and payment of fine or hearing

(a) The storage tank owner or operator can either pay the amount of the fine as stated in ~~OAC 165:25 or OAC 165:26 Fine Citations Table~~the Field Citation or request ~~an evidentiary~~a hearing.

(b) The tank owner or operator will have thirty (30) days from the date the ~~citation~~Field Citation was issued to pay the fine.

(1) A fine may be paid with cash, a money order, ~~or~~ check or electronic method approved by the Commission. Any cash payment must be made at the Commission's cashier window. All checks must be made payable to the Oklahoma Corporation Commission - Petroleum Storage Tank Division. If sending payment through the mail, a copy of the ~~citation~~Field Citation must be sent with the payment to ensure proper credit.

(2) Payment of a fine within the thirty (30) day timeframe will not be considered an agreement or disagreement with the ~~citation~~Field Citation.

(c) If the storage tank owner or operator disagrees with the ~~citation~~Field Citation, ~~he or she can have a~~they may appear at the hearing at the Commission.

~~(1) To request a hearing, the procedure as provided on the citation should be followed and must be made within seven (7) days from the date the citation was issued.~~

~~(2) The Commission will set a date for a hearing and will notify the tank owner or operator.~~ If found guilty at the hearing, the tank owner or operator must pay the amount of the fine, as well as an administrative cost of $250.00.

(d) If a ~~Fine~~Field Citation has not been paid within ninety (90) days of being issued or within ninety (90) days of a Commission order confirming the fine, the amount of the fine ~~and administrative costs~~ will double. ~~If operable, the storage tank~~

~~will be immediately shut down.~~ Refusal to comply with an order of the Commission may result in an additional fine to be ~~set~~levied after notice and hearing in an amount as allowed by law, and shutdown of the facility for failure to pay fines.

(e) Failure of a tank owner or operator to appear at the hearing may result in additional enforcement ~~actions~~action. ~~These actions may include the addition of a larger fine and/or assessment of an administrative fee and/or having the violation sent to the Judicial and Legislative Services Division for legal proceedings.~~

(f) An appeal from the ~~evidentiary~~ hearing must be ~~to the Commission en banc~~made in accordance with ~~Chapter 5 of Commission rules~~OAC 165:5.

(g) A tank owner or operator is still responsible for following the Commission's rules regarding petroleum storage tanks regardless of paying a fine or correcting a violation.

[OAR Docket #19-419; filed 5-30-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 16. ANTIFREEZE

[OAR Docket #19-420]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
165:16-1-1. Purpose [AMENDED]
165:16-1-2. Definitions [AMENDED]
Subchapter 3. Applications and Permits
165:16-3-1. General requirements [AMENDED]
165:16-3-2. Application for variance [REVOKED]
Subchapter 7. Adulteration and Misbranding
165:16-7-1. Adulteration [AMENDED]
165:16-7-2. Misbranding and labeling [AMENDED]
AUTHORITY:
The Commission's statutory authority is found in 17 O.S. § 348.5 (Please note that this citation changed November 1, 2018, from 47 O.S. § 466); 17 O.S. § 306(12); and 17 O.S. § 342 (Please note that this citation changed November 1, 2018, from 52 O.S. § 325)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on October 17, 2018.
COMMENT PERIOD:
October 16, 2018 through December 28, 2018.
PUBLIC HEARING:
January 30, 2019
ADOPTION:
January 30, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 8, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
August 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rules correct statute citations, transfers permit fees to OAC 165:5, and make grammatical corrections.
CONTACT PERSON:
Travis Weedn, Senior Attorney, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 N. Lincoln Blvd., P.O. Box 52000, Oklahoma City, OK 73152-2000, (405)521-4137, t.weedn@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:16-1-1. Purpose

The purpose of this Chapter is to implement the provisions of ~~47 O.S. (1995) § 461~~17 O.S. § 301 et seq., regarding the sale of antifreeze in the State of Oklahoma.

165:16-1-2. Definitions

In addition to the terms defined in ~~47 O.S. § 461 et seq.~~17 O.S. §§ 303 and 348, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Antifreeze" means all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of an internal combustion engine to prevent freezing or to raise the boiling point.

"Certified" means to attest that the analysis is as represented and meets the required standards of this Chapter.

"Commission" means the Oklahoma Corporation Commission and includes its designated divisions, departments, agents or representatives.

"Ethylene glycol antifreeze" means an antifreeze containing ethylene glycol as the major component.

"Licensee" means the name and address of the person who is distributing, manufacturing, marketing, producing, selling or transporting antifreeze under a specific brand name.

"Manufacturer" means any person engaged in the manufacture of any antifreeze sold,—offered for sale, displayed, distributed, produced, used, or consumed in the State of Oklahoma.

"Methanol" means an antifreeze with an alcohol base.

"Person" means any and all persons, including any individual, firm, partnership, corporation, company, trust, LLC, LLP, and association, whether such persons are acting as owner, bailee, or agent.

"Propylene glycol antifreeze" means an antifreeze containing propylene glycol as the major component.

"Prediluted aqueous ethylene glycol" means an antifreeze containing a 50 volume percent aqueous solution.

"PSTD" means the Petroleum Storage Tank Division.

SUBCHAPTER 3. APPLICATIONS AND PERMITS

165:16-3-1. General requirements

Before any antifreeze can be displayed, distributed, manufactured, marketed, produced, sold, used and/or offered for sale or resale, held with intent to sell, or transported within the State of Oklahoma, a permit, bearing an official permit number shall be obtained by the manufacturer of the antifreeze from ~~the Compliance and Inspection Department of the Petroleum Storage Tank Division~~PSTD.

(1) Application for antifreeze permits shall be submitted with certified laboratory analysis, copies of the labels, and ~~$100.00~~the fee amount set forth in Chapter 5 of Commission rules per brand and per type. If PSTD has previously approved the formula, a new laboratory analysis is not needed.

(2) If antifreeze meets the specifications and standards as set out in OAC165:16-5-1, 165:16-5-2, 165:16-5-3 and 165:16-5-4 a permit shall be issued to the applicant authorizing the sale of such antifreeze until the end of the fiscal year, June 30.

(3) Renewal invoices will be sent sixty (60) days before the fiscal year expires. The renewal fee amount set forth in Chapter 5 of Commission rules is ~~$100.00~~ per brand and per type. Licensees do not need to resubmit information on individual brands and types each year unless the formula, name of the brand or the type has changed.

165:16-3-2. Application for variance [REVOKED]

~~(a) Application shall be made for an order establishing standards for any antifreeze product which does not fall within any classification established by this Chapter. The application shall be accompanied by a certified analysis setting out the chemical composition of the product and test data, including boiling point, pH, reserve alkalinity, and freezing point as measured by applicable ASTM or other appropriate methods.~~

~~(b) After notice as prescribed by the Commission and public hearing, the Commission may enter its order prescribing appropriate minimum standards applicable to the product and authorizing issuance of permit for the product pursuant to 165:16-3-1.~~

~~(c) A permit issued pursuant to such an order may be renewed annually, without further hearing, as provided in 165:16-3-1.~~

SUBCHAPTER 7. ADULTERATION AND MISBRANDING

165:16-7-1. Adulteration

Any antifreeze submitted to ~~the Compliance and Inspection Department~~PSTD for permit approval and testing shall be deemed to be adulterated if the certified analysis or other testing indicates:

(1) It consists in whole or in part of any substance which will render it injurious to the cooling system of an internal combustion engine or will make the operation of the engine dangerous to the user.

(2) Its strength, quality, or purity falls below the professed standard of strength, quality, or purity under which it is sold.

(3) It is a product intended to be used without further dilution and does not provide freezing point protection to -34° Fahrenheit.

165:16-7-2. Misbranding and labeling

Any antifreeze submitted to ~~the Compliance and Inspection Department~~PSTD for permit approval shall be deemed to be misbranded if:

(1) Labeling is false or misleading in any particular manner.

(2) In package form it does not bear a label containing the name and place of business of the distributor, manufacturer, marketer, packer, producer, seller, warehouse or wholesaler, and an accurate statement of the quantity of contents in terms of weight or volume and these facts are not stated plainly and correctly on the outside.

(3) The product is to be diluted with another substance for use and does not bear on the label or in an accompanying instruction sheet, folder, or booklet a statement or chart showing appropriate amounts of each substance to be used to provide protection from freezing at various degrees of temperature down to at least thirty degrees (30°) below zero Fahrenheit.

(4) The product is intended to be used without further dilution and the freezing point is not stated on the label and the front and back labels do not bear the words "Ready to Use" in minimum one quarter ~~(1/4)~~ inch (1/4") high letters.

(5) Antifreeze manufacturers and licensees must provide a copy of any new version of any label change not previously submitted and approved by PSTD.

[OAR Docket #19-420; filed 5-30-19]

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

[OAR Docket #19-421]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Pipeline Assessments
165:20-3-1. Pipeline assessments [AMENDED]
Subchapter 5. Safety Regulations for Gas Pipelines
Part 1. General Provisions
165:20-5-1. Definitions [REVOKED]
165:20-5-3. Annual reports and incident reports; federal reporting requirements [AMENDED]
165:20-5-4. Change of ownership and/or operator [AMENDED]
Part 3. Telephonic Notice and Reporting Requirements
165:20-5-11. Telephonic notice of certain incidents [AMENDED]
165:20-5-14. Transmission and gathering systems reporting requirements [AMENDED]

165:20-5-15. Telephonic notice of an evacuation of a building [REVOKED]
Part 5. Minimum Safety Standards for Gas
165:20-5-21. Adoption of federal safety regulations [AMENDED]
Part 7. Pipeline Construction and Consumer Safety
165:20-5-34. Restrictions on connections to consumers [REVOKED]
Part 9. Mandatory Participation in Oklahoma One Call
165:20-5-41. Mandatory participation in Oklahoma One Call [AMENDED]
Subchapter 7. Safety Regulations for Hazardous Liquids
165:20-7-1. Adoption of federal safety and reporting regulations [AMENDED]
165:20-7-3. Mandatory participation in Oklahoma one call [AMENDED]
165:20-7-4. Change of ownership and/or operator [AMENDED]
165:20-7-6. Annual report [AMENDED]
Subchapter 13. Enforcement
Part 1. General
165:20-13-1. Scope and fines [AMENDED]
165:20-13-2. Service [AMENDED]
Part 3. Procedure
165:20-13-11. General enforcement authority and sanctions [AMENDED]
Subchapter 15. Regulations for Grants to Aid State Pipeline Safety Programs
165:20-15-1. Regulations for grants to aid state pipeline safety programs [AMENDED]
Subchapter 17. Obligations Under the Oklahoma Underground Facilities Damage Prevention Act Subject to Commission Enforcement
165:20-17-6. Positive notification of size and material [NEW]
165:20-17-7. Immediate notice of excavation damages caused by excavator [NEW]
165:20-17-8. Written report of damages caused by excavation [NEW]
165:20-17-9. Submitting a complaint about failure to follow the Oklahoma Underground Facilities Damage Prevention Act [NEW]

AUTHORITY:
The Commission's statutory authority is found in the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq., and 17 O.S. § 152.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on December 21, 2018.

COMMENT PERIOD:
December 20, 2018 to February 20, 2019

PUBLIC HEARING:
February 27, 2019

ADOPTION:
February 27, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 8, 2019

LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:
May 28, 2019

EFFECTIVE:
August 1, 2019

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards as they existed on January 1, 2019:
Adoption of federal safety regulations, 49 C.F.R. Part 192. Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.
Mandatory participation in Oklahoma One Call, Title 63 O.S. §§142.1 through 142.11. Mandatory Participation in Oklahoma One Call.
Adoption of federal safety and reporting regulations, 49 C.F.R. Part 195. Transportation of Hazardous Liquids by Pipeline.
Regulations for grants to aid state pipeline safety programs, 49 C.F.R. Part 198. Regulations for Grants to Aide State Pipeline Safety Programs.

Incorporating rules:
165:20-5-21
165:20-5-41
165:20-7-1
165:20-7-3
165:20-15-1

Availability:
8:00 a.m. to 4:30 p.m., Monday through Friday at Oklahoma Corporation Commission, Gas & Hazardous Liquid Pipeline Safety, 5th Floor, Jim Thorpe Office Building, Room 560, 2101 N. Lincoln Blvd., Oklahoma City.

GIST/ANALYSIS:
The adopted rules revoke rules that are no longer necessary to Chapter 20; simplify current language in the rules for submitting reports each fiscal year and remove outdated language; add a requirement for operators to report incidents within one (1) hour and includes the website address for filing damages online; update the reference to the Code of Federal Regulations to the most recent version; update the references to the Oklahoma Underground Facilities Damage Prevention Act to the most recent version; add a new permanent rule requiring operators to provide additional information to excavators; add a new permanent rule listing requirements for reporting damages; add a new permanent rule requiring a written report of damages caused by excavation; add a new permanent rule outlining the procedure for filing a complaint against an excavator for failing to comply with the Oklahoma Underground Facilities Damage Prevention Act.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 3. PIPELINE ASSESSMENTS

165:20-3-1. Pipeline assessments

(a) **Application.** Each operator of a pipeline subject to Subchapters 5 and 7 shall pay a pipeline assessment to the Commission as set forth in the provisions of this Subchapter.

(b) **Calculation.** For purposes of this Subchapter, the pipeline assessment shall be determined as follows:

(1) For gas pipeline operators required to submit an annual report pursuant to 165:20-5-13(b) and 165:20-5-14(b). On the basis of the total number of miles of pipeline as reported on their annual report multiplied by the assessment rate of $25.00 per mile of pipeline for the ~~following~~ fiscal ~~years:~~ year starting on July 1.

~~(A) FY2012: $25.00 per mile of pipeline.~~

~~(B) FY2013 and thereafter: $25.00 per mile of pipeline.~~

(2) For hazardous liquid pipeline operators required to submit an annual report pursuant to 165:20-7-6. On the basis of the total number of miles of pipeline as reported on their annual report multiplied by the assessment rate of $75.00 per mile of pipeline for the ~~following~~ fiscal ~~years:~~year starting on July 1.

~~(A) FY2012: $75.00 per mile of pipeline,~~

~~(B) FY2013 and thereafter: $75.00 per mile of pipeline.~~

(3) For master meter operators. The annual assessment shall be $200.00.

(4) The minimum annual pipeline assessment owed by an operator is $200.00.

(c) **Payment.**

(1) For purposes of payment of assessment, an assessable year shall be the period of time from the first day of July of any given calendar year to the 30th of June of the following year.

(2) All operators who must pay a pipeline assessment under the provisions of this Subchapter shall pay their pipeline assessment for any given assessable year on or before the 15th of August of each assessable year~~, except that for FY 2012 the pipeline assessments are due:~~

~~(A) Pipeline operators subject to Subchapter 5, on or before the 15th day of August 2012.~~

~~(B) Pipeline operators subject to Subchapter 7, on or before the 15th day of October 2012~~.

(3) Operators who purchase or acquire pipeline systems subject to a pipeline assessment are responsible for payment of the assessment.

(4) All payments of assessments shall be deposited by the Commission in the "Corporation Commission Revolving Fund".

SUBCHAPTER 5. SAFETY REGULATIONS FOR GAS PIPELINES

PART 1. GENERAL PROVISIONS

165:20-5-1. Definitions [REVOKED]

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

~~**"Incident"** means any of the following events:~~

~~(A) An event that involves a release of gas from a pipeline, and:~~

~~(i) A death, or personal injury necessitating inpatient hospitalization; or~~

~~(ii) Estimated property damage, including cost of gas lost, of the operator or other, or both, of five thousand dollars ($5,000.00) or more.~~

~~(B) An event that is significant in the judgement of the operator, even though it did not meet the criteria of (A) of this definition.~~

~~**"Master meter system"** means a pipeline system for distributing gas within, but not limited to, a definable area such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as rents.~~

~~**"Pipeline"** or **"Pipeline system"** means all parts of those physical facilities through which gas moves in transportation, including, but not limited to, pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.~~

165:20-5-3. Annual reports and incident reports; federal reporting requirements

The reporting requirements of 165:20-5-11, 165:20-5-12, 165:20-5-13, and 165:20-5-14 do not relieve the operator of ~~his~~its federal reporting requirements as found in 49 C.F.R. §§ 191.5, 191.7, 191.9, 191.11, 191.13, 191.15 and 191.17.

165:20-5-4. Change of ownership and/or operator

Each operator, upon finalization of an agreement to purchase or sell a gas pipeline subject to the provisions of 49 C.F.R. Part 192, must within five (5) working days submit to the Pipeline Safety Department a written notification of this agreement.

PART 3. TELEPHONIC NOTICE AND REPORTING REQUIREMENTS

165:20-5-11. Telephonic notice of certain incidents

(a) At the earliest practicable moment, but no more than one (1)~~to 2 hours~~ hour following discovery, each operator shall give notice in accordance with (b) ~~or~~and (c) of this Section of each incident as defined in ~~165:20-5-1~~49 C.F.R. § 191.3.

(b) Each notice required by (a) of this Section shall be made by telephone to the Pipeline Safety Department at 405-521-2258 or submitting a report online at http://www.occeweb.com/ and shall include the information as listed in (c) of this Section.

(c) The following information will be provided:

(1) Names of operator and person making report and their telephone numbers.

(2) The location of the incident.

(3) The time of the incident.

(4) The number of fatalities and personal injuries, if any.

(5) All other significant facts ~~that are~~ known by the operator that are relevant to the cause of the incident or extent of the damage.

165:20-5-14. Transmission and gathering systems reporting requirements

(a) **Incident report.**

(1) Except as provided in (2) of this subsection, each operator of a transmission or a gathering pipeline system shall submit United States Department of Transportation PHMSA Form F 7100.2 as soon as practicable but not more than thirty(30) days after detection of an incident.

(2) When additional, relevant information is obtained after the incident report is submitted under (1) of this subsection, the operator shall make supplementary reports as deemed necessary by referencing the date and subject of the original report.

(b) **Annual report.**

(1) Each operator of a transmission or a gathering pipeline system, shall submit an annual report on United States Department of Transportation PHMSA Form F 7100.2-1. This report must be submitted each year, not

later than March 15, for the preceding calendar year~~,~~. ~~except that the report for 2010 reporting year the report must be submitted by June 15, 2011.~~

(2) Each operator will complete all sections of United States Department of Transportation PHMSA Form F 7100.2-1 regardless of its total mileage of pipeline.

(c) **Distribution systems reporting transmission pipelines.** Each operator, primarily engaged in gas distribution, who also operates gas transmission or gathering pipelines shall submit separate reports for each.

165:20-5-15. Telephonic notice of an evacuation of a building [REVOKED]

~~Each operator of a gas pipeline system located in a Class 3 or 4 location, upon discovery that a building has been evacuated as a result of gas leak, shall immediately notify the Oklahoma Corporation Commission, Pipeline Safety Department at (405) 521-2258.~~

PART 5. MINIMUM SAFETY STANDARDS FOR GAS

165:20-5-21. Adoption of federal safety regulations

The Commission adopts the provisions of 49 C.F.R. Part 192, as such exist on January 1, ~~2018~~2019, ~~and all those amendments and appendices adopted thereafter,~~ subject to the following~~amendments~~:

(1) 49 C.F.R. § 192.1 is replaced by the following:

(A) This Part prescribes minimum safety requirements for intrastate pipeline facilities and the transportation of gas subject to the jurisdiction of the Commission.

(B) This Part shall not apply to:

(i) Interstate transmission facilities; and

(ii) Onshore gathering of gas through a pipeline that operates at less than 0 psig or through a pipeline that is not a regulated onshore gathering line as determined by 49 C.F.R. § 192.8.

(2) The definition of "Administrator" and "State" are deleted and replaced as follows:

(A) All references to the "Administrator" are replaced with the "Commission".

(B) All references to the "State" refer to the State of Oklahoma.

PART 7. PIPELINE CONSTRUCTION AND CONSUMER SAFETY

165:20-5-34. Restrictions on connections to consumers [REVOKED]

~~(a) Each operator shall have and maintain its system in such condition as will enable it to furnish safe and adequate gas service, subject only to emergency conditions beyond it control.~~

~~(b) House piping shall conform to requirements of the applicable city or town ordinances. In towns, villages, and suburban territory where there are no applicable regulations as to gas service, house piping, and venting, operators shall comply with the Standards for the Installation of Gas Appliances and Gas Piping, as set forth in the National Fire Protection Associations No. 54, dated 1969, and future amendments or supplements thereto. An operator may decline to serve a consumer or prospective consumer until he has complied with all applicable State and municipal regulations governing gas service and the rules of this Subchapter.~~

~~(c) No residential customer meter designed for above ground use shall be buried or installed in any manner which would cause the surface of the shell of the meter to directly contact the ground. "Residential customer meter" means the meter that measures the transfer of gas from an operator to a residential customer.~~

~~(d) All gas supplied to a consumer shall be substantially free of impurities which may cause corrosion of mains, piping, and consumer's appliances, or form corrosive or harmful fumes when burned in a properly designed and adjusted burner.~~

PART 9. MANDATORY PARTICIPATION IN OKLAHOMA ONE CALL

165:20-5-41. Mandatory participation in Oklahoma One Call

(a) The Commission adopts the provisions of the Oklahoma Underground Facilities Damage Prevention Act, ~~Okla. Stat. Titl. 63, Section~~ Title 63 O.S. §§142.1 through 142.11 as such exists on January 1, ~~2018~~ 2019.

(b) The Commission will enforce the provisions of ~~Okla. Stat. Titl. Sections~~ Title 63 O.S. §§142.1 through 142.11, as such exists on January 1, ~~2018~~2019, against all ~~intrastate operators subject to the provisions of 49 C.F.R. Part 192~~intrastate and interstate gas pipelines, as described in 49 C.F.R. Part 192.1.

SUBCHAPTER 7. SAFETY REGULATIONS FOR HAZARDOUS LIQUIDS

165:20-7-1. Adoption of federal safety and reporting regulations

The Commission adopts the provisions of 49 C.F.R. Part 195, as such exist on January 1, ~~2018~~2019, ~~and all those amendments and appendices adopted thereafter~~ subject to the following ~~amendments~~:

(1) 49 C.F.R. § 195.0 is replaced by the following: "This Part prescribes safety standards and accident reporting requirements for pipeline facilities used in the intrastate transportation of hazardous liquids subject to the jurisdiction of the Commission."

(2) 49 C.F.R. § 195.l(a) is replaced by the following: "Except as provided in paragraph (b) of 49 C.F.R. § 195.l(b), this Part applies to pipeline facilities and the transportation of hazardous liquids associated with those

facilities used in the intrastate transportation of hazardous liquids subject to the jurisdiction of the Commission."

(3) The definition of "Administrator" shall be deleted and all references to the "Administrator" are replaced with the "Commission".

(4) 49 C.F.R. § 195.52(b) is replaced by the following: "(b) Reports made under paragraph (a) of 49 C.F.R. § 195.52(a) are made by telephone to 405-521-2258 (Pipeline Safety Department in Oklahoma City, OK) or submitting a report online at the http://www.occeweb.com/ and 800-424-8802 (in Washington, D.C. 202-462-2675), and must include the following information:

(A) Name and address of the operator.

(B) Name and telephone number of the reporter.

(C) The location of the failure.

(D) The time of the failure.

(E) The fatalities and personal injuries, if any.

(F) All other significant facts known by the operator that are relevant to the cause of the failure or extent of the damages."

(5) 49 C.F.R. § 195.54(a) is replaced by the following: "Each carrier that experiences an accident that is required to be reported under this subpart, as soon as practicable but not later than thirty (30) days after discovery of the accident, shall prepare and ~~file~~ submit an accident report on DOT Form 7000-1, or a facsimile, with the Pipeline Safety Department, Oklahoma Corporation Commission, in accordance with OAC 165:20-1-6 of this Chapter, and the Information Resources Manager, Office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590."

(6) 49 C.F.R. § 195.54(b) is replaced by the following: "Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, it shall ~~file~~submit a supplemental report within thirty(30) days with the Pipeline Safety Department, Oklahoma Corporation Commission, in accordance with OAC 165:20-1-6 of this Chapter, and the Information Resources Manager, Office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590."

165:20-7-3. Mandatory participation in Oklahoma one call

(a) The Commission adopts the provisions of the Oklahoma Underground Facilities Damage Prevention Act, ~~Okla. Stat. Titl. 63, Sections~~ Title 63 O.S. §§142.1 through 142.11 as such exists on January 1, ~~2018~~ 2019.

(b) The Commission will enforce the provisions of ~~Okla. Stat. Titl. 63, Sections~~ Title 63 O.S. §§142.1 through 142.11, as such exists on January 1, ~~2018~~2019, against ~~all intrastate operators subject to the provisions of 49 C.F.R Part 195~~intrastate and interstate hazardous liquid or carbon dioxide pipelines, as described in 49 C.F.R. Part 195.1.

165:20-7-4. Change of ownership and/or operator

Each operator, upon finalization of an agreement to purchase or sell a hazardous liquid pipeline subject to the provisions of 49 C.F.R. Part 195, must within five (5) working days submit to the Pipeline Safety Department a written notification of this agreement.

165:20-7-6. Annual report

(a) Each operator of a hazardous liquid pipeline shall submit an annual report on United States Department of Transportation PHMSA Form F 7000-1.1 for each type of hazardous liquid facility operated at the end of the previous year. This report must be submitted each year, not later than June 15th for the preceding calendar year~~, except that the report for 2010 reporting year the report must be submitted by August 15, 2011~~.

(b) Each operator shall complete all required sections of United States Department of Transportation PHMSA Form F 7000-1.1 regardless of its total mileage of pipeline in the state.

SUBCHAPTER 13. ENFORCEMENT

PART 1. GENERAL

165:20-13-1. Scope and fines

This Subchapter prescribes the procedures utilized by the Oklahoma Corporation Commission in carrying out its responsibilities regarding pipeline safety under Title 52 O.S. ~~1981, Section~~§5 and 52 O.S. ~~Supp. Sections~~§§47.1 through 47.8, Title 63 O.S. § 142.13 of the Oklahoma Underground Facilities Damage Prevention Act, Title 63 O.S. §§ 142.1 et seq., and is designed to utilize enforcement procedures already in place by hereby adopting the Commission's Rules of Practice, OAC 165:5, that are pertinent and necessary to carry out the enforcement of pipeline safety rules and regulations.

(1) For each violation of a Commission rule in Subchapters 5 and 10, the Commission may issue an order pursuant to Title 17 O.S. ~~Section~~§1 et seq., fining an operator up to the maximum amount provided by Title 17 O.S. ~~Section~~§6.1.

(2) For each violation of a Commission rule for hazardous liquid pipelines, the Commission may issue an order pursuant to Title 52 O.S. ~~Section~~§47.1 et seq., fining an operator up to the maximum amount provided by Title 52 O.S. ~~Section~~§47.6.

165:20-13-2. Service

(a) Each notice of probable violation, warning letter, notice of hearing, order of the Commission, or other document required to be served under this Subchapter shall be served personally or by registered or certified mail to all respondents.

(b) Service upon a person's duly authorized representative or agent shall ~~constitutes~~constitute service upon that person.

(c) Service by registered or certified mail is complete upon mailing. An official U.S. Postal Service receipt from the registered or certified mailing constitutes prima facie evidence of mailing.

PART 3. PROCEDURE

165:20-13-11. General enforcement authority and sanctions

(a) This Subchapter describes the enforcement authority and sanctions exercised by the Oklahoma Corporation Commission Pipeline Safety Department for achieving and maintaining pipeline safety. It also prescribes the procedures governing the exercise of that authority and the imposition of those sanctions, all of which include and supplement the applicable Commission Rules of Practice, OAC 165:5.

(b) A person who is the subject of action pursuant to this Subchapter may be represented by legal counsel at all stages of the proceeding.

(c) If respondent does not ~~file~~submit a response prior to the hearing date or does not enter an appearance at the hearing, a confession of the allegations may be rendered in accordance with OAC 165:5-19-1(c) (5), and ~~judgement~~judgment may be rendered in accordance with OAC 165:5-19-1(f).

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

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

The Commission adopts the provisions of 49 C.F.R. Part 198, with all amendments and appendices thereto as such exist on January 1, ~~2018~~ 2019.

SUBCHAPTER 17. OBLIGATIONS UNDER THE OKLAHOMA UNDERGROUND FACILITIES DAMAGE PREVENTION ACT SUBJECT TO COMMISSION ENFORCEMENT

165:20-17-6. Positive notification of size and material

In addition to the provisions of Title 63, O.S. § 142.6, each operator served with a notice in accordance with subsection A of Title 63, O.S. § 142.6, shall notify the excavator of the size and material of an active underground facility.

165:20-17-7. Immediate notice of excavation damages caused by excavator

(a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of excavation damage as defined in the Oklahoma Underground Facilities Damage Prevention Act (Title 63 O.S. § 142.2).

(b) Each notice required by paragraph (a) of the section must be made to the Commission's Pipeline Safety Department either by telephone to 405-521-2258 or electronically at http://www.occeweb.com/ and must submit the following information:

(1) Names of operator and person making report and their telephone numbers.

(2) The location of the excavation damage.

(3) The time operator confirmed the excavation damage.

(4) The number of fatalities and personal injuries, if any.

(5) All other significant facts that are known by the operator that are relevant to the cause of the excavation damage.

165:20-17-8. Written report of damages caused by excavation

(a) Each operator shall submit a damage summary report at least semiannually with the Commission's Pipeline Safety Department. The report shall include information on each incident if facility damage resulting from excavation activity was discovered by the operator during that period. For each incident, at a minimum the following data, shall be included in the report:

(1) The type of operator;

(2) The type of excavator;

(3) The type of excavator equipment;

(4) The location in which the damage occurred;

(5) The type of facility that was damaged;

(6) The date of the damage, day, month and year;

(7) The type of locator, company or contractor; and

(8) The primary cause of the damage.

(b) The damage summary report for the first six (6) months of the calendar year shall be due on or before August 1 of the same calendar year. The damage summary report for the last six (6) months of the calendar year shall be due on or before February 1 of the next calendar year. No semiannual report shall be due for the period if any portion of the period falls within the six (6) months immediately following the effective date of this regulation.

(c) The report referenced in paragraph (b) can be on a spreadsheet, single pages for each occurrence of excavation damage, or if the operator participates in the Common Ground Alliance's Damage Reporting Tool (DIRT) they may submit a copy the report which reflects their data.

165:20-17-9. Submitting a complaint about failure to follow the Oklahoma Underground Facilities Damage Prevention Act

Anyone can submit a complaint against an excavator or pipeline operator for failing to comply with any portion of the Oklahoma Underground Facilities Damage Prevention

Act by calling the Commission's Pipeline Safety Department at 405-521-2258 or submit the complaint online at the http://www.occeweb.com/AspxForms/PipeLineForm.aspx. The complaint must include at a minimum the following information:

(1) First Name;
(2) Last Name;
(3) E-mail address;
(4) Contact Phone Number;
(5) Alternate Phone Number;
(6) Mailing address;
(7) City;
(8) State;
(9) Zip Code;
(10) Date of Complaint or excavation damage;
(11) Name of Pipeline Company or Excavating Company;
(12) Location of Complaint (Section, Township, Range, GPS Coordinates or Street Address).

[OAR Docket #19-421; filed 5-30-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 25. UNDERGROUND STORAGE TANKS

[OAR Docket #19-422]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 25. Underground Storage Tanks [AMENDED]
AUTHORITY:
The Commission's statutory authority is found in 17 O.S. §§ 306(12), 307, 322; 17 O.S. § 342 (Please note that this citation changed November 1, 2018, from 52 O.S. § 325); and 17 O.S. § 347 (Please note that this citation changed November 1, 2018, from 52 O.S. § 347)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on October 17, 2018.
COMMENT PERIOD:
October 16, 2018 through December 28, 2018.
PUBLIC HEARING:
January 30, 2019
ADOPTION:
January 30, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 8, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
August 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
165:25-2-2. Incorporated codes and standards (various codes and standards updated to most current version.).
INCORPORATED STANDARDS:
(1) National Fire Protection Association Standards:
Standard Number 30, 2018, "Flammable and Combustible Liquids Code."
Standard Number 385, 2017, "Tank Vehicles for Flammable and Combustible Liquids."
Standard Number 30A, 2018, "Motor Fuel Dispensing Facilities and Repair Garages."
(2) American Petroleum Institute Standards
Recommended Practice 1632, (R2010), "Cathodic Protection of Underground Storage Tank and Piping Systems."
Recommended Practice 1627, (R2000), "Storing and Handling of Gasoline - Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."
Publication 2015, 2018, "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks."
(3) National Association of Corrosion Engineers:
International Test Method, TM 0101 2012, "Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems."
International Test Method, TM 0497 2012, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems."
(4) Underwriter's Laboratory Standards:
Standard UL58, 2018, "Steel Underground Tanks for Flammable and Combustible Liquids."
(5) Petroleum Equipment Institute:
PEI/RP 100-17 (2017 Edition), "Recommended Practices for Installation of Underground Liquid Storage Systems."
PEI/RP 400-18 (2018 Edition), "Recommended Practices for Equipment Testing Electrical Continuity of Fuel Dispensing Hanging Hardware."
PEI/RP 500-11 (2011 Edition), "Recommended Practice for Inspection and Maintenance of Motor Fuel Dispensing Equipment."
PEI/RP 900-17 (2017 Edition), "Recommended Practices for the Inspection and Maintenance of UST Systems."
PEI/RP 1200-17 (2017 Edition), "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."
INCORPORATING RULES:
165:25-2-2
AVAILABILITY:
8:00 am to 4:30 pm, Monday through Friday at Oklahoma Corporation Commission, Office of Petroleum Storage Tank Division, 4th Floor, Jim Thorpe Office Building, 2101 N Lincoln Blvd., Oklahoma City, OK 73152-2000, 405-521-4683.
GIST/ANALYSIS:
The adopted rules clarify the rule and update terminology; strike a reference to a national standard for tanks not regulated by the Commission; add a statute citation; add definitions for corrosion expert, formal enforcement action, and important building; correct the name of the Oklahoma Petroleum Storage Tank Consolidation Act; clarify the effective date of a variance and add the rule citation for the variance application process; revoke an outdated rule; clarify who is responsible for reporting requirements and require a registration form be submitted within thirty (30) days when the status of a tank changes; require a fourteen (14) day notification for permanent tank removal or replacement; emphasize that temporary authorization to receive fuel into an unpermitted tank is for installation testing and is not an authorization to dispense fuel; clarify current operator training certificates must be available to the Fuel Specialists; strike a reference to compatibility documentation since the requirement is in another rule; add that specific forms must be used for release detection operation and maintenance reporting; require records be maintained for tank closure and removal at operating facilities; require licensee hired by an owner and/or operator submit tank closure report; clarify specific forms must be used for walkthrough inspections; clarify record-keeping timeframes; add that violations not corrected may result in system shutdown; strike violations not corrected must result in system shutdown; clarify that owners will receive written explanation for tank system shutdown; clarify that anyone who removes a lock or seal is subject to enforcement; clarify that the tank owner must be in compliance with rules before a lock or seal may be removed; require tank installers and removers to certify compliance with applicable Occupational Safety and Health Administration Hazardous Waste Operations and Emergency Response (OSHA HAZWOPER) standards; clarify licensing procedures for vapor monitor well technicians; add licensing procedures for groundwater monitor well technicians; establish a disciplinary procedure for licensees; correct rule citations; correct the name of the Oklahoma Petroleum Storage Tank Consolidation Act; strike redundant language; clarify the violations subject to disciplinary action and/or fines; require Class A and B operator training certifications for temporary out of use (TOU) tanks; update incorporated codes and standards to current edition;

correct statute citations; strike outdated financial responsibility requirements; clarifies the distance required between a storage tank and property line; add the rule number pertaining to color coding of tank fill riser lids; require certification from a recognized program for corrosion protection testers; require replacement of all underground metallic lines when a line fails due to structural failure; require prior approval for dispenser modifications; require that both tanks and lines must be removed unless an order specifically allows them to be closed in place; clarify temporary removal from service to make the rule easier to understand; require notifying PSTD within thirty (30) days when the status of a tank becomes TOU; require facilities no longer in business but have tank(s) currently in use register as TOU and remain compliant with TOU rules; determine when a tank is deemed TOU; transfer the prcess for a variance to close a tank in place to OAC 165:5; clarify the effective date of a variance; require a primary method of release detection be designated when more than one (1) method is used and notification when changing the primary method; strike a method of release detection that is no longer allowed after June 30, 2018; require PSTD approval to install new vapor monitor wells for release detection at locations that have previously had a confirmed release and clarify requirements; correct a Oklahoma Water Resources Board rule citation; add spacing requirements for installation of new groundwater monitoring wells; establish requirements for low liquid level tests for three (3) year containment sump testing; clarify requirements for automatic tank gauging systems; strike a temporary method of release detection for tanks 1,001 to 2,000 gallons that is no longer allowed; clarify that an interstitial monitoring form can be used for tanks that do not have an automatic tank gauge (ATG) with report printing capability; add the specific Uniform Resource Locator (URL) for reporting a release; establish enforcement actions when releases are not reported; clarify the requirements for having an available fire extinguisher at marinas; clarify procedures for when a violation occurs; clarify that a Notice of Violation (NOV) can be issued for any PSTD rule and that enforcement may occur if a violation is not corrected and provided to whom notification is sent; clarify the re-inspection, Field Citation and formal enforcement action procedures; clarify when additional enforcement action may occur; clarify liability for penalties when violations occur and administrative costs; revoke and reenact Appendix Q to establish that manual tank gauging with periodic tank testing is no longer allowed after June 30, 2018 for tanks 1,000 to 2,000 gallons, revoke and reenact Appendix S to establish fine amounts for Field Citations and clarify that the fine amounts established for Field Citations may be used as a suggested fine amount in a formal enforcement action not to exceed the statutorily set limitations in 17 O.S. § 311; update standards to the current edition; correct statutory citations; strike outdated language; correct rule citations; clarify requirements, strike repetitive and redundant language; correct terminology; and make grammatical corrections.

CONTACT PERSON:

Travis N. Weedn, Senior Attorney, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 N. Lincoln Blvd., P.O. Box 52000, Oklahoma City, OK 73152-2000, (405) 521-4137, t.weedn@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. PURPOSE

165:25-1-1. Purpose

The purpose of this Chapter is to provide a comprehensive regulatory program for the safe operation of underground storage tank systems containing PSTD regulated substances in Oklahoma and to prevent and contain ~~pollution~~contamination caused by leaking underground storage tank systems and to reduce the hazards of fire and explosion. ~~It is recommended that all underground storage tanks, whether regulated by these rules or not, follow the National Fire Protection Association (NFPA) guidelines, including NFPA 30 and 30A.~~

PART 3. DEFINITIONS

165:25-1-11. Definitions

In addition to the terms defined in 17 O.S. §§ 303 and 348, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Agent" means a person authorized by another to act on their behalf, either out of employment or contract.

"Airport" means landing facility for aircraft that are routinely available for public use (whether routinely used or not). Airports as used in this Chapter do not include private airstrips or private airports.

"Airport hydrant system" means an underground storage tank system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one (1) or more hydrants (fill stands). The airport hydrant system begins where fuel enters one (1) or more tanks from an external source, such as a pipeline, barge, rail car, or other motor fuel carrier.

"ATG" means automatic tank gauge.

"Ball float functionality" means the ball float is operational as designed.

"BTEX" means benzene, toluene, ethylbenzene and xylene.

"Bulk plant" means a petroleum storage tank facility where regulated substances are received by tank vessels, pipelines, tank cars or tank vehicles and are stored or blended in mass quantities or bulk for the purpose of distribution by a tank vessel, tank car, tank vehicle, portable tank or other container, for wholesale or retail sale.

"Cathodic protection" means a technique designed to prevent the corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, protection can be accomplished with an impressed current system or a galvanic anode system.

"Change in service" means a change in the status of a storage tank (i.e., from currently in use to temporarily out of use); change of regulated substance that a storage tank contains.

"Commission" means the Oklahoma Corporation Commission (OCC) and includes its designated agents or representatives.

"Construction tank" means a fuel tank used for twelve (12) months or less at a construction site.

"Corrosion expert" means an individual having the requisite knowledge, experience, certification, and training to design, install, test, and maintain corrosion protection systems.

"Division" means the Petroleum Storage Tank Division (PSTD) of the Corporation Commission.

"EPA" means the United States Environmental Protection Agency.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes but is not limited to fish hatcheries, rangeland, and nurseries with growing operations.

"Field constructed tank" means a tank constructed in the field such as a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field.

"Financial responsibility" shall have the same meaning in this Chapter as in 40 CFR 280 Subpart H.

"Financial security" means holding financial security in a tank system or facility site and is not considered ownership of a tank system unless certain criteria of 40 CFR 280 Subpart H is met.

"Fleet and Commercial" means any facility as defined in this Chapter that uses underground storage tanks to store regulated substances for use in its own vehicles or equipment.

"Flow-through process tank" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of material during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction to the process or for the storage of finished products or by-products from the production process.

"Formal Enforcement Action" means the process of ensuring compliance with Commission regulations, rules, orders, requirements, standards, and/or state law when a violation occurs and PSTD initiates an enforcement Complaint under the contempt procedure in Oklahoma Administrative Code (OAC) 165:5 Subchapter 19 to be heard at the Commission by an Administrative Law Judge or the Commissioners.

"Important building" means a building that is considered not expendable in an exposure fire.

"Inert material" means a solid, motionless substance that is neither chemically nor biologically reactive, is denser than water, and will not decompose. Examples of inert material include sand and concrete, or as otherwise approved by PSTD staff.

"Lender liability" shall have the same meaning in this Chapter as in 40 CFR 280 Subpart I.

"Licensed Environmental Consultant" means an individual who has a current license issued by PSTD to perform corrective action.

"Marina" means any fuel storage tank system located on or by the water for the purpose of fueling watercraft.

"Operator" means any person in control of or having responsibility for the daily operation of the storage tank system, whether by lease, contract, or other form of agreement. The term "operator" also includes a past operator at the time of a release, tank closure, violation of the Oklahoma Petroleum Storage Tank ~~Regulation~~Consolidation Act, or a rule promulgated thereunder, or a requirement of the Commission. In the case of a storage tank system in service/use before November 8, 1984, but no longer in service/use on that date, the last person to operate the storage tank system immediately before the discontinuation of it's service/use.

"Out of Order tag" means tag, device or mechanism on the tank fill pipe that clearly identifies an underground storage tank as ineligible for delivery of product.

"Owner" means:

(A) In the case of a storage tank system in service/use on November 8, 1984, or brought into service/use after that date, any person who holds title to, controls, or possesses an interest in a storage tank system used for the storage, use, or dispensing of regulated substances, including the real property owner where the storage tank system is still present, the storage tank system presence is a trade fixture or improvement or both. It is not necessary that the real property owner sold, used, or stored regulated substances in, of, or from the storage tank system.

(B) In the case of a storage tank system in service/use before November 8, 1984, but no longer in service/use on that date, any person who holds title to, controls, or possesses an interest in a storage tank system immediately before the discontinuation of it's service/use. A real property owner who has a storage tank system located on their property that was taken out of service/use prior to November 8, 1984, is not considered to be a storage tank owner for any PSTD regulated purpose.

"Permanent out of use" or **"POU"** means a petroleum storage tank system that is not in service/use, does not contain regulated substances, and is not intended to be placed back in service/use.

"Private airport" means an airport used only by its owner and regulated as a fleet and commercial facility.

"Private airstrip" means a personal residential takeoff and landing facility part of the airstrip owner's residential property.

"PST" means petroleum storage tank.

"PSTD" means Petroleum Storage Tank Division.

"Public Utility" means any entity providing gas, electricity, water, or telecommunications services for public use.

"Recalcitrant owner" means an owner/operator who is responsible for a tank system and after notice will not adhere to a PSTD enabling statute, Commission rule, requirement, or order.

"Regulated substance" means antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel or aviation fuel. It does not include compressed natural gas, liquid natural gas and propane.

"Release detection" means the methodology used in determining whether a release of regulated substances has occurred from a petroleum storage tank or system into the environment or into the interstitial area between the underground storage tank system and its secondary barrier.

"Residential tank" is a tank located on real property used primarily for dwelling purposes.

"Retail facility" means a service station, convenience store or any other facility selling a PSTD regulated substance that is open to the general public.

"Secondary containment" means an underground storage tank and/or piping with inner and outer barriers which

provide a space for interstitial (the space between the inner and outer walls of a double walled tank or piping) monitoring.

"Tampering" means willful intention in an attempt to deceive, cheat or misrepresent facts to the public. Tampering also presents a risk to the environment as well as public health, safety and welfare.

"Tank tightness testing" or **"precision testing"** means a procedure for testing an underground storage tank system's integrity.

"Temporary out of use" or **"TOU"** means the status of an underground storage tank system that has been taken out of service/use with the intent to permanently close or return to service.

"TPH" means total petroleum hydrocarbons.

"Underground storage tank" or **"UST"** or **"tank"** means a regulated storage tank and the individual compartments, including underground piping, that has ten percent (10%) or more of its volume beneath the surface of the ground.

"Underground storage tank system" means an underground storage tank, the individual compartments, and any connected aboveground or underground piping, dispensers, containment sump, if any, and ancillary equipment or transport truck connected to the storage tank system.

"Used Motor Oil" is any spent motor oil removed from a motor vehicle.

PART 6. ADMINISTRATIVE PROVISIONS

165:25-1-28. Variances

A variance to any provision of this Chapter may be granted by the Commission after application and administrative review by staff. ~~If the application for variance is approved, no further action by applicant is necessary. If the application is denied, staff will applicant to proceed with notice and hearing.~~A variance is effective on the date of order issuance. Instructions on the variance process can be found at OAC 165:5-21-3.1.

165:25-1-30.1. Consultation of Petroleum Storage Tank Division [REVOKED]

~~At a tank owner's request, PSTD will confer with a tank owner planning a new facility or changes to an existing facility to assure the tank owner of compliance.~~

PART 9. NOTIFICATION AND REPORTING REQUIREMENTS

165:25-1-41. General reporting requirements

PSTD requires owners or operators of underground storage tank systems to provide information it deems necessary for the protection of human health, safety, property and the environment. Use of the designated PSTD format is required for reporting, scheduling, tank registration, change in ownership, release detection, testing, temporary change in service, permanent closure, or return to service. Owners and operators must notify PSTD within thirty (30) days when their mailing address changes or tank status changes. Owners and operators of underground petroleum storage tank systems must notify PSTD at least thirty (30) days prior to switching to regulated substances containing greater than ten percent (10%) ethanol or regulated substances containing greater than twenty percent (20%) biodiesel using the PSTD scheduling form. These forms are available at the OCC website, PSTD webpage: www.occeweb.com, follow the link to Petroleum Storage Tank Division and the link to PSTD Compliance Forms. Failure to submit PSTD paperwork in the format established by PSTD within the timeframe required may result in an enforcement action.

165:25-1-42. New tank systems

(a) Persons intending to install a new underground storage tank and/or new underground piping must give PSTD notification of the installation at least forty-eight (48) hours before the tank and/or lines are to be installed by submitting the PSTD scheduling notification form and receiving confirmation of the installation from PSTD. If events require a change in the date of installation, PSTD shall be given forty-eight (48) hours notice of the new date. Any underground storage tank system permanent removal or a removal associated with replacement of tanks or lines requires at least fourteen (14) day notification prior to the removal activity.

(b) Upon receipt of the scheduling form an authorization letter giving temporary approval to receive fuel into an un-permitted tank ~~for testing purposes only~~**FOR TESTING PURPOSES ONLY** will be sent to the owner. This letter is site specific and will expire ninety (90) days after the date of issuance. After the tank installation is complete, the PSTD registration form must be submitted to PSTD with copies of required installation testing, photographs of the tank and piping system components before they are covered, an as-built drawing of the entire tank system, and manufacturer installation checklists within thirty (30) days. The tank owner and Licensed UST Installer are both responsible for timely submittal of all installation paperwork. The registration form must be approved and tank fees paid in order to receive a tank permit to dispense fuel. No regulated storage tank system can be operated without a valid permit from the Corporation Commission.

(c) Owners and Commission-licensed UST Installers must certify on the registration form that the installation of tanks and piping meet the requirements of this Chapter.

PART 11. RECORDKEEPING

165:25-1-53. Availability of records

(a) Owners and operators of underground storage tank systems regulated by this Chapter must cooperate with PSTD requests for submission of records.

(b) Each owner/operator must provide written notice of any address change within thirty (30) days to the PSTD office.

(c) All leak detection records, including but not limited to, sampling, testing, inventory and monitoring records, must be available on site for each tank for the preceding three (3) years.

Emergency generator tanks at unmanned locations are not required to keep leak detection records at the facility, and may forward any required records to the PSTD office or upon request to the PSTD Fuel Specialist.

(d) Copies of the following records must be readily available to the PSTD Fuel Specialist:

(1) Tank tightness tests, thirty (30) day inventory reconciliation, statistical inventory reconciliation, vapor or groundwater monitoring, automatic tank gauge tests, and interstitial monitoring results that demonstrate compliance with release detection for tanks.

(2) Line tightness tests, electronic line tests, all sensor and alarm history results, and line leak detector function tests that demonstrate compliance with release detection for lines.

(3) Installation and repair records for spill containment, overfill prevention, tank and piping construction must be maintained for three (3) years and readily available to PSTD.

(4) Cathodic protection records specified in this Subchapter (OAC 165:25-1-56), tank lining certificates, and any other records that demonstrate compliance with corrosion protection for the tank system must be maintained and readily available to PSTD.

(5) Current owner and tank system registration and current permit for all tanks located at the facility.

(6) ~~Certificate(s)~~Current certificate(s) of training for all classes of operators.

(7) Records that document compatibility with underground petroleum storage tank systems storing regulated substances containing greater than ten percent (10%) ethanol or twenty percent (20%) biodiesel. These records must be maintained at the facility for as long as the tank system is used to store these substances. ~~Additionally, the documents that prove compatibility must be submitted to PSTD at least thirty (30) days prior to the owner or operator switching to a regulated substance containing greater than ten percent (10%) ethanol or twenty percent (20%) biodiesel~~.

(8) Beginning October 13, 2018, owners and operators must maintain records of annual operation and maintenance tests on the electronic and mechanical components of release detection equipment. Records must be maintained for three (3) years and at a minimum must list each component tested, indicate whether each component needed to have action taken and describe any action taken to correct ~~an~~the issue.

(9) A copy of the site assessment for groundwater or vapor monitoring must be kept at the facility for as long as this method is used as release detection.

(e) Failure to have the required records available upon request by PSTD may result in enforcement action.

(f) Release detection records, overfill prevention equipment inspection records, spill prevention equipment testing records, and containment sump testing records must be maintained on ~~forms specified by the~~ Commission forms.

165:25-1-55. Tank installation, closure and removal records

(a) Owners and operators of underground storage tank systems must maintain records regarding the installation for the lifetime of the system or provide copies of installation records to PSTD for retention in the Division's files.

(b) Owners and operators of underground storage tank systems must maintain records demonstrating compliance with the closure and removal requirements for tanks that are temporarily taken out of service or permanently removed at operating facilities.

(c) The owner, operator or ~~owner's representative (as directed by the owner)~~Commission licensee hired by the owner and/or operator must submit the ~~OCC~~PSTD Closure Report Form and all required attachments to PSTD within forty-five (45) days from the date the tanks are permanently taken out of service or removed.

165:25-1-60. Walkthrough inspections and records

(a) Owners and operators must conduct walkthrough inspections according to the requirements in 40 CFR 280.36. Owners and operators of underground storage tank systems must maintain a record of 30-day and annual walkthrough inspections according to EPA requirements with the first inspection due by October 13, 2018.

(1) Every 30 days all spill prevention equipment and release detection equipment must be inspected (except spill prevention equipment at UST systems receiving deliveries at intervals greater than 30 days may be checked prior to delivery). Containment sumps and any hand-held release detection equipment, such as tank gauge sticks, must be inspected annually.

(2) Records should include a list of each area checked, whether each area checked was acceptable or needed action taken, a description of any actions taken to correct issues, and delivery records if spill prevention equipment is checked less frequently.

(b) In addition, airport hydrant systems must meet the additional walkthrough inspection requirement in 40 CFR 280.252(c).

(c) All walkthrough inspection records must be on Commission forms and maintained on site for three (3) years.

PART 15. SHUTDOWN OF OPERATIONS

165:25-1-67. Shutdown of operations

(a) PSTD may close (shut down) a UST system:

(1) If the system poses an imminent threat to health, safety, or the environment.

(2) If the owner or operator is operating tanks for which permit fees have not been paid.

(3) If the owner or operator fails to comply with a Commission requirement or order.

(4) For failure to properly install, operate and/or maintain leak detection, spill, overfill, or corrosion equipment if the owner/operator has been issued a written notice of violation and has failed to correct the problem.

(5) Failure to protect a buried metal flexible connector from corrosion if the owner/operator has been issued a written notice of violation and has failed to correct the problem.

(6) Failure to perform, maintain, have readily available or present records for the previous twelve (12) ~~months~~thirty (30) day periods.

(7) Failure to have a Class A, B, or C operator on premises during business hours.

(8) Tampering with equipment.

(9) If a Fuel Specialist issues a Notice of Violation (NOV) and the violation(s) is/are not corrected.

(b) PSTD must close (shut down) a UST system:

(1) If required spill prevention equipment is not installed.

(2) If required overfill protection equipment is not installed.

(3) If required leak detection equipment is not installed.

(4) If required corrosion equipment is not installed.

(5) If two inches (2") or more of water is found in the tank where conventional gasoline or diesel fuel is stored and if one-half inch (1/2") or more of water is found in the tank of gasoline blended with alcohols, E85, fuel ethanol, or diesel blended with biodiesel.

(6) If a meter is found to be off in calibration by more than minus fifteen (-15) cubic inches per every five (5) gallons.

~~(7) If a Fuel Specialist issues a Notice of Violation (NOV) and the violation(s) is/are not corrected.~~

(c) Only PSTD designated employees have the authority to lock or seal dispensers and/or fill pipes of any UST system violating subsection (a) or (b) of this Section. The PSTD employee must explain in writing to the owner or operator the reason the UST system is being locked or sealed.

(d) The PSTD "Out of Order" tag attached to each fill pipe of the tank(s) in violation shall serve to clearly identify the tank(s) as ineligible for delivery, deposit, or acceptance of product. Tank owners/operators and product deliverers are responsible for ensuring that product is not delivered into the tagged tank(s).

(e) ~~Owners, operators, or any persons~~Any person who ~~remove~~removes a lock or seal without permission from PSTD will be subject to penalties imposed by this Chapter, or formal enforcement proceedings.

(f) Upon confirmation that the UST system no longer poses an imminent threat to health, safety, or the environment, the owner and/or operator of the facility is in compliance with PSTD rules, permit fees paid, violation(s) corrected, Commission order or requirements satisfied, the authority to remove a lock or seal by the owner or operator may be obtained as follows:

(1) Written permission from the PSTD employee who placed the lock or seal on the device; coupled with written confirmation to PSTD by the person removing the lock or seal; or

(2) Verbal or written permission from the Director or Director's designee; or

(3) Application to and order of the Commission.

(g) If a facility is closed under the provisions of this Section, the owner or operator of the facility will be afforded a hearing within ten (10) days of receipt by PSTD of the owner's or operator's application for a hearing.

PART 17. LICENSING PROCEDURES

165:25-1-101. Licensing procedure for UST Installers

(a) Any individual who would like to become a licensed UST Installer must:

(1) Complete the OCC UST Installer application form.

(2) Provide sufficient proof of two (2) years related work experience, completed within the last five (5) years. Applicants must have active participation in the completion of at least three (3) UST installations. If applicant is a current UST installer license holder in another state, the work experience from another state may be substituted for each confirmed year he or she held the license.

(3) The individual must pass an examination approved by PSTD.

(4) UST Installers must pay fees for applications, examinations, and licensing prior to examination and license issuance as set forth in ~~Chapter 5 of Commission rules~~OAC 165:5.

(5) UST Installers must also certify that they will comply with all Commission rules and requirements for underground storage tanks, and applicable Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120 Hazardous Waste Operations and Emergency Response (HAZWOPER) standards.

(b) All examinations and licensing procedures must be completed within one (1) year of approval of the application. Failure to complete the exam and licensing procedures will result in forfeiture of fees and will require a new application and appropriate fees.

(c) Continuing education is required to maintain a UST Installer license; this consists of four (4) hours of continuing education through a PSTD- accredited program every year. Licensees may request to rollover a maximum of four (4) credit hours from the current year to satisfy the following year's continuing education requirements. Approval of any rollover hours will be at the discretion of PSTD after evaluating the class, course, or seminar.

165:25-1-102. Licensing procedure for UST Removers

(a) Any individual who would like to become a licensed UST Remover must:

(1) Complete the OCC UST Remover application form.

(2) Provide sufficient proof of two (2) years related work experience, completed within the last five (5) years Applicants must have active participation in the completion of at least three (3) UST removals. If applicant is a current UST remover license holder in another state, the work experience from another state may be substituted for each confirmed year he or she held the license.

(3) Pass an examination approved by the PSTD.

(4) Pay fees for applications, examinations, and licensing prior to examination and license issuance as set forth in ~~Chapter 5 of Commission rules~~OAC 165:5.

(5) Certify that they will comply with all Commission rules and requirements for removal of underground storage tanks, and applicable Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120 Hazardous Waste Operations and Emergency Response (HAZWOPER) standards.

(b) All examinations and licensing procedures must be completed within one (1) year of approval of the application. Failure to complete will result in forfeiture of fees and will require a new application and appropriate fees.

(c) Continuing education is required to maintain a UST Removers license; this consists of four (4) hours of continuing education through a Commission approved program every year. Licensees may request to rollover a maximum of four (4) credit hours from the current year to satisfy the following year's continuing education requirements. Approval of any rollover hours will be at the discretion of PSTD after evaluating the class, course, or seminar.

165:25-1-103. Licensing procedure for Vapor Monitor Well Technician

(a) Monitoring of vapor ~~and groundwater~~ wells for the purpose of thirty (30) day release detection must be performed by an individual licensed by PSTD. An individual who applies to become a licensed Vapor Monitor Well Technician must:

(1) Complete the OCC application form.

(2) Demonstrate ~~his/her~~ competence in the use of the monitoring equipment to PSTD. The use of new or different monitoring equipment will require the user to display ~~his/her~~ competence in the use of the new or different equipment.

(3) Certify that they will comply with all Commission rules and requirements.

(4) Fees must be paid in accordance with ~~Chapter 5 of Commission rules~~OAC 165:5.

(b) Individuals who are monitoring vapor ~~and groundwater~~ observation wells for release detection purposes must report readings that exceed established levels in OAC 165:25-3-6.23 ~~or 165:25-3-6.24~~ to the owner or operator and PSTD within forty-eight (48) hours.

165:25-1-104. Licensing procedure for Groundwater Monitor Well Technician

(a) Monitoring of groundwater wells for the purpose of thirty (30) day release detection must be performed by an individual licensed by PSTD. An individual who applies to become a licensed Groundwater Monitor Well Technician must:

(1) Complete the OCC application form.

(2) Demonstrate competence by submitting, in writing, the procedures followed when checking groundwater monitoring wells.

(3) Certify that they will comply with all Commission rules and requirements.

(4) Fees must be paid in accordance with OAC 165:5.

(b) Individuals who are monitoring groundwater observation wells for release detection purposes must report readings that exceed established levels in OAC 165:25-3-6.24 to the owner or operator and PSTD within forty-eight (48) hours.

165:25-1-105. Licensee disciplinary action procedure

A license issued by PSTD is a designation of competence to the public in the area of licensee expertise. PSTD is not limited to, but may use the following disciplinary action for PSTD licensees:

(1) **Informal reprimand.** The Manager of the appropriate PSTD department will call offending licensee for an informal discussion addressing the recent infraction and place a memo in the licensee's file documenting the discussion and nature of the violation.

(2) **Formal reprimand.** The Manager of the appropriate PSTD department will prepare a letter of reprimand to the licensee addressing the offense. The letter of reprimand will provide the licensee an opportunity to formally dispute alleged violation(s). The reprimand letter, licensee's response, all recourse actions following licensee rebuttal, if any, and the Manager's final decision(s) will be placed in the licensee's file and maintained by PSTD.

(3) **License suspension, revocation and/or refusal to renew a license.** If the Director elects to pursue suspension, revocation, or refusal to renew, a notice of such action will be sent to the licensee by certified mail/return receipt requested. The notice will state the date and time of the hearing scheduled before an Administrative Law Judge.

165:25-1-107. License penalties

(a) The PSTD has the responsibility to deny, suspend, refuse to renew or revoke the license, or reprimand any licensee who is found guilty of:

(1) The practice of any fraud or deceit in obtaining a license or in performing work pursuant to this Chapter.

(2) Any gross negligence, incompetence or misconduct in work performed pursuant to this Chapter.

(3) Knowingly making false statements or signing false statements, certificates or affidavits to the PSTD or to clients with the intention to induce payment.

(4) Aiding or assisting another person in violating any provision of this Chapter.

(5) Signing a verification statement for work performed pursuant to this Chapter that was not performed by the licensee.

(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm a customer or the public.

(7) Failure to comply with this Chapter, ~~Chapters 26, 27, 29~~OAC 165:26, 165:27, 165:29, and/or the Oklahoma Petroleum Storage Tank ~~Regulation~~Consolidation Act (17 O.S. §§ 301 et seq.)~~, and the Oklahoma Petroleum Storage Tank Release Indemnity Program will~~ may result in PSTD seeking a suspension and/or revocation of the license.

(8) Being under indictment or convicted of a felony for any criminal offense that impacts their obligation to PSTD.

(9) Failure to submit required PSTD paperwork, test results, and/or reports in the format established by PSTD within the required timeframe may result in enforcement action.

(b) Disciplinary action levels against PSTD licensees ~~including~~include but are not limited to ~~private~~ informal reprimand, ~~public~~formal reprimand, license suspension, license revocation and refusal to renew.

~~(c) Prior to any license suspension, revocation, or refusal to renew, the Director of PSTD will have the matter investigated and a report made for his or her consideration. If the Director elects to proceed with suspension, revocation, or refusal to renew, a Notice of Intent will be mailed to the licensee. If the Director elects to pursue suspension, revocation, or refusal to renew, PSTD will schedule a hearing before an Administrative Law Judge and the licensee will be officially notified. The burden of clear and convincing proof of violations of this Chapter, applicable state law, or other rules, regulations or Commission orders rests upon the PSTD.~~

~~(d) This Section in no way exempts the licensee from having to meet other applicable requirements as set by state and federal statutes and regulations from other state and federal agencies.~~

(~~e~~c) Any licensee in violation of ~~state law,~~Commission enabling statutes, PSTD rules, requirements and/or Commission orders may be subject to disciplinary action levels mentioned above and/or fines assessed by the Commission after notice and hearing.

PART 19. OPERATOR TRAINING

165:25-1-120. Training requirements

Each underground storage tank system or group of underground storage tank systems at a facility must have a Class A, Class B, and Class C operator designated. Separate individuals may be designated for each class of operator or an individual may be designated to more than one of the operator classes. A Class A and Class B operator are required for TOU tanks.

SUBCHAPTER 2. GENERAL REQUIREMENTS FOR UNDERGROUND STORAGE TANK SYSTEMS

PART 1. CODES AND STANDARDS

165:25-2-2. Incorporated codes and standards

Specific references to documents are made in this Chapter. Each of these documents or part thereof is included by reference as a standard. New editions of codes and standards supersede all previous editions. Commission rules will supersede in all conflicts between PSTD rules and any industry standard. These codes and standards will be updated periodically through a formal rulemaking procedure initiated by PSTD to reflect any substantive or relevant changes.

(1) National Fire Protection Association Standards:

(A) Standard Number 30, ~~2015~~2018, "Flammable and Combustible Liquids Code."

(B) Standard Number 329, 2015, "Handling Releases of Flammable and Combustible Liquids and Gases."

(C) Standard Number 385, ~~2012~~2017, "Tank Vehicles for Flammable and Combustible Liquids."

(D) Standard Number 326, 2015, "Safeguarding Tanks and Containers for Entry, Cleaning and Repair."

(E) Standard Number 30A, ~~2015~~2018, "Motor Fuel Dispensing Facilities and Repair Garages."

(2) American Petroleum Institute Standards

(A) Recommended Practice 1615, (2011), "Installation of Underground Hazardous Substances or Petroleum Storage Systems, Sixth Edition."

(B) Recommended Practice 1632, ~~2002~~ (R2010), "Cathodic Protection of Underground Storage Tank and Piping Systems."

(C) Recommended Practice 1604, (R2010), "Closure of Underground Petroleum Storage Tanks, Third Edition."

(D) Recommended Practice 1631, (2001), "Interior Lining and Periodic Inspection of Underground Storage Tanks."

(E) Recommended Practice 1621, (R2012), "Bulk Liquid Stock Control at Retail Outlets."

(F) Recommended Practice 1626, (2010), "Storing and Handling Ethanol and Gasoline - Ethanol Blends at Distribution Terminals and Service Stations."

(G) Recommended Practice 1627, ~~1993~~(R2000), "Storing and Handling of Gasoline - Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."

(H) Publication 1628, (1996), "A Guide to the Assessment and Remediation of Underground Petroleum Releases."

(I) Publication 2200, (2015), "Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines, Fourth Edition."

(J) Publication 2015, ~~2014~~2018, "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks."

(K) Recommended Practice 1637, (R2012), "Using the API Color Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals, Third Edition."

(3) National Association of Corrosion Engineers:

(A) Standard Number SP0169-2013, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

(B) Standard Number SP0285-2011, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection."

(C) Standard Number SP0286-2007, "Electrical Isolation of Cathodically Protected Pipelines."

(D) International Test Method, TM 0101 2012, "Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems."

(E) International Test Method, TM 0497 2012, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems."

(4) Underwriter's Laboratory Standards:

(A) Standard UL58, ~~9th Edition, 1996~~2018, "Steel Underground Tanks for Flammable and Combustible Liquids."

(B) Standard UL1316 Bulletin 2013, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures."

(C) Standard UL1746 Bulletin 2013, "External Corrosion Protection Systems for Steel Underground Storage Tanks."

(D) Standard UL567 Bulletin-2012, "Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Petroleum Products and LP-Gas."

(E) Standard UL971 Bulletin 2011, "Nonmetallic Underground Piping for Flammable Liquids."

(5) American Society for Testing Materials:

(A) ASTM E1739-95 (2015), "Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites."

(B) ASTM G158-98 (2016), "Three Methods of Assessing Buried Steel Tanks."

(6) Petroleum Equipment Institute:

(A) PEI/RP ~~100 (2011 Edition)~~100-17 (2017 Edition), "Recommended Practices for Installation of Underground Liquid Storage Systems."

(B) PEI/RP ~~400-02 (2012 Edition)~~400-18 (2018 Edition), "Recommended Practices for ~~Inspection and Maintenance of Motor Fuel Dispensing~~ Equipment Testing Electrical Continuity of Fuel Dispensing Hanging Hardware."

(C) PEI/RP ~~500-05~~500-11 (2011 Edition), "Recommended Practice for Inspection and Maintenance of Motor Fuel Dispensing Equipment."

(D) PEI/RP ~~900-07 (2008 Edition)~~900-17 (2017 Edition), "Recommended Practices for the Inspection and Maintenance of UST Systems."

(E) PEI/RP ~~1200~~1200-17 (2017 Edition), "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."

(7) Steel Tank Institute:

(A) STIP3®, "Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks."

(B) STI-R892-91, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems."

(C) STI-R894-91, "Specification for External Corrosion Protection of FRP Composite Underground Steel Storage Tanks."

(D) RP-972-10, "Recommended Practice For The Addition of Supplemental Anodes to STI-P3 USTs."

(E) STI-ACT-100-U®, F961, "Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks".

(F) STI-F841, "Standard for Dual Wall Underground Steel Storage Tanks."

(G) STI-F922, "Specification for Permatank®."

(H) RP-R051, "Cathodic Protection Testing Procedures for STI-P3® Underground Storage Tank Systems."

(8) Factory Mutual 1920, "Flexible Pipe Couplings."

(9) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension, Existing Steel UST by Lining without Additional Cathodic Protection."

(10) National Groundwater Association, 1986, "RCRA Ground Water Monitoring Technical Enforcement Guidance Document (TEGD)."

(11) U.S. Environmental Protection Agency Office of Water, 1997, Drinking Water Advisory: "Consumer Acceptability Advice on Health Effects Analysis on Methyl Tertiary-Butyl Ether (MTBE)."

(12) Ken Wilcox Associates, Inc., First Edition: "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera."

165:25-2-4. Financial responsibility

~~(a)~~ An owner/operator must satisfy the requirements of Title 40 Code of Federal Regulations (CFR) 280, Subpart H by use of the Oklahoma Petroleum Storage Tank Indemnity Fund (Indemnity Fund) (ref: Okla. Stat. Tit. 17 ~~§350 et seq.~~§ 327.3). ~~A co-pay must be paid for which compliance may be demonstrated~~Compliance may also be satisfied by use of any of the mechanisms outlined in 40 CFR 280, Subpart H, including, but not limited to Self-insurance, Guarantee, Insurance, Surety Bond, Letter of Credit, Trust fund or standby trust fund, Securities pledge, Cash or cash equivalent pledge. Use of the Indemnity Fund requires a co-pay.~~For releases that occurred before June 4, 2004 the co-pay is $5,000; for releases that occurred after June 4, 2004 the co-pay is 1% of fund expenditures not to exceed $5,000.~~

~~(b) Financial responsibility regulations promulgated on or before November 9, 1989 by the United States Environmental Protection Agency are hereby adopted as provisions of this Chapter as though set forth herein with the exception that, and unless the context otherwise dictates, all references therein to "Implementing Agency" shall be considered references to~~

~~the "Oklahoma Corporation Commission," and all references to "Administrator," "Regional Administrator," "Director," or "State Director" shall be considered references to the "Director of the Petroleum Storage Tank Division of the Oklahoma Corporation Commission."~~

PART 3. DESIGN AND INSTALLATION

165:25-2-37. Storage tank spacing

(a) Underground storage tanks must be at least thirty-six inches (36") from ~~the~~a property line boundary of the property on which they are installed.

(b) Fiberglass and steel underground storage tanks must be spaced in accordance with manufacturer's instructions.

165:25-2-38. Fill pipe requirements

(a) Fill pipes that enter the top of a tank must have drop tubes installed and terminate within 6 inches (6", or 15 cm) of the bottom of the tank.

(b) Fill pipes should be installed or arranged so that vibration is minimized.

(c) Each fill pipe must be labeled by a permanent marking to identify the product stored. The marking must be maintained in legible condition throughout the life of the tank installation. Color coding of the tank fill riser lids set forth in OAC 165:15-13-1 must also be used.

PART 5. PROTECTION AGAINST CORROSION

165:25-2-53. Frequency and criteria of inspections and tests

(a) All cathodic protection systems must be tested within 6 months of installation and/or repair, and at least every three (3) years thereafter.

(b) Cathodic protection testing, repair, or three (3) year recertification must be scheduled at least 24 hours before by submitting the PSTD scheduling form and PSTD staff may be present.

(c) Every 60 days impressed current cathodic protection systems must be inspected by the owner or owner's designated representative to ensure the equipment is working properly.

(d) The criteria that are used to determine whether cathodic protection is adequate must be in accordance with a code of practice developed by a nationally recognized organization, such as NACE RP-0285.

(e) All personnel performing cathodic protection system testing must have the required education, current corrosion certification, experience, knowledge and competence to correctly perform testing services in accordance with a certified course and applicable industry standards or codes.

PART 6. PIPING

165:25-2-55.1. Underground storage tank piping materials

(a) All new or replacement underground pressurized piping must be installed as follows:

(1) Nonmetallic;

(2) Double-walled;

(3) A tracer locator wire must be installed in all piping trenches; and

(4) Tank, dispenser, and transition sumps must be installed and monitored per 165:25-3-6.29.

(b) All new or replacement suction product piping must meet the requirements of 165:25-3-6.29 as follows:

(1) Nonmetallic;

(2) Double-walled;

(3) A tracer locator wire must be installed in all piping trenches; and

(4) Tank, dispenser, and transition sumps must be installed and monitored per 165:25-3-6.29.

(c) Existing facilities that are replacing the lesser of twenty feet (20') or fifty percent (50%) of underground piping must upgrade pursuant to (a) or (b) of this Section. If a metallic line fails due to structural failure or corrosion, all metallic product lines at the facility must be immediately removed, and cannot be repaired.

(d) Existing facilities that are making any alteration to a fuel island when concrete removal is required must install dispenser sumps and monitor as pursuant 165:25-3-6.29.

(e) Existing facilities that are replacing dispensers must install dispenser sumps and monitor as pursuant to 165:25-3-6.29 if modifications are made below the dispenser cabinet.

(f) Existing facilities that are replacing underground storage tanks or making repairs at a submersible pump that require excavation of dirt or concrete removal must install tank sumps and they must be monitored pursuant 165:25-3-6.29.

(g) Existing facilities that are replacing underground storage tanks must replace all single walled piping per (a) or (b) of this section.

(h) Piping installed as a siphon or to manifold tanks may be single wall non-metallic pipe.

(i) Ball valves must be installed on new safe suction lines to isolate lines for testing purposes.

PART 7. DISPENSERS

165:25-2-71. Dispensers

(a) A control must be provided that will permit the dispenser to operate only when a dispensing nozzle is removed from its bracket or normal position with respect to the dispensing device and only when the switch on this dispensing device is manually activated. This control must also stop the dispenser when all nozzles have been returned either to their brackets or to the normal non-dispensing position.

(b) A Underwriter's Laboratory ("UL") listed emergency breakaway device designed to retain liquid on both sides of the breakaway point must be installed on each hose. These devices must be installed and maintained in accordance with the manufacturer's instructions. Where hoses are attached to a

hose-retrieving mechanism, the listed emergency breakaway device must be installed between the point of attachment of the hose-retrieving mechanism to the hose and the hose nozzle valve.

(c) If a submersible pump system is used, a UL listed emergency shutoff/shear valve must be installed at each dispensing device. Both the emergency shutoff/shear valve and dispensing device shall be rigidly anchored in place.

(d) Liquids must be transferred from storage tanks by means of fixed dispensers designed and equipped to allow control of the flow and prevent leakage or accidental discharge.

(e) Dispensing devices for Class I and Class II liquids must be listed.

(1) Existing listed or labeled dispensing devices may be modified provided the modifications made are "Listed by Report" by an approved testing laboratory or as otherwise pre-approved by PSTD.

(2) Modification proposals must contain a description of the component parts used in the modification and the recommended methods of installation on specific dispensing devices, and they must be made available to PSTD for approval prior to installation~~ upon request~~.

(f) All gasoline, gasoline-alcohol blends, gasoline-ether blends, E85 fuel ethanol, and M85 methanol dispensers located at retail facilities shall have a ten (10) micron or smaller nominal pore-sized filter. All biodiesel, biodiesel blends, diesel, and kerosene dispensers located at retail facilities shall have a thirty (30) micron or smaller nominal pore-sized filter.

PART 13. REMOVAL AND CLOSURE OF UNDERGROUND STORAGE TANK SYSTEMS

165:25-2-131. Tank removal and closure

(a) Owners/operators of all underground storage tank systems must notify PSTD at least fourteen (14) days prior to the removal or permanent closure of underground storage tanks and/or lines by submitting the PSTD scheduling form and receiving confirmation of the scheduled removal from PSTD. If events require a change in the date of removal, PSTD shall be given forty-eight (48) hours notice ~~of~~prior to the new date.

(b) An authorized agent of PSTD may be present to observe the removal and to inspect the closed tank system and the surrounding environment prior to backfilling.

(c) Tanks and lines must be removed upon closure unless a Commission order grants a variance that allows the tanks and/or lines to be closed in place. Tank systems that are removed from the ground must be transported from the site and whether sold to a scrap dealer or disposed of at an acceptable facility, sufficient holes should be made in the tanks to render ~~it~~the tank(s) unfit for further use. A certificate of destruction must be submitted to PSTD with the UST Closure Report. After closure activities are completed, the excavation must be backfilled no later than seven (7) days upon completion of tank removal.

(d) The Licensed UST Remover must be on the job site during all removal activities, beginning with break-out of concrete. This includes Licensed UST Remover presence during cutting and removing concrete over any part of the tank system.

(e) Photos must be taken of tank(s), line(s) and soil at removal. In the event there is a hole in tank(s) or line(s), further photographic evidence is required. If tank(s), line(s) or excavated soil show evidence of a release, photos of the apparent release must be taken that indicate the release source.

165:25-2-133. Temporary removal from service

(a) When an underground storage tank system is taken temporarily out of service for three (3) months or less, the owner or operator must meet the following requirements:

(1) Continue the operation, testing, and maintenance of corrosion protection as required by this Chapter. Electricity must be maintained for an impressed current CP system to be operational.

(2) Continue to monitor for leaks by performing release detection and release detection testing as required by this Chapter~~;~~.

(3) Perform annual inspections and testing of release detection equipment.

(4) Perform thirty (30) day walkthrough inspections.

(5) Perform three (3) year containment sump testing on containment sumps used for interstitial monitoring of piping.

(~~3~~6) Comply with the requirements of this Chapter concerning release reporting and corrective action~~; and~~.

(~~4~~7) Notify PSTD of a change in service within thirty (30) days on the prescribed TOU form.

~~(5) Beginning October 13, 2018, tank systems that are temporary closed for three (3) months or less are not required to meet spill testing and overfill inspections, however, they are required to:~~

~~(A) Continue to monitor for leaks by performing release detection,~~

~~(B) Perform monthly walkthrough inspections,~~

~~(C) Perform annual inspections and tests of release detection equipment, and~~

~~(D) Perform three (3) year containment sump testing on containment sumps used for interstitial monitoring of piping~~.

(b) Tank systems that are temporarily closed for three (3) months or less are not required to meet spill prevention equipment testing and overfill prevention equipment inspections.

(~~b~~c) When an underground storage tank system is taken out of service for three (3) months or more, ~~but less than twelve (12) months,~~ the owner/operator must meet the following ~~additional~~ requirements:

(1) All tanks must be drained to less than one inch (1") of residue remaining in the tank. ~~Release detection is not required as long as the underground storage tank is emptied to less than one inch (1").~~

(2) Release detection, annual release detection equipment testing and inspections, spill prevention equipment testing, overfill prevention equipment inspections, thirty (30) day walkthrough inspections, and three (3) year containment sump testing on containment sumps used for interstitial monitoring of piping, is not required as long as

the underground storage tank is emptied to less than one inch (1") of residue remaining in tank.

(~~2~~3) All vent lines must be left open and functioning.

(~~3~~4) All other lines, pumps, manways, and ancillary equipment must be capped and secured.

(~~4~~5) Lock all fill caps.

(6) Continue the operation, testing, and maintenance of corrosion protection as required by this Chapter. Electricity must be maintained for an impressed current CP system to be operational.

(7) Comply with the requirements of this Chapter concerning release reporting and corrective action.

(8) Notify PSTD of a change in service within thirty (30) days on the prescribed TOU form.

~~(c) Beginning October 13, 2018, tank systems that are empty to less than one inch (1") of residual fluids are not required to maintain the following:~~

~~(1) Spill prevention testing,~~

~~(2) Overfill prevention inspections,~~

~~(3) Release detections,~~

~~(4) Annual release detection equipment testing and inspections,~~

~~(5) Monthly walkthrough inspections, and~~

~~(6) Three (3) year containment sump testing on containment sumps used for interstitial monitoring of piping.~~

(d) ~~Tanks must be permanently closed if they do not meet PSTD requirements in 165:25-2-133 as set forth above.~~Any facility with an underground storage tank registered as currently in use where the business is no longer open for regular business and has an underground storage tank system that is not in active use for greater than 180 days or two (2) consecutive semiannual inspections shall have the tank system deemed temporarily out of use and will be subject to OAC 165:25-2-133. PSTD will notify the current registered owner in writing of the change in tank status within ten (10) days of the date of change. The facility shall have sixty (60) days to comply with all requirements in this section.

(e) Tanks must be permanently closed if they do not meet PSTD requirements in OAC 165:25-2-133 as set forth above.

165:25-2-135. Permanent closure

All underground storage tanks and associated piping out of service/use for more than twelve (12) months must be removed if they do not comply with the requirements as stated in 165:25-2-133 and 165:25-2-134. A variance to close a tank in place with a PSTD approved inert material must be made by application and administrative review in accordance with OAC 165:5-21-3.1. For a closure in place variance solely on the basis of financial concerns between the cost to remove and the cost to close in place, applicant must submit three (3) bids to remove and three (3) bids to close in place with their variance application. ~~The applicant will be notified whether the variance application is approved or denied. If the application for variance is approved, no further action by applicant is necessary. If the application is denied, a notice of denial will be provided to the applicant in sufficient time for the applicant to withdraw the application or file a notice to present evidence supporting the variance at a Commission hearing.~~A variance is effective on order issuance.

SUBCHAPTER 3. RELEASE PREVENTION AND DETECTION REQUIREMENTS

PART 2. RELEASE DETECTION REQUIREMENTS AND METHODS

165:25-3-6.21. General release detection methods and devices

(a) Owners/operators of new and existing underground storage tank systems must use a release detection method, or a combination of release detection methods, that is:

(1) Capable of detecting a release of regulated substances from any portion of the underground storage tank system that routinely contains product.

(2) Designed, installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running conditions.

(3) Capable of meeting the performance requirements of this Chapter, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer.

(4) Sampled, tested, or checked for a release at least once every 30 days.

(5) If more than one (1) release detection method is present on a petroleum storage tank system, the owner and/or operator must notify PSTD in writing which method is designated as the primary method of release detection. In the event the owner and/or operator switches or utilizes another method of release detection as the primary method, the owner and/or operator must notify PSTD in writing within thirty (30) days of selecting a new primary release detection method.

(b) Owners/operators must keep all written manufacturer and installer performance specifications and the manner in which those specifications are determined.

(c) Interstitial monitoring must be used as the method of release detection for secondarily contained tanks and/or piping installed after July 1, 2008.

(d) Beginning October 13, 2018, the electronic and mechanical components of release detection equipment must be tested for proper operation in accordance with manufacturer's instructions or use a code of practice developed by a nationally recognized association or independent testing laboratory. A test of proper operation must be performed at least annually and, at a minimum, cover the following components and criteria as applicable to the facility:

(1) Automatic tank gauge and other controllers: test alarm, verify system configuration; test battery backup;

(2) Probes and sensors: inspect for residual buildup, ensure floats move freely, ensure shaft is not damaged, ensure cables are free of kinks and breaks, test alarm operability and communication with controller;

(3) Automatic line leak detector: test operation to meet criteria in 40 CFR §280.44(a) by simulating a leak;

(4) Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller; and

(5) Hand-held electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

(e) Owners and operators must maintain records of the annual operation tests for three (3) years. At a minimum, records must list each component tested, indicate whether each component needed to have action taken and describe any action taken to correct the issue.

165:25-3-6.22. Tank system tightness testing with inventory control [REVOKED]

~~When performed in accordance with the following requirements, this combination of functions is a stand-alone method of leak detection for tanks. This method expires ten (10) years after the corrosion protection upgrade of your tank(s) to 1998 standards or ten (10) years after a new tank is installed. This will expire June 30, 2018.~~

~~(1) **Tank tightness testing.** Tank tightness testing must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank.~~

~~(2) **Requirements for tank tightness testing.** If tank tightness testing is part of the chosen method of release detection, it must be conducted in accordance with the requirements of this Subchapter, performed by a tester certified by the manufacturer of the testing equipment, and completed once every five (5) years.~~

~~(3) **Inventory control.** Inventory control must be conducted to detect a release of at least one percent (1%) of flow-through plus 130 gallons every thirty (30) days in the following manner:~~

~~(A) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount remaining in the tank are recorded each operating day.~~

~~(B) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth inch (1/8").~~

~~(C) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.~~

~~(D) Deliveries are made through a drop tube that extends to six inches (6") of the tank bottom.~~

~~(E) Product dispensing is metered and recorded within an accuracy of six (6") cubic inches for every five (5) gallons of product withdrawn.~~

~~(F) The measurement of any water level in the bottom of the tank is made to the nearest one-eighth inch (1/8") at least once every thirty (30) days.~~

~~(G) Use of PSTD Inventory Reconciliation Form or an electronic equivalent is required.~~

165:25-3-6.23. Testing or monitoring for vapors

(a) Before installing a new vapor monitoring system or continuing to use an existing vapor monitoring system for thirty (30) day release detection a site-specific site assessment must be conducted to determine the following:

(1) The exact location and total depth of the tank(s) and piping to avoid damage to the UST system during well installation and to determine the number and placement of wells.

(2) That the backfill is sufficiently porous to allow diffusion of vapors from a release to migrate readily to the observation wells (i.e., sand, pea gravel or crushed rock).

(3) That background levels of contamination or naturally occurring organic hydrocarbons are low enough to allow a release from the tank(s) or piping to be detected. To determine background concentrations, a temporary vapor well can be installed in the UST excavation area and the device that will be used for monitoring can be used to get an initial reading.

(4) The location and historical levels of groundwater at the site. If the backfill is saturated with water, because of a perched water table, fluctuating water table, rainfall, etc. above the tank burial depth, a vapor monitoring system should not be used because dispersion of vapors would be restricted and a release could go undetected. Approval for the use of vapor monitor wells for thirty (30) day release detection at a location where there has previously been a confirmed release will be at PSTD's discretion.

(5) Volatility of the stored product and its compatibility with the monitoring device that will be used.

(b) Individuals performing this site assessment must be a PSTD Licensed Environmental Consultant and a copy of the site assessment must be maintained at the facility.

(c) The vapor observation wells must be installed within the tank excavation. A minimum of two (2) wells ~~is~~are required for multi-tank excavations, with at least one (1) of the wells on the downgradient side. Wells must be spaced ~~to cover a maximum~~such that any given well is capable of detecting a release from within at least a twenty foot (20') radius of that monitoring point and no greater. One (1) well is acceptable for single tanks of 3,000 gallons or less capacity, or for not more than two (2) 2,000 gallon tanks in one excavation, provided the well is near the center of the excavation.

(d) Observation wells must be installed in accordance with OAC 785:35, Oklahoma Water Resources Board (OWRB)~~, Well Driller and Pump Installer Licensing~~ rules. OWRB rules allow a PSTD-licensed UST Installer to install observation wells during tank installations only. An OWRB-licensed driller must perform all other well installations.

(e) In addition to ~~165:25-3-6.23(e)~~(a) through (d) above, vapor observation wells must meet these minimum requirements:

(1) Be constructed from two inch (2") or four inch (4") polyvinyl chloride (PVC) or stainless steel casing with factory milled well screen.

(2) The well screen section should begin approximately two feet (2') below ground surface (bgs) for tank excavations. The well screen must extend to a depth of two feet (2') below the tank bottom.

(3) A filter pack of graded gravel or uncontaminated quartz sand, silica, or other material that will not affect

the groundwater quality must be placed around the entire length of the well screen.

(4) The area above the well screen must be sealed (annular seal) to prevent surface spills from contaminating the well, which would result in a false indication of a release. An anti-shrink concrete or grout seal must extend at least twelve inches (12") from within the observation well manhole. The remainder of the well above the well screen must be sealed with a cement-bentonite mixture or bentonite pellets.

(5) A concrete or cement surface pad must be installed around the casing at the surface with minimum dimensions of three feet (3') in diameter by three and a half inches (3.5") thick. The surface pad must be sloped so to ensure that all surface water flows away from the well. The surface pad is not required if the well is completed in competent concrete or asphalt paving.

(6) The well(s) must be installed within manholes competent to withstand anticipated traffic flow. The well casing must be secured with a tight fitting cap and the manhole cover bolted to prevent unauthorized tampering. The manhole cover must be clearly marked with appropriate identification such as "test well" or "monitoring well" and/or may also be identified with an equilateral triangle to identify the well as an observation well or site assessment observation well.

(f) Records demonstrating compliance with this Section must be submitted to PSTD before a new vapor monitoring system may be used or before an existing vapor monitoring system may continue to be used after July 15, 2005. At a minimum, these records must include a site map that includes the location of tanks, piping, dispensers and all observation wells, copies of the OWRB Multi-Purpose Completion Report for each well, name of the company and individual performing the assessment.

(g) All vapor observation wells must be checked at least every thirty (30) days by a PSTD Licensed ~~Observation~~Vapor Monitor Well Technician and a copy of the results must be maintained at the facility and readily available to the PSTD Fuel Specialist.

(h) The vapor monitoring equipment must be designed and operated to allow the threshold level to be preset specifically for the type of regulated substance stored in the tank system and be capable of detecting any significant increase in the concentration of regulated substance, component or components of that substance (in a range of 0 to 10,000 units/ppm) or a tracer placed in the tank system above background levels.

(i) Observation well readings above 4,000 units/ppm for gasoline and above 1,500 units/ppm for diesel, or above 1,500 units/ppm for a tank pit containing both gasoline and diesel tanks, must be reported to PSTD by telephone at (405) 521-4683 or toll free at 1-888-621-5878 within twenty-four (24) hours of the owner, operator, any of their employees, or agents knowing the reading.

(j) An increase in vapor levels of 500 units/ppm above background or historical levels detected by thirty (30) day monitoring, even though below twenty-four (24) hour reporting level, must be reported if the increase does not correct itself in the second month of monitoring. The report must be made within twenty-four (24) hours of the owner or operator, their employees or agents knowing the second month's monitoring results.

(k) If a monitoring report under the circumstances above is not made within twenty-four (24) hours, the owner or operator, their employees or agents, may be subject to formal enforcement action.

165:25-3-6.24. Testing or monitoring for liquids on the groundwater

(a) Before installing a new groundwater monitoring system, or continuing to use an existing groundwater monitoring system for thirty (30) day release detection a site-specific site assessment must be conducted to determine the following:

(1) The exact location and total depth of the tank(s) and piping to avoid damage to the UST system during well installation and to determine the number and placement of wells.

(2) That the backfill is sufficiently porous to allow migration of product from a release to the observation wells (i.e., sand, pea gravel or crushed rock).

(3) That background levels of contamination or naturally occurring organic hydrocarbons are low enough to allow a release from the tank(s) or piping to be detected. Groundwater monitoring may not be effective if the site has had prior spills or releases.

(4) The location and historical levels of groundwater at the site. Groundwater monitoring cannot be used if the water table is less than three feet (3') below ground surface or more than twenty feet (20') below ground surface.

(5) Fluctuation of groundwater. The well screen must intercept the water table at both high and low elevations. Free product floating on top of the water surface cannot enter a well if the water level is higher than the well screen, nor can free product enter a well if the water level is below the bottom of the well screen. It must be determined that groundwater conditions are such that a release would not go undetected.

(6) The stored product's compatibility with the monitoring device that will be used. The detection device must be able to detect the presence of at least one-eighth of an inch (1/8") of free product on top of the groundwater in the monitoring wells. Groundwater monitoring is only effective if the stored product is lighter than water (i.e., has a specific gravity less than 1.0), which allows the product to float on the water surface. The stored product must not be soluble in water. Products that are highly soluble in water would not be detected as a separate liquid phase.

(b) Individuals performing this site assessment must be a PSTD Licensed Environmental Consultant and a copy of the site assessment must be maintained at the facility.

(c) The groundwater observation wells must be installed in the tank excavation. Two (2) wells are sufficient for single tanks of 3,000 gallons or less capacity or for not more than two (2) 2,000 gallon tanks in one excavation. For multiple tanks, a minimum of three (3) wells must be installed with at least one of the wells placed on the downgradient side. A sufficient

number of wells must be installed so that ~~the entire UST system is covered~~a release from any given tank within the tank excavation can be detected. Wells must be spaced such that any given well is capable of detecting a release from within at least at twenty foot (20') radius of that monitoring point and no greater. Under normal circumstances, groundwater monitoring on piping runs would not be appropriate due to the depth to groundwater and the associated time required to detect a leak.

(d) Observation wells must be installed in accordance with OAC 785:35, Oklahoma Water Resources Board (OWRB)~~, Well Driller and Pump Installer Licensing~~ rules. OWRB rules allow a PSTD licensed UST Installer to install observation wells during tank installations only. An OWRB-licensed driller must perform all other well installations.

(e) Groundwater observation wells must meet these minimum requirements:

(1) Be constructed from two inch (2") or four inch (4") polyvinyl chloride (PVC) or stainless steel casing with factory milled well screen.

(2) The well screen section should begin approximately two feet (2') below ground surface (bgs) for tank excavations. The well screen must extend to a depth of two feet (2') below the tank bottom.

(3) A filter pack of graded gravel or uncontaminated quartz sand, silica, or other material that will not affect the groundwater quality must be placed around the entire length of the well screen unless the tank and/or piping is backfilled with pea gravel.

(4) The well screen must begin no less than eighteen inches (18") below ground surface. The area above the well screen must be sealed (annular seal) to prevent surface spills from contaminating the well, which would result in a false indication of a release. An anti-shrink concrete or grout seal must extend at least twelve inches (12") from within the monitoring well manhole. The remainder of the well above the well screen must be sealed with a cement-bentonite mixture or bentonite pellets.

(5) A concrete or cement surface pad must be installed around the casing at the surface with minimum dimensions of three feet (3') in diameter by three and a half inches (3.5") thick. The surface pad must be sloped so to ensure that all surface water flows away from the well. The surface pad is not required if the well is completed in competent concrete or asphalt paving.

(6) The well(s) must be installed within manholes competent to withstand the anticipated traffic flow. The well casing must be secured with a tight fitting cap and the manhole cover bolted to prevent unauthorized tampering. The manhole cover must be clearly marked with appropriate identification such as "test well" or "monitoring well" and may also be identified with an equilateral triangle to identify the well as an observation well or site assessment observation well.

(f) Records demonstrating compliance with this Section must be submitted to PSTD before a new groundwater monitoring system may be used or before an existing groundwater monitoring system may continue to be used after July 15, 2005. At a minimum, these records must include a site map that includes the location of tanks, piping, dispensers and all monitoring wells, copies of the OWRB Multi-Purpose Completion Report for each well, name of the company and individual performing the assessment.

(1) Any indication of free product floating on the water table must be reported to PSTD by telephone at (405) 521-4683 within twenty-four (24) hours of the owner/operator or any of their employees or agents discovering the product.

(2) If a monitoring report under the circumstances of above is not made within twenty-four (24) hours, the owner or operator, their employees or agents, may be subject to an enforcement action.

(g) All groundwater observation wells must be checked at least every thirty (30) days by a PSTD Licensed ~~Observation~~Groundwater Monitor Well Technician and a copy of the results must be maintained at the facility and readily available to the PSTD Fuel Specialist.

165:25-3-6.25. Interstitial monitoring

(a) For double-walled underground storage tank systems, the sampling or testing method must be capable of detecting a leak at least every thirty (30) days through the inner wall in any portion of the tank that routinely contains product in accordance with the manufacturer instructions.

(b) On new installations, the containment sumps used for interstitial monitoring of piping must be tested at installation and at least once every three (3) years for liquid tightness or use double-walled containment sumps with periodic interstitial monitoring of the space between the two (2) walls of the sump at least every thirty (30) days. Records demonstrating compliance must be maintained for three (3) years.

(c) Existing systems must have the containment sumps tested for liquid tightness by October 13, 2018, and at least once every three (3) years thereafter or use double-walled containment sumps with periodic interstitial monitoring of the space between the two (2) walls of the sump at least every thirty (30) days. Owners and operators using a low liquid level test must ensure that when the sensor is activated the alarm activates, and verify the submersible pumps automatically shut off when the liquid activates the sensors. Sensors must be mounted and positioned at the lowest point in the sumps. Low liquid level UST sump testing must be performed according to the procedures set forth on the Commission's Containment Sump Alternative Test form. Records demonstrating compliance must be maintained for three (3) years.

(d) Beginning October 13, 2018, owners and operators must perform operation and maintenance tests on electronic and mechanical components of release detection equipment. This testing must be conducted according to the manufacturer's instructions or a code of practice developed by a nationally recognized association or independent testing laboratory. A test of the proper operation must be performed at least annually and, at a minimum, as applicable to the facility, cover the following components and criteria:

(1) Automatic tank gauge and other controllers: test alarm, verify system configuration, test battery backup.

(2) Probes and sensors: inspect for residual buildup, ensure floats move freely, ensure shaft is not damaged, ensure cables are free of kinks and breaks, test alarm operability and communication with controller.

(3) Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller.

(4) Hand-held electronic sampling equipment associated with groundwater and vapor monitoring: ensure proper operation.

(e) Owners and operators must maintain records of the annual operation tests for three (3) years. At a minimum, records must list each component tested, indicate whether each component meets the criteria listed above or needed to have action taken, and describe any action taken to correct an issue.

165:25-3-6.26. Automatic tank gauging systems

(a) Automatic tank gauging systems (ATG's) that test for the loss of product must conduct an automatic product level monitor test at a minimum frequency of once every 30 days, and be capable of detecting at least a 0.2 gallon per hour (gph) leak rate for any portion of the tank that routinely contains product.

(b) The test must be performed with the system operating in one of the following modes:

(1) ~~In-tank static testing conducted at least once every thirty (30) days; or~~Passing 0.1 gph test at least every thirty (30) days; or

(2) ~~Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every thirty (30) days.~~Passing 0.2 gph test at least every thirty (30) days along with inventory reconciled at thirty (30) days; or

(3) Passing continuous statistical leak detection ("CSLD") test at least every thirty (30) days along with inventory reconciled at thirty (30) days.

~~(c) ATG's that cannot detect a 0.1 gallon per hour leak rate are also required to have inventory control.~~

(~~d~~c) ATGs must be third party certified for the size of tanks and for the quantity of tanks that are manifolded together. Only third party certifications that have been reviewed and approved by the National Work Group on Leak Detection Evaluations (NWGLDE), found at NWGLDE Web Site, will be accepted (www.nwglde.org).

165:25-3-6.27. Manual tank gauging

(a) **Restrictions.** Manual tank gauging may be used as an approved method of release detection if the tank has a nominal capacity of 1,000 gallons or less~~:~~.

~~(1) The tank has a nominal capacity of 1,000 gallons or less; or~~

~~(2) The tank has a nominal capacity of between 1,001 and 2,000 gallons and manual tank gauging is combined with periodic (every five (5) years) tank tightness testing as required by this Subchapter;~~

(b) **Requirements.**

(1) Tank liquid level measurements are taken at the beginning and ending of the period appearing in Appendix Q, during which no liquid is added to or removed from the tank.

(2) Level measurements are based on an average of two (2) consecutive stick readings at both the beginning and ending of the period.

(3) The equipment used is capable of measuring the product over the full range of the tank's height to the nearest one-eighth inch (1/8").

(4) A leak is suspected and subject to the release reporting requirements of Subchapter 3, Part 3 of this Chapter if the variation between beginning and ending measurements exceeds the weekly or thirty (30) day standards in the table in Appendix Q.

165:25-3-6.29. Monitoring requirements for piping

Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets the following requirements:

(1) **Pressurized piping.**

(A) All underground piping that conveys regulated substances under pressure must be equipped with a mechanical or electronic line leak detector installed and operated in accordance with this Chapter.

(B) New installations and facilities replacing a piping system must have a sump sensor, float or similar mechanical device at each tank, transition, and dispenser sump. Sensors should be mounted near the bottom of the sump(s) and accessible for annual testing.

(C) New installations and facilities replacing a piping system must have double-walled piping. The interstitial area of the piping must be open inside the sumps to allow fuel to drain into the sumps in the event that a leak occurs.

(D) The underground pressure piping from the master dispenser to the satellite must be designed and installed so that the satellite piping is tested by the automatic line leak detector. An annual line tightness test is required on the satellite underground piping.

(2) **Suction piping.**

(A) Suction piping installed after July 1, 2008 must be double-walled piping. The interstitial area of the piping must be open inside the sumps to allow fuel to drain into the sumps in the event that a leak occurs.

(B) New installations and facilities replacing a piping system must have a sump sensor, float or similar mechanical device at each tank, transition, and dispenser sump. Sensors should be mounted near the bottom of the sump(s) and accessible for annual testing.

(3) **Methods of release detection for pressurized piping.** Each method of release detection for piping must be done in accordance with the following requirements.

(A) Mechanical line leak detectors and annual line tightness testing.

(i) An annual function test of the operation of the leak detector must be conducted by simulating a leak.

(ii) A hydrostatic line tightness test must be done annually by a certified tester in accordance with this ~~chapter~~Chapter.

(B) Sump sensors with automatic line leak detectors.

(i) Double walled piping with sump sensors, floats or similar mechanical devices at each sump may be used in lieu of annual line tightness testing except at marinas where a line tightness test is required by April 1st of each year.

(ii) The sump sensors, floats or other mechanical devices used must be tested annually. Sensors status and alarm history reports must be printed and retained or use an interstitial monitoring form every thirty (30) days for systems installed after July 1, 2008.

(iii) An annual function test of the operation of the leak detector must be conducted by simulating a leak.

(C) Electronic line leak detection. A certified electronic line leak detector may be used in lieu of a mechanical line leak detector and annual tightness test only if:

(i) The system is capable of detecting and tests for a leak of three (3) gallons per hour before or after each operation of the submersible turbine pump; and

(ii) The system is capable of detecting and tests for a leak of 0.2 or 0.1 gallons per hour at least once every thirty (30) days; and

(iii) The system is capable of detecting and tests for a leak of 0.1 gallons per hour annually, AND the system is function tested annually by simulating a leak, and if necessary, calibrated.

(4) **Methods of release detection for suction piping.**

(A) Safe Suction Piping. No release detection is required for suction piping installed on or prior to July 1, 2008 if it is designed and constructed to meet (i) through (iv) below:

(i) The below-grade piping operates at less than atmospheric pressure.

(ii) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released.

(iii) One (1) check valve is included in each suction line.

(iv) The check valve is located directly below and as close as is practical to the suction pump.

(B) Tri-annual Line Tightness Testing. Underground piping that conveys regulated substances under suction must have a line tightness test conducted at least every three (3) years by a certified tester.

(C) Sump sensors.

(i) Double walled piping with sump sensors, floats or similar mechanical devices at each sump may be used in lieu of tri-annual line tightness testing except at marinas where a line tightness test is required by April 1st of each year.

(ii) The sump sensors, floats or other mechanical devices used must be tested annually according to manufacturer's requirements. Sensors status and alarm history reports must be printed and retained or use an interstitial monitoring form every thirty (30) days for systems installed after July 1, 2008.

PART 3. RELEASE INVESTIGATION REQUIREMENTS

165:25-3-7.1. Release reporting

(a) The reporting requirements of this Part do not relieve the owner/operator of the responsibility to take necessary corrective action pursuant to ~~Chapter 29 of Commission rules~~OAC 165:29, to protect the public health, safety and the environment, including the containment and cleanup of spills and overfills that are not required to be reported by this Chapter.

(b) All underground storage tank system owners, operators, their employees or agents, or transporters must report to PSTD within twenty-four (24) hours of discovering any substances, conditions or monitoring results that indicate a release may have occurred using the link provided on the release reporting tab on PSTD's webpage at the OCC website, www.occeweb.com (PSTReleaseReporting@occemail.com); or by telephone at (405) 521-4683 or 1-888-621-5878. If after hours or on weekends or holidays call the PSTD emergency phone number at (405) 823-0994. Owners or operators must provide written confirmation to follow within twenty (20) days in accordance with the requirements established in this Chapter. Events indicating a release include, but are not limited to, the following:

(1) The discovery of released regulated substances at the facility or in the surrounding area (such as the presence of free product or vapors in soils, basements, crawlspaces, sewer and utility lines, and nearby surface water) whether on-site or off-site.

(2) Any unusual operating conditions observed, such as the unexplained erratic behavior of product dispensing equipment, the sudden loss of product from the underground storage tank system, an unexplained presence of water in the tank, or liquid in the interstitial space of secondarily contained systems, unless the system equipment or component is found not to be releasing regulated substances to the environment; any defective system equipment or component is immediately repaired or replaced; for secondarily contained systems any liquid in the interstitial space not used as part of the interstitial monitoring method (for example brine filled) is immediately removed.

(A) In the case of inventory control, two consecutive thirty (30) day periods where the Total Gallons

Over/Short is greater than the "Leak Check" (one percent (1%) of product sales plus 130 gallons) must be reported to PSTD within twenty-four (24) hours of the owner/operator discovering the inventory control results.

(B) Any UST system failure from a third party-certified Statistical Inventory Reconciliation (SIR) analysis must be reported to PSTD by the owner, operator, or agent within twenty-four (24) hours of discovering the failure. An immediate investigation into the cause of the failed report must be conducted and results reported to PSTD within seven (7) days.

(C) An "Inconclusive" report from an SIR analysis must be reported by the owner, operator, or agent within twenty-four (24) hours of report generation. An Inconclusive means that the UST system has failed to meet leak detection requirements for that month thirty (30) day period.

(3) An unusual level of vapors on the site that is of unknown origin. A vapor observation well reading in excess of 4,000 units/ppm from a pit containing gasoline tanks, and in excess of 1,500 units/ppm for a pit containing diesel or both gasoline and diesel, must be reported to PSTD within twenty-four (24) hours by the owner/operator, their employees, or agents discovering the monitoring results. Within ten (10) days, the owner/operator must submit to PSTD all vapor monitoring well data for the last twelve (12) thirty (30) day periods. Upon examination of the submitted data, PSTD will advise the owner/operator what action, if any, is needed.

(4) An increase in vapor levels of 500 units/ppm above background or historical levels detected by thirty (30) day monitoring, even though below the twenty-four (24)-hour reporting level, must be reported if the increase does not correct itself in the second thirty (30) day period of monitoring and it must be reported to PSTD within twenty-four (24) hours of the owner, operator, their employees, or agents discovering the monitoring results.

(5) Monitoring results, including investigation of an alarm, from a release detection method required by this Chapter that indicate a release may have occurred unless:

(A) The monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result;

(B) The leak is contained in the secondary containment and;

(i) Any liquid in the interstitial space not used as the interstitial monitoring method is immediately removed.

(ii) Any defective system equipment or component is immediately repaired or replaced.

(C) The alarm was investigated and determined to be a non-release event (for example, from a power surge or caused by filling the tank during release detection testing.

(c) While aboveground releases of petroleum of less than twenty-five (25) gallons need not be reported to PSTD, they must be recorded by the owner/operator and contained and cleaned up immediately. All of the following releases must be reported to PSTD electronically or by telephone within twenty-four (24) hours of discovery, by the owner, operator, their employees, or agents, with a written confirmation to PSTD within twenty (20) days in accordance with the requirements established in this Chapter:

(1) All known belowground releases in any quantity; for example, a release resulting from a line broken during an excavation.

(2) Any aboveground release of petroleum greater than twenty-five (25) gallons.

(3) Any aboveground release of petroleum which is less than twenty-five (25) gallons, but cannot be contained and cleaned up within twenty-four (24) hours.

(d) All owners/operators of underground storage tank systems must maintain records of all reportable and nonreportable events listed in this section sufficient to permit adequate inspection and review by PSTD. These records must be kept for three (3) years following the date of the event.

(e) If any of the possible, probable or definite release conditions set forth above are not reported within twenty-four (24) hours, the owner/operator may be subject to ~~enforcement action~~fines, Formal Enforcement Action or shutdown of operations.

(f) Any releases requiring emergency corrective action must be reported immediately to PSTD at (405) 521-4683 or 1-888-621-5878. After office hours, weekends or holidays, calls must be reported to PSTD's emergency number at (405) 823-0994.

SUBCHAPTER 8. SPECIAL REQUIREMENTS FOR UNDERGROUND STORAGE TANK SYSTEMS UTILIZED BY MARINAS

PART 11. MISCELLANEOUS SAFETY REQUIREMENTS

165:25-8-36. Fire extinguishers

(a) Each marina must ~~be provided with listed fire extinguishers that have a minimum total capacity of 40 pounds, Class B, C~~have a 40B:C fire extinguisher.

(b) A minimum of three extinguishers must be located at the fuel dock, and one or more must be located within 50 feet (50' or 15 ~~m~~meters) of each pump, dispenser, and underground fill pipe opening~~ and lubrication or service room~~.

(c) Piers that extend more than 500 feet (500'~~,~~ or ~~152 m~~) one hundred fifty-two meters (152 m) in travel distance from shore must have a Class III standpipe installed in accordance with NFPA 14, Standard for the Installation of Standpipe and Hose Systems.

(d) There must be a knife readily accessible at the fuel dock for quickly cutting mooring lines in an emergency and a push pole for shoving away a boat.

SUBCHAPTER 18. INSPECTIONS, NOTICES OF VIOLATION, ~~AND~~ FIELD CITATIONS, AND FORMAL ENFORCEMENT ACTIONS

PART 3. NOTICES OF VIOLATION, ~~AND~~ FIELD CITATIONS, AND FORMAL ENFORCEMENT ACTIONS

165:25-18-10. Notices of Violation, ~~and~~Field Citations, and Formal Enforcement Actions

The purpose of this Section is to create a procedure that allows the PSTD Fuel Specialists to issue Notices of Violation (NOVs); and for the Manager of Compliance and Inspection to issue ~~citation(s)~~ Field Citation(s) or refer to the Commission's Judicial and Legislative Services Division for Formal Enforcement Action for any violation(s) found during PSTD Fuel Specialists' onsite inspections of storage tank systems and facilities. The issuance of a Notice of Violation or ~~citation~~ Field Citation~~will~~ may allow petroleum storage tank owners and operators to ~~quickly~~promptly address and correct storage tank violation(s) before a Formal Enforcement Action is initiated.

165:25-18-11. Notices of Violation

(a) When a PSTD Fuel Specialist finds a violation of any rule, requirement or order of the Commission regarding the regulation of petroleum storage tanks, the Fuel Specialist may issue a Notice of Violation (NOV) ~~pursuant to Appendix S~~.

(1) A Notice of Violation is to alert the tank owner or operator that a violation has been found. The NOV will describe the violation and advise that further PSTD enforcement action may occur if the violation is not corrected. If the violation cannot be corrected, the violation will be referred to the PSTD Compliance and Inspection Manager or Director's designee who may initiate Formal Enforcement Action or issue a Field Citation.

(2) The NOV must explain what the offense is and how the person can correct it.

(b) Notices of Violation will state the following information:

(1) A clear description of the violation(s).

(2) A date by which the violation(s) must be corrected.

(3) The name of the PSTD Fuel Specialist issuing the NOV, along with a telephone number and address so that the tank owner or operator can ask the PSTD Fuel Specialist questions.

(c) NOV(s) are issued to the owner/operator of the storage tank facility. If the owner/operator is not present, NOV(s) can be given to store personnel.

(d) All notifications and/or correspondence will be mailed or electronically delivered to the owner and/or operator.

165:25-18-12. Re-inspection, ~~and Fine~~ Field Citation and Formal Enforcement Action

(a) On or after the date that the violation is to be corrected, a Fuel Specialist will re-inspect the storage tank facility to verify that the violation has been corrected.

(b) If the re-inspection shows that the violation has not been corrected, the Fuel Specialist may:

(1) ~~Issue a new NOV and refer~~ Refer the violation to the PSTD Compliance and Inspection Manager ~~for enforcement action~~or the Director's designee who may initiate Formal Enforcement Action or issue a Field Citation; and/or

(2) ~~The storage tank facility may be shut~~Shut down the storage tank facility pending a correction of the problem or a ~~PSTD~~ hearing on the issue.

165:25-18-13. Issuance of a Field Citation and payment of fine or hearing

(a) The storage tank owner/operator can either pay the amount of the fine as stated in the Field Citation or request ~~an evidentiary~~a hearing.

(b) The tank owner/operator will have thirty (30) days from the date the Field Citation was issued to pay the fine.

(1) A fine may be paid with cash, money order, check or electronic method approved by the ~~OCC~~Commission. Any cash payment must be made at the Commission's cashier window. All checks must be made payable to the Oklahoma Corporation Commission - Petroleum Storage Tank Division. If sending payment through the mail, a copy of the Field Citation must be sent with the payment to ensure proper credit.

(2) Payment of a fine within the thirty (30) day timeframe will not be considered ~~a plea of liability~~an agreement or disagreement with the Field Citation.

(c) If the storage tank owner/operator disagrees with the ~~citation~~Field Citation, they may appear at the Field Citation hearing at the Commission. If found guilty at the hearing, the tank owner or operator must pay the amount of the fine, as well as an administrative cost of $250.00.

(d) If a Field Citation has not been paid within ninety (90) days of being issued or within ninety (90) days of a Commission order confirming the fine, the amount of the fine will double. Refusal to comply with an order of the Commission may result in an additional fine being levied after notice and hearing in an amount as allowed by law, and shutdown of the facility for failure to pay fines.

(e) Failure of a tank owner/operator to appear at the hearing ~~will~~may result in additional enforcement action.

(f) An appeal from the hearing must be made in accordance with ~~Chapter 5 of Commission rules~~ OAC 165:5.

(g) A tank owner/operator is still responsible for following the Commission's rules regarding petroleum storage tanks regardless of paying a fine or correcting a violation.

PART 5. PENALTIES

165:25-18-19. Penalties

(a) Pursuant to 17 O.S. § 311(A), any ~~owner/operator of a regulated underground storage tank system located within the State~~person who violates any of the provisions of this Chapter ~~may~~shall be ~~issued a citation or may be subject to~~liable for

a~~an administrative penalty or~~ fine not to exceed $10,000.00 for each day that the violation continues.

(b) If the person disagrees with the violation(s) listed in the Formal Enforcement Action, they may appear at the hearing at the Commission. If found guilty at the hearing, the person must pay the amount of the fine, as well as an administrative cost of $250.00.

APPENDIX Q. MANUAL TANK GAUGING GUIDE [REVOKED]

APPENDIX Q. MANUAL TANK GAUGING GUIDE [NEW]

NOMINAL TANK CAPACITY	WEEKLY STANDARD (ONE TEST)	30-DAY STANDARD (AVERAGE OF FOUR TESTS)	LENGTH OF TIME
550 gallons or less	10 gallons	5 gallons	36 hours
1,000 gallons (Tank = 64" x 73")	9 gallons	4 gallons	44 hours
1,000 gallons (Tank = 48" x 128")	12 gallons	6 gallons	48 hours

APPENDIX S. FINE CITATIONS TABLE [REVOKED]

APPENDIX S. FIELD CITATIONS TABLE [NEW]

*Field Citation Table fine amounts will be used when Field Citations are issued, and may be used as a suggested fine amount in a Formal Enforcement Action, not to exceed the statutorily set limitations in 17 O.S. § 311(A).

Rule	Violation	Fine Amount
Registration & Permit Requirements		
165:25-1-42	Failure to register tanks within 30 days of bringing the system into service	$500
165:25-1-41 165:25-1-51	Failure to amend registration within 30 days to reflect change in ownership or tank status	$500
165:25-1-64 165:25-1-67	Failure to pay permit fees prior to due date	Not > 50% of fee
165:25-1-42	Operating a tank without a valid permit	$1,000
165:25-1-126	Failure to certify training for all operator classes, per owner not facility	$500
165:25-1-126	Second offense within 12 months Third offense thereafter, formal enforcement	$1,000
Notification Requirements		
165:25-1-41	Failure to properly identify all storage tank systems on OCC forms after second request, including a letter advising tank owner of the penalty	$1,000
165:25-1-41 165:25-1-42	Failure to provide installation information on OCC forms after second request, including a letter advising tank owner of the penalty	$1,000
165:25-1-41 165:25-1-42 165:25-1-55	Failure to notify the OCC prior to tank installation or closure	$500
165:25-1-48	Failure to report tank and line tightness test results as required	$500
165:25 165:29	Failure to submit required PSTD paperwork in the required format and timeframe	$250
	Second offense	$500
	Third offense	$750
Required Reports		
165:25-1-55	Failure to submit tank closure report within 45 days	$250
165:25-1-48 165:25-3-7.1 165:25-3-8 165:29	Failure to submit required reports pertaining to suspected release investigations and/or corrective action activities in a timely manner	$250

Rule	Violation	Fine Amount
	Second offense for same case or facility number	$500
	Third offense for same case or facility number	$750
165:25-3-6.28	Failure to maintain SIR analysis on premises every thirty (30) days	$500
General Leak Detection Requirements		
165:25-3-1	Failure to notify OCC of indicated release	$250
165:25-3-6.20 165:25-3-6.21	Failure to provide adequate release or leak detection for storage tank system (first offense)	$250
	Second offense or formal enforcement	$500
	Third offense or formal enforcement	$1,000
165:25-3-6.20 165:25-3-6.21	Failure to use an approved method of release or leak detection method for tanks	$250
165:25-2-55.1 165:25-3-6.29	Failure to use an approved method of release or leak detection monitoring for piping	$250
165:25-3-6.23 165:25-3-6.24	Failure to use a licensed technician for monitoring vapor or groundwater wells as required	$250
165:25-1-53 165:25-3-6.21	Failure to maintain records of release or leak detection monitoring	$250
165:25-1-53 165:25-1-56	Failure to maintain results of sampling, testing, or monitoring	$250
165:25-1-53 165:25-1-54	Failure to retain records of calibration, maintenance, and/or repair of release or leak detection equipment	$250
165:25-2-40 165:25-3-6.29	Failure to install or test leak detection on pressurized piping	$250
Spill Protection & Overfill Prevention		
165:25-2-39 165:25-1-57	Tank owner/operator accepting delivery into UST without spill protection	$1,000
165:25-2-39 165:25-1-57	Tank owner/operator accepting delivery into UST that does not have overfill prevention	$1,000
165:25-3-7.1	Failure to report a spill over 25 gallons	$100
165:25-3-7.1	Failure to investigate a spill over 25 gallons	$100
165:25-3-7.1	Failure to investigate an spill resulting from overfill	$100
165:25-3-7	Failure to clean up any spill or overfill	$500
Operation & Maintenance of Corrosion Protection		
165:25-2-51	Tank owner/operator accepting delivery into a UST that does not have a required corrosion protection system	$1,000
165:25-1-56	Failure to provide cathodic protection system design or suitability study	$1,000

Rule	Violation	Fine Amount
165:25-2-52 165:25-2-53 165:25-2-53.1	Failure to properly operate and maintain corrosion protection, inspect tank lining, or make necessary repairs (first offense)	$150
	Second offense or formal enforcement	$500
	Third offense or formal enforcement	$1,000
165:25-2-53	Failure to properly and/or timely test corrosion protection every 60 days	$250
165:25-1-56	Failure to maintain records of cathodic protection installation, repair, inspections or testing	$250
165:25-2-53	Failure to use a qualified cathodic protection tester to certify corrosion protection system operation at least once every 3 years (first offense)	$500
	Second offense or formal enforcement	$1,000
165:25-2-53 165:25-2-111	Failure to test cathodic protection system within 6 months of installation or repair	$250
Release Investigation		
165:25-3-7 165:25-3-7.1 165:25-3-8	Failure to conduct tightness test(s) to investigate suspected leak(s) from the storage tank system as required	$250
Temporary & Permanent Closure		
165:25-2-133	Failure to operate and maintain corrosion protection in a temporarily closed storage tank system as required	$500
165:25-2-133	Failure to provide adequate release or leak detection as required in a temporarily closed storage tank system	$250
165:25-2-133	Failure to cap and secure all storage tank related equipment for temporary closure	$250
165:25-2- 136	Failure to measure for the presence of a release before permanent closure as required	$500
165:25-2-138	Failure to maintain proper closure records	$250
165:25-2-131 165:25-2-136	Failure to use an OCC licensed UST Remover and/or Remediation Consultant	$500
165:25-5-1	Failure to upgrade UST with CP by December 1998 deadline or remove tank within 12 months of December 1998 deadline	$500/tank
Repairs Allowed		
165:25-2-36 165:25-2-111	Failure to use an OCC licensed UST Installer or repair person for installation or repair as required	$500
	Second offense (per owner, not per facility)	$1,000
165:25-2-40 165:25-2-111	Failure to perform tightness test on storage tank system after installation or repair	$300

Rule	Violation	Fine Amount
165:25-1-54	Failure to maintain repair records for operating life of storage tank	$250
Other Violations		
165:15	Misrepresentation of octane level per location	$500
	Second offense within one year	$1,000
	Third offense -- Closure and formal enforcement	$5,000
165:25-1-41 165:25-1-53 165:25-1-54	Failure to provide records upon request	$100
	Second offense or thereafter (per owner, not per facility)	$500
Administrative Penalty	Any owner/operator of a storage tank system who fails to comply with any requirement or order issued by the Commission for corrective or enforcement actions may be subject, after notice and hearing, to a fine in an amount as allowed by law.	

[OAR Docket #19-422; filed 5-30-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 26. ABOVEGROUND STORAGE TANKS

[OAR Docket #19-423]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 26. Aboveground Storage Tanks [AMENDED]
AUTHORITY:
The Commission's statutory authority is found in 17 O.S. §§ 306(12), 307, 322; 17 O.S. § 342 (Please note that this citation changed November 1, 2018, from 52 O.S. § 325); and 17 O.S. § 347 (Please note that this citation changed November 1, 2018, from 52 O.S. § 347)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on October 17, 2018.
COMMENT PERIOD:
October 16, 2018 through December 28, 2018.
PUBLIC HEARING:
January 30, 2019
ADOPTION:
January 30, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 8, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
August 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
165:26-1-31. Codes and Standards (various codes and standards updated to most current version).
INCORPORATING STANDARDS:
(1) American National Standards Institute (ANSI) Standards: American Society of Mechanical Engineers (ASME):
ASME B31.3 2016, "Process Piping."
ASME B31.4 2016, "Pipeline Transportation Systems for Liquids and Slurries."
(2) American Petroleum Institute (API) Standards:
API 653, "Tank Inspection, Repair, Alteration, and Reconstruction, 2018."
(3) National Fire Protection Association (NFPA) Standards:
Standard Number 30, 2018, "Flammable and Combustible Liquids Code."
Standard Number 30A, 2018, "Motor Fuel Dispensing Facilities and Repair Garages."
INCORPORATING RULES:
165:26-1-31
AVAILABILITY:
8:00 am to 4:30 pm, Monday through Friday at Oklahoma Corporation Commission, Office of Petroleum Storage Tank Division, 4th Floor, Jim Thorpe Office Building, 2101 N Lincoln Blvd., Oklahoma City, OK 73152-2000, 405-521-4683.
GIST/ANALYSIS:
The adopted rules add definitions for corrosion expert, formal enforcement action and important building; add the transport truck as being part of the tank system when connected to the tank; exclude ASTs containing motor oil or antifreeze located at retail lube centers as a class of tanks regulated by these rules; clarify the effective date of a variance; revoke an outdated rule; update standards to current edition; update state government financial responsibility liability; correct the name of the Indemnity Fund; require a registration form be submitted when the status of a tank system changes; require a fourteen (14) day notification for permanent tank removal or replacement; require licensee hired by an owner and/or operator submit tank closure report; clarify record-keeping timeframes; add violations not corrected may result in tank system shutdown; strike violations not corrected must result in tank system shutdown; clarify that owners will receive written explanation for tank system shutdown; clarify that anyone who removes a lock or seal is subject to enforcement; clarify that tank owner must be in compliance with rules before a lock or seal may be removed; require AST licensees to certify compliance with applicable Occupational Safety and Health Administration Hazardous Waste Operations and Emergency Response (OSHA HAZWOPER) standards; add a discipline policy for Commission licensees; correct the name of the Oklahoma Petroleum Storage Tank Consolidation Act; clarify violations subject to disciplinary action and/or fines; clarify distance requirements; require certification from a recognized program for corrosion protection testers; clarify shutoff and check valve requirements; require replacement of underground metallic product lines when a line fails due to structural failure; require prior approval for dispenser modifications; add distance requirements between a dispenser and a building for new installations; require removal of tanks, lines and ancillary equipment unless a variance is granted; establish the requirements for ASTs temporarily removed from service; require evidence of tank system integrity before returning a tank to service and submitting the test results to PSTD; require that an underground storage tank (UST) being used as an AST that is out of service for more than twelve (12) months cannot be returned to service; require removal of underground piping and ancillary equipment unless a variance is granted; add the specific Uniform Resource Locator (URL) for reporting a release; clarify release reporting requirements; establish enforcement actions may be taken when releases are not reported; adds sampling to the rules; clarify procedures for when a violation is found and that a Notice of Violation (NOV) can be issued for any PSTD rule; clarify liability fo penalties when violations occur and administrative cost; make grammatical corrections; correct statute and rule citations; update terminology; strike outdated and redundant procedures; revoke and reenact Appendix G to establish fine amounts for Field Citations and clarify that the fine amounts established for Field Citations may be used as a suggested fine amount in a formal enforcement action not to exceed the statutorily set limitations in 17 O.S. § 311
CONTACT PERSON:
Travis N. Weedn, Senior Attorney, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 N. Lincoln Blvd., P.O. Box 52000, Oklahoma City, OK 73152-2000, (405) 521-4137, t.weedn@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. PURPOSE AND DEFINITIONS

165:26-1-2. Definitions

In addition to the terms defined in 17 O.S. §§ 301 et seq., the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Aboveground storage tank" or **"AST"** means any stationary tank and individual compartments not included within the definition of a petroleum storage tank in Oklahoma Administrative Code(OAC) 165:25-1-11, which is designed to contain PSTD regulated substances without structural support of earthen material.

"Aboveground storage tank system" means an above-ground storage tank, the individual compartments, and any connected aboveground or underground piping, dispensers and associated equipment and fixtures or transport truck connected to the storage tank system.

"Agent" means a person authorized by another to act on their behalf, either out of employment or contract.

"Airports" mean landing facilities for aircraft which are routinely available for public use (whether routinely used or not). Airports as used in this Chapter do not include private airstrips or private airports.

"Ancillary equipment" means any device including, but not limited to: devices, such as piping, fittings, flanges, valves, and pumps that are used to distribute, meter, or control the flow of regulated substances to or from a petroleum storage tank.

"ATG" means automatic tank gauging.

"Backfill" is the material that is placed in piping excavation to support and separate the piping from the natural environment.

"BTEX" means benzene, toluene, ethylbenzene and xylene.

"Bulk plant" means petroleum storage tank facility where regulated substances are received by tank vessels, pipelines, tank cars, or tank vehicles and are stored or blended in mass quantities or bulk for the purpose of distributing them by a tank vessel, pipeline, tank car, tank vehicle, portable tank or other container, for wholesale or retail sale.

"Cathodic protection" means a technique designed to prevent the corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, protection can be accomplished with an impressed current system or a galvanic anode system.

"Change in service" means a change in the status of a storage tank (i.e., from currently in use to temporarily out of use); change of regulated substance that a storage tank contains.

"Commission" or **"OCC"** means the Oklahoma Corporation Commission and includes its designated agents or representatives.

"Compatible" means the ability of two (2) or more substances to maintain their respective physical properties upon contact with one another for the design life of the PST system under conditions likely to be encountered in the system.

"Construction tank" means a fuel tank used for less than twelve (12) months at a construction site.

"Corrosion expert" means an individual having the requisite knowledge, experience, certification, and training to design, install, test, and maintain corrosion protection systems.

"Division" means the Petroleum Storage Tank Division (PSTD) of the Corporation Commission.

"Emergency venting" means a construction method or device that relieves excessive internal pressure due to fire exposure.

"EPA" means the United States Environmental Protection Agency.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes but is not limited to fish hatcheries, rangeland, and nurseries with growing operations.

"Fire protected tank" means an aboveground storage tank that is listed in accordance with UL 2085, *Standard for Insulated Aboveground Tanks for Flammable and Combustible Liquids,* or an equivalent test procedure that consists of a primary tank provided with protection from physical damage and fire-resistive protection from exposure to a high-intensity liquid pool fire.

"Fire resistant tank" means a UL listed aboveground storage tank that provides fire-resistant protection from exposures to a high intensity liquid pool fire.

"Fleet and Commercial" means any facility that uses aboveground storage tanks to store regulated substances for use in its own vehicles or equipment.

"Flow-through process tank" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring or intermittent flow of material during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction to the process or for the storage of finished products or by-products from the production process.

"Formal Enforcement Action" means the process of ensuring compliance with Commission regulations, rules, orders, requirements, standards, and/or state law when a violation occurs and PSTD initiates an enforcement Complaint under the contempt procedure in OAC 165:5 Subchapter 19 to be heard at the Commission by an Administrative Law Judge or the Commissioners.

"Fund" means the Petroleum Storage Tank Indemnity Fund.

"Generation facilities" means those tanks that are permanently installed, which routinely contain fuel to be used in emergency generators in the event of a power failure.

"Impervious barrier" means a barrier of sufficient thickness, density, and composition that is impenetrable to the regulated substance, has a permeability of at least 1×10^{-6} cm/sec., and will prevent the discharge to the environment of any regulated substance for a period of at least as long as the maximum anticipated time during which the regulated substance will be in contact with the impervious material.

"Important building" means a building that is considered not expendable in an exposure fire.

"In service" means a petroleum storage tank that contains a regulated substance, and/or has a regulated substance added to or withdrawn from it.

"Licensed Environmental Consultant" means an individual who has a current license issued by PSTD to perform corrective action.

"Marina" means any fuel storage tank system located on or by the water for the purpose of fueling watercraft.

"Operator" means any person in control of or having responsibility for the daily operation of the storage tank system, whether by lease, contract, or other form of agreement. The term "operator" also includes a past operator at the time of a release, tank closure, violation of the Oklahoma Petroleum Storage Tank ~~Regulation~~Consolidation Act, or a rule promulgated thereunder, or a requirement of the Commission. In the case of a storage tank system in service/use before November 8, 1984, but no longer in service/use on that date, the last person to operate the storage tank system immediately before the discontinuation of it's service/use.

"Owner" means:

(A) In the case of a storage tank system in service/use on November 8, 1984, or brought into service/use after that date, any person who holds title to, controls, or possesses an interest in a storage tank system used for the storage, use, or dispensing of regulated substances, including the real property owner where the storage tank system is still present, the storage tank system presence is a trade fixture or improvement or both. It is not necessary that the real property owner sold, used, or stored regulated substances in, of, or from the storage tank system.

(B) In the case of a storage tank system in service/use before November 8, 1984, but no longer in service/use on that date, any person who holds title to, controls, or possesses an interest in a storage tank system immediately before the discontinuation of it's service/use. A real property owner who has a storage tank system located on their property that was taken out of service/use prior to November 8, 1984, is not considered to be a storage tank owner for any PSTD regulated purpose.

"Permanent out of use" or **"POU"** means a petroleum storage tank system that is not in service/use, does not contain regulated substances, and is not intended to be placed back in service/use.

"Pier" means dock, floating dock, and wharf.

"Positive sampling, testing, or **monitoring results"** means the results of sampling, testing or monitoring using any of the release detection methods described in this Chapter that indicate that a release from a petroleum storage tank system may have occurred.

"Private airport" means an airport used only by its owner and regulated as a fleet and commercial facility.

"Private airstrip" means a personal residential takeoff and landing facility attached to the airstrip owner's residential property and used only by the owner.

"PSTD" means Petroleum Storage Tank Division.

"Public Utility" means any entity providing gas, electricity, water, or telecommunications services for public use.

"Recalcitrant owner" means an owner/operator who is responsible for a tank system and after notice will not adhere to a PSTD enabling statute, Commission rule, requirement or order.

"Regulated substances" means antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel or aviation fuel. It does not include compressed natural gas, liquid natural gas and propane.

"Release detection" means the methodology used in determining whether a release of regulated substances has occurred from a petroleum storage tank system into the environment or into the interstitial area between the storage tank system and its secondary barrier.

"Residential tank" is a tank located on real property used primarily for dwelling purposes

"Retail facility" means a service station, convenience store or any other facility selling a PSTD regulated substance that is open to the general public.

"Sacrificial anode" means a device to reduce or prevent corrosion of a metal in an electrolyte by galvanic coupling to a more anodic metal.

"Secondary containment" means a system installed around a petroleum storage tank or system that is designed to prevent a release from migrating beyond the secondary containment system outer wall (in the case of a double-walled tank system) or excavation area (in the case of a liner or vault system) before the release can be detected. Such a system may include, but is not limited to, impervious barriers (both natural and synthetic), double walls, or vaults.

"TPH" means total petroleum hydrocarbons.

"Tampering" means willful intention in an attempt to deceive, cheat or misrepresent ~~the~~ facts to the public. Tampering also presents a risk to the environment as well as public health, safety, and welfare.

"Tank tightness testing" or **"precision testing"** means a procedure for testing a petroleum storage tank system's integrity.

"Temporary out of use" or **"TOU"** means the status of a petroleum storage tank system that has been taken out of service/use with the intent to permanently close or return to service.

"Total venting capacity" means the sum of the normal and emergency vent capacities and is determined by the wetted area of the tank as provided in Appendix I.

"Used Motor Oil" is any spent motor oil removed from a motor vehicle.

"Vault" means an enclosure consisting of four (4) walls, a floor, and a top for the purpose of containing a liquid storage tank and not intended to be occupied by personnel other than for inspection, repair, or maintenance of the vault, the storage tank or related equipment.

"Wetted area of cylindrical tank" means seventy-five percent (75%) of the total exposed area of the tank ends and shell.

"Wetted area of rectangular tank" means one hundred percent (100%) of the surface area of the bottom, sides, and ends of the tank.

"Wetted area of vertical tank" means the first thirty feet (30') above grade of the exposed shell and floor.

PART 3. SCOPE OF RULES

165:26-1-21. Overview of applicability

This Chapter will apply to owners, operators, their employees and agents of aboveground storage tanks which PSTD is authorized to regulate pursuant to 27A O.S. (Supp. 1999) § 1-3-101 (E) (5) (b) and 17 O.S. §§ 301 et seq., which gives PSTD the responsibility of regulating aboveground storage tanks that contain regulated substances, including but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, or the transport truck attached to it, whether above the ground or below~~, excluding tanks at refineries or at the upstream or intermediate shipment~~

~~points of pipeline operations, and excluding compressed natural gas whether used as a motor fuel or not~~. PSTD references the National Fire Protection Association 30 and 30A, Standard Number 30, ~~2015~~2018, "Flammable and Combustible Liquids Code" and Standard Number 30A, ~~2015~~2018, "Automotive and Marine Service Station Code". New editions of NFPA 30 and NFPA 30A supersede all previous editions.

165:26-1-22. Exclusions

(a) The following classes of aboveground storage tanks or systems are specifically excluded from all provisions of this Chapter:

(1) All tanks used in the exploration or production of oil and gas, including well service equipment and natural gas compression equipment. ~~These activities are regulated by the Commission's Oil and Gas Conservation Division.~~

(2) All mobile or temporary tanks used at construction sites.

(3) All farm and ranch tanks.

(4) All tanks used by public utilities in the generation of electric power for public use.

(5) All tanks used by manufacturers in the production of goods.

(6) Emergency generator tanks.

(7) All tanks that contain motor oil, used motor oil or antifreeze located at retail motor vehicle lubrication facilities or automotive service centers.

(b) These exclusions do not extend to permanently located fuel storage tanks used to fuel company vehicles, even though the vehicles may be driven to production or construction sites.

PART 4. ADMINISTRATIVE PROVISIONS

165:26-1-28. Variances

A variance to any provision of this Chapter may be granted by the Commission after application, notice and hearing and administrative review by staff. ~~If the application for variance is approved, no further action by applicant is necessary. If the application is denied, staff will notify applicant to proceed with notice and hearing.~~A variance is effective on the date of order issuance. Instructions on the variance process can be found at OAC 165:5-21-3.1.

165:26-1-30.2. Consultation of Petroleum Storage Tank Division [REVOKED]

~~At a tank owner's request, PSTD will confer with a tank owner planning a new installation or a reconfiguration of an existing installation to assure the tank owner of compliance.~~

PART 5. STANDARDS AND CODES

165:26-1-31. Codes and standards

(a) Specific references to documents listed below are made throughout the Aboveground Storage Tank Rules. Each of these documents or parts thereof is adopted and incorporated by reference as a standard. In the event these rules are in conflict with any of the standards set forth below, the provisions of these rules shall prevail. New editions of codes and standards supersede all previous editions. These codes and standards will be updated periodically through a formal rulemaking procedure initiated by PSTD to reflect any substantive or relevant changes. A copy is available for inspection at the Offices of the Petroleum Storage Tank Division during regular business hours.

(1) American National Standards Institute (ANSI) Standards: American Society of Mechanical Engineers (ASME):

(A) ASME B31.3 ~~2014~~2016, "Process Piping."

(B) ASME B31.4~~-2012~~ 2016, "Pipeline Transportation Systems for Liquids and Slurries."

(2) American Petroleum Institute (API) Standards:

(A) API RP 652, "Lining of Aboveground Petroleum Storage Tank Bottoms," Second Edition, April, 2014.

(B) API 1628 SET, "A Guide to the Assessment and Remediation of Underground Petroleum Releases."

(C) API 653, "Tank Inspection, Repair, Alteration, and Reconstruction, ~~Fifth Edition, 2014~~2018."

(3) American Society for Testing and Materials (ASTM) Standards: ASTM E1739-95 (2015), "Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites."

(4) National Association of Corrosion Engineers (NACE) Standards: NACE SP0169-2013, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

(5) National Fire Protection Association (NFPA) Standards:

(A) Standard Number 30, ~~2015~~2018, "Flammable and Combustible Liquids Code."

(B) Standard Number 30A, ~~2015~~2018, "Motor Fuel Dispensing Facilities and Repair Garages."

(6) Underwriter's Laboratory (UL) Standards:

(A) Standard UL142, 2006, "Steel Aboveground Tanks for Flammable and Combustible Liquids."

(B) Standard UL842, 2015, "Valves for Flammable Fluids."

(C) Standard UL971, 2011, "Nonmetallic Underground Piping for Flammable Liquids."

(7) Petroleum Equipment Institute: Publication PEI/RP 200-13, "Recommended Practices for Installation of Aboveground Storage Systems for Motor Vehicle Fueling." (2013 Edition)

(8) "Spill Prevention, Control and Countermeasure Regulation," 40 CFR 112

(b) The standards set forth in (a) of this Section are also available from the following sources:

(1) American National Standards Institute (ANSI), Thirteenth Floor; 11 West 42nd Street, New York City, New York, 10036; Telephone: (212) 642-4900.

(2) American Society of Mechanical Engineers (ASME), Three Park Ave., 23S2, New York, NY 10016-5990; Telephone (800) 843-2763.
(3) American Petroleum Institute (API), Publications and Distribution, 1220 "L" Street, N.W., Washington, D.C. 20005-4070; Telephone (202) 682-8000.
(4) American Society for Testing and Materials (ASTM), 100 Bar Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; Telephone (610) 832-9585.
(5) National Association of Corrosion Engineers (NACE), 1440 South Creek Drive, Houston, Texas 77084; Telephone (281) 492-0535.
(6) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02269-9101; Telephone (800) 344-3555.
(7) National Groundwater Association (NGWA), 601 Dempsey Road, Westeville, Ohio 43081; Telephone (614) 898-7791.
(8) Underwriter's Laboratory (UL), 333 Pfingsten Road, Northbrook, Illinois 60062; Telephone (847) 272-8800, extension 2612.
(9) Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma, 74101-2380; Telephone (918) 494-9696.

PART 6. FINANCIAL RESPONSIBILITY

165:26-1-36. Financial responsibility

(a) This Subchapter applies to owners and operators of all petroleum aboveground storage tank (AST) systems except as otherwise provided in this Section.
(b) ~~State and~~ Federal government entities whose debts and liabilities are the debts and liabilities of ~~a state or~~ the United States are exempt from the requirements of this Subchapter.
(c) The requirements of this Subchapter do not apply to owners and operators of any AST system described in 165:26-1-22, "Exclusions."
(d) If the owner and operator of a petroleum aboveground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in the event of noncompliance.
(e) An owner or operator may satisfy the requirements of this Subchapter by use of the Oklahoma Petroleum Storage Tank Indemnity Fund (ref: Okla. Stat. Title 17 § 327.3). There is a co-pay for use of this mechanism. ~~and for which compliance may be demonstrated~~Compliance may also be satisfied by use of any of the mechanisms listed in 165:26-1-37. ~~For releases that occurred before June 4, 2004 the co-pay is $5,000; for releases that occurred after June 4, 2004 the co-pay is 1% of fund expenditures not to exceed $5,000.~~

PART 7. NOTIFICATION AND REPORTING REQUIREMENTS

165:26-1-41. General reporting requirements

PSTD requires owners ~~and~~and/or operators of aboveground storage tank systems to provide information it deems necessary for the protection of human health, the environment and to assure the safety of people and property. Owners and operators must notify PSTD within thirty (30) days when their mailing address changes or when the status of the aboveground storage tank system changes. Use of the designated PSTD format is required for reporting, scheduling, tank registration, change in ownership, thirty (30) day release detection, testing, temporary change in service, permanent closure, or return to service. Owners and operators of aboveground storage tanks must notify PSTD using the PSTD scheduling form at least thirty (30) days prior to switching regulated substances containing greater than ten percent (10%) ethanol or twenty percent (20%) biodiesel using the PSTD scheduling form. These forms are available at the OCC website, PST Division webpage: www.occeweb.com, follow link to Petroleum Storage Tank Division and link to PST Compliance Forms. Failure to submit PSTD paperwork in the format established by PSTD within the timeframe required may result in enforcement action.

165:26-1-42. New tank systems

(a) Persons intending to install a new aboveground storage tank and/or new aboveground or underground piping must give PSTD notification of the installation at least forty-eight (48) hours before the tank and/or lines are to be installed by submitting the PSTD scheduling form and receiving confirmation of the scheduled installation and the Temporary Authorization for Receipt of Fuel from PSTD. If events require the owner to change the date of installation, the Division should be given forty-eight (48) hours notice of the new date. Any storage tank system permanent removal or a removal associated with replacement of tanks or lines requires at least fourteen (14) day notification prior to the removal activity.
(b) Upon receipt of the scheduling form an authorization letter giving temporary approval to receive fuel into an un-permitted tank for testing purposes only will be sent to the owner. This letter will expire ninety (90) days after the date of issuance. After the tank installation is complete, the PSTD registration form must be submitted with copies of required installation testing, photographs of the tank and piping system components before they are covered, an as-built drawing of the entire tank system, and manufacturer installation checklists within thirty (30) days. The tank owner and the AST Licensee are both responsible for timely submittal of all installation paperwork. The registration form must be approved and tank fees paid in order to receive a tank permit to dispense fuel. No regulated storage tank system can be operated without a valid permit from the Corporation Commission.
(c) Owners and AST Licensees must certify on the PSTD Registration form that the installation of tanks and piping meet the requirements of this Chapter.

PART 9. RECORDKEEPING

165:26-1-57. Tank installation, closure and removal records

(a) Owners and operators of aboveground storage tank systems must maintain records regarding the installation for the lifetime of the system; or, at the owner's option, give copies of installation records to PSTD for retention in the Division's files. Owners who have purchased systems must maintain the installation information if it is available.

(b) Owners and operators of aboveground storage tank systems must maintain records capable of demonstrating compliance with the closure and removal requirements for tanks that are temporarily taken out of service or permanently removed at operating facilities.

(c) The owner, operator or ~~the owner's representative (as directed by the owner)~~Commission licensee hired by the owner and/or operator must submit the PSTD Closure Report Form and all required attachments to PSTD within forty-five (45) days from the date the tanks are permanently closed.

PART 13. SHUTDOWN OF OPERATIONS

165:26-1-90. Shutdown of operations

(a) PSTD may close (shut down) a system:

(1) If the system poses an imminent threat to health, safety, or the environment.

(2) If the owner or operator is operating tanks for which permit fees have not been paid.

(3) If the owner or operator fails to comply with a Commission requirement or order.

(4) For failure to properly install, operate and/or maintain leak detection, spill, overfill, or corrosion equipment if the owner/operator has been issued a written Notice of Violation ("NOV") and has failed to correct the problem.

(5) Failure to protect a buried metal flexible connector from corrosion if the owner/operator has been issued a written Notice of Violation ("NOV") and has failed to correct the problem.

(6) Failure to perform, maintain, have readily available or present records for the previous twelve (12) ~~months~~thirty (30) day periods.

(7) Tampering with equipment.

(8) If a Fuel Specialist issues a Notice of Violation ("NOV") and the violation(s) is not corrected.

(b) PSTD must close (shut down) a system:

(1) If required spill prevention equipment is not installed.

(2) If required overfill protection equipment is not installed.

(3) If required leak detection equipment is not installed.

(4) If required corrosion equipment is not installed.

(5) If two inches (2") or more of water is found in the tank where conventional gasoline or diesel fuel is stored and if one-half inch (1/2") or more of water is found in the tank of gasoline blended with alcohols, E85 fuel ethanol, or diesel blended with biodiesel.

(6) If meter is found to be off in calibration by more than minus fifteen (-15) cubic inches per every five (5) gallons.

~~(7) If a Fuel Specialist issues a Notice of Violation ("NOV") and the violation(s) is not corrected.~~

(c) Only PSTD designated employees have the authority to lock or seal dispensers and/or fill pipes of any system violating subsection (a) or (b) of this Section. The PSTD employee must explain in writing to the owner or operator the reason the AST system is being locked or sealed.

(d) The PSTD "Out of Order" tag attached to each fill pipe of the tank(s) in violation shall serve to clearly identify the tank(s) as ineligible for delivery, deposit, or acceptance of product. Tank owners/operators and product deliverers are responsible for ensuring that product is not delivered into the tagged tank(s).

(e) ~~Owners, operators, or any persons~~Any person who ~~remove~~removes a lock or seal without permission from PSTD will be subject to penalties imposed by this Chapter, or formal enforcement proceedings.

(f) Upon confirmation that the AST system no longer poses an imminent threat to health, safety, or the environment, the owner and/or operator of the facility is in compliance with PSTD rules, permit fees paid, violation(s) corrected, or Commission order requirements satisfied, the authority to remove a lock or seal by the owner or operator may be obtained as follows:

(1) Written permission from the PSTD employee who placed the lock or seal on the device; coupled with written confirmation to PSTD by the person removing the lock or seal; or

(2) Verbal or written permission from the Director or Director's designee; or

(3) Application to and order of the Commission.

(g) If a facility is closed under the provisions of this Section, the owner or operator of the facility will be afforded a hearing within ten (10) days of receipt by PSTD of the owner's or operator's application for a hearing.

PART 15. LICENSING PROCEDURES

165:26-1-110. Licensing procedure for ~~aboveground storage tank licensee~~ AST Licensee

(a) Any individual who would like to become an ~~aboveground storage tank licensee~~AST Licensee must:

(1) Complete an application form.

(2) Provide sufficient proof of two (2) years' related work experience, and of active participation in the completion of three (3) aboveground storage tank handling activities, two (2) of which must be installations.

(3) Pass an examination approved by PSTD.

(4) Pay fees for applications, examinations, and licensing prior to examination and license issuance as set forth in ~~Chapter 5 of Commission rules~~OAC 165:5.

(5) Certify that they will comply with all PSTD rules and requirements for aboveground storage tanks, and applicable Occupational Safety and Health Administration

(OSHA) 29 CFR 1910.120 Hazardous Waste Operations and Emergency Response (HAZWOPER) standards.

(b) All examinations and licensing procedures must be completed within one (1) year of approval of the application. Failure to complete will result in forfeiture of fees and will require a new application and appropriate fees.

(c) Continuing education is required to maintain an AST license; this consists of four (4) hours of continuing education through a Commission approved program every year. Licensees may request to rollover a maximum of four (4) credit hours from the current year to satisfy the following year's continuing education requirements. Approval of any rollover hours will be at the discretion of PSTD after evaluating the class, course, or seminar.

(d) Any person who holds an AST license may install or remove AST systems.

165:26-1-111. Licensee disciplinary action procedure

A license issued by PSTD is a designation of competence to the public in the area of licensee expertise. PSTD is not limited to, but may use the following disciplinary action for PSTD licensees:

(1) **Informal reprimand.** The Manager of the appropriate PSTD department will call offending licensee for an informal discussion addressing the recent infraction and place a memo in the licensee's file documenting the discussion and nature of the violation.

(2) **Formal reprimand.** The Manager of the appropriate PSTD department will prepare a letter of reprimand to the licensee addressing the offense. The letter of reprimand will provide the licensee an opportunity to formally dispute alleged violation(s). The reprimand letter, licensee's response, all recourse actions following licensee rebuttal, if any, and the Manager's final decision(s) will be placed in the licensee's file and maintained by PSTD.

(3) **License suspension, revocation and/or refusal to renew a license.** If the Director elects to pursue suspension, revocation, or refusal to renew, a notice of such action will be sent to the licensee by certified mail/return receipt requested. The notice will state the date and time of the hearing scheduled before an Administrative Law Judge.

165:26-1-113. License penalties

(a) PSTD shall have the responsibility to deny, suspend, refuse to renew or revoke the license, or reprimand any licensee who is found guilty of:

(1) The practice of any fraud or deceit in obtaining a license or in performing work pursuant to this Chapter.

(2) Any gross negligence, incompetence or misconduct in installation work performed pursuant to this Chapter.

(3) Knowingly making false statements or signing false statements, certificates or affidavits to PSTD or to clients with the intention to induce payment.

(4) Aiding or assisting another person in violating any provision of this Chapter.

(5) Signing a verification statement for work performed pursuant to this Chapter which was not performed by the aboveground storage tank licensee.

(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm a customer or the public.

(7) ~~Being under indictment or convicted of a felony for any criminal offense that impacts their obligation to PSTD.~~Failure to comply with this Chapter, OAC 165:25, 165:26, 165:27, 165:29, and/or the Oklahoma Petroleum Storage Tank Consolidation Act (17 O.S. §§ 301 et seq.) may result in PSTD seeking a suspension and/or revocation of the license.

(8) ~~Failure to submit Commission required paperwork, test results, and reports in the format established by PSTD within the required timeframe may result in enforcement action.~~ Being under indictment or convicted of a felony for any criminal offense that impacts their obligation to PSTD.

(9) ~~Failure to comply with this Chapter, Chapters 25, 27, 29, the Oklahoma Petroleum Storage Tank Regulation Act (17 O.S. § 301 et seq.), and the Oklahoma Petroleum Storage Tank Release Indemnity Program will result in PSTD seeking a suspension and/or revocation of the license.~~Failure to submit Commission required paperwork, test results, and reports in the format established by PSTD within the required timeframe may result in enforcement action.

~~(10) Disciplinary action levels against PSTD licensees including but not limited to private reprimand, public reprimand, license suspension, license revocation and refusal to renew.~~

(b) ~~Prior to any license suspension, revocation, or refusal to renew, the Director of PSTD shall have the matter investigated and a report made to the Director for consideration. If the Director elects to pursue suspension, revocation, or refusal to renew, PSTD will schedule a hearing before an Administrative Law Judge and the licensee will be officially notified. The burden of substantial evidence rests upon PSTD.~~Disciplinary action levels against PSTD licensees include but are not limited to informal reprimand, formal reprimand, license suspension, license revocation and refusal to renew.

~~(c) This Section in no way exempts the licensee from having to meet other applicable requirements as set by state and federal statutes and regulations from other state and federal agencies.~~

(~~d~~c) Any licensee in violation of ~~state law,~~Commission enabling statutes, PSTD rules, requirements and/or Commission orders may be subject to disciplinary action levels mentioned above and/or fines assessed by the Commission after notice and hearing.

SUBCHAPTER 2. GENERAL REQUIREMENTS FOR ABOVEGROUND STORAGE TANK SYSTEMS

PART 1. DESIGN AND INSTALLATION

165:26-2-4. Distance to be kept around tanks

(a) The following distances, at a minimum, must be kept around aboveground storage tanks.

(1) 50 ft (15 meters) from the nearest important building ~~on the same property~~as defined by this Chapter;

(2) 50 ft (15 meters) from any fuel dispenser;

(3) 50 ft (15 meters) from the nearest side of a public way; and

(4) 100 ft (30 meters) from any property line that is or might be built upon, including the opposite side of a public way.

(b) The distances as set forth in (a) of this may be reduced by 50 percent if the tanks are fire-resistant. The distances as set forth in (a) may be further reduced if the tanks are a fire-protected type aboveground tank or tanks in vaults as per NFPA 30A-4.3.2.4.

(c) A variance may be granted for pre-existing facilities where compliance would be difficult and expensive and the current distances between tanks, property lines or dispensers pose no serious threat to people or property.

165:26-2-5.1. General spill and overfill prevention requirements

(a) Owners and operators of aboveground storage tank systems, their employees or agents, as well as those who transport regulated substances to these systems must do everything reasonably possible to ensure that releases due to spilling and overfilling do not occur.

(b) Tanks with a fill pipe must be filled through a liquid tight connection mounted inside at least a five (5) gallon spill container. A spill bucket is not required if the fill pipe is located within ~~the~~an impervious containment dike. Where an aboveground tank is filled by means of fixed piping, either a check valve and shutoff valve with a quick-connect coupling or a check valve with a dry-break coupling shall be installed in the piping at a point where connection and disconnection is made inside the spill containment between the tank and the delivery vehicle. This device shall be protected from tampering and physical damage. Tampering with equipment is ~~not permitted~~prohibited. Any violation of this section may result in ~~files~~fines, enforcement action and/or shutdown of operations.

(c) For existing aboveground storage tank systems installed after July 1, 2007 any one of the following methods must be used to prevent overfilling.

(1) High liquid level alarms with an audible or visual signal that alerts personnel when the tank reaches ninety percent (90%) capacity at a constantly attended operation or surveillance station.

(2) High liquid level pump cutoff devices set to stop flow at a predetermined container content level.

(3) Direct audible or code signal communication between the ~~container~~tank gauger and the pumping station.

(4) A fast response system for determining the liquid level of each bulk storage container such as digital computers, telepulse, or direct vision gauges. If this alternative is used a second person must be present to monitor gauges and the overall filling of the tank.

(d) For installations after October 13, 2018, a fill valve which automatically stops delivery of liquid when the tank reaches ninety-five percent (95%) capacity in addition to one of the following methods must be used to prevent overfilling.

(1) High liquid level alarms with an audible or visual signal that alerts personnel when tank reaches ninety percent (90%) capacity at a constantly attended operation or surveillance station.

(2) Direct audible or code signal communication between the ~~container~~tank gauger and the pumping station.

(3) A fast response system for determining the liquid level of each bulk storage container such as digital computers, telepulse, or direct vision gauges. If this alternative is used, a second person must be present to monitor gauges and the overall filling of the tank.

(e) Liquid level sensing devices must be tested at least annually to ensure proper operation.

(f) Means shall be provided for determining the liquid level in each tank and this means shall be accessible to the delivery operator. Tank filling shall not begin until the delivery operator has determined that the tank has sufficient available capacity (ullage).

PART 4. REQUIREMENTS FOR CORROSION PROTECTION SYSTEMS

165:26-2-42. Frequency and criteria of inspections and tests

Cathodic protection systems must be inspected for proper operation by a qualified corrosion technician in accordance with the following requirements:

(1) Cathodic protection systems must be tested within six(6) months of installation and/or repair, and at least once every three(3) years thereafter by a qualified cathodic protection tester, who can demonstrate education and experience in the measurement of cathodic protection of buried or submerged metal piping systems and metal tanks.

(2) Every sixty(60) days impressed current cathodic protection systems must be inspected by the owner or operator (or ~~owners~~owner's designated representative) to ensure that the equipment is working properly.

(3) The criteria used to determine that cathodic protection is adequate must be consistent with a code of practice developed by a nationally recognized organization, such as the National Association of Corrosion Engineers (NACE).

(4) All personnel performing cathodic protection system testing must have the required education, current corrosion certification experience, knowledge and competence to correctly perform testing services in accordance with a certified course and applicable industry standards or codes.

PART 5. PIPING

165:26-2-53. Valves on piping

(a) If a submersible pump system is used, a UL listed emergency shutoff/shear valve must be installed at each dispensing device. Both the emergency shutoff/shear valve and dispensing device shall be rigidly anchored in place.

(b) If a suction pump-type dispensing device with an air eliminator is used, and where the height of liquid in the tank may exceed the height of the suction pump, a UL listed, vacuum-actuated shutoff/shear valve or equivalent-type valve must be installed directly under each dispensing device. Both the shut off/shear valve and dispensing device shall be rigidly anchored in place. Tanks installed in below-grade vaults are not required to comply with this requirement.

(c) Manual shutoff and check valves must be equipped with a pressure-relieving device that will relieve the pressure generated by thermal expansion back to the tank. Manual shutoff valves that are normally open and only closed for maintenance do not require a pressure relieving device.

(d) Each connection to an aboveground tank through which liquid ~~can~~ normally ~~flow~~flows must be provided with an internal or an external emergency fire valve located as close as practical to the shell of the tank or submerged pump. The fill line may be equipped with a check valve made of steel or nodular iron rather than a fire valve. The steel check valve must be installed ~~upstream~~downstream of the block valve on fill lines if a fire valve is not installed.

(e) An anti-siphon or solenoid valve must be installed on each supply line according to manufacturer guidance and recognized industry standards.

(f) A manual shut off or ball valve must be installed on each supply line according to manufacturer guidance and recognized industry standards.

(g) All valves must meet the construction criteria of 165:26-2-54.

165:26-2-55. Underground piping materials

(a) All new underground product piping and ancillary equipment installed at a new facility or existing facility must have the following characteristics:

(1) Non-metallic;

(2) Double-walled;

(3) A tracer locator wire must be installed in all piping trenches; and

(4) Dispenser sumps must be installed and monitored with sensors as per 165:26-3-20.2.

(5) Piping transition sumps must be installed and monitored with sensors if the interstice area of connecting piping cannot be connected in an approved manner.

(b) Existing facilities that are replacing the lesser of twenty feet (20') or fifty percent (50%) of underground piping must upgrade pursuant to (a) of this Section. If a metallic line fails due to structural failure or corrosion, all metallic product lines at the facility must be removed, and cannot be repaired.

(c) Existing facilities that are making any alteration to a fuel island when concrete removal is required must install dispenser sumps and monitor as pursuant to 165:25-3-6.29.

(d) Existing facilities that are replacing dispensers must install dispenser sumps and monitor as pursuant to 165:25-3-6.29 if modifications are made below the dispenser cabinet.

(e) Tracer locator wire is not required to be installed in existing piping trenches containing piping which otherwise meets the requirements in subsection (a) unless the trench is opened to repair, move, or replace the piping.

(f) Existing facilities that are replacing aboveground storage tanks must replace all single walled piping per (a) of this section.

PART 9. DISPENSER REQUIREMENTS

165:26-2-91. Dispensers

(a) Liquids must be transferred from storage tanks by means of fixed pumps designed and equipped to allow control of the flow and prevent leakage or accidental discharge.

(b) Dispensing devices for Class I and Class II liquids must be listed.

(1) Existing listed or labeled dispensing devices may be modified provided the modifications made are "Listed by Report" by an approved testing laboratory or as otherwise approved by PSTD.

(2) Modification proposals must contain a description of the component parts used in the modification and the recommended methods of installation on specific dispensing devices, and they must be made available to PSTD for approval prior to installation~~upon request~~.

(c) A control must be provided that will permit the dispenser to operate only when a dispensing nozzle is removed from its bracket or normal position with respect to the dispensing device and only when the switch on this dispensing device is manually actuated. This control must also stop the dispenser when all nozzles have been returned either to their brackets or to the normal non-dispensing position.

(d) A UL listed emergency breakaway device designed to retain liquid on both sides of the breakaway point must be installed on each hose dispensing any class of liquids. These devices must be installed and maintained in accordance with the manufacturer's instructions. Where hoses are attached to a hose-retrieving mechanism, the listed emergency breakaway device must be installed between the point of attachment of the hose-retrieving mechanism to the hose and the hose nozzle valve.

(e) All gasoline, gasoline-alcohol blends, gasoline-ether blends, E85 Fuel ethanol, and M85 methanol dispensers located at retail facilities shall have a ten (10) micron or smaller nominal pore-sized filter. All biodiesel, biodiesel blends, diesel, and kerosene dispensers located at retail facilities shall have a thirty (30) micron or smaller nominal pore-sized filter.

(f) Dispensers installed after August 27, 2015, that are connected to aboveground piping must have sumps underneath the dispensers and be monitored. Dispensers that cannot meet these requirements must be in a contained area such as a dike.

(g) New dispensers installed at motor fuel facilities must be located ten feet (10') or more from any building.

PART 21. REMOVAL AND CLOSURE OF ABOVEGROUND STORAGE TANK SYSTEMS

165:26-2-210. Tank removal and closure

(a) Owners and Operators of all aboveground storage tank systems must notify the Petroleum Storage Tank Division at least fourteen(14) days prior to the removal or permanent closure of aboveground storage tanks and/or lines by submitting the PSTD scheduling form and receiving confirmation of the scheduled removal from PSTD. If events require a change in the date of removal, the Division shall be given forty-eight (48) hours notice ~~of~~prior to the new date.

(b) An authorized agent of PSTD may be present to observe the removal and to inspect the closed tank system and the surrounding environment prior to backfilling.

(c) Tanks~~,and~~ lines and ancillary equipment must be removed upon closure unless ~~PSTD~~a Commission order grants a variance.

(d) An AST Licensee must remove aboveground storage tank systems.

(e) Photos must be taken of tank(s), line(s), and soil at removal. In the event there is a hole in a tank or line, further photographic evidence is required. If tank(s), line(s) or excavated soil show evidence of a release, photos of the apparent release must be taken that indicate the release source.

165:26-2-212. Temporary removal from service

When an aboveground storage tank system is taken temporarily out of service, the owner or operator must:

(1) ~~Remove all fluid from the tank~~Drain all fluid to less than one inch (1") of residue remaining in the tank.

(2) Leave all vent lines open and functioning.

(3) Cap and secure all other lines, pumps, manways and ancillary equipment.

(4) Lock all fill caps.

(~~3~~5) Notify PSTD of a change in service on the prescribed form within thirty (30) days.

165:26-2-212.1. Requirements for returning to service

(a) All tanks out of service for more than twelve (12) months are required to be pressure and soap tested and test results submitted to PSTD before returning to service.

(~~a~~b) A tightness test must be performed by a certified tester and must be completed on the underground portion of out of service systems if more than twelve (12) months have elapsed since the last tightness test. Any system failure will require either closure or upgrade of the failed portion.

(~~b~~c) All systems out of service for more than twelve (12) months are required to meet all the requirements of this Chapter.

(d) All underground storage tanks being used as aboveground storage tanks that have been out of service for more than twelve (12) months may not be returned to service.

165:26-2-213. Permanent closure

Owners and/or operators of aboveground storage tank systems who do not intend to use the tanks for fuel storage in the future must close the tank systems after they have been out of service for more than twelve (12) months by performing the following:

(1) Empty, clean, purge and devaporize the tank of all flammable products.

(2) Separate the piping from the tank. All underground piping and ancillary equipment must be removed unless a Commission order grants a variance.

(3) Perform a site assessment pursuant to 165:26-2-214, "Assessing the site at tank closure or change in service".

(4) An AST ~~licensee~~Licensee must be on site at all times during the removal of an aboveground storage tank and/or lines.

(5) All UST's currently being used as AST's must be destroyed upon closure. A certificate of destruction must be included with the AST Closure Report and submitted to PSTD within forty-five (45) days of closure.

SUBCHAPTER 3. RELEASE PREVENTION AND DETECTION

PART 14. RELEASE REPORTING REQUIREMENTS

165:26-3-77. Release reporting

(a) The reporting requirements of this Part do not relieve the owner or operator of the responsibility to take necessary corrective action pursuant to ~~Chapter 29 of Commission rules~~OAC 165:29 to protect the public health, safety and the environment, including the containment and cleanup of spills and overfills that are not required to be reported by this Chapter. No person shall allow a confirmed or suspected release of regulated substances from an aboveground storage tank system to continue without reporting to PSTD or initiating an investigation within twenty-four (24) hours of discovery as required by this Chapter. Owners and operators of aboveground storage tank systems, as well as persons who transport regulated substances must ensure that spills and overfills do not occur.

(b) All aboveground storage tank system owners, operators, their employees or agents, or transporters must report to PSTD within twenty-four (24) hours of discovering any substances, conditions or monitoring results that indicate a release may have occurred using the link provided on the release reporting tab on PSTD's webpage at the OCC website, www.occeweb.com (PSTReleaseReporting@occemail.com); or by telephone at (405) 521-4683 or 1-888-621-5878. If after hours or on weekends or holidays call the PSTD emergency phone number at (405) 823-0994. Owners or operators must provide written confirmation to follow within twenty (20) days in accordance with the requirements established in this Chapter. Events indicating a release include, but are not limited to, the following:

(1) The discovery of released regulated substances at the aboveground storage tank system facility or in the surrounding area (such as the presence of free product or vapors in soils, basements, crawlspaces, sewer and utility lines, and nearby surface water) whether on-site or off-site.

(2) Any unusual operating conditions observed by owners, operators, their employees, or agents such as the unexplained erratic behavior of product dispensing equipment, the sudden loss of product from the above-ground storage tank system, or an unexplained presence of water in the tank, unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced.

(3) In the case of inventory control, two (2) consecutive thirty (30) day periods where the Total Gallons Over/Short is greater than the "Leak Check" (one percent (1%) of product sales plus 130 gallons) must be reported to PSTD within twenty-four (24) hours of the owner, operator, their employees, or agents discovering the inventory control results.

(4) Monitoring results from a release detection method required by this Chapter that indicate a release may have occurred unless the monitoring device is found to be defective, and is immediately repaired, recalibrated, or replaced, and additional monitoring does not confirm the initial result.

(c) While aboveground releases of petroleum of less than twenty-five (25) gallons need not be reported to PSTD, they must be recorded by the owner or operator and contained and cleaned up immediately. All of the following releases must be reported to PSTD electronically or by telephone within twenty-four (24) hours of discovery, by the owner, operator, employee, or agent, with a written confirmation to follow within twenty (20) days in accordance with the requirements established in this Chapter:

(1) All known belowground releases in any quantity; for example, a release resulting from a line broken during an excavation.

(2) Any aboveground release of petroleum greater than twenty-five (25) gallons.

(3) Any aboveground release of petroleum that is less than twenty-five (25) gallons, but cannot be contained and cleaned up within twenty-four (24) hours.

(d) All owners and/or operators of aboveground storage tank systems must maintain records of all reportable and non-reportable events listed in this section sufficient to permit adequate inspection and review by PSTD. These records must be kept for three (3) years following the date of the event.

(e) If any of the possible, probable or definite release conditions set forth in subsections (a) through (c) above are not reported within twenty-four (24) hours, the owner, operator, their employees, or agents may be subject to ~~enforcement action~~fines, Formal Enforcement Action and/or shutdown of operations.

(f) Any releases requiring emergency corrective action must be reported immediately to PSTD at (405) 521-4683 or 1-888-621-5878. After office hours, weekends or holidays, calls must be reported to PSTD's emergency number at (405) 823-0994.

SUBCHAPTER 4. INSPECTIONS, NOTICES OF VIOLATION,~~PENALTIES AND~~ FIELD CITATIONS AND FORMAL ENFORCEMENT ACTIONS

PART 1. INSPECTIONS

165:26-4-1. Owner/operator cooperation

(a) Owners and operators of regulated aboveground storage tank systems must cooperate with inspections, monitoring, sampling and testing requested by or conducted by PSTD.

(b) Upon request of PSTD, owners and operators must, at all reasonable times:

(1) Furnish information relating to the owners' or operators' storage tank facilities, the contents of those facilities, and the associated equipment connected to those facilities.

(2) Conduct monitoring or testing of storage tank facilities.

(3) Permit PSTD to have access to, and to review, inspect, and copy records relating to storage tank facilities.

165:26-4-5. Inspection for compliance

(a) All storage tank systems regulated by this Chapter must be physically inspected for compliance with the provisions of this Chapter.

(b) These inspections may include, but not necessarily be limited to:

(1) Records of installation.

(2) Records of repair and retrofit operations.

(3) Review of release containment practices.

(4) Review of release detection practices.

(5) Compliance with prior Commission orders to perform corrective action.

(6) Records of removal and closure.

(c) In addition, PSTD may perform any other inspection, testing, sampling or monitoring which is necessary to ensure compliance with this Chapter and to protect property, human health and safety and the environment.

PART 5. NOTICES OF VIOLATION, ~~WARNING~~FIELD CITATIONS, AND ~~FINE CITATIONS~~FORMAL ENFORCEMENT ACTIONS

165:26-4-15. Notices of Violation, ~~Warning~~Field Citations, and ~~Fine Citations~~Formal Enforcement Actions

The purpose of this Section is to create a procedure that allows PSTD Fuel Specialists to issue Notices of Violation (NOVs); and for the Manager of Compliance and Inspection to issue ~~citation(s)~~Field Citation(s) or refer to the Commission's

Judicial and Legislative Services Division for Formal Enforcement Action for any violation(s) found during Fuel Specialists' onsite inspections of storage tank systems and facilities. The issuance of an NOV or Field Citation will allow petroleum storage tank owners and operators to ~~quickly~~promptly address and correct the storage tank violation(s) before a Formal Enforcement Action is initiated.

165:26-4-16. Notices of Violation

(a) When a PSTD Fuel Specialist finds a violation of any rule, requirement, or order of the Commission regarding the regulation of petroleum storage tanks, the Fuel Specialist may issue a Notice of Violation ("NOV") ~~pursuant to Appendix G~~.

(1) A Notice of Violation is to alert the tank owner or operator that a violation has been found. The NOV will describe the violation, and warn that further PSTD enforcement action may occur if the violation is not corrected.

~~(2) There are some violations where a Citation will be issued to the tank owner or operator.~~

(~~3~~2) The NOV must explain what the offense is and how ~~can~~ it can be corrected.

(b) Notices of Violation will state the following information:

(1) A clear description of the violation(s).

(2) A date by which the violation(s) must be corrected.

(3) The name of the Fuel Specialist issuing the NOV, along with a telephone number and address so that the tank owner or operator can ask the Fuel Specialist questions.

(c) NOV(s) are issued to the owner or operator of the storage tank facility. If the owner/operator is not present, NOV(s) can be given to store personnel.

(d) All notifications and/or correspondence will be mailed or electronically submitted to the owner and/or operator.

165:26-4-17. Re-inspection,~~and~~ Field Citation and Formal Enforcement Actions

(a) On or after the date that the violation is to be corrected, a Fuel Specialist will re-inspect the storage tank facility to verify that the violation has been corrected.

(b) If the re-inspection shows that the violation has not been corrected, the Fuel Specialist ~~will~~may:

(1) Refer the violation to the PSTD Compliance and Inspection Manager ~~for~~or the Director's designee who may initiate~~formal enforcement action~~ Formal Enforcement Action or issue a Field Citation; and/or

(2) ~~If the storage tank facility constitutes an immediate hazard it may be shut~~Shut down the storage tank facility pending a correction of the problem or a hearing on the issue.

165:26-4-18. Issuance of a Field Citation and payment of fine or hearing

(a) The storage tank owner or operator can either pay the amount of the fine as stated in the Field Citation or request ~~an evidentiary~~a hearing.

(b) The tank owner or operator will have thirty (30) days from the date the Field Citation was issued to pay the fine.

(1) A fine may be paid with cash, a money order, ~~or~~ check or electronic method approved by the Commission. Any cash payment must be made at the Commission cashier window. All checks must be made payable to the Oklahoma Corporation Commission - Petroleum Storage Tank Division. If sending payment through the mail, a copy of the ~~citation~~Field Citation must be sent with the payment to ensure proper credit.

(2) Payment of the citation within the thirty (30) day time frame will not be considered ~~a plea of liability~~an agreement or disagreement with the Field Citation.

(c) If the storage tank owner or operator disagrees with the ~~citation~~Field Citation, ~~he or she can have a~~they may appear at the hearing at the Commission. If found guilty at the hearing, the tank owner or operator must pay the amount of the fine, as well as an administrative cost of $250.00.

~~(1) To request a hearing, the procedure as provided on the citation should be followed and must be made within seven (7) days from the date the citation was issued.~~

~~(2) PSTD will set a date for a hearing and will notify the tank owner or operator of the date and time of the hearing.~~

~~(3) If found guilty at the hearing, the tank owner or operator must pay the amount of the citation, as well as an administrative cost of $250.00.~~

(d) If a ~~citation~~Field Citation has not been paid within ninety (90) days of being issued or within ninety (90) days of a Commission order confirming the fine, the amount of the fine will double. Refusal to comply with an order of the Commission may result in ~~formal enforcement~~an additional fine being levied after notice and hearing in an amount as allowed by law, and shutdown of the facility for failure to pay fines.

(e) Failure of a tank owner or operator to appear at the hearing ~~will~~may result in additional enforcement ~~actions~~action. ~~These actions may include the addition of a larger fine and/or assessment of an administrative fee.~~

(f) An appeal from the hearing may be made in accordance with ~~Chapter 5 of Commission rules~~ OAC 165:5.

(g) A tank owner or operator is still responsible for following the Commission's rules regarding petroleum storage tanks regardless of paying a fine or correcting a violation.

PART 7. PENALTIES

165:26-4-21. Penalties

(a) Pursuant to 17 O.S. § 311(A), any ~~owner or operator of a regulated aboveground storage tank system located within the State~~ person who violates any of the provisions of this Chapter ~~may~~shall be ~~issued a citation or may be subject to~~liable for an administrative penalty or fine not to exceed $10,000.00 for each day that the violation continues.

(b) If the person disagrees with the violation(s) listed in the Formal Enforcement Action, they may appear at the hearing at the Commission. If found guilty at the hearing, the person must pay the amount of the fine, as well as an administrative cost of $250.00.

SUBCHAPTER 8. REQUIREMENTS FOR ABOVEGROUND STORAGE TANK SYSTEMS UTILIZED BY MARINAS

PART 1. GENERAL APPLICATION AND COMPLIANCE PROVISIONS

165:26-8-2. Timeframes for registration and compliance with rules

(a) Tanks that are greater than 110 gallons must be registered with PSTD. The tank and piping system must come in compliance with the rules of this Chapter and Subchapter before July 1, 2009. Compliance may be required sooner for any part of a system which poses a threat to property, people, or to the environment.

(b) All new underground piping at existing facilities must be installed in accordance with 165:26-2-55, "Underground piping materials," and with ~~165:26-3-9~~165:26-3-20.2, "Installation and monitoring requirements for underground piping."

(c) All dock or pier product piping from the shoreline to the dispensers at new facilities must be installed according to 165:26-8-40.1 "Over-water piping at marinas" and 165:26-8-40.2 "Installation requirements for over-water piping".

(d) All dock or pier product piping from the shoreline to the dispensers at existing facilities must be upgraded before the deadline date of July 1, 2009 according to 165:26-8-40.1 "Over-water piping at marinas" and 165:26-8-40.2 "Installation requirements for over-water piping".

(e) Temporary tanks may not be used at marinas.

PART 21. MISCELLANEOUS SAFETY PROVISIONS

165:26-8-88. Fire extinguishers

(a) Each marina must ~~be provided with listed fire extinguishers which have a minimum total capacity of 40 pounds, Class B, Class C~~have a 40B:C fire extinguisher.

(b) A minimum of three (3) extinguishers must be located at the fuel dock and one or more located so they will be within ~~50 ft.~~fifty feet (50'~~ 15 m~~) or fifteen meters (15 m) of each pump, dispenser, and underground fill pipe opening~~and lubrication or service room~~.

(c) Piers which extend more than ~~500 ft.~~five hundred feet (500'~~ 152 m~~) or one hundred fifty-two meters (152 m) in travel distance from shore must have a Class III standpipe installed in accordance with NFPA 14, Standard for the Installation of Standpipe and Hose Systems.

(d) There must be a knife at the fuel dock for quickly cutting mooring lines in an emergency and a push pole for shoving away a boat.

APPENDIX G. FINE CITATIONS TABLE [REVOKED]

APPENDIX G. FIELD CITATIONS TABLE [NEW]

*Field Citation Table fine amounts will be used when Field Citations are issued, and may be used as a suggested fine amount in a Formal Enforcement Action, but not to exceed the statutorily set limitations in 17 O.S. § 311(A).

Rule	Violation	Fine Amount
Registration & Permit Requirements		
165:26-1-41 165:26-1-42 165:26-1-47 165:26-2-1.1 165:26-2-212	Failure to register tanks within 30 days of bringing the system into place, or failure to amend registration to reflect changes	$500
165:26-1-70	Failure to pay AST permit fees prior to due date	Not > 50% of fee
165:26-1-42	Operating a tank without a valid permit	$1,000
165:26-2-5.1	Tank owner/operator accepting delivery into AST that does not have spill protection	$1000
165:26-2-5.1 165:26-2-40 165:26-2-41	Tank owner/operator accepting delivery into AST that does have overfill protection or a required corrosion protection system	$1,000
Notification Requirements		
165:26-1-41 165:26-1-42 165:26-1-44	Failure to identify all storage tanks on notification form after third request, including a letter advising tank owner of the penalty	$1,000
165:26-1-42 165:26-1-57	Failure to provide installation information on notification form after third request, including a letter advising tank owner of the penalty	$1,000
165:26-1-57 165:26-2-210	Failure to notify the OCC prior to AST installation or closure.	$500
165:26-1-48	Failure to report non-passing tank or line tightness test results.	$500
165:26 165:29	Failure to submit required PSTD paperwork in the required format and timeframe	$250
	Second offense	$500
	Third offense	$750
Required Reports		
165:26-1-57	Failure to submit tank closure report within 45 days	$250

Rule	Violation	Fine Amount
165:29 165:26-3-77 165:26-3-171	Failure to submit required reports pertaining to suspected release investigations and/or corrective action activities in a timely manner	$250
	Second offense for same case or facility number	$500
	Third offense for same case or facility number	$750
General Leak Detection Requirements		
165:26-3-77 165:26-3-171	Failure to notify Commission of indicated release	$250
165:26-3-19 165:26-3-20 165:26-3-20.2 165:26-20.1	Failure to provide adequate release or leak detection for storage tank system (first offense)	$250
	Second Offense	$500
165:26-3-19	Third Offense	$1,000
165:26-3-20	Failure to monitor tank(s) for releases as required	$250
165:26-3-20.1 165:26-3-20.2	Failure to use approved release or leak monitoring method for piping	$250
165:26-1-55 165:26-1-57 165:26-1-58 165:26-1-59	Failure to maintain records of release or leak detection monitoring	$250
165:26-1-56	Failure to retain records of calibration, maintenance, and repair of release or leak detection equipment	$250
165:26-3-20.2	Failure to install or inspect leak detection on pressure piping	$250
Spill & Overfill Control		
165:26-3-77	Failure to report a spill (over 25 gallons)	$100
165:26-3-171	Failure to investigate a spill (over 25 gallons)	$100
165:26-3-171	Failure to investigate an overfill spill	$100
165:26-3-77	Failure to clean up a spill	$500
165:26-3-77	Failure to clean up an overfill spill	$500

Rule	Violation	Fine Amount
Operation/Maintenance of Corrosion Protection		
165:26-2-40 165:26-2-41	Failure to properly operate and maintain corrosion protection system (first offense)	$150
	Second Offense	$500
	Third Offense	$1,000
165:26-2-42	Failure to properly test corrosion protection system	$250
165:26-1-57 165:26-1-58	Failure to maintain records of cathodic protection inspections or testing	$250
165:26-2-42	Failure to use a qualified cathodic protection tester to inspect corrosion protection system at least once every three years (first offense)	$500
	Second Offense	$1,000
165:26-1-58 165:26-2-40	Failure to provide a Cathodic Protection Design or Suitability Study	$1,000
Release Investigation & Confirmation		
165:26-1-48 165:26-3-171	Failure to conduct tightness test(s) to investigate suspected leak(s)	$250
Temporary Closure		
165:26-2-211	Failure to secure all storage tank-related equipment for temporary closure Failure to operate and maintain release or leak detection as required in a temporarily closed storage tank system	$250
Permanent Closure		
165:26-2-214	Failure to measure for the presence of a release before a permanent closure	$500
165:26-1-57	Failure to maintain proper closure records	$250
165:26-2-210	Failure to use licensed AST Remover	$500
Repairs Allowed		
165:26-2-1.1 165:26-2-191	Failure to use an AST licensee to install or repair person to repair	$500
	Second offense or thereafter by owner (per owner, not per facility)	$1000
165:26-2-42	Failure to test storage tank systems cathodic protection within 6 months of repair	$250

Rule	Violation	Fine Amount
165:26-2-8	Failure to perform tightness test on tank system after installation or repair	$300
165:26-1-56	Failure to maintain repair records for operating life of storage tank	$250
Other		
165:15-19-1	Misrepresentation of octane level per location	$500
	Second Offense within a year	$1000
	Third Offense –Closure & Hearing	$5000
165:26-1-31	Failure to follow standard codes for installation	$500
165:26-4-1	Failure to provide records upon request	$100
	Second offense or thereafter by owner (per owner, not per facility)	$500
Administrative Penalty	Any owner or operator of a storage tank who fails to comply with any order issued by the Commission for corrective or enforcement actions may be subject, after notice and hearing, to a fine in an amount as allowed by law.	

[OAR Docket #19-423; filed 5-30-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 27. INDEMNITY FUND

[OAR Docket #19-424]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
165:27-1-2. Definitions [AMENDED]
165:27-1-4. Authority [AMENDED]
Subchapter 3. Eligibility Requirements
165:27-3-1. General requirements [AMENDED]
165:27-3-2. Eligible person [AMENDED]
Subchapter 5. Qualifications for Reimbursement
165:27-5-2. Application for reimbursement [AMENDED]
Subchapter 7. Reimbursement
165:27-7-1. Reimbursable expenses [AMENDED]
165:27-7-2. Reimbursement [AMENDED]
165:27-7-9. The Pre-Approval Program [AMENDED]
165:27-7-11. Purchase order procedures [AMENDED]
Subchapter 9. Administrative Provisions
165:27-9-2. Changes to rules [AMENDED]
165:27-9-3. Notices [AMENDED]
AUTHORITY:
The Commission's statutory authority is found in 17 O.S. § 301 (Please note that this citation changed November 1, 2018, from 17 O.S. § 350); 17 O.S. §§ 306(12), 307, 322; and 17 O.S. § 342 (Please note that this citation changed November 1, 2018, from 52 O.S. § 325)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on October 17, 2018.
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May 28, 2019
EFFECTIVE:
August 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rules correct statute citations; clarify the definitions of claim and closed file; define modified eligibility; correct the name of the Oklahoma Petroleum Storage Tank Consolidation Act; clarify eligibility requirements; correct rule citations; clarify the documents required for an application to the Indemnity Fund; clarify reimbursable medical costs; strike a reimbursement limit that is statutorily set; require Indemnity Fund co-pays be paid within thirty (30) days of invoice date; clarify the Petroleum Storage Tank Division ("PSTD") will proceed with corrective action and cost recovery if co-pay is not timely paid; establish the requirements for rule changes must be in accordance with 75 O.S. §§ 250 et seq.; correct mail and delivery addresses; and make grammatical corrections.
CONTACT PERSON:
Travis Weedn, Senior Attorney, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 N. Lincoln Blvd., P.O. Box 52000, Oklahoma City, OK 73152-2000, (405)521-4137, t.weedn@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:27-1-2. Definitions

In addition to the terms defined in 17 O.S. Sections 303, ~~352,~~ and in Oklahoma Administrative Code(OAC) 165:25-1-11, 165:26-1-2, and 165:29-1-11 the following words or terms, when used in this Chapter, are the Commission's interpretation of enabling statutes and shall have the following meaning unless the context clearly indicates otherwise:

"Actual physical damage" means those damages to real and personal property directly related to corrective action performed on a release of petroleum from a Commission regulated storage tank system. Personal property damage is limited to the replacement value of the personal property less depreciation. Real property damage is limited to the lesser of the property value or diminution in property value directly associated with a release of regulated substances from a Commission regulated storage tank system. In no event will the Indemnity Fund reimburse speculative damages, inferred damages, unrealized damages or any other damages where damage costs are not actually incurred, paid, or otherwise established to the Commission's satisfaction. The burden of proof shall be upon the person seeking compensation from actual physical damages.

"Administrative Application" means an Application for eligibility and reimbursement made to the Commission by the Director of the Petroleum Storage Tank Division on behalf of an unavailable or unwilling Applicant to facilitate meeting the Program's obligation to protecting public health, safety and welfare.

"Agent" means a person authorized by another to act on their behalf, either out of employment or contract.

"Allowable Costs" means costs that are reasonable, integral and necessary to corrective action.

"Assignment of Benefits" means a written directive from the Applicant of Record instructing the PSTD Indemnity Fund to pay reimbursement directly to the named Assignee.

"Assignment of Rights" (aka "Limited Power of Attorney") means a transfer of authority granting the Assignee the legal right to act on the Assignee's behalf for specified matters.

"Associated costs" means expenses that are not integral to the corrective action and not subject to reimbursement.

"Chemicals of Concern" or **"COC"** means chemicals that may pose a threat to human health and the environment.

"Claim" or **"Claims"** means a properly submitted request for reimbursement from the Fund for an ~~SOR or~~ eligible suspicion of release ("SOR") or confirmed release case when the co-pay is paid.

"Closed file" means a file for which final resolution has been made of all invoices submitted for corrective action taken under an application for reimbursement from the Indemnity

Fund and the PSTD Technical Department deems no further corrective action is necessary.

"Commission" or **"OCC"** means the Oklahoma Corporation Commission.

"Confirmed Release" means a release of a regulated substance from a regulated storage tank system resulting in free product, contaminated soils or groundwater that exceed state action levels, organic vapor readings significantly above background levels, petroleum staining or odors or any other indication that a release has occurred that could be harmful to human health, safety or the environment and to which a PSTD case number is assigned and further corrective action is required.

"Contamination" means pollution in the native environment caused by a release of a regulated substance above action levels for that substance as set by the Commission.

"Disbursement" includes all monies, actually paid, expended, encumbered, reserved or attributable to a reimbursable event(s).

"Dispenser" means equipment, gauge(s), hose(s), nozzle(s), immediately associated pipe or fittings and other such appurtenances located aboveground and intended for dispensing PSTD-regulated substances from a tank system.

"Electronic signature" means any information in digital form that is included in or logically associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature if affixed to an equivalent paper document with the same reference to the same content.

"Eligible Person" means the party who has made application to the Indemnity Fund and met applicable criteria to become eligible to receive reimbursement on an OCC suspicion of release or confirmed release, and who has been issued an Eligibility Letter from the Indemnity Fund. An eligible person may be an impacted party or adjacent owner.

"Eligible Release" means a suspicion of release or confirmed release that qualifies for Indemnity Fund reimbursement once Fund eligibility has been determined.

"Fund" means the Petroleum Storage Tank Indemnity Fund.

"Impacted Party" means an owner whose property has been impacted by a release from an on-site or off-site petroleum storage tank system that was never owned or operated by the impacted party and who has no OCC regulatory responsibility. An Impacted Party can apply for Fund eligibility and reimbursement, and the Fund deductible is not applicable.

"Investigation" means activities taken to identify, confirm, monitor or delineate the physical extent of a release and which result in the selection of an appropriate means to remediate a release and specific design criteria for such remediation upon currently used costing programs and/or reasonable competitive bids.

"Licensed Environmental Consultant" means an individual who has a current license issued by the PSTD to perform corrective action.

"Medical injury(ies)" means actual physical injury to a person in which medical costs have been incurred in association with the diagnosis and treatment of a physical injury directly caused by corrective action performed on a release of petroleum from a Commission regulated storage tank system.

"Modified eligibility" means the eligibility process for a suspicion of release ("SOR") case in which substantial compliance review is not required and the Indemnity Fund co-payment is paid upon closure of the SOR case. In the event the SOR case becomes a confirmed release case, a substantial compliance review is required and the statutory co-payment must be remitted within 30 days of the invoice date.

"Occurrence" means the release of a PSTD regulated substance into the soil or groundwater. Each PSTD regulated substance will be treated as one (1) occurrence regardless of the composition of the substance released. Separate occurrences of the same PSTD regulated substance may be allowed if evidence establishes the PSTD regulated substance occurred in two (2) different tank system locations, are separated by time, or both.

"Operator" means any person in control of or having responsibility for the daily operation of the storage tank system, whether by lease, contract, or other form of agreement. The term "operator" also includes a past operator at the time of a release, tank closure, violation of the Oklahoma Petroleum Storage Tank ~~Regulation~~Consolidation Act, or a rule promulgated thereunder, or a requirement of the Commission. In the case of a storage tank system in service/use before November 8, 1984, but no longer in service/use on that date, the last person to operate the storage tank system immediately before the discontinuation of it's service/use.

"Owner" means:

(A) In the case of a storage tank system in service/use on November 8, 1984, or brought into service/use after that date, any person who holds title to, controls, or possesses an interest in a storage tank system used for the storage, use, or dispensing of regulated substances, including the real property owner where the storage tank system is still present, the storage tank system presence is a trade fixture or improvement or both. It is not necessary that the real property owner sold, used, or stored regulated substances in, of, or from the storage tank system.

(B) In the case of a storage tank system in service/use before November 8, 1984, but no longer in service/use on that date, any person who holds title to, controls, or possesses an interest in a storage tank system immediately before the discontinuation of it's service/use. A real property owner who has a storage tank system located on their property that was taken out of service/use prior to November 8, 1984, is not considered to be a storage tank owner for any PSTD regulated purpose.

"Pay for Performance" or **"PFP"** means a process where an environmental consulting company (Consultant) guarantees by contract that a release of a regulated substance will be remediated to Chemicals of Concern (COC) levels agreed to by the PSTD, the Consultant and tank owner/operator that are protective of human health, safety and the environment. This performance-based process encompasses several steps, but is not limited to the contract signed by an officer/owner

of the environmental consulting company, the applicant and the Administrator of the Indemnity Fund and an agreed to reasonable price. Scheduled payments are distributed only as performance-based goals are attained.

"Petroleum storage tank system" means a closed-plumbed system including storage tank(s), line(s) and dispenser(s) for a given product, e.g. a facility site can have a gasoline and a diesel system, or systems for different grades of gasoline, or even separate systems for the same grade of gasoline. It also includes a transport truck when attached to a tank system, and a used oil tank.

"PSTD" means Petroleum Storage Tank Division, or Division.

"Purchase Order" means a document submitted to PSTD online to obtain pre-approval by PSTD of a scope of work and the costs associated with the scope of work.

"Recalcitrant owner" means an owner/operator who is responsible for a tank system and after notice will not adhere to a PSTD enabling statute, Commission rule, requirement or order.

"Reimbursement" means repayment of a claim to a qualified Claimant or Assignee, or for an Administrative Application, or for such a claim submitted on behalf of a qualified Claimant, for incurred allowable costs resulting from an eligible release.

"Remedial Action Plan" means a plan implementing the required and approved remediation.

"Remediation" means the process or technique used to reduce concentration levels of regulated substances in the soil and groundwater, and/ or to reduce the presence of free product in the environment to levels that are protective of human health, safety and the environment.

"Site assessment" means a multi-step process designed to determine if a site has possibly been impacted by an amount of regulated substance(s).

"Site characterization" means a report submitted to the Commission that defines the extent of the contamination. The report should include, as a minimum, all things required by ~~Chapter 29 of Commission rules~~OAC 165:29 for such a report.

"Suspicion of Release" or **"SOR"** means preliminary investigative work to determine if a release of a regulated substance has occurred.

"Work Plan" means a proposed scope of work submitted online to implement corrective action.

165:27-1-4. Authority

17 O.S. ~~1991~~2018, §§~~350~~301 et seq. establishes the Oklahoma Petroleum Storage Tank ~~Release~~ Indemnity ~~Program~~ Fund. ~~Section 353 (A) provides that the Commission shall administer the Petroleum Storage Tank Indemnity Fund.~~

SUBCHAPTER 3. ELIGIBILITY REQUIREMENTS

165:27-3-1. General requirements

In order to qualify for reimbursement from the Fund, a person must meet the following requirements:

(1) The person must be an eligible storage tank owner or operator, property owner, adjacent property owner, or impacted party who has met applicable criteria for Fund reimbursement, to include Fund eligibility for an OCC confirmed release case, or a PSTD authorized Purchase Order for a Suspicion of Release, that does require modified eligibility. The Director of PSTD may make a formal administrative application without meeting eligibility criteria.

(2) The claimant must have incurred eligible expenses for an eligible release from an eligible tank for which reimbursement is requested.

(3) The claimant must submit properly completed forms, purchase orders, reports, and claims for reimbursement to the Fund in accordance with governing statutes, the ~~Rules~~rules of this Chapter, and ~~Chapter 29 of Commission rules~~OAC 165:25, 165:26, and 165:29 in a format established by PSTD. Failure to submit required paperwork within the required timeframe may result in an enforcement action.

(4) The release of substances must be from an eligible tank system, either present, abandoned, or formerly present at the facility where the release occurred. It is the sole duty and responsibility of the Indemnity Fund applicant to establish to the satisfaction of the PSTD that a tank system is/was formerly present, and that the tank system contains/contained regulated substances.

(5) If tanks were in service after November 8, 1984, the person who currently owns either the tank system or the property or both, where a tank system is located, is the eligible person regardless of the person never having sold, stored or otherwise owned or operated the storage tank system while the storage tank system contained regulated substances.

165:27-3-2. Eligible person

An eligible person can be any of the following who has costs incurred as the result of a confirmed eligible release from a petroleum storage tank system, who has satisfied requirements for PSTD eligibility, and has been issued an Indemnity Fund Eligibility Letter by the PSTD Director.

(1) An owner or operator of a storage tank system who fulfills the requirements of 17 O.S. ~~Sec 356~~§ 327.3 and OAC 165:25 or OAC 165:26.

(2) An owner whose property has been impacted by a release from an on-site or off-site petroleum storage tank system that was never owned or operated by the property owner and has no responsibility for the release.

(3) A town or city which has obtained assignments from the property owners to act in their stead as "eligible party" and/or be deemed an "eligible party" itself for purposes of investigation and remediation of abandoned tank sites where a release of regulated substances has occurred on the property where the tanks are or were located and/or on nearby property within the limits of a single town or

city. In any case where an abandoned petroleum storage tank system has released regulated substances ~~on to~~onto the property where tanks are located or ~~on to~~onto nearby property, within the limits of a single town or city, the city or town may obtain assignments from the property owners to act in their stead as "eligible party" and/or be deemed an "eligible party" itself for the ~~purposed~~purpose of investigation and remediation of the site(s).

(4) Adjacent property owner or impacted party.

SUBCHAPTER 5. QUALIFICATIONS FOR REIMBURSEMENT

165:27-5-2. Application for reimbursement

An application for PSTD Eligibility on a confirmed release or a suspicion of release shall be made to the Administrator of the Indemnity Fund in a format established by PSTD and at a minimum include:

(1) A properly completed "Indemnity Fund Application" with all requested information provided.

(2) A Leak Detection Data Sheet (if applicable) with supporting documents and other information verifying regulatory compliance at the time of the reporting of the release.

(3) Contract between Indemnity Fund applicant and Licensed Environmental Consultant.

(4) Damage Statement or court filed petitions alleging damages from a release of regulated substances (if applicable).

(5) Other Financial Mechanisms allowable besides the Indemnity Fund.

(6) Information deemed sufficient by PSTD staff to substantiate a claim as an impacted party or adjacent property owner and a sworn statement that no other financial mechanisms were in place at the time of discovery of the release. The eligible person must submit any and all property insurance policies to the Indemnity Fund in place at time of the release.

(7) Any other information requested by PSTD or Fund. When deemed warranted to support PSTD's charge to protect the public health, safety, and welfare, the Director of PSTD may execute an Administrative Application to the Fund on behalf of an unavailable or unwilling owner.

SUBCHAPTER 7. REIMBURSEMENT

165:27-7-1. Reimbursable expenses

The Fund may reimburse eligible persons for:

(1) Reasonable, integral and necessary costs directly related to the corrective action. These costs may include but are not limited to such items as waste disposal, soil and groundwater remediation techniques, laboratory analyses, professional services, drilling, sampling, coring, transportation, and for use of third party property, on a case by case basis, for corrective actions.

(2) Backfill on active confirmed cases.

(3) Suspicion of release, and other costs deemed investigatory in nature.

(4) Costs that are reasonable, integral and necessary.

(5) Third Party property damage costs and medical injury costs that have been paid by the eligible person as set forth in 17 O.S. ~~356~~§ 327.3(I).

(6) Reasonable, integral and necessary costs for any county, municipality or state agency imposed permit fees, disposal fees or other such fees that may be needed to further corrective actions.

165:27-7-2. Reimbursement

(a) Among other requirements an eligible person for reimbursement is required to show:

(1) Allowable costs were incurred on or after December 23, 1988.

(2) The PSTD has determined that the release or suspicion of release may pose a threat to human health or the environment.

(3) The eligible person has fully cooperated with PSTD in responding to the release.

(b) The Petroleum Storage Tank Division will reimburse from the Indemnity Fund an eligible person, with an eligible release from an eligible tank system allowable costs in excess of one percent (1%) co-pay not to exceed Five Thousand Dollars ($5,000.00) but not more than~~:~~ the statutorily set limitations on reimbursement in 17 O.S. § 327.3.

~~(1) One million five hundred thousand dollars ($1,500,000.00) per occurrence providing the storage tank is used in petroleum marketing or if the system has a throughput in excess of ten thousand (10,000) gallons per month based on annual throughput for the previous calendar year, (throughput to be established by clear and convincing documentary records that are deemed sufficient by PSTD staff) and~~

~~(A) Two million dollars ($2,000,000.00) annual aggregate for owners of one (1) to one hundred (100) storage tank systems, or~~

~~(B) Three million dollars ($3,000,000.00) annual aggregate for owners with more than one hundred (100) storage tank systems or,~~

~~(2) Five hundred thousand dollars ($500,000.00) per occurrence providing the system is not used in petroleum marketing, or if the storage tank system has a throughput of ten thousand (10,000) gallons or less per month based on annual throughput for the previous calendar year, and~~

~~(A) Two million dollars ($2,000,000.00) annual aggregate for owners of one (1) to one hundred (100) storage tank systems or,~~

~~(B) Three million dollars ($3,000,000.00) for owners with more than one hundred (100) storage tank systems.~~

(c) Indemnity Fund co-payments must be paid by the eligible person within thirty (30) days of invoice date. If the eligible person does not timely pay any Indemnity Fund co-payment within thirty (30) days of invoice date, then corrective actions

will continue and the PSTD will seek cost recovery against the eligible person after the petroleum release case closes.

(~~c~~d) Reimbursement shall not be made from the Indemnity Fund pursuant to this Section until the Indemnity Fund Program has determined that the costs for which reimbursement is requested were incurred on behalf of an eligible person, of an eligible release from an eligible tank system and were reasonable, integral and necessary.

(~~d~~e) Releases that occurred prior to June 4, 2004, shall not receive reimbursement until the Five Thousand Dollars ($5,000.00) co-pay has been prepaid or a payment arrangement concerning the co-pay has been agreed to by PSTD and significant compliance with the payment agreement is achieved.

(~~e~~f) All corrective action or assessment costs incurred shall be subject to reimbursement in accordance with unit cost pricing recommended by the Unit Cost Committee as approved by the PSTD Director and any adaptations, amendments or changes thereto.

(~~f~~g) All corrective action costs incurred shall be subject to reimbursement that is deemed allowable, fair and reasonable by the PSTD.

(~~g~~h) All purchase orders, reports, and other required paperwork must be submitted within the required timeframe in a format established by PSTD.

(~~h~~i) When the technology is available, payment of Indemnity Fund claims may be in the form of Electronic Funds Transfer ("EFT").

165:27-7-9. The Pre-Approval Program

(a) The purpose of the Pre-Approval Program is to reduce, if not eliminate, disallowances of reimbursement for costs incurred and associated with corrective action, as well as to foster a spirit of cooperation between the Licensed Environmental Consultant, PSTD and the eligible person.

(b) Parties are required to use either or both of the two (2) pre-approval processes developed by PSTD. These two (2) procedures are: Purchase Orders and Pay-For-Performance (PFP). These procedures document the agreement that all parties have reached and must comply with.

(c) An eligible person may opt out of the pre-approval program if they elect, in writing after consultation with the Administrator of the Indemnity Fund, not to participate in the pre-approval program and acknowledges in writing that the eligible person understands that all requests for reimbursement submitted without pre-approval will be subject to non-reimbursement of costs incurred which do not meet the statutory standards for reimbursement set forth in 17 O.S. §~~350~~ 327.3 et seq.

165:27-7-11. Purchase order procedures

(a) Purchase order proposals are designed for pre-approval of work that is to be performed. Purchase orders shall not be issued on work that has been completed without pre-approval.

(1) All purchase orders must use the appropriate standardized method for a particular scope of work.

(2) All purchase order requests must be submitted online within the required timeframe by the Licensed Environmental Consultant.

(3) All purchase order requests submitted will be reviewed and responded to within thirty (30) days.

(4) If the purchase order request is approved as submitted, the PSTD staff will notify the Licensed Environmental Consultant and eligible person with the assigned purchase order number and a list of the required documents that will support the completed scope of work as described in the purchase order proposal at the agreed upon price.

(5) If the purchase order request is not approved as submitted, the PSTD staff will contact the Licensed Environmental Consultant or eligible person concerning the necessary changes required or will schedule a meeting, if needed.

(A) The Licensed Environmental Consultant will then make the agreed revisions and resubmit online the final purchase order to PSTD within the required timeframe.

(B) When PSTD staff recommends revisions to the purchase order request, the Licensed Environmental Consultant or eligible person will have thirty (30) days from notification of revisions to respond and submit a final purchase order proposal. If the consultant or eligible person does not respond within thirty (30) days, the purchase proposal as originally submitted is void.

(C) Unless agreed upon by PSTD, the eligible person and the Licensed Environmental Consultant, in writing, any purchase orders that have not been completed and submitted for payment within 120 days after the scope of work completion date are null and void.

(6) In the event the Licensed Environmental Consultant, eligible person, and PSTD cannot agree upon reasonable terms, the purchase order request shall be void and the following shall apply:

(A) Work will then proceed on a Work Plan basis with documentation, as provided for in 17 O.S. §~~356(D)~~327.3(C), required for reimbursement; and

(B) Multiple submissions of purchase orders for the same or similar scopes of work will only be considered at the discretion of PSTD.

(b) Change orders must be submitted prior to performing work not included in the scope of work set forth in the approved purchase order, which will require pre-notification to and pre-approval by the Technical staff, unless the total additional costs are less than five percent (5%) of the approved purchase order. Documentation will be required to explain additional work completed and to justify additional costs. All requests for reimbursement of costs not incurred in the approved purchase order will be reviewed at the discretion of the Fund.

(c) Reimbursement format and requirements for purchase orders include the following:

(1) All scope(s) of work described in the approved purchase order must be completed in full, required reports

submitted within the required timeframe and approved by PSTD, before reimbursement is requested, unless other payment terms are pre-approved by the PSTD and set forth with specificity in the purchase order.

(2) All purchase orders being submitted for reimbursement will contain:

(A) A copy of the approved purchase order (and change order, if applicable).

(B) Required documentation.

(d) Reimbursement claims on purchase orders will be paid within thirty (30) days of receipt.

(e) The Licensed Environmental Consultant, eligible person or both may make application for an Administrative Application for hearing to determine terms and conditions of purchase order approval.

SUBCHAPTER 9. ADMINISTRATIVE PROVISIONS

165:27-9-2. Changes to rules

The adoption of this Chapter shall not preclude the PSTD from subsequently altering, amending, or changing the rules in whole or in part ~~after proper notice and hearing pursuant to Chapter 5 of Commission rules~~in accordance with 75 O.S. § 250 et seq., of the Administrative Procedures Act.

165:27-9-3. Notices

Any notices and documents required to be submitted to the Fund or PSTD shall be delivered or mailed to:

(1) ~~Mailing~~Indemnity Fund mailing address: Administrator, Petroleum Storage Tank Indemnity Fund, P.O. Box 52000, Oklahoma City, Oklahoma 73152-2000.

(2) ~~Mailing~~PSTD mailing address: Director, Petroleum Storage Tank Division, P.O. Box 52000, Oklahoma City, Oklahoma 73152-2000.

(3) Delivery address for Indemnity Fund and PSTD: ~~Petroleum Storage Tank Indemnity Fund,~~ Jim Thorpe Building, 2101 N. Lincoln Blvd., Room 480, Oklahoma City, Oklahoma 73105 (405) 521-4683.

~~(4) Delivery address: Petroleum Storage Tank Division, Jim Thorpe Building, 2101 N. Lincoln Blvd., Room 480, Oklahoma City, Oklahoma 73105 (405) 521-4683.~~

[OAR Docket #19-424; filed 5-30-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 29. CORRECTIVE ACTION OF PETROLEUM STORAGE TANK RELEASES

[OAR Docket #19-425]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
Part 1. Purpose and Statutory Authority
165:29-1-1. Purpose [AMENDED]
165:29-1-3. Authority [AMENDED]
Part 7. National Industry Codes
165:29-1-32. Incorporated codes and standards [AMENDED]
Subchapter 3. Release Prevention, Detection and Correction
Part 5. Corrective Action Requirements
165:29-3-71. General applicability; exception [AMENDED]
Part 7. Licensing Procedures for Environmental Consultants
165:29-3-90. Licensing for Environmental Consultants involved with closures and/or corrective action of releases from underground or aboveground storage tanks [AMENDED]
165:29-3-91. Licensee disciplinary action procedure [NEW]
165:29-3-92. License penalties [NEW]

AUTHORITY:
The Commission's statutory authority is found in 17 O.S. §§ 306(12), 307, 322; and 17 O.S. § 342 (Please note that this citation changed November 1, 2018, from 52 O.S. § 325)

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on October 17, 2019.

COMMENT PERIOD:
October 16, 2018 to December 28, 2018

PUBLIC HEARING:
January 30, 2019

ADOPTION:
January 30, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 8, 2019

LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:
May 28, 2019

EFFECTIVE:
August 1, 2019

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
165:29-1-32. Incorporated codes and standards (various codes and standards updated to most current version)

INCORPORATED STANDARDS:
(1) National Fire Protection Association Standards:
Standard Number 30, 2018, "Flammable and Combustible Liquids Code."
Standard Number 329, 2018, "Handling Releases of Flammable and Combustible Liquids and Gases."
(2) American Petroleum Institute Standards:
Publication 2015, 2018, "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks."
(3) Underwriter's Laboratory Standards:
Standard UL58, 2018, "Steel Underground Tanks for Flammable and Combustible Liquids."

INCORPORATING RULES:
165:29-1-32

AVAILABILITY:
8:00 am to 4:30 pm, Monday through Friday at Oklahoma Corporation Commission, Office of Petroleum Storage Tank Division, 4th Floor, Jim Thorpe Office Building, 2101 N Lincoln Blvd., Oklahoma City, OK 73152-2000, 405-521-4683.

GIST/ANALYSIS:
The adopted rules update terminology consistent with statute; clarify the authority and approval of Oklahoma's storage tank program; correct the name of the Oklahoma Petroleum Storage Tank Consolidation Act; update standards to current edition; correct rule citations; add a method to report a release; to move language regarding penalties for licensee violations to a new rule to be consistent with other rule chapters; establish a disciplinary policy; establish penalties for licensees; and make grammatical corrections.

CONTACT PERSON:
Travis N. Weedn, Senior Attorney, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 N. Lincoln Blvd., P.O. Box 52000, Oklahoma City, OK 73152-2000, (405)521-4137, t.weedn@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. PURPOSE AND STATUTORY AUTHORITY

165:29-1-1. Purpose

The purpose of this Chapter is to provide a comprehensive program for the regulation of petroleum storage tank systems in Oklahoma to prevent, contain, abate, and remove ~~pollution~~ contamination harmful to the public health, safety, welfare and the environment.

165:29-1-3. Authority

(a) 42 U.S.C.A. § 6991 et seq., ~~permits the State to submit a petroleum storage tank regulatory program for review and approval by the Administrator of~~allows Oklahoma to apply for state program approval by the United States Environmental Protection Agency ("EPA"). EPA initially approved Oklahoma's petroleum storage tank program on ~~8/12/92~~August 12, 1992 and again on March 12, 2018.

(b) 17 O.S. § 305 authorizes the ~~Oklahoma Corporation~~ Commission to administer Subtitle I of Title VI of the Solid Waste Disposal Act (42 U.S.C.A. § 6901 et seq.).

(c) 17 O.S. § 306 requires the ~~Oklahoma Corporation~~ Commission to promulgate and enforce rules to carry out the provisions of the Oklahoma Petroleum Storage Tank ~~Regulation~~Consolidation Act (17 O.S. § 301 et seq.).

(d) The ~~Oklahoma Corporation~~ Commission has jurisdiction over storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel.

PART 7. NATIONAL INDUSTRY CODES

165:29-1-32. Incorporated codes and standards

Specific references to documents listed in (1) through (13) below are made throughout this Chapter. Each of these documents or parts thereof are adopted and incorporated by reference as standards, but only to the extent that they are specifically referenced in this Chapter. These rules will supercede in any conflict between these rules and any standard. These codes and standards will be updated periodically through a formal rulemaking procedure initiated by PSTD to reflect any substantive or relevant changes.

(1) National Fire Protection Association Standards:

(A) Standard Number 30, ~~2015~~2018, "Flammable and Combustible Liquids Code."

(B) Standard Number 329, ~~2015~~2018, "Handling Releases of Flammable and Combustible Liquids and Gases."

(C) Standard Number 385, 2012, "Tank Vehicles for Flammable and Combustible Liquids."

(D) Standard Number 326, 2015, "Safeguarding of Tanks and Containers for Entry, Cleaning or Repair."

(E) Standard Number 30A, 2015, "Motor Fuel Dispensing Facilities and Repair Garages."

(2) American Petroleum Institute Standards:

(A) Recommended Practice 1615, 2011, "Installation of Underground Hazardous Substances or Petroleum Storage Systems."

(B) Recommended Practice 1632, 2002, "Cathodic Protection of Underground Storage Tank and Piping Systems."

(C) Recommended Practice 1604, R2010, "Closure of Underground Petroleum Storage Tanks, 3rd Edition."

(D) Recommended Practice 1631, 2001, "Interior Lining and Periodic Inspection of Underground Storage Tanks."

(E) Recommended Practice 1621, 2012, "Bulk Liquid Stock Control at Retail Outlets."

(F) Recommended Practice 1626, 2010, "Storing and Handling Ethanol and Gasoline - Ethanol Blends at Distribution Terminals and Service Stations."

(G) Recommended Practice 1627, 1993, "Storing and Handling of Gasoline - Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."

(H) Publication 1628, 1996, "A Guide to the Assessment and Remediation of Underground Petroleum Releases."

(I) Publication 2200, 2015, "Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines, 4th Edition."

(J) Publication 2015, ~~2014~~2018, "Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks."

(3) National Association of Corrosion Engineers:

(A) Standard Number SP0169-2013, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

(B) Standard Number SP0285-2011, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection."

(C) Standard Number SP-0286-2007, "Electrical Isolation of Cathodically Protected Pipelines."

(4) Underwriter's Laboratory Standards:

(A) Standard UL58, ~~9th Edition, 1996~~2018, "Steel Underground Tanks for Flammable and Combustible Liquids."

(B) Standard UL1316, Bulletin-2013, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures."

(C) Standard UL1746, Bulletin-2013, "External Corrosion Protection Systems for Steel Underground Storage Tanks."

(D) Standard UL567, 2014, "Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Petroleum Products and LP-Gas."

(5) Petroleum Equipment Institute PEI/RP 100 (2011 Edition), "Recommended Practices for Installation of Underground Liquid Storage Systems."

(6) Steel Tank Institute F894, ACT-100, "Specification for External Corrosion Protection of FRP Composite Underground Steel Storage Tanks 2006."

(7) Factory Mutual 1920 (2007), "Pipe Coupling and Fitting for Aboveground Fire Protection Systems."

(8) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension, Existing Steel UST by Lining Without Additional Cathodic Protection."

(9) National Groundwater Association, 1986, "RCRA Ground Water Monitoring Technical Enforcement Guidance Document (TEGD)."

(10) American Society for Testing and Materials, ASTM Designation: E 1739-95 2015, Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites."

(11) U.S. Environmental Protection Agency Office of Water, 1997, Drinking Water Advisory: Consumer Acceptability Advice on Health Effects Analysis on Methyl Tertiary-Butyl Ether (MtBE).

SUBCHAPTER 3. RELEASE PREVENTION, DETECTION AND CORRECTION

PART 5. CORRECTIVE ACTION REQUIREMENTS

165:29-3-71. General applicability; exception

(a) Every owner or operator of a petroleum storage tank system must, in response to a confirmed release from a petroleum storage tank system, comply with the requirements of this Part, with the exception of those systems excluded from regulation in ~~Chapter 25 and Chapter 26 of Commission rules~~OAC 165:25 and 165:26.

(b) All work associated with the assessment, characterization, investigation, remedial action, and closure from a release or suspected release of a regulated substance should be pre-approved by PSTD.

(c) Upon confirmation of a release, or after a release from the petroleum storage tank system is identified, the owner or operator must perform the following initial response actions:

(1) Report the release to PSTD ~~either~~using the link provided on the release reporting tab located on PSTD's webpage at the OCC website (PSTReleaseReporting@occemail.com); by telephone at 405-521-4683 or 1-888-621-5878, ~~electronic mail~~ or fax to 405-521-4945. If after hours, ~~contact~~or on weekends or holidays call the PSTD emergency number at 405-823-0994.

(2) Take immediate action to prevent any further release of the regulated substance into the environment, and prove that any system still containing fuel is tight by having a system tightness test performed.

(3) Identify and mitigate any fire, explosion, and vapor hazards.

(4) Remove free product to the extent practicable as determined by PSTD while continuing, as necessary, any actions required by this Subchapter.

(d) Any corrective action work performed at a release site must have prior documented verbal or written approval by a member of PSTD staff to be considered reimbursable by the Indemnity Fund. This requirement for pre-approval excludes required emergency spill mitigation measures. Additionally, field work associated with all corrective actions requires 48-hour (two working days excluding holidays and weekends) written notice to PSTD of scheduled field activities. Notice must be made to the PSTD staff member assigned to the case, his/her Supervisor and the PSTD Technical Manager.

PART 7. LICENSING PROCEDURES FOR ENVIRONMENTAL CONSULTANTS

165:29-3-90. Licensing for Environmental Consultants involved with closures and/or corrective action of releases from underground or aboveground storage tanks

(a) Any individual seeking a license as an Environmental Consultant involved with closures, and/or corrective action of releases from either underground or aboveground storage tank sites must complete an application form prepared by PSTD. The application form requires information regarding education, experience, knowledge of applicable state and federal regulations, industry standards and practices and references.

(b) All applicants must qualify in the following manner:

(1) Satisfy requirements of the Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120 (HAZWOPER) forty (40) hour course with eight (8) hour annual updates and the eight (8) hour supervisor course; must provide evidence of the successful completion of a PSTD approved Risk-Based Corrective Action course, seminar or school. At a minimum this course must include sixteen (16) hours of risk assessment/risk analysis and fate and transport of chemicals in the environment; eight (8) hours of which must be hands-on computer training with appropriate software; and

(2) Have seven (7) years' environmental experience with at least two (2) years' experience at regulated petroleum storage tank facilities and pass an examination, which must be taken no more frequently than once every six (6) months, authorized by the State of Oklahoma, which demonstrates knowledge of reference materials published by EPA:NWWA (Technical Enforcement Guidance Document-TEGD) and all applicable federal, state, and local regulations; or

(3) Have a four- (4-) year degree from an accredited college or university recognized by the state in Geology, Hydrology, Environmental Science, Environmental Engineering, Petroleum Engineering, Civil Engineering, Geologic Engineering or an equivalent engineering degree and at least four (4) or more years of environmental experience with at least two (2) years' experience at regulated petroleum storage tank facilities, and pass an examination approved by the PSTD. The examination will test an applicant's knowledge of industry standards, reference materials, laws and regulations, and may be taken no more frequently than once every six (6) months.

(c) Licensed Environmental Consultants are required to pay fees for applications, examinations, and certifications prior to examination and license issuance as set forth in ~~Chapter 5 of Commission rules~~ OAC 165:5.

(d) Licensed Environmental Consultants must provide proof of attending (online or in-class) eight (8) hours of PSTD approved continuing professional education courses, classes, seminars or conferences to PSTD every year. Licensees may request to rollover a maximum of eight (8) credit hours from the current year to satisfy the following year's continuing education requirements. Approval of any rollover hours will be at the discretion of PSTD after evaluating the class, conference, course, or seminar. Licensees must also provide proof of attending eight (8) hours of HAZWOPER Refresher class updates every year.

(e) Sampling, sampling at tank closures, investigations, and remediation or any other activities directed by PSTD must be under the supervision of a Licensed Environmental Consultant. All work requiring supervision by Licensed Environmental Consultants must contain a verification statement signed by the consultant in supervisory control.

(f) Licensed Environmental Consultants must supervise and/or perform work only in the areas in which they are educated and/or experienced.

~~(g) PSTD has the responsibility and for good cause shown, to deny, suspend, refuse to renew or revoke the license, or reprimand any Licensed Environmental Consultant who is found guilty of:~~

~~(1) The practice of any fraud or deceit in obtaining a license or in performing work pursuant to this Chapter.~~

~~(2) Any gross negligence, incompetence or misconduct in work performed pursuant to this Chapter.~~

~~(3) Knowingly making false statements or signing false statements, certificates or affidavits to the PSTD or to clients with the intention to induce payment.~~

~~(4) Aiding or assisting another person in violating any provision of this Chapter.~~

~~(5) Signing a verification statement for work performed pursuant to this Chapter that was not performed by the licensee.~~

~~(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm a customer or the public.~~

~~(7) Failure to comply with this Chapter, Chapters 25, 26, or 27, the Oklahoma Petroleum Storage Tank Regulation Act (17 O.S. § 301 et seq.), and the Oklahoma Petroleum Storage Tank Release Indemnity Program will result in PSTD seeking a suspension and/or revocation of the license.~~

~~(8) Being under indictment or convicted of a felony for any criminal offense that impacts their obligation to PSTD.~~

~~(9) Failure to submit required PSTD required paperwork, test results, and/or reports in the format established by PSTD within the time allowed shall result in enforcement action.~~

~~(h) Disciplinary action levels against PSTD licensees including but not limited to private reprimand, public reprimand, license suspension, license revocation and refusal to renew.~~

~~(i) Prior to any license suspension, revocation, or refusal to renew, the Director of PSTD will have the matter investigated and a report prepared for his or her consideration. If the Director elects to proceed with suspension, revocation, or refusal to renew, PSTD will schedule a hearing before an Administrative Law Judge and the licensee will be officially notified. The burden of proof of clear and convincing violations of this Chapter, applicable State law, or other rules, regulations or Commission orders rests upon PSTD.~~

~~(j) This Section in no way exempts the Licensed Environmental Consultant from having to meet other applicable requirements as set by state and federal statutes and regulations from other state and federal agencies.~~

~~(k) Any licensee in violation of state law, enabling statute, PSTD rules, requirements and/or Commission orders may be subject to fines assessed by the Commission after notice and hearing.~~

165:29-3-91. Licensee disciplinary action procedure

A license issued by PSTD is a designation of competence to the public in the area of licensee expertise. PSTD is not limited to, but may use the following disciplinary action for PSTD licensees:

(1) **Informal reprimand.** The Manager of the appropriate PSTD department will call offending licensee for an informal discussion addressing the recent infraction and place a memo in the licensee's file documenting the discussion and nature of the violation.

(2) **Formal reprimand.** The Manager of the appropriate PSTD department will prepare a letter of reprimand to the licensee addressing the offense. The letter of reprimand will provide the licensee an opportunity to formally dispute alleged violation(s). The reprimand letter, licensee's response, all recourse actions following licensee rebuttal, if any, and the Manager's final decision(s) will be placed in the licensee's file and maintained by PSTD.

(3) **License suspension, revocation and/or refusal to renew a license.** If the Director elects to pursue suspension, revocation, or refusal to renew, a notice of such action will be sent to the licensee by certified mail/return receipt requested. The notice will state the date and time of the hearing scheduled before an Administrative Law Judge.

165:29-3-92. License penalties

(a) PSTD has the responsibility to deny, suspend, refuse to renew or revoke the license, or reprimand any Licensed Environmental Consultant who is found guilty of:

(1) The practice of any fraud or deceit in obtaining a license or in performing work pursuant to this Chapter.

(2) Reckless or willful disregard, incompetence or misconduct in work performed pursuant to this Chapter.

(3) Knowingly making false statements or signing false statements, certificates or affidavits to the PSTD or to clients.

(4) Aiding or assisting another person in violating any provision of this Chapter.

(5) Signing a verification statement for work performed pursuant to this Chapter that was not performed by the licensee.

(6) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm a customer or the public.

(7) Failure to comply with this Chapter, OAC 165:25, 165:26, 165:27, and/or the Oklahoma Petroleum Storage Tank Consolidation Act (17 O.S. §§ 301 et seq.).

(8) Being under indictment or convicted of a felony for any criminal offense that impacts their obligation to PSTD.

(9) Failure to submit PSTD required paperwork, test results, and/or reports in the format established by PSTD within the time allowed may result in enforcement action.

(b) Disciplinary action levels against PSTD licensees include but are not limited to informal reprimand, formal reprimand, license suspension, license revocation and refusal to renew.

(c) Any licensee in violation of Commission enabling statutes, PSTD rules, requirements and/or Commission orders may be subject to disciplinary action levels mentioned above and/or fines assessed by the Commission after notice and hearing.

[OAR Docket #19-425; filed 5-30-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 30. MOTOR CARRIERS, PRIVATE CARRIERS AND TRANSPORTATION NETWORK COMPANIES

[OAR Docket #19-426]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Intrastate Motor Carriers
Part 1. Applying for a License
165:30-3-1. Obtaining a license [AMENDED]
165:30-3-3. License and certificate renewals [AMENDED]
Part 3. License Requirements
165:30-3-11. Insurance [AMENDED]
165:30-3-13. Deleterious Substance Transport Permit [AMENDED]
165:30-3-16. Current address requirement [AMENDED]
165:30-3-17. Markings [AMENDED]
Subchapter 6. Transportation Network Companies
Part 1. Applying for a Permit
165:30-6-1. Obtaining a permit [AMENDED]
165:30-6-5. Insurance [AMENDED]
Part 3. Conducting Operations
165:30-6-17. Current address requirement [AMENDED]
Subchapter 7. Procedural Rules
165:30-7-5. Forms [AMENDED]
165:30-7-6. Applications and requests [AMENDED]
165:30-7-11. USDOT number [AMENDED]
165:30-7-17. Insurance filing replacement [AMENDED]
Subchapter 13. Intrastate Household Goods Certificates
Part 1. Obtaining Authority
165:30-13-2. Obtaining a household goods certificate [AMENDED]
Subchapter 15. Intrastate Private Carriers
Part 3. Obtaining a Private Carrier License and License Requirements
165:30-15-4. Obtaining a license [AMENDED]
165:30-15-6. Insurance [AMENDED]
165:30-15-7. Current address requirement [AMENDED]
Subchapter 17. Hazardous Waste Transporters
Part 5. Conducting Operations
165:30-17-34. Name Changes [AMENDED]
165:30-17-35. Address changes [AMENDED]
Subchapter 19. Registration Pursuant to the International Registration Plan
165:30-19-3. Registration [AMENDED]
165:30-19-17. Temporary registration [AMENDED]
Subchapter 21. International Fuel Tax Agreement
165:30-21-5. Application for license [AMENDED]
Subchapter 25. Harvest Permits
165:30-25-1. Harvest Permits [AMENDED]
Subchapter 26. Nonconsensual Wrecker and Towing Services
Part 1. Nonconsensual Wrecker and Towing Services Rate Change Applications
165:30-26-3. Application; application package; and staff response to filed application package
Part 3. Response to Nonconsensual Towing Rate Complaints
165:30-26-12. Nonconsensual towing rate complaint resolution and contesting a Violation Notification [AMENDED]

AUTHORITY:
The Commission's statutory authority is found in the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*, and 47 O.S. § 162, 47 O.S. § 230.24, and 47 O.S. § 966.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on December 21, 2018.

COMMENT PERIOD:
December 20, 2018 to February 20, 2019

PUBLIC HEARING:
February 27, 2019

ADOPTION:
February 27, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 8, 2019

LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:
May 28, 2019

EFFECTIVE:
August 1, 2019

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
The adopted rules add a requirement for email, mailing, and physical address information to be included with a license application; add a requirement for email addresses as a form of mailing for sending notices and require notification of changes in email, mailing, and physical addresses; require email, mailing, and physical address information of corporate officers to be included with a name change request; add a requirement for notification of changes in email addresses for motor carriers; remove the requirement of

mailing a copy of a temporary registration to the Transportation Division of the Corporation Commission and add a requirement that registration fees be paid within thirty (30) days of the effective date of the temporary registration; add a requirement for email address in a harvest permit application; clarify when MCF2 is the appropriate application form; limit the number of primary and excess insurance filings that shall be approved; clarify when a deleterious substance transport permit is required in the vehicle; add two (2) new forms and clarify language regarding form TDF 2; add a provision for USDOT numbers for intrastate operations to be obtained from FMCSA online only; amend a rule to remove all references and sections concerning self- insurance certificates and limit the number of primary and excess insurance filings that shall be approved; clarify that VIN means vehicle identification number; add language regarding the lessor's responsibility to comply with CFRs; add a reprocessing fee IRP application with errors by the applicant; add language for non-expiring commercial trailer registration process; add language concerning registration for buses operating in multiple IRP jurisdictions and correct section lettering in this rule; change the time requirement for the Director to provide a response to the application from twenty-one (21) days to a reasonable time; allow the filing of exceptions to staff determinations in rate change applications for nonconsensual tow rates and add information and requirements for appealing the determination of a nonconsensual towing complaint.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), AN EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 3. INTRASTATE MOTOR CARRIERS

PART 1. APPLYING FOR A LICENSE

165:30-3-1. Obtaining a license

(a) No intrastate motor carrier shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the transportation of passengers or property for hire without first obtaining from the Commission a license as provided in this Section. A license issued under this Subchapter shall not include transportation as a motor carrier of household goods. Motor carriers of household goods must comply with Subchapter 13 of this Chapter.

(1) An applicant for a license shall file with the Commission a written application on the appropriate form prescribed by the Commission (TDF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) The application shall be assigned a personal identification number (PIN), which shall be the permanent identification number for all matters relating to authority granted therein. Any application thereafter filed to amend the license by the same applicant shall be filed in the same cause under the original PIN, and otherwise shall be governed by the provisions of this Chapter relating to an application for license. Each subsequent application shall also bear a sub-number in sequence.

(3) A license shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity.

(4) The filing of an application for a license does not of itself authorize any motor carrier operations by the applicant. Such operations are prohibited until after all requirements have been met, and a license has been issued. All requirements for compliance with this Chapter shall be met within thirty (30) days from date of receipt of a motor carrier license application by the Commission. Failure to comply will result in dismissal of the application for a license. Licenses issued shall be valid for a maximum of one year and may be renewed after application has been filed as provided by this Chapter.

(5) No license for intrastate operations shall be issued until after the applicant has provided a satisfactory USDOT safety rating or the applicant has demonstrated its ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma; has furnished proper proof of all insurance required by this Chapter and all applicable state statutes; and has purchased an appropriate number of identification devices.

(6) The application shall require the following:

(A) Name, single trade name (if any), mailing address, physical address, email address, telephone number and domicile county of the applicant.

(B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all partners, officers and/or directors listing the mailing, physical and email addresses of each.

(C) The type of operations for which the applicant is applying~~for~~.

(D) The name and address of the motor carrier's process agent in Oklahoma (if the motor carrier does not maintain its principal place of business or a terminal in Oklahoma).

(E) Declaration of its USDOT number. Motor carriers without a USDOT number must obtain a USDOT number from FMCSA or the Commission prior to a license being issued.

(F) Declaration of its USDOT safety rating and safety compliance.

(G) Declaration of size and weight compliance.

(H) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.

(I) A description of all terminal and dock facilities.

(J) Declaration the applicant is in full compliance with all other state laws, rules and regulations.

(K) Any other information the Commission deems pertinent.

(7) Every person operating under the Motor Carrier Act of 1995 and the rules of this Commission shall possess

a copy of this Chapter governing the operations of motor carriers.

(8) A motor carrier desiring to modify its license operations shall file a sub application (TDF 1). Sub applications to include hazardous materials must comply with the provisions in this Section. Sub applications to modify other types of operations shall be exempt from (5) and (6) (D) -(I) of this subsection.

(9) A copy of the current license under which a motor carrier operates shall be carried at all times in each power unit by the motor carrier.

(b) A motor carrier engaged in intercorporate hauling shall be subject to this Subchapter.

(c) Motor carrier operations, other than motor carriers of passengers, are exempt from this Subchapter when:

(1) Conducted strictly within a municipality, or

(2) Conducted by a federal, state or local government.

(d) Motor carriers of passengers shall be exempt from this Subchapter when:

(1) Operating a taxicab, as defined by 47 O.S. § 1-174, wholly within a municipality, provided the operator of the taxicab is licensed by the municipality in which business is conducted;

(2) Operating a bus, as defined by 47 O.S. § 1-105, not between two or more cities or towns, provided the operator of the bus is licensed by a municipality in which business is conducted.

(e) Applicant may be issued a provisional intrastate license not to exceed ninety (90) days from the date application is filed, provided all other requirements for the intrastate license have been met. Applicant must provide a written request for the provisional intrastate license to the Director of the Transportation Division. If the provisional intrastate license is issued, a copy of the provisional intrastate license must be carried in each vehicle operated by the Applicant.

(f) The Commission may grant or deny the motor carrier license application or may impose conditions, stipulations and limitations on the license. If the Commission deems a hearing on the application to be necessary, the hearing shall be set within thirty(30) days of receipt of a complete application.

(g) No intrastate motor carrier license shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(h) All proceedings subsequent to the application, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

165:30-3-3. License and certificate renewals

(a) Any motor carrier desiring to continue intrastate motor carrier operations as granted in its license or certificate, shall, prior to the date of license or certificate expiration~~,~~; apply for renewal by submitting the appropriate application form (TDF2 or MCF2) and all supporting documentation. Each renewal application shall be properly signed, attested to as follows:

(1) Application of sole proprietorship must be signed by owner.

(2) Application of partnership must be signed by one of the partners.

(3) Application of corporation must be signed by an officer.

(b) All intrastate motor carrier licenses and certificates issued by the Commission shall expire the same calendar month as issued, and shall be valid for a period of one (1) year.

(c) Renewal applications shall be accompanied by a filing fee as prescribed by the Commission, unless filed simultaneously with a sub application to modify operations.

(d) A renewal application may be set for hearing at the discretion of the Commission for good cause.

(e) An intrastate motor carrier desiring to renew its license or certificate should apply for renewal of its license or certificate a minimum of thirty (30) days prior to its expiration.

(f) A renewal application will not be accepted if the license or certificate has previously expired, unless the Director of the Transportation Division reviews and approves the acceptance of the application for renewal.

(g) No intrastate motor carrier license or certificate shall be renewed until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(h) No intrastate motor carrier operations shall be performed under an expired motor carrier license or certificate.

PART 3. LICENSE REQUIREMENTS

165:30-3-11. Insurance

(a) No motor carrier whose principal place of business is in Oklahoma shall conduct any operations in this State unless such operations are covered by a valid primary bond or insurance policy issued by an insurer authorized or approved by the Oklahoma Insurance Department. No motor carrier whose principal place of business is not in Oklahoma shall conduct any operations in this State unless such operations are covered by a valid bond or insurance policy issued by an insurer licensed or approved by the insurance regulatory authority of the state of their principal place of business or the Oklahoma Insurance Department. No holder of an authority shall conduct any operations before a proper certificate of insurance(s) has been filed with, and approved by the Commission. A surety bond containing all obligations provided by this Section may be substituted for an insurance policy.

(b) Every motor carrier shall file with, and must be approved by, the Commission a certificate on Form E or G certifying that there is in effect a valid bond or insurance policy covering operations in Oklahoma to protect the public against loss of life, injury, property damage, and including environmental restoration in minimum amounts, of combined single limits, for bodily injuries to, or death of all persons injured or killed in any accident, and loss or damage in any one accident to property or others (excluding cargo). Minimum liability insurance limits as set forth in 49 CFR Part 387 shall also be applicable to intrastate operations unless otherwise specified in subsections (b)(1)-(4).

(1) Motor carriers of property using vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or more:

(A) Transporting property, non-hazardous commodities or transporting hazardous waste, materials or substances not listed in 49 CFR Part 387.9 - $750,000.

(B) Transporting deleterious substances - $750,000.

(C) Transporting hazardous waste, materials, or substances- as required by 49 CFR, Part 387.9.

(2) Motor carriers of property using only vehicles with a GVWR under 10,000 pounds:

(A) Transporting commodities not listed in (B) of this paragraph- $300,000.

(B) Transporting hazardous waste, materials or substances - as required by 49 CFR Part 387.9.

(3) Motor carriers of the following types of property, materials, and products (also known or identified as restricted property) - $350,000:

(A) Sand, rock, gravel, rip-rap, aggregate or dirt.

(B) Asphaltic mixtures and similar mixtures and compositions (excluding concrete and concrete mixtures) used in road, highway and other ground surface paving.

(C) Unprocessed forestry products and by products thereof not in a finished state.

(D) Unprocessed agricultural commodities.

(E) Ordinary livestock.

(4) Motor carriers of passengers (manufacturer's designed seating capacity includes the driver):

(A) Utilizing vehicles having a seating capacity of six (6) or less passengers - $100,000.

(B) Utilizing vehicles having a seating capacity of seven (7) - nine (9) passengers - $750,000.

(C) Utilizing vehicles having a seating capacity of ten (10) to fifteen (15) passengers - $1,000,000.

(D) Utilizing vehicles having a seating capacity of sixteen (16) or more passengers $5,000,000.

(5) Motor carriers of household goods - $750,000.

(c) Every motor carrier of freight, except a motor carrier of household goods, shall be exempted from filing proof of cargo liability insurance. Every motor carrier of household goods shall file with, and be approved by, the Commission an additional certificate on Form H or J that there is in effect a valid bond or insurance policy issued by a State Insurance Department authorized provider as security required to compensate shippers or consignees for loss of or damage to property coming into the motor carrier's possession. Security in the amount of at least Five Thousand ~~($5,000)~~ Dollars ($5,000) is required to cover loss of or damage to property carried on any one motor vehicle in connection with its transportation service and in the amount of Ten Thousand Dollars ($10,000) for the loss of or damage to or aggregate of losses of or damages to property occurring at any one time and place.

(d) Motor carriers of hazardous materials or hazardous waste shall maintain a properly executed Form MCS-82 or MCS-90 in effect as required by 49 CFR 387.

(e) The Commission may by order grant authority to operate or to continue operating as a motor carrier conditional upon carrying insurance coverage in amounts larger than prescribed by (b) of this Section

(f) No certificate of insurance or surety bond filed with the Commission pursuant to this Section shall be canceled, unless the authorization to conduct operations has been canceled, except after thirty (30) days written notice made to the Commission, on Form K or L, which notice shall be effective only upon actual receipt thereof by the Commission.

(g) Insurance certificates or surety bonds may be canceled without the thirty (30) days written notice on Form K or L only when the authorization to operate has previously expired or canceled, the motor carrier provides an affidavit stating no operations have been conducted and the effective date of the cancellation notice is not before the date the cancellation notice is received in the Commission.

(h) Insurance certificates or surety bonds not properly canceled or expired shall be considered expired one (1) year after the motor carrier's authorization to operate has been canceled or expired.

(i) Insurance certificates or surety bonds approved by this Commission shall be replaced by more recent insurance certificates or surety bonds. The liability of the retiring insurer or surety shall be terminated as of the effective date of the replacement insurance certificate or surety bond provided the replacement is approved by this Commission.

(j) No certificate of insurance shall be filed with the Commission, which contains a provision to the effect that liability thereunder may be limited or avoided because of the culpability, the recklessness, or the condition of the driver of the vehicle involved or any other restriction relating to the driving or operation of the vehicle.

(k) Every certificate of insurance filed with the Commission shall provide that the public is protected from damage sustained through operations of any and all vehicles operated by the motor carrier insured, whether or not listed or identified in the policy; and that liability is not limited by the description of any particular vehicle or route which may be traveled by the motor vehicle in transporting passengers or property under the certificate or permit or license.

(l) Every certificate of insurance filed with the Commission shall be executed by an officer or authorized agent of the insurance company; and if executed by an agent, a copy of his written authority or power of attorney to execute the same shall be attached to the certificate.

(m) When insurance is provided by more than one insurer in order to aggregate security limits for motor carriers, a separate insurance certificate and endorsement is required of each insurer. For each motor carrier, no more than one primary insurance filing and no more than two excess insurance filings shall be approved.

(n) Every motor carrier shall maintain in force at all times all insurance required by state laws and by this Section. Failure for any cause to maintain any required insurance in force shall automatically and without notice suspend the license or authority of a motor carrier until proper insurance is filed.

(o) Whenever the license or authority of a motor carrier is suspended for failure to maintain in force insurance required by this Section, the carrier must file, within sixty (60) days after commencement of the suspension, proper certificate(s) of insurance as provided in this Section and a sufficient showing, by affidavit or otherwise, that no operations were conducted during the period that insurance was not in force (TDF 18).

(p) Whenever a motor carrier fails to provide proper certificates of insurance within sixty (60) days after suspension thereof as provided in this Section, the motor carrier's certificate or permit, license, or other authority shall be canceled by operation of law, and without notice. A certificate or permit, license, or other authority so canceled shall not be reinstated or otherwise made operative except upon proper showing, at a hearing, that the motor carrier was actually covered by proper insurance during the suspension or cancellation period, and that failure to file with the Commission was not due to the motor carrier's own negligence.

(q) Any motor carrier conducting operations under a suspended or canceled authority~~,~~ shall not be eligible to apply for a new authority for a period of not less than one hundred eighty (180) days. The one hundred eighty (180) day period shall be determined by either the date insurance on file expires or the date a violation is discovered, whichever occurrence is later.

(r) A person may not require indemnification from a motor carrier as a condition to the following:

(1) The transportation of property by the motor carrier.

(2) Entrance onto property by the motor carrier for the purpose of loading, unloading or transporting property.

(3) Subsection (r)(2) of this Section does not apply to a claim arising from damages or losses from the wrongful or negligent act or omission of the motor carrier.

(s) Insurance filings and cancellation notices required by this Chapter may be accepted electronically as set forth by the Transportation Division. Electronic insurance filings and cancellations shall be held to the same standard and carry the same force and effect as if accepted through traditional paper filings.

(t) Insurance companies or their underwriters desiring a hard copy of an approved or disapproved insurance filing or insurance cancellation must submit the insurance filing or insurance cancellation in duplicate and additionally provide a self-addressed stamped envelope.

165:30-3-13. Deleterious Substance Transport Permit

(a) No person, motor carrier or private carrier shall transport any deleterious substance(s) in any quantity over twenty (20) gallons, without a Deleterious Substance Transport Permit (DSTP), to be issued by the Commission. A DSTP is required for soils contaminated by deleterious substances unless exempted under subsection (b) of this Section. The DSTP shall be required in addition to a motor carrier license as prescribed by this Chapter, when required.

(b) A DSTP is not required when:

(1) Transporting deleterious substances to be applied to land pursuant to a soil farming permit. A valid copy of the soil farming permit must be carried in the vehicle at the time of transportation; or,

(2) Transporting contaminated soil which surrounded a leaking underground storage tank or a leaking pipeline when such soil is being transported to and can be legally disposed of in a landfill permitted by the Oklahoma Department of Environmental Quality.

(c) No person, motor carrier or private carrier shall dump, disperse or otherwise release deleterious liquids or substances described herein upon a public highway, on private property, or at any place except as authorized by law.

(d) No motor vehicle used to transport salt water or other deleterious substances shall be equipped with a release device which can be operated in any manner from within the cab of any motor vehicle.

(e) The Commission may issue the permit upon applicant fulfilling all requirements. If issued, a copy of the permit must be carried in each motor vehicle transporting a deleterious substance~~at all time~~. Motor carriers must maintain valid liability insurance on file with this Commission in accordance with OAC 165:30-3-11. Failure to do so shall subject the permit to revocation.

(f) Notice of the application and hearing thereon shall not be required, unless the Commission shall so direct.

(g) Every person, motor carrier or private carrier holding a DSTP or transporting deleterious substances not requiring a DSTP pursuant to subsection (b) of this Section, shall maintain an accurate register in numerical order at the principal place of business and retain for inspection by Commission personnel at all times. The register shall consist of the shipping document or criteria as provided in (g) of this Section.

(h) Every vehicle transporting deleterious substances, whether under a DSTP or pursuant to subsection (b) of this Section, shall carry an individual shipping document for each load containing the information as follows:

(1) Vehicle identification

(2) Driver name

(3) Shipper name

(4) Legal description of the origin of the load

(5) Volume and description of substance

(6) Legal description of the destination of the load

(i) The shipping documentation may be transferred to the register. The register shall be maintained in numerical order by the permit holder and retained for inspection by Commission personnel at all times.

(j) Failure to maintain and preserve the records provided herein shall be grounds for revocation of the permit.

165:30-3-16. Current address requirement

(a) Any notice required by law, the Commission's Rules of Practice, OAC 165:5, or this Chapter to be served upon or mailed to any holder of a certificate, permit or license shall be delivered or mailed to the last known mailing or email address as reflected by the records of the Commission. It is the duty of every holder of a certificate, permit or license to notify the Transportation Division by specific written request (TDF 17) of any change in the mailing, physical or email address of the principal place of business and mailing address thereof.

(b) Any non-resident motor carrier who has not filed a written designation of service agent with the Commission shall be

deemed to have designated the Secretary of State of Oklahoma for the purpose of service of process by the Commission.

(c) Where such notice is required by law, Commission's Rules of Practice, OAC 165:5, or this Chapter is returned undeliverable, it will be grounds for revocation of the certificate, permit or license.

165:30-3-17. Markings

(a) Every intrastate motor carrier shall obtain and display a USDOT number.

(b) Each motor vehicle operated by a motor carrier shall be properly marked. The markings shall be in compliance with the Federal Motor Carrier Safety Regulations, 49 CFR Part 390.21 (b)-(d). A motor carrier vehicle operating under a DBA or trade name must first list the DBA or trade name on the carrier's operating authority.

(c) If the motor carrier's USDOT number is designated as intrastate only, the letters OK must follow the carrier identification number.

(d) A carrier shall immediately notify the Commission when filing changes on a USDOT identification report (MCS-150). This notification shall occur when a carrier updates its USDOT identification report (MCS-150) resulting in a change in name, dba, mailing, physical or email address, interstate to intrastate classification, intrastate to interstate classification, or any other modification that may affect the carrier's intrastate authority or permits issued by the Commission.

(e) In the event a power unit is transferred or sold by a motor carrier, the carrier is responsible for removing the markings from the unit.

SUBCHAPTER 6. TRANSPORTATION NETWORK COMPANIES

PART 1. APPLYING FOR A PERMIT

165:30-6-1. Obtaining a permit

(a) No Transportation Network Company ("TNC") shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the transportation of passengers for hire without the TNC first obtaining from the Commission a permit as provided in this Subchapter. A permit issued under this Subchapter shall not constitute authorization to conduct operations as a for-hire motor carrier or as a private carrier.

(1) An applicant for a permit shall file with the Commission a written application on the appropriate form prescribed by the Commission (TDF 29), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) A permit shall be issued only to an individual, a corporation, a limited liability company, a partnership or other legally recognized entity and shall be personal to the holder thereof.

(3) The filing of an application for a permit does not authorize any TNC operations by the applicant. Such operations are prohibited until after all requirements have been met, and a permit has been issued. All requirements for compliance with this Chapter must be met within thirty (30) days from date of receipt of a TNC permit application by the Commission. The Transportation Division Director may extend the thirty (30) day period upon request by a TNC for good cause shown. Failure to comply will result in dismissal of the application for a permit. Permits issued shall be valid for a maximum of one (1) year and may be renewed after application has been filed and all requirements met as provided by this Chapter.

(4) The application shall require the following:

(A) Name, single trade name (if any), mailing address, physical address, email address, telephone number and domicile county of the applicant.

(B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all partners, officers and/or directors listing the mailing, physical and email addresses of each.

(C) The name and address of the TNC's process agent in Oklahoma.

(D) Name of the TNC's Digital Network and sources from which it can be accessed.

(E) Screenshots of items, or other information deemed acceptable by the Commission, that are required by the Oklahoma Transportation Network Company Services Act to be on the Digital Network.

(F) Copies of policies required by the Oklahoma Transportation Network Company Services Act.

(G) Declaration that the applicant is in full compliance with all other state laws, federal laws, rules and regulations.

(H) Any other information the Commission deems pertinent.

(5) Every TNC operating under the rules of this Commission shall possess a copy of this Chapter.

(b) The Commission may grant or deny the TNC permit application or may impose conditions, stipulations and limitations on the permit consistent with the requirements of the Oklahoma Transportation Network Company Services Act. If the Commission deems a hearing on the application to be necessary, the hearing shall be set within thirty (30) days of receipt of a complete application.

(c) No TNC permit shall be issued to an applicant until all outstanding fines or judgments due the Commission or other Oklahoma state agencies have been satisfied.

(d) All proceedings subsequent to the application, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

165:30-6-5. Insurance

(a) No TNC shall conduct any operations in this State unless such operations are covered by a valid insurance policy issued by an insurer authorized or approved by the Oklahoma Insurance Department. No holder of a TNC permit shall conduct any operations before a proper certificate of insurance(s) has been filed with, and approved, by the Commission.

(b) Every TNC shall file with the Commission a certificate on form TDF 30 certifying that there is in effect insurance coverage as set forth in the Oklahoma Transportation Network Company Services Act.
(c) No certificate of insurance filed with the Commission pursuant to this Section shall be canceled, unless the authorization to conduct operations has been canceled, except after thirty (30) days written notice made to the Commission, on form TDF 31, which notice shall be effective only upon actual receipt thereof by the Commission.
(d) Insurance certificates may be canceled without the thirty (30) days written notice on form TDF 31 only when the authorization to operate has previously expired or canceled.
(e) Insurance certificates not properly cancelled or expired shall be considered expired one (1) year after the TNC's authorization to operate has been cancelled or expired.
(f) Insurance certificates approved by this Commission shall be replaced by more recent insurance certificates. The liability of the retiring insurer shall be terminated as of the effective date of the replacement insurance certificate provided the replacement is approved by this Commission.
(g) Every certificate of insurance filed with the Commission shall provide that the public is protected from damage sustained through operations of any and all vehicles operated by the TNC insured, subject to the terms and conditions provided for by the Oklahoma Transportation Network Company Services Act.
(h) Every certificate of insurance filed with the Commission shall be executed by an officer or authorized agent of the insurance company; and if executed by an agent, a copy of his written authority or power of attorney to execute the same shall be attached to the certificate.
(i) When insurance is provided by more than one insurer in order to aggregate security limits for TNCs, a separate insurance certificate is required of each insurer. For each motor carrier, no more than one (1) primary insurance filing and no more than two (2) excess insurance filings shall be approved.
(j) Every TNC shall maintain in force at all times all insurance required by state laws and by this Section. Failure for any cause to maintain any required insurance in force shall automatically and without notice suspend the permit of a TNC until proper insurance is filed. No TNC operations shall be conducted unless proper insurance is on file with the Commission.
(k) Whenever the permit of a TNC is suspended for failure to maintain in force insurance required by this Section, the TNC must file proper certificate(s) of insurance, as provided in this Section, within sixty (60) days after commencement of the suspension.
(l) Whenever a TNC fails to provide proper certificates of insurance within sixty (60) days after suspension thereof as provided in this Section, the TNC's permit~~,~~ shall be cancelled. A permit so cancelled shall not be reinstated or otherwise made operative except upon proper showing that the TNC was actually covered by proper insurance during the suspension or cancellation period, and that failure to file with the Commission was not due to the TNC's own negligence.
(m) Any TNC conducting operations under a suspended or cancelled permit~~,~~ shall not be eligible to apply for a new permit for a period of not less than one hundred eighty (180) days. The one hundred eighty (180) day period shall be determined by either the date insurance on file expires or the date a violation is discovered, whichever occurrence is later.
(n) Insurance filings and cancellation notices required by this Chapter may be accepted electronically as set forth by the Transportation Division. Electronic insurance filings and cancellations shall be held to the same standard and carry the same force and effect as if accepted through traditional paper filings.

PART 3. CONDUCTING OPERATIONS

165:30-6-17. Current address requirement

(a) Any notice required by law, the Commission's Rules of Practice, OAC 165:5, or this Chapter to be served upon or mailed to any holder of a permit shall be delivered or mailed to the last known email or mailing address as reflected by the records of the Commission. It is the duty of every holder of a permit to notify the Transportation Division by specific written request (TDF 17) of any change in the email address, address of the principal place of business ~~and~~or mailing address thereof.
(b) Any TNC that has not filed a written designation of service agent with the Commission shall be deemed to have designated the Secretary of State of Oklahoma for the purpose of service of process by the Commission.
(c) Where such notice is required by law, Commission's Rules of Practice, OAC 165:5, or this Chapter is returned undeliverable, it will be grounds for revocation of the permit.

SUBCHAPTER 7. PROCEDURAL RULES

165:30-7-5. Forms

The following forms of the Commission relate to this Chapter:

(1) Intrastate license forms.
(A) TDF 1 - Application for Intrastate Motor Carrier For-Hire or Private Carrier License
(B) TDF 2 - Application for renewal of Intrastate Motor Carrier License ~~or Certificate~~
(2) Intrastate certificate forms.
(A) MCF 1 - Application ~~For~~for Household Goods Certificate
(B) MCF 2 - Application for Renewal of Household Goods Certificate
(C) MCF 8 - Application for Reinstatement of Household Goods Certificate
(~~B~~D) Form H - Uniform Motor Carrier Cargo Certificate of Insurance
(~~C~~E) Form J - Uniform Motor Carrier Cargo Surety Bond
(3) Interstate Form - Unified Carrier Registration
(4) Harvest Permit forms
(A) TOSS 1 - Application for Harvest Permit

(B) TOSS 2 - Application for Fifteen (15)-Day Harvest Permit Extension

(5) Hazardous Waste forms.

(A) UPW - Part I - Registration

(B) UPW - Part II - Permit

(C) UPW - Part III - Other Information

(D) UPW - Part IV - Certification

(E) UPW - Uniform Program Fee Worksheet (Schedules A-D and Summary)

(6) IFTA/IRP forms.

(A) IRP Schedule A - International Registration Plan Original Application-Schedule A

(B) IRP Schedule B - International Registration Plan- Schedule B

(C) IRP Schedule C - International Registration Plan Supplemental Application-Schedule

(D) IRP Schedule G - International Registration Plan Declaration of Estimated Miles- Schedule G

(E) IRP Misc 1 - International Registration Plan Affidavit for Lost/Stolen Tag and Additional Cab Cards

(F) IFTA Application - International Fuel Tax Agreement Registration Application

(G) IFTA QTR - International Fuel Tax Agreement Quarterly Report

(7) Miscellaneous forms.

(A) TDF 3 - Application for Change of Name

(B) TDF 8 - Application for Reinstatement

(C) TDF 14 - Application for a Deleterious Substance Transport Permit

(D) TDF 16 - Application for Identification Devices

(E) TDF17 - Application for Address Change

(F) TDF 18 - Affidavit of No Operations

(G) Form E - Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance

(H) Form K - Uniform Notice of Cancellation of Motor Carrier Insurance Policies

(I) Form G - Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond

(J) Form L - Uniform Notice of Cancellation of Motor Carrier Surety Bonds

(K) TDF 25 - Application for Motor Carrier Rules and Regulations

(L) TDF 26 - Motor Carrier Rules and Regulations Update Notification

(M) TDF 28 - Vehicle Information Request Form

(8) Transportation Network Company forms

(A) TDF 29 - Application for Oklahoma Transportation Network Company Permit

(B) TDF 30 - Oklahoma Transportation Network Company Certificate of Insurance

(C) TDF 31 - Oklahoma Transportation Network Company Notice of Insurance Cancellation

165:30-7-6. Applications and requests

(a) All intrastate motor carrier, private carrier, transportation network company, deleterious, hazardous waste, registration and fuel permit applications must bear an original acceptable signature of the applicant. The applicant must be a legal entity with an optional single trade name listed that is not a legal entity. If signed by an attorney or agent in lieu of the applicant, a copy of the power of attorney must be attached to the application.

(b) Acceptable signatures on applications for authority are as follows:

(1) Sole proprietorship - sole proprietor.

(2) Partnership - one of the partners.

(3) Corporation - one of the officers or directors.

(4) Limited liability company - the manager.

(c) A name change relating to a partnership or a request to cancel a partnership must be signed by all partners.

(d) All motor carrier and commercial motor vehicle applications filed by an applicant which does not maintain a terminal in Oklahoma must file and maintain a current listing of a valid Oklahoma process agent on behalf of the applicant.

(e) All applications for authority shall contain the USDOT number of the operating motor carrier. Applications for registration shall additionally contain the USDOT number of the owner of each vehicle, and the registrant.

(f) Motor carriers obtaining a name change with FMCSA in association with the motor carrier's DOT number must immediately update the name and/or trade name on the Commission issued authority, registrations, fuel licenses or permits. The Commission may require a name change or an application for new authority. Motor carriers obtaining a name change on Commission issued authority, registration, fuel licenses or permits must immediately obtain a name change with FMCSA in association with the motor carrier's DOT number. Failure to have the motor carrier name and trade name, if any, identically shown on all authority, registrations, fuel licenses or permits may subject the motor carrier to penalties, suspension, revocation, roadside enforcement delays or delays in processing subsequent applications.

(g) Motor carriers changing their email, mailing or physical address with FMCSA in association with the motor carrier's DOT number must immediately update ~~the~~ address(es) on the Commission issued authority, registrations, fuel licenses or permits. In the event the Commission determines a motor carrier has changed its address(es) with FMCSA prior to notifying the Commission, may cause the Commission to update its records to reflect the updated address(es) on file with FMCSA. The motor carrier may notify the Commission in writing if it chooses to maintain separate address(es) on file with the Commission from the address(es) on file with FMCSA. Failure to have current address(es) on file for authority, registrations, fuel licenses or permits may subject the motor carrier to penalties, suspension, revocation, roadside enforcement delays or delays in processing subsequent applications.

(h) An application for authority, commercial vehicle registration or fuel permit may not be processed when the motor carrier or the motor carrier responsible for safety has not updated its USDOT number within the prior twenty-four (24)

months. Failure to update the USDOT number may subject the authority to revocation.

(i) Failure to properly complete any application may result in delay or denial of the relief sought.

(j) Applications may be denied due to outstanding monies owed to the Commission or other state or federal agencies.

(k) Interstate authority, fuel permits and registration cannot be issued to a motor carrier whose ability to operate in interstate commerce has been denied or revoked.

(l) If a fee is required for an application, and the funds are returned unpaid, any document or privilege granted as a result of that application shall be immediately revoked without notice. The document or privilege shall be reinstated provided valid payment is received in a timely manner.

165:30-7-11. USDOT number

(a) Every person operating or intending to operate as a motor carrier in intrastate or interstate commerce shall obtain a USDOT number.

(b) Every person registering a commercial motor vehicle for apportionment shall obtain a USDOT number.

(c) Every person applying for an IFTA license shall obtain a USDOT number.

(d) USDOT numbers for interstate operations can be obtained utilizing a MCS-150 form available from FMCSA or online at www.fmcsa.dot.gov.

(e) USDOT numbers for intrastate only operations can be obtained ~~utilizing a Commission TDF 19 form, a MCS-150 form available from FMCSA or~~ online at www.fmcsa.dot.gov.

(f) Motor carriers, registrants and licensees obtaining a USDOT number for interstate operations shall comply with all provisions of 49 C.F.R. 390.19, with the exception that applicants for apportioned registration must update their MCS-150 a minimum of once every twelve (12) months.

(g) Motor carriers operating intrastate only shall update their MCS-150 or TDF-19 a minimum of once every two (2) years.

(h) All holders of a USDOT number shall notify the Commission, utilizing a TDF 19 if intrastate only, or file a new MCS-150 form with USDOT or this Commission when they cease operations in order to inactivate their USDOT number.

(i) A USDOT number issued to an intrastate carrier will be inactivated when the intrastate carrier does not hold an active authority and two (2) or more Commission letters or notifications mailed to the last known email or mailing address on file are returned undeliverable.

165:30-7-17. Insurance filing replacement

(a) The Transportation Division may require a new insurance filing to be placed on file when the effective date of the current filing is more than three (3) years old.

(b) Notification of the need for a new insurance filing to be placed on file shall be mailed to the official email or mailing address on file for the license, certificate or permit holder, which shall be considered official notice.

(c) The new insurance filing shall be placed on file with the Transportation Division within ninety (90) days from the date of the notice.

(d) Failure of the license, certificate or permit holder to have proper insurance placed on file within ninety (90) days shall subject the license, certificate or permit to revocation.

(e) A notice to revoke shall be sent to the official email or mailing address on file with the Transportation Division. The license, certificate or permit holder will be allowed an additional thirty (30) days to comply with the provisions of this section.

(f) Failure of the license, certificate or permit holder to comply with the provisions of this section shall cause the license, certificate or permit to be revoked without further notice.

SUBCHAPTER 13. INTRASTATE HOUSEHOLD GOODS CERTIFICATES

PART 1. OBTAINING AUTHORITY

165:30-13-2. Obtaining a household goods certificate

(a) No motor carrier shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the intrastate, including intracity, transportation of household goods for hire without first obtaining from the Commission a certificate as provided in this Section.

(1) An applicant for a certificate shall file with the Commission a written application on the appropriate form prescribed by the Commission (MCF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) The application shall be assigned a PIN, which shall be the permanent identification number for all matters relating to authority granted therein. Any application thereafter filed to amend the authority or for additional authority by the same applicant shall be filed under the original PIN, and otherwise shall be governed by the provisions of this Subchapter relating to an application for authority. Each subsequent application shall also bear a sub-number in sequence.

(3) A certificate shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity.

(4) The filing of an application for a certificate does not of itself authorize any motor carrier operations by the applicant. Such operations are prohibited except pursuant to a certificate issued by the Commission, and only after all requirements have been met, and identification devices have been obtained.

(5) The application for a household goods certificate shall contain the following information:

(A) Name of applicant, trade name, email address, mailing address, principal place of business address which shall be the registered address for purposes of this Subchapter, telephone number and domicile county of the applicant. The applicant's name must be a legal entity. A trade name or "doing business as" (DBA) may be designated, but cannot be a corporate

name or LLC or LLP or another organized entity. If the applicant is an organized entity, a copy of the certificate of incorporation or other instrument as issued by the Oklahoma Secretary of State's Office shall be attached to the application.

(B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all partners, officers and/or directors and listing the email, mailing and physical addresses of each.

(C) Declaration of its USDOT number. Carriers without a USDOT number must apply for a USDOT number. A USDOT number must be issued to the applicant prior to a certificate being issued.

(D) Declaration of its safety rating and provide a safety summary report.

(E) A size and weight summary report.

(F) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.

(G) A description of all terminal and dock facilities to be utilized for household goods transportation operations. If no facilities exist within the state, the address where vehicles will be parked must be provided.

(H) The name and address of a process agent for Oklahoma must be filed and maintained for any applicant that does not maintain a physical address in Oklahoma.

(I) A declaration that the applicant is in full compliance with all other state laws, rules and regulations.

(J) Any other information the Commission deems necessary.

(b) Every person operating as a motor carrier of household goods pursuant to this Subchapter shall obtain a copy of this Chapter and be familiar with its content as it pertains to motor carriers of household goods.

(c) The Commission may consider any written protests or written complaints filed prior to granting or renewing a household goods certificate. If the Commission elects not to grant or renew a household goods certificate, the application shall be set for public hearing in accordance with Commission rules. At the hearing, the applicant shall have the burden of establishing it has the ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma.

(d) After the hearing, the Commission may grant or deny the application in whole or in part; or may impose conditions, stipulations and limitations on the authority as stated in the order.

(e) Applicant may be issued a provisional household goods certificate not to exceed ninety (90) days from the date the application is filed, provided all requirements, with the exception of the educational compliance requirements, for the certificate have been met. Applicant must provide a written request for the provisional certificate. If the provisional certificate is issued, a copy of the provisional certificate must be carried in each vehicle operated by the Applicant.

(f) A certificate shall be valid for one year from date of issuance. Applicants for renewal of a certificate shall comply with OAC 165:30-3-3.

(g) A copy of the current certificate under which a carrier operates shall be carried at all times in each power unit by the motor carrier.

(h) A motor carrier of household goods engaged in intercorporate hauling shall be subject to this Subchapter.

(i) No household goods certificate shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(j) An intrastate motor carrier of household goods may additionally engage in intrastate for-hire transportation of property without an intrastate motor carrier license, but may not engage in the intrastate transportation of passengers, deleterious substances or hazardous materials without complying with Subchapter 3 of this Chapter.

(k) All proceedings subsequent to the application, and the conduct of the hearing, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

SUBCHAPTER 15. INTRASTATE PRIVATE CARRIERS

PART 3. OBTAINING A PRIVATE CARRIER LICENSE AND LICENSE REQUIREMENTS

165:30-15-4. Obtaining a license

(a) No intrastate private carrier, utilizing equipment with an actual weight, registered weight or combination weight or GVWR/GCWR in excess of twenty-six thousand (26,000) pounds and/or GCWR in excess of twenty-six thousand (26,000) pounds when the trailer's GVWR is greater than ten thousand(10,000) pounds, shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the transportation of property without first obtaining from the Commission a license as provided in this Section. A private carrier license is not required for a bona fide farmer transporting commodities from farm to market or market to farm; registered and valid non-profit organizations or any private carrier operating equipment leased or rented from a company that leases or rents vehicles on a commercial scale, provided the lease or rental contract is for thirty-one (31) days or less and a copy of the contract is carried in the vehicle. A license issued under this Subchapter shall not include transportation as a for-hire motor carrier. For-hire motor carriers must comply with Subchapter 3 and/or Subchapter 13 of this Chapter.

(1) An applicant for a private carrier license shall file with the Commission a written application on the appropriate form prescribed by the Commission (TDF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) The application shall be assigned a personal identification number ("PIN"), which shall be the permanent identification number for all matters relating to the license

granted therein. Any application thereafter filed to amend the license by the same applicant shall be filed in the same cause under the original PIN, and otherwise shall be governed by the provisions of this Subchapter relating to an application for license. Each subsequent application shall also bear a sub-number in sequence.

(3) A license shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity.

(4) The filing of an application for a license does not of itself authorize any private carrier operations by the applicant. Such operations are prohibited until after all requirements have been met, and a license has been issued. All requirements for compliance with this Subchapter shall be met within sixty (60) days from date of application recommending the license be issued. Failure to comply may result in dismissal of the application for a license. Licenses issued shall be valid for a maximum of one (1) year and may be renewed after application has been filed as provided by this Chapter.

(5) No license for private carrier intrastate operations shall be issued until applicant has a satisfactory USDOT safety rating or the applicant has demonstrated its ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma; has furnished proper proof of all insurance required by this Subchapter and all applicable state statutes.

(6) The application shall require the following:

(A) Name, a single trade name (if any), email address, mailing address, physical address, telephone number and domicile county of the applicant.

(B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all officers, if any, and listing the email, mailing and physical addresses of each.

(C) The type of operations for which the applicant is applying~~for~~.

(D) The name and address of the motor carrier's process agent in Oklahoma (if the motor carrier does not maintain its principal place of business in Oklahoma).

(E) Declaration of its USDOT number, safety rating and a safety summary report which details its safety program and lists all safety violations identified within the prior twelve (12) months. Carriers without a USDOT number must attach a copy of its previously submitted application for a USDOT number. The applicant shall notify the Commission in writing of its USDOT number once issued, unless the USDOT number is issued by the Commission.

(F) A size and weight summary report which details its size and weight compliance program and lists all size and weight violations identified within the prior twelve (12) months.

(G) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.

(H) A description of all terminal, dock or motor pool facilities.

(I) A declaration that the Applicant is in full compliance with all other state laws, rules and regulations.

(J) Any other information the Commission deems necessary.

(7) Every person operating under the Motor Carrier Act of 1995 and the rules of this Commission shall possess a copy of this Chapter governing the operations of motor carriers and private carriers.

(8) A private carrier desiring to modify its license shall file a sub application (TDF 1). Sub applications to include hazardous materials must comply with the provisions in this Section. Sub applications to modify other types of operations shall be exempt from (6)(D)-(G) of this subsection.

(9) A copy of the current license under which a carrier operates shall be carried at all times in each power unit by the private carrier.

(b) Applicant may be issued a provisional intrastate license not to exceed ninety (90) days from the date application is filed, provided all requirements, with the exception of the educational compliance requirements, for the intrastate license have been met. Applicant must provide a written request for the provisional intrastate license. If the provisional intrastate license is issued, a copy of the provisional intrastate license must be carried in each vehicle operated by the Applicant.

(c) No intrastate private carrier license shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(d) An intrastate private carrier additionally conducting intrastate motor carrier operations under a valid motor carrier license, certificate or permit need not obtain a private carrier license.

(e) If a hearing is held, the applicant shall have the burden of establishing its ability to conduct operations in a safe and reasonable manner and in compliance with all applicable rules and laws of the State of Oklahoma and that it has furnished or will furnish proper proof of all insurance required by this Chapter and all applicable state statutes. The Commission may grant or deny the application or may impose conditions, stipulations and limitations on the license.

(f) All proceedings subsequent to the application, and the conduct of the hearing, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

165:30-15-6. Insurance

(a) No intrastate private carrier required to obtain a private carrier license whose principal place of business is in Oklahoma shall conduct any operations in this State unless such operations are covered by a valid primary bond or insurance policy issued by an Oklahoma State Insurance Commission authorized provider ~~or a self insurance certificate issued by the~~

~~Oklahoma State Insurance Commission or a state commission certified by the National Association of Insurance Commissioners (NAIC) or by the Oklahoma Department of Public Safety pursuant to 47 O.S. § 7-503~~. No private carrier required to obtain a private carrier license shall conduct any operations in this State unless such operations are covered by a valid bond or insurance policy issued by a NAIC certified state insurance commission licensed provider~~or a self-insurance certificate issued by a state commission certified by NAIC or by the Oklahoma Department of Public Safety pursuant to 47 O.S. § 7-503~~. No holder of a license shall conduct any operations before a proper certificate of insurance(s) ~~or self-insurance~~ has been filed with, and approved by the Commission. A surety bond containing all obligations provided by this Section may be substituted for an insurance policy.

(b) ~~With the exception of private carriers filing self-insurance certificates, every~~Every intrastate private carrier of property is required to obtain a private carrier license, and shall file with, and must be approved by, the Commission a certificate on Form E or G certifying that there is in effect a valid bond or insurance policy covering operations in Oklahoma to protect the public against loss of life, injury and property damage in minimum amounts, of combined single limits, for bodily injuries to or death of all persons injured or killed in any accident, and loss or damage in any one accident to property or other (excluding cargo), as follows:

(1) Transporting non-hazardous commodities or commodities not mentioned in (B)-(C) of this subsection - $350,000.

(2) Transporting deleterious substances - $750,000.

(3) Transporting hazardous waste, materials, substances, explosives, poison gas or highway controlled radioactive materials as defined in and as required by 49 CFR, Parts 100 through 399.

~~(c) Every intrastate private carrier utilizing a self-insurance certificate shall file with the Commission a certificate of self-insurance covering operations in this state. In the event an authorized agency cancels a certificate of self-insurance, the carrier must immediately notify the Commission.~~

(~~d~~c) The Commission may by order grant authority to operate or to continue operating as a private carrier conditional upon carrying insurance coverage in amounts larger than prescribed by (b) of this Section.

(~~e~~d) No certificate of insurance or surety bond filed with the Commission pursuant to this Section shall be canceled, unless the authorization to conduct operations has been canceled, except after thirty (30) days written notice made to the Commission, on Form K or L, which notice shall be effective only upon actual receipt thereof by the Commission.

(~~f~~e) Insurance certificates or surety bonds may be canceled without the thirty (30) days written notice on Form K or L only when the authorization to operate has previously expired or cancelled, the carrier provides an affidavit stating no operations have been conducted and the effective date of the cancellation notice is not before the date the cancellation notice is received in the Commission.

(~~g~~f) Insurance certificates or surety bonds not properly cancelled or expired shall be considered expired one (1) year after the carrier's authorization to operate has been cancelled or expired.

(~~h~~g) Insurance certificates~~, certificates of self-insurance,~~ or surety bonds approved by this Commission shall be replaced by more recent insurance certificates~~, certificates of self-insurance,~~ or surety bonds. The liability of the retiring insurer or surety shall be terminated as of the effective date of the replacement insurance certificate or surety bond provided the replacement is approved by this Commission.

(~~i~~h) No certificate of insurance ~~or certificate of self-insurance~~ shall be filed with the Commission which contains a provision to the effect that liability thereunder may be limited or avoided because of the culpability, the recklessness, or the condition of the driver of the vehicle involved or any other restriction relating to the driving or operation of the vehicle.

(~~j~~i) Every certificate of insurance ~~or certificate of self-insurance~~ filed with the Commission shall automatically provide that the public is protected from damage sustained through operations of any and all vehicles operated by the private carrier insured, whether or not listed or identified in the policy; and that liability is not limited by the description of any particular vehicle or route which may be traveled by the motor vehicle in transporting passengers or property under the license.

(~~k~~j) Every certificate of insurance filed with the Commission shall be executed by an officer or authorized agent of the insurance company; and if executed by an agent, a copy of his written authority or power of attorney to execute the same shall be attached to the certificate.

(~~l~~k) When insurance is provided by more than one insurer in order to aggregate security limits for private carriers, a separate insurance certificate and endorsement is required of each insurer. For each motor carrier, no more than one (1) primary insurance filing and no more than two (2) excess insurance filings shall be approved.

(~~m~~l) Every private carrier shall maintain in force at all times all insurance required by state laws and by this Section. Failure for any cause to maintain any required insurance in force ~~or self-insurance certificate~~ on file with the Commission shall automatically and without notice suspend the license of a private carrier until proper insurance is filed.

(~~n~~m) Whenever the license of a private carrier is suspended for failure to maintain in force insurance required by this Section ~~or self-insurance certificate~~ on file with the Commission, the carrier must file, within sixty (60) days after commencement of the suspension, proper certificate(s) of insurance ~~or self-insurance~~ as provided in this Section and a sufficient showing, by affidavit or otherwise, that no operations were conducted during the period that insurance was not in force (TDF 18).

(~~o~~n) Whenever a private carrier fails to provide proper certificates of insurance ~~or self-insurance~~ within sixty (60) days after suspension thereof as provided in this Section, the private carrier's license shall be cancelled by operation of law, and without notice. A license so cancelled shall not be reinstated or otherwise made operative except upon proper showing, at a hearing, that the private carrier was actually covered by proper insurance or proper certificate ~~of self-insurance~~ during the suspension or cancellation period, and that failure to file

with the Commission was not due to the private carrier's own negligence.

(~~p~~o) Any private carrier conducting operations under a suspended or cancelled license~~,~~ shall not be eligible to apply for a new license for a period of not less than one hundred eighty (180) days. The one hundred eighty (180) day period shall be determined by either the date insurance on file expires or the date a violation is discovered, whichever occurrence is later.

165:30-15-7. Current address requirement

(a) Any notice required by law, the Commission's Rules of Practice, OAC 165:5, or this Subchapter to be served upon or mailed to any holder of a private carrier license shall be delivered or mailed to the last known email or mailing address as reflected by the records of the Commission. It is the duty of every holder of a private carrier license to notify the Transportation Division by specific written request (TDF 17) of any change in the email address, address of the principal place of business ~~and~~or mailing address thereof.

(b) Any non-resident private carrier who has not filed a written designation of service agent with the Commission shall be deemed to have designated the Secretary of State of Oklahoma for the purpose of service of process by the Commission.

(c) Where such notice is required by law, Commission's Rules of Practice, OAC 165:5, or this Subchapter is returned undeliverable, it will be grounds for revocation of the private carrier license.

SUBCHAPTER 17. HAZARDOUS WASTE TRANSPORTERS

PART 5. CONDUCTING OPERATIONS

165:30-17-34. Name changes

(a) Any change in legal identity of the holder of a hazardous waste, except as provided in subsections (b), (c) or (d) below, including but not limited to incorporation or dissolution of a corporation, formation or dissolution of a partnership or creation or dissolution of a trust, shall require an original application for a registration and permit.

(b) Incorporation by a sole proprietor in which the sole proprietor is the majority shareholder of the corporation, limited liability corporation or limited liability partnership shall be deemed a name change. Incorporation by a partnership in which the partners are the majority shareholders of the corporation shall be deemed a name change.

(c) A change in legal entity from a corporation, limited liability corporation or a limited liability partnership to a sole proprietorship, a partnership, a limited liability corporation or a limited liability partnership in which the sole proprietor, partners or shareholders hold the majority of all issued and outstanding shares of the corporation shall be deemed a name change.

(d) The merger of two or more corporations in which the survivor is the holder of a current license shall be deemed a name change.

(e) The transfer of stock in a corporation that shall result in any entity controlling fifty one percent (51%) or more of the aggregate number of voting shares of the corporation shall not be deemed a name change.

(f) A request for a name change shall be in writing and shall be accompanied by copy of the Certificate of Incorporation, Amended Certificate of Incorporation or similar documentation (if applicable) and a $50.00 name change filing fee. The request for name change must be signed by the owner (if an individual). If a partnership is adding or removing a partner(s) all partners (whether existing, added or removed) must sign the request and current demographics information must be provided. If a corporation has amended its name, a corporate office must sign the request. If the officers of the corporation have changed, a listing of all officers including the email, mailing and physical addresses of each must additionally be attached to the request.

(g) Proper insurance filings or bonds must be placed on file with this Commission reflecting the new name.

(h) The employment of incorporation, change of name or similar action directly or indirectly as a device to circumvent the rules of this Subchapter is prohibited.

165:30-17-35. Address changes

A motor carrier shall notify the Commission in writing of any change in the motor carrier's email, mailing or physical address or telephone number.

SUBCHAPTER 19. REGISTRATION PURSUANT TO THE INTERNATIONAL REGISTRATION PLAN

165:30-19-3. Registration

(a) Before a vehicle can be proportionally registered in the state of Oklahoma the applicant or registrant must:

(1) Have an established place of business located in Oklahoma. Absent an established place of business in any IRP jurisdiction, an applicant must satisfy the residency requirements in 165:30-19-6, prior to being allowed to base plate in Oklahoma. Under no circumstances can an independent contractor be used to establish a place of business or residence on behalf of a registrant.

(2) Complete the application, all required schedules, and provide backup documentation required by the Commission to verify the information submitted by the applicant:

(A) The application must include the email address, mailing address and telephone number of the applicant. In addition to providing the applicant's telephone number, the applicant may provide the telephone number of a third party who has knowledge of the applicant's whereabouts and is able to contact the applicant within a reasonable period ~~of time~~ upon request. An applicant or registrant may not utilize a telephone listing indicating the same telephone

number as that of any other person in this state as a qualifying telephone number under this Section.

(B) If the application is signed by someone other than the applicant or registrant, pursuant to a power of attorney, the name or names of the individuals to whom such authority is granted must be included in the power of attorney executed by the applicant.

(3) Provide proof of payment (or suspension from levy) of Federal Heavy Vehicle Use Tax;

(4) Provide proof of financial responsibility pursuant to 47 O.S. § 7-602 (liability insurance);

(5) Motor vehicles operated by a motor carrier with valid liability insurance on file with FMCSA or this Commission are exempt from subsection (a) (4) of this Section;

(6) If the applicant is leased to a motor carrier, the applicant must provide a copy of the lease to satisfy Oklahoma's financial responsibility requirements (47 O.S. § 7-602). If multiple vehicles are under lease, a letter from the motor carrier listing each vehicle's year, make, model and vehicle identification number (VIN) under lease to the carrier may be provided in lieu of the lease, provided a copy of ~~any and~~ all leases shall be made available to the Commission upon request. The Commission does not perform analysis to ensure compliance with applicable CFRs on lease agreements provided to the Commission for administrative purposes under this Chapter. It is the lessor's responsibility to ensure leases are compliant with the federal CFR's.

(7) Provide proof of ownership;

(8) Provide proof of payment of prior registration fees, if the vehicle was registered pursuant to the IRP in another jurisdiction; and

(9) Pay all applicable fees to complete registration. Continuous registration is required~~,~~; therefore registration fees shall be assessed from the last vehicle registration date or the date of sale.

(10) Provide the USDOT number and the social security number, federal employee identification number or taxpayer identification number of the carrier responsible for safety of each vehicle in the apportioned application.

(11) Be the owner, the lessee, the motor carrier responsible for safety or an entity contracted by the owner or motor carrier responsible for safety.

(b) Application for registration may be made at any time during a registration year.

(c) Application for registration may be submitted through the mail to the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948, or by applying in person at 2101 N. Lincoln Blvd., in Oklahoma City. A list of other locations where application may be submitted is available from the IFTA/IRP Section or the Commission website under the Transportation Division (http://www.occeweb.com).

(d) No application for proportional registration shall be processed unless the applicant has submitted the documentation required in (a) of this Section. Failure to submit the required documentation shall result in denial of the application.

(e) If an approved IRP application must be unapproved, corrected, and/or re-approved due to additional information submitted by the applicant after the initial approval or due to an error committed by the applicant, a reprocessing fee may be assessed as established by OAC 165:5-3-1.

(~~e~~f) Since registration with the Plan can affect other jurisdictions' registration fees and tax receipts, the Transportation Division must be diligent in ensuring that those registrants with Oklahoma as their base jurisdiction are indeed entitled to base in Oklahoma.

(1) If after approval of the application and during the registration year, the Transportation Division has reason to believe that critical account information submitted on an application has changed, the Transportation Division shall allow the registrant thirty(30) days to provide the updated information. If the information is not provided within that time or is deemed insufficient, the Transportation Division shall revoke the registrants' credentials in accordance with OAC 165:5-25.

(2) If after approval of the application and during the registration year the Transportation Division has evidence that critical account information submitted on an application was submitted erroneously or falsely, the Transportation Division shall revoke the registrants' credentials in accordance with OAC 165:5-25.

(g) Non-expiring commercial trailer license plates are issued for trailers used in commercial enterprises regardless of their size or weight (other than trailer mounted special mobilized machinery and trailers used for transporting forest products). Once statutory registration fee(s) and any additional fees set by the Commission established by OAC 165:5-3-1 are remitted, a license plate will be issued upon the initial registration or any subsequent transfer of ownership. Trailer renewal fees, as established by statute and OAC 165:5-3-1, shall be paid annually to maintain active registration status.

(h) Buses operating in more than one IRP jurisdiction are the only buses eligible for registration by the Commission and are subject to applicable rules of this Chapter. Registration fees for such vehicles are generally based on seating capacity.

165:30-19-17. Temporary registration

New fleet vehicles, or vehicles being added to any existing fleet, must have some form of temporary registration prior to operation if permanent IRP credentials have not been issued. All forms of temporary registration are valid for the period shown and will be honored by all IRP jurisdictions when properly completed and validated.

(1) Temporary registration may be obtained directly from the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948 by filing a supplemental application with all required documents.

(2) Temporary registration or credentials may only be issued to new accounts after all required registration fees are paid.

(3) Self-issue temporary registrations are available only to established Oklahoma-based IRP registrants, and may be used for vehicle(s) added to the fleet, ~~duplicate cab~~

~~cards,~~ substitute license plates and weight increase applications to the registrant's account. Self-issued temporary registrations may not be used for renewal vehicles.

(A) Registrants with self-issue temporary authority are allowed to acquire temporary registration prior to the submission of a supplemental application. To be eligible to self-issue temporary registration, a registrant must:

(i) Have no delinquencies;

(ii) Be base plated in Oklahoma for the past two full registration years;

(iii) Be the motor carrier responsible for safety;

(iv) Be base plated in accordance with OAC 165:30-19-5 requirements; and,

(v) Have over one hundred (100) power units in the apportioned fleet.

(B) Properly completed temporary registrations allow for immediate temporary registration for vehicles added to the fleet, duplicate cab cards, substitute license plates, and weight increase applications. Upon issuance, a copy of the temporary registration should be placed in the vehicle~~, and one copy mailed immediately to the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948~~. Within fifteen (15) days of issuance, a completed supplemental application with all required documentation must be submitted for processing.

(C) Misuse of the temporary registration or failure to maintain proper accountability may result in the Prorate Section's refusal to issue the registrant self-issue temporary registrations.

(4) The issuance of temporary registration creates a debt to the State of Oklahoma who is then indebted to the participating jurisdictions of the International Registration Plan. Registrants must pay registration fees for the remainder of the registration year for which a temporary registration is issued. Registration fees must be paid in full within thirty (30) days for the effective date of the temporary registration.

(A) Fees shall be calculated beginning with the effective date of the temporary registration, or the date determined by the Transportation Division, if earlier, and continue through the end of the registration year.

(B) In addition to collection actions, failure to pay the fees described in (A) above will cause the loss of apportioned registration privileges.

(C) The Transportation Division may withhold issuance of future temporary registration, to those registrants who have failed to timely file a registration application, or pay the registration fees associated with any vehicle, for which a temporary registration authorized by 47 O.S. § 1124.1 has been issued.

(D) The Transportation Division may revoke previously issued registration credentials and/or deny future registration privileges to registrants who use temporary registration issued under 47 O.S. § 1124.1 without paying registration fees.

SUBCHAPTER 21. INTERNATIONAL FUEL TAX AGREEMENT

165:30-21-5. Application for license

A person shall file an application for licensing with the Commission on the prescribed form. The fuel tax license application shall have the following specified content:

(1) The account identification number specified in IFTA Procedures Manual Section P200;

(2) Name and social security number of owner(s), partners or corporate officers;

(3) Legal business name (if different from the name given above);

(4) Physical location of the business;

(5) Mailing address of the business;

(6) Email address;

(~~6~~7) Signature and date;

(~~7~~8) Number of IFTA decals required by licensee;

(~~8~~9) Decal fee, as set forth in OAC 165:5;

(~~9~~10) Statement of existence of bulk storage in all member jurisdictions;

(~~10~~11) A statement that the applicant agrees to comply with reporting, payment, recordkeeping, and license display requirements as specified in the International Fuel Tax Agreement. The applicant further agrees that base jurisdiction may withhold any refunds due if applicant is delinquent on payment of fuel taxes due any member jurisdiction. Failure to comply with these provisions shall be grounds for revocation of license in all member jurisdictions; and

(~~11~~12) A statement to the effect that the applicant certifies with his or her signature that, to the best of his or knowledge, the information is true, accurate, and complete and any falsification subjects him or her to appropriate penalties of perjury.

(~~12~~13) The USDOT number of the applicant.

SUBCHAPTER 25. HARVEST PERMITS

165:30-25-1. Harvest permits

(a) Motor carriers engaged in the interstate or intrastate commercial transportation of farm products in a raw state on a seasonal basis may desire to meet their vehicle registration, fuel permitting and/or intrastate operating authority requirements via a harvest permit.

(b) An applicant for a harvest permit shall file with the Commission a written application on the appropriate form prescribed by the Commission (TOSS1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(c) The applicant shall be assigned a personal identification number (PIN) which shall be the permanent identification number for all matters relating to authority granted therein. Any application thereafter filed to extend the harvest permit or to obtain an additional harvest permit by the same applicant shall be filed under the same PIN.

(d) A harvest permit shall be personal to the holder thereof and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity. A trade name or "doing business as" (DBA) may be designated, but cannot be a corporate name or LLC or LLP or another organized entity.

(e) The filing of an application for a harvest permit does not of itself authorize operations by the applicant. Such operations are prohibited until all requirements have been met and a harvest permit has been issued. All requirements for compliance with this Section shall be completed within ninety (90) days from receipt of the application or the application will be denied and any filing fees paid forfeited.

(f) The harvest permit application shall require the following:

(1) USDOT number of the applicant.

(2) Applicant's Name and DBA, if any.

(3) Type of applicant.

(4) Mailing,~~and~~ physical addresses, and optional email address.

(5) Taxpayer identification number.

(6) Vehicle listing which contains the following information for each vehicle to be operated under the permit:

(A) Owner of the vehicle.

(B) Vehicle registrant, if other than the owner.

(C) Make, model, year, and VIN.

(D) License plate number, State or Province of registration and registration expiration date.

(7) A liability insurance certificate valid in Oklahoma for a minimum of three hundred fifty thousand dollars ($350,000) for each vehicle to be operated under the permit. The insured's name on the insurance certificate must match the owner or registrant's name as shown on the registration of the vehicle. A Form E liability insurance certificate issued on behalf of the motor carrier may be submitted in lieu of individual insurance certificates.

(8) Declaration stating the applicant shall comply with federal safety regulations and the state's size and weight laws and rules.

(9) Requested permit duration.

(10) Required permit effective date.

(g) No harvest permit shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(h) A copy of the harvest permit must be carried in each vehicle operated under the permit.

SUBCHAPTER 26. NONCONSENSUAL WRECKER AND TOWING SERVICES

PART 1. NONCONSENSUAL WRECKER AND TOWING SERVICES RATE CHANGE APPLICATIONS

165:30-26-3. Application; application package; and staff response to filed application package

(a) Applicant shall file with the Commission Court Clerk its request for a rate increase or rate change in a complete application package. Applicant shall also submit the filing fee with the application package, which is set forth in the Commission Rules of Practice. Applicant shall submit six (6) copies of the application package to the Commission Court Clerk at the time of filing.

(b) The application shall be in the form required by the Commission Rules of Practice for commencement of a cause.

(c) The application package shall contain the following:

(1) A narrative explanation of the justification for the rate increase or rate change;

(2) The application shall contain all exhibits, schedules, testimony, and evidence necessary to support the application and shall be assembled in sections with index tabs identifying each section for referencing convenience;

(3) Filed testimony shall reference the exhibits, schedules, and evidence in the same manner used to file the application package;

(4) All exhibits, schedules, testimony, and evidence shall be both factually and mathematically correct using generally accepted accounting methods.

(d) Service of the application shall be as required by the Commission Rules of Practice.

(e) The applicant shall maintain the application package. The application shall include information to inform all Respondents and other interested parties of the location where the application package is being maintained. Such information shall include the name, address, telephone number, fax number, and e-mail address of the person maintaining the application package. The applicant shall make the application package available to all Respondents and other interested parties for examination between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday, excluding legal holidays as defined in the Commission Rules of Practice. The application package shall also be available for public inspection at the Office of the Commission Court Clerk.

(f) Unless otherwise indicated, all applicable provisions in the Commission Rules of Practice shall be followed in all nonconsensual wrecker and towing service causes.

(g) Within twenty-one (21) ~~calendar~~business days of the receipt of an application package, the Director shall file with the Commission and provide to the applicant a copy of the staff response regarding the compliance or deficiency of the application and/or application package. The Division's staff response under this subsection shall only be required to assess the procedural filing compliance with Commission statute and rules, not on the merits of the requested rate change.

(h) If the Director finds the application and/or application package is not in substantial compliance with the requirements of this Subchapter, the staff response shall state that the filing is a deficient filing. The deficiencies and the requirements necessary to cure the deficiencies shall be stated in the staff response. If the deficiencies noted in the staff response are not corrected within forty-five (45) calendar days of the date of the staff response, the application package shall be rejected.

Resubmission of a rejected package shall be considered a new application package, and the application filing fee set forth in the Commission Rules of Practice shall be submitted with this filing.

(i) An applicant may file exceptions to the staff response within ten (10) business days of receipt. Such exceptions shall be set for hearing before the Commission sitting en banc as soon as practically possible unless the parties agree to another date or the Commission directs otherwise. An order affirming a determination of deficiency renders the application rejected. If the application is rejected, the applicant may resubmit a new application package.

PART 3. RESPONSE TO NONCONSENSUAL TOWING RATE COMPLAINTS

165:30-26-12. Nonconsensual towing rate complaint resolution and contesting a Violation Notification.

(a) Nonconsensual towing rate complaint resolution is not achieved until either a written determination is issued or the Violation Notification process, initiated by a Notice of Probable Violation (NOPV) letter, is closed ~~is made~~ by the ~~Commission~~ Transportation Division.

(b) If the complaint investigation results in a NOPV requiring~~determination that~~ restitution and/or a penalty, or other action is necessary, the ~~full~~disallowed amount must be remitted within twenty (20) calendar days of the ~~written determination~~ NOPV to avoid enforcement action against the wrecker or towing service. The NOPV shall specify each charge that was in violation of the Commission's rate order(s) and will list a member of Transportation Division staff as a point of contact. Restitution payments must be remitted to the person taking responsibility for the tow bill, whereas, penalties assessed must be remitted to the Commission along with a copy of the written determination.

(c) Any individual or entity that wishes to contest the NOPV must do so within twenty (20) calendar days of the date of mailing, by regular mail, of the NOPV by filing a Transportation Docket (TD) cause application conforming to Commission rules found in Subchapter 7 of this Chapter and the Commission's Rules of Practice (OAC 165:5). In the event the expiration of the twenty (20) days falls on a weekend or holiday for which the Commission is not open for regular business, the application may be filed the following business day the Commission is open to be considered timely filed.

[OAR Docket #19-426; filed 5-30-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 32. RAILROADS

[OAR Docket #19-427]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
165:32-1-3. Definitions [AMENDED]
165:32-1-8. Blocking crossings [AMENDED]
165:32-1-10. Fences [AMENDED]
165:32-1-12. Penalties [AMENDED]
Subchapter 3. Railroad ~~Crossing Signal System Safety~~Grade Crossings
165:32-3-4. Removal of crossing installations [AMENDED]
165:32-3-6. Notice of closure or detour [AMENDED]
165:32-3-8. Crossing surface quality [NEW]

AUTHORITY:
The Commission's statutory authority is found in the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq., and 17 O.S. §§ 61 through 116.9 and 66 O.S. §§1 et. seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on December 21, 2018.

COMMENT PERIOD:
December 20, 2018 to February 20, 2019

PUBLIC HEARING:
February 27, 2019

ADOPTION:
February 27, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 8, 2019

LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:
May 28, 2019

EFFECTIVE:
August 1, 2019

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
The adopted rules include additional definitions; allow compliance audits for blocked railway crossings; clarify when enforcement actions may be filed and types of fencing that must be installed along railway right-of-ways; clarify the penalty amounts for violations of this Chapter; change requirements for abandoned crossings; change the time required for notice of crossing closures or detours and add crossing surface quality processes and standards.

CONTACT PERSON:
Michael P. Copeland, Deputy General Counsel, Judicial and Legislative Services, Oklahoma Corporation Commission, 2101 N. Lincoln Blvd., P.O. Box 52000, Oklahoma City, OK 73152-2000, (405)522-1638, m.copeland@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:32-1-3. Definitions

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

"Commission" means the Oklahoma Corporation Commission.

"Continuous direction" means the movement of a locomotive engine or engines, coupled with or without cars, over

any public rail highway crossing in any direction and maintaining that direction until the crossing is unoccupied.

"Crossing surface" means a combination of material such as treated timbers, reinforced concrete panels, and composite or rubber tiles that are combined with rail components such as the flangeway and flange filler, to produce a surface that makes it possible for vehicles to cross over the railroad track in comfort and safety.

"Noxious plants" means poison ivy, poison oak, or poison sumac, at any height or maturity.

"Public crossing" means a location where the tracks cross a road which is under the jurisdiction of and maintained by a public authority and which is open to public travel.

"Private Crossing" means a location where a physical crossing is present but the road does not meet the conditions for a public crossing and for which a private crossing agreement may have been entered into between landowner and railroad. ~~Private crossings usually restrict public use by an agreement which the railroad has with the property owner by gates or similar barriers.~~

"Rank weeds" means all vegetation which can conceal or harbor rodents, refuse or vermin.

"Sight rectangle" means a rectangle which would have a beginning point from the center of the main track and the center point of the grade crossing extending along the center of the street or roadway approach for a distance of ~~50~~fifty feet (50') or to the railroad right-of-way property line, whichever is less, then extend along the property line for a distance of ~~250~~two hundred fifty feet (250') in either direction from the original beginning point.

"Sight triangle" means a triangle which would have a beginning point from the center point of the main track and the center point of the grade crossing extending along the center of the street or roadway approach for a distance of ~~50~~fifty feet (50') or to the railroad right-of-way property line, whichever is less, then extend at an angle until arriving at a point on the center of the main track ~~250~~ two hundred fifty feet (250') from the original beginning point.

"Thickets" means any dense growth, briar patch, or wild shrubbery having stems or trunks one inch(1") or less in diameter.

"Trash" means, but is not limited to, refuse, litter, leaves, paper, combustible materials, offal, rubbish, waste, debris, and useless or unused or uncared for matter of all kinds.

165:32-1-8. Blocking crossings

~~(a) Railroads or other persons, firms, or corporations operating over tracks within the State of Oklahoma shall not block vehicle traffic at any railroad grade crossing, for a period of time in excess of 10 minutes, except if the train is moving in a continuous forward or backward direction, or if the train is stopped for an emergency condition, including an accident, derailment, critical mechanical failure, track or bridge washout, storm, flood, or other emergency situation.~~

~~(b) A one-time exception of up to, but not exceeding, ten (10) additional minutes shall be authorized under the following conditions:~~

~~(1) When a train and its crew, operating under the rules of the Federal Railroad Administration (FRA), is unable to complete a switching maneuver while setting out or picking up rail cars within the ten (10) minutes as set forth in subsection (a).~~

~~(2) When a train is stopped to allow the passage of a second train and the stopped train has exhausted the ten (10) minutes as set forth in subsection (a), if the arrival of the second train is eminent and separation and coupling of the stopped train would result in further unnecessary blocking of motor vehicle or pedestrian traffic.~~

~~(3) When a train is stopped for a red train signal.~~

~~(c) When a train is cut or separated to prevent blocking of motor vehicle traffic at a public crossing, the time required for recoupling a train and performing air tests as required by the FRA will not be considered a violation of this Section.~~

~~(d) If a train is cut or separated for vehicular traffic flow and the remaining segment is blocking a crossing(s), it will not be considered a violation of this Section.~~

(~~e~~a) Every railroad shall be operated in such a manner as to minimize obstruction of emergency vehicles at public highway grade crossings.

(b) Any state, county or municipal entity may file a Transportation Docket (TD) cause application, conforming to the procedural requirements of OAC 165:5, requesting an order from the Commission requiring a separation of grade at a crossing based on blockages that affect public safety. Such applications must include an engineering and budget proposal and assignment of costs. The assignment of cost must be reasonable and must include supporting justification for such assignment. If the budget proposal is part of a federal-aid project, railroad contributions requested in the application shall not exceed federal regulatory requirements unless by agreement.

165:32-1-10. Fences

(a) A property owner owning land adjacent to a railroad track in the State of Oklahoma may make application for a lawful fence on a form provided by the Commission, which application shall include the following:

(1) Signature of property owner.

(2) General description of property, by Section, Township and Range, if possible.

(3) Description of the property line or portion thereof to be fenced, including measurements or railroad mile pole locations, if known.

(4) Statement as to whether all other sides of the property owned by the landowner are fenced and capable of retaining livestock.

(5) Statement as to whether livestock is being raised on the property to be fenced, and if so, whether for commercial or personal purposes.

(6) Attached to the application shall be a copy of written communication transmitted on behalf of the landowner to the railroad requesting the railroad to furnish the landowner a lawful fence.

(b) No application for a lawful fence shall be filed with the Commission until forty-five (45) days have expired from the

date of the written notice from the landowner to the railroad requesting a lawful fence.

(c) When an accurate and complete application for a lawful fence has been received from a landowner, the Transportation Division shall provide a copy of the application to the affected Railroad's Manager accompanied by a letter requesting a lawful fence within sixty (60) days.

(d) If the lawful fence is not completed when the sixty (60) day period expires, the Transportation Division ~~shall~~may file an ~~application for a fencing construction order~~enforcement action for contempt of Commission rules and order the building of a lawful fence. ~~When the Commission enters an Order for a lawful fence, the Order shall be mailed to the railroad by certified mail. Upon receipt of the Order, the railroad shall be given (60) days within which to comply with the Order, or appeal the Order pursuant to Commission rules.~~

(e) A landowner may request dismissal of the application for a lawful fence at any time.

165:32-1-12. Penalties

Upon violation of any of the regulations contained in this Chapter, per Title 17 O.S. § 1, the responsible party shall be assessed a fine in an amount~~ deemed appropriate by the Commission~~ up to five hundred dollars ($500.00) per day per violation by the Commission unless otherwise specified by law.

SUBCHAPTER 3. RAILROAD ~~CROSSING SIGNAL SYSTEM SAFETY~~GRADE CROSSINGS

165:32-3-4. Removal of crossing installations

(a) Within one hundred twenty(120) days after removal of track which was formerly contiguous to a crossing, railroads are required to also remove the crossing surface which is unneeded, and replace the excavated area, matching width, grade and materials, to repair the existing roadway, making it contiguous.

(b) Railroads are required to remove signal installations deemed not salvageable by the Oklahoma Department of Transportation, on abandoned rail lines, not more than one hundred twenty(120) days after the crossing surface(s) are removed.

(c) Railroads shall relocate existing warning devices (passive or active) to a distance no less than ~~12~~twelve feet (12') and no greater than ~~20~~twenty feet (20') from the remaining railroad crossing surface(s). Said work to be completed not more than one hundred twenty(120) days after the track(s) or crossing surface(s) are removed.

(d) If, upon notice and hearing, the Commission finds rail access to be cut on both sides of a public crossing, or the crossing cannot be physically utilized for rail service, the Commission may order the rails to be removed within the crossing by the railroad or other property owner and the crossing to be resurfaced in conformity with (a) of this subsection. This subsection shall, in no way, affect the easement rights of the crossing property owner.

165:32-3-6. Notice of closure or detour

Railroads shall notify by regular or electronic mail the entity having roadway maintenance jurisdiction (City, County or State), no less than ~~48 hours~~seven (7) calendar days in advance of closing or detouring any roadway for railroad maintenance or construction, unless an emergency exists.

165:32-3-8. Crossing surface quality

(a) A railroad or other persons, firms, or corporations operating a line of railroad within the State of Oklahoma shall maintain public grade level crossings, in reasonably smooth condition, unobstructed and in good condition pursuant to the United States Department of Transportation Railroad-Highway Grade Crossing Handbook. Such maintenance shall include all surfaces between the rails and three feet (3') on either side of the outer-most rail in the crossing surface; or two feet (2') on either side of the outer-most rail if the crossing is located within the limits of a municipality. To be considered reasonably smooth, unobstructed and in good condition the surface must conform to the following list of non-exclusive requirements and conditions:

(1) Any crossing panels having material damages greater than two inches (2") in depth must be replaced.

(2) Concrete, composite or rubber crossing panels with loose components rising above the roadway surface must receive temporary repair within seventy-two (72) hours and be replaced within thirty (30) days from the date and time of notice.

(3) Timber crossing panels with loose components rising above the roadway surface must be repaired within seventy-two (72) hours after receiving notice of the condition.

(4) Partial asphalt cover on existing crossing surfaces will be considered a temporary repair.

(5) Crossing panels that receive temporary asphalt repairs must be replaced within ninety (90) days of original placement of asphalt.

(6) Crossing panels shall be stable and adequately lagged to the underlying railroad at all times.

(7) The roadway surface will be in the same plane as the tops of the rails for a distance of at least three feet (3') beyond the rails for either single or multiple track crossings where practical.

(b) Any crossing surface that, in the determination of the Commission, poses an unreasonable risk to the life or property of the traveling public shall be rebuilt or repaired within a timeline set by the Commission.

[OAR Docket #19-427; filed 5-30-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #19-485]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:
Chapter 35. Electric Utility Rules [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution; 17 O.S. §§ 158.21 *et seq.*; and 17 O.S. §§ 160.11 *et seq.*
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 8, 2019.
COMMENT PERIOD:
October 19, 2018 through December 3, 2018
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ADOPTION:
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May 28, 2019
EFFECTIVE:
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SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 45. Wind Energy
165:35-45-2. Definitions [AMENDED]
165:35-45-4. Notification of intent to build a wind energy facility and other notices [AMENDED]
165:35-45-5. Commission consideration [AMENDED]
Gubernatorial approval:
December 7, 2018
Register publication:
36 Ok Reg 485
Docket number:
19-636
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rules add general grammatical, formatting, and spelling changes; shorten defined terms, and/or other clarifying language; clarifies business day or calendar day; add definitions; clarify reporting requirements; change references in the rule from "filing" of information with the Commission to "submitting" information to the Commission; require the utility to provide evidence of completion of work when issues are reported; add a requirement for installation of service lines and marking of trenches for public safety; add a provision concerning events beyond the utility's control; requires the utility to provide an email address to the Commission's Public Utility Division through which a representative of the utility may be contacted; establish requirements for utilities to report cybersecurity or infrastructure security events that affect immediate customers; and add a new requirement for acknowledgement of customer complaint inquiries and clarifying language. Further, the adopted rules add language and requirements for slow meter, non-registering meters, billing issues, and installment payments; require specific billing period for meters for incorrect register and incorrect usage amount; add a requirement for utilities to include contact information for the Consumer Services Division to customer bills; add life-threatening situations to the "false information" section of delays to disconnection of residential service rules; clarifies the types of identification utilities may deem acceptable; modify the Commission notification procedures for elderly and consumers with disabilities; add clarification language for severe weather forecasting for disconnection of service for residential service; require promotional practices be submitted instead of being filed; and require annual tariff submissions to be reviewed by the PUD Director and gives a process for if a dispute arises. Additionally, a requirement to notify PUD after a competitive bid is issued showing a retail electric supplier's intent to serve a facility when the load will be equal to or greater than 1,000 kW. The adopted rules require Transmission Only Utilities to submit reports and information instead of filing them with the Court Clerk. Finally, the adopted rules include new reporting requirements from the Oklahoma Wind Energy Development Act that require wind energy developers to submit specific information to PUD.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:35-1-2. Definitions

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

"Affiliate" means any person, entity, or business section, or division that directly or through one or more intermediaries controls, is controlled by, or is under common control with the entity in question. Control includes, but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct the management or policies of a person or entity. Control may be exercised through management, ownership of voting securities or other right to vote, by contract or otherwise. A voting interest or ownership of five percent (5%) or more creates a presumption of control.

"ANSI" means the American National Standards Institute.

"Capacity" means the quantity of electric power produced by a generating facility at a point in time, as measured in kilowatts or megawatts.

"Commission" means the Oklahoma Corporation Commission.

"Company submeter" means a kWh measuring device provided by the utility located on line beyond the point of delivery of electrical service providing service to another consumer. Usage from these meters are deducted from the meter at point of delivery.

"Competitive bidder" means any entity that submits a competitive bid in response to a request.

"Competitive bidding process" means a process to solicit offers to provide fuel supplies, electric generation service, fuel transportation services, and other goods or services related to a utility's provision of electric service to end users.

"Complaint" means an expression of dissatisfaction regarding the utility's billings, service procedures, or employee conduct which requests or requires some remedial or corrective action be taken by the utility. Complaints may be made by the consumer or other interested party. A complaint may be made orally, electronically or in writing, but must be made or received at the utility's offices.

"Conduit" means any structure, or section thereof, containing one or more ducts, manholes, or handholes, used

for any telephone, cable television, electrical, or communications conductors or cables, owned or controlled, in whole or in part, by one or more public, telecommunications, or consumer-owned utilities.

"Consumer rate class" means a division of rates as provided by a utility's tariff for pricing electric service.

"Consumer sector" means a major division of consumers, i.e., residential, commercial, or industrial.

"Consumer submeter" means a kWh measuring device provided by the customer and located on line beyond the point of delivery of electrical service.

"Consumer" means any person, member of a cooperative, firm, corporation, municipality or agency, other political subdivision of the United States, or the State of Oklahoma receiving electric service of any nature from a utility. Any reference to a "customer" or "end-user" or "ratepayer" contained in a tariff, or in this Chapter, shall be deemed to mean a "consumer," unless the context clearly indicates otherwise.

~~**"Corporation Commission"** means the Oklahoma Corporation Commission.~~

"Corporate Support Services" or **"Shared Services"** means human resources, procurement services, information technology, regulatory services, administrative services, real estate services, legal services, accounting, environmental services, research and development, internal audit, community relations, corporate communications, financial services, financial planning and management support services shared between or among a utility, its parent holding company or an affiliated entity and such other services authorized by the Commission on a case-by-case basis.

"CSD" means the Consumer Services Division of the Oklahoma Corporation Commission.

"Delinquent" means a payment not received on or before the due date as posted on a utility's bill.

"Disconnection" means electric service has been discontinued by consumer request or by the utility.

"Economy energy" means electric energy that is purchased during the course of the day to take advantage of the opportunity to purchase power from unexpected surpluses on or available to the grid more cheaply than producing it oneself or purchasing power under existing contracts.

"Electric consuming facility" means anything that utilizes electric energy from a central station source.

"Electric energy" means the quantity of electric power that is generated over a specific interval of time, measured in kilowatt-hours or megawatt-hours.

"Electronic notification" means any automated communication received by e-mail, phone, text message or fax.

"Electric plant" means facilities and equipment owned or operated by a utility, including but not limited to generating stations, substations, transformers, towers, poles, conductors, transportation equipment, conduits, meters, motors, real estate, buildings, and dams.

"Electric service" means the supply of electricity, including generation, transmission, distribution and ancillary services (e.g. spinning and supplemental reserves) for ultimate consumption.

"Electricity" means electric power and energy produced, transmitted, distributed, or furnished by a utility.

"Energy" means a quantity of electricity produced over a given time, as measured in kilowatt-hours.

"FERC" means the Federal Energy Regulatory Commission.

"Filed" means to present a document and have it accepted by the ~~Office of the~~ Court Clerk of the Oklahoma Corporation Commission.

"Fuel procurement plan" means a plan that (1) establishes the parameters of a fuel supply portfolio for a utility and (2) strikes an appropriate balance between fuel costs and the related risks to which consumers are exposed (e.g., fuel cost increases and supply disruptions) over the term of the resource plan.

"Fuel supplies" means the coal, oil, natural gas and other fuels that generation facilities consume to produce electricity and the transportation and transmission services used to deliver those fuels.

"Generation facility" means a machine or machines capable of producing capacity, energy or other electricity products.

"Generation service" means the production of energy, capacity and other electricity products to meet customer demands for electricity.

"Generation supplier" means an entity capable of providing generation service.

"Independent power producer" means any generation supplier that is not a utility or an affiliate thereof.

"Integrated resource plan" means a utility's plan as further defined and established in Commission rules found at OAC 165:35-37 to ensure that sufficient supply- and demand-side resources are available to meet its obligation to serve and to achieve public policy objectives, including those prescribed by law, rule, or Commission order.

"Interested party" means any individual or entity with appropriate authority to act on behalf of a particular consumer or group of consumers, or any other party involved in, or affected by, the provision of electric generation service.

"kW" means kilowatts, and **"kWh"** means kilowatt-hours.

"Legal holiday" means any day declared by law or proclamation of the Governor of Oklahoma to be a legal holiday or a day on which the United States Parcel Service does not deliver mail.

"Load" means the amount of electric power delivered or required at any specific point or points on an electric transmission and distribution system.

"Local forecast" means a statement of what the weather is predicted to be, that is issued by the National Weather Service for a specific county, city, and/or zip-code area.

"Long-term" means longer than one year.

"Major event" means a catastrophic event that exceeds the design limits of the electric power system, such as an extreme storm, tornado or earthquake, wherein there is a significant loss of service.

"Meter" means any device or devices used to measure or register electric power and energy.

"Meter shop" means a shop used for the inspection, testing, and repair of meters.

"Municipality" means an incorporated city or town in Oklahoma.

"MW" means megawatts, and **"MWh"** means megawatt-hours.

"NEC" means the National Electrical Code issued by the National Fire Protection Association.

"NWS" means the National Weather Service.

"Owner" means a public utility, telecommunications utility, or consumer-owned utility that owns or controls poles, ducts, conduits, rights-of-way, manholes, handholes, or other similar facilities.

"Planned interruption" means electric service has been suspended by the utility.

"Planning period" means the ten (10) year period that begins on the date that the utility files its integrated resource plan with the Commission.

"Pole" means any pole that carries distribution lines, telecommunications lines, and that is owned or controlled by a public utility, telecommunications company, or consumer-owned utility.

"Pole occupant" means any licensee or other entity that constructs, operates, or maintains attachments on poles or within conduits.

"Premises" means any piece of land or real estate, or any building or other structure or portion thereof, or any facility where electric service is furnished to a consumer.

"Prudence review" means a comprehensive review that examines as fair, just, and reasonable, a utility's practices, policies, and decisions regarding an investment or expense at the time the investment was made or expense was incurred; including direct or indirect maximization of its positive impacts and mitigation of adverse impact upon its ratepayers, ~~without~~ consideration of its ultimate used and useful nature.

"PUD" means the Public Utility Division of the Oklahoma Corporation Commission.

"Purchased-power procurement plan" means a plan that establishes the parameters of a purchased-power portfolio for a utility that meets the utility's planning objectives and strikes an appropriate balance between power supply costs and the related risks to which consumers are exposed (e.g., purchased-power cost increases and power supply disruptions) over the term of the resource plan.

"Records" means documentation maintained by the utility either in electronic or paper form.

"Residence" means any dwelling unit containing kitchen appliances, permanent sewer, or septic facilities and water service. A weekend cabin and a mobile home are residences when used as such. An individual room in a hotel or motel is not a residence.

"Resources" means supply-side generating facilities including life extension and repowering projects for such facilities (and the output thereof), and non-supply side programs, including energy efficiency programs and demand response programs.

"RFP" means "request for proposal," the document that publicly opens a competitive bidding process by describing the utility's needs and seeking bids to fulfill those needs.

"Risk management plan" means a systematic method utilized by a utility to, among other things:

(A) Identify risks inherent in procuring and obtaining a supply portfolio;

(B) Establish the means by which the utility plans to address and balance or hedge the identified risks related to cost, price volatility and reliability; and

(C) Address the fuel, purchased-power and utility supply costs implicit in the utility's supply portfolio, and also energy efficiency and demand response programs as a potential hedge against risk.

"RUS" means the Rural Utilities Service.

"Special contract" means a written agreement between a utility and a consumer providing for furnishing electric service on terms different from those prescribed in approved tariffs.

"Stakeholder" means an interested party, as defined above.

"Statistical sampling" means a method for drawing elements from a population such that all possible elements in the population have a known and specified probability of being drawn and such that the set of chosen elements has approximately the same distribution of characteristics as the population from which it was drawn.

"Subdivision" means any land, wherever located, whether improved or unimproved, contiguous or not, which is divided into lots or proposed to be divided for the purpose of disposition pursuant to a common promotional scheme or plan of advertising for disposition.

"Submit" means to present a document to the Director of the Public Utility Division.

"Subsidize" means to furnish financial support by the utility to the affiliate.

"Support equipment" means guy wires, anchors, anchor rods, and other accessories of the pole owner used to support the structural integrity of the pole.

"Tariff" includes every rate schedule, or provision thereof, and all terms, conditions, rules, and regulations for furnishing electric service.

"Unplanned or emergency interruption" means service has been suspended due to circumstances beyond the control of the utility.

"Utility" means any person, firm, partnership, or corporation furnishing electric service to the public in Oklahoma and subject to the regulatory jurisdiction of the Commission.

165:35-1-3. Application of rules

(a) This Chapter shall apply to the operations of any electric utility operating within the State of Oklahoma under the jurisdiction of the Commission.

(b) This Chapter is intended to define good business practice under normal conditions.~~. It is intended~~ to ~~insure~~ ensure adequate service and prevent unfair charges to the public, and to protect the utilities from unreasonable demands.

(c) In any case where a controversy arises in connection with the interpretation of any provisions of this Chapter or the

applicability thereof, the Commission will make such orders as it may deem appropriate upon application of any interested party and after notice and hearing.

(d) A utility may decline initial service to a consumer until service may be rendered in compliance with this Chapter and applicable municipal ordinances and regulations.

(e) A utility may prescribe rules and regulations for furnishing service not inconsistent with this Chapter. No such rules shall be valid until filed with and approved by the Commission. A utility may refuse or discontinue service for noncompliance with its service rules only in cases where its approved rules specifically so provide.

(f) Whenever compliance with any provision or requirement of this Chapter would be unduly burdensome, or cause an unreasonable hardship or an excessive expense, or result in an unusual difficulty, or for other good cause shown the Commission may, upon application of the utility or the consumer and after notice and hearing, suspend or excuse compliance therewith or make such other requirements as it shall deem appropriate. For good cause shown, the Commission may grant temporary relief pending the hearing. If, after the effective date of this Chapter, a utility seeks an exception or variance from this Chapter in its tariffs or terms and conditions of service, such exception or variance shall be clearly shown on such tariffs or terms and conditions of service, sufficient to plainly bring to the Commission's attention to the exact nature of the said exception or variance. Any exception or variance not so marked or identified in such tariff or terms and conditions of service shall be superseded by this Chapter to the extent that said exception or variance is in conflict therewith. Upon approval by the Commission, the variance should indicate the number of the authoritative Commission order.

(g) The adoption of this Chapter shall in no way preclude the Commission from altering or amending this Chapter in whole or in part after notice and hearing, or from allowing or requiring additional or different service, equipment, facility, or standards than prescribed by this Chapter, either upon complaint or application or upon its own motion. Nothing provided in this Chapter shall relieve any utility from any duty prescribed by the laws of the State of Oklahoma.

(h) A utility shall not be required to take any action to ensure that a consumer follows or takes any action in compliance with any Commission rule or regulation concerning submetering activities, and no utility shall in any way be deemed to be responsible for any failure by a consumer or third party to follow or take actions in compliance with such Commission rules and regulations.

(i) The utility shall be subject to a fine per day per occurrence for any violation of this Chapter. The fine shall be determined pursuant to 17 O.S. § 1, after notice and hearing.

165:35-1-4. Location and retention of records

(a) **Record retention.** Unless otherwise specified herein, all records required by this Chapter shall be preserved by the utility in the form and for a period of time not less than that specified by applicable rules of FERC or the RUS; or in absence thereof, for two (2) years.

(b) **Record location.** All records required by this Chapter shall be made available for review in Oklahoma at the office or offices of the utility and shall be open for examination by the Commission or its representatives; provided that if the general office of the utility is located outside of Oklahoma, the records may be kept at the general office. Each utility shall maintain records in such detail that the cost of property located and business done in the State of Oklahoma, including cost of fuel for generation purposes, can be accurately and readily ascertained, and the utility shall make available any such records for examination by the Commission or its authorized representative. Each utility shall notify the Commission as to the location of the office or offices at which the various classes of records are kept and shall file with the Commission such reports as the Commission may from time to time require.

(c) **Submetering records.** In the event of the use of company submetering, all submetering records shall be retained for a period of two (2) years and shall be available for inspection by the Commission, the affected consumer and/or duly interested party at a location accessible to the consumer affected by submeters.

(d) **Contact persons.** Each utility shall notify in writing, the PUD Director within thirty (30) days of a change in the company-designated contacts for PUD and CSD issues.

(1) The update shall include the name(s), physical street address(es), electronic mail addresses and telephone number(s) of the designated individual(s), and shall be furnished applicable to each operating district, town or any segment of the utility so that PUD will be able to reach the responsible person at any time. If this information is unavailable, the utility may seek a waiver from the PUD Director by making the request in writing.

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;
(B) Repair and maintenance;
(C) Answering complaints;
(D) Authorizing and/or furnishing refunds to customers;
(E) Tariff issues;
(F) Regulatory matters;
(G) PUD Fee Assessment (and Fee Assessment Payments, if different);
(H) Primary emergency;
(I) After hours emergency;
(J) Annual reporting;
(K) Attorney for regulatory matters;
(L) Community liaison; and
(M) Engineering operations, meter tests and repairs.

(e) **Other information.** Each utility shall promptly furnish such other information as PUD or the Commission may request, unless otherwise ordered by the Commission.

165:35-1-5. Sale or disposal of jurisdictional facilities by utility

(a) Except upon order of the Commission made upon application, notice and hearing, no utility shall discontinue or

abandon any segment of its jurisdictional distribution system or sell, transfer, or dispose to another any portion of its jurisdictional plant or property then constituting an integrated operating system, or major fractional part thereof, unless the following criteria are satisfied:

(1) The Commission shall determine the functional division of utility property. If the function of the property intended to be sold by a utility will remain a utility function after the sale as determined by the Commission, the Commission retains jurisdiction;

(2) Unless otherwise ordered by the Commission, after notice and hearing, no property shall be sold which may have a detrimental impact on rates or service levels of customers, shippers or producers;

(3) This Section shall not apply to discontinuance of service pursuant to OAC 165:35-21, nor to routine retirement or replacement of plant or equipment; and

(4) Any portion of a utility's plant or operating system which has previously been included in the rate base of such utility will remain as part of such utility's jurisdictional plant or operating system, unless otherwise ordered by the Commission

(b) When filing an application for the sale or transfer of ownership of a portion of its jurisdictional plant or operating system, the seller/transferor shall provide to the buyer or transferee all documents, from the previous two (2) calendar years, required by the Commission to be maintained, and customer deposit records required to be maintained pursuant to OAC 165:35-19-1.

(c) The buyer/transferee shall be required to maintain the records set forth in this Section for a period of two (2) years from the time of the date of the sale or transfer.

(d) Prior to approval of the sale or transfer, the seller/transferor shall be required to have all annual reports, monthly fuel filings and monthly reports current.

(e) The application for sale or transfer shall indicate whether the utility has any outstanding fines from the Commission, whether the utility has any outstanding Public Utility fee assessment, or whether the utility has any outstanding deficiencies which have been identified by ~~the Public Utility Division~~ PUD or ~~Consumer Services Division of the Commission~~ CSD.

(f) This Subchapter shall not prohibit sale or exchange of individual items of equipment not affecting the service or area of service.

165:35-1-6. Submission of distribution system mapping [REVOKED]

~~No later than one (1) year after the effective date of this rule, each utility having a distribution system within the State of Oklahoma shall endeavor to provide the locations of the distribution lines within the utility's service territory, including all lines extending more than one mile outside of the utility's service territory, to the Director of the Public Utility Division using geographic information system data or standards as prescribed by the Director of the Public Utility Division.~~

SUBCHAPTER 5. RATE, TARIFF, ~~AND~~ MAP ~~FILING~~ SUBMISSION REQUIREMENTS, AND SUBMISSION OF SYSTEM MAPPING

165:35-5-1. Filing of rate schedules, contracts, agreements, and rules

(a) It shall be unlawful for a utility to furnish, charge for, or receive payment for electric service, except strictly in accordance with a tariff, special contract, or rate schedule approved by and on file with the Commission.

(b) No jurisdictional tariff or rate schedule shall be instituted, added, deleted, changed, closed, or discontinued except pursuant to order of the Commission upon application, and after such notice and hearing as may be ordered by the Commission.

(c) Annual tariff submissions submitted for review and approval by the PUD Director, pursuant to prior Commission order, may be accepted or rejected. If there is a dispute and resolution is not accomplished, the tariff shall be subject to refund as of the date of notice of filing of a cause before the Commission to resolve the dispute.

(~~c~~d) A special contract or agreement other than a filed tariff under which electric service is furnished to a consumer shall be deemed a tariff for the purpose for which approved and for purposes of this Chapter. No special contract for electric service shall become effective until it has been filed with and approved by order of the Commission, after notice and hearing when directed by the Commission.

(~~d~~e) The utility shall maintain the following in each business office or furnish to a member of the public on request:

(1) A copy of every tariff and rate schedule under which electric service is being furnished to consumers within the area serviced by that business office.

(2) A copy of the approved rules and regulations of the utility which govern the furnishing of electric service.

(3) A copy of this Chapter and all amendments thereto.

(~~e~~f) An agency for collection of utility bills, not operated by utility employees, shall not be deemed a local office for purposes of this Section.

(~~f~~g) A utility shall submit to ~~the Public Utility Division~~ PUD a copy of the following:

(1) Every franchise, contract, irrevocable permit, or similar agreement between a utility and a municipality.

(2) Each contract for the wholesale purchase of power or energy.

(3) Every electric power exchange agreement.

(4) Each rate schedule and contract approved by the FERC or the RUS applicable to purchases or sales of power and energy by the utility in Oklahoma.

165:35-5-2. ~~Filing of maps~~ Map Submission Requirements and Submission of System Mapping

~~Each utility shall provide upon request within ten (10) business days to the Commission suitable, detailed maps, a size and media as agreed by the utility and the director of the Public~~

~~Utility Division, of its general system and shall maintain suitable, detailed maps of its entire system, which shall be made available to the Commission on request. The general system maps may be provided by sections or counties where necessary to meet the size requirements. Such maps shall be brought up to date annually, not later than ninety (90) days after the end of the utility's fiscal year.~~

(a) Each utility shall provide upon request within ten (10) business days to the Commission suitable, detailed maps, a size and media as agreed by the utility and the PUD Director, of its general system and shall maintain suitable, detailed maps of its entire system, which shall be made available to the Commission on request. The general system maps may be provided by sections or counties where necessary to meet the size requirements. Such maps shall be brought up to date annually, not later than ninety (90) days after the end of the utility's fiscal year. Electronic submission is preferred; however, all forms of submission will be accepted.

(b) No later than one (1) year after the effective date of this rule, each utility having a distribution system within the State of Oklahoma shall endeavor to provide the locations of the distribution lines within the utility's service territory, including all lines extending more than one mile outside of the utility's service territory, to the PUD Director using geographic information system data or standards as prescribed by the PUD Director. Electronic submission is preferred; however, all forms of submission will be accepted.

(c) For purposes of this subsection, transmission facilities shall be excluded from mapping submissions. Transmission facility maps shall be retained at the utility, and shall be made available onsite upon request by PUD, subject to other regulatory requirements.

(d) The Commission finds, pursuant to Article IX, Section 18 of the Oklahoma Constitution, and 51 O.S. § 24A.22, that all general system maps that are not otherwise publicly available are hereby classified as confidential. All documents and information considered to be confidential must be clearly marked as such. All information classified as confidential shall be used by PUD, an ALJ, any party to filed cause pending before the Commission, and the Commission solely in connection with the review and disposition of all matters relating to this Section. PUD, the ALJ, the Commission and all other parties that receive or review information deemed confidential herein shall keep all such information confidential.

165:35-5-4. Applications for streamlined approval

(a) The utility seeking approval of an application under the streamlined process shall file an application with the ~~Commission~~ Commission's Court Clerk ~~Clerk's office~~ stating the name of the applicant, the specific change or changes requested, and the anticipated annual revenue effect.

(b) When the utility files an application for approval under the streamlined process, it shall submit to ~~the Public Utility Division~~ PUD a complete streamlined application package which conforms to the requirements set forth in this Subchapter. The streamlined application package shall contain a statement by the applicant that the package is in compliance with the filing requirements for streamlined application packages.

(c) Streamlined application packages shall contain at a minimum the following:

(1) Evidence that the application meets the requirements contained at OAC 165:35-5-3.

(2) Annual impact of such change or new service on the utility's customers, in aggregate and on a per customer basis for each customer class.

(3) Documentation and schedules that quantify the annual revenue change anticipated, and the cost of providing the new service, when applicable.

(4) Evidence that the change or new service is not unjustly discriminatory.

(5) Evidence that good cause exists for the approval of the change or new service.

(6) A list of all Commission orders applicable to the applicant issued within the twelve month period prior to filing pursuant to this streamlined procedure.

(7) The amount per month of both projected and actual revenues or reductions derived from the applications approved relating to the orders identified within the filing package within the twelve month period prior to filing.

(8) A statement containing the utility's jurisdictional gross operating revenues for the twelve month period immediately preceding the filing.

165:35-5-5. Response to application for streamlined approval and subsequent pleading

(a) The tariff and/or terms and conditions of service will be effective pursuant to Commission order. If an objection to the streamlined application is filed within thirty (30) calendar days of the original filing, the Commission may set the matter for hearing and shall issue an order approving, denying or modifying the application within sixty (60) calendar days of the date the application was filed, unless otherwise ordered by the Commission.

(b) If an objection is not filed, the Commission shall issue an order approving, denying or modifying the application within forty-five (45) calendar days of the date the application was filed, unless otherwise ordered by the Commission.

(c) Applicant shall respond to data requests for additional data or information within five (5) business days of receiving the request.

165:35-5-6. Streamlined approval - notice and intervention

~~The applicant shall provide notice of the application for streamlined approval which shall include notice to the Office of the Attorney General of the State of Oklahoma.~~

(a) The applicant shall provide notice of the application for streamlined approval, which shall include notice to the Office of the Attorney General of the State of Oklahoma.

(b) If the application proposes a service or tariff that alters the current rate or offers a new rate for customers, the applicant shall provide notice of the application by publication for two (2) weeks. The first publication shall be no later than fifteen (15) calendar days after the Commission approves the notice.

Publication shall be in a newspaper of general circulation published in each county in which are located utility customers affected thereby, unless the Commission orders otherwise.

SUBCHAPTER 7. PROMOTIONAL POLICIES AND PRACTICES

165:35-7-7. ~~Filing~~ Submission of promotional practices

The utility shall submit~~, to the Public Utility Division,~~ an annual submission of current promotional practices by May 1, and as programs are updated, to PUD. The report shall include a list and description of all promotional practices and activities. Although submission by the utility shall not assume approval by ~~the Public Utility Division~~ PUD, it will allow ~~the Public Utility Division~~ PUD and the utility to review and dialogue as to the appropriateness of the promotional practices, whether or not the expenses should be recovered through rates, and ensure that the promotional practices are provided on a nondiscriminatory basis.

SUBCHAPTER 9. EXTENT OF SERVICE

165:35-9-1. Extent of service

(a) **Point of delivery.** The point of delivery of electrical service shall be the point at which the electrical supply system of the utility connects to the wiring system of the consumer.

(b) **Service at primary distribution voltage.** When the consumer accepts service at primary distribution voltage, the delivery point shall be at or near the property line or point of transformation.

(c) **Service at secondary voltage.**

(1) For overhead construction, the point of delivery is that point where the utility's overhead service drop connects to the consumer's service entrance conductors.

(2) For underground construction, the point of delivery is that point where the utility's service lateral connects to the consumer's service entrance conductors.

(d) **Installation and maintenance responsibility.**

(1) A utility shall furnish and install all transformation and/or conductors of proper voltage and adequate capacity and be responsible for maintenance of all electrical wiring and equipment up to the point of delivery for every bona fide applicant for service who has complied with this Chapter and the provisions of the utility's terms and conditions of service as approved by the Commission. Unless specifically designated in their terms and conditions to the contrary, a utility shall provide its standard size connectors and connect the consumer's service entrance conductors at the point of delivery.

(2) All standard metering equipment stocked by the utility shall be furnished and maintained by the utility. Meters shall be furnished, installed, and maintained by the utility. All meter bases, enclosures, and other associated equipment furnished by the utility shall be maintained by the utility and remain its property. Required installation of this equipment by the consumer shall be in compliance with this subsection. A consumer may locate submetering equipment beyond the point of delivery of electrical service and such equipment shall conform to the ~~current version of ANSI (ANSI C12) Standard, or equivalent ANSI standard as later amended~~ NEC.

(3) Subject to OAC 165:35-17-3, all electrical wiring and equipment including meter bases, enclosures, and other associated equipment furnished by the utility, except for the meter furnished by the utility, installed on the consumer's side of the point of delivery shall be at the consumer's expense and shall be installed and maintained by the consumer in accordance with the ~~2012 Edition of the National Electrical Code as approved by the ANSI and with all requirements prescribed by the governmental authority having jurisdiction~~ NEC. In the event of conflict between the ~~National Electrical Code~~ NEC and an applicable municipal code, the latter shall prevail. The utility has no duty to conduct inspections of electric wiring and equipment except for such wiring and equipment which is installed, owned, or controlled by the utility.

(e) **Metering equipment at a point other than the point of delivery.** A utility may locate metering equipment at a point other than the point of delivery of electrical service. In such cases where the metering equipment is located on the consumer's side of the point of delivery, the utility may establish requirements for conductors and equipment to provide proper operation, accessibility and security.

(f) **Proper location of the point of delivery.** Either before, or during construction of the consumer's facility, the utility shall, upon request, and~~,~~ without charge, advise the consumer as to the proper location of the point of delivery. Whenever the consumer and the utility are unable to agree upon the point of delivery and equipment to be installed, the utility shall advise the consumer of the Commission's regulatory ability to resolve the dispute. The Commission, upon application of either, shall make a determination as to the appropriate location.

(g) **Permanent discontinuance of delivery of electric service.** When the utility permanently discontinues delivery of electric service to any consumer's premises, the utility shall have the right at any reasonable time thereafter, to enter upon the premises and remove its meter and any other property the utility has located there.

SUBCHAPTER 11. ALLOCATION OF TERRITORIES/CONSUMERS; CHANGES IN SERVICE/SUPPLIER

165:35-11-1. Allocating territories and/or consumers between utilities

An agreement between ~~utilites~~ utilities for the purpose of allocating territories or consumers shall be valid only if it is entered into by the utilities and approved by the Commission in accordance with the following provisions which provide "*Notwithstanding the effectuation of certified territories established by or pursuant to this act, and the exclusive right to*

service within such territory, a retail ~~electic~~ electric supplier may ~~contact~~ contract with another retail electric supplier for the purpose of allocating territories and consumer between such retail electric suppliers and designating which territories and consumers are to be served by which of said retail electric suppliers. Notwithstanding any other provisions of law, a ~~contrat~~ contract between retail electric suppliers as herein provided when approved by the Commission shall be valid and enforceable. The ~~commission~~ Commission shall approve such contract if it finds that the contract will promote the purposes of (Section 158.23 of this title) and will provide adequate and reasonable service to all areas and consumers affected thereby." [17 O.S. 1981, Section 158.26]

165:35-11-4. New large load equal to or greater than 1,000 kW notice

Any retail electric supplier, not excluded by 17 O.S. § 158.28 of the Retail Electric Supplier Certified Territory Act, that intends to provide retail electric service to a new electric-consuming facility within the certified territory of another retail electric service provider shall notify that incumbent retail electric service provider and PUD, either in writing or by electronic mail, after a bid has been selected, and no less than three (3) business days prior to implementation of service. This notice shall provide information including but not limited to the following:

(1) A description of the anticipated location of the new electric-consuming facility, and the identification of the certified territory retail electric service provider.

(2) A general description of the size of the load to be added.

(3) Identification of the tariff, on file with PUD, under which the retail electric supplier intends to serve the electric-consuming facility.

SUBCHAPTER 13. DISPOSITION OF ELECTRIC ENERGY

165:35-13-1. Resale of electricity

(a) Except as set forth in subsection (b) below, no utility shall knowingly furnish electricity under a retail tariff for purposes of resale, except pursuant to a tariff or special contract approved by and on file with the Commission.

(b) If it comes to the attention of the utility that any consumer is reselling electricity, it shall notify the ~~Commission's~~ PUD Director ~~of the Public Utility Division~~ of the name and address of any consumer reselling electricity. Unless otherwise directed, the utility may continue to provide electric service pending review by the ~~Commission's~~ PUD Director~~of the Public Utility Division~~.

(c) Sales of charging services from an electric vehicle charging station, not owned by a regulated utility, for the purpose of fueling an electric vehicle, including the ability to sell on a kWh basis, shall not be considered resale of retail electricity, and such sales from the electric vehicle charging station shall not be subject to rate regulation by the Commission. Utility service to an electric vehicle charging station shall be provided subject to the utility's terms and conditions.

165:35-13-2. Resale of power or energy

No utility shall knowingly sell power or energy to any consumer for resale under Commission jurisdiction pursuant to a tariff providing for resale unless the Commission has been advised fifteen (15) calendar days prior to commencement of deliveries. No such sale shall be made unless the purchaser from the utility has tariffs on file with and approved by the Commission, rate schedules, rules, and regulations covering such resale, or is exempt by law from such requirements.

165:35-13-6. Records and reports of measurement of input and output

(a) Each utility shall keep a record of the input and output of its system in kilowatt-hours per month.

(b) The totals of input and output measurements shall be reported each month to ~~the Commission~~ PUD on its Forms E.D. and E.T., "Comparative Monthly Report of Revenues and Expenses." A copy of RUS Form 7 may be filed in lieu thereof.

165:35-13-7. Multiple residence units

(a) The basic statewide standard for service to multiple residences, apartment complexes, or similar residential units shall be individual metering, one (1) meter per residence with billing under the applicable residential rate schedule.

(b) Exceptions to the standard for service to multiple residences set forth in (a) of this Section may be granted by the Commission with respect to new and future multiple residence units. A utility or the owner of such a multiple residence unit may submit an application seeking authorization to furnish service at one or more points of delivery. The Commission shall grant such authority if it determines that providing service in the manner requested will encourage:

(1) Conservation of energy.

(2) The efficient use of facilities and resources by the utility providing such service.

(3) Equitable rates to the consumers of such service.

(c) Except as provided in this Chapter, no consumer shall separately meter and separately bill another consumer for electricity. A landlord or innkeeper may include the cost of electricity in rent.

(d) Multiple residences, apartment complexes, or similar residential units being served under and with a single or multiple meters and at a commercial rate schedule may be continued without block billing or, at the option of the consumer, may revert to and have service by individual meters at the applicable residential rate.

(e) As an alternative to (a), (b), (c), and (d) of this Section, residences, apartment complexes, or similar residential units and multicommercial unit complexes may be or may continue to be served with a single utility meter and consumer submeter system, if such measuring of electrical service is deemed to:

(1) Encourage conservation of energy.

(2) Contribute to the efficient use of facilities and resources of electric utilities.

(3) Results in equitable rates to the electrical consumers affected by such meters. Application for utilization of such electric utility meters and consumer submeters referred to in (e) of this Section may be made by a letter jointly submitted by both the affected utility and consumer of electric service to the PUD Director ~~of the Public Utility Division of the Commission~~, requesting administrative approval by the Commission. In the event the PUD Director ~~of the Public Utility Division~~ shall deny such a joint letter application or in the event such a joint letter application is not presented, either the affected utility or the consumer shall have the right to file a formal application with notice for hearing before the Commission seeking such approval. The applicable rate for such service shall be the applicable utility commercial rate without block billing or similar type billing.

SUBCHAPTER 15. METER REQUIREMENTS

PART 1. INSTALLATION, READING, AND RECORDS

165:35-15-2. Meter reading, meter reading records, cards, and charts

(a) **Meter reading records.** The meter reading records shall show:

(1) Consumer's name, address, and rate schedule symbol.

(2) Identifying number or description of the meter.

(3) Meter readings and dates thereof.

(4) If the reading has been estimated.

(5) Any applicable multiplier or constant.

(b) **Meter charts.** All charts taken from recording meters shall be marked with the date of record, the meter number, consumer's name and location, and the chart multiplier.

(c) **Meter constants or multipliers.** Each service meter shall clearly indicate the reading from which the charge is made to the consumer. In any case where the dial reading of a meter must be multiplied by a constant to obtain the units consumed, the proper constant to be applied shall be clearly marked on the face or dial of the meter.

(d) **Meter reading information.** Each service meter shall be read by the utility, or a utility may by its rules prescribe a procedure for reading of meters by consumers.

(1) **Meters read by the utility.** For each utility that regularly reads its own meters, each service meter shall be read at monthly intervals at least ten (10) times a year, weather permitting, on approximately the same day of each meter reading period. The utility may, if specified and approved in its tariffs, delegate the reading of the meter to the consumer; however, the reading must be verified by the utility every six (6) months. Whenever it is not possible, with reasonable diligence, to read a meter for a billing period, the utility may submit an estimated bill based upon previous usage and other available information, the amount of such estimated bill to be adjusted as necessary when the next actual meter reading is obtained. No more than two (2) consecutive estimated bills shall be rendered without the utility reading the meter. If it is necessary for the utility to estimate more than two (2) bills per year due to the actions of the consumer regarding meter accessibility, and where the inaccessibility is beyond the control of the utility, it will be permissible for the utility to submit an estimated bill based on consumer reading or past service records. The amount of such estimated bill will be adjusted as necessary when the next actual reading is obtained.

(2) **Meters read by the consumer.** For each utility whose normal procedure is to have its consumers regularly read their own meters, the procedure for meter reading by the consumer shall provide for meter reading at approximately monthly intervals or annually, if an annual rate applies. The utility shall verify such readings not less than once every six (6) months. When the consumer fails to furnish meter readings, the utility may submit an estimated bill based on the consumer's previous usage and other available information, the amount of such estimated bill to be adjusted, as necessary, when the next actual reading is obtained. No more than two (2) consecutive estimated bills shall be rendered without the utility reading the meter. When by reason of a consumer's failure to furnish meter reading, the utility reads the meter, it may charge the service fee for reading the meter prescribed in its approved tariffs.

(3) **Access to meters and other property.** The utility shall at all reasonable times have access to meters, service connections, and other property owned by it on a consumer's premises. Refusal on the part of the consumer to provide reasonable access for the above purposes shall be deemed to be sufficient cause for discontinuance of service on the part of the utility, after at least ten (10) calendar days written notice. In the event the consumer is a tenant, the utility should attempt to notify the property owner of the access violation and pending disconnection of service. Service will be reconnected after a method of permanent access on the meter reading date is agreed upon by the customer consumer and utility. If the consumer and/or property owner does not correct unsafe conditions or obstructions, including aggressive animals, the utility may relocate the meter to a safe and accessible location at the expense of the consumer and/or property owner. The utility shall provide its employees with a means of identification to claim the right of access.

(4) **Special meter reading request.** Whenever a special meter reading is required following a request by a consumer, the utility shall not make a charge for the special meter reading, whether or not its applicable tariff authorizes a charge for a special meter reading, unless the consumer has requested and received special meter reading within the previous twelve (12) month period.

(e) **Consumer submeter record information.** Consumer submeter records shall contain the information set forth in (a) and (c) of this Section and such meters shall be read within

three (3) business days of the applicable utility meter being read by the utility.

PART 3. METER LOCATION, TESTING, AND OPERATION

165:35-15-11. Meter testing facilities and equipment

(a) **General.** Each utility furnishing metered electric service shall own or arrange for equipment and facilities and follow test procedures necessary for testing its meters to limits of accuracy specified in this Chapter. The equipment facilities and procedures shall be available for inspection by ~~the Commission~~ PUD or its authorized representative. A utility may contract for testing of its meters by another utility or by a non-utility concern performing meter testing service.

(b) **Test standards.**

(1) Each utility furnishing metered electric service shall provide for and have available portable indicating electrical testing instruments or watt-hour meters of suitable range and type for testing service watt-hour meters, demand meters, switchboard instruments, recording voltmeters, and other electrical instruments.

(2) For testing the accuracy of portable watt-hour meters, commonly called "rotating standards", and other portable instruments used for testing service meters, each utility shall provide for and have available as reference or check standards suitable indicating electrical instruments, watt-hour meters, watt meters, or any or all of them, hereinafter called reference standards. Service type of watt-hour meters may be used as a check standard, but if so, such watt-hour meters shall be permanently mounted in a meter testing facility and shall be used for no purpose other than for checking working rotating standards.

(c) **Reference standards.** Reference standards shall be submitted at least once each year to the National Bureau of Standards or to a laboratory approved by the Commission for the purpose of test, adjustment, and certification. Utilities maintaining standardizing laboratories will be permitted to make their own test and certifications of reference standards, provided the instruments and methods in use are acceptable to the Commission.

(d) **Portable test standards.** All working rotating standards (portable watt-hour meters) shall be compared with the reference standards at least once every three (3) months, and solid-state watt-hour standards every six (6) months, during the time such working standards are being regularly used. Each rotating standard (portable watt-hour meter) shall at all times be accompanied by a calibrating card, giving the date when it was last calibrated and adjusted. Records of calibration shall be kept on file in the office of the utility, for the life of the instrument.

165:35-15-20. Meter testing on request of consumer

(a) Upon receipt at an office of a utility of a written request of a consumer, the utility shall, within twenty (20) calendar days, test the accuracy of the meter through which the consumer is being served.

(b) No charge shall be made for a meter test requested by the consumer, unless the meter is found to test within limits of accuracy prescribed by this Chapter, in which case the utility may make the charge prescribed in its approved tariffs.

(c) A consumer may make written request to be present when the utility conducts the test on his/her meter and have an expert or other representative present at the time; in which case, the utility shall conduct the test in the presence of the consumer or the consumer's representative, but during regular working hours of the utility.

(d) A written report stating the name of the consumer requesting the test, the date of the request, the location of the premise where the meter has been installed, the type, make, size, and serial number of the meter, the date of removal, the date tested, and the result of the test shall be supplied to such consumer within ten (10) business days after the completion of the test.

(e) Each party affected by a consumer submeter may make demand of the consumer to test the consumer submeter, and the testing requirements and the time for such testing shall be as set forth in (a) through (d) of this Section.

165:35-15-22. Adjustment of bills

(a) **Fast meters.** Whenever any meter tested by ~~the Commission~~ PUD or the utility is found to have an average error of more than two percent (2%) fast (or in favor of the utility), the utility shall refund to the consumer the overcharge based upon the ~~previous~~ last test, but not to exceed six (6) months, unless it can be established that the error was due to some cause, the date of which can be fixed with reasonable certainty, or the error was due to meter tampering or theft, in which case the overcharge shall be computed from that date.

(b) **Slow meters.** Whenever a meter tested by ~~the Commission~~ PUD or the utility is found to have an average error of more than two percent (2%) slow (or in favor of the consumer), the utility shall charge for the electricity consumed, but not included, in bills previously rendered, based upon the corrected meter reading, for a period equal to one-half (1/2) of the time elapsed since the last previous test, but not to exceed six (6) months, unless it can be established that the error was due to meter tampering or theft ~~some cause, the date of which can be fixed with reasonable certainty, in which case the charge shall be computed from that date~~. The utility shall allow the consumer to pay the corrected amount, in installment payments, over the same period of time in which the incorrect billing took place, but not to exceed six (6) months, unless otherwise agreed to by the utility and consumer.

(c) **Nonregistering meters.** If a meter is found not to register or to register intermittently for any period, the utility may charge for an estimated amount of electricity used, which shall be calculated by averaging the amounts registered over corresponding periods in previous years, or in the absence of such information, over similar periods of known accurate measurement preceding or subsequent thereto. The estimated billing shall not exceed six (6) months, unless it can be established that the error was due to meter tampering or theft. The utility shall allow the consumer to pay the estimated billing amount,

in installment payments, over six (6) months, unless otherwise agreed to by the utility and consumer.

(d) **Incorrect register, connection of the meter, or multiplier on meters.** If a meter is found to have an incorrect register, connection, multiplier, or constant, the error shall be corrected. Where the error is adverse to the consumer, the utility shall refund the excess charged for the amount of electricity incorrectly metered for the period of time the meter was used in billing the consumer. Where the error is adverse to the utility, the utility shall charge the consumer the undercharge for the amount of electricity incorrectly metered for the period of time, not to exceed six (6) months, the meter was used in billing the consumer, unless it can be established that the error was due to meter tampering or theft ~~and if necessary the utility shall receive payment in installments over a reasonable period of time~~. The utility shall allow the consumer to pay any unbilled amount over the same period of time in which the undercharge took place, but not to exceed six (6) months, unless otherwise agreed to by the utility and consumer.

(e) **Compliance.** This Section shall not apply to routine testing and replacement of meters.

(f) **Conformity.** Consumer submeters shall conform to the adjustments set forth in subsections (a) through (e) of this Section.

SUBCHAPTER 19. CONSUMER DATA, DEPOSITS, AND BILLING

PART 1. CONSUMER RECORDS, INFORMATION, AND INTERRUPTIONS OF SERVICE

165:35-19-2. Consumer information

(a) Each utility shall:

(1) Maintain maps, plans, or records of its transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective consumers and others entitled to the information as to the facilities available for serving in any locality.

(2) Transmit to each of its consumers no less frequently than once each year:

(A) A clear and concise summary of the existing rate schedules applicable to each of the major classes of its consumers for which there is a separate rate.

(B) An identification of any classes whose rates are not summarized.

(3) Upon request of a consumer, but not more frequently than once each calendar year, provide a clear and concise statement of such consumer's actual consumption of electric energy for each billing period during the prior year.

(4) Assist the consumer or prospective consumer in selecting the most economical rate schedule.

(5) Provide information to each new consumer at the time of application or by enclosure with the first month's bill or by separate mailing, or by electronic notification to customers who make an affirmative election to receive electronic notification of such information, prior to the first month's bill as to the correct method of reading watt hour meters.

(b) Where economically feasible, each electric utility shall provide an office, agent, or authorized pay site in or convenient to each municipality serviced by it where the consumer may pay bills, which office, agency, or authorized pay site, shall be open for business during reasonable business hours at least five days per week, holidays excepted. Whenever service prescribed in this subsection is not furnished for economic reasons, the Commission may, upon application and after notice and hearing, prescribe the service to be furnished and conditions thereof.

(c) The utility shall provide, in each telephone directory covering any area it serves, a telephone listing of the number by which the utility can be notified at any time during a twenty-four (24) hour day of any utility service deficiency or emergency, or the information may be published in a regular newsletter or publication furnished to its subscribers. In addition, the telephone number shall be published on the homepage of a utility sponsored website, if applicable.

(d) The utility shall advise its residential consumers through its consumer mailing or by electronic notification to customers who make an affirmative election to receive electronic notification of such information, no less than once a year, of the Commission rules regarding the following:

(1) Disconnection information which states the rights listed in the "Disconnect Notice," as outlined in OAC 165:35-21-20 *et seq*.

(2) Commission-approved deferred payment plans;

(3) Twenty (20) day government and/or private financial aid assistance deferral;

(4) Life Threatening Certificate and consumer responsibilities;

(5) ~~Elderly/Consumers with Disabilities Notification~~ Elderly or Consumers with disabilities can request their account to be flagged by the utility so that CSD can intervene on their behalf, when requested by the consumer, in the event of a disconnection of service notice and extend the disconnection date by up to five (5) business days;

(6) Average Monthly payment plans;

(7) The address and telephone number of the Commission's ~~Consumer Services Division~~ CSD;

(8) The limitations for disconnection, including days or periods of time when service shall not be disconnected as outlined in OAC 165:35-21-10(c); and

(9) The availability of a list of agencies providing assistance to consumers for their utility bills as outlined by OAC 165:35-21-3.

(e) The utility shall provide the location of pay agents upon the consumer's request.

(f) The utilities are strongly encouraged to have bilingual customer service personnel available to assist non-English speaking consumers regarding disconnection and related matters.

165:35-19-4. Restoration of service

This Section establishes general parameters to ensure timely communication to the Commission, of the utility's implementation of its restoration of service plan, following an unplanned service interruption. Each electric utility shall have a written restoration of service policy/plan, which shall include a telecommunication plan to be followed during unplanned or emergency interruptions, with a current copy ~~filed by September 30 of each year~~ on file with the CSD Director ~~of the Commission's Consumer Services Division~~. ~~This~~ No later than September 30 of each year, this policy shall be reviewed by the utility at least annually, and updated as deemed necessary and appropriate. A statement detailing all changes from the previous edition shall be filed with the Commission and included at the front of the policy on file. Each electric utility shall provide and keep current, the phone number of any 24-hour emergency operations center or a list with a minimum of two individuals having 24-hour contact numbers, by September 30 of each year, to the ~~Commission's~~ CSD Director ~~of the Consumer Services Division~~. The following items are guidelines to be addressed in the policy:

(1) Assessment of the extent of the service interruption and what resources (equipment, materials, and labor) will be required to restore service. The utility should also attempt to determine the number of consumers affected and the geographic extent of the service interruption.

(2) Determination as to whether or not the service restoration can be accomplished by use of in-house personnel only, or if contractors (personnel obtained from other utilities or third-party entities) will be required. The objective is to have service restored as soon as possible.

(3) Identification of priorities for service restoration, based upon emergency needs and upon ease of restoration for the greatest number of consumers for the least expenditure of money, time, and effort. Priority shall be given to any life-threatening situations known or discovered during restoration of service.

(4) Once electricity to installations affected with the interest of public health and safety has been restored (such as hospitals, fire and police departments and 911 centers), service shall be restored to schools as quickly as feasible, during such time of the year that school is in session.

(5) Attempted notification of high-priority consumers or major electric consuming facilities that are affected by the service outage, when possible. Radio and/or television should be utilized to notify larger numbers of consumers as to the type of service outage, extent of the service outage, and the expected time to restore service. Other means of notification may also be utilized, so long as the result is mass notification on an efficient, effective, and timely basis.

(6) Commission notification through the CSD Director ~~of the Consumer Services Division~~ and the Commission's Emergency Liaison to implement the process outlined in paragraphs A through C below. The Commission notification process to the designated ~~Consumer Services Division~~ CSD individual(s) and the Commission's Emergency Liaison may be accomplished by one or more of the following methods: business telephone and/or e-mail address during the business hours of 8:00 a.m. through 4:30 p.m. Monday through Friday, or emergency cellular telephone number after normal business hours, weekends and holidays. The notification shall consist of the following:

(A) An initial contact to notify Staff of outages, which involve a major utility substation or facility; or which may cause a high degree of public interest or concern; or which have a duration of 4 hours or more and involve 1% or fifty (50) consumers or more, whichever is greater, of the utility's meter count.

(B) Intermediate contact to provide status reports, as deemed necessary by the utility, or as may be requested by Commission and CSD Staff.

(C) A conclusory contact detailing the results and completion of the restoration of service plan implementation.

PART 3. DEPOSITS

165:35-19-10. Deposits and interest

(a) Each utility shall prepare and submit a plan containing criteria for deposits to the Commission for approval. The plan shall include criteria for residential and nonresidential consumers with residential being defined in each utility's tariff.

(1) The residential plan shall conform to all subsections of this Section.

(2) The nonresidential plan shall conform to all subsections of this Section except (b), (c), (e), and (l).

(b) No utility shall require a deposit of a residential consumer who has received the same or similar type and classification of service for twelve (12) consecutive months and service was not terminated for nonpayment nor was payment late more than twice nor was a check for payment dishonored. The twelve (12) month service period shall have been within eighteen (18) months prior to the application of new service. The utility plan may establish other relevant criteria which will qualify the consumer for nonpayment of a deposit.

(c) No utility shall require a deposit of more than one-sixth (1/6) the estimated annual bill. The utility may allow smaller deposits to be made, in conformance with relevant, objective criteria written in the utility's plan. The utility plan may allow consumers to pay deposits in installments.

(d) A utility may require an advance deposit as a condition of service for consumers other than those addressed in (b) and non-residential consumers.

(e) A residential consumer may be required to post a deposit as a condition of continued service if undisputed charges have become delinquent, with delinquent meaning a payment not received on or before the due date as posted on the bill, in two (2) out of the last twelve (12) billing periods or if the consumer has had service disconnected during the last twelve (12) months pursuant to OAC 165:35-21-2 or has presented a check subsequently dishonored.

(f) A non-residential consumer may be required to post a deposit as a condition of continued service if undisputed

charges have become delinquent, with delinquent meaning a payment not received on or before the due date as posted on the bill, in two (2) out of the last twenty-four (24) billing periods or if the consumer has had service disconnected during the last twenty-four (24) months pursuant to OAC 165:35-11-11 or has presented a check subsequently dishonored.

(g) Interest on cash deposits shall be paid by the utility at no less than the rate calculated as follows:

(1) For all consumer deposits returned within one (1) year or less, the interest rate shall be established on January 1 of each year to equal the average of the weekly percent annual yields of one (1) year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point.

(2) For all consumer deposits held by the utility for more than one (1) year, the interest rate shall be established on January 1 of each year to equal the average of the weekly percent annual yields of 10 year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point. The utility may pay the average of the one (1) year Treasury Security, as referenced in ~~(e)~~(g)(1) of this Section, for the first year the deposit is held.

(3) Provided, however that after the interest rates are initially established pursuant to this subsection, the interest rate shall not change unless the application of the formula in ~~(e)~~(g)(1) and/or (2) results in a change in interest rate(s) that is/are greater than fifty (50) basis points.

(4) The PUD Director ~~of the Public Utility Division~~ shall calculate the interest rate(s) as pursuant to ~~(e)~~(g)(1) and (2) of this Section, and shall ~~mail notice to the electric utility companies~~ post notice on the Commission's website by December 15 of each year, ~~only if a change in the rate(s) is/are necessary~~ pursuant to subsection ~~(e)~~(g), otherwise the current interest rate(s) will remain in effect.

(h) If refund of deposit is made within thirty (30) days of receipt of deposit, no interest payment is required. If the utility retains the deposit more than thirty (30) days, payment of interest shall be made retroactive to the date of deposit. No interest shall accrue on a deposit after discontinuance of service.

(i) The deposit shall cease to draw interest on the date it is returned or credited to the consumer's account.

(j) The utility plan shall provide the date of payment of interest and whether the interest shall be paid by negotiable instrument, or by credit against current billing, or by issuance of a bank card.

(k) Each consumer posting deposit shall receive a nonassignable receipt in writing at the time of making the deposit, or within ten (10) days thereafter, or such deposit shall appear as a notation on the consumer's next bill. When a consumer pays a deposit as a portion of an electric service bill, payment of the bill shall serve as a receipt of the deposit. If the deposit is not paid by the due date, the amount of the deposit will become a part of the past due amount owed and monies paid shall be applied to the oldest past due amount. The utility plan shall provide reasonable means whereby a depositor who applies for the return of his/her deposit, or any deposit to which he/she is entitled, but who is unable to produce the original receipt may not be deprived of his/her deposit or balance.

(l) The utility shall automatically refund the deposit for residential service, with accrued interest, after twelve (12) months' satisfactory payment of undisputed charges and where payment was not late more than twice; provided, however, that service has not been disconnected within the twelve (12) month period. Payment of a charge shall be deemed satisfactory if received on or prior to the date the bill is due. Payment of a charge shall be deemed not satisfactory if made by a check subsequently dishonored.

(m) The utility shall automatically refund non-residential service deposits of less than $20,000, with accrued interest, after twenty-four (24) months' satisfactory payment of undisputed charges and where payment was not late more than twice; provided, however, that service has not been disconnected within the twenty-four (24) month period. Non-residential consumers, who meet the above-referenced eligibility criteria, must have a minimum of five (5) years continuous service at the service location with the utility before a deposit will be refunded.

(n) The utility plan shall provide for the review of all deposits for residential service at least annually and deposits for non-residential service at least once every twenty-four (24) months and shall provide whether refunds will be paid by negotiable instrument, upon request of the consumer, provided the consumer's bill is not delinquent, or by credit against current billing.

(o) The amount of the deposit, with accrued interest, shall be applied to any unpaid charges at the time of a discontinuance of service. The balance, if any, shall be returned to the consumer within thirty (30) days following the settlement of the consumer's account, either in person or by mailing it to the consumer's last known address.

(p) The utility shall provide payment of accrued interest for all consumers annually by negotiable instrument, or by credit against current billing, or by issuance of a bank card.

(q) The utility may withhold refund or return of the deposit, pending the resolution of a dispute with respect to charges secured by the deposit.

(r) The utility shall keep records to show:

(1) The name, account number, and address of each depositor.

(2) The amount of the deposit and date received.

(3) Each transaction concerning the deposit.

(s) Such records shall be retained for two (2) years after the deposit and/or interest is refunded or applied.

(t) Upon the sale or transfer of any public utility or operating units thereof, the seller shall file, with the application of transfer, a verified list of all consumers from whom a deposit is being held, the date such deposit was made, the amount thereof, and the unpaid interest thereon. The information provided shall be treated as confidential and shall not be available for public inspection unless ordered by the Commission after notice and hearing.

(u) Deposits shall not include membership fees in cooperatives.

(v) The deposit made by the consumer with the utility at the time of application for electricity shall not constitute an advance payment to cover service bills, but for all purposes it is to be considered as security for the payment of monthly bills or other proper charges.

PART 5. BILLING

165:35-19-30. Information on bills

The utility shall bill each consumer as promptly as possible following the reading of his/her meter. The bill shall show:

(1) The reading of the meter at the end of the period for which the bill is rendered.

(2) The date on which the meter was read, or the end of the billing period.

(3) The number and kind of units used for billing.

(4) The total amount due for electricity used.

(5) Items of tax separately billed, pursuant to OAC 165:35-27-2.

(6) The date by which the consumer must pay the bill to avoid addition of a penalty.

(7) The total amount due after addition of any penalty for nonpayment within a designated period. The terms "gross bill" and "net bill" or other similar terms implying the granting of a discount for prompt payment shall not be used where a penalty is added for nonpayment within a designated period.

(8) A distinct marking to identify an estimated bill.

(9) If there is a conversion from meter reading units to billing units, or any calculation to determine billing units from recording or other devices, or any other factors used in determining the bill, full information shall be furnished on request.

(10) In the case of a special form of billing, such as a level payment plan, any of the above information which is inappropriate may be omitted.

(11) The fuel adjustment or purchased power adjustment factor associated with the respective clauses on the consumer's bill.

(12) The electric bill submitted by the utility furnishing electric service to the consumer shall be allocated to the party(ies) affected by such consumer submeters in a manner approved by and on file with the ~~Commission's~~ PUD Director ~~of the Public Utility Division~~.

(13) Utilities that serve 150,000 Oklahoma customers or more shall provide historical usage information, e.g., a chart, table or graph, which shall be displayed prominently on each bill, and depict the actual usage of the residential consumer, at the place of service for which the bill is issued. Such historical usage shall be tracked and displayed over the previous twelve (12) month period.

(14) Utilities that serve less than 150,000 Oklahoma Customers consumers shall provide, in a conspicuous manner, notice on each residential consumer bill that historical usage information is available at no charge, upon the consumer's request.

(15) The name and toll-free telephone number of the Commission's CSD, to which the end-user may direct complaints and questions regarding utility services.

SUBCHAPTER 21. DISCONNECTION OF SERVICE

PART 1. DISCONNECTION OF SERVICE

165:35-21-2. Disconnection of service by a utility

(a) **Sufficient reasons for disconnection of service.** A utility may disconnect service to a consumer for any of the following reasons:

(1) Nonpayment of all or any portion of undisputed utility bills or a utility bill which is no longer disputed or for which the Commission's dispute process has been completed.

(2) Nonpayment of an account for service of a similar character previously supplied to such applicant or consumer by the utility.

(3) Failure to comply with the terms and conditions of a settlement agreement or any type of deferred payment agreement or with a Commission order.

(4) Failure to post a deposit as prescribed in OAC 165:35-19-10.

(5) Failure to make application for service.

(6) Misrepresentation of identity or facts for the purpose of obtaining service or use of an alias, trade name, business name, relative's name or another person's name as a device to escape payment of an unpaid obligation for utility service provided to the consumer.

(7) Violation of any rule or regulation of the Commission or Commission-approved rule of the utility.

(8) Unauthorized use of electricity accomplished through bypassing of the utility's measuring equipment or tampering with wires, pipes, meters, or other utility equipment.

(9) Whenever the utility has reason to believe that continued service will create a condition on the consumer's premises that is dangerous to persons or property.

(10) Refusal to grant access at reasonable times for the purpose of installation, inspection, maintenance, replacement, or reading of utility equipment installed upon the premises of the consumer, or maintaining any obstruction that would deny access for these purposes.

(11) Potential adverse effect of the service required by the consumer on the service of other consumers of the utility, provided the consumer has been notified and given a reasonable opportunity to correct the adverse effect.

(12) Abandonment of the premises served.

(13) Upon request of the consumer pursuant to OAC 165:35-21-1.

(14) Causing injury or threatening to cause injury to an employee of the utility or the family of an employee of the utility or the property of the utility for the purpose of

preventing a utility employee from engaging in activities authorized by law or in retaliation for such activities.

(15) Violation of the utility's rules regarding the operation of nonstandard equipment or unauthorized attachments, if the consumer was notified first and given a reasonable opportunity to comply with the rules.

(16) Violation of federal, state, or local laws or regulations through use of the service.

(17) Causing damage to utility property.

(18) A condition exists which poses a health or safety hazard.

(b) **Insufficient reasons for disconnection of service.** A utility shall not disconnect service to a consumer for any of the following reasons:

(1) Failure to pay for a different kind or classification of service from that requested.

(2) Failure to pay a bill correcting a previous underbilling, due to misapplication of rates, unless the utility offers the consumer a deferred payment agreement as provided elsewhere in this Chapter.

(3) Failure of a previous owner or occupant at the premises or user of the service to pay an unpaid or delinquent account, except where the previous occupant remains an occupant or user of the utility service.

(4) Failure of a consumer to pay any portion of an estimated billing which the consumer disputes, except where the consumer fails to allow a utility representative access to the meter, or if the consumer regularly reads the consumer's own meter and fails to supply a current meter reading.

(5) If a current consumer in good standing who accepts an additional household member owing a previous bill to the utility unless that additional household member is listed on the lease arrangements or another utility service as a responsible party, or unless the household member shared service with the subscriber at a different or same location.

(6) If a consumer or potential consumer for a previously unpaid account from a different utility beyond the boundaries of the utility's service territory.

(7) Pending verification, service cannot be withheld or disconnected from a consumer whose name was used to obtain service at another location without the consumer's permission or knowledge.

(8) Nonpayment of an amount past due for more than three (3) years if the utility cannot substantiate the charges with a copy of the consumer's complete billing history reflecting usage, consumption and relevant charges.

(9) Failure to pay a past due amount to another utility.

(c) **Effective period of notice.** A utility may disconnect service on the date specified in the notice or within thirty (30) calendar days thereafter, during regular business hours, so long as the disconnection does not occur within the last two (2) hours of the business day, nor shall service be disconnected on a holiday, nor after noon (12:00 p.m.) on Fridays until Monday morning.

(d) **Documentation of reason(s).** The utility shall provide documentation to the consumer indicating the reason(s) that service is being withheld or disconnected.

PART 3. SPECIAL PROVISIONS REGARDING RESIDENTIAL DISCONNECTION

165:35-21-10. Delays to disconnection of residential service

(a) **Limitations on disconnections.** After notice and hearing, the Commission may issue an order that may include limitations on disconnection of residential utility service used or needed for the primary heating or cooling source.

(b) **Temporary ban on disconnections.** The Commission shall have the authority to order a temporary ban on any or all disconnections during periods of extremely severe weather or when circumstances exist such that disconnection could create a situation dangerous to the life or health of consumers or to property.

(c) **Severe weather.**

(1) ~~If the high temperature is actually, or predicted to be, 32 degrees Fahrenheit or below on the day of disconnection or the nighttime low is predicted to be 20 degrees Fahrenheit or less the utility shall suspend its disconnection of service if the electric service is used for heating purposes.~~ If the NWS issues a local forecast predicting the temperature will drop below 32 degrees Fahrenheit for any time period during the following twenty-four (24) hours, the utility shall suspend its disconnection of service if the electric service is used for heating purposes. The utility must obtain the most recent local forecast for the customer's location from the NWS reports between the hours of 6:00 a.m. and 8:00 a.m. on the morning of the day that the customer's shut-off is scheduled. If the NWS issues an updated forecast on the day of disconnection, then such updated forecast shall be used in place of the earlier obtained forecast.

(2) ~~If the service is utilized for cooling and the temperature is actually, or predicted to be, 101 degrees heat index or higher on the day of disconnection, the utility shall suspend its disconnection of service activity.~~ If the NWS issues a local forecast predicting the heat index will be 101 degrees Fahrenheit or higher on the day of disconnection, or if the actual heat index is 101 degrees Fahrenheit or higher, the utility shall suspend its disconnection of service activity if the electric service is used for cooling purposes. The utility must obtain the most recent local forecast for the customer's location from the NWS reports between the hours of 6:00 a.m. and 8:00 a.m. on the morning of the day that the customer's shut-off is scheduled. If the NWS issues an updated forecast on the day of disconnection, then such updated forecast shall be used in place of the earlier obtained forecast.

(3) Nothing in this Section shall prohibit a utility from establishing a higher temperature threshold for residential heating purposes below which it will not discontinue utility service or from establishing a lower temperature threshold for residential cooling purposes above which it will not discontinue utility service. The utility may continue to disconnect utility service for unauthorized use of the utility's measuring equipment or tampering with wires,

pipes, meters, or any other utility equipment or obtaining service without contract.

(d) **Financial assistance delay.** When a residential consumer has applied for and is awaiting financial assistance, including social security income, from a federal, state, or local social service agency, and the utility has initiated written notice of disconnection, it shall delay disconnection of service for a period of at least twenty (20) calendar days from the date when such notice was either delivered or mailed to the premises where service is rendered, provided:

(1) The reason for disconnection is for nonpayment of the utility bill.

(2) The consumer has notified the utility that the consumer has applied for and is awaiting financial assistance.

(3) Verification from the involved agency must be provided in a form as prescribed by the utility upon its request.

(4) If the expected financial assistance is less than the amount owed for services, the utility may require the consumer to enter into a deferred payment agreement as prescribed pursuant to (e) of this Section.

(5) Under no condition is the utility required to furnish service to the consumer unless there is a reasonable expectation of payment for such service except where other rules of this Commission apply.

(e) **Deferred payment agreement.** The utility shall be required to offer a deferred payment agreement before disconnecting service when a residential consumer is unable to pay an account in full. The utility shall not disconnect service for nonpayment of a bill if the consumer enters into a deferred payment agreement with the utility. The utility shall mail, or by electronic notification to customers who make an affirmative election to receive electronic notification of such, a confirmation of the terms of the deferred payment agreement if it is made orally. A deferred payment agreement may be entered into by the consumer up to, but not including, the day of disconnection. Except where payment assistance for the total amount of the bill is pending, the utility may require a reasonable partial payment in accordance with paragraph one (1) of this subsection, at the time the deferred payment agreement is made.

(1) Deferred payment agreement means a just and reasonable agreement offered by the utility and agreed to by the consumer which provides for the payment of all future bills during the period of agreement by the due date and the payment of the balance of any outstanding bills in reasonable installments based upon:

(A) Consideration of the consumer's gross income.

(B) Size of the delinquent account.

(C) Consumer's ability to pay.

(D) Consumer's payment history with the utility.

(E) Length of time and reasons why the debt has not been paid.

(F) Other extraordinary expenses of the consumer.

(G) Loss of income through unemployment or illness.

(H) Any other relevant factors concerning the circumstances of the consumer.

(2) The payments under such an agreement need not be equal in amount.

(3) The consumer shall initiate renegotiation prior to breach of the deferred payment agreement. The deferred payment agreement shall be renegotiated if financial circumstances, such as loss of income through unemployment or illness or any other relevant factors concerning the circumstances of the consumer, change during the payment period.

(4) If a consumer fails to comply with the terms of the deferred payment agreement, the consumer will be subject to disconnection without further notice, so long as the disconnection date on the first and second notice has not been passed. If the disconnection date has passed, the utility shall provide at least twenty-four (24) hours' notice of disconnection to the consumer.

(5) Under no condition is the utility required to furnish service to the consumer unless there is a reasonable expectation of payment for such service except where other rules of the Commission apply.

(f) **Life-threatening situation.**

(1) For purposes of this Section, a life-threatening situation is defined as one where the consumer or other permanent resident of the household is dependent upon equipment that is prescribed by a physician, operates on electricity, and is needed to sustain the person's life. Examples of life-sustaining equipment would be: kidney dialysis machine, iron lung, oxygen concentrators and certain other oxygen machines, cardiac monitory, heating and air conditioning equipment, or any other equipment that is prescribed by a licensed medical doctor. If the life-sustaining equipment without a battery backup is prescribed by a licensed medical doctor, then it shall be considered life-sustaining equipment. The following are not considered to be life-sustaining equipment: hot water heater, refrigerator, range/stove, nebulizers that are battery-driven or hand-driven or self-contained, battery-driven sleep apnea monitors, battery-driven cardiac monitors.

(2) When a consumer to whom service is provided is unable to pay the account in full, the utility shall suspend discontinuance of service, or reconnect if disconnected, if the consumer notifies the utility that disconnection of service will give rise to a life-threatening condition for the consumer or other permanent resident of the household should electric service be terminated, and within thirty (30) calendar days of the initial notification, the consumer shall return the Medical Certificate described in (3) of this subsection.

(3) The consumer shall use a Medical Certificate Form which verifies the existence of a life-threatening situation. The form shall be provided by the utility at no cost to the consumer. The form shall provide certification by a licensed medical doctor or osteopath. The consumer may choose the appropriate medical personnel. At a minimum, the Medical Certificate Form provided by the utility shall contain, substantially, the information in the form as set forth in Appendix A to this Chapter. The service account name holder shall sign the Medical Certificate Form at the

appropriate space, indicating knowledge that a permanent resident of the household is applying for the life-threatening situation certificate and further acknowledging the responsibility for payment of bills rendered for electric service.

(4) Completion of (2) and (3) of this subsection will suspend disconnection of electrical service to the specified residence for a period of thirty (30) calendar days from the initial notification. This 30-day period allows the consumer, if eligible, to pay the account in full or enter into a deferred payment agreement with the utility and/or make alternative arrangements for the person(s) named on the certified form as having the life-threatening condition. After thirty (30) calendar days, normal collection action will resume. The 30-day period may be extended by the utility at the request of the service account name holder for one (1) additional contiguous 30-day period, but only if necessitated by the life-threatening condition (as indicated on the Medical Certificate Form). The request for the additional 30-day extension must be made before the end of the initial 30-day period. The utility is not required to furnish service to the consumer beyond a total of sixty (60) calendar days for the life-threatening condition without full payment of the account or acceptable payment arrangements on any unpaid balance.

(5) Verification of the medical condition of the consumer or other permanent resident in the household by the utility may include the following:

(A) Utility personnel may visit the consumer's residence with the consumer's permission to verify that life-sustaining equipment is being used.

(B) Utility personnel may verify the doctor's signature and clarify the medical terms of the diagnosis which is the reason for the life-threatening certificate.

(6) This collection abeyance in no way absolves the consumer from full responsibility for the payment in full of the utility services rendered, and is intended for the purpose of providing the consumer an opportunity to maintain service during the life-threatening situation within the prescribed time frames.

(7) Failure of the service account name holder to fully comply with this subsection may result in denial of life-threatening status and renewed collection activities of the utility, to include termination of service to said residence.

(8) Any consumer who uses this subsection to avoid disconnection or for reconnection of service and does not complete the required documentation will be subject to disconnection.

(9) A consumer is not prohibited from claiming life threatening situation once full payment of the account balance from a previous life-threatening claim is made and a Medical Certificate Form signed by a licensed medical doctor has been received by the utility.

(g) **False information.** If a consumer provides false or misleading information to the utility to avail the consumer of the provisions applicable to the financial assistance delay, deferred payment agreement, life-threatening situation, or Commission notification procedure for elderly and/or consumers with disabilities, the false information shall be grounds for disconnection of service by the utility. The utility may disconnect service upon the utility providing notice to the customer in accordance with OAC 165:35-21-20(a).

(h) **Consumer liability.** Reconnection or continuance of service under this Section shall not in any way relieve the consumer of the consumer's liability incurred for utility service.

165:35-21-11. Commission notification procedure for the elderly and/or consumers with disabilities

(a) At any time prior to disconnection of service, the ~~Commission~~ notification procedure shall be available to those elderly and/or consumers with disabilities who have notified the utility that they wish to be included in the following ~~Commission~~ notification procedure:

(1) ~~A utility shall notify the Commission's Consumer Services Division in writing or electronically at least ten (10) business days prior to disconnection.~~

~~(2) The notification shall contain at a minimum:~~

~~(A) The name, address, telephone number, and account number of the involved parties.~~

~~(B) The words "NOTICE", "SERVICE SUBJECT TO CUTOFF", and "ELDERLY and/or CONSUMER WITH DISABILITIES" should be conspicuously placed on the notice in bold, capitalized letters.~~

~~(C) The scheduled date for disconnection.~~

~~(D) The unpaid balance amount.~~

~~(E) The name and telephone number of a contact person at the utility.~~

~~(3) The~~ For those who have registered with the utility as elderly and/or consumer with disabilities, the utility shall delay disconnection of service ~~to the elderly and/or consumers with disabilities~~ for five (5) additional business days upon request of the Commission's ~~Consumer Services Division~~ CSD.

(~~4~~2) Elderly and/or consumers with disabilities are those consumers who have notified the utility in writing that they ~~wish to be included in the Commission notification procedure available to them and who~~:

(A) Have a permanent impairment which substantially limits the disabled consumer's ability to pay for utility service; or

(B) Are sixty-five (65) years of age or older.

(b) The utility shall notify the consumer or other person responsible for the bill, during the initial application for service, annually thereafter, and at ~~anytime~~ any time disconnection is imminent, of this additional notification procedure.

(c) The utility may require verification of the consumer's qualifications.

~~(d) The Commission notification procedure is in addition to the other requirements set forth in this Subchapter which the utility shall meet prior to disconnection of service.~~

PART 5. NOTICE REQUIREMENTS

165:35-21-20. Notice of disconnection of service

(a) **Twenty-four hour notice.** Except as provided in subsections (b), (c) and (f) of this Section and OAC 165:35-21-30, service shall be disconnected only after at least twenty-four (24) hours written notice has been given to the consumer by leaving a copy of such notice with the consumer or by leaving a copy of such notice in a conspicuous place at the premises where service is provided. ~~This notice shall be in writing and shall state the reason for the action, the amount due, if applicable, the company to contact in bold print, the contact telephone number, in bold print, and the telephone number of the Commission's Consumer Service Division.~~ This notice shall be in writing, in bolded lettering, and state the reason for the disconnection, the amount due, if applicable, and the utility company's name, telephone number, and contact information. After the utility company's contact information, the notice shall include the telephone number of CSD in a printed size smaller than the print size used for the utility company's contact information, not bolded, and shall include the following statement: "For clarification of statutes and rules governing services, or escalations of disputes, you may contact the Oklahoma Corporation Commission's Consumer Services Division." The utility shall submit a copy of the notice to PUD for approval prior to usage.

(b) **First residential notice.** When service to a residential consumer is to be disconnected for nonpayment of a bill for utility service or failure to make a required security deposit, the utility shall give at least ten (10) days written notice from the date of mailing to the consumer (when the deposit is required as a condition of service, the ten (10) day notice is not required. Refer to OAC 165:35-21-30(4) Disconnection of service without notice). Said written notice shall be sent by first-class mail, address correction requested, by the utility to the consumer's billing address, unless the mail is returned from that address as undeliverable, in which case the notice ~~may~~ shall be delivered to the premises at which the service was rendered.

(1) Notice will be deemed delivered to the consumer three (3) business days after mailing by the utility, which shall not extend the ten (10) days written notice from the date of mailing to the consumer requirement above.

(2) A notice of disconnection shall contain the following information:

(A) The words "DISCONNECTION NOTICE" or "CUT OFF NOTICE" in bold print no smaller than one-half inch (1/2") tall.

(B) The name and address of the consumer.

(C) A statement of the reason for the proposed disconnection of service.

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

(E) The telephone number in bold print of the utility where the consumer may make an inquiry.

(F) The approved charges for reconnection.

(G) A statement that the consumer must contact the utility regarding the disconnection, prior to contacting ~~the Commission's Consumer Services Division~~ CSD, and should contact CSD if they cannot reach a resolution with the utility.

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

(I) A statement that advises the consumer of the availability of a deferred payment agreement.

(J) A statement that advises the consumer of the elderly/consumer with disabilities notification.

(K) A statement that advises the consumer of the life-threatening certificate.

(L) A statement that advises the consumer of the availability of the ~~20 day~~ twenty (20) day financial aid assistance delay.

(M) A statement that advises the consumer of the availability of a list of agencies providing assistance to consumers for their utility bills as outlined by OAC 165:35-21-3.

(3) The utility shall provide to consumers, upon request, the name and address of the authorized payment agencies, other than the utility's offices, where consumers may make payments.

(c) **Second residential notice.** During the time period of November 15 through April 15, the utility shall give a minimum of forty-eight (48) hours notice (at least two (2) business days) prior to disconnection of residential service that service will be disconnected unless the consumer enters into a deferred payment agreement as prescribed in OAC 165:35-21-10(e) or unless disconnection of service would create a life-threatening situation for the consumer or other permanent resident of the premises where the utility service is rendered. If the utility elects to give oral notice, it shall only be after it has complied with (b) of this Section. The second notice may be in writing, in person or by telephone.

(1) If the second residential notice is in writing, it shall be entitled "CUT OFF NOTICE" in bold letters of not less than one-half inch (1/2") in height and shall contain, in nontechnical language, the following information:

(A) The reason for service disconnection and the amount of the unpaid bills, if any.

(B) The date on or after which service will be disconnected unless the consumer takes appropriate action.

(C) The telephone number of the utility office, in bold print, where a consumer may call for assistance, make inquiries, enter into a deferred payment agreement, obtain information on utility assistance programs, pay the bill or notify the utility of a life-threatening situation.

(D) The telephone number of ~~the Commission's Consumer Services Division~~ CSD in print size which is smaller than the print size used for the utility's telephone number.

(2) The utility shall keep a written log of all oral communication with at least the following information when contact has been made:

(A) The date and time of call or personal visit and identity of utility representative.

(B) The name of the individual and relationship to the account. If the contact is with a designated representative for the consumer, a statement of authority to represent the account should be included.

(C) The nature of the call and telephone number called.

(D) A narrative of the communication between the utility and the consumer.

(E) A statement that the consumer must notify the utility on the day of payment, as to the place and method of such payment, when the bill is paid at a place other than the office of the utility.

(F) A statement that the consumer was advised of the telephone number of ~~the Commission's Consumer Services Division~~ CSD.

(3) The oral communications log shall be maintained and retained in accordance with the record keeping requirements contained in this Chapter.

(4) A copy of the oral communications log shall be provided to ~~the Commission~~ CSD or to the consumer and/or their designated representative upon oral or written request.

(5) Oral communications with the consumer shall not begin before 8:00 a.m. or continue beyond 9:00 p.m. during normal business days.

(6) Oral communications shall be deemed as not to have occurred, including but not limited to the following circumstances:

(A) When there is no answer, the telephone line is busy or no one is home.

(B) When a message is left on an answering device or made on a recording device.

(C) When the message or attempted message is left with an individual having a physical and/or mental impairment that impedes communication or mutual understanding.

(D) When the communication is with a minor under the age of eighteen (18), unless the minor is the consumer or the spouse of the consumer.

(E) When the communication is with an individual who is not either the consumer or the designated representative of the consumer.

(F) When the communication is with a consumer or consumer's designated representative whose primary language is other than English and the consumer or consumer's designated representative has a language barrier, unless the communication is made in the primary language of the consumer or the consumer's designated representative.

(7) Unless otherwise directed by ~~the Consumer Services Division~~ CSD, the utility company shall not contact the consumer regarding the consumer's account after ~~the Commission~~ CSD has notified the utility company of a complaint or inquiry from the consumer. ~~The Commission~~ CSD shall be the intermediary between the utility and the consumer until the resolution of the problem has been completed.

(8) Notice will be deemed delivered to the consumer three (3) business days after mailing by the utility company, which shall not extend the two (2) days written notice from the date of mailing to the consumer requirement above.

(d) **Third party notice.** A utility shall permit residential consumers to designate a consenting individual or agency to receive the applicable notice of disconnection.

(e) **Tenant notice.** Where a master metered apartment complex, building, or trailer court is subject to disconnection, the written notice to the consumer shall also be posted in a common area of the premises at least ten (10) days prior to disconnection of service. The utility may contract with tenants for residential service.

(f) **Commercial or business notice.** Nonresidential service shall be disconnected for nonpayment of all or any portion of an undisputed utility bill only after at least five (5) business days written notice has been mailed to the consumer by the utility or after the notice is left in a conspicuous place at the premises where service is provided.

PART 9. MEDIATION AND COMMISSION REVIEW

165:35-21-40. Mediation

(a) Whenever there is a dispute between the utility and the consumer as to the following, the matter may be brought by either party to ~~the Commission's Consumer Services Division~~ CSD:

(1) The existence of or seriousness of a life-threatening situation.

(2) The existence of elderly or handicapped status.

(3) The question of financial assistance or guarantee of payment by a federal, state, or local social service agency.

(4) The provisions of a deferred payment agreement.

(5) The terms and conditions of payment of any part of a bill as rendered.

(6) The proper interpretation of this Section.

(7) Other issues addressed in this Chapter.

(b) ~~The Commission's Consumer Services Division~~ CSD shall review the matter and issue an informal review decision in writing, setting forth the terms and conditions for continued service, disconnection of service, or deferred payment agreement (DPA). If it is the desire of the consumer, they may be represented by a third party, if the consumer is available for verification. If the dispute can be resolved by telephone with the party seeking review, the review decision need not be in writing unless requested by either party. During any period of time when a disconnection dispute is before the Commission or in mediation, the utility shall suspend disconnection procedures.

(c) If ~~the Commission's Consumer Services Division~~ CSD is unable to resolve the dispute to the mutual satisfaction of the parties, either party may file a Complaint with the Commission for final determination.

(d) Whenever the consumer informs the utility that the consumer disputes a charge for service, the utility shall investigate

the dispute promptly and thoroughly, and make a diligent effort to reach a mutually satisfactory settlement. If the consumer is dissatisfied with the decision of the utility, the consumer may report the dispute to ~~the Commission's Consumer Services Division~~ CSD. Upon complaint by the consumer to the Commission, disconnection of service shall be held in abeyance provided the consumer pays the portion of the bill which is not in dispute.

SUBCHAPTER 23. SERVICE REQUIREMENTS

165:35-23-1. Denial of service to a consumer

(a) A utility may refuse to provide service to an applicant or consumer from whom there remains owing an unpaid account for service of a similar character previously supplied to such applicant or consumer at any location in Oklahoma by an electric utility governed by this Chapter. The utility shall not be required to provide service to an applicant or consumer who uses an alias, trade name, business name, the name of a relative or other person as a device to escape payment of an unpaid obligation for utility service provided to such applicant or consumer; however, subject only to the above, the utility may not require a payment of unpaid utility bills of any other person, except where the previous consumer remains an occupant or user, as a condition to furnishing utility service.

(b) A utility shall not deny service to a consumer for failure to pay any obligation to the utility except the amount due for utility service actually furnished.

(c) The utility may refuse to provide service to an applicant when the applicant has not provided an acceptable valid and non-expired proof of identity. Acceptable valid and non-expired proof of identity may include the following:

(1) Driver's license or state identification card;
(2) Department of Defense identification;
(3) Employment identification;
(4) Social Security card;
(5) Student identification card;
(6) Passport;
(7) Birth certificate; or
(8) Any other verifiable proof which would establish identity.

165:35-23-2. Records of complaints as to service

(a) Each utility shall make a full and prompt investigation of every complaint made to it by its consumers, and or members of the public, either directly or through the Commission. It shall keep a record of each complaint received, which record shall show the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made thereof, which record shall be retained for two (2) years. Records shall be kept of all complaints as defined by this Chapter.

(b) In the event of a dispute between the consumer and the utility as to the accuracy of a metering device, the utility shall make such investigation as shall be required by the particular case and report the result thereof to the consumer. In the event that the complaint is not reconciled, the utility or the consumer may make application to the Commission for review of the complaint.

(c) When a utility has been notified that a complaint regarding meter accuracy has been referred to the Commission, the questioned metering equipment shall not be changed in any manner without prior authorization of the Commission. Violation of this provision will be considered as a substantiation of the complainant's contentions.

165:35-23-7. Temporary service

(a) A consumer requiring temporary service shall pay the regular rates applicable to the class or classes of service rendered for all energy used and in addition shall pay the installation and removal cost, less salvage value, of facilities installed by the utility to furnish temporary service to the consumer.

(b) Temporary service is defined as service for purposes which by their very nature indicate short duration, and shall not exceed ninety (90) calendar days without notification and justification being provided to CSD prior to the expiration of the ninety (90) calendar day period.

165:35-23-8. Request for service

Every electric utility shall initiate service to each qualified applicant for service within its service area in accordance with this Section.

(1) Applications for new electric service under 500 kVA of connected demand not requiring line extensions or construction of new facilities shall be filled by the end of the fifth (5th) business day after the applicant has met the credit requirements and complied with all applicable state and municipal regulations. This requirement must be met at least ninety-five percent (95%) of the time, weather permitting, and after the customer's location is ready for service.

(2) Applications for new or upgraded electric service under 500 kVA of connected demand requiring construction of new facilities shall be filled by the end of the ninetieth (90th) business day, or within a time period agreed to by the customer and the electric utility, after the applicant has met the credit requirements, has made satisfactory payment arrangements for construction charges, and has complied with all applicable state and municipal regulations. This requirement must be met at least ninety-five percent (95%) of the time, weather permitting, and after the customer's location is ready for service.

(3) Applications for new or upgraded industrial electrical service over 500 kVA of connected demand requiring construction shall be completed within 180 calendar days, or within a time period agreed to by the customer and the electric utility, if the applicant has met the credit requirements, has made satisfactory payment arrangements for construction charges, and has complied with all applicable state and municipal regulations. This requirement must be met ninety-five percent (95%) of the time, weather

permitting, and after the customer's location is ready for service.

(4) For customers with less than 500 kVA of connected demand, if facilities must be constructed, then the electric utility shall contact the customer within ten (10) business days of receipt of the application. The electric utility shall provide a cost estimate and estimated completion date within sixty (60) calendar days of receipt of the application and all necessary information being provided by the customer.

(5) For customers with over 500 kVA of connected demand, if facilities must be constructed, then the electric utility shall contact and meet with the customer within ten (10) ~~working~~ business days of receipt of the application. The utility shall include customer representatives in the planning for the construction and assessment of the work during the actual construction, unless the customer affirmatively indicates no desire to be so involved. The electric utility shall provide a cost estimate and estimated completion date within ninety (90) calendar days of receipt of the application and all necessary information being provided by the customer.

(6) Unless the delay is beyond the reasonable control of the electric utility, where no construction is required for requests from customers with under 500 kVA of connected demand, a delay of more than ten (10) business days and where construction is required for requests from customers under and over 500 kVA of connected demand a delay of more than 180 calendar days, shall constitute failure to serve unless the customer and electric utility have otherwise agreed in writing, to a longer term.

165:35-23-9. Utility acknowledgement of customer complaint inquiries

If PUD contacts a utility concerning a customer complaint, the utility shall respond to PUD within the following time periods:

(1) Inquiries regarding disconnection, suspension, or termination of service shall be acknowledged by the utility within one (1) business day of receipt of inquiry from PUD.

(2) Inquiries other than for disconnection, suspension, or termination of service shall be acknowledged by the utility within three (3) business days of receipt of inquiry from PUD.

SUBCHAPTER 25. OPERATIONS REQUIREMENTS FOR UTILITIES

PART 1. OPERATION MAINTENANCE AND RECORDS

165:35-25-2. Extension of distribution systems

(a) **Free extension.** The utility shall extend its overhead distribution lines a distance of three hundred feet (300') to provide service to each ~~bonafide~~ bona fide application for residential service, without cost to the consumer. The utility may prescribe terms and conditions of extending service to applicants for other types of service, and for extensions for low load service such as wells, security lights, and fence charges, and for extension policy required by law or by the terms of a financing agreement; which provisions, when filed with and approved by the Commission, shall be deemed to constitute compliance with this Section.

(b) **Tariff requirements of extension.** A utility shall include in its filed tariffs, terms and conditions of furnishing underground service which shall provide for determining and recovery by the utility for the additional cost of providing underground service, and the responsibility for trenching and backfilling, and the method of calculating costs of construction.

(c) **Extension above free limit.** If the extension of the distribution system necessary to furnish service to an applicant or group of applicants is greater than specified in (b) of this Section, the utility shall require payment of the cost of the extension over the free limit before extending the distribution system.

(d) **Extension may be made above free limit when economically justified.** In lieu of making an extension pursuant to (a) and (b) of this Section, the utility may make an extension above the free limit upon receipt of a lesser payment or no payment, when the gross anticipated annual revenue from the extension will provide the utility with adequate return upon its investment, pursuant to a formula approved by the Commission or contained in its approved terms and conditions of service.

(e) **Determination of the length and cost of an extension.** For purposes of measuring extensions under this Section, the distance shall be measured along lines of proper construction from the nearest point of connection to the point of delivery on the property to be served. A required advance for construction shall be calculated from the total construction cost of the extension from which there shall be deducted:

(1) Any cost incident to excess capacity above that required to serve the applicant or group of applicants.

(2) Any cost incident to future expansions or to continue a construction plan of the utility.

(3) The cost of the free extension to which the applicant would be entitled.

(f) **Extensions applicable to prospective real estate subdivisions.**

(1) In lieu of extensions pursuant to other provisions of this Section, the utility may require a developer desiring an extension to a prospective real estate subdivision to make an advance for construction equal to the estimated total cost of the project before construction or the extension is started, which advance for construction shall not draw interest. The term "project" includes the entire distribution construction necessary to serve the subdivision and all line extensions to serve the individual parcels of said subdivision. In no case shall the total amount refunded exceed the amount advanced for construction with the utility. Consumers locating on an extension made pursuant to this paragraph shall not be required to make an extension advance for construction.

(2) The utility may require the developer desiring service to a prospective real estate subdivision to make an advance for construction equal to the estimated cost of the distribution system without line extensions. In such cases no refund to the developer will be made upon connection of individual line extension within the subdivision.

(3) A utility may enter into a contract with a developer which shall be deemed a special contract governed by OAC 165:35-5-1(c).

(g) **Appeals to the Commission.** If the extension above the free limits is of such length and the future anticipated revenues therefrom so small that it is doubtful that the extension would ever make a fair return on the investment, the utility or any interested person may apply to the Commission for an appropriate order.

(h) **Property of extension.** Every extension shall at all times be the property of the utility, regardless of whether an advance for construction is made in aid of its construction. At the end of five (5) years, any unrebated portion of a contribution or advance for construction made subject to refund shall become the property of the utility.

(i) **Adoption of policy by utility.** The utility may adopt a policy for extension to be made for the purpose of serving irrigation wells and/or oil field water flooding projects and for advances for construction for payment of all or part of the cost thereof by such consumer, which policy shall be prescribed in its approved tariffs.

165:35-25-3. Maintenance of plant, equipment, and facilities

(a) **Safety of plant and system.** Each utility shall install, operate, and maintain its entire plant and system in such condition as will enable it to furnish safe and adequate service, subject only to emergency conditions beyond its control. Utilities shall also perform routine inspections of overhead electric supply lines and accessible facilities for hazards to the public.

(b) **Accepted good practice.** The generating, transmission, and distribution system, including but not limited to generating plants and equipment, transmission lines, substations, overhead systems, underground systems, street lighting systems, service wires and support equipment attachments, transformers, meters and measuring equipment, and remote meter reading equipment shall be constructed, installed, maintained, and operated in accordance with accepted good practice up to and including the point of delivery to the consumer. "Accepted good practice" shall be defined by the applicable rules governing installation, operations, maintenance, and safety contained in the ~~National Electrical Safety Code~~ NEC.

(c) **Compliance with the ~~National Electrical Safety Code~~ NEC.** ~~The Commission hereby adopts the minimum requirements of the 2012 Edition of the National Electrical Safety Code (NESC) adopted by the ANSI (ANSI C2) as its rules and regulations governing safety of the installation and maintenance of electric utility systems.~~The installation and maintenance of electric utility systems shall comply with the NEC minimum standard requirements.

(1) Only the specific minimum clearances required by the ~~2012 Edition of the NESC~~ NEC shall be required by this Chapter. Construction and facilities which meet the specific minimum clearances shall be deemed to meet the purpose of the ~~NESC~~ NEC of the "practical safeguarding of persons." Any additional clearances provided will be at the discretion of the electric utility, or as directed by the Commission, and shall not be required or necessary to provide additional public safety.

(2) On all underground construction completed after the effective date of this Chapter, the utility shall place warning labels (of a Commission-approved design) at all locations where aboveground equipment and facilities are readily accessible to the public.

(3) The utility shall perform detailed inspections of its overhead facilities to identify any potential safety issues that could impact service or public safety. Utilities shall submit their inspection programs to PUD.

(d) **Duties of pole owners and pole occupants.**

(1) A pole owner must establish, maintain, and make available to pole occupants its joint use construction standards for attachments to its poles, and for joint space in conduits. Standards for attachment must apply uniformly to attachments by all operators, including the pole owner.

(2) A pole owner must establish and maintain mutually agreeable protocols for communications between the pole owner, pole occupants, and PUD. Such protocols shall include, but not be limited to including, standards for notification of pole abandonment, replacements, or moves. Such protocols shall be available upon request to PUD.

(3) Primary responsibility to rectify safety problems shall lie with the pole occupant whose facilities are in violation. In the event facilities are abandoned, the pole owner shall work with PUD to rectify the safety concern, and shall correct any unsafe condition to alleviate a safety risk, or a potential risk, to the general public and/or property.

(4) Nothing in this section shall be interpreted as requiring pole owners to allow pole occupants access to their poles. Further, nothing in this section indicates that the Commission shall have any right to regulate the rates charged by pole owners for access to poles.

(5) After a major event, a utility shall be given a ninety (90) day grace period to complete service restoration to the affected area and to conduct any post-inspection analyses. Utilities may request an extension of the grace period from the PUD Director by submitting the request in writing.

(~~d~~e) **Reliability of supply.** The generating capacity of a utility's plant, supplemented by the electric power regularly available from other sources or firm contracts for electric power by a utility which operates no generating plants, must be sufficiently large to meet all normal demands for service and provide a reasonable reserve for emergencies.

(~~e~~f) **Quality of service.**

(1) In the event that any consumer operates or connects any electrical device to his/her electric system which causes an interference, noise, distortion of the 60 Hz sine wave, or other disturbance on the system of the utility which results in a disruption, disturbance, or interference

to the utility, its consumers, or a communication company or its consumers, the utility shall:

(A) Require the consumer causing the problem to take corrective measures by installing suitable or special equipment necessary to eliminate or reasonably limit such adverse effect, or

(B) Install, at the consumer's expense, equipment specifically designed to reasonably limit such adverse effect.

(2) The consumer causing the problem shall bear all expenses necessary to eliminate the adverse conditions or be subject to a discontinuance of service after written notice so that other consumers are not deprived of the quality of service provided prior to the existence of the problem. Where the utility believes the condition creates a hazard to the public, the utility, or the property, the disconnection may be made without prior notice. However, the utility shall notify the consumer as soon as practical after the disconnection.

(~~f~~g) **Harmonics.** In 60 Hertz electric power systems, a harmonic is a sinusoidal component of the 60 Hertz fundamental wave having a frequency that is an integral multiple of the fundamental frequency. "Excessive harmonics," in this subsection, shall mean levels of current or voltage distortion at the point of common coupling (metering point) between the utility and the consumer outside the levels recommended in the IEEE standard referenced in subsection ~~(f)(1)~~(g)(1). Each utility shall assist every consumer or communications provider affected with problems caused by excessive harmonics and consumers or communications providers affected in exceptional cases as described in subsection (f)(5).

(1) **Applicable standards.** In addressing harmonics problems, the utility and the consumer shall implement, to the extent reasonably practicable and in conformance with prudent operation, the practices outlined in IEEE Standard 519-1992, *IEEE Recommended Practices and Requirements for Harmonic Control in Electric Power Systems*, or any successor IEEE standard, to the extent not inconsistent with law, including state and federal statues, orders, and regulations, and applicable municipal regulations.

(2) **Investigation.** After notice by a consumer or communications provider that it is experiencing problems caused by harmonics, or if a utility otherwise becomes aware of harmonics conditions adversely affecting a consumer or communications provider, the utility shall determine whether the condition constitutes excessive harmonics. If so, the utility shall investigate and determine the cause of the excessive harmonics.

(3) **Excessive harmonics created by consumer.** If a utility determines that a consumer has created excessive harmonics that cause or are reasonably likely to cause another consumer or communications provider to receive unsafe, unreliable or inadequate electric service, the utility shall provide written notice to the consumer creating excessive harmonics. The notice shall state that the utility has determined that the consumer has created an excessive harmonics condition and that the utility has explained the source and consequences of the harmonics problem. The notice shall give the consumer two options to cure the problem.

(A) The utility may cure the problem by working on the consumer's electric facilities at a mutually agreeable time and assess the investigation and repair costs to the consumer.

(B) The consumer may elect to cure the problem at its option and its cost, but the remedy shall occur within a reasonable time, which will be specified in the notice.

(4) **Failure of the consumer to remedy the problem.** Failure of the consumer to remedy the problem may require the utility to disconnect the consumer's service. The utility shall then remedy the excessive harmonics condition, or the utility may determine that the consumer has remedied the condition within the time specified. In the event the consumer refuses to allow the utility to remedy the problem and does not stop creating excessive harmonics within the time specified, the utility may disconnect the consumer's service. Before disconnecting pursuant to this subsection, the utility shall provide written notice of its intent to disconnect at least five ~~working~~ (5) business days before doing so, unless the consumer grants the utility access to its electric facilities or ceases creating excessive harmonics. The utility may disconnect the consumer five ~~working~~ (5) business days after providing the notice, unless the consumer grants the utility access to its electric facilities or ceases creating excessive harmonics.

(5) **Excessive harmonics created by a utility or third party.** If a utility determines that its operation or facilities, or the operations or facilities of a third party other than a consumer, created excessive harmonics that causes, or is reasonably likely to cause, a consumer or communications provider to receive unsafe, unreliable or inadequate electric service, the utility shall remedy the excessive harmonics condition at the earliest practical date.

(6) **Excessive total harmonic distortion created by two or more harmonic sources within IEEE 519 limits.** If, in its investigation of a harmonics problem, an electric utility determines that two or more consumer's harmonic loads are individually within IEEE 519 limits but the sum of the loads are in excess of the IEEE 519 limits, the utility may require each consumer to reduce its harmonic levels below the limits specified in IEEE 519.

(7) **Cost responsibility.** Each utility or third party that created an excessive harmonics condition, or that investigated or remedied an excessive harmonics condition created by a third party other than a consumer, must bear the costs incurred in investigating and remedying the condition, and shall not assess any fees to the affected consumer.

(~~g~~h) **Power quality monitoring.** In addressing power quality monitoring, each utility shall implement, to the extent reasonably practicable and in conformance with prudent operation, the practices outlined in IEEE Standard 1159-1995, *IEEE Recommended Practice for Monitoring Electric Power*

Quality, or any successor IEEE standard, to the extent not inconsistent with law, including state and federal statutes, orders, and regulations, and applicable municipal regulations.

(i) If PUD informs the utility of any safety issues concerning the utility's plant, equipment, or facilities by identifying the relevant NEC, Commission rule, or other applicable Federal or State laws implicated by the safety issue, the utility shall electronically provide photographic evidence to PUD showing completion of work and that the issue has been resolved.

PART 3. RELIABILITY OF SERVICE AND RELIABILITY PROGRAM

165:35-25-18. Performance levels

(a) **Utility's responsibility and indices used.** It shall be the utility's responsibility to maintain and compile the data necessary to compute System Average Interruption Duration Index (SAIDI) and System Average Interruption Frequency Index (SAIFI) (and to the maximum extent practicable, Momentary Average Interruption Frequency Index (MAIFI)). These indices shall be computed by the utility for each reporting year, or any sub-period thereof, as requested by ~~the Commission~~ PUD. The data maintained and compiled for the computation of the indices shall conform strictly to their respective definitions as set forth in this Part. The indices shall be computed for the utility's entire service territory, for each region, and for each distribution circuit. Computation of the indices shall not include interruptions that have resulted from operating conditions that are beyond the utility's control (such as a major event, as that term is defined and used under this subchapter). Each utility shall maintain the raw interruption and duration date as well as the computation of the indices for each reporting year, for a period of not less than three years after the annual report filing deadline. The utility shall maintain all data necessary to compute SAIDI and SAIFI (and to the maximum extent practicable, MAIFI), for all major events but is not required to make such computations except as requested by ~~the Commission~~ PUD.

(b) **Minimum performance level.** Upon receipt of the utility's annual report, ~~the Commission~~ PUD will compare the indices computed for the utility's service territory to the minimum performance level. The minimum performance level shall represent the lower threshold of adequate service below which further review, analysis, and corrective action may be required. The minimum performance levels shall be reached when the SAIDI and SAIFI values of each utility's service are equal to or better than the minimum performance levels for these indices. The base performance level for SAIDI and SAIFI for the period January 2005 through December 2009 shall be established through engineering and economic studies of historical performance and system operations prepared by each utility, in consultation with PUD Staff, and submitted as part of each utility's reliability report submitted March 1, 2005. This base performance level shall be recomputed by each utility every fifth (5th) year and submitted to ~~the Commission~~ PUD in the next year's reliability report. After notice and hearing, the Commission may modify the minimum performance level of any utility. The minimum performance level for a utility with less than 100,000 customers shall be adjusted to account for variances in the rural nature or other special characteristics of their distribution system. The adjusted minimum performance level for a utility with less than 100,000 customers shall be determined by multiplying the annual minimum performance level by the ratio of miles of line per customer plus 1 for the reporting year. It will be the responsibility of the utility to determine the adjusted minimum performance level using this formula for each reporting year. The utility's average number of customers for the prior reporting year shall determine the standards to be applied to the current reporting year.

(c) **Objective performance level.** The objective performance level shall represent a fully adequate level of service that each utility should strive to achieve and maintain. It shall be reached when the SAIDI and SAIFI values of each utility's service territory are for the year is within the bandwidth established based on the data gathered pursuant to the process described in OAC 165:35-25-18(b).

(d) **Commission Review.** In its review of a utility's cost of service and rate of return, the Commission may consider, in general rates cases, the utility's reliability reporting and levels for SAIDI, SAIFI, Customer Average Interruption Duration Index (CAIDI), and MAIFI.

(e) **Limitations to technology.** Utilities that do not have the technological capability to maintain and compile all such data, shall maintain and compile such data that it has available and utilizes to define and identify system reliability levels as well as outline progress towards attainment of additional technologies.

165:35-25-20. Annual reliability report

(a) Each utility shall submit an annual reliability report to ~~the Commission~~ PUD by March 1 of each year, beginning March 1, 2005.

(b) The annual reliability report shall include the following:

(1) A description of all vegetation management it performed for the previous calendar year and the vegetation management it plans to perform for the current year.

(2) SAIDI and SAIFI (and to the maximum extent practicable, MAIFI) values computed for the entire service territory and displayed in tabular form. SAIDI and SAIFI events should be calculated using a sustained time of five (5) minutes or more for Root Mean Square (RMS) zero voltages; MAIFI events should be calculated using any time less than five (5) minutes for RMS zero voltages. Multiple interruptions within five (5) minutes are considered one momentary interruption event.

(3) SAIDI and SAIFI (and to the maximum extent practicable, MAIFI) values computed for each of the utility's regions and displayed in tabular form. SAIDI and SAIFI events should be calculated using a sustained time of five (5) minutes or more for RMS zero voltages; MAIFI events should be calculated using any time less than five (5) minutes for RMS zero voltages. Multiple interruptions within five (5) minutes are considered one momentary interruption event.

(4) A detailed report for each major event that is not included in the calculation of the reliability indices. The

major event report shall include the interruption cause or causes, date, regional location, percentages of consumers without service in that region as a result of the event, the time or time frame in which service was lost to 10% or more of that region, the time the last consumer's service was restored in that region, and any other details that the utility or ~~the Commission~~ PUD believes will further justify the exclusion of the event from the calculations.

(5) A description of the program the utility has in place for analyzing and improving worst performing circuits and a summary of the results of the program for the reporting year.

(6) A description and map identifying the utility's service regions or operations divisions. Documentation and illustration of any changes in region boundaries as defined by the utility, and justification for such changes.

(7) For each utility with less than 100,000 consumers, show the data used to calculate as well as the calculation of the rural adjusted minimum performance level.

(c) ~~The Commission~~ PUD reserves the right to request additional data and/or documents if necessary.

(d) **Limitations to technology.** Utilities that do not have the technological capability to maintain and compile all such data, shall maintain and compile such data that it has available and utilizes to define and identify system reliability levels as well as outline progress towards attainment of additional technologies.

PART 5. UTILITY SCORECARD

165:35-25-24. Utility performance scorecard

(a) Using the data submitted pursuant to OAC 165:35-25-20, ~~the Commission~~ PUD shall annually prepare a scorecard for each utility covering the following areas:

(1) SAIFI;

(2) SAIDI;

(3) MAIFI (to the extent that this measure is utilized);

(4) Vegetation management; and

(5) Worst performing circuits.

(b) The scorecard shall be prepared such that the performance of utilities of differing sizes and number of consumers can be directly compared.

(c) ~~The Commission's~~ PUD's utility performance scorecards will be published annually not later than May 1.

SUBCHAPTER 27. COST REPORTING AND ACCOUNTING

165:35-27-1. Cost of services, materials, or facilities for other types of business or subsidiaries

(a) When a utility is engaged in any type of nonutility business or operations, through subsidiaries or otherwise, or in any business not considered in ratemaking process by the Commission, and personnel, material, equipment, or any facility of the utility is supplied for the operation of such other type of business or subsidiary, the utility shall keep an accurate account of allocation of all of the cost of personnel, services, material, equipment, or any facility between utility and nonutility operations. There shall be a written accounting thereof for utility and nonutility operations on a monthly basis. This accounting will clearly delineate company's utility and non-utility expenses and revenues for the purposes of accurate ratemaking.

(b) The cost of keeping the records and any other expense caused by furnishing such services, materials, or facilities shall be charged to the recipient thereof. The term "all of the cost" in this Section shall mean actual cost plus any direct or indirect charges related to the cost of services, materials, or facilities calculated on the same basis used in allocating direct or indirect charges to the utility operations.

(c) Records of and reports on services, materials, or facilities of other types of business or subsidiaries referred to in this Section shall be available to ~~the Commission~~ PUD or its representative.

165:35-27-2. Municipal fees, taxes, and other exactions

The aggregate amount of all franchise payments, or contributions or payments in lieu thereof, or other exactions imposed upon utilities or electric cooperatives by any municipality of this state for engaging in business within the municipality or for the use and occupancy of its streets and public ways is a matter between the municipality and the utility or electric cooperative. The amount of the exactions charged to and collected from the consumers by the utility shall be in accordance with the respective municipal ordinance or statute. The amount of such exactions shall be charged to consumers within said municipality pro rata in accordance with actual revenue associated with the provided service. The amount of such ~~payments~~ charges shall be separately stated as a line item on the regular billings to consumers as a dollar amount.

165:35-27-4. Accounting

(a) The Uniform System of Accounts of FERC prescribed for Public Utilities and Licensees (Class A, B, C, and D) or prescribed by the RUS or other uniform system acceptable to the Commission may be adopted by a utility.

(b) Electric utilities operating within Oklahoma shall be classed by revenue as follows:

CLASS	ANNUAL GROSS OPERATING REVENUE
A	$2,500,000 or more
B	$1,000,000 to $2,500,000
C	$150,000 to $1,000,000
D	$25,000 to $150,000

(c) No change in or departure from the system used by the utility will be permitted except upon order of the Commission, made after notice and hearing.

(d) The Annual Report FERC Form 1 - Class A and B Electric Companies and FERC Form 1A - Class C and D Electric Utility Companies promulgated by the FERC and RUS Report Form 7A promulgated by the RUS are hereby adopted for purposes of the annual report to this Commission by all Class A, B, C, and D Electric Utilities filing such reports with the FERC and the RUS. Each utility having multistate utility operations,

in addition to ~~filing~~ submitting with the Commission a copy of its annual report to the FERC if any, shall ~~file~~ submit an annual report on a form furnished or approved by the Commission, of its utility service and operations in the State of Oklahoma. Any allocation of costs or revenues necessary in developing results of utility operations for the State of Oklahoma shall be accomplished on a basis acceptable to the Commission.

(e) The results of operations reported by each electric utility in its annual report to the Commission shall be reconciled with the results of operations shown on its books, records and in its other reports to the Commission.

(f) Each utility shall report to the Commission at the end for the utility's fiscal year on forms furnished or approved by the Commission, the book value of its utility plant. These reports and annual reports required by (d) of this Section shall be delivered to the Commission within five (5) business days of the date such reports are filed with either the FERC or RUS; provided that the Commission may grant an extension for time for good cause shown. In the event that the utility has requested an extension of time from FERC or RUS, it will advise the PUD Director ~~of the Public Utility Division~~, in writing, of such filing delay.

SUBCHAPTER 29. ELECTRICITY PURCHASES FOR PRODUCERS AND PARALLEL OPERATION

165:35-29-1. Purchase of electricity from cogenerators or small power producers

(a) Purchases under this Section shall be from cogenerators and small power producers (producers) as defined and qualified under Section 201 of the Public Utility Regulatory Policies Act (PURPA) of 1978. Producers shall not be utilities as defined elsewhere in the Chapter.

(b) Unless otherwise provided for by this Section and in an approved experimental purchase tariff, the utility's Terms and Conditions of Service shall apply to joint consumer producers.

(c) Each utility will maintain a list available to the Commission for all potential cogenerators and small power producers who have been in written contact with the utility and record the disposition of each such line of inquiry.

(d) Each utility will maintain an experimental purchase tariff on file applicable to purchases from certain facilities of ~~100~~ 300 KW or less. This tariff will consist of a Purchase Agreement form prepared by the utility and approved by the Commission; Purchase Rate Schedules for wind, photo-voltaic and stored water hydro power, which reflect the utility's avoided costs, as approved by the Commission; and the experimental standard Terms and Conditions of Purchase of the Commission.

(e) Each utility will maintain on file for all other potential cogenerators ~~a~~ and small power producers information sufficient to guide such parties in regard to avoided costs and procedures. Such information shall include, but not be limited to:

(1) The utility's response to avoided cost interrogatories as requested by the Commission.

(2) A copy of this Chapter.

(3) A copy of the experimental tariff.

(4) Such reports and analyses as shall be prescribed by the Commission.

(5) For investor owned utilities, the information required by Section 210 of the Public Utility Regulatory Policies Act (PURPA) of 1978.

(f) A cogenerator or small power producer has the right:

(1) To generate in parallel with the utility.

(2) To sell, at his/her option, his/her total generation or his/her generation net of electrical requirements.

(3) To receive for his/her generation a fair rate based on the costs avoided by the utility because of his/her delivery, reliability, dispatchability and other factors, as determined by the Commission.

(4) To other substantive rights granted by PURPA.

(5) To good faith negotiation by the utility.

(6) To bring complaint or dispute to the Commission for mediation, hearing or other resolution.

(g) Nothing in this Section will prevent a qualified producer from executing a special purchase contract with a utility, provided that the contract must be approved by the Commission prior to its effective date.

165:35-29-2. Parallel operation of generation facilities

(a) This Section applies to any party (interconnected party) who wishes to operate or who is operating generation facilities in parallel with a utility except the following:

(1) Other utilities subject to the rules of this Commission or FERC or its successor organization, if any.

(2) Parties qualifying under OAC 165:35-29-1, and who have not agreed with the utility to operate under this Section.

(3) Parties operating in parallel according to an agreement signed prior to March 20, 1981, who have not agreed with the utility to operate under OAC 165:35-29-1.

(b) As a condition of service, no interconnecting party may interconnect or operate generation facilities in parallel with a utility without prior written approval by the utility of such parallel operation and for the interconnection facilities.

(c) Interconnection requirements shall be reasonable and all costs (over normal policies under the terms of service) shall be borne by the interconnecting party.

(d) Any party meeting the requirements in (a) through (d) of this Section shall have the right to operate in parallel with the utility using a detented service meter so that no credits are obtained for amounts returned to the utility system. The utility may establish buy back rates or enter into special contracts that are otherwise consistent with this Chapter.

(e) All agreements and contracts for such interconnection and parallel operation shall be submitted to the Commission for approval prior to interconnection, except as otherwise ordered by the Commission. In no event shall the terms of such agreement or contract be less favorable to the utility than those provided under OAC 165:35-29-1.

(f) Upon interconnection, the PUD Director ~~of the Public Utility Division~~ shall be notified by the utility of the date, name, and legal address of the interconnecting party, and the location and description of the facilities.

SUBCHAPTER 31. AFFILIATE TRANSACTIONS AND FINANCIAL TRANSACTIONS OF UTILITIES AND AFFILIATES

165:35-31-2. Determination of confidential information

(a) If a utility that seeks to provide electric utility services is required by this Subchapter to submit information to the Commission that is alleged to be confidential, a motion for a protective order concerning said confidential information may be filed requesting a determination be made by the Commission to protect said information pursuant to 51 O.S. § 24A.22.

(b) After a determination regarding approval of any protective order by the Commission, ~~the Public Utility Division~~ PUD, and the Attorney General's Office may, at its option, review the information claimed to be confidential at a mutually agreed upon location.

(c) In the absence of a protective order, all information considered by the Commission in establishing utility tariffs and in determining compliance with the rules of this Subchapter shall not be maintained in confidence by the Commission.

165:35-31-20. Sales of services, products, or assets between regulated and unregulated affiliates

(a) **Transactions between a utility and its affiliates.** A utility shall not subsidize the business activities of any affiliate with revenues from a regulated service. A utility cannot recover more than its reasonable fair share of the fully allocated costs for any transaction or shared services.

(b) **Contemporaneous record requirement.** A utility shall maintain a contemporaneous written record of all individual transactions with a value equal to or over one million dollars with its affiliates, excluding those involving shared services or corporate support services and those transactions governed by tariffs or special contracts. Such records, which shall include at a minimum, the date of the transaction, name of affiliate(s) involved, name of a utility employee knowledgeable about the transaction, and a detailed description of the transaction with appropriate support documentation for review purposes, shall be maintained by the utility for three years.

(c) **Transfers of assets.** Except as otherwise required by federal statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract, or as otherwise ordered by the Commission; cost recovery for property transferred from a utility to its affiliate shall be priced at the "higher of cost or fair market value." Except as otherwise required by federal statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract or as otherwise ordered by the Commission; asset valuation and transfers of property transferred from an affiliate to its utility shall be priced at the "lower of cost or fair market value." No matter the origin of the transaction, all transfers between a utility and an affiliate will be individually scrutinized by the Commission on a case-by-case basis.

(d) **Sale of products or services.** Except as otherwise required by federal or state statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract or as otherwise ordered by the Commission; any sale of products and services provided from the affiliate to the utility shall be priced at the "lower of cost or fair market value." Except as otherwise required by federal statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract or as otherwise ordered by the Commission; any sale of jurisdictional products and services provided from the utility to the affiliate shall be priced at the "higher of cost or fair market value."

(e) **Joint purchases.** A utility may make a joint purchase with its affiliates of goods and services involving goods and/or services necessary for utility operations. The utility must ensure that all joint purchases are priced, reported, and conducted in a manner that permits clear identification of the utility's and the affiliate's allocations of such purchases.

(f) **Tying arrangements prohibited.** Unless otherwise allowed by the Commission through a rule, order or tariff, a utility shall not condition the provision of any product, service, pricing benefit, waivers or alternative terms or conditions upon the purchase of any other good or service from the utility's affiliate.

SUBCHAPTER 33. HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE

165:35-33-1. Purpose and scope

(a) The purpose of this Subchapter is to ~~encourage~~ require utilities to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made.

(b) The ~~Corporation~~ Commission ~~encourages~~ requires electric utilities to develop, implement, and maintain Homeland Security and Critical Infrastructure Plans according to the industry standards enumerated in sub-section (d) below.

(c) To the extent that a utility seeks to recover costs for security measures outside of a general rate review for the implementation of Homeland Security and/or Critical Infrastructure protections, the utility shall comply with all provisions of this Subchapter.

(d) Each electric utility serving Oklahoma jurisdictional ratepayers is ~~encouraged~~ required to follow the most current applicable North American Electric Reliability Corporation's (NERC's) Security Guidelines and Standards or equivalent cybersecurity framework, as may be amended from time to time, for use as guidelines for protecting the utility's Critical Infrastructure from extended service interruption.

(e) Each electric utility seeking to recover costs for security measures from Oklahoma jurisdictional ratepayers outside of a general rate review shall develop, implement, and maintain a Critical Infrastructure and Security Plan as further set forth within this Subchapter.

(f) If the utility has implemented a Security Plan or process in accordance with the applicable industry guidelines but is not seeking or receiving cost recovery for security-related costs, the utility shall submit the Certification Letter required by OAC 165:35-33-7(f) and the Plan shall be subject to review

pursuant to the Authorized Participation and Confidentiality provisions of OAC 165:35-33-10 and OAC 165:35-33-11. The utility is not otherwise required to comply with the provisions of this Subchapter.

(g) The Commission retains its jurisdictional and supervisory authority to address the reasonableness and/or prudence of any proposed security cost recovery.

(h) Nothing in this subchapter shall relieve any utility from any duty otherwise prescribed by the laws of the State of Oklahoma or this Commission's rules.

(i) Nothing in this Subchapter is intended to divest the utility of its right to object to any discovery requests from intervenors seeking access to "Highly Sensitive Confidential" materials.

(j) If any provision of this Subchapter is held invalid, such invalidity shall not affect other provisions or applications of this Subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Subchapter are declared to be severable.

165:35-33-5. Utility Security Plan

(a) Each electric utility is ~~encouraged~~ required to prepare and make available for inspection, a "Homeland Security and Critical Infrastructure Plan" ("Plan") that has been prepared with reference to the applicable NERC Security Guidelines and Standards or equivalent cybersecurity framework and standard as guidance with a defined cybersecurity strategy.

(b) The Plan shall be marked as "Highly Sensitive Confidential" and designate those facilities that the utility considers to be Critical Infrastructure (physical assets and computer software as defined in OAC 165:35-33-3 above), and shall set forth the utility's measures to secure such facilities from extended service interruption. The Plan shall also include an estimate of the costs necessary to achieve such measures.

(c) The Plan shall remain on site at the utility's business office in accordance with OAC 165:35-33-7(g) below and shall have the most current version of the redlined Plan Update Report attached to the clean version of the utility's latest Plan. At the utility's option, changes will either be redlined or a history of changes may be maintained.

(d) The Plan shall list all locations deemed by the utility to be critical, as well as identification of any subsequently increased security measures. All locations and security measures shall be identified by code known only to the utility and designated state government officials and their designees.

(e) Any subsequent security measures identified in the Plan shall contain an estimate of the cost necessary to implement such measures, a description of the measures necessary to adequately secure each specific location and an estimated schedule for completion of each measure.

(f) All locations identified by the Plan that require additional security measures shall be prioritized by the utility.

(g) Beginning December 30, 2005 and on July 1 of each year thereafter, Commission Staff shall submit an Annual Report marked as "Highly Sensitive Confidential" to the Commission, summarizing the results of Staff's review of a utility's Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

(h) Beginning December 30, 2005, where the Attorney General elects to submit recommendations to the Commission regarding a utility's Plan, such recommendations shall be marked as "Highly Sensitive Confidential" and shall also be due by July 1 of each subsequent year thereafter.

165:35-33-7. Reporting requirements

(a) Subsequent to the preparation of the initial Plan prepared under OAC 165:35-33-5(a), each utility shall prepare a Plan Update Report by March 1 of each succeeding year, following the same format as the initial Plan with redlines of all new changes, marked "Highly Sensitive Confidential" and kept on site at the utility's business office.

(b) Each subsequent Plan Update Report shall update the previous year's report by indicating for each specific coded location, all costs and completion dates (actual and projected) for all current and prior additional security measures claimed under this Subchapter.

(c) The utility is required to report cybersecurity or infrastructure security events that affect customers immediately to the PUD Director or designee.

(~~c~~d) For those security measures previously reported that have not yet been completed, revised estimated costs and estimated completion dates shall be provided.

(~~d~~e) The Plan Update Report shall also include (by specific coded location) a description of each proposed security measure that has not been previously reported, the estimated costs for each, as well as the estimated completion date for each measure.

(~~e~~f) Costs reflected in the initial Plan and in subsequent Plan Update Reports, whether estimated or actual, shall be identified as either capital or expense costs.

(~~f~~g) Beginning August 1, 2005 and by March 1 of every year thereafter, and/or when a change is made, each utility shall submit a Certification Letter to the PUD Director ~~of the Public Utility Division~~, marked as "Highly Sensitive Confidential" and certifying that as of the date of the Certification Letter:

(1) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated and defined by this Subchapter;

(2) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated or defined by this Subchapter but has otherwise taken steps to secure Critical Infrastructure and is not seeking cost recovery under this Subchapter;

(3) The utility does have a Plan but is not seeking cost recovery; or

(4) The utility has a Plan and/or has prepared its Plan Update Report updating the Plan and/or previous year's Plan Update Report;

(A) The redlines contained within the current Plan Update Report encompass in the entirety, all of the changes made to the utility's Plan since the Plan's inception or the previous year's certification; and

(B) The Plan is available for Commission and/or Attorney General review at the utility's local place of business.

(~~g~~h) A utility shall not be required to file its initial Plan or any of its subsequent Plan Update Reports with the Commission. Each utility shall instead, secure and maintain on site, at the utility's local place of business, its initial Plan and all subsequent Plan Update Reports.

165:35-33-9. Cost recovery

(a) Each utility seeking cost recovery of expenditures outside of a general rate review related to securing its Critical Infrastructure shall prepare and make available for inspection, its Plan and any subsequent Plan Update Reports in accordance with this Subchapter.

(b) A utility shall file an application with the Commission for cost recovery as provided for within this Subchapter. Such cost recovery shall only occur to the extent the utility has incurred all or a portion of its actual security-related costs.

(c) Unless otherwise ordered by the Commission, the utility shall have the burden of proving compliance with all of the provisions of this Subchapter prior to obtaining any cost recovery for security related measures.

(d) Upon approval and Order of the Commission, a utility shall be allowed to recover a return based on its weighted cost of long-term debt and equity on all capital expenditures made for security measures. The utility shall also be allowed to recover related depreciation expense and ad valorem taxes. Such recoveries shall be based upon similar ratemaking treatment for corresponding cost elements from the utility's most recent general rate case.

(e) Upon approval and Order of the Commission, a utility shall be allowed to recover expenses typically classified as operations and maintenance expenses for ratemaking purposes. The utility may request inclusion of any such similar costs incurred as long as these costs are directly associated with the security measures taken.

(f) The total costs incurred under this Subchapter shall be combined for recovery purposes, for consideration by the Commission.

(g) All costs approved by the Commission for recovery, shall be recovered from the utility's customers through a "Security Cost Rider" based on the projected annual billing units for the utility and shall be subject to annual true-up.

(h) Unless otherwise ordered by the Commission, a utility shall immediately discontinue recovery of the "Security Cost Rider" when the earlier of the following occurs: natural expiration due to the full recovery provided for in a Rider granted under this Subchapter or forced expiration required pursuant to OAC 165:35-33-9(i) and/or OAC 165:35-33-9(j). Under no circumstances, shall the utility be permitted to double recover Homeland Security and Critical Infrastructure related costs.

(i) Unless otherwise ordered by the Commission, any utility with a "Security Cost Rider" currently in effect, that files for a general rate change, shall include in the rate case, all security-related costs and those costs shall be accorded standard ratemaking treatment. A utility shall discontinue its "Security Cost Rider" when the change in rates becomes effective upon Final Order in the rate case.

(j) Unless otherwise ordered by the Commission, all "Security Cost Riders" approved by the Commission, shall expire five years from the initial date of the "Security Cost Rider's" implementation.

(k) Upon the filing of a cost recovery request by a utility, Commission Staff, the state Attorney General's office (based upon that entity's statutory authority) and all other Authorized Participants shall review the cost recovery proposal submitted by the utility and file testimony in accordance with:

(1) Any applicable protective orders issued by the Commission in the security-related cost recovery cause;

(2) OAC 165:35-33-11 (below);

(3) The Commission's Rules of Practice (OAC 165:5); and

(4) Any other protective measures or requirements prescribed by law or the Commission.

(l) Testimony of Commission Staff, the state Attorney General and all other Authorized Participants, shall detail each of the parties' respective recommendations and any objections to the utility's Plan and the utility's request for cost recovery related to the Plan. Also in accordance with the Commission's Rules of Practice, Commission Staff, the state Attorney General and all other Authorized Participants shall provide copies of their respective individual testimonies to one another, with redacted versions of each individual testimony filed with the Commission's Court Clerk~~ at the Commission~~.

(m) Upon notice and hearing, the Commission shall issue an Order regarding any requests for security-related cost recovery.

165:35-33-10. ~~Commission~~ PUD authorized participation

(a) **~~Commission~~ PUD Staff.** Only ~~those Commission Staff~~ PUD and ~~Staff's~~ PUD's designees authorized by ~~the Commission shall~~PUD to participate in a cause before the Commission regarding a utility's Plan and then, shall do so only after meeting all applicable requirements for ~~Commission~~ PUD authorization, which shall be determined on a case-by-case basis. All ~~Commission~~ PUD and ~~Staff's~~ PUD's designees authorized to participate in a security cause shall comply with the requirements for protecting information obtained under the "Highly Sensitive Confidential" designation.

(b) **Attorney General.** Only those Attorney General personnel who have formally entered an appearance pursuant to Oklahoma Statute and the Commission's Rules of Practice and that entity's Commission authorized designees shall be granted review of a utility's Plan and/or Plan Update Reports. All Attorney General personnel and their designees authorized to participate in a security cause shall meet all applicable requirements for Commission authorization, to be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(c) **Intervenors.**

(1) For the purposes of this Subchapter, all intervenors, including but not limited to counsel and experts for intervenors, shall be deemed "Authorized Participants" in accordance with OAC 165:35-33-3 above. All Authorized Participants wishing to participate in a security-related cause before the Commission shall meet all applicable requirements for Commission authorization, which shall

be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(2) In addition to acquiring "Authorized Participant" status from the Commission, each intervenor and its designees desiring to participate in a cause before the Commission regarding a utility's Plan shall post a bond or other security acceptable to the Commission, in an amount to be determined by the Commission, to protect the utility from harm in the event the Authorized Participant breaches the confidentiality terms established under this Subchapter or as may otherwise be established by the Commission. A copy of such bond or other security shall be filed with the Commission's Court Clerk. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(3) Any Authorized Participant found in violation of a Commission issued Protective Order and Proprietary Agreement, shall be liable for contempt penalties pursuant to the penalty provisions found in Article IX, § 19 of the Oklahoma Constitution, Title 17 of the Oklahoma Statutes and the Commission's Rules of Practice at OAC 165:5. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(4) In addition to the above protections, all Authorized Participants may be required by the Commission to enter into a separate non-disclosure agreement as a pre-requisite to being granted intervention and "Authorized Participant" status.

165:35-33-11. Confidentiality

(a) Pursuant to the Commission's jurisdiction granted under Article IX, Section 18 of the Oklahoma Constitution, 51 O.S. (2001) §24A.22 of the Oklahoma Statutes and OAC 165:5, the Commission's Rules of Practice; all un-redacted documents related to a utility's Homeland Security and Critical Infrastructure Plan shall be considered "Highly Sensitive and Confidential" and shall only be admitted into evidence in en camera proceedings.

(b) "Highly Sensitive Confidential" designation and protection shall extend but not be limited to the following: initial Plans (including underlying documents), Plan Update Reports, Certification Letters, Annual Reports made by Commission Staff, recommendations submitted by the Attorney General of the State of Oklahoma and un-redacted documents used in cost recovery proceedings. For all other documents, the "Highly Sensitive Confidential" designation may be granted upon hearing and Final Order of the Commission.

(c) Each utility's Plan and/or Plan Update Report prepared in accordance with this Subchapter, shall be marked "Highly Sensitive Confidential" and shall be kept and maintained on site at the utility's business office in accordance with OAC 165:35-33-7(g), above. Only those individuals on the Staff of the ~~Corporation~~ Commission and in the State Attorney General's office and their respective experts who have been authorized by the Commission, shall have access to the Plan and Plan Update Reports prepared by each utility and any related or supporting documentation thereto. All other parties granted authorized intervenor status to a security cause pursuant to OAC 165:35-33-10(c) may also have access to the Plan, Plan Update Reports and supporting documentation after notice and hearing.

SUBCHAPTER 34. COMPETITIVE PROCUREMENT

165:35-34-3. RFP Competitive Bidding Procurement Process for Long Term Fuel Transportation, Long Term Fuel Storage, Long Term Electric Generation and Long Term Purchase Power Agreements

(a) Competitive Bidding Structure and Process Guidelines for Long Term Fuel Transportation, Long Term Fuel Storage, Long Term Electric Generation and Long Term Purchase Power Agreements.

(1) The soliciting utility shall notify the Commission of its intent to engage in a competitive bidding process at least ~~30~~ thirty (30) calendar days before issuing a request for proposal ("RFP"), as required by subsection (4) below.

(2) The soliciting utility shall prepare the initial draft of the RFP documents, including but not limited to RFP procedures, and a pro forma power purchase agreement that, to the maximum extent practicable, utilizes industry standard contractual terms and contains all expected material terms and conditions and a solicitation schedule (collectively, the "RFP Document").

(3) In addition to the information required by (1) of this Section, the RFP and RFP Document, at a minimum, shall identify clearly:

(A) Term;

(B) Amount of megawatts, if applicable, and types of products being solicited;

(C) All price and non-price evaluation factors to be considered;

(D) Respective weight for each price and non-price evaluation factor; and

(E) Utility's preliminary analysis of transmission availability and the utility's plan for evaluation of transmission availability for each proposal received, including, but not limited to:

(i) Description of the role of transmission analysis to be conducted by the utility in the bid evaluation process. This analysis should use publicly available tools provided by the controlling entity, such as the Southwest Power Pool Scenario Analyzer; and

(ii) Any role of the transmission analysis to be conducted by the controlling entity, currently the Southwest Power Pool, in the bid evaluation process.

(4) The draft of the RFP Document, supporting documentation, and bid evaluation procedures shall be

provided to the Commission, Attorney General, non-competitive representatives and Independent Evaluator and posted on the utility's website at least ~~15~~ fifteen (15) calendar days prior to the technical conference referenced below. After the draft RFP is issued, a technical conference shall be scheduled by the utility to discuss the draft RFP and the bidding process. After receiving input from interested persons, and holding the technical conference the soliciting utility shall post the draft RFP Document and any comments received, on the soliciting utility's website or electronic bulletin board, or by some other publicly accessible method. After due consideration of all comments, the soliciting utility will submit the final RFP Document to the Commission and post the final RFP Document on its website or electronic bulletin board, or by other publicly accessible method. RFPs shall include the Southwest Power Pool's time requirements to conduct transmission analyses, i.e. the aggregate study.

(b) **Independent Evaluator.**

(1) The Commission may, at its discretion, retain and arrange compensation for an Independent Evaluator to monitor the RFP and competitive bidding process. Notwithstanding the foregoing, the Commission shall retain an Independent Evaluator to monitor the RFP and competitive bidding process in the following instances: (i) when an affiliate of the utility is anticipated to participate in the competitive bidding process; (ii) when the RFP and bid resulting there from is expected to have a material impact on the ~~utilities'~~ utility's cost of providing electricity to its customers, or (iii) when it is anticipated that the utility may participate as a bidder in the competitive bidding process. The Commission shall establish the minimum qualifications and requirements for an Independent Evaluator and ensure the Independent Evaluator is financially and substantively independent from any soliciting electric utility or affiliate thereof, complaining entity, and any potential bidder.

(2) The Independent Evaluator will report to the Commission and the Attorney General.

(3) If the Independent Evaluator's conclusion is different from the conclusion of the soliciting utility about the winning bidder(s), the Independent Evaluator and utility may attempt to resolve such differences. In the event the Independent Evaluator and utility cannot resolve their differences, the soliciting utility will determine which bid(s) is successful. The Independent Evaluator shall submit its independent evaluation to the Commission.

(4) As part of its contract with the Independent Evaluator, the Commission shall require the Independent Evaluator, to enter into an agreement to keep all information confidential that pertains to the disclosure and use of any models, analytical tools, data, or other materials of a confidential or proprietary nature provided or made available by the soliciting utility in conjunction with the competitive bidding process.

(c) **Affiliate Bidders' Requirements.**

(1) Each soliciting utility affiliate that intends to bid shall disclose publicly, in writing, the names and titles of the members of the affiliate's "Bid Team." Each soliciting utility shall disclose publicly, in writing, the names and titles of the members of its "Evaluation Team." A Bid Team develops the affiliate's bid and, to assure fairness, is not involved, directly or indirectly, in the evaluation or selection of bids. An Evaluation Team evaluates bids, selects the successful bidder and, to assure fairness, is not involved, directly or indirectly, in the development of the affiliate's bid.

(2) Each soliciting utility and bidding affiliate shall assure that the Bid Team and the Evaluation Team and any member of either do not engage in any communications, either directly or indirectly, regarding the RFP or the competitive bidding process. For bidder and Commission assurance, the soliciting utility and bidding affiliate shall execute an acknowledgement that the utility and affiliate have not and will not in the future so communicate, other than to submit and receive the bid at the appropriate time. The Bid Team and Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(3) The Evaluation Team shall report to the Independent Evaluator, any contact or communications by any bidder, including the Bid Team, and advise the bidder any future contact must be directed to the Independent Evaluator. Bidders and the Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(d) **Evaluation of Responses to the RFP.**

(1) The evaluation of the responses to the RFP will proceed as follows:

(A) The soliciting utility will evaluate all timely submitted bids to determine the lowest reasonable cost for long-term reliable power or reliable long-term fuel sought that minimizes ratepayer cost, including but not limited to charges for or costs relating to long-term fuel supply, long-term fuel transport, long-term fuel storage, long-term fuel processing, or increased cost of capital, consistent with the principles and procedures contained in this Subchapter and in the utility's resource plan and associated procurement plans.

(B) The Commission, Attorney General, non-competitive representatives and Independent Evaluator will be included in the evaluation of all bids submitted to the soliciting utility. The soliciting utility shall include within the RFP the time and place for the opening of the bids so that the Commission, Attorney General, non-competitive representatives and the Independent Evaluator may attend and monitor the opening of bids. Bids shall be opened by the soliciting utility at the time and place so indicated in the RFP whether or not any or all of those parties are in attendance.

(2) All bids shall be evaluated on the basis of the bidder's final best offer. No bidder shall be permitted to unilaterally submit a refreshed bid unless all bidders are given a meaningful opportunity to submit a refreshed bid as a result of some material, documented change. The Independent Evaluator shall be charged with evaluating any such changes and ensuring that the changes are substantive and not an attempt to influence the final selection process in favor of a particular bidder.

(3) Should any bid be unclear to such extent that the lack of clarity could impact the outcome of the bidding, the soliciting utility, Commission, Attorney General, non-competitive representatives or Independent Evaluator may request further information from any bidder regarding its bid, provided, any such communication between or among the soliciting utility, Commission, Attorney General, non-competitive representatives or Independent Evaluator and bidder should be conducted through an open process in which the utility, Independent Evaluator, Commission, non-competitive representatives and Attorney General are given adequate notice and an opportunity to attend.

(4) The Commission, Attorney General, non-competitive representatives and Independent Evaluator, as well as the soliciting utility, may rely on the Southwest Power Pool to conduct all necessary transmission analyses concerning bids received. Southwest Power Pool analyses provided to the Commission, Attorney General, non-competitive representatives or Independent Evaluator shall be equivalent in quality and content to that provided to the soliciting utility. No bidder, including any bidder that is an affiliate (including the Bid Team) of the soliciting utility, shall communicate with the Southwest Power Pool Transmission group during the course of the competitive bidding process regarding any aspect of the RFP or process.

(5) In conducting the evaluation of the responses, the soliciting utility shall not:

(A) Waive or otherwise modify any evaluation factor or evaluation weight for any bidder;

(B) Add any adjustments on the basis of expected effects on the utility's cost of capital if not already contained in the RFP;

(C) Impose any penalty on the price of purchased power; or

(D) Include any discount for utility self-generation on the basis of reliability as part of the utility's resource mix.

(e) Prior to a utility taking long-term procurement action other than the competitive procurement process set forth in this Subchapter, such utility shall seek a waiver of all or any part of these competitive bidding rules by filing a cause with the Commission.

(f) The utility shall promptly submit its decision concerning the successful bid with the Commission and mail copies of such submission to all bidders, non-competitive representatives, the Independent Evaluator, and the Attorney General. Included within that mailing, the utility shall provide the non-winning bidders the rationale and analysis used for the selection of the winning bid.

(1) Any unsuccessful bidder, non-competitive representatives, the Independent Evaluator, or the Attorney General shall have fifteen (15) calendar days following submission of the successful bid decision with the Commission to file with the Commission a complaint challenging the decision as not meeting the criteria for decision specified in this subchapter or waiver previously obtained pursuant to 165:35-34-3(e) and the RFP document and bid evaluation procedures developed pursuant to 165:35-34-3(a).

(2) In the event of the filing of such a complaint, after notice to all bidders and hearing, the Commission shall determine whether the utility's decision reveals either a clear departure from the criteria stated in these rules or previously obtained waiver, the RFP Document and bid evaluation procedures for decision or is erroneous, in which event the utility shall be required immediately to rebid, in accordance with this Subchapter, the items which were the subject of such determination.

(g) Upon determination of the successful bidder, the utility and successful bidder shall promptly proceed to finalize contracts necessary to implement the bid.

(1) The contract shall contain appropriate guarantees, as set by the Commission, regarding the reliability of services.

(2) At the request of either party and upon notice and hearing, the Commission shall have authority to determine any disputes between the parties as to terms incidental to the bid. All matters to be determined by the Commission under this provision shall be heard on an expedited basis and a decision rendered thereon within thirty (30) calendar days from filing.

165:35-34-4. Commodity fuel supply competitive bidding procurement process for a term greater than five years

(a) **Pre-approval filing.** When a Utility contracts for commodity fuel supply for self-generation of electricity for a term greater than five years, and seeks a pre-determination of prudence, the Utility shall file an application and receive the Commission's approval of the Utility's proposed Request for Proposal (RFP) Competitive Bidding Procurement Process prior to the Utility issuing the RFP. The evaluation and approval of the RFP shall contain, but not be limited to, the proposed bidding process, the evaluation process, consistency with the Integrated Resource Plan (IRP), and a determination of need for the proposed fuel supply. The evaluation and approval of the RFP may contain a consideration of opt-out provisions. The process shall focus on and result in the lowest reasonable cost for ratepayers. The request shall be processed as follows:

(1) An Independent Evaluator may be utilized pursuant to 165:35-34-4(b);

(2) The soliciting Utility shall file a cause for pre-approval of the RFP and will provide notice to the Commission and Attorney General to engage in the RFP approval

process at least ~~30~~ thirty (30) calendar days before issuing a request for pre-approval of the proposed RFP;

(3) The soliciting Utility shall prepare the initial draft of the RFP documents that, to the extent practicable, utilizes industry standard contractual terms and contains all expected material terms and conditions and a solicitation schedule;

(4) In addition to the information required by (3) of this Section, the RFP, at a minimum, shall identify clearly:

(A) Term and Renewals;

(B) Types and quantity of fuel being solicited;

(C) All price and non-price evaluation factors to be considered;

(D) Respective weight for each price and non-price evaluation factor;

(E) The Utility's preliminary analysis of desired delivery points or options as appropriate; and

(F) The extent to which a consideration of hedging and price volatility mitigation has been included in the RFP; and

(5) A Commission order approving or disapproving the RFP shall be issued in no more than 180 calendar days following the filing of the Utility's application.

(b) **Independent evaluator.**

(1) The Commission Staff or Office of the Attorney General may, at their discretion, file a request with the Commission for the assessment of specific costs, which shall be deemed recoverable costs associated with conducting the prudence review analysis, related to the retention of an Independent Evaluator to monitor the RFP and competitive bidding process. Notwithstanding the foregoing, the Commission, or the Attorney General shall retain an Independent Evaluator to monitor the RFP and competitive bidding process in the following instances: (i) when an affiliate of the Utility is anticipated to participate in the competitive bidding process; (ii) when the RFP and bid resulting there from is expected to have a material impact on the Utility's cost of providing electricity to its customers, or (iii) when it is anticipated that the Utility may participate as a bidder in the competitive bidding process. The Commission shall establish the minimum qualifications and requirements for an Independent Evaluator and ensure the Independent Evaluator is financially and substantively independent from any soliciting electric Utility or affiliate thereof, complaining entity, and any potential bidder.

(2) The Independent Evaluator will report to the Commission or the Office of the Attorney General.

(3) If the Independent Evaluator's conclusion is different from the conclusion of the soliciting Utility about the winning bidder(s), the Independent Evaluator and Utility may attempt to resolve such differences. In the event the Independent Evaluator and Utility cannot resolve their differences, the soliciting Utility will determine which bid(s) is successful. The Independent Evaluator shall submit its independent evaluation to the Commission.

(4) As part of its contract with the Independent Evaluator, the Commission shall require the Independent Evaluator, to enter into an agreement to keep all information confidential that pertains to the disclosure and use of any models, analytical tools, data, or other materials of a confidential or proprietary nature provided or made available by the soliciting Utility in conjunction with the competitive bidding process.

(c) **Affiliate bidders' requirements.**

(1) Each soliciting Utility affiliate that intends to bid shall disclose publicly, in writing, the names and titles of the members of the affiliate's "Bid Team." Each soliciting Utility shall disclose publicly, in writing, the names and titles of the members of its "Evaluation Team." A Bid Team develops the affiliate's bid and, to assure fairness, is not involved, directly or indirectly, in the evaluation or selection of bids. An Evaluation Team evaluates bids, selects the successful bidder and, to assure fairness, is not involved, directly or indirectly, in the development of the affiliate's bid.

(2) Each soliciting Utility and bidding affiliate shall assure that the Bid Team and the Evaluation Team and any member of either do not engage in any communications, either directly or indirectly, regarding the RFP or the competitive bidding process. For bidder and Commission assurance, the soliciting Utility and bidding affiliate shall execute an acknowledgement that the Utility and affiliate have not and will not in the future so communicate, other than to submit and receive the bid at the appropriate time. The Bid Team and Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(3) The Evaluation Team shall report to the Independent Evaluator, any contact or communications by any bidder, including the Bid Team, and advise the bidder any future contact must be directed to the Independent Evaluator. Bidders and the Evaluation Team may communicate as part of a bidding technical conference which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(d) **Evaluation of responses to the RFP.**

(1) The evaluation of the responses to the RFP will proceed as follows:

(A) The soliciting Utility will evaluate all timely submitted bids to determine the lowest reasonable cost for fuel supply that results in the lowest reasonable cost with consideration given to all other bid terms outlined in the RFP; and

(B) The Commission, Attorney General, Independent Evaluator, and non-competitive representatives will be included in the evaluation of all bids submitted to the soliciting Utility pursuant to the provisions of the Protective Order. The soliciting Utility shall include within the RFP the time and place for the opening of the bids so that the Commission, Attorney General, the Independent Evaluator and non-competitive representatives may attend and monitor the

opening of bids. Bids shall be opened by the soliciting Utility at the time and place so indicated in the RFP whether or not any or all of those parties are in attendance.

(2) All bids shall be evaluated on the basis of the bidder's final best offer. Bids will be evaluated on all relevant economic and non-economic factors. No bidder shall be permitted to unilaterally submit a refreshed bid prior to award unless all bidders are given a meaningful opportunity to submit a refreshed bid as a result of some material, documented change. The Independent Evaluator shall be charged with evaluating any such changes and ensuring that the changes are substantive and not an attempt to influence the final selection process in favor of a particular bidder.

(3) Should any bid be unclear to such extent that the lack of clarity could impact the outcome of the bidding, the soliciting Utility, Commission, Attorney General, Independent Evaluator and non-competitive representatives may request further information from any bidder regarding its bid, provided, any such communication between or among the soliciting Utility, Commission, Attorney General, Independent Evaluator and non-competitive representatives and bidder should be conducted through an open process in which the Utility, Independent Evaluator, Commission, Attorney General and ~~non-competitive~~ noncompetitive representatives are given adequate notice and an opportunity to attend.

(4) In conducting the evaluation of the responses, the soliciting Utility shall not: waive or otherwise modify any evaluation factor or evaluation weight for any bidder.

(e) **Bid award.**

(1) The Utility shall submit its decision, rationale and analysis concerning the successful bid with the Commission, non-competitive representatives, the Independent Evaluator, and the Attorney General within 24 hours of the selection. The utility shall provide the non-winning bidders notice that they were not selected as the winning bid.

(2) The PUD Director ~~of the Public Utility Division~~, any unsuccessful bidder, the Independent Evaluator, Intervenors, or the Attorney General shall have two (2) business days following submission of the successful bid decision to file with the Commission a complaint challenging the Utility's adherence to the approved RFP and the resulting bid award.

(3) In the event of the filing of such a complaint, after notice to all parties and hearing, the Commission shall determine whether the Utility's decision reveals a clear departure from the criteria stated in the previously obtained waiver or the RFP Document in which event the bid award may not be pre-approved by the Commission.

(4) The Commission shall endeavor to hear the complaint in camera within three (3) business days of the filing of the complaint.

(5) The Commission shall endeavor to enter a final order within ~~15~~ fifteen (15) calendar days of the initial bid award letter. If the Commission has not entered a final order within ~~15~~ fifteen (15) calendar days, the winning bidder may be allowed to refresh their bid pursuant to the provisions of the RFP.

(6) The Commission shall endeavor to enter a final order no later than ~~30~~ thirty (30) calendar days after the initial bid award.

(7) Upon determination of the successful bidder, the Utility and successful bidder shall promptly proceed to finalize contracts necessary to implement the bid.

(8) The final order, if awarding a pre-determination of prudence, will provide as follows:

(A) Purchases made according to the terms of the contract shall be deemed prudent;

(B) Variances from the terms of the contract shall be subject to additional prudence review and determination.

(f) **Waiver.** Prior to a utility taking competitive procurement action other than the competitive procurement processes set forth in this Subchapter, such Utility shall seek a waiver of all or any part of these competitive bidding rules by filing a cause with the Commission if the Utility will seek pre-approval.

SUBCHAPTER 35. PRUDENCE REVIEWS

165:35-35-1. Prudence Reviews

(a) The Commission shall conduct prudence reviews on all generation, purchased power and fuel procurement processes and costs. The first prudence review will be selected by March 31, 2006. Utilities serving four hundred thousand (400,000) consumers or more shall be reviewed at least once every two (2) years. The utility shall bear the burden of proof as to prudence. Utilities serving fewer than four hundred thousand (400,000) consumers shall be reviewed at least once every three (3) years.

(b) All fuel and generation expenses, including purchased-power-related expenses, shall be reviewed by the Commission in adjudicatory proceedings to determine that such expenses were prudently incurred. ~~The utility shall bear the burden of proof as to prudence.~~ Additional prudence reviews shall be conducted when the Commission determines that circumstances warrant such review.

(c) The Commission may impose any corrective action or penalty allowed explicitly or implicitly by law, including refund, as the result of a prudence review.

(d) Nothing in this Subchapter shall diminish the authority of the Commission to review for prudence or other reasons any utility contract, decision or other action for the provision of electric power capacity or energy.

SUBCHAPTER 37. INTEGRATED RESOURCE PLANNING

165:35-37-3. Public Meeting

(a) A utility shall notify the Commission that it has prepared a proposed initial integrated resource plan at least thirty (30) calendar days prior to submission pursuant to 165:35-37-4. After giving notice, the Commission shall conduct a public meeting on the record concerning the utility's proposed initial integrated resource plan, allowing comment from interested persons as to the strengths and weaknesses of the proposed plan.

(b) The utility shall take into account the comments made at the public meeting and make such changes to the plan as seem reasonable.

(c) The utility shall make the proposed plan available prior to the public meeting to any person who requests it, except any portions subject to a Commission protective order.

(d) The Commission may conduct similar public meetings at its discretion concerning updates to the integrated resource plan as provided by 165:35-37-4.

165:35-37-4. Integrated Resource Plan Reviews

(a) Each utility shall submit to the Commission a proposed integrated resource plan. The utility's first integrated resource plan was due on October 1, 2006, and subsequent plans shall be due every three (3) years thereafter, unless ~~otherwise ordered by~~ the utility requests an extension from the PUD Director or the utility requests a waiver from the Commission. The extension granted by the PUD Director shall not exceed six (6) months. Subsequent plans shall be developed and submitted as provided by the procedure set forth in OAC 165:35-37-5. The proposed resource plan shall include, among other things, a fuel procurement plan, purchased-power procurement plans, a risk management plan, an environmental compliance plan, and other elements as described further in this Subchapter. This plan will be made available upon request by any person or entity to the soliciting utility, except any portions subject to a Commission protective order.

(b) Each utility shall have an ongoing obligation to monitor markets and inputs and to notify the Commission when material changes in planning assumptions occur. As the integrated resource plan changes from year to year, the utility shall submit updates to the Commission. The Commission may require the utility to submit an interim, updated integrated resource plan to reflect material change(s) in planning assumptions.

(c) The integrated resource plan shall include, at a minimum, a tabular summary of each of the following Sections:

(1) Schedule A: An electric demand and energy forecast;

(2) Schedule B: A forecast of capacity and energy contributions from existing and committed supply- and demand-side resources;

(3) Schedule C: A description of transmission capabilities and needs covering the forecast period;

(4) Schedule D: An assessment of need for additional resources;

(5) Schedule E: A description of the supply, demand-side and transmission options available to the utility to address the identified needs;

(6) Schedule F: A fuel procurement plan, purchased-power procurement plan, and risk management plan;

(7) Schedule G: An action plan identifying the near-term (i.e., across the first five [5] years) actions that the utility proposes to take to implement its proposed resource plan;

(8) Schedule H: Any proposed RFP(s), supporting documentation, and bid evaluation procedures by which the utility intends to solicit and evaluate new resources; and

(9) Schedule I: A technical appendix for the data, assumptions and descriptions of models needed to understand the derivation of the resource plan.

(10) Schedule J: A description and analysis of the adequacy of its existing transmission system to determine its capability to serve load over the next ten (10) years, including any planned proposed changes to existing transmission facilities.

(11) Schedule K: An assessment of the need for additional resources to meet reliability, cost and price, environmental or other criteria established by the Commission, the State of Oklahoma, the Southwest Power Pool, North American Electric Reliability Council, or the Federal Energy Regulatory Commission. This assessment should address both base line forecast condition and important uncertainties, including but not limited to load growth, fuel prices, and availability of planned supplies.

(12) Schedule L: An analysis of the utility's proposed resource plan and any alternative scenarios necessary to demonstrate how the preferred plan best meets the planning criteria. Technical appendices should be included to document the planning analysis and assumptions used in preparing this analysis.

(13) Schedule M: A description and analysis of the Utility's consideration of physical and financial hedging to determine the Utility's ability to mitigate price volatility for the term covered by the IRP.

165:35-37-5. Procedure for subsequent integrated resource plans

(a) A utility shall notify the Commission that it has prepared a proposed update of its integrated resource plan at least sixty (60) calendar days prior to submission pursuant to 165:35-37-4.

(b) To allow all stakeholders the opportunity to review and provide input regarding utility objectives, assumptions, planning scenarios, and other information contained in the proposed updated integrated resource plan, after giving notice and prior to submitting the final integrated resource plan, the utility shall conduct at least one technical conference for all stakeholders. Stakeholders then may submit comments to the utility as to the strengths and weaknesses of the proposed plan.

(c) The utility shall make the proposed plan available prior to the technical conference to any person who requests it, except any portions subject to a Commission protective order or confidentiality agreement.

(d) The utility shall take into account any comments received prior to or at the technical conference and make such changes to the plan as seem reasonable.
(e) The utility shall provide a facilitator to coordinate and assist the stakeholders in their discussions at the technical conference. The facilitator provided by the utility shall prepare meeting minutes from the technical conference and prepare a summary of stakeholder input for inclusion as an exhibit in the final integrated resource plan.
(f) The Commission and/or the Attorney General may, at its discretion, retain third party consultants and/or expert witnesses to review the proposed plan and participate in the technical conference on its behalf. The utility shall be responsible for, and be allowed recovery of, the cost of such third party consultants and/or expert witnesses.
(g) The Commission may conduct similar technical conferences at its discretion concerning updates to the integrated resource plan as provided by OAC 165:35-37-4.
(h) After the above procedure has occurred, the utility shall present its final integrated resource plan at a public meeting held at the Commission.

SUBCHAPTER 38. RECOVERABLE COSTS

165:35-38-5. Self-build or Purchase Options

(a) An electric utility may elect to file an application pursuant to 17 O.S. Section 286(C), as amended, and this subchapter seeking approval by the Commission to construct a new electric generating facility, to purchase an existing electric generation facility or to enter into a long-term contract for purchased power and/or energy.
(b) Upon application by an electric utility pursuant to this Subchapter, the Commission shall review the requested cost recovery.
(c) If the soliciting utility wishes to consider an option for full or partial ownership of a self-build option, the utility must submit its construction proposal ("Self-build Proposal") to provide all or part of the capacity requested in the RFP stated in 165:35-34 at the same time the bids are requested.
(d) Once submitted, the Self-build Proposal may not be modified by the soliciting utility. If a Self-build Proposal is selected and approved by the Commission, the amount the soliciting utility shall recover through the rate base or other cost-recovery methods without additional Commission approval is limited to the total project cost identified in the Self-build Proposal.
(e) A Cause shall be opened by the utility for cost recovery if the competitive bidding RFP process established in 165:35-34 is not utilized and the utility wishes to gain approval of cost before construction starts.
(f) Bid responses will be opened with the Independent Evaluator, Commission and the Attorney General present.
(g) Bid award terms and conditions shall be posted on the utility's web site or electronic bulletin board within sixty (60) calendar days after receipt, with a notice to the Commission.
(h) The Commission decision approving or denying the plan shall address the contents of the utility's resource plan, including its fuel procurement plan, purchased-power procurement plan, and risk management plan. If the record contains sufficient evidence, the Commission shall specifically approve or reject:

(1) The utility's proposed plans for resources in the planning period,
(2) The utility's proposed plans for acquiring additional resources through the competitive acquisition process, and
(3) The utility's proposed RFP(s).

(i) Upon the filing of an application pursuant to this Subchapter, the Commission will establish a procedural schedule, which shall provide for a Commission order within two hundred forty (240) calendar days of the date of such filing.

SUBCHAPTER 39. MINIMUM FILING REQUIREMENTS

165:35-39-1. Purpose and Scope of this Subchapter

(a) The purpose of this Subchapter is to establish fair and reasonable rules and procedures for the Minimum Filing Requirements ("MFR") associated with the annual audit of fuel, purchased power cost recovery and purchased power supply acquisitions, of a utility ("Fuel Audit"), including but not limited to Prudence Reviews. These MFRs set forth the information to be filed and the documentation to be made available for examination by ~~the Public Utility Division~~ PUD Staff, the Attorney General, and to those parties that have intervened in the proceeding, subject to the appropriate confidentiality measures.
(b) It is the intent of the Commission to establish a set of standards for the filing of MFR Packages that will facilitate the Commission's responsibilities in conducting Fuel Audits and Prudence Reviews and reflect the practices and policies of the Commission.

165:35-39-2. Definitions and Acronyms

The following terms and acronyms shall have the meanings set forth below for the purpose of this Subchapter 39 to the Commission's Electric Rules (OAC 165:35):

"EIS market"~~,~~ means the Energy Imbalance Service market implemented pursuant to FERC-approved amendments to SPP's OATT on February 1, 2007.

"FERC"~~,~~ means the Federal Energy Regulatory Commission.

"Fuel Audit"~~,~~ means the statutory audit of an electric utility's costs of fuel and purchased power costs as delivered into the utility's system pursuant to 17 O.S. §§251 *et seq.*

"Fuel Supply Portfolio and Risk Management Plan"~~,~~ means the documentation required to be submitted to the Commission by each utility by Commission Order.

"Material Change,"~~——,~~**"Material Deviation,"** ~~and~~ or **"Material Impact"**~~,~~ means any change deviation from planned operations, or cost impact to the utility's customers equal to or greater than three percent (3%) for any single line item or event reflected in the utility's total cost of fuel burned and purchased power during the Review Period.

"Minimum Filing Requirements" or **"MFR"**~~,~~ means the minimum filing requirements established by this Subchapter 39 of the Electric Rules to be filed or made available by a utility to the Commission, ~~the Public Utility Division~~ PUD Staff, the Attorney General, and interested parties, subject to appropriate confidentiality protection, upon the filing by ~~the Public Utility Division~~ PUD Staff of an application initiating a Fuel Audit or a Prudence Review.

"MFR Package"~~,~~ means all of the documentation to be provided or made available by the utility as identified in this Subchapter.

"Monthly Fuel Adjustment Clause ("FAC") filings"~~,~~ means the information electric utilities are required to file pursuant to 17 O.S. §253.B prior to implementing fuel and fuel related costs pursuant to a Commission approved fuel and purchased power adjustment tariff.

"OATT"~~,~~ means an Open Access Transmission Tariff as approved by the FERC.

"Production Tax Credits" or **"PTCs"**~~,~~ means an income tax credit available to owners or operators of electric generation facilities that produce electricity from "qualified energy resources". These include wind, geothermal, solar and hydropower. (26 USC 45 Electricity produced from certain renewable resources, etc.; Title 68 O.S. Section 2357.32A Credit for Electricity Generated by Zero-Emission Facilities).

"Prudence Review"~~,~~ means the biennial review of the fuel, generation, and purchased power related expenses incurred by a utility pursuant to OAC 165:35-35-1.

"Renewable Energy Certificates,"~~,~~ **"Green Tags," "Renewable Energy Credits," "Renewable Electricity Certificates," "Tradable Renewable Certificates,"** or **"RECs"**~~,~~ means tradable, non-tangible energy commodities in the United States that represent proof that 1 megawatt-hour (MWh) of electricity was generated from an eligible renewable energy resource (renewable electricity). Solar Renewable Energy Certificates are RECs that are specifically generated by solar energy.

"Review Period"~~,~~ means the period of time, in calendar year increments, identified by ~~the Public Utility Division~~ PUD Staff in an application initiating a Fuel Audit or a Prudence Review.

"SPP", means the Southwest Power Pool, the Regional Transmission Organization recognized by the FERC and encompassing the State of Oklahoma and all or parts of surrounding jurisdictions.

165:35-39-4. Initiation of Fuel Audit or Prudence Review

(a) ~~The Public Utility Division~~ PUD Staff shall initiate a Fuel Audit or Prudence Review by filing an application identifying the utility or utilities subject to the Fuel Audit or Prudence Review and identifying the period of time the Fuel Audit or Prudence Review is intended to cover. ~~The Public Utility Division~~ PUD Staff shall file its application for a Fuel Audit or Prudence Review no sooner than one hundred fifty (150) calendar days subsequent to the end of the period identified for review.

(b) Each utility being reviewed shall make a filing meeting the MFRs, sixty (60) calendar days after ~~the Public Utility Division~~ PUD has filed an application commencing a Fuel Audit or Prudence Review. The MFR Package shall contain documentation as described in this Subchapter covering January through December, of the period identified in the application.

(c) All Class A Electric Companies as outlined in OAC 165:70-1-4(a)(1)(A), whether for Fuel Audit or Prudence Review, shall file direct testimony concurrently with the filing of the MFR Package.

165:35-39-5. Actual Fuel and Purchased Power Expenses

Under this Section, a utility must file documentation of actual fuel expenses, purchased power expenses, and off-system power sales revenues that occurred during the Review Period. This information should be contained in Schedule A of the MFR Package, consisting of the following:

(1) A thorough and detailed narrative of the fuel and purchased power expenses, procurement practices, and procedures;

(2) An electronic spreadsheet summary of annual volumes and expenses and revenues for fuel and purchased power, consistent with the format of the utility's monthly Fuel Adjustment Clause (FAC) filings;

(3) Electronic copies of the utility's monthly FAC filings. The spreadsheet should include a tabular summary of the type, volume and expense/revenues associated with affiliate fuel and purchased power transactions, and the summary should address energy production by separate fuel types;

(4) A comparison in matrix form of fuel and purchased power expenses and off-system sales revenues for the Review Period identified in ~~the Public Utility Division's~~ PUD's application and for the previous two most recent years;

(5) A narrative explanation of the key factors and events that had a Material Impact on the utility's actual fuel and purchased power expenses, and their relative magnitudes.

165:35-39-6. Fuel and Purchased Power Procurement, and REC Management Practices

Schedule B of the MFR Package shall include a thorough and detailed narrative for the fuel and purchased power procurement practices and procedures, both short-term and long-term, of the utility during the Review Period, and REC management practices, with the following information:

(1) A list of the fuel and purchased power procurement practices, REC management practices, and Risk Management Plans relevant to the Review Period that are filed with the ~~Oklahoma Corporation~~ Commission together with copies of all such plans previously submitted but not filed;

(2) A list of Material Deviations from the fuel and purchased power procurement and Risk Management Plans as the plans were implemented during the Review Period

to include a discussion of any resulting price exposure and the causes for the Material Deviations from the plans to include material sales and/or purchases from the Southwest Power Pool Energy Imbalance Service (EIS) Market;

(3) A description of the safeguards in place concerning affiliate transactions to ensure fair treatment of non-affiliated potential providers of commodities or services;

(4) A list of fuel and purchased power solicitations and actions during the Review Period, including the type of competitive procurement methods used, the timeline for each solicitation, a narrative description of each solicitation, and copies of major fuel and purchased power transactions resulting from such solicitations of one month or more in duration.

165:35-39-7. Fuel, Purchased Power, Wind Energy Purchased Power and Fuel-Related Contracts

Schedule C of the MFR Package shall include the following information related to fuel, purchased power, wind energy purchased power and fuel-related contracts in effect during the Review Period:

(1) A list of all fuel and fuel-related contracts in effect during the Review Period between the utility and any affiliate of the utility that supplied fuel or fuel-related services to the utility;

(2) A list of all natural gas contracts in effect during the Review Period including natural gas contracts having a term less than one year, which are considered "spot market" contracts. The utility may provide one or more "generic" contracts which represent the terms of individual spot market contracts, in lieu of the natural gas contracts. The following information relating to all gas purchase contracts, including contracts with affiliates, shall be provided in summary form:

(A) Contract number/serial number/other designation;

(B) Supplier;

(C) Negotiation date or date signed; and

(D) Term and specific service provided under the contract

(3) Upon request, each contract identified in this schedule shall be made available, subject to any confidentiality provisions contained therein;

(4) A list of all applicable fuel supply contracts in effect during the Review Period including coal purchases, oil purchases, and any other fuel commodity contracts;

(5) A list of all purchase power contracts, including wind energy purchase power agreements, in effect during the Review Period for all purchases of energy, capacity or both having a term of thirty (30) calendar days or longer;

(6) For those contracts requiring the use of government or other published indices to adjust the price, provide the monthly values for each index during the Review Period and identify the source of the values for each index;

(7) With respect to each contract, provide monthly minimum, maximum and actual takes by contract for the Review Period;

(8) Documentation for all occurrences when the minimum take or pay volumes under contract were not met during the Review Period;

(9) Documentation of analyses performed to evaluate any fuel or fuel related solicitations having contract terms of thirty (30) calendar days or longer during the Review Period that affected fuel costs during the period. It is not necessary to provide documentation for contracts previously approved by the Commission; and

(10) With respect to wind energy purchase power agreements and limited to those PTCs and RECs owned by the utility pursuant to the terms of any such agreements, the utility shall report the amount of PTCs and RECs generated in the reporting year; the PTC and REC balance carried forward from prior years; PTCs and RECs available to be used; PTCs and RECs expected to be utilized; PTCs and RECs actually used and related credits and sales revenue, PTCs and RECs expiring unused and the PTC and REC balance carried forward.

SUBCHAPTER 43. TRANSMISSION ONLY UTILITY

165:35-43-2. Definitions

The following words and terms, when used in this Sub-chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Interconnection" means two or more electric systems having a common transmission tie that permits a flow of energy between them. An Interconnection includes a common transmission tie between a Transmission Line and generation facilities, between a Transmission Line and load facilities, or between a Transmission Line and one or more other Transmission Line(s).

"NERC" means the North American Electric Reliability Corporation.

"SPP" means the Southwest Power Pool, Inc.

"Transmission Line" means a set of conductors, insulators, supporting structures, and associated equipment used to move power at 60 kilovolts (kV) or above.

"Transmission Only Utility" or **"TOU"** means an entity that builds, constructs, owns, operates, controls, manages, or maintains Transmission Line(s) within the State of Oklahoma and provides no retail service subject to the rate jurisdiction under 17 O.S. Section 151 et seq. by this Commission. This shall not include Utilities operated by municipalities, governmental bodies, or unregulated cooperatives.

165:35-43-4. Reporting

(a) For a ~~Transmission Only Utility~~ TOU providing electric transmission services, other than those facilities operating for the ~~sole~~ purpose of directly connecting generation resources to the existing grid, regular review of operations is reasonable to preserve the reliability of electric transmission service, to ensure public safety, and the enhancement of economic efficiency in the production and consumption of electricity

for the electric consumer. This Subchapter establishes annual reporting requirement(s) to each ~~Transmission Only Utility~~ TOU under Commission jurisdiction.

(b) ~~On or before May 15 of each year, each Transmission Only Utility shall file a cause on the Public Utility Docket or shall file such required information in a filing otherwise required by the Commission. This filing shall provide to the Commission information about Transmission Line(s) the Transmission Only Utility has or planned to build, construct, own, operate, manage and or maintain based on the preceding calendar year. Within such cause, the Transmission Only Utility shall provide information required by the Public Utility Division of the Commission, which includes but is not limited to the following:~~On or before June 15 of each year, each TOU shall submit information to PUD about any Transmission Line(s) the TOU has built, constructed, owned, operated, managed and/or maintained based on the preceding calendar year. Additionally, on or before June 15 of each year, each TOU shall submit information about any additional Transmission Line(s) it plans to build, own, operate, manage and/or maintain subsequent to June 15. Within such submission, the TOU shall provide information, which includes but is not limited to the following:

(1) A description of any new transmission route(s) that the ~~Transmission Only Utility~~ TOU has submitted to the SPP's regional planning process or other applicable regional planning process, or that has been approved by a Federal authority;

(2) A status report of any Interconnection proposal that the ~~Transmission Only Utility~~ TOU has submitted to a regional planning process or that has been approved by a Federal authority;

(3) Identification of the allocation of transmission costs to Oklahoma Utilities from SPP;

(4) An analysis of the costs and benefits to Oklahoma rate payers of any transmission project or portfolio of transmission projects, if the ~~Transmission Only Utility~~ TOU or regional planner has prepared such a study, and excluding projects done primarily to comply with NERC standards;

(5) The expected number of Oklahoma residents that will be employed during construction of any project and the specific type of job(s) utilizing Oklahoma residents;

(6) The expected number of Oklahoma residents that will continue to be employed after construction of any project and the specific type of job(s) utilizing Oklahoma residents;

(7) A statement reflecting any known annual property or ad valorem tax assessed to the ~~Transmission Only Utility~~ TOU for Transmission Lines and related operations;

(8) Aggregate total payments made to private landowners for transmission right-of-way, reported after all right-of-way for a particular project has been acquired;

(9) Aggregate total payments made to public landowners for transmission right-of-way, reported after all right-of-way for a particular project has been acquired;

(10) Identification of any new energy resource(s) to which the transmission project is directly connected or, to the extent known, resources to which the transmission project could be connected to integrate existing natural gas or other resource generation;

(11) Copies of any impact studies previously provided to state or federal agencies concerning the environment and the wildlife in the area of any new Transmission Line(s) built by the ~~Transmission Only Utility~~ TOU will be made available for onsite review as requested;

(12) An attestation that the ~~Transmission Only Utility's~~ TOU's insurance coverage will be made available for onsite review as requested.

(c) Any additional information required by the Commission shall be requested from all ~~Transmission Only Utility~~ TOU at such time as the Commission determines the need for such information.

(d) Information submitted in the reports required by this section shall be deemed confidential records or trade secrets of the reporting ~~Transmission Only Utility~~ TOU under the Open Records Act as provided for by 51 O.S. Section 24A.22 and shall be made available for Commission onsite review, unless such records are successfully challenged or become the subject matter of an enforcement action at the Commission. Utilities will clearly mark all confidential documents as confidential.

165:35-43-5. ~~Commission~~ Public Utility Division consideration

~~(a) The Commission shall review and may investigate all filed transmission information for compliance with reporting requirements~~

~~(b) After receiving an informational filing from a Transmission Only Utility pursuant to the preceding Section, the Commission:~~

~~(1) Will determine whether the filing is compliant with the requirements of the Commission rules; and~~

~~(2) Will issue an appropriate order determining compliance with these rules. In the event the Commission determines the Transmission Only Utility's filing is not in compliance with the rules, the Commission will issue an order rejecting the report or opening an investigation to inquire further into the report.~~

(a) PUD shall review and may investigate all reported transmission information for compliance with reporting requirements.

(b) After receiving a report from a TOU pursuant to the preceding Section, PUD:

(1) Will determine whether the report is compliant with the requirements of the Commission rules; and

(2) Inform the TOU of PUD's determination regarding compliance within ninety (90) calendar days of receipt of the report. In the event PUD determines the TOU's report is not in compliance with the rules, PUD shall contact the TOU to require additional information, and such information shall be provided within fifteen (15) calendar days of such notice. If the TOU fails to correct such non-compliance, PUD may reject the report or open an investigation to inquire further into the reported or submitted information.

165:35-43-6. Determining assessment fees

(a) In causes initiated on the Public Utility Docket to meet requirements of this subsection, fees shall be assessed upon a motion of ~~the~~ PUD Staff ~~of the Public Utility Division~~ or upon motion of the Attorney General.

(b) The Commission shall make a determination of the estimated costs of ~~the Public Utility Division~~ PUD and the Attorney General required to process, analyze and review filed information as required by this subsection. These estimated costs shall be the basis of the fee assessed on a ~~Transmission Only Utility~~ TOU subject to this Subchapter.

(c) After notice to the ~~Transmission Only Utility~~ TOU to be assessed and hearing, the Commission shall issue an order which shall include the following:

(1) Whether or not the ~~Transmission Only Utility~~ TOU will be assessed fee(s);

(2) The amount of the fee(s) to be assessed; and

(3) The date payment(s) shall be paid.

165:35-43-7. Decommissioning of transmission lines

(a) A ~~Transmission Only Utility~~ TOU shall be responsible, at its expense, for the decommissioning of any and all of its equipment upon abandonment or the end of the useful life of a Transmission Line or other electric transmission facility. After the decommissioning of any Transmission Line, a ~~Transmission Only Utility~~ TOU shall restore the land upon which a decommissioned Transmission Line or other electric transmission facility was located consistent with the ~~Transmission Only Utility's~~ TOU's decommissioning plan.

(b) A ~~Transmission Only Utility~~ TOU shall submit a decommissioning plan to identify the methodology used to mitigate potential impacts resulting from the cessation of operation at the end of the project's useful life. The plan shall consist of but not limited to the following:

(1) Identification of the specific project components that will be removed;

(2) A description of the decommissioning process in the event of abandonment during construction and abandonment during operation;

(3) A description of the process used for soil and road restoration; and

(4) An attestation that a statement of financial capability or insurance coverage sufficient to decommission the project outlined in the plan will be made available to the Commission upon request.

SUBCHAPTER 45. WIND ENERGY

165:35-45-1. Purpose of this subchapter

The purpose of this Subchapter is to implement provisions of the Oklahoma Wind Energy Development Act, 17 O.S. §§ 160.11 *et seq.*, by establishing rules and procedures for an entity that builds, constructs, owns, operates, controls, manages or maintains a wind energy facility within the State of Oklahoma. This Subchapter applies to the components of wind energy facilities built, constructed, owned, operated, controlled, managed or maintained within the State of Oklahoma, provided however it does not apply to any ~~Transmission Only Utility~~ TOU.

165:35-45-2. Definitions

In addition to terms defined in the Oklahoma Wind Energy Development Act, 17 O.S. § 160.11 et seq., the following word(s) or term(s), when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Clearinghouse" means the Military Aviation and Installation Assurance Siting Clearinghouse.

"Determination of No Hazard" means a document issued by the Federal Aviation Administration.

"FAA" means the Federal Aviation Administration.

"Mitigation plan" means a document issued by the Military Aviation and Installation Assurance Siting Clearinghouse.

"Project description" means a graphic depiction of a wind energy facility's outer boundary, which should adequately demonstrate the project's outer perimeter, inclusive of all wind turbines.

165:35-45-3. Annual reporting requirements

On or before March 1 of each year, each wind energy facility owner or operator shall submit information required by ~~the Public Utility Division~~ PUD. This submission shall provide to ~~the Public Utility Division~~ PUD information about wind energy facilities the owner constructs, owns, operates, manages or maintains within the State of Oklahoma. Within such submission, the wind energy facility owner or operator shall provide information, which includes but is not limited to the following:

(1) The commercial generation date of each wind energy facility;

(2) If a wind energy facility fails to generate power, an explanation of the cause of the failure to generate;

(3) An attestation indicating that the wind energy facility's insurance coverage will be made available for onsite review by ~~the Public Utility Division~~ PUD as requested;

(4) For the first annual report(s) associated with a wind energy facility's first year of commercial operation, the report shall also include: a final project description and a final location description for each turbine, as constructed, and an attestation indicating that setback and notice requirements have been complied with.

(5) For those wind energy facility components that are otherwise subject to the rules applicable to the annual reports of ~~Transmission Only Utilities~~ TOUs, this Subchapter does not require duplicative reporting.

(6) Electronic submission is preferred; however, all forms of submission will be accepted.

165:35-45-4. Notification of intent to build a wind energy facility and other notices

(a) The owner of a wind energy facility shall electronically submit notification of intent to build a facility to the ~~Corporation~~ Commission within six (6) months of the initial filing pertaining to commencement of construction with the ~~Federal Aviation Administration (FAA)~~ FAA of an FAA Form 7460-1 (Notice of Proposed Construction or Alteration) or any subsequent form required by the FAA ~~for evaluating the impact a proposed wind energy facility will have on air commerce safety and the preservation of navigable airspace~~. Such notification shall be submitted to the PUD Director ~~of the Public Utility Division of the Corporation Commission~~, and shall include any and all Notices of Proposed Construction, or Alteration required to be filed with the FAA concerning a specific wind energy facility.

(b) ~~The Public Utility Division~~PUD shall provide the owner of a wind energy facility with affirmation of submission of the notification of intent to build by either providing proof of receipt stamp or confirmation of receipt if submission is made electronically.

(c) In the event that an owner of a wind energy facility submits notification of intent to build a facility with the ~~Corporation~~ Commission and files subsequent forms with the FAA, the owner is not required to submit amended or additional notification of intent to build a wind energy facility unless the project layout is expanded beyond the original project description. Movement within the original description will not require the notice process to start over. However, subsequent to submissions under (a) above, copies of FAA submissions for individual turbine modifications, additional turbines, or renewals shall be submitted to PUD within thirty (30) calendar days of submission to the FAA. If, during or after construction of an individual turbine, the FAA requires the developer to submit subsequent FAA filings, the developer shall submit all such subsequent submissions at the time the wind energy facility's first annual report is submitted.

(d) The owner of the wind energy facility shall ~~submit~~ send copies of the notification with the board of county commissioners of every county in which all or a portion of the wind energy facility is to be located within twenty-four (24) hours of ~~filing~~ submission with the Commission. If all or a portion of the wind energy facility is to be located within the incorporated area of a municipality, copies of the notification shall also be ~~submitted~~ sent to the governing body of the municipality within twenty-four (24) hours of ~~filing~~ submission with the Commission.

(e) Within thirty (30) calendar days of submitting the notification, as described above in (a), to the PUD Director, the owner of the wind energy facility shall cause a copy of the notification to be submitted to the Oklahoma Strategic Military Planning Commission. Subsequent 7460-1s required to be filed shall also be submitted to the Oklahoma Strategic Military Planning Commission at the same time as submission to the PUD Director. When the Oklahoma Strategic Military Planning Commission submits its letter to the Clearinghouse, such letter shall be submitted at the same time to the PUD Director and the owner of the wind energy facility.

(~~e~~f) Within six (6) months of submitting the notification with the Commission as provided for in subsection (a) of this section, the owner of the wind energy facility shall cause a copy of the notification to be published in a newspaper of general circulation in the county or counties in which all or a portion of the wind energy facility is to be located. Proof of publication shall be submitted to the PUD Director ~~of the Public Utility Division of the Corporation Commission~~.

(~~f~~g) Within sixty (60) calendar days of publishing the notification in a newspaper as provided for in subsection ~~(e)~~(f) of this section, the owner of the wind energy facility shall hold a public meeting. Notice of the public meeting shall be published in a newspaper of general circulation and submitted to the board of county commissioners in the county or counties in which all or a portion of the wind energy facility is to be located. The notice shall contain the place, date and time of the public meeting. Proof of publication of the notice shall be submitted to the PUD Director ~~of the Public Utility Division of the Corporation Commission~~. The public meeting shall be held in one of the counties in which all or a portion of the wind energy facility is to be located.

(~~g~~h) The owner of a wind energy facility shall not commence construction on the facility until the notification and public meeting requirements of this section have been met. If an owner of a wind energy facility fails to submit the information ~~with the Commission~~ as required in this section, the owner shall be subject to an administrative penalty from the Commission not to exceed One Thousand Five Hundred Dollars ($1,500) per day following hearing and issuance of a final order of the Commission.

(i) Subsequent to submitting the notification, as described above in (a), Determinations of No Hazard issued by the FAA, or, approved mitigation plans issued by the Clearinghouse shall be submitted to the PUD Director by the owner of a wind energy facility as follows:

(1) Within thirty (30) calendar days of receipt of an active Determination of No Hazard issued by the FAA; or

(2) Within thirty (30) calendar days of receipt of an approved mitigation plan from the Clearinghouse.

(3) Any Determination of No Hazard or mitigation plan issued prior to the initial submission of the notification described above in (a) shall be submitted to the PUD Director by the owner of a wind energy facility within thirty (30) calendar days of such initial notification submission.

(j) All notices, notifications, Determinations of No Hazard, mitigation plans, and proof of compliance with all provisions of the Oklahoma Wind Energy Development Act, shall be retained by the wind energy developer, for a period of three (3) years after commercial operation date; and, upon reasonable request, PUD may inspect these documents to ensure compliance.

(k) The owner of a wind energy facility shall electronically provide a notice to the PUD Director indicating that it has commenced the 60-day notice as required by 17 O.S. § 160.21(F). Such notice shall be sent to the PUD Director prior to commencement of construction of the wind energy facility. The notice to the PUD Director shall also include an affirmation that all required notices and notifications have been properly

provided, and a list of the recipients of all required notices and notifications shall be retained by the wind energy developer and made available to PUD upon reasonable request.

(l) ~~Electronic submission is preferred; however, all forms of submission will be accepted~~ All submissions shall be submitted electronically to PUD, unless prior approval is granted by the PUD Director.

165:35-45-5. Commission consideration

(a) ~~The Public Utility Division~~ PUD shall review and may investigate all wind energy facility information reported or submitted for compliance with the annual reporting requirements in this Subchapter or in 17 O.S. § 160.18 or with the notice requirements in this Subchapter or in 17 O.S. § 160.20 or 17 O.S. § 160.21.

(b) After receiving a report or submission from a wind energy facility pursuant to the annual reporting requirements in this Subchapter or in 17 O.S. § 160.18 or the notice requirements in this Subchapter regarding notice of intent to construct or in 17 O.S. § 160.21, ~~the Public Utility Division~~ PUD will:

(1) ~~Will determine~~ Determine whether the report or submission is compliant with the annual reporting or notice requirements; and

(2) ~~Will inform~~ Inform the wind energy facility owner or operator of ~~the Public Utility Division's~~ PUD's determination within thirty (30) calendar days of receipt of the report or submission if it is not in compliance. In the event ~~the Public Utility Division~~ PUD determines the wind energy facility's report or submission is not in compliance, ~~the Public Utility Division~~ PUD shall contact the owner or operator to require additional information~~,~~; and, such information shall be provided within fifteen (15) calendar days of such notice. If the facility owner fails to correct such non-compliance, ~~the Public Utility Division~~ PUD may reject the report or submission and may open an investigation to inquire further into the reported or submitted information.

165:35-45-6. Determining assessment of fees

(a) In wind energy facility causes initiated on the Public Utility Docket for alleged violation(s) of any provision of this Subchapter, fees shall be assessed upon motion of the PUD ~~Staff of the Public Utility Division~~ in wind energy facility causes.

(b) The Commission shall make a determination of the estimated costs of ~~the Public Utility Division~~ PUD required to process, analyze and review wind energy facility causes initiated on the Public Utility Docket. These estimated costs shall be the basis of the fee assessed to a wind energy facility subject to this Subchapter.

(c) After notice to the wind energy facility to be assessed and hearing, the Commission shall issue an order which shall include the following:

(1) Whether or not the wind energy facility will be assessed a fee(s);

(2) The amount of the fee(s) to be assessed; and

(3) The date payment(s) of the fee(s) shall be made.

(d) In causes wherein the wind energy facility owner is also a public utility, as defined in 17 O.S. § 151, required to pay the public utility assessment fee pursuant to 17 O.S. § 180.11 and OAC 165:5-3-20, the above assessment of fees shall not apply.

165:35-45-7. Decommissioning of wind energy facilities

(a) The owner of a wind energy facility shall be responsible, at its expense, for the proper decommissioning of the facility upon abandonment or the end of the useful life of the commercial wind energy equipment in the wind energy facility. Decommissioning shall be in a manner consistent with 17 O.S. § 160.14 and 17 O.S. § 160.15.

(b) Evidence of financial security to cover the anticipated costs of decommissioning may be in the form of a surety bond, collateral bond, parent guaranty, cash, cashier's check, certificate of deposit, bank joint custody receipt, or irrevocable letter of credit.

(c) The owner of a wind energy facility shall submit to the PUD Director~~of the Public Utility Division of the Corporation Commission~~, a notice of decommissioning for the proper retirement of the facility upon abandonment or the end of the useful life of the commercial wind energy facility. Such notice of decommissioning shall be submitted not less than sixty (60) calendar days prior to commencement of decommissioning in a manner consistent with 17 O.S. § 160.15.

APPENDIX A. TO VERIFIERS OF UTILITY CONSUMERS HAVING LIFE-THREATENING CONDITIONS [REVOKED]

APPENDIX A. TO VERIFIERS OF UTILITY CONSUMERS HAVING LIFE-THREATENING CONDITIONS [NEW]

Thirty (30) Day Medical Verification Certificate To Suspend Disconnection For Life Threatening Health Conditions

A. INSTRUCTIONS

The Oklahoma Corporation Commission requires electric utilities under its jurisdiction to suspend disconnection of service, or reconnect if disconnected, when a utility consumer or a permanent member of the household has a medical condition wherein discontinuance of the electric service would be life-threatening. A life-threatening condition is defined as one where the consumer or other permanent resident of the household is dependent upon electric-operated equipment that is prescribed by a physician and is needed to sustain the person's life.

Examples of life-sustaining equipment include: kidney dialysis machine, iron lung, oxygen concentrator and certain other oxygen machines, cardiac monitor, heating and air-conditioning equipment, or any other equipment that is prescribed by a licensed medical doctor. If battery backup is normally available for the life-sustaining equipment, then the medical condition is not considered life-threatening. The following equipment is not considered to be life-sustaining equipment: hot water heater, refrigerator, range/stove, nebulizer that is battery-driven or hand-driven or self-contained, battery-driven sleep apnea monitor, battery-driven cardiac monitor.

The utility consumer may initially certify the condition by completing "Form For Utility Consumer Verification" which will suspend disconnection of electric service to the specified residence for a period of thirty (30) days from the initial notification. After the initial thirty (30) days, normal collection action will resume.

An additional thirty (30) day period shall be extended by the utility at the request of the utility consumer accompanied with verification by a medical or osteopath doctor (use "Form For Medical Or Osteopathic Doctor Verification"). The request for the additional thirty (30) day extension must be made by the consumer to the utility company before the end of the initial thirty (30) day period. The utility is not required to furnish service to the consumer beyond a total of sixty (60) days for a life-threatening condition without full payment of the account or acceptable payment arrangements on any unpaid balance unless otherwise directed by the Commission. Failure of the consumer to fully comply may result in denial of life-threatening status and renewed collection activity by the utility, including termination of service to the residence.

We appreciate your willingness to participate as a verifier and trust you will do so advisedly, considering the fact that energy consumed during this suspension period must eventually be paid for by the utility consumer. Our intent is to ensure that those utility consumers having genuine life-threatening situations in their homes are not mistaken for those who would abuse this privilege at the expense of others.

B. FORM FOR UTILITY CONSUMER VERIFICATION
(to be completed by the utility consumer for the initial thirty (30) day period)

Name of Consumer: _____

Electric Account No.:_____

Address: _____

City: _____ State: _____ Zip: _____ Home Phone: _____

Place of Employment: _____

Name of Impaired Individual if other than consumer: _____

Relationship to Consumer if other than consumer: _____

By signing this Medical Certificate, I acknowledge that a permanent resident of the household is applying for the medical verification certificate to suspend disconnection of electric service for a period of 30 days from the date the request was made with the utility company due to a life-threatening conditions and, as the consumer, I am responsible for the payment of bills rendered for electric service during this suspension of disconnection. I acknowledge that I may be considered for an additional 30 days (total of 60 concurrent days) if my doctor submits the completed form to the utility company within 30 days of the forms request from the utility and I call the utility within the same period of time to confirm receipt of the form and if the claim is accepted by the company.

Consumer's Signature: _____ Date: _____

C. FORM FOR MEDICAL OR OSTEOPATHIC DOCTOR VERIFICATION

(to be completed by a medical or osteopathic doctor and returned by the medical or osteopathic doctor to the utility company via the method indicated on the form for the applicant to be considered for an additional thirty (30) days to pay the past due balance.)

Name of Patient: _____

Nature of Medical Problem: _____

Is this condition considered life-threatening without electric service? Yes? No?

What is the estimated duration of the life-threatening condition?: _____

Specify the effect that discontinuance of electric service might have upon the health of the impaired individual: _____

_____

Specify any electric-operated equipment necessitated by the medical problem: _____

_____

Doctor's Name: _____

Business Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Doctor's Signature: _____ Date: _____

[OAR Docket #19-485; filed 5-31-19

TITLE 165. CORPORATION COMMISSION CHAPTER 40. STANDARD TERMS OF PURCHASES FROM PURCHASERS OF ~~100~~ 300 KW OR LESS

[OAR Docket #19-493]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
165:40-1-1. Purpose [AMENDED]
165:40-1-2. Definitions [AMENDED]
Subchapter 5. Installation and Parallel Operation
Part 1. Producer's Wiring and Interconnection
165:40-5-1. Producer's wiring and apparatus [AMENDED]
Subchapter 7. Standard Purchase Rate Schedule for Power Producers of ~~100~~ 300 KW or Less [AMENDED]
165:40-7-1. Area affected [AMENDED]
165:40-7-2. Availability [AMENDED]
Subchapter 9. Optional Net Energy Billing Purchase Rate
165:40-9-2. Availability [AMENDED]
165:40-9-3. Purchase rate [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution; and 17 O.S. § 152(A).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 8, 2019.
COMMENT PERIOD:
October 19, 2018 through December 3, 2018
PUBLIC HEARING:
January 31, 2019
ADOPTION:
January 31, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 8, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rules change the title of the chapter from 100 kW to 300 kW, and as needed, reflect throughout the chapter; modify the definition of Small Power Producer and cogenerator; add the definition of "NEC" to mean the National Electrical Code issued by the National Fire Protection Association, and updates the term throughout; shortens "Public Utility Division" to "PUD" throughout; changes the availability limit for Standard Purchases to 300 kW; removes the 25,000 kWh limit; and removes the reference to wind purchases. Additionally, the adopted rules create a framework for net-metering that allows customers to recover net excess generation when self-generating power, and allows for billing credits to be carried-over to the next billing period for power producing customers; limits recovery to 125% of the customer's peak load; and requires the utility to file a tariff.
CONTACT PERSON:
Jeff W. Kline, Deputy General Counsel, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73105, telephone (405) 521-2308, j.kline@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:40-1-1. Purpose

These terms and conditions of purchase of this Chapter were adopted by the Oklahoma Corporation Commission through Cause No. 27208, Order No. 326195, May 23, 1988, pursuant to Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and Order No. 69 of the Federal Energy Regulatory Commission (FERC) as amended. This Chapter shall govern the supplying and delivering of power to the cooperative/utility's electric system by a small power producer or cogenerator (producer) of ~~100 kw~~ 300 kW or less who:

(1) Is qualified under an approved purchase rate schedule.
(2) Has made a proper purchase application.
(3) Has executed a purchase agreement with the cooperative/utility.

165:40-1-2. Definitions

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

"Cogenerator" means a producer qualified under Section 201 of the Public Utility Regulatory Policies Act of 1978 as a cogeneration facility. A facility's power production capacity:

(A) Must be used to produce both electrical and useful thermal energy for industrial commercial, heating or cooling purposes, through the sequential use of energy.
(B) Must meet the applicable standards as to fuel use and efficiencies.
(C) ~~May not be owned by a person primarily engaged in the generation or sale of electrical power.~~
~~(D)~~ Shall be qualified by FERC.

"Commission" means the Oklahoma Corporation Commission.

"Consumer" means any person, firm, corporation, municipality, or agency or any political subdivision of the United States or the State of Oklahoma receiving electric service of any nature from the cooperative/utility. (Where or when it becomes necessary to designate the particular party who is the consumer/producer for any reason, the person who contracts for electric service or in whose name it is received shall be considered the consumer/producer.)

"Cooperative/utility" means the electric distributive cooperative/utility or the investor owned utility.

"Electricity" means electric power and energy produced, transmitted, distributed, or furnished by or delivered to the cooperative/utility.

"Force majeure" means a cause reasonably beyond the control of the party affected, such as, but without limitation

to, injunction, strike of the party's employees, war, invasion, fire, accident, floods, backwater caused by floods, acts of God, or inability to obtain or ship essential services, materials, or equipment because of the effect of similar causes on the party's suppliers or carriers.

"Fraudulent use or sale of electricity" means any unauthorized use of the cooperative/utility electric service by the producer, or unauthorized use of producer generated electricity.

"Meter" means any device or devices used to measure or register electric power and energy.

"NEC" means the National Electrical Code issued by the National Fire Protection Association.

"Premises" means any piece of land or real estate, or any building or other structure or portion thereof or any facility where electric energy is furnished to or delivered by a producer.

"Producer" means a small power producer or cogenerator.

"Prudent utility practices" means the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts (including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry prior thereto) known at the time the decision was made, would have been expended to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, and expedition, taking into account the facts that the term "prudent utility practice" is not intended to be limited to the optimum practice, methods, or acts to the exclusion of all others, but rather to be a spectrum of possible practices, methods, or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. "Prudent utility practice" includes due regard for manufacturer's warranties and requirements of governmental agencies of competent jurisdiction.

"PUD" means the Public Utility Division of the Oklahoma Corporation Commission.

"Small power producer" means a facility qualified under Section 201 of the Public Utility Regulatory Policies Act of 1978 as a small power production facility. ~~A facility's power production capacity must be owned by the same person at the same location and be less than eighty (80) megawatts, must derive more than fifty percent (50%) of its total energy input from biomass, wastes, renewable resources, or any combination, may not derive more than twenty-five percent (25%) of its total energy from oil, natural gas, and/or coal, and the facility may not be owned by a person primarily engaged in the generation or sale of electrical power.~~

"Tariff" shall include every rate schedule, purchase rate schedule or provision thereof, service agreement, purchase agreement and all terms, conditions, rules, and regulations for furnishing electric service or purchasing electric energy.

SUBCHAPTER 5. INSTALLATION AND PARALLEL OPERATION

PART 1. PRODUCER'S WIRING AND INTERCONNECTION

165:40-5-1. Producer's wiring and apparatus

(a) Interconnection agreements between an electric utility and a producer must include provisions which address subsections (b), (c) and (d) below:

(b) All apparatus and electrical wiring connected or to be connected to the cooperative/utility's distribution system point of delivery shall be at the producer's expense, and shall be installed and maintained in accordance with the ~~requirements of the 2014 National Electrical Code~~ NEC, as adopted by the Commission in OAC 165:35, to the extent consistent with law, including state and federal statutes, orders, and regulations, and applicable municipal regulations, and with all requirements prescribed by governmental authority having jurisdiction thereof. In the event of a conflict between the ~~National Electrical Code~~ NEC and an applicable municipal code, the latter shall govern. The cooperative/utility reserves the right to refuse to connect at the point of delivery to any wiring or apparatus which does not meet the requirements in (b) of this Section, and the cooperative/utility may, without advance notice, discontinue purchase from any producer when a defective condition of wiring or equipment upon the premises of the producer is discovered. In the event a producer desires to change the size of his electrical equipment and maintain his status, he shall notify the cooperative/utility in writing sufficiently in advance so that its meter and other equipment may be enlarged to properly handle the increased load or generation.

(c) Power inverter based apparatus utilized in the system to be connected to the cooperative/utility's distribution system point of delivery shall be ~~UL~~ Underwriters Laboratory ("UL") 1741 listed or certified by a nationally recognized testing laboratory as being compliant with ~~Underwriters Laboratory (UL)~~ UL 1741, 2nd Revision standards before the system is connected to the cooperative/utility's distribution system point of delivery. Proof of this certification must be provided at the producer's expense. The cooperative/utility reserves the right to refuse to connect at the point of delivery to any apparatus which does not meet the requirements in (c) of this Section, and the cooperative/utility may, without advance notice, discontinue connection with any producer when a defective condition of equipment upon the premises of the producer is discovered.

(d) All relevant apparatus utilized in the system to be connected with the cooperative/utility's distribution system point of delivery shall be certified by a nationally recognized testing laboratory as compliant with the Institute of Electrical and Electronics Engineers (IEEE) 1547 *Standard for Interconnecting Distributed Resources with Electric Power Systems* before the system is connected to the cooperative/utility's distribution system point of delivery. Proof of this certification must be provided at the producer's expense. The cooperative/utility reserves the right to refuse to connect at the point of delivery to any apparatus which does not meet the requirements in (d) of this Section, and the cooperative/utility may, without advance notice, discontinue connection with any producer when a defective condition of equipment upon the premises of the producer is discovered.

(e) Beginning December 31, 2014, and annually thereafter, each utility shall submit a Certification Letter to the PUD Director ~~of the Public Utility Division~~ certifying that as of the date of the Certification Letter, the utility's interconnection agreements meet the requirements in (b), (c) and (d) of this Section, or if the interconnection agreements do not meet the requirements in (b), (c) and (d) the reason therefor.

SUBCHAPTER 7. STANDARD PURCHASE RATE SCHEDULE FOR POWER PRODUCERS OF ~~100~~ 300 KW OR LESS

165:40-7-1. Area affected

Standard purchase rate schedule for power producers of ~~100 Kw~~ 300 kW or less is effective in all territories served.

165:40-7-2. Availability

Standard purchase rate schedule for power producers of ~~100 kw~~ 300 kW or less is available to cogenerators or small power producers who:

(1) Have a maximum rated capacity of ~~100 kw~~ 300 kW or less.

(2) Employ equipment compatible with the particular line segment of the cooperative/utility.

(3) Sign a purchase agreement with the cooperative/utility.

SUBCHAPTER 9. OPTIONAL NET ENERGY BILLING PURCHASE RATE

165:40-9-2. Availability

Optional net energy billing purchase rate is available to cogenerators or small power producers who:

(1) Have a maximum rated capacity of 300 kW or less. ~~Have an annual energy output of 25,000 kWh or less. In the case of a wind power producer, the estimated annual energy output of 25,000 kWh or less shall be determined using the American Wind Energy Association (AWEA) Annual Energy output formula (AWEA standard 1.1 1985, Section IV, paragraph 2) and a wind speed of 12 miles per hour.~~

(2) Employ equipment compatible with the particular line segment of the cooperative/utility.

(3) Sign a purchase agreement with the cooperative/utility.

165:40-9-3. Purchase rate

(a) For power produced in excess of on-site requirements, subject to OAC 165:40-9-2, the producer will be compensated by the retail purchase meter running in reverse. The cooperative/utility shall bill the producer for the excess of energy supplied by the cooperative/utility over and above the energy supplied by the producer during each billing period according to the cooperative/utility's applicable retail rate schedule.

(b) When the energy supplied by the producer exceeds the energy supplied by the cooperative/utility during a billing period, the monthly charge and/or minimum bill of the retail rate schedule shall be billed by the cooperative/utility; ~~the excess energy shall be provided at no charge to the cooperative/utility~~ any net excess energy for the billing period shall be credited, or paid, in dollars in the next billing period(s), at the utility's avoided energy cost.

(c) The billing period shall be considered the monthly bill period associated with the monthly meter reading.

(d) Systems with an installed capacity greater than 125% of the customer's peak load may be excluded from the net-metering provision, and shall be paid under the small power producer or qualifying facilities tariff, subject to Subchapter 11 herein.

(e) The utility shall file a tariff with the Commission to enact the provisions of this rule.

[OAR Docket #19-493; filed 5-31-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 45. GAS SERVICE UTILITIES

[OAR Docket #19-494]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 45. Gas Service Utilities [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution; 17 O.S. § 152(A); and 17 O.S. §§ 160.1.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 8, 2019.
COMMENT PERIOD:
October 19, 2018 through December 3, 2018
PUBLIC HEARING:
January 31, 2019
ADOPTION:
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SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 8, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rules add general grammatical, formatting, and spelling changes; shorten defined terms, and/or other clarifying language; clarifies business day or calendar day; add definitions; clarify reporting requirements; change references in the rule from "filing" of information with the Commission to "submitting" information to the Commission; require the utility to provide evidence of completion of work when issues are reported; add a requirement for installation of service lines and marking of trenches for public safety; add a provision concerning events beyond the utility's control; requires the utility to provide an email address to the Commission's Public Utility Division through which a representative of the utility may be contacted; establish requirements

for utilities to report cybersecurity or infrastructure security events that affect immediate customers; and add a new requirement for acknowledgement of customer complaint inquiries and clarifying language. Further, the adopted rules add language and requirements for slow meter, non-registering meters, billing issues, and installment payments; require specific billing period for meters for incorrect register and incorrect usage amount; add a requirement for utilities to include contact information for the Consumer Services Division to customer bills; add life-threatening situations to the "false information" section of delays to disconnection of residential service rules; clarifies the types of identification utilities may deem acceptable; modify the Commission notification procedures for elderly and consumers with disabilities; add clarification language for severe weather forecasting for disconnection of service for residential service; require promotional practices be submitted instead of being filed; and require annual tariff submissions to be reviewed by the Public Utility Division Director and gives a process for if a dispute arises.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:45-1-1. Purpose

The rules in this Chapter are intended to define good business practice under normal conditions, to insure safe, adequate and reliable service, and to ~~insure~~ ensure fairness to the public and to the utility.

165:45-1-2. Definitions

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

"Affiliate" means any person, entity, or business section, or division that directly or through one or more intermediaries controls, is controlled by, or is under common control with the entity in question. Control includes but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct the management or policies of a person or entity. Control may be exercised through management, ownership of voting securities or other right to vote, by contract or otherwise. A voting interest or ownership of five percent (5%) or more creates a presumption of control.

"Aggregation point" means any Commission approved interconnection point of more than one citygate at which gas can be aggregated for the purposes of supplying reliable and least cost natural gas services for more than one city or municipality.

"ANSI" means the American National Standards Institute, Inc.

"Attorney General" means the Oklahoma Attorney General.

"Business day" means Monday through Friday, excluding all legal holidays which have been declared legal holidays by law or proclamation of the Governor of Oklahoma, or those days on which mail is not delivered.

"Citygate" means the interconnection point between the local distribution facilities which are located downstream of such interconnection point and the transmission lines and/or other facilities located upstream of such interconnection point at a point in time to be determined by the Commission during the unbundling plan hearing, or as otherwise ordered by the Commission.

"Citygate gas service(s)" means any one or more of the services of natural gas supply, gathering, storage or transmission of natural gas upstream of the citygate or other delivery point acquired by a gas utility at the citygate or other delivery point pursuant to the competitive bidding procedures in Subchapter 17 of this Chapter in order to provide natural gas service to end-users on its local distribution facilities.

"Competitive bid" means a response provided based on a public competitive bidding process.

"Commission" means the Oklahoma Corporation Commission.

"Complaint" means an oral or written communication by an interested party requesting an investigation or corrective action regarding the provision of natural gas services. A complaint may be made orally, electronically or in writing, but must be made or received at the utility's offices.

"Consumer" means any person, firm, corporation, municipality, or agency, other political subdivision of the United States or the State of Oklahoma receiving any type of natural gas service. Any reference to a "customer" or "end-user" or "ratepayer" contained in a tariff, or in this Chapter, shall be deemed to mean a "consumer," unless the context clearly indicates otherwise.

"Corporate Support Services" or **"Shared Services"** are human resources, procurement services, information technology, regulatory services, administrative services, real estate services, legal services, accounting, environmental services, research and development, internal audit, community relations, corporate communications, financial services, financial planning and management support services shared between or among a gas utility, its parent holding company or an affiliated entity and such other services authorized by the Commission on a case-by-case basis.

~~**"Corporation Commission"** means the Oklahoma Corporation Commission.~~

"CSD" means the Consumer Services Division of the Oklahoma Corporation Commission.

"Customer rate class" means a division of rates as provided by a utility's tariff for pricing natural gas service.

"Customer sector" means a major division of consumers, i.e., residential, commercial, or industrial.

"Distribution main" means a distribution line that serves as a common source of supply to service lines.

"Distribution system" means any pipeline, meter, metering station, valve, regulator, regulating station and/or delivery station which receives natural gas from a transmission system,

gathering line, or other natural gas supply source for service to one or more consumers.

"Distribution"or **"Distribution service"** means the downstream transportation of natural gas services from the citygate to end-users through a utility's local distribution facilities unbundled from all citygate gas services, but generally bundled with any one or more of the services of billing, metering, customer service and similar services.

"Downstream (or **"merchant"** or **"retail") service"** means any one or more of the citygate(s) service(s) of natural gas supply, gathering, storage or transmission of natural gas marketed downstream by an entity at the retail or merchant level to end-users rather than through the competitive bidding process pursuant to Subchapter 17 of this Chapter, and which entity uses the local distribution facilities of a utility, rather than bypass for ultimate delivery of such downstream or merchant or retail service to the end-user.

"Electronic notification" means any automated communication received by e-mail, phone, text message, or fax.

"End-user" means any consumer receiving natural gas service of any nature.

"FERC" means the Federal Energy Regulatory Commission.

"Filed" means to present a document and have it accepted by the ~~Office of the~~ Court Clerk of the Oklahoma Corporation Commission.

"Gas" means manufactured gas, natural gas, other hydrocarbon gas, or any mixture of gases produced, transmitted, distributed or furnished by a utility unless otherwise specifically designated.

"Gas supply source" means gas from the wellhead, any type of storage, processing plant, or other provider of gas.

"Gathering line" means a pipeline that transports gas from a production facility within a gathering system.

"Gathering system" means a pipeline system bringing gas from the wellhead to an aggregation point or transmission line or other gas handling facility.

"Gas utility" means natural gas utility as defined in this Chapter.

"Independent producer" means, for purposes of this Chapter only, any person who produces natural gas and is not engaged in marketing natural gas except for its own account or for other working interest owners in operated wells or who derives a majority of his or her oil or natural gas related income from working interests.

"Interested party" means any individual or entity with appropriate authority to act on behalf of a particular consumer or group of consumers or any other party involved in, or affected by, the provision of natural gas services.

"Intrastate pipeline" means a common carrier transmission pipeline as defined in 52 O.S. § 24 and as applied in this Chapter.

"Legal holiday" means any day declared to be a legal holiday by law or proclamation of the Governor of Oklahoma, or a day on which mail the United States Postal Service does not deliver mail.

"Local distribution company" means the utility distributing natural gas, delivered to its citygate from a transmission pipeline or gathering system, to residential, commercial and industrial end-users over a local geographic area.

"Local distribution facilities" means facilities whose function is the local distribution of natural gas to residential, commercial and industrial consumers and which facilities are characterized by a system of pipes, meters, stations, valves and other equipment for distributing natural gas among consumers within a particular local community or in smaller diameter lines at lower pressures in contrast to movement in larger diameter lines at higher pressures characteristic of transmission, unless otherwise ordered by the Commission.

"Local forecast" means a statement of what the weather is predicted to be, that is issued by the National Weather Service for a specific county, city, and/or zip-code area.

"Meter" means any device that measures the quantity of gas transferred from one party to another.

"Meter shop" means a shop used for the inspection, testing and repair of meters.

"Municipality" means an incorporated city or town in the State of Oklahoma.

"Natural gas services" means any of the services in the natural gas industry, including, but not limited to, local distribution, transmission, gathering, storage, and gas supply, and as specified in Subchapter 17 of this Chapter.

"Natural gas utility" means a natural gas utility as defined in 17 O.S. § 151 *et seq*., and that includes all utility affiliate assets which the Commission has determined to be included in ratebase.

"NWS" means the National Weather Service.

"P.s.i.a." means pounds per square inch absolute.

"Pipe" means any tubing used in the gathering, transmission or distribution of gas which meets the specifications of the U.S. Department of Transportation (U.S.D.O.T.).

"Premises" means any piece of land or real estate, or any building or other structure or portion thereof, or any facility where gas service is furnished to a consumer.

"Prudency review" means, for purposes of this Chapter, a comprehensive review that examines as fair, just and reasonable, a utility's practices and policies and judgment regarding an investment or expense at the time the investment was made or expense was incurred; including direct or indirect maximization of its positive impacts and mitigation of adverse impact upon its ratepayers, without consideration of its ultimate used and useful nature.

"PUD" means the Public Utility Division of the Oklahoma Corporation Commission.

"Public competitive bidding process" means a gas utility process to solicit from all entities offers to provide natural gas services upstream of the citygate as provided in Subchapter 17 of this Chapter.

"Regulator" means a device used to reduce the gas pressure.

"Residence" means any dwelling unit containing kitchen appliances, permanent sewer or septic facilities and water service. A weekend cabin and a mobile home are residences

when used as such. An individual room in a hotel or motel is not a residence.

"Request for bid" means a gas utility's request for proposals to provide natural gas services at a Commission approved gas utility's designated citygate or aggregation point.

"Service line" means a line that branches off a distribution main or distribution line in order to transport gas from the common source of supply to utility meters or to a consumer's piping, whichever is farther downstream, or the connection to a consumer's piping if there is no utility meter.

"Shipper" means any person, firm or corporation engaged in the intrastate or interstate transmission of natural gas for third parties.

"Special contract" means a written Commission-approved agreement between a utility and a consumer for the provision of gas service on terms and conditions which are different from those authorized by a tariff.

"Statistical sampling" means a method for drawing elements from a population such that all possible elements in the population have a known and specified probability of being drawn and such that the set of chosen elements has approximately the same distribution of characteristics as the population from which it was drawn.

"Storage" means an underground natural or man-made facility used to store natural gas for extended periods of time.

"Stranded costs" means those prudent and verifiable costs and investments incurred by a natural gas utility, which were "used and useful" to meet the needs of its end-users, including but not limited to, its upstream capacity and supply commitments that cannot be avoided or mitigated or recovered from end-users under an existing tariff which have been caused as a result of the restructuring of the natural gas industry which were incurred prior to February 19, 1997, the date of issuance of Commission Order No. 409563, which closed the Notice of Inquiry, Cause No. PUD 960000133, and which ordered the promulgation of rules to restructure the natural gas service industry, such date being the date the gas utilities were placed on notice of the Commission's intent to restructure natural gas utility service(s). Prior to or during the utilities' stranded cost hearing, this date may be modified by order of the Commission, after notice and hearing. Stranded costs may include prudent and verifiable transition costs.

"Subdivision" means any land, wherever located, whether improved or unimproved, contiguous or not, which is divided into lots or proposed to be divided, for the purpose of disposition pursuant to a common promotional scheme or plan of advertising.

"Submit" means to present a document to the Director of the Public Utility Division.

"Subsidize" means to furnish financial support by the utility to the affiliate.

"Tariff" means every rate schedule, or provision thereof, and all terms, conditions, rules and regulations for furnishing gas service filed with the Commission and approved by the Director of the Public Utility Division.

"Therm" means 100,000 British thermal units of heat.

"Transition costs" means those prudent and verifiable costs and investments incurred by a public gas utility after February 18, 1997, in implementing the Commission's gas utility restructuring rules and to restructure its facilities, contracts and operation. Such costs as determined by the Commission may include education for the public related to the natural gas industry restructuring.

"Transmission or transmission service" means the upstream transportation of natural gas through pipelines and/or other facilities from a well-head, gathering line or other receipt point to a local distribution facilities or an end-user located on the transmission pipeline.

"Transmission pipeline" means a pipeline, either a gas utility owned transmission line or an intrastate pipeline, other than a gathering system that transports gas from a gathering system, interstate pipeline or storage facility to a citygate, aggregation point, storage facility or other delivery point.

"Unbundling" means the identification and separation of natural gas services and/or products and the associated costs to provide each such service and/or product which have been part of the "bundled" complement of services provided by a public gas utility.

"Unbundling plan" means a public utility's proposal(s) to separate its previously bundled services offered upstream of the citygate and to price these services individually.

"Uniform System of Accounts (USOA)" means the system of accounts as currently prescribed the Federal Energy Regulatory Commission (FERC), those accounting systems as published by the National Association of Regulatory Utility Commissioners (NARUC) or other accounting methods approved by the Commission.

"Upstream of the Citygate" means all natural gas services provided at the gas utility's citygate or other point of delivery to local distribution facilities which are necessary to serve end-users.

"Upstream related entity" means an affiliate of a gas utility or that portion of a gas utility which provides citygate gas services.

"U.S.D.O.T." means the United States Department of Transportation.

"Utility" means a natural gas utility as defined in this Chapter.

165:45-1-3. Commission authority

The ~~Corporation~~ Commission has authority to promulgate rules concerning the provision of natural gas service to all end-users within the State of Oklahoma pursuant to Okla. Const. Art IX, §§ 18 and 34, 17 O.S. § 151 et seq., and 52 O.S. § 24 et seq.

165:45-1-4. Scope of this Chapter

(a) This Chapter shall apply to the operations of any gas utility, including gas supply gathering, transmission and storage facilities operating within the State of Oklahoma subject to the jurisdiction of the ~~Corporation~~ Commission. Amendments or changes to this Chapter shall not apply retroactively to existing systems that were in physical compliance with all applicable

laws that were in effect at the time of their installation, unless otherwise specifically stated in this Chapter.

(b) All tariffs filed by gas utilities shall conform to this Chapter. The filing or acceptance of a tariff which is in conflict herewith shall not be deemed a waiver of this Chapter, unless it specifically states that this Chapter is waived and cites the specific authority for the waiver.

(c) Gas utilities shall submit proposed tariffs which conform to the provisions of this Chapter, as revised, within one hundred twenty (120) calendar days after July 1, 1996.

(d) Gas utilities shall submit proposed tariffs which conform to the provisions of Subchapter 17 of this Chapter within thirty (30) calendar days from the effective date of Subchapter 17, or the date of the Commission order approving the utility's unbundling plan or alternative to an unbundling plan, as applicable.

(e) Nothing provided in this Chapter shall relieve any utility from any duty prescribed by the laws of the State of Oklahoma or the United States.

(f) No rate, special contract, agreement, rule, or term and condition of service which is in conflict with the rules of this Chapter shall be effective unless the utility has been granted a waiver by the Commission pursuant to OAC 165:45-1-4.2.

SUBCHAPTER 3. PLANT, EQUIPMENT, AND FACILITIES

165:45-3-1. Maintenance of plant, equipment, and facilities

(a) Each utility shall install, operate, and maintain its entire plant and system in such condition as will enable it to furnish safe, adequate and reliable gas service, subject only to emergency conditions beyond its control.

(b) The transmission and distribution systems, including transmission lines, distribution mains, compressing equipment, regulators, meters, services, etc., shall be constructed, installed, and maintained in accordance with the U.S. Department of Transportation, Regulations for Transportation of Natural and other Gas by Pipeline - Title 49 C.F.R. §192; and all applicable rules adopted by the Commission.

(c) Each utility shall file with the Commission, annually, a statement regarding its plant, equipment, and facilities in such form as the Commission may require.

(d) If PUD informs the utility of any safety issues concerning the utility's plant, equipment, or facilities by identifying the relevant Commission rule, or other applicable Federal or State laws implicated by the safety issue, the utility shall electronically provide photographic evidence to PUD showing completion of work and that the issue has been resolved. These safety issues shall not include those under the jurisdiction of the Commission's Pipeline Safety Department.

165:45-3-2. Extent of system in which utility shall maintain service

(a) Each utility shall operate and maintain in safe, efficient, and proper condition all of its facilities and instrumentalities used in connection with the transmission, distribution, storage, regulation, measurement, and delivery of gas to each consumer up to and including the point of delivery into the piping owned by the consumer. Unless otherwise agreed by the utility and the consumer, the point of delivery shall be at the outflow side of the meter.

(b) ~~House piping~~ Customer owned piping shall conform to requirements of the applicable city or town ordinances. In towns, villages, and suburban territory where there are no applicable regulations as to gas service, ~~house piping~~ customer owned piping, and venting shall comply with the International Gas Code~~, dated 2003, and future amendments or supplements thereto~~.

(c) ~~House piping~~ Customer owned piping shall include a shut-off valve on the outside of the structure for the consumer's use. The consumer shall cause to have one installed on all new construction or when the ~~house~~ customer owned piping is altered outside the structure.

(d) All gas lines, pipes, and equipment owned by the consumer shall be maintained in safe, efficient, and proper condition by and at the expense of the consumer. The utility shall have the right to inspect a new installation prior to furnishing service, the right to inspect an existing installation under reasonable conditions, and may refuse or discontinue service until the provisions of this Chapter are complied with. Service may be refused or discontinued wherever a test reveals excessive loss of gas through leakage on consumer's premises.

165:45-3-3. Service lines

(a) Upon application by any bona fide applicant for service, a utility shall, at its own expense, furnish and install a stopcock and service line of suitable capacity to the meter location.

(b) Where by agreement between the utility and the consumer the meter is located at a point other than at the property line or curb line of the consumer, the proper consumer's service line shall be installed and maintained by or at the expense of the consumer. The utility shall install and maintain the service line up to the property or curb line and all measurement equipment wherever located. Any such agreement hereafter made shall be in writing, signed by the consumer first taking service thereunder, and shall be binding upon all consumers subsequently receiving service at the premises. The agreement shall not be deemed a special contract under 165:45-15-2.

(c) Where a utility and consumer cannot agree upon the location, dimensions, and type of equipment to be installed, the Commission shall, upon application of either the consumer or the utility and after notice and hearing, designate the installation to be made.

(d) When the installation of a service line requires a trench to remain open on the consumer's property for an inspection or waiver of inspection, the utility shall perform the inspection, or request that the inspection be performed if done by a third party, within fourteen (14) calendar days of the installation.

(e) All open trenches shall be clearly marked for the safety of the public using, at a minimum, caution tape or flags.

165:45-3-5. Sale or disposal of jurisdictional facilities by utility

(a) The parties to a transaction, the performance of which will result in the transfer of any portion of a natural gas utility's jurisdictional plant or operating system or the transfer of some or all of a natural gas utility's customers to a person or entity that is not an affiliate of such utility, shall, at least ninety (90) calendar days before the effective date of such sale or transfer, request the approval of the Commission of the transaction by filing an original and eight (8) copies of a joint application, consistent with 165:5-7-1, with the Commission's ~~Office of the~~ Court Clerk, accompanied by the applicable filing fee. At the time the joint application is filed, the parties to the transaction shall serve a copy of the joint application, with all attachments thereto, upon the Attorney General and the Pipeline Safety Division. Additionally, the person or entity receiving the facilities or customers shall, at the time of the filing, be providing natural gas service to Oklahoma customers or be seeking approval, in the joint application or in a separate cause, to provide such service to Oklahoma customers.

(b) The joint application referred to in (a) of this Section shall include the following information:

(1) The names of the parties to the transaction and the addresses of their respective principal places of business;

(2) A narrative description of the transaction, including, without limitation, a description of the transferring party's jurisdictional plant or operating system to be transferred to the acquiring party, the number and types of customers to be transferred to the acquiring party as a result of the transfer of those jurisdictional assets, the contemplated effective date of the transfer, and the consideration to be given for consummating the transfer;

(3) A statement as to whether the consideration to be given for consummating the transfer is below or above the net book value of the transferred assets;

(4) A narrative description of how the transferred customers will continue to receive safe and reliable natural gas service after the effective date of the transaction, any proposed changes to the rates charged for that service after the effective date of the transaction, including a summary of the effect that the proposed changes to rates would have on an average customer's bill, and any other proposed changes in the terms and conditions of that service after such effective date subject to the terms of (g) of this Section;

(5) A narrative description of the principal occupation or business of the acquiring party and all affiliates thereof during the previous five (5) years, and the names and relevant biographical information of all principals, officers, and directors of the acquiring party;

(6) A narrative description of the operational and managerial experience of the acquiring party's personnel to be responsible for the operation and management of the facilities to be used to provide natural gas service to the transferred customers after the effective date of the transaction;

(7) The names, addresses, and telephone numbers of representatives of the acquiring party who will be the contacts for ~~the Public Utility Division~~ PUD and ~~the Consumer Services Division~~ CSD and who will be primarily responsible for:

(A) Customer service issues;

(B) Repair and maintenance issues;

(C) Customer complaint issues;

(D) Authorizing and furnishing refunds to customers;

(E) Tariff issues; and

(F) Receiving notices related to causes docketed at the Commission.

(8) Audited financial statements of the acquiring party, to include but not be limited to balance sheets and income statements, covering the previous three (3) years;

(9) An unaudited financial statement of the acquiring party, covering the most recent quarter closed immediately preceding the filing of the application;

(10) An affidavit by the acquiring party stating that the acquiring party possesses the financial and managerial ability to provide safe and reliable natural gas utility service to the transferred customers and that the acquiring party is aware of and will abide by all Commission rules applicable to the provision of such service;

(11) The information required by 165:45-11-1(q) and (s) and an affirmation that the records and reports required by 165:45-9 exist and may be subject to review by the Commission during the application process.

(12) A copy of the agreement governing the terms of the transaction;

(13) If the acquiring party is also a public utility subject to the jurisdiction of the Commission, a statement to that effect. The information listed in (5) through (9) of this subsection is not required if the acquiring party is a public utility currently engaged in the furnishing of public utility services under the jurisdiction of the Commission at the time that the application is filed; and

(14) The name and address of the acquiring party's service agent registered with the Oklahoma Secretary of State.

(c) Upon Commission approval of the joint application referred to in (a) of this Section, the transferring party shall also transfer to the acquiring party the records required by the Commission to be maintained pursuant to 165:45-9 and 165:45-11-1(q) and (s), to the extent they pertain to the transferred customers.

(d) After notice and hearing, the Commission shall issue an order approving the application if it finds that the transaction is fair, just, and reasonable and in the public interest. The acquiring party shall have the burden of establishing that the proposed transaction is fair, just and reasonable, as well as in the public interest.

(e) Unless otherwise ordered by the Commission, the hearing referred to in (d) of this Section shall be commenced within sixty (60) calendar days after the joint application referred to in (a) of this Section is filed. Upon motion by any interested party in the proceeding, or *sua sponte*, the Commission shall establish a procedural schedule setting forth dates for the filing

of written testimony, discovery, and the hearing on the merits and such other dates, as the Commission deems appropriate.

(f) Notice of the hearing referred to in (d) of this Section shall be mailed to the Attorney General and to each customer of record of the transferring party who will be transferred to the acquiring party, and to any other person directed by the Commission to receive notice, at least twenty (20) calendar days prior to the date of the hearing. The form of the notice must be approved by the Commission prior to such mailing.

(g) If the application is approved, the rates for natural gas service in effect for the transferred customers prior to the effective date of the transfer shall continue to be charged by the acquiring party with respect to those customers, unless and until different rates are reviewed and approved by the Commission in the current cause or in a subsequent cause. If different rates are reviewed and approved and/or changes in the terms and conditions of service are approved by the Commission in the current cause or in a subsequent cause, the acquiring party shall have thirty (30) calendar days after the final order has been issued to submit an original and two (2) copies of the proposed tariffs, which conform to 165:45-15-2, reflecting the changes or additions to rates and/or terms of service to ~~the Public Utility Division~~ PUD for review and approval.

(h) Upon motion, a party may request a waiver from or modification to any of the requirements of this section pursuant to 165:45-1-4.2.

(i) This section does not apply to transactions that involve the acquisition, control, or merger of a domestic public utility pursuant to 17 O.S. §§ 191.1 through 191.13, discontinuance of service pursuant to 165:45-11-10 or 165:45-11-11, nor routine retirement or replacement of facilities.

165:45-3-5.1. Acquisition, control, or merger of domestic public gas utilities

(a) An original and ~~eight (8)~~ four (4) copies of an application for approval, consistent with 165:5-7-1, shall be filed with the Commission's ~~Office of the~~ Court Clerk no less than forty-five (45) calendar days prior to the effective date of any of the following transactions pursuant to 17 O.S. §§191.1 through 191.13:

(1) acquisition of all or any controlling interest in a domestic public utility,

(2) merger of a domestic public utility,

(b) At the time the application is filed, the filing party shall serve a copy of the application with all attachments upon the Attorney General and the Commission's Pipeline Safety Division. The application shall include the following additional information, made under oath or affirmation:

(1) The name and address of each acquiring party and all affiliates thereof; and

(A) If such acquiring party is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years, or

(B) If such acquiring party is not an individual, a report of the nature of its business and its affiliates' operations during the past five (5) years or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such acquiring party and its subsidiaries; and a list of all individuals who are or who have been selected to become directors or officers of such acquiring party, or who perform or will perform functions appropriate or similar to such positions. Such list shall include for each such individual the information required by (A) of this paragraph.

(2) *The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a detailed description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests.* [17 O.S. § 191.3(A)(2)]

(3) Audited financial information in a form acceptable to the Commission as to the financial condition of an acquiring party of the preceding three (3) fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar information as of a date not earlier than one hundred thirty-five (135) calendar days prior to the filing of the application or the period of the most recent closed quarter prior to the filing of the application.

(4) *Any plans or proposals which an acquiring party may have to liquidate such public utility, to sell its assets or a substantial part thereof, or merge or consolidate it with any person, or to make any other material change in its investment policy, business or corporate structure, or management. If any change is contemplated in the investment policy, or business or corporate structure, such contemplated changes and the rationale therefore shall be explained in detail. If any changes in the management of the domestic public utility or person controlling the domestic public utility are contemplated, the acquiring party shall provide a resume of the qualifications and the names and addresses of the individuals who have been selected or are being considered to replace the then current management personnel of the domestic public utility* or the person controlling the domestic public utility. [17 O.S. § 191.3(A)(4)]~~.~~

(5) *The number of shares of any voting security which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in* 17 O.S. §191.2 . . . ;

(6) *The amount of each class of any voting security which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.* [17 O.S. § 191.3(A)(6)]

(7) *A full description of any contracts, arrangements, or understanding with respect to any voting security in which any acquiring party is involved, including but not*

limited to transfer of any securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into. [17 O.S. § 191.3(A)(7)]

(8) *A description of the purchase of any voting security during the twelve (12) calendar months preceding the filing of the application, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefore.* [17 O.S. § 191.3(A)(8)]

(9) *Copies of all tender offers for, requests for, advertisements for, invitations for tenders of, exchange offers for, and agreements to acquire or exchange any voting securities and, if distributed, of additional soliciting material relating thereto.* [17 O.S. § 191.3(A)(9)]

(c) Such additional information as the Commission may prescribe as necessary or appropriate for the protection of ratepayers of the domestic public utility or in the public interest shall be provided as directed by the Commission.

(d) If a person required to file the application is a partnership, limited partnership, syndicate or other group, the Commission may require that the information called for in (b) of this Section shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group and each person who controls such partner or member. If any such partner, member, person or acquiring party is a corporation or if a person required to file the application is a corporation, the Commission may require that the information called for by (b) of this Section be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent (10%) of the outstanding voting securities of such corporation and each affiliate of such corporation.

(e) If any material change occurs in the facts set forth in the application filed with the Commission and sent to such domestic public utility, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commission and sent by the person filing the application to the domestic public utility within two (2) business days after such person learns of such change.

(f) Unless otherwise ordered by the Commission, a hearing shall be commenced within ~~thirty (30)~~ sixty (60) calendar days after the application is filed and shall be concluded within ~~thirty (30)~~ sixty (60) calendar days after its commencement. Notice of hearing shall be mailed to the domestic gas utility and to each of its customers prior to the date of the hearing as ordered by the Commission.

(g) Any application for merger and other acquisition of control shall be deemed approved unless the Commission has, within sixty (60) calendar days after the conclusion of such hearing, entered its order approving or disapproving the merger or other acquisition.

SUBCHAPTER 5. METERS AND REGULATORS

PART 1. GENERAL PROVISIONS

165:45-5-2. Adjustment of bills for meter error

(a) **Fast meters.** Whenever any meter tested by ~~the Commission~~ PUD or the utility is found to have an average error of more than two percent (2%) fast (or in favor of the utility), the utility shall refund to the consumer the overcharge based upon the corrected meter reading for a period equal to one-half ($\frac{1}{2}$) of the time elapsed since the last ~~previous~~ test, but not to exceed six (6) months unless it can be established that the error was due to some cause, the date of which can be fixed with reasonable certainty, or the error was due to meter tampering or theft, in which case the charge shall be computed from that date.

(b) **Slow meters.** Whenever any meter tested by ~~the Commission~~ PUD or the utility is found to have an average error of more than two percent (2%) slow (or in favor of the consumer), the utility may charge for the gas consumed, but not included in bills previously rendered based upon the corrected meter reading for a period equal to one-half ($\frac{1}{2}$) the time elapsed since the last previous test, but not to exceed six (6) months unless it can be established that the error was due to meter tampering or theft ~~some cause the date of which can be fixed with reasonable certainty, in which case the charge shall be computed from that date~~. The utility shall allow the consumer to pay the corrected amount, in installment payments, over the same period of time in which the incorrect billing took place, unless otherwise agreed to by the utility and consumer.

(c) **Nonregistering meters.** If a meter is found not to register or to register intermittently for any period, the utility may charge for an estimated amount of gas used which shall be calculated by averaging the amounts registered over corresponding periods in previous years or, in the absence of such information, over similar periods preceding or subsequent thereto. The estimated billing shall not exceed six (6) months, unless it can be established that the error was due to meter tampering or theft. The utility shall allow the consumer to pay the estimated billing amount, in installment payments, over six (6) months, unless otherwise agreed to by the utility and consumer.

(d) **Incorrect register, regulator, or multiplier on meter.** If a meter is found to have an incorrect register, regulator, or multiplier, the error shall be corrected. Where the error is adverse to the consumer, the utility shall refund the excess charged for the amount of gas incorrectly metered over the period of time the meter was used in billing the consumer. Where the error is adverse to the company, the utility may charge the consumer the undercharge for the amount of gas incorrectly metered for the period of time, not to exceed six (6) months, the meter was used in billing the consumer, unless it can be established that the error was due to meter tampering or theft ~~and, if necessary, the utility may receive payment installments over a reasonable period of time~~. The utility shall allow the consumer to pay any unbilled amount over the same period of time in which the under-billing took place, but not to exceed

six (6) months, unless otherwise agreed to by the utility and consumer.

(e) Notwithstanding the provisions set forth in (a)-(d) above, any corrections for billing as set forth in said subsections shall not exceed a period of three (3) years from the date of discovery.

(f) **Scope.** This Section shall not apply to routine testing and replacement of meters pursuant to OAC 165:45-5-13.

165:45-5-3. Information as to reading of meters

(a) **Means of informing consumers concerning the method of reading meters.** Each utility supplying metered service shall adopt a means of informing its consumers as to ~~the~~ its method of reading meters, either by printing on its bills a description of the method of reading meters, by distributing booklets or folders describing the method, or by notice to the effect that the method will be explained at the office of the utility upon application for service.

(b) **Clarification of method by which quantity is determined.** Each service meter shall indicate clearly the number of cubic feet of gas registered by the meter. Where gas is measured under high pressure or where the quantity is determined by calculation from recording devices, the utility, upon request, shall supply the consumer with sufficient information ~~to make clear~~ clarifying the method by which the quantity is determined.

(c) **Meter reading information.** Each service meter shall be read by the utility or their designated representative at ~~approximate~~ monthly intervals at least ten (10) times a year, on approximately the same day of each meter reading period. If it is necessary for the utility to estimate more than two (2) bills per year due to actions of the consumer regarding meter accessibility, and where the inaccessibility is beyond the control of the utility, it will be permissible for the utility to submit an estimated bill based upon consumer reading or past service records, and the amount of such estimated bill shall to be adjusted as necessary when the next actual reading is obtained.

(d) **Meters read by consumers.** For each utility which permits its consumers to regularly read their own meters, the procedure for meter reading by the consumer shall provide for meter reading at monthly intervals. The utility shall verify such readings not less than once every six (6) months; however, a utility which has a residential rate schedule which does not have seasonal variations shall verify such readings not less than once a year. The utility shall file its proposed plan for implementing this subsection for approval by the Commission. Upon approval, said plan will become part of the utility's terms and conditions of service. When the consumer fails to furnish meter readings, the utility may submit an estimated bill based on the consumer's previous two (2) months average usage and other available information or based on previous usage adjusted for weather or other comparative data. The amount of such estimated bill will be adjusted as necessary when the next actual reading is obtained.

(e) **Authorization of meter reading.** Upon application of the utility and after notice and hearing, the Commission may authorize the reading of meters less frequently than required by this Section and prescribe conditions and procedures therefore. However, a utility is not prohibited from reading meters more frequently than required by this Section.

(f) **Utility records.** The utility records shall show the following:

(1) Consumer's name, address and rate schedule symbol;
(2) Identifying number and type of the meter;
(3) Meter reading and dates thereof;
(4) Whether the reading has been estimated; and,
(5) Any applicable multiplier or constant.

(g) **Meter charts.** All charts taken from recording meters shall be marked with the date of recording and sufficient information to identify the location.

(h) **Meter constants or multipliers.** Each service meter shall clearly indicate the reading from which the charge is made to the consumer. In any case where the dial reading of a meter must be multiplied by a factor due to gas being delivered at a pressure not consistent with the meter index pursuant to OAC 165:45-7-12(a), the gas bill will be calculated with the correction factor.

(i) **Access to meters and other property.** The utility shall, at all reasonable times, have access to meters, service connections, and other property owned by it on a consumer's premises for the purpose of meter reading, maintenance, inspection and discontinuance of service. Refusal on the part of the consumer and/or property owner to provide reasonable, safe and unobstructed access for the above purposes shall be deemed to be sufficient cause for discontinuance of service on the part of the utility, after ~~10~~ ten (10) business days written notice. In the event the customer is a tenant, the utility shall attempt to notify the property owner of the access violation and the pending disconnection. If the consumer and/or property owner does not correct unsafe conditions or obstructions, including dangerous animals, the utility may relocate the meter to a safe and accessible location at the expense of the consumer and/or property owner. The utility shall provide its employees with a means of identification in order to claim the right of access.

PART 3. TESTING

165:45-5-10. Meter testing facilities and equipment

(a) **Equipment and facilities arranged for accurate testing of meters.** Each utility furnishing metered gas service shall own or arrange for equipment and facilities and follow test procedures necessary for accurate testing of its meters to the limits of accuracy specified in this Subchapter. The laboratory apparatus and equipment shall be available at all times for inspection or use by the Commission or its authorized representative. A utility may contract for testing of its meters by another utility. A facility operated by a person other than a utility engaged in the repair and testing of meters, may, after inspection by the Commission, be authorized to test and certify meters for utilities as provided in this Section.

(b) **Equipment for testing small capacity meters.** Each utility shall own and maintain, or have available, a minimum of one (1) meter prover of approved type and of a capacity

adequate for the testing of small capacity meters. Each meter prover shall be equipped with all accessories needed for accurate meter testing, and it shall be maintained in proper adjustment so that it will be capable of determining the accuracy of any service meter to within plus or minus one-half (1/2) of one (1) percent. Each meter prover shall be so placed that it will not be subjected to drafts and excessive changes of temperature.

(c) **Equipment for testing large capacity meters.** Each utility furnishing metered gas service through large capacity meters shall have available and maintain in proper adjustment, proving equipment, equipped with all accessories needed for accurate meter testing and suitable for determining the accuracy of any large capacity meter to within plus or minus one-half (1/2) of one (1) percent

(d) **Equipment for testing orifice meters.** Each utility furnishing metered gas through orifice meters shall have available and maintain in proper working condition, equipment suitable for the testing and calibration of such devices to ensure the accuracy based upon nationally recognized industry standards and practices such as American Gas Association Report Number 3.

165:45-5-11. Place and methods for meters and test equipment

(a) **Domestic meters-diaphragm type (under 500 c.f.h. capacity).**

(1) All tests on domestic meters in service, provided for in this Chapter, shall be made at an approved testing facility with a suitable meter prover as specified in OAC 165:45-5-10. The differential pressure carried on the prover shall not exceed two inches (2") of water column pressure.

(2) Meters shall be tested at two or more rates of flow as needed to ascertain their accuracy. When two rates are used, the low flow rate shall be equivalent to 20% to 40% of the applicable badged capacity and the high flow rate shall be equivalent to 80% to 120% of the applicable badged capacity (See ANSI B109.1 Section 4.2.4). Before being placed in service, meters shall be adjusted to an accuracy of 100% within the limits of plus or minus one (1) percent at a low flow rate (20% to 40% of capacity) and a high flow rate (80% to 120% of capacity). The numerical difference between the test values for these two rates should not exceed one (1) percentage point.

(b) **Special meters-diaphragm type (500 c.f.h. or more capacity).**

(1) All tests on large positive meters in service provided for in this Chapter shall be made with approved testing apparatus as specified in OAC 165:45-5-10. Such meters shall be tested on location on the consumer's premises, if feasible. Meters shall be tested with air at one or more rates of flow as needed to ascertain their accuracy. When two rates are used, the low flow rate shall be equivalent to 20% to 40% of the applicable meter capacity and the high flow rate shall be equivalent to 80% to 120% of the applicable meter capacity. These tests shall be conducted on the basis of either the 0.5 or 2 inch water column (125 or 500 Pa) capacity of the meter as appropriate for its use. (See ANSI B109.2 Section 4.2.4). Before being placed in service, meters shall be adjusted to an accuracy of 100% within limits of plus or minus one percent at low flow (20% to 40% of capacity) and a high flow rate (80% to 120% of capacity). The numerical difference between the test values for those two rates should not exceed one percentage point.

(2) All tests on orifice meters in service provided for in this Chapter shall be made in their permanent location on the consumer's premises with approved testing apparatus as specified in OAC 165:45-5-10. The accuracy of the differential pressure registration shall be determined on a rising and falling pressure throughout the entire range of the differential element. The accuracy of the static pressure registration shall be determined at zero or atmospheric pressure and at least a second point which approximates the normal operating pressure of the recorder.

(c) **Rotary type meters.** Rotary meters shall be tested and calibrated at the factory and/or the utility's meter shop in accordance with recognized and accepted practices, and shall be correct to within plus or minus one percent when operating at rated capacity. Meter accuracy shall be 100% plus or minus one percent from approximately 20% to 100% of the meter's rated capacity (See ANSI B109.3 Section 4.2.3.). Rotary meters may be tested and calibrated on location or at the utility's facilities with an approved apparatus as specified in OAC 165:45-5-10. Meters shall be tested at one or more rates of flow to ascertain their accuracy. When one rate of flow is used, it shall be 10% to 30% of the rated capacity. When two rates are used, one of the flow rates shall be the same as the single test. The high flow rate shall be 60% to 100% of the rated capacity. If this is not attainable, then it shall be the maximum capacity of the proving equipment. If an intermediate flow rate is used, it should be approximately midway between the low and high rates. After the initial accuracy tests have been made by the manufacturer or user, differential tests may be used to confirm the continued accuracy of in-service rotary meters (See ANSI B109.3 Section 4.2.2.).

(d) **Turbine meters.** Turbine meters shall be tested and calibrated at the factory and/or the utility's meter shop in accordance with recognized and accepted practices and shall be correct to within plus or minus one (1) percent when operating at rated capacity (See American Gas Association Report No. 7 Sections 8 and 9). Turbine meters may be tested and calibrated on location or at the utility's facilities with an approved testing apparatus as specified in OAC 165:45-5-10.

165:45-5-12. Meter accuracy requirements

(a) **Installation test.**

(1) Every domestic meter, whether new, repaired, or removed from service for any cause, shall be in good order when installed and shall not be more than plus or minus one (1) percent in error on check proof, and the open proof shall be within plus or minus one (1) percent of the check proof. Each repaired meter shall be marked to indicate the month and year of the last test made on that meter.

(2) Every orifice meter, linear, or positive meter with more than 500 c.f./hr. capacity, whether new, repaired, or removed from service for any cause, shall be in good order when installed and shall not be more than plus or minus one (1) percent in error when operating at any rate of flow within the limits of its capacity as specified in OAC 165:45-5-11.

(b) **Allowable error in adjustment of charges.** Whenever any gas meter is tested, at the request of the Commission or by the utility at the request of the consumer to determine its accuracy, it shall be considered correct if it is found to have an average error of no more than plus or minus two (2) percent. The utility shall not be required to make an adjustment in past charges for gas service, unless the error revealed by such a test exceeds plus or minus two (2) percent.

(c) **Average error.** The average error of a meter shall be determined as follows:

(1) **Domestic meters.** For domestic meters, one-half of the algebraic sum of the error at check proof and the error at open proof.

(2) **Special meters.** For orifice, linear, and positive meters with more than 500 c.f./hr. capacity, the algebraic average of the errors determined at the various rates of flow at which the meter was tested as specified in OAC 165:45-5-11; however, if the rates of flow at which the meter has been registering in service can be definitely established, the weighted average error shall be determined.

(d) **Prepayment meters.** No utility shall use prepayment meters geared or set to produce a rate or amount higher than would be paid if a standard type meter were used, except pursuant to a special rate schedule approved by the Commission for the particular class of service.

(e) **General.**

(1) All meters and/or associated metering devices, when tested, shall be adjusted as closely as practicable to the condition of zero error.

(2) All tolerances set forth in this Subchapter are to be interpreted as maximum permissible variations from the condition of zero error. No meter shall be adjusted to be in error, even within the tolerance authorized by this Subchapter.

165:45-5-13. Periodic testing of meters and test equipment

(a) Every utility shall make periodic tests of all meters, associated devices, and instruments to insure their accuracy. Such tests shall be scheduled within the calendar year, or earlier, when the interval is stated in years; or within the calendar month, or earlier, when the interval is stated in months. The basic periodic test interval shall not be longer than provided in the following schedule (Note: Maintenance programs suggested by manufacturers of the following meters and devices should be carefully followed.):

(1) Positive displacement meters:

(A) Schedule as provided in ~~program~~ programs submitted to and approved by the Commission as provided in subsection (b) of this Section

(B) 500 c.f./hr. or less - 10 years

(C) 501 to 1500 c.f./hr. - 7 years

(D) 1501 to 2500 c.f./hr. - 5 years

(E) Over 2500 c.f./hr. - 3 years

(2) Orifice meters - 6 months

(3) Base pressure correcting devices - 24 months

(4) Base volume correcting devices - 24 months

(5) Secondary standards:

(A) Immersion Type Cubic-Foot Bottle, one (1) cubic foot - 10 years

(B) Dead weight tester - 10 years

(C) Pneumatic dead weight tester - 2 years

(6) Working standards:

(A) Bell provers - 5 years

(B) Rotary displacement test meters - 5 years

(C) Flow provers - 5 years

(D) Laboratory quality indicating pressure gauges - 6 months

(b) The Commission may, upon application of the utility and after notice and hearing, extend the test intervals on any meters or class of meters, based upon a statistical sampling methodology or a similar methodology, upon proper showing that the extension would not be detrimental to consumers.

SUBCHAPTER 9. RECORDS AND REPORTS

165:45-9-1. Preservation and availability of records; reporting contact persons

(a) Unless otherwise specified, all records required by this Subchapter shall be preserved by the utility in the form and for a period of time not less than that specified by rules of FERC or, in the absence thereof, for two (2) years.

(b) All records required by this Subchapter shall be kept within the State of Oklahoma at the office or offices of the utility, and shall be open for examination by the Commission or its authorized representatives; provided, if the principal place of business of the utility is located outside of the State of Oklahoma, the records may be kept at the principal place of business of the utility or at such other location where the records are regularly kept. Each utility shall maintain accurate and detailed records reflecting the original cost of property located in and required for doing business in the State of Oklahoma, including the cost of fuel. The utility shall make any such records available for examination by the Commission or its authorized representative. Each utility shall notify the Commission as to the location of the office or offices at which the various classes of records are kept, and shall file with the Commission's Court Clerk ~~of the Commission~~ such reports as the Commission may from time to time require.

(c) **Contact persons.** Each utility shall notify in writing, the PUD Director within thirty (30) days of a change in the company-designated contacts for PUD and CSD issues.

(1) The update shall include the name(s), physical street address(es), electronic mail addresses and telephone number(s) of the designated individual(s), and shall be furnished applicable to each operating district, town or any segment of the utility so that PUD will be able to reach the responsible person at any time. If this

information is unavailable, the utility may seek a waiver from the PUD Director by making the request in writing.

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;

(B) Repair and maintenance;

(C) Answering complaints;

(D) Authorizing and/or furnishing refunds to customers;

(E) Tariff issues;

(F) Regulatory matters;

(G) PUD Fee Assessment (and Fee Assessment Payments, if different);

(H) Primary emergency;

(I) After hours emergency;

(J) Annual reporting;

(K) Attorney for regulatory matters;

(L) Community liaison; and

(M) Engineering operations, meter tests and repairs.

(d) **Other information.** Each utility shall promptly furnish such other information as PUD or the Commission may request, unless otherwise ordered by the Commission.

165:45-9-2.1. Restoration of service

This Section establishes general parameters to ensure timely communication to the Commission, of the utility's implementation of its restoration of service plan, following an unplanned service interruption. Each gas utility shall have a written restoration of service policy/plan, which shall include a communication plan to be followed during unplanned or emergency interruptions, with a current copy ~~filed by September 30 of each year~~ on file with the ~~Director of the Commission's Consumer Services Division~~ CSD Director and the Commission's Emergency Liaison, and updated as changes occur. ~~This~~ No later than September 30 of each year, this policy shall be reviewed by the utility at least annually and updated as deemed necessary and appropriate. A statement detailing all changes from the previous edition shall be filed with the Commission and included at the front of the policy on file. Each gas utility shall provide and keep current, the phone number of any 24 hour emergency operations center or a list with a minimum of two individuals with 24-hour contact numbers, to the Commission's ~~Director of the Consumer Services Division~~ CSD Director and the Commission's Emergency Liaison. The following items are guidelines to be addressed in the policy:

(1) Assessment of the extent of the service interruption and what resources (equipment, materials, and labor) will be required to restore service. The utility should also attempt to determine the number of customers affected and the geographic extent of the service interruption.

(2) Determination as to whether or not the service restoration can be accomplished by use of in-house personnel only, or if contractors (personnel obtained from other utilities or third-party entities) will be required. The objective is to have service restored as soon as possible.

(3) Identification of priorities for service restoration, based upon emergency needs and upon ease of restoration for the greatest number of consumers for the least expenditure of money, time, and effort. Priority shall be given to any life-threatening situations known or discovered during restoration of service.

(4) Once gas service to installations affected with the interest of public health and safety has been restored (such as hospitals, fire and police departments and 911 centers), service shall be restored to schools as quickly as feasible, during such time of the year that school is in session.

(5) Attempted notification of high-priority customers or major gas consuming facilities who are affected by the service outage, when possible. Radio and/or television should be utilized to notify larger numbers of customers as to the type of service outage, extent of the service outage, and the expected time to restore service. Other means of notification may also be utilized, so long as the result is mass notification on an efficient, effective, and timely basis.

(6) Commission notification through the ~~Director of the Consumer Services Division~~ CSD Director and the Commission's Emergency Liaison to implement the process outlined in paragraphs A through C of this subsection. The Commission notification process to the designated Consumers Services Division individual(s) and the Commission's Emergency Liaison may be accomplished by one or more of the following methods: business telephone and/or e-mail address during the business hours of 8:00 a.m. through 4:30 p.m. Monday through Friday, or emergency cellular telephone number after normal business hours, weekends and holidays. The notification shall consist of the following:

(A) An initial contact to notify Staff of outages which involve a major utility substation or facility; or which, may cause a high degree of public interest or concern; or which have a duration of 4 hours or more and involve 1% or fifty (50) customers or more, whichever is greater, of the utility's meter count.

(B) Intermediate contact to provide status reports, as deemed necessary by the utility, or as may be requested by Commission Staff.

(C) A conclusory contact detailing the results and completion of the restoration of service plan implementation.

165:45-9-3. Records of service complaints; investigations

(a) Each utility shall make a full and prompt investigation of every formal complaint made to it by its consumers, either directly, or through the Commission after the consumer or other interested party has contacted the utility. It shall keep a record of all formal complaints received, which record shall show the name and address of the complainant, the date, the character of the complaint, and the adjustment, or disposal made thereof, which record shall be retained for examination by the Commission or its Staff. For purposes of this Section, a formal complaint is an oral or written communication by a consumer or other interested party to the utility's business office that prompts an investigation by the utility. All records

of formal complaints shall be retained for a period of at least two (2) years from the date of final disposition.

(b) In the event of a dispute between the consumer and the utility regarding the accuracy of a metering device, the utility shall make such investigation as shall be required by the particular case and report the result thereof to the consumer. In the event that the complaint is not reconciled, the utility or the consumer may request that the Commission's ~~Consumer Services Division~~ CSD mediate the dispute, or make application to the Commission for review of the complaint.

(c) When a utility has been notified that a complaint regarding meter accuracy has been referred to the Commission, the questioned meter equipment shall be handled in accordance with OAC 165:45-5-15. Violation of this subsection will be considered substantiation of the complainant's contentions.

165:45-9-10. Accounting

(a) Gas utilities operating within the State of Oklahoma shall be classified as prescribed by OAC 165:70-1-4 (a) and (b).

(b) All gas utilities having multi-state operations shall maintain records in such detail that the costs of property located in and required for doing business in the State of Oklahoma in accordance with jurisdictional boundaries can be accurately and readily ascertained.

(c) No change in or departure from the system used by the utility will be permitted except upon order of the Commission made after notice and hearing.

(d) The Annual Report FERC Form 2 - Class A and B Natural Gas Companies and FERC Form 2A - Class C and D Natural Gas Companies promulgated by the FERC are hereby adopted for purposes of the annual report to this Commission by all Class A, B, C, and D Gas Companies filing reports with the FERC. Each utility, in addition to filing with the Commission a copy of its annual report to the FERC, if any, shall file an annual report on a form furnished by the Commission of its utility service and operations in the State of Oklahoma. Any allocation of costs or revenues necessary in developing results of operations for the State of Oklahoma shall be accomplished on a basis approved by the Commission.

(e) The results of operations reported by each gas utility in its annual report to the Commission shall be reconciled with the results of operations shown on its books, records and in its other reports to the Commission.

(f) Each utility shall report to the Commission, at the end of the utility's fiscal year and on summary sheets furnished or approved by the Commission, the book value of its utility plant. These reports and the annual reports required by subsection (d) of this Section shall be delivered to the Commission not later than ninety (90) calendar days after the end of the fiscal year, provided that the Commission may grant an extension of time for good cause shown.

(g) Each utility shall make special reports at such time and in such form as the Commission may from time to time require.

165:45-9-11. Utility acknowledgement of customer complaint inquiries

If PUD contacts a utility concerning a customer complaint, the utility shall respond to PUD within the following time periods:

(1) Inquiries regarding disconnection, suspension, or termination of service shall be acknowledged by the utility within one (1) business day of receipt of inquiry from PUD.

(2) Inquiries other than for disconnection, suspension, or termination of service shall be acknowledged by the utility within three (3) business days of receipt of inquiry from PUD.

SUBCHAPTER 11. CUSTOMER SERVICE

PART 1. INITIATION OF SERVICE

165:45-11-1. Deposits and interest

(a) Each utility shall prepare and submit a plan containing criteria for deposits to the Commission for approval. The plans shall include criteria for residential and nonresidential consumers with residential being defined in each utility's tariff.

(1) The residential plan shall conform to all subsections of this Section.

(2) The nonresidential plan shall conform to all subsections of this Section except (b), (c), (d) and (k).

(b) No utility shall require a deposit of a residential consumer who has received the same or similar type and classification of service for twelve (12) consecutive months and service was not terminated for nonpayment nor was payment late more than twice nor was a check for payment dishonored. The twelve (12) month service period shall have been within eighteen (18) months prior to the application for new service. The utility plan may establish other relevant criteria which will qualify the consumer for nonpayment of a deposit.

(c) No utility shall require a deposit of more than one-sixth (1/6) the estimated annual bill. The utility may allow smaller deposits to be made in conformance with relevant objective criteria written in the utility's plan. The utility plan may allow consumers to pay deposits in installments. The utility may also require consumers to pay the entire deposit prior to initiating service.

(d) A residential consumer may be required to post a deposit as a condition of continued service if undisputed charges have become delinquent, with delinquent meaning a payment not received on or before the due date as posted on the bill, in two (2) out of the last twelve (12) billing periods or if the consumer has had service disconnected during the last twelve (12) months pursuant to OAC 165:45-11-11 or has presented a check subsequently dishonored.

(e) A non-residential consumer may be required to post a deposit as a condition of continued service if undisputed charges have become delinquent, with delinquent meaning a payment not received on or before the due date as posted on the bill, in two (2) out of the last twenty-four (24) billing periods

or if the consumer has had service disconnected during the last twenty-four (24) months pursuant to OAC 165:45-11-11 or has presented a check subsequently dishonored.

(f) Interest shall be paid on cash deposits by the utility at no less than the rate calculated as follows:

(1) For all consumer deposits returned within one (1) year or less, the interest rate shall be established the 1st day of January of each year to equal the average of the weekly percent annual yields of one (1) year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point.

(2) For all consumer deposits held by the utility for more than one (1) year, the interest rate shall be established the 1st day of January of each year to equal the average of the weekly percent annual yields of 10-year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point. The utility may pay the average of the one (1) year Treasury Security, as referenced in subsection (e)(1) of this Section, for the first year the deposit is held.

(3) Provided, however, that after the interest rate is initially established pursuant to this subsection, the interest rate(s) shall not change unless the application of the formula in paragraph (1) and/or (2) of this subsection results in a change in interest rate(s) that is/are greater than fifty (50) basis points.

(4) The ~~Director of the Public Utility Division~~ PUD Director shall calculate the interest rates as pursuant to (e)(1) and (2) of this Section, and shall mail notice to the gas utilities by December 15th of each year, only if a change in the rate(s) is/are necessary pursuant to subsection (e) of this Section, otherwise the current interest rate(s) will remain in effect.

(g) If refund of deposit is made within thirty (30) days of receipt of deposit, no interest payment is required. If the utility retains the deposit more than thirty (30) days, payment of interest shall be made retroactive to the date of deposit. No interest shall accrue on a deposit after final discontinuance of service.

(h) The deposit shall cease to draw interest on the date it is returned or credited to the consumer's account.

(i) The utility plan shall provide the date of payment of interest and whether the interest shall be paid by negotiable instrument or by credit against current billing.

(j) Each consumer posting a cash deposit shall receive a nonassignable receipt in writing at the time the deposit is made or within ten (10) days thereafter. When a consumer pays a deposit as a portion of a gas service bill, payment of the bill shall serve as a receipt for payment of the deposit. If the deposit is not paid by the due date, the amount of the deposit will become a part of the past due amount owed and monies paid shall be applied to the oldest past due amount. The utility plan shall provide reasonable means whereby a depositor who applies for the return of his/her deposit, or any balance to which he/she is entitled, but who is unable to produce the original receipt may not be deprived of this deposit or balance.

(k) The utility shall automatically refund the deposit for residential service, with accrued interest, after twelve (12) months satisfactory payment of undisputed charges and where payment was not late more than twice; provided, however, that service has not been disconnected within the twelve (12) month period. Payment of a charge shall be deemed satisfactory if received on or prior to the date the bill is due. Payment of a charge shall be deemed not satisfactory if made by a check subsequently dishonored.

(l) The utility shall automatically refund non-residential service deposits of less than $20,000, with accrued interest, after twenty-four (24) months' satisfactory payment of undisputed charges and where payment was not late more than twice; provided, that service has not been disconnected within the twenty-four (24) month period. Non-residential consumers, who meet the above-referenced eligibility criteria, must have a minimum of five (5) years continuous service at the service location with the utility before a deposit will be refunded.

(m) The utility plan shall provide for the review of all residential deposits at least annually and deposits for non-residential service at least every twenty-four (24) months and shall provide that refunds will be paid by negotiable instrument, upon request of the consumer provided the consumer's bill is not delinquent, or by credit against current billing.

(n) The amount of the deposit, with accrued interest, shall be applied to any unpaid charges at the time of a discontinuance of service. The balance, if any, shall be returned to the consumer within thirty (30) days either in person or by mailing it to the consumer's last known address.

(o) The utility shall provide payment of accrued interest for all consumers annually by negotiable instrument or by credit against current billing.

(p) The utility may withhold refund or return of the deposit pending the resolution of a dispute with respect to charges secured by such deposit.

(q) The utility company shall keep records to show:

(1) The name, account number, and address of each depositor;

(2) The amount of the deposit and date received; and,

(3) Each transaction concerning the deposit.

(r) Such records shall be retained for two (2) years after the deposit and/or interest is refunded or applied.

(s) Upon the sale or transfer of any public utility or operating units thereof, the seller shall file with the application of transfer a verified list of all consumers for whom a deposit is being held, the date such deposit was made, the amount thereof, and the unpaid interest thereon. The information provided shall be treated as confidential and shall not be available for public inspection unless ordered by the Commission after notice and hearing.

(t) The deposit made by the consumer with the utility at the time of application for gas service shall not constitute an advance payment to cover service bills, but for all purposes it is to be considered as security for the payment of monthly bills or other proper charges.

165:45-11-2. Right to refuse service

(a) The utility may refuse to provide service to an applicant or consumer from whom there remains owing an unpaid account for service of a similar character previously supplied to such applicant or consumer at any location within that utility's service territory by a gas utility governed by this Chapter, or a judgement arising from an unpaid account remains unpaid in the applicant's name.

(b) The utility shall not deny service to a consumer for failure to pay any obligation to the utility except the amount due for utility service. Utilities shall not deny service to a consumer for nonpayment of an amount past due for more than three (3) years if the utility cannot substantiate the charges with a copy of the consumer's complete billing history reflecting usage, consumption and relevant charges.

(c) The utility may refuse to provide service to an applicant for misrepresentation of identity or facts for the purpose of obtaining service or use of an alias, trade name, business name, relative's name or another person's name as a device to escape payment of an unpaid obligation for utility service provided to the consumer.

(d) The utility shall provide documentation to the consumer indicating the reason(s) that service is being withheld, upon request of the consumer.

(e) The utility may refuse to provide service to an applicant when the applicant is not in compliance with a Commission order, a deferred payment agreement, or an extension agreement with the utility entered into with respect to service previously rendered by the utility to the applicant.

(f) The utility may refuse to provide service to an applicant when the applicant has not paid the utility an approved fee, charge, or deposit as provided for in this Subchapter or the utility's approved tariffs.

(g) The utility may refuse to provide service to an applicant when the applicant has not furnished adequate assurance of payment in the form of a deposit or other security for service within twenty (20) calendar days of an order for relief under the United States Bankruptcy Code, U.S.C.A. Title 11 Section 366.

(h) The utility may refuse to provide service to an applicant when there is evidence that the applicant is using service in an unauthorized manner or is tampering with the equipment furnished and owned by the utility.

(i) The utility may refuse to provide service to an applicant when the applicant has not provided an acceptable valid and non-expired proof of identity. Acceptable valid and non-expired proof of identity may include the following:

(1) Driver's license or state identification card.

(2) ~~Military~~ Department of Defense identification.

(3) Employment identification.

(4) Social security card.

(5) ~~Current student~~ Student identification card.

(6) Passport.

(7) Birth certificate.

(8) Any other ~~verfiable~~ verifiable proof which would establish identity.

(j) The utility may refuse to provide service when:

(1) The applicant is not in compliance with all state and/or municipal regulations governing the service for which applied.

(2) The applicant is not in compliance with the utility's tariffs which have been approved by this Commission.

(3) The service applied for is of such character that it is likely to unfavorably affect the service of other consumer.

(4) The connection of utility service to the applicant's equipment would create a hazard.

(5) The applicant is causing or threatening injury to a utility employee or an employee's family to retaliate for or prevent an act the utility performs in the course of business.

(6) The applicant is causing or threatening damage to utility's property.

165:45-11-4. Consumer information

(a) Each utility shall:

(1) Maintain maps, plans or records of its transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective consumers and others entitled to the information as to the services available in any locality; and,

(2) Annually, transmit to each of its nonresidential consumers a statement that the rate tariff on which they are served is available upon request. Additionally, the consumer shall be advised that the utility company, upon request, will review the consumer's applicable rate tariff to determine if the consumer is receiving the rate tariff that is best suited to the consumer.

(b) The utility shall provide, in each telephone directory covering any area it serves, a telephone listing of the number by which the utility can be notified at any time during a twenty-four (24) hour day of any utility service deficiency or emergency, or the information may be published in a regular newsletter or publication furnished to its subscribers. In addition, the telephone number shall be published on the homepage of a utility sponsored website, if applicable.

(~~b~~c) The utility shall advise its residential consumers through its consumer mailing, no less than once a year, of the Commission rules regarding the following:

(1) Disconnection information which states the rights listed in the "Disconnect Notice," as outlined in OAC 165:45-11-16 *et seq.*;

(2) Commission-approved deferred payment plans;

(3) Twenty (20) calendar day government and/or private financial aid assistance deferral;

(4) Life Threatening Certificate and consumer responsibilities;

(5) ~~Elderly/Consumers with Disabilities Notification~~ Elderly or Consumers with disabilities can request their account to be flagged by the utility so that CSD can intervene on their behalf, when requested by the consumer, in the event of a disconnection of service notice and extend the disconnection date by up to five (5) business days;

(6) Average Monthly payment plans;

(7) The address and telephone number of the Commission's ~~Consumer Services Division~~CSD;

(8) The limitations for disconnection, including days or periods of time when service shall not be disconnected as outlined below in OAC 165:45-11-14(c); and

(9) The availability of a list of agencies providing assistance to consumers for their utility bills as outlined by OAC 165:45-11-12.

(~~c~~d) The mailing required by paragraph (b) of this Section, shall occur during the months of September and/or October of each year.

(~~d~~e) The utility shall provide the location of pay agents upon the consumer's request.

(~~e~~f) The utilities are strongly encouraged to have bilingual customer service personnel available to assist non-English speaking consumers regarding disconnection and related matters.

PART 3. DISCONNECTION OF SERVICE

165:45-11-11. Physical disconnection of service by a utility

(a) **Sufficient reasons for physical disconnection of service.** A utility may physically disconnect service to a consumer for any of the following reasons:

(1) Nonpayment of all or any portion of undisputed utility bills.

(2) Nonpayment of an account for service of a similar character previously supplied to such applicant or consumer by the utility.

(3) Failure to comply with the terms and conditions of a settlement agreement or any type of deferred payment agreement or with a Commission order.

(4) Failure to post a deposit as prescribed in OAC 165:45-11-1.

(5) Failure to make application for service.

(6) Misrepresentation of identity or facts for the purpose of obtaining service or use of an alias, trade name, business name, relative's name or another person's name as a device to escape payment of an unpaid obligation for utility service provided to the consumer.

(7) Violation of any rule or regulation of the Commission or Commission-approved rule of the utility.

(8) Unauthorized use of gas accomplished through bypassing of the utility's measuring equipment or tampering with pipes, meters, or other utility equipment.

(9) Whenever the utility has reason to believe that continued service will create a condition on the consumer's premises that is dangerous to persons or property.

(10) Refusal to grant access at reasonable times for the purpose of installation, inspection, maintenance, replacement, or reading of utility equipment installed upon the premises of the consumer, or maintaining any obstruction that would deny access for these purposes.

(11) Potential adverse effect of the service required by the consumer on the service to other consumers of the utility, provided the consumer has been notified and given a reasonable opportunity to correct the adverse effect.

(12) Abandonment of the premises served.

(13) Upon request of the consumer pursuant to OAC 165:45-11-10.

(14) Causing injury or threatening to cause injury to an employee of the utility or the family of an employee of the utility or the property of the utility for the purpose of preventing a utility employee from engaging in activities authorized by law or in retaliation for such activities.

(15) Violation of the utility's terms and conditions regarding the operation of nonstandard equipment or unauthorized attachments, if the consumer was notified first and given a reasonable opportunity to comply with the terms and conditions.

(16) Violation of federal, state, or local laws or regulations through use the service.

(17) Causing damage to utility property.

(18) A condition exists which poses a health or safety hazard.

(b) **Insufficient reasons for disconnection of service.** A utility shall not disconnect service to a consumer for any of the following reasons:

(1) Failure to pay for a different kind or classification of service.

(2) Failure to pay a bill correcting a previous underbilling, due to misapplication of rates, unless the utility offers the customer a deferred payment agreement as provided elsewhere in this Chapter.

(3) Failure of a previous owner or occupant of the premises, or user of the service to pay an unpaid or delinquent account, except where the previous occupant remains an occupant or user of the utility service.

(4) Failure of a consumer to pay any portion of an estimated billing which the consumer disputes, except where the consumer fails to allow a utility representative access to the meter or the consumer regularly reads the consumer's own meter and fails to supply a current meter reading.

(5) If a current consumer is good standing who accepts an additional household member owing a previous bill to the utility unless that additional household member is listed on the lease arrangements or another utility service as a responsible party, or unless the household member shared service with the subscriber at a different or same location.

(6) If a consumer or potential consumer has a previously unpaid account from a different utility beyond the boundaries of the utility's service territory.

(7) Pending verification, service cannot be withheld nor disconnected from a consumer whose name was used to obtain service at another location without the consumer's permission or knowledge.

(8) Nonpayment of an amount past due for more than three (3) years if the utility cannot substantiate the charges with a copy of the consumer's complete billing history reflecting usage, consumption and relevant charges.

(9) Failure to pay a past due amount to another utility.

(c) **Effective period of notice.** A utility may disconnect service on the date specified in the notice or within thirty (30) calendar days thereafter, during regular business hours, so long as

the disconnection does not occur within the last two (2) hours of the business day, nor shall service be disconnected on a holiday, nor noon (12:00p.m.) on Fridays until Monday morning.

(d) **Documentation of reason(s).** The utility shall provide documentation to the consumer indicating the reason(s) that service is being withheld or disconnected.

165:45-11-13. Commission notification procedures for the elderly and/or consumers with disabilities

(a) At any time prior to disconnection of service, the ~~Commission~~ notification procedure shall be available to those elderly and/or consumers with disabilities who have notified the utility that they wish to be included in the following ~~Commission~~ notification procedure:

(1) ~~A utility shall notify the Commission's Consumer Services Division in writing or by electronic notification at least ten (10) business days prior to disconnection.~~

~~(2) The confirmation shall contain at a minimum:~~

~~(A) The name, address, telephone number, and account number of the involved parties.~~

~~(B) The words "NOTICE", "SERVICE SUBJECT TO CUTOFF", AND "ELDERLY and/or CONSUMER WITH DISABILITIES" should be conspicuously placed on the notice in bold, capitalized letters.~~

~~(C) Scheduled date for disconnection.~~

~~(D) The unpaid balance amount.~~

~~(E) The name and telephone number of a contact person at the utility.~~

~~(3)~~ For those who have registered with the utility as elderly and/or consumer with disabilities, the ~~The~~ utility shall delay disconnection of service to the elderly and/or consumers with disabilities for five (5) additional business days upon request of the Commission's ~~Consumer Services Division~~ CSD.

(~~4~~2) Elderly and/or consumers with disabilities are those consumers who have notified the utility in writing that they ~~wish to be included in the Commission's notification procedure available to them and who~~:

(A) Have a permanent impairment which substantially limits the disabled consumer's ability to pay for utility service; or

(B) Are sixty-five (65) years of age or older.

(b) The utility shall notify the consumer or other person responsible for the bill, during the initial application for service, annually thereafter, and at any time disconnection is imminent, of this additional notification procedure.

(c) The utility may require verification of the consumer's qualifications.

~~(d) The Commission's notification procedure is in addition to the other requirements set forth in this Part which the utility shall meet prior to disconnection of service.~~

165:45-11-14. Delays to disconnection of residential service

(a) **Limitations on disconnection.** After notice and hearing, the Commission may issue an order that may include limitations on disconnection of residential utility service used or needed for the primary heating or cooling source.

(b) **Temporary ban on disconnections.** The Commission shall have the authority to order a temporary ban on any or all disconnections during periods of extremely severe weather or when circumstances exist such that disconnection could create a situation dangerous to the life or health of consumers or to property.

(c) **Severe weather.**

(1) ~~If the high temperature is actually, or predicted to be, 32 degrees Fahrenheit or below on the day of disconnection or the nighttime low is predicted to be 20 degrees Fahrenheit or less the utility shall suspend its disconnection of service if the gas service is used for heating purposes.~~ If the NWS issues a local forecast predicting the temperature will drop below 32 degrees Fahrenheit for any time period during the following twenty-four (24) hours, the utility shall suspend its disconnection of service if the gas service is used for heating purposes. The utility must obtain the most recent local forecast for the customer's location from the NWS reports between the hours of 6:00 a.m. and 8:00 a.m. on the morning of the day that the customer's shut-off is scheduled. If the NWS issues an updated forecast on the day of disconnection, then such updated forecast shall be used in place of the earlier obtained forecast.

(2) ~~If the service is utilized for cooling and the temperature is actually, or predicted to be, 101 degrees heat index or higher on the day of disconnection, the utility shall suspend its disconnection of service activity.~~ If the NWS issues a local forecast predicting the temperature will be 101 degrees Fahrenheit heat index or higher on the day of disconnection, or if the actual heat index is 101 degrees Fahrenheit or higher, the utility shall suspend its disconnection of service activity if the gas service is used for cooling purposes. The utility must obtain the most recent local forecast for the customer's location from the NWS reports between the hours of 6:00 a.m. and 8:00 a.m. on the morning of the day that the customer's shut-off is scheduled. If the NWS issues an updated forecast on the day of disconnection, then such updated forecast shall be used in place of the earlier obtained forecast.

(3) Nothing in this Section shall prohibit a utility from establishing a higher temperature threshold for residential heating purposes below which it will not discontinue utility service or from establishing a lower temperature threshold for residential cooling purposes above which it will not discontinue utility service.

(d) **Financial assistance delay.** When a residential consumer has applied for and is awaiting financial assistance, including social security income, from a federal, state, or local social service agency, and the utility has initiated written notice of disconnection, it shall delay disconnection of service for a period of at least twenty (20) calendar days from the date when

such notice was either delivered or mailed to the premises where service is rendered, provided:

(1) The reason for disconnection is for nonpayment of the utility bill.

(2) The consumer has notified the utility that the consumer has applied for and is awaiting financial assistance.

(3) Verification from the involved agency is provided in a form as prescribed by the utility upon its request.

(4) If the expected financial assistance is less than the amount owed for services, the utility may require the consumer to enter into a deferred payment agreement as prescribed pursuant to (e) of this Section.

(5) Under no conditions is the utility required to furnish service to the consumer unless there is reasonable expectation of payment for such service except where other rules of this Commission apply.

(e) **Deferred payment agreement.** The utility shall be required to offer a deferred payment agreement before disconnecting service when a residential consumer is unable to pay an account in full. The utility shall not disconnect service for nonpayment of a bill if the consumer enters into a deferred payment agreement with the utility. The utility may mail or provide electronic notification to customers who make an affirmative election to receive electronic notification of such information a confirmation of the terms of the deferred payment agreement if it is made orally. A deferred payment agreement may be entered into by the consumer up to, but not including, the day of disconnection. Except where payment assistance for the total amount of the bill is pending, the utility may require a reasonable partial payment in accordance with paragraph (1) of this subsection, at the time the deferred payment agreement is made.

(1) Deferred payment agreement means a just and reasonable agreement offered by the utility and agreed to by the consumer which provides for the payment of all future bills during the period of agreement by the due date and the payment of the balance of any outstanding bills in reasonable installments based upon:

(A) Consideration of the consumer's gross income.

(B) Size of the delinquent account.

(C) Consumer's ability to pay.

(D) Consumer's payment history with the utility.

(E) Length of time and reasons why the debt has not been paid.

(F) Other extraordinary expenses of the consumer.

(G) Loss of income through unemployment or illness.

(H) Any other relevant factors concerning the circumstances of the consumer.

(2) The payments under such an agreement need not be equal in size.

(3) The consumer shall initiate renegotiation prior to breach of the deferred payment agreement if the consumer's financial conditions change, such as loss of income through unemployment or illness, or any other relevant factors concerning the circumstances of the consumer change during the payment period.

(4) If a consumer fails to comply with the terms of the deferred payment agreement, the consumer will be subject to disconnection without further notice, so long as the disconnection period as provided in OAC 165:45-11-11(c) on the first and second notice has not been passed. If the disconnection period has passed, the utility shall provide at least twenty-four (24) hours notice of disconnection to the consumer.

(5) Under no condition is the utility required to furnish service to the consumer unless there is a reasonable expectation of payment for such service except where other rules of the Commission apply.

(f) **Life-threatening situation.**

(1) For purposes of this Section, a life-threatening situation is defined as one where the consumer or other permanent resident of the household is dependent upon equipment that is prescribed by a physician, operates on gas, and is needed to sustain the person's life. Examples of life-sustaining equipment would be: kidney dialysis machine, iron lung, oxygen concentrators and certain other oxygen machines, cardiac monitory, heating and air conditioning equipment, or any other equipment that is prescribed by a licensed medical doctor. The following are not considered to be life-sustaining equipment: hot water heater, refrigerator, and range/stove.

(2) When a consumer to whom service is provided is unable to pay the account in full, the utility shall suspend disconnection of service, or reconnect if disconnected, if the consumer notifies the utility that disconnection of service will give rise to a life-threatening condition for the consumer or other permanent resident of the household should gas service be terminated, and within thirty (30) calendar days of the initial notification, the consumer shall return the Medical Certificate described in (3) of this subsection

(3) The consumer shall use a Medical Certificate Form which verifies the existence of a life-threatening condition. This form is provided by the utility at no cost to the consumer. The form shall provide certification by a licensed medical doctor or osteopath. The consumer may choose the appropriate medical personnel. At a minimum the Medical Certificate Form provided by the utility shall contain, substantially, the information in the form as set forth in Appendix A to this Chapter. The service account name holder shall sign the Medical Certificate Form at the appropriate space, indicating knowledge that a permanent resident of the household is applying for the life-threatening situation certificate and further acknowledging the responsibility for payment of bills rendered for gas service.

(4) Completion of (2) and (3) of this subsection will suspend disconnection of gas service to the specified residence for a period of thirty (30) calendar days from the initial notification. This 30-day period allows the consumer to pay the account in full or enter into a deferred payment agreement with the utility and/or make alternative arrangements for the person(s) named on the certified form as having the life-threatening condition.

After thirty (30) calendar days, normal collection action will resume. The 30-day period may be extended by the utility at the request of the service account name holder for one (1) additional contiguous 30-day period, but only if necessitated by the life-threatening condition (as indicated on the Medical Certificate Form). The request for the additional 30-day extension must be made before the end of the initial 30-day period. The utility is not required to furnish service to the customer beyond a total of sixty (60) calendar days for the life-threatening condition without full payment of the account or acceptable payment arrangements on any unpaid balance.

(5) Verification of the medical condition of the consumer by the utility may include the following:

(A) Utility personnel may visit the consumer's residence with the consumer's permission to verify that life-sustaining equipment is being used.

(B) Utility personnel may verify the doctor's signature and clarify the medical terms of the diagnosis which is the reason for the life-threatening certificate.

(6) This collection abeyance in no way absolves the consumer from full responsibility for the payment in full of the utility services rendered, and is intended for the purpose of providing the consumer an opportunity to maintain utility service during the life-threatening situation within the prescribed time frames.

(7) Failure of the service account name holder to fully comply with this subsection may result in denial of life-threatening status and renewed collection activities of the utility, to include termination of service to said residence.

(8) Any consumer who uses this subsection to avoid disconnection or for reconnection of service and does not fulfill the required documentation will be subject to disconnection.

(9) A consumer is not prohibited from claiming a life-threatening situation once full payment of the account balance from a previous life-threatening claim is made and a valid Medical Certificate Form signed by a licensed medical doctor has been received by the utility.

(g) **False information.** If a consumer provides false or misleading information to the utility in order to avail the consumer of the provisions applicable to the financial assistance delay, deferred payment agreement, life-threatening situation or Commission notification procedure for elderly and/or consumers with disabilities, the false information shall be grounds for disconnection of service by the utility. The utility may disconnect service upon the utility providing notice to the customer in accordance with OAC 165:45-11-16(a).

(h) **Consumer liability.** Reconnection or continuance of service under this Section shall not in any way relieve the consumer of the consumer's liability incurred for utility service.

165:45-11-16. Notice of disconnection of service

(a) **Twenty-four hour notice.** Except as provided in subsections (b), (c) and (f) of this Section, OAC 165:45-11-14(e) and OAC 165:45-11-18, service shall be disconnected only after at least twenty-four (24) hours written notice has been given to the consumer by leaving a copy of such notice with the consumer or by leaving a copy of such notice in a conspicuous place at the premises where service is provided. ~~This notice shall be in writing and state the reason for the action, the amount due, if applicable, the company to contact in bold print, the contact telephone number, in bold print, and the telephone number of the Consumer Services Division.~~ This notice shall be in writing, in bolded lettering, and state the reason for the disconnection, the amount due, if applicable, and the utility company's name, telephone number, and contact information. After the utility company's contact information, the notice shall include the telephone number of CSD in a printed size smaller than the print size used for the utility company's contact information, not bolded, and shall include the following statement: "For clarification of statutes and rules governing services, or escalations of disputes, you may contact the Oklahoma Corporation Commission's Consumer Services Division." The utility shall submit a copy of the notice to PUD for approval prior to usage.

(b) **First residential notice.** When service to a residential consumer is to be disconnected for nonpayment of a bill for utility service or failure to make a security deposit after a reasonable time, the utility company shall give at least ten (10) days written notice from the date of mailing to the consumer. Said written notice shall be sent by first-class mail, address correction requested, by the utility company to the consumer's billing address, unless the mail is returned from that address as undeliverable, in which case the notice may be delivered to the premises at which the service was rendered.

(1) Notice will be deemed delivered to the consumer three (3) business days after mailing by the utility company, which shall not extend the ten (10) days written notice from the date of mailing to the consumer requirement above.

(2) A notice of disconnection shall contain the following information:

(A) The words "DISCONNECTION NOTICE" or "CUT OFF NOTICE" in bold print no smaller than one-half inch ($\frac{1}{2}$") tall.

(B) The name and address of the consumer.

(C) A statement of the reason for the proposed disconnection of service.

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

(E) The telephone number in bold print of the utility company where the consumer may make an inquiry.

(F) The approved charges for reconnection.

(G) A statement that the consumer must contact the utility company regarding the disconnection, prior to contacting the Commission's ~~Consumer Services Division~~ CSD, and should contact CSD if they cannot reach a resolution with the utility.

(H) The address and telephone number of the Commission's ~~Consumer Services Division~~ CSD, in print size which is smaller than the print size used for the utility company's telephone number.

(I) A statement that advises the consumer of the availability of a deferred payment agreement.

(J) A statement that advises the consumer of the elderly/consumer with disabilities notification.

(K) A statement that advises the consumer of the life-threatening certificate.

(L) A statement that advises the consumer of the availability of the 20-day financial aid assistance delay.

(M) A statement that advises the consumer of the availability of a list of agencies providing assistance to consumers for their utility bills as identified by OAC 165:45-11-12.

(N) A statement that advises the consumer, that a list of pay agents is available upon request.

(3) The utility company shall notify the consumers in writing, at least annually, of the availability of and the method of accessing the name and address of the authorized payment agencies, other than the utility company's offices, where consumers may make payments.

(c) **Second residential notice.** During the time period of November 15 through April 15, the utility shall give a minimum of forty-eight (48) hours notice (at least two (2) business days) prior to disconnection of residential service that service will be disconnected unless the consumer enters into a deferred payment agreement as prescribed in OAC 165:45-11-14(e) or unless disconnection of service would create a life-threatening situation for the consumer or other permanent resident of the premises where the utility service is rendered. If the utility elects to give oral notice, it shall only be after it has complied with (b) of this Section. The second notice may be in writing, in person or by telephone.

(1) If the second residential notice is in writing, it shall be entitled "CUT OFF NOTICE" in bold letters of not less than one-half inch ($\frac{1}{2}$") in height and shall contain, in non-technical language, the following information:

(A) The reason for service disconnection and the amount of the unpaid bills, if any.

(B) The date on or after which service will be disconnected unless the consumer takes appropriate action.

(C) The telephone number of the utility office, in bold print, where a consumer may call for assistance, make inquiries, enter into a deferred payment agreement, obtain information on utility assistance programs, pay the bill or notify the utility of a life-threatening situation.

(D) The telephone number of the Commission's ~~Consumer Services Division~~ CSD in print size which is smaller than the print size used for the utility's telephone number.

(2) The utility company shall keep a written log of all oral communication with at least the following information when contact has been made:

(A) Date and time of call or personal visit and identity of utility company representative.

(B) Name of the individual and relationship to the account. If the contact is made with a designated representative for the consumer, then a statement of authority to represent the account should be included.

(C) Nature of the call and telephone number called.

(D) A narrative of the communication between the utility and the consumer.

(E) A statement that the consumer must notify the utility company on the day of payment, as to the place and method of such payment, when the bill is paid at a place other than the office of the utility company.

(F) A statement that the consumer was advised of the telephone number of the Commission's ~~Consumer Services Division~~ CSD.

(3) The oral communications log shall be maintained and retained in accordance with the record keeping requirements contained in this Chapter.

(4) A copy of the oral communications log shall be provided to the Commission or to the consumer and/or their designated representative upon oral or written request.

(5) Oral communications with the consumer shall not begin before 8:00 a.m. or continue beyond 9:00 p.m. during normal business days.

(6) Oral communications shall be deemed as not to have occurred, including but not limited to the following circumstances:

(A) When there is no answer, the telephone line is busy or no one is home.

(B) When a message is left on an answering device or made on a recording device.

(C) When the message or attempted message is left with an individual having a physical and/or mental impairment that impedes communication or mutual understanding.

(D) When the communication is with a minor under the age of eighteen (18), unless the minor is the consumer or the spouse of the consumer.

(E) When the communication is with an individual who is not either the consumer or the designated representative of the consumer.

(F) When the communication is with a consumer or consumer's designated representative whose primary language is other than English and the consumer or consumer's designated representative has a language barrier, unless the communication is made in the primary language of the consumer or consumer's designated representative.

(7) Unless otherwise directed by the ~~Consumer Services Division~~ CSD, the utility company shall not contact the consumer regarding the consumer's account after the Commission has notified the utility company of a complaint or inquiry from the consumer. The Commission shall be the intermediary between the utility and the consumer until the resolution of the problem has been completed.

(8) Notice will be deemed delivered to the consumer three (3) business days after mailing by the utility company, which shall not extend the two (2) days written notice from the date of mailing to the consumer requirement above.

(d) **Third party notice.** A utility shall permit residential consumers to designate a consenting individual or agency to receive the applicable notice of disconnection.

(e) **Tenant notice.** Where a master metered apartment complex, building, or trailer court is subject to disconnection, the written notice to the consumer shall also be posted in a common area of the premises at least ten (10) days prior to disconnection of service. The utility may contract with tenants for residential service.

(f) **Commercial or business notice.** Nonresidential service shall be disconnected for nonpayment of all or any portion of an undisputed utility bill only after at least five (5) business days written notice has been mailed to the consumer by the utility or after the notice is left in a conspicuous place at the premises where service is provided.

165:45-11-17. Manner of disconnection of service

When service is disconnected at the premises of the consumer:

(1) ~~The utility employee may receive payment of past due bills or accept a copy of the consumer's payment assistance application, or accept a copy of the cancelled check or a utility company receipt showing payment; and upon the receipt thereof, cancel the disconnection order. If payment is offered in a form other than cash or negotiable instrument, the utility employee may verify the payment with the appropriate entity involved. If payment is offered by negotiable instrument, the utility employee may contact the financial institution involved for verification of sufficient funds in the account to cover the negotiable instrument. If the account does not contain sufficient funds for payment, then the utility employee may reject the offered negotiable instrument for payment for past due bills.~~

~~(2)~~ Receipt of a subsequently dishonored negotiable instrument in response to a notice of disconnection shall not constitute payment of the consumer's account, and after the consumer is notified of such, the utility shall allow one (1) business day for the consumer to make payment at the utility company or its authorized agent(s) in cash, ~~cashiers~~ cashier's check, money order, or a check from a social service agency.

(~~3~~2) The utility employee shall leave a written statement at the premises that service has been disconnected, the reason for the disconnection, and the telephone number and/or address where the consumer may arrange to have the service reconnected.

165:45-11-19. Reconnection of service

(a) The utility shall give priority to reconnection of service when disconnection was the fault of the utility.

(b) When disconnection of service was the fault of the consumer, the utility shall reconnect service in the normal course of its reconnection workload, as soon as possible, but no later than two (2) business days, not to exceed three (3) calendar days after the consumer eliminates the reason for disconnection and requests reconnection, except as provided for in subsection c of this Section. If the reason for disconnection is unauthorized use of gas accomplished through bypassing the utility's measuring equipment or tampering with the pipes, meters, or other utility equipment, the utility may, prior to reconnecting service, require a reasonable payment for estimated service rendered or may refuse to reconnect service until ordered by the Commission. A utility may require payment of a reconnection charge when disconnection of service was the fault of the consumer, if such a charge is provided in the utility's tariffs.

(c) During the time period of November 15 through April 15, the utility shall reconnect service in the normal course of reconnection workload, as soon as possible, but no later than forty-eight hours; however, if disconnection for nonpayment of service has occurred immediately preceding periods of severe weather pursuant to OAC 165:45-11-14(c), the utility shall reconnect service as soon as possible but no later than twenty-four (24) hours, while the consumer or the consumer's representative is present, subject to an intervening Act of God, upon receipt of one of the following:

(1) Payment of the past due bill for which service was disconnected; or

(2) Submission of a Life-threatening Certificate from the consumer as described in OAC 165:45-11-14.

(3) Guarantee by a federal, state, or local social service agency that payment will be made directly to the utility.

(d) Reconnection or continuance of service under this Section shall not in any way relieve the consumer of their liability incurred for utility service.

(e) The consumer of record or their representative must be present in order for service to be restored. If the consumer or their representative fails to be present for service to be restored through no fault of the utility, the return trip may be scheduled in accordance with subsection b and c of this Section.

165:45-11-20. Mediation

(a) Whenever there is a dispute between the utility and the consumer as to any of the following, the matter may be brought by either party to the Commission's ~~Consumer Services Division~~ CSD:

(1) The existence of or seriousness of a life-threatening situation.

(2) The existence of elderly or handicapped status.

(3) The question of financial assistance or guarantee of payment by a federal, state or local social service agency.

(4) The provisions of a deferred payment agreement.

(5) The terms and conditions of payment of any part of a bill as rendered.

(6) The proper interpretation of this Section.

(7) Other issues addressed in this Chapter.

(b) The Commission's ~~Consumer Services Division~~ CSD shall review the matter and issue an informal review decision in writing setting forth the terms and conditions for continued service, disconnection of service, or deferred payment plan agreement. If it is the desire of the consumer, the consumer may be represented by a third party, if the consumer is available for verification. If the dispute can be resolved by telephone with the party seeking review, the review decision need not be in writing unless requested by either party. During any period

of time when a disconnection dispute is before the Commission or in mediation, the utility shall suspend disconnection procedures.

(c) If the Commission's ~~Consumer Services Division~~ CSD is unable to resolve the dispute to the mutual satisfaction of the parties, either party may file a complaint with the Commission for final determination.

(d) Whenever the consumer informs the utility that the consumer disputes a charge for service, the utility shall investigate the dispute promptly and thoroughly, and make a diligent effort to reach a mutually satisfactory settlement. If the consumer is dissatisfied with the decision of the utility, the consumer may report the dispute to the Commission's ~~Consumer Services Division~~ CSD. Upon complaint by the consumer to the Commission, disconnection of service shall be held in abeyance, for as long as a resolution of the complaint is pending at the Commission, provided the consumer pays the portion of the bill which is not in dispute.

PART 5. CHARACTER OF SERVICE

165:45-11-31. Temporary service

(a) A consumer requiring temporary service shall pay the regular rates applicable to the class or classes of service rendered for all energy used. In addition, the consumer shall pay the installation and removal cost, less salvage value, of facilities installed by the utility to furnish temporary service to the consumer. The utility may require a deposit of such cost in advance.

(b) "Temporary service" is defined as service for purposes which, by their very nature, indicate short duration, ~~or are for a specific time frame for service which is established prior to connection~~ and shall not exceed ninety (90) calendar days without notification and justification being provided to CSD prior to the expiration of the ninety (90) calendar day period.

165:45-11-33. Service from other than distribution system

(a) When a consumer desires natural gas service from a production, gathering or transmission line which is not a part of the distribution system, the utility may, at its sole discretion, make a tap on the line and furnish the consumer with natural gas service under the applicable rate schedule approved by the Commission for the type of service rendered or, if there is no such rate schedule, pursuant to a Special Contract approved by the Commission. When necessary for operational efficiencies or safety reasons, the utility may discontinue or abandon service to the nondistribution system consumer or remove, abandon or relocate the pipeline from which the nondistribution system consumer is furnished natural gas service, upon thirty (30) calendar days written notice to the consumer at the consumer's last known address. If the pipeline is owned and operated by a company that also has a gas distribution system, the pipeline will be considered part of the distribution system if, for a period of three (3) years, the volume of gas sold off the pipeline is equal to or more than fifty percent (50%) of the gas transported by the pipeline. The utility may seek a waiver of an impending recharacterization before or after the three (3) year period if the pipeline leakage is minimal and the utility desires to continue to provide natural gas service from the pipeline.

(b) If a consumer requests service from a transmission line that is not owned by the utility and the company owning the line assesses a fee for making the tap, the consumer requesting the tap will be responsible for paying the fee.

(c) Unless otherwise ordered by the Commission, after notice and hearing, a utility shall not provide service from a production, gathering or transmission line unless the gas in the line is of a suitable quality and free of liquid hydrocarbons. When it has come to the attention of the utility that a temporary gas quality problem exists in a line, the utility shall be allowed a reasonable time in which to correct the problem. This subsection shall not apply to existing consumers receiving service.

(d) Under this Section, a private line served from other than a distribution system will not be considered to be a distribution system, and private line customers on these systems will be considered as a single service under the master meter agreement for purposes of abandonment.

PART 7. BILLS

165:45-11-41. Information on bills

The utility shall bill each consumer as promptly as possible following the reading of the consumer's meter. The bill shall show:

(1) The reading of the meter at the end of the period for which the bill is rendered.

(2) The date on which the meter was read, or the end of the billing period.

(3) The number and kind of units metered.

(4) The applicable rate schedule or identification of the applicable rate schedule. If the actual rates are not shown, the bill shall carry a statement to the effect that the applicable rate schedule will be furnished upon request.

(5) The total amount due for gas used. In the case of prepayment meters, the amount of money collected shall be shown.

(6) The date by which the consumer must pay the bill in order to avoid addition of a penalty.

(7) The total amount due after addition of any penalty for nonpayment within a designated period or the dollar amount of the penalty or the rate at which the penalty will be calculated. The terms "gross bill" and "net bill" or other similar terms implying the granting of a discount for prompt payment shall not be used where a penalty is added for nonpayment within a designated period.

(8) A distinct marking to identify an estimated bill.

(9) Any conversions from meter reading units to billing units, any calculations to determine billing units from recording or other devices, or any other factors used in determining the bill.

(10) Total tax amount billed, pursuant to OAC 165:45-15-3.

(11) The purchased gas adjustment ("PGA") amounts associated with the respective clauses on the consumer's bill.
(12) The amount due pursuant to an Equalized (Average, Budget, Equal, Levelized, etc.) Monthly Payment Plan shall be shown on the bill, when applicable.
(13) Utilities that serve one-hundred fifty-thousand Oklahoma Customers or more; the historical usage, e.g., a chart, table or graph, shall be displayed prominently on each bill, depicting the actual usage of the residential customer, at the place of service for which the bill is issued. Such historical usage shall be tracked and displayed over the previous twelve (12) month period.
(14) Utilities that serve less than one hundred fifty thousand Oklahoma Customers shall provide, in a conspicuous manner, notice on each residential customer bill that historical usage information is available at no charge, upon the consumer's request.
(15) The name and toll-free telephone number of the Commission's CSD, to which the end-user may direct complaints and questions regarding utility services.

SUBCHAPTER 13. PROMOTIONAL POLICIES AND PRACTICES

165:45-13-7. ~~Filing~~ Submission of promotional practices

The utility shall submit~~, to the Public Utility Division,~~ an annual submission of current promotional practices by May 1, and as programs are updated, to PUD. The report shall include a list and description of all promotional practices and activities. Although submission by the utility shall not assume approval by ~~the Public Utility Division~~ PUD, it will allow ~~the Public Utility Division~~PUD and the utility to review and dialogue as to the appropriateness of the promotional practices, whether or not the expenses should be recovered through rates, and ensure that the promotional practices are provided on a nondiscriminatory basis.

SUBCHAPTER 15. MISCELLANEOUS PROVISIONS

165:45-15-1. Resale of gas prohibited

(a) Gas and/or service furnished by a utility shall not be resold or caused to be resold by any consumer except pursuant to a tariff or special contract on file with and approved by the Commission which authorizes resale. Except as set forth in subsection b below, no utility shall knowingly furnish gas and/or service under a retail tariff for purposes of resale, except pursuant to a tariff or special contract approved by and on file with the Commission.
(b) If it comes to the attention of the utility that any consumer is reselling gas, it shall notify the Commission's Pipeline Safety Department and the PUD Director ~~of the Public Utility Division~~ of the name and address of any consumer reselling gas and/or service. Unless otherwise directed, the utility may continue to provide gas and/or service to the consumer pending review and action by the Commission's Pipeline Safety Department or the PUD Director~~of the Public Utility Division~~. This Section shall not apply to the sales of natural gas to or by a distributor for use as a vehicular fuel.

165:45-15-2. Filing of rate schedules, contracts, agreements, and terms and conditions

(a) It shall be unlawful for a utility to furnish, charge for, or receive payment for gas service, except as authorized by a tariff, special contract or rate schedule on file with and approved by the Commission.
(b) No jurisdictional tariff or rate schedule shall be added, deleted, changed, closed, discontinued, or instituted except by order of the Commission after such notice and hearing, if any, as directed by the Commission or otherwise pursuant to the laws of the state of Oklahoma.
(c) Annual tariff submissions submitted for review and approval by the PUD Director, pursuant to prior Commission order, may be accepted or rejected. If there is a dispute and resolution is not accomplished, the tariff shall be subject to refund as of the date of notice of filing of a cause before the Commission to resolve the dispute.
(~~c~~d) A utility shall not demand or accept payment for service of any kind of a sum greater or less than specified in an approved tariff.
(~~d~~e) A special contract or agreement other than a filed tariff under which gas service is furnished to one (1) or more consumers shall be deemed a tariff for purposes of this Section. No service shall be furnished pursuant to such a contract which has not been filed with and approved by the Commission. Any special contract for gas service shall not become effective except after approval by order of the Commission as herein provided for a tariff.
(~~e~~f) The utility shall maintain in each local office or furnish to a member of the public on request:
(1) A copy of every tariff and rate schedule under which gas service is being furnished to consumers within the area serviced by that local office.
(2) A copy of the approved terms and conditions of service of the utility governing furnishing of gas service.
(3) A copy of this Chapter, and all amendments thereto.
(4) A copy of every franchise, agreement, or permit granted a utility by any municipality and a copy of each rate schedule and contract approved by the FERC applicable to sales by the utility in the State of Oklahoma.
(~~f~~g) An agency for collection of utility bills, not operated by utility company employees, shall not be deemed a local office for purposes of this Chapter.

165:45-15-3. Municipal fees, taxes, and other exactions

The aggregate amount of all franchise payments, or contributions or payments in lieu thereof, or other exactions imposed upon gas utilities by any municipality of this state for engaging in business within the municipality, or for the use and occupancy of its streets and public ways is a matter between the

municipality and the gas utility. The amount of the exactions charged to and collected from the consumers by the utility shall be in accordance with the respective municipal ordinance or statute. The amount of such exactions shall be charged to consumers within said municipality pro rata in accordance with actual revenue associated with the provided service. The amount of such ~~payments~~ charges shall be separately stated as a line item on the regular billings to consumers as a dollar amount.

165:45-15-4. Settlement of disputes

Whenever a dispute or disagreement arises involving the furnishing of utility service or the interpretation of this Chapter, either the utility or any person affected may request the Commission's ~~Consumer Services Division~~ CSD to mediate the dispute, or file a written application or complaint with the Commission. The Commission, after notice and hearing, will make such order thereon as it may deem proper. Proceedings upon such an application or complaint will be governed by the provisions of OAC 165:5.

SUBCHAPTER 17. COMPETITIVE BIDDING AND AFFILIATE TRANSACTION RULES FOR THE PROVISION OF NATURAL GAS SERVICES OF GAS SUPPLY, GATHERING, TRANSMISSION AND STORAGE OF NATURAL GAS UTILITIES UPSTREAM OF THE CITYGATE

165:45-17-1. Purpose of this Subchapter

(a) The purpose of Subchapter 17 is to establish a fair and reasonable process, wherein, the natural gas utility service industry can be restructured in such a manner that will be in the best public interest of all natural gas consumers, and that would complement and improve the state's economic growth by increasing its market base for Oklahoma's greatest natural resource, natural gas. To accomplish this two-fold objective, Subchapter 17 provides for the unbundling of the currently bundled services of gas supply, transmission, storage and gathering upstream of the citygate by the utility, and further provides that these services be competitively bid by entities desiring to participate in a competitive market. Accordingly, the Commission believes that a competitive bidding process is among the most effective means to achieve these objectives. Therefore, it is the policy determination of the Commission that competitive bidding and an unbundling process be utilized by natural gas utilities, and further, the Commission expects Oklahoma gas utilities to comply with this policy determination of the Commission.

(b) It is not the intent of Subchapter 17 to be applicable to downstream unbundling or competition.

(c) Since it is recognized that competitive bidding is not the only means to acquire and receive reliable and least cost natural gas services, this Subchapter also allows for other processes to be proposed by the utility for Commission consideration to acquire and receive those services. A utility seeking to propose processes other than competitive bidding must notify and obtain Commission approval, after notice and hearing, within thirty (30) calendar days prior to implementation of those processes in nonemergency situations. In emergency situations, the utility must notify the Commission within thirty (30) calendar days following implementation.

(d) Failure to utilize competitive bidding to obtain the natural gas services of gas supply, gathering, transmission and storage at the least cost, shall subject the utility to a prudency review, as defined in OAC 165:45-1-2, by the Commission. Subsequent to this review, after notice and hearing, the Commission shall make a determination as it deems necessary and proper, including, but not limited to, disallowance of recovery of the difference between the market price and the price at which the natural gas services were purchased.

(e) It is the intent of the Commission to create a fair and nondiscriminatory competitive market for natural gas services. It should not be construed that this Subchapter absolves or relieves any utility, competitive bidder, or downstream marketer or provider from any duty prescribed by the laws of the State of Oklahoma or the United States including, but not limited to, any state or federal law regarding contractual rights and obligations, antitrust enforcement or liability, or laws against improper restraint on trade or "takings" of property.

(f) This Subchapter also establishes reasonable standards of conduct for transactions between the natural gas utilities and their affiliates conducting business on the utility-owned transmission pipeline within the State of Oklahoma, and for competitive bidders.

(g) To ensure that the public interest is best served by the restructuring of the natural gas industry, the Commission may implement a consumer education program of its own design. The Commission may seek assistance of those parties directly or indirectly involved in the retail sale of natural gas.

165:45-17-9. Unbundling of utility services and access

(a) An application shall be filed by gas utilities with the Commission proposing an unbundling plan for the natural gas services of gas supply, gathering, transmission and storage upstream of all citygates and proposed aggregation points and the appropriate cost allocation and rate design for each of the unbundled services, as classified in OAC 165:70, as follows:

(1) Class A natural gas utilities which provide natural gas services upstream of all citygates and proposed aggregation points shall file an application for an unbundling plan by April 1, 1998, with appropriate documentation including, but not limited to, maps and lists of facilities owned and unbundling of the natural gas services of gas supply, gathering, transmission and storage upstream of the citygate and the appropriate cost allocation and rate design for each of the unbundled services.

(2) Class A natural gas utilities which, at the time of the effective date of Subchapter 17, do not provide natural gas services, except gas supply, upstream of all citygates and proposed aggregation points, shall provide a letter to the PUD Director ~~of the Public Utility Division~~, within sixty (60) calendar days after the effective date of this Subchapter, stating the same with appropriate documentation, including but not limited to, maps and lists of facilities

owned. After review, ~~the Public Utility Division~~ PUD will make a recommendation to the Commission regarding exempting the utility from the requirement to file an unbundling plan.

(3) Class A natural gas utilities which provide natural gas services upstream of all citygates and proposed aggregation points that have less than 25,000 customers may have an automatic wavier for one year or until April 1, 1999, whichever is the shorter time period, to file their respective unbundling plan. The utility seeking said automatic waiver shall contact the PUD Director ~~of the Public Utility Division~~ of such intention within sixty (60) calendar days of the effective date of this Subchapter.

(4) Class B, C and D natural gas utilities which provide natural gas services upstream of all citygates and proposed aggregation points may have an automatic wavier for two years or until April 1, 2000, to file their respective unbundling plan. The utility seeking said automatic waiver shall contact the PUD Director ~~of the Public Utility Division~~ of such intention within sixty (60) calendar days of the effective date of this Subchapter.

(5) Class B, C and D natural gas utilities which, at the time of the effective date of Subchapter 17, do not provide natural gas services, except gas supply, upstream of all citygates and proposed aggregation points, shall provide a letter to the PUD Director~~of the Public Utility Division~~, within sixty (60) calendar days after the effective date of this Subchapter, stating the same with appropriate documentation, including but not limited to, maps and lists of facilities owned. After review, ~~the Public Utility Division~~ PUD will make a recommendation to the Commission regarding exempting the utility from the requirement to file an unbundling plan.

(6) Recognizing the unique situations of small utilities, those utilities serving one thousand (1000) customers or less, regardless of their classification, may file an application requesting an alternative plan or process in lieu of an unbundling plan or may request a complete waiver of the unbundling provisions. The Commission may grant such requested relief if the applicant natural gas utility can establish one or more of the following:

(A) The utility adequately shows that unbundling the natural gas services of gas supply, gathering, transmission and storage upstream of the citygate would create an unreasonable financial hardship for the utility;

(B) The utility would be unable to solicit reasonable competitive bids;

(C) The Commission finds it would not be in the best interest of public health and safety to require natural gas unbundling; or

(D) For other good cause shown as determined by the Commission, after notice and hearing.

(b) **Informal collaborative process.** Prior to the filing of the unbundling plan, the Commission desires that an informal collaborative process and dialogue commence between each Class A utility and potential competitive bidders, including but not limited to, amounts and volumes needed or available, interconnection points, requests for bids, engineering and operational issues, metering, eminent domain, and any other information which can be reasonably discussed prior to approval of the unbundling plan. Any interested party may file a statement with the Commission, with a copy mailed to the utility and the Attorney General, giving its notice of intent to participate in the collaborative process set forth in this subsection.

(c) **Open access to intrastate pipelines.** Comparable nondiscriminatory open access by intrastate pipelines shall be required. Intrastate pipelines shall not take any action that imperils or impedes a competitive bidding process directly or indirectly.

(d) **Access by the utility.** All natural gas utilities must provide comparable, non-discriminatory open access to their facilities and services upstream of the citygate.

165:45-17-11. Application requirements for an unbundling plan; public hearing and plan implementation

(a) In an application for approval of an unbundling plan, the utility shall identify in detail the following:

(1) All Oklahoma jurisdictional facilities it owns and those owned by an affiliate, which have been or can be used in the provision of natural gas services of gas supply, gathering, transmission or storage upstream of the citygate or proposed aggregation point.

(2) The capacity of such facilities identified in paragraph (1) of this Subsection.

(3) Each Oklahoma geographic area in which the utility or an affiliate has provided or can provide the services of gas supply, gathering, transmission or storage upstream of the citygate,

(4) The proposed citygates or other delivery points for which the aforementioned services will be competitively bid. There will be a designated citygate for every city and municipality regardless of the recommended aggregation point. Such designation does not mean actual installation, unless ordered by the Commission.

(5) All natural gas service agreements which may have sole supplier and full requirements provisions or other provisions which may have the effect of restricting competition.

(6) A schedule for competitive bidding for each citygate or proposed aggregation point.

(7) Actual or estimated volumes of natural gas supply delivered to each citygate and proposed aggregation point for the utility's distribution service over each of the thirty-six (36) months preceding the date of application and an estimate for each of the subsequent twelve (12) months.

(8) The actual or reasonable estimate of the peak volume requirements by month of each citygate and/or proposed aggregation point.

(9) The actual or reasonable estimate of the maximum daily and hourly demand for each citygate and proposed aggregation point during the year.

(10) Separate proposed tariffs reflecting all of the natural gas services upstream of the citygate and/or proposed aggregation point including gas supply, gathering, transmission and storage, which the utility proposes to make available for competitive bidding and which the utility will make available. Full documentation together with disaggregated cost of service studies identifying the system wide cost by consumer class or subgroup of each of the services and the allocation of those costs to each citygate or proposed aggregation point, together with all workpapers supporting such studies, shall be included with the proposed tariffs. In addition, an allocation of these system wide costs to each of the utility's citygates and proposed aggregation points shall be included, together with the methodology for making such allocation and workpapers supporting such allocation. The proposed tariff shall also contain the terms and conditions associated with each such service and, with the exception of gas supply, the rate to be charged for each such service based upon the supporting disaggregated cost of service study.

(11) Standard form requests for competitive bidders for gas supply, gathering, transmission and storage upstream of the citygate or proposed aggregation point.

(12) A detailed, itemized estimate to the extent known of the utility's total prudent and verifiable stranded and transition costs together with all workpapers supporting such estimate and the competitive market and any other assumptions underlying such estimate(s).

(13) A standard competitive bidder contract for natural gas services, which shall include appropriate guarantees regarding the delivery of the natural gas services to the citygate.

(14) A map(s) of the gas utility's facilities which includes;

(A) Separate delineation of gathering facilities, storage facilities, transmission facilities and local distribution facilities;

(B) The location of each citygate and/or proposed aggregation point;

(C) The operating pressures of all facilities at and upstream of each citygate and/or proposed aggregation point; and

(D) The capacity of all facilities at and upstream of each citygate and/or proposed aggregation point.

(15) All contracts regarding upstream natural gas services executed subsequent to February 18, 1997.

(16) Any amendments or addendums to any existing contracts regarding upstream natural gas services that were executed after February 18, 1997.

(b) All information and data submitted pursuant to subsection (a) shall be updated annually by supplemental filings. Such filings shall be public information.

(c) Each utility's unbundling application shall be subject to public review, comment and hearing. All hearings on each utility's unbundling application shall be completed and a final Commission order issued no later than one hundred and twenty (120) calendar days following the filing date of the utility's unbundling application, unless otherwise ordered by the Commission.

(d) Upon approval of the unbundling plan, the utility shall implement said plan within twenty (20) calendar days from the date of the Commission's order, unless otherwise ordered by the Commission

165:45-17-13. Competitive bidding

(a) To effectuate the policy of the Commission that a competitive bidding process is among the most effective means to restructure the natural gas service industry in such a manner that will be in the best public interest of all natural gas consumers, and that would complement and improve the state's economic growth by increasing its market base for natural gas, natural gas utilities are to acquire citygate or Commission approved aggregation point gas services through a public bidding process, unless otherwise ordered by the Commission, in accordance with the schedule set forth in each utility's Commission approved unbundling plan, which bidding process shall be subject to Commission oversight.

(b) Recognizing the importance to expediently implement the Commission's policy to begin a competitive bidding process by the heating season of 1998, the citygates of Oklahoma City and Tulsa will have an in-service date of November 1, 1998, subject to a final order by the Commission approving the utility's unbundling plan prior to September 1, 1998. Such bidding shall not commence until the utility's unbundling plan is approved by the Commission.

(c) Any entity desiring to provide the natural gas services of gas supply, gathering, transmission or storage upstream of the citygate or Commission approved aggregation point for a utility may file with the Commission, with a copy mailed to the utility, a written notice of its desire to provide one or more of such citygate natural gas service(s). Such notice shall identify with specificity:

(1) The type of natural gas services it proposes to provide and the geographic areas in which the service(s) would be rendered;

(2) The facilities which would be used in the provision of such service; and

(3) The capacity of such facilities.

(d) All upstream citygate or Commission approved aggregation point gas services required, acquired, or obtained by a gas utility for its citygate(s) or Commission approved aggregation point(s) shall be acquired or obtained by a competitive bid procedure with the following exceptions:

(1) Such citygate or Commission approved aggregation point gas supply which the natural gas utility is obligated to purchase under existing long-term gas purchase or transmission contracts which were entered into prior to February 18, 1997, and were not amended after that date with non-affiliated entities, or were entered into or amended after February 18, 1997 with affiliates or non-affiliates if such contracts or amendments were approved by Commission order, after notice and hearing; provided that these contracts are in effect and such contracts shall be terminated at their earliest opportunity. Nothing in this subpart shall diminish the authority of the Commission to

review any contract of a gas utility for prudency or other reasons.

(2) Such citygate or Commission approved aggregation point gas service required during a bona fide emergency; provided, however, until the initial commencement of competitive citygate or Commission approved aggregation point service to such citygate(s) or Commission approved aggregation point(s), the gas utility shall continue to acquire natural gas services in a manner consistent with all other Commission rules and orders.

(3) Services which are generally not available through competitive bidding such as emergency services, or services which the Commission has found to be acceptable following a prudency review.

(4) Class A utilities shall notify the Commission within fifteen (15) calendar days of the effective date of Subchapter 17, of all contracts that fall under the exception of subsection (d)(1). The utility shall make such contracts available for inspection by the Commission and to intervening parties upon Commission order, after notice and hearing.

(e) When a citygate or Commission approved aggregation point becomes available for competitive bidding pursuant to the schedule set forth in the utility's Commission approved unbundling plan and a notice for such citygate or Commission approved aggregation point has been received as provided under subsection (c), the utility shall provide a request for competitive bid.

(f) If no notice has been received when the citygate or Commission approved aggregation point becomes initially available for competitive bid, the utility shall submit a request for competitive bid within thirty (30) calendar days after receipt of a notice under subsection (c).

(g) A request for competitive bid shall be in accordance with the requirements of this subsection as follows:

(1) The gas utility shall provide a request for competitive bid to the sender of such written notice and any other person or entity the gas utility reasonably believes would be capable of providing natural gas services in question, as well as to the Commission.

(2) Each request for bid shall set out in detail the natural gas services required with sufficient specificity as to volumes, delivery dates, term of contract not less than two (2) years or more than five (5) years for bids submitted prior to the year 2002, and the types of service or other pertinent information, which would permit an informed and meaningful bid to be made.

(3) Each request for bid shall provide for an in service date of not later than six (6) months from the date the bid is awarded to the successful bidder.

(4) If the successful bidder is unable to complete construction by the designated in service date, the bid shall provide that a third party may provide service to the citygate or Commission approved aggregation point on an interim basis until construction can be completed to initiate new service.

(5) Any successful bidder that requires third party service by the utility or its affiliate, pursuant to subsection (g)(4), shall be assessed no more than the rate proposed by that successful bidder. Such interim service shall not exceed one hundred twenty (120) calendar days, except upon order of the Commission.

(h) Any interested person may, within a period of fifteen (15) calendar days following the filing of such request for competitive bid with the Commission, file a complaint with the Commission challenging the criteria or parameters of the request for bid as non-competitive or not necessary to meet the needs or not in the best interest of the customers of the natural gas utility. The Commission shall set the matter for hearing at which all interested persons may appear and the Commission shall determine the criteria.

(i) Any person interested in submitting a bid in response to a request for bid shall submit its bid to the Commission and submit a copy of such bid, under seal, to the utility within thirty (30) calendar days after the natural gas utility's filing of the request for bid with the Commission, or if a complaint is filed challenging the criteria of the request for bid within twenty (20) calendar days following a determination of proper criteria by the Commission. It is the intent that a bid will be sufficiently definite and firm so that, when taken together with the request for bid, its acceptance will result in the formation of an enforceable contract.

(j) To reinforce the integrity of the process, the gas utility and the Commission Staff shall promptly open all sealed bids received, at a date certain, and at the Commission.

(k) The gas utility shall promptly evaluate all bids and make a decision thereon within thirty (30) calendar days following the deadline for submitting bids. A gas utility shall make its decision on an arm's length, stand-alone basis showing no preferential treatment to its affiliate.

(l) The gas utility shall promptly file its decision with the Commission and mail copies of such filing to all bidders and the Attorney General identifying the successful bidder, which filing shall include a copy of the successful bid. Any unsuccessful bidder and the Attorney General shall have fifteen (15) calendar days following filing of the successful bid decision with the Commission to file with the Commission a complaint challenging the decision as not meeting the criteria for decision specified in this subsection and the request for bids.

(m) Upon a determination of the successful bidder, the gas utility and the successful bidder shall promptly proceed to finalize contracts necessary to implement the bid. The contract shall contain appropriate guarantees, as set by the Commission, regarding the reliability of services to be delivered at the citygate or Commission approved aggregation point.

(n) At the request of either party and upon notice and hearing, the Commission shall have authority to determine any disputes between the parties as to terms incidental to the bid. All matters to be determined by the Commission under this Section shall be heard on an expedited basis and a decision rendered thereon within thirty (30) calendar days from filing.

(o) After notice to all bidders and hearing, the Commission shall determine whether the gas utility's decision reveals either a clear departure from the criteria for decision or is erroneous, in which event the gas utility shall be required immediately to

rebid, in accordance with this Section, the citygate gas services which were the subject of such determination.

(p) An upstream related entity or an affiliate of the gas utility may bid competitively to furnish citygate gas service to such natural gas utility in response to such natural gas utility's request for bid. In no event may a gas utility give any preferential treatment or consideration to an upstream entity, including an affiliate of the gas utility, in the preparation of the request for bid, evaluation of bids or in the award of any contract for the supplying of natural gas services to a citygate or Commission approved aggregation point, and no person shall have any right to match any bid made by others or any right of first refusal.

(q) The Commission believes that the public interest would be best served by having independent producers participate in the competitive bidding process. To encourage independent producers, including those new market entrant producers that aggregate their production or that have their production aggregated through amended or prospective agency agreements as service providers to citygates or Commission approved aggregation points, to participate in the competitive bidding, the following provisions apply:

(1) 10% of the competitive bid for gas supply to each citygate or Commission approved aggregation point, which is the subject of a request for bid, will be awarded to the independent producers, provided the independent producers' bids are sufficient to serve 10% for such bid package.

(2) 10% of transmission services for each Commission approved citygate and aggregation point shall be designated for independent producers pursuant to (q)(1).

(3) Independent producers receiving the award pursuant to (q)(1) and/or the discount pursuant to (q)(2) shall be required to match the lowest bid for the service and/or supply.

(4) Upon Commission determination, after notice and hearing, that effective competition exists, any future awards available pursuant to (q)(1) and the discount pursuant to (q)(2) shall be discontinued.

(r) All costs of the utility in providing the natural gas services to a citygate or Commission approved aggregation point that are competitively bid and provided shall be removed from the utility's rates effective the date the competitively bid services are provided to a citygate or Commission approved aggregation point pursuant to this Subchapter. The utility shall file with the Commission documentation of the removal of such costs, which shall be subject to the review and approval or disapproval of the Commission. The utility will be allowed to recover the actual costs paid, as ordered by the Commission, for competitively bid services through either the utility's purchased gas adjustment (PGA) or through a surcharge with a time period which coincides with the contract term for such services. The Commission may determine the method of recovery at the time the utility's unbundling plan is approved. A Commission determination on the recovery of costs should not be construed as deregulation of the utility's facilities and assets. For competitively bid services, the gas utility shall utilize the cost and allocation data filed pursuant to OAC 165:45-17-11 in determining the costs to be removed from the utility's rates with amounts to be adjusted upward or downward by the Commission as appropriate.

(s) No gas utility may charge or allocate any of the costs of furnishing unregulated service or competitively bid service to other regulated service or recover any of the costs of furnishing unregulated service or competitively bid service in its rates and charges for other regulated service. Facilities serving competitively bid service and other regulated service and unregulated service shall be allocated between competitively bid service, other regulated service and unregulated service based on the fully allocated costs actually incurred and separately determined for competitively bid service, other regulated service and unregulated service.

(t) After Commission review of the results of the competitive bidding process, the Commission will make a finding as to whether or not effective competition exists at each citygate or Commission approved aggregation point for each individual service which was competitively bid and what level of regulation is appropriate, if any, and will issue an order to that effect. Accordingly, there shall be no presumption of competition at any citygate or Commission approved aggregation point for each individual service that is being competitively bid prior to a Commission order reflecting the same.

(u) Once there has been a determination by the Commission that effective competition exists at a citygate or Commission approved aggregation point for any individual service which is being competitively bid for such citygate or Commission approved aggregation point, the utility owned transmission pipeline shall not be required to maintain tariffs for services obtained through the competitive bidding process for such specific citygate or Commission approved aggregation point, or in the alternative, the utility shall maintain tariffs as a ceiling level and may be allowed to discount its tariff in order to competitively bid to a specific citygate or Commission approved aggregation point, unless otherwise ordered by the Commission.

165:45-17-17. Public information regarding competitive bidding; bypass and partial and standby service

(a) **Public information regarding competitive bidding.** Each intrastate pipeline or utility owned transmission pipeline shall establish and operate a public web site. The public web site shall be accessible through the Internet and will allow for the posting of gas bidding information in the State of Oklahoma. Within one hundred and twenty (120) calendar days from the effective date of this Subchapter, the transmission pipeline shall submit a good faith statement of operation to the PUD Director ~~of the Public Utility Division~~ which states that the public web site has been established, is operational and is accessible via the Internet, and shall give the specific address of the site.

(1) The following information shall be posted to the site within a reasonable time of the transaction:

(A) Operationally available capacity at mutually agreeable citygate or Commission approved aggregation points and selected interstate delivery points; and

(B) Prices for operationally available capacity at those delivery points itemized in (A) above.

(2) ~~The Public Utility Division~~ PUD shall have free and unrestricted access to the site.

(3) Any entity seeking to competitively bid or requesting access to a transmission pipeline shall be given access to that transmission pipeline's public web site.

(4) Pursuant to the complaint procedures established in OAC 165:45-17-29, ~~the Public Utility Division~~ PUD will assist in negotiations regarding disputes related to information posted to the public web site or nondiscriminatory open access. If no successful agreement can be reached by the parties, any party to the dispute may file an application with the Commission for relief.

(b) **Bypass.** While neither encouraged nor prohibited, it is recognized by the Commission that competition in the natural gas industry creates the opportunity for some end-users of gas utilities, which receive natural gas services pursuant to their respective tariffs, to now, through bypass or duplication of facilities, receive these services from other providers.

(c) **Partial service and standby service.** Any utility, which provides citygate or Commission approved aggregation point natural gas services, must make available partial service and standby service at rates appropriate for such service. Pursuant to this Subchapter, partial service means providing some fractional percentage of service which is less than one-hundred percent (100%) and standby service means a type of service wherein the utility does not provide service continuously but rather stands ready to do so when called upon by the customer. Provision of partial and standby service by a utility shall not jeopardize the reliability of service to residential and other small volume customers. When necessary to protect residential and small volume customers, partial and standby service shall be provided on an interruptible basis.

165:45-17-29. Complaints procedure regarding competitive bidding

(a) **Informal complaints.** Any party who is aggrieved by a competitive bidding process is encouraged to seek informal resolution of their complaints before filing a formal complaint with the Commission. Complaints concerning the competitive bidding process may be submitted in writing to the PUD Director ~~of the Public Utility Division~~, along with all supporting documentation. ~~The Public Utility Division~~ PUD may assist in negotiations regarding complaints. If no successful agreement can be reached by the parties, any party to the dispute may file an application with the Commission for relief.

(b) **Formal complaints.** Any party aggrieved by a competitive bidding process shall have the right to file a complaint with the Commission, in compliance with OAC 165:5 and this Subchapter, against any competitive bidder, if such party believes it has been:

(1) Wrongfully denied access to any intrastate or utility owned transmission pipeline;

(2) Discriminated against with respect to the natural gas services of gas supply, gathering, transmission and storage upstream of the citygate;

(3) Placed at a competitive disadvantage by virtue of the actions of any competitive bidder, or

(4) Adversely impacted by violation of the provisions of this Subchapter.

165:45-17-31. Interconnection

(a) In order to facilitate the Commission's policy to encourage new market entrants, upon the effective date of the rules of this Subchapter, each gas utility shall have the duty to provide for the interconnection of the facilities and equipment of any requesting pipeline with such utility's facilities:

(1) At any technically feasible point with the gas utility's system at or upstream of each citygate or Commission approved aggregation point;

(2) In a manner that is, at least equal in quality to that provided by the utility to itself or to any affiliate, or any other party to which the utility provides interconnection.

(b) Although the Commission seeks to encourage new market entrants, new market entrants are strongly encouraged to bear the reasonable financial costs associated with interconnections. However, in no circumstances should the bid of the new market entrant be deemed inadequate due to the desire of the entrant to have the utility bear the cost for interconnection. In no event shall the utility seek recovery for the interconnection costs ~~born~~ borne by the new market entrant.

(c) The requesting party shall reimburse the utility for all reasonable costs of an interconnection, unless the Commission, after notice and hearing, finds that it is in the best interests of the utilities' consumers for the utility to bear the cost of the interconnection.

(d) The utility may recover from its utility customers the costs involved with providing the interconnection which the Commission has determined, after notice and hearing, to be economically justified.

SUBCHAPTER 19. DOWNSTREAM SERVICES

165:45-19-3. Downstream service unbundling plan

(a) No later than September 1, 1998, each Class A utility with 25,000 or more customers shall commence a collaborative process wherein a downstream unbundling plan shall be developed. Interested parties, including, but not limited to, downstream service providers (marketers), the Attorney General, and the Commission's ~~Public Utility Division~~ PUD, may participate in the collaborative process. The downstream unbundling plan should include but not be limited to the following requirements:

(1) The unbundling of all downstream natural gas services for all classes of customers.

(2) The establishment of an appropriate cost allocation and rate design for the downstream unbundled services.

(3) Standards of conduct for transactions between the utility and its affiliate.

(4) Tariffs reflecting all of the natural gas services that will provide open access to the utility's system by entities

desiring to provide downstream services, establish interconnection requirements and that will allow end-users a choice to obtain natural gas services from entities other than the utility. Each tariff shall identify the terms and conditions under which such service will be made available to any end-user and the maximum rate which the utility may charge for such service.

(5) That transportation shall be provided on a firm and interruptible basis to all end-users on a non-discriminatory basis. Therefore, unless otherwise ordered by the Commission, the transportation proposal should:

(A) Eliminate volume restrictions.

(B) Remove alternate fuel requirements.

(C) Permit aggregation, where operationally and administratively feasible, for the purpose of making small consumer transportation viable; including nomination and imbalance provisions suitable for economically serving such customers.

(D) Specify under what conditions "returning" customers will be accepted and how they will be charged.

(6) Storage and balancing shall be provided as a separately priced service for customers interested in using storage and/or balancing services. This may include options keyed to varying conditions and/or time periods, wherein, each will be separately priced.

(7) Standby shall be provided as a separately priced service for transportation customers who have had their capacity or commodity curtailed.

(8) The utilities should clearly define if, when and how additional metering is required to provide additional services. The utility should be ready to demonstrate that the proposed metering requirements are not discriminatory and are truly necessary for operational reasons.

(9) The utility should propose a mechanism for notifying in-state customers of available interstate capacity. The proposal should include creditworthiness standards, bidding criteria and recall rights for such capacity. The aim of the capacity release program should be to provide the greatest contribution to the system's fixed capacity costs, while maintaining reliability for the firm sales customers.

(10) Curtailment plans should be updated in light of Order No. 636. Transportation customers should not be arbitrarily interrupted. The utilities should consider an operational condition that requires an interruption of load and also consider ways of interrupting only customers in those constrained areas. A pro-rata cutback arrangement may be put in place to relieve capacity constraints. If the utility finds that it is economical, it should arrange for the emergency/peak period use of customer owned gas under prearranged conditions and for a prescribed rate of compensation.

(11) Rate schedules should reflect the appropriate costs to provide each of the above services. Rate structure should be supported by work papers and a description of the methodology employed.

(12) Standards to allow customers to aggregate.

(b) To ensure that the public interest is best served by the restructuring of the natural gas industry, the Commission may implement a consumer education program of its own design. The Commission may seek the assistance of those parties directly or indirectly involved.

(c) The foregoing are intended as guidelines for a competitive rate and tariff structure. Utilities may find that one or more aspects of these guidelines are not practical for various reasons. Where this is the case the utilities may request an exemption from complying with that part of the guidelines. In such cases the utility should provide substantial documentation to support an exemption.

(d) Any interested party may by August 1, 1998, file a statement with the Commission, with a copy mailed to the utility and the Attorney General, giving its notice of intent to participate in the collaborative process set forth in subsection (a).

(e) Each collaborative process set forth in subsection (a) shall establish financial performance standards and appropriate consumer protection measures and safeguards.

(f) On or before April 1, 1999, the utility shall file with the Commission an application for approval of the proposed downstream unbundling plan that was developed as a result of the collaborative process set forth in subsection (a). The Commission shall conduct an examination and review of the utility's application. It is intended that the collaborative process continue between the applicant utility, the entity(ies) desiring to provide the downstream service, the Attorney General and any other party granted intervention status.

(g) The Commission shall conduct a public hearing on the utility's application for approval of its downstream unbundling plan and shall issue an order on or before June 1, 1999.

(h) Upon issuance of the Commission order, the utility shall begin implementation of the approved downstream unbundling plan for an in service date of October 1, 1999.

(i) It is recognized that the unbundling of the downstream system of a currently regulated utility may have potential tax implications. It is, therefore, contemplated that this subsection is subject to modification by the legislature or the Commission regarding tax implications, if any, and that the dates set forth herein may be modified by Commission order as appropriate to address tax issues.

(j) The Commission will, from time to time, reconvene the collaborative group(s) formed in response to subsection (a) for the purposes of monitoring the progress of the unbundling implemented pursuant to this Subchapter and refining, as necessary, the terms, conditions, and rates adopted as a result of those collaborative discussions. New parties may join the collaborative group at any time by giving notice of their intent to participate to a collaborative group as it then exists.

(k) The dates, stated herein, may be reestablished by order of the Commission for utilities with less than 25,000 customers.

(l) In lieu of the requirements of this Subchapter, a utility that has not begun implementation of a downstream unbundling plan as of July 1, 2014, shall submit a statement annually, detailing the basis for which implementation has not occurred, to the PUD Director ~~of the Public Utility Division~~.

SUBCHAPTER 21. HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE

165:45-21-1. Purpose and scope

(a) The purpose of this Subchapter is to ~~encourage~~ require utilities to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made.

(b) The ~~Corporation~~ Commission ~~encourages~~ requires gas utilities to develop, implement, and maintain Homeland Security and Critical Infrastructure Plans according to the industry standards enumerated in sub-section (d) below.

(c) To the extent that a utility seeks to recover costs for security measures outside the scope of a general rate review for the implementation of Homeland Security and/or Critical Infrastructure protections, the utility shall comply with all provisions of this Subchapter.

(d) Each gas utility serving Oklahoma jurisdictional ratepayers is ~~encouraged~~ required to follow the most current applicable United States Department of Transportation, Office of Pipeline Safety's "Pipeline Security Information Circular" and "Pipeline Security Contingency Plan Guidance" ("DOT/OPS Guidelines") or equivalent cybersecurity framework, as may be amended from time to time, for use as guidelines for protecting the utility's Critical Infrastructure from extended service interruption.

(e) Each gas utility seeking to recover costs for security measures from Oklahoma jurisdictional ratepayers outside of a general rate review shall develop, implement, and maintain a Critical Infrastructure and Security Plan as further set forth within this Subchapter.

(f) If the utility has implemented a Security Plan or process in accordance with the applicable industry guidelines but is not seeking or receiving cost recovery for security-related costs, the utility shall submit the Certification Letter required by ~~OAC 165:45-21-7(f)~~ OAC 165:45-21-7(g) and the Plan shall be subject to review pursuant to the Authorized Participation and Confidentiality provisions of OAC 165:45-21-10 and OAC 165:45-21-11. The utility is not otherwise required to comply with the provisions of this Subchapter.

(g) The Commission retains its jurisdictional and supervisory authority to address the reasonableness and/or prudence of any proposed security cost recovery.

(h) Nothing in this subchapter shall relieve any utility from any duty otherwise prescribed by the laws of the State of Oklahoma or this Commission's rules.

(i) Nothing in this Subchapter is intended to divest the utility of its right to object to any discovery requests from intervenors seeking access to "Highly Sensitive Confidential" materials.

(j) If any provision of this Subchapter is held invalid, such invalidity shall not affect other provisions or applications of this Subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Subchapter are declared to be severable.

165:45-21-3. Definitions

The following words and terms, when used in this Subchapter 21, shall have the following meaning, unless the context clearly indicates otherwise:

"Annual Report" means the Annual Report submitted by Commission Staff to the Commission beginning December 30, 2005 and by July 1 of each year thereafter, summarizing the results of Staff's review of each utility's Security Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

"Authorized Participant" means those persons authorized by the utility or as may otherwise be authorized by law and/or ordered by the Commission, to view highly sensitive confidential information. Such authorization shall be granted on a case-by-case basis and may extend to the utility, state government officials, persons having been granted intervenor status by the Commission and Commission authorized designees of the parties.

"Certification Letter" means the written certification to the PUD Director ~~of the Public Utility Division~~ made by August 1, 2005 and by March 1 of each subsequent year thereafter, indicating that as of the date of the Certification Letter, the utility has a Plan or that it has updated the Plan and/or previous Plan Update Reports, has a Plan but is not seeking cost recovery or has no Plan in place.

"Critical Infrastructure" means the property of a utility located in the State of Oklahoma, comprised of either physical assets or computer software which, if severely damaged or destroyed, would have a significant impact on the ability of the utility to serve large numbers of customers for an extended period of time, would have a detrimental impact on the reliability or operability of the utility system, or would cause significant risk to public health and safety.

"DOT/OPS Guidelines" means the guidelines, as may be amended from time to time, that are distributed by the United States Department of Transportation, Office of Pipeline Safety: "Pipeline Security Information Circular" and "Pipeline Security Contingency Plan Guidance."

"Highly Sensitive Confidential" means that the information is of such a sensitive nature that its public disclosure could be harmful to the security of a utility's critical infrastructure and as such it may only be viewed by those persons authorized by the utility or as may otherwise be ordered by the Commission.

"Plan" means a Homeland Security and Critical Infrastructure Plan including any subsequent Plan Update Reports that have been prepared with reference to the DOT/OPS GUIDELINES.

"Plan Update Report" means the written redlined changes made by the utility updating the Plan and/or previous Plan Update Reports. At the utility's option, changes will either be redlined or a history of changes may be maintained.

"Security Cost Rider" means the per billing unit rate mechanism whereby a utility may, upon approval and Order of this Commission, recover the costs of providing security for its Critical Infrastructure as defined under this Subchapter 21.

165:45-21-5. Utility Security Plan

(a) Each gas utility is ~~encouraged~~ required to prepare and make available for inspection, a "Homeland Security and Critical Infrastructure Plan" ("Plan") that has been prepared with reference to the applicable DOT/OPS GUIDELINES or equivalent cybersecurity framework and standard as guidance with a defined cybersecurity strategy.

(b) The Plan shall be marked as "Highly Sensitive Confidential" and designate those facilities that the utility considers to be Critical Infrastructure (physical assets and computer software as defined in OAC 165:45-21-3 above), and shall set forth the utility's measures to secure such facilities from extended service interruption. The Plan shall also include an estimate of the costs necessary to achieve such measures.

(c) The Plan shall remain on site at the utility's business office in accordance with ~~OAC 165:45-21-7(g)~~ OAC 165:45-21-7(h) below and shall have the most current version of the redlined Plan Update Report attached to the clean version of the utility's latest Plan. At the utility's option, changes will either be redlined or a history of changes may be maintained.

(d) The Plan shall list all locations deemed by the utility to be critical, as well as identification of any subsequently increased security measures. All locations and security measures shall be identified by code known only to the utility and designated state government officials and their designees.

(e) Any subsequent security measures identified in the Plan shall contain an estimate of the cost necessary to implement such measures, a description of the measures necessary to adequately secure each specific location and an estimated schedule for completion of each measure.

(f) All locations identified by the Plan that require additional security measures shall be prioritized by the utility.

(g) Beginning December 30, 2005 and on July 1 of each year thereafter, Commission Staff shall submit an Annual Report marked as "Highly Sensitive Confidential" to the Commission, summarizing the results of Staff's review of a utility's Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

(h) Beginning December 30, 2005, where the Attorney General elects to submit recommendations to the Commission regarding a utility's Plan, such recommendations shall be marked as "Highly Sensitive Confidential" and shall also be due by July 1 of each subsequent year thereafter.

165:45-21-7. Reporting requirements

(a) Subsequent to the preparation of the initial Plan prepared under OAC 165:45-21-5(a), each utility shall prepare a Plan Update Report by March 1 of each succeeding year, following the same format as the initial Plan with redlines of all new changes, marked "Highly Sensitive Confidential" and kept on site at the utility's business office.

(b) Each subsequent Plan Update Report shall update the previous year's report by indicating for each specific coded location, all costs and completion dates (actual and projected) for all current and prior additional security measures claimed under this Subchapter.

(c) The utility is required to report cybersecurity or infrastructure security events that affect customers immediately to the PUD Director or designee.

(~~c~~d) For those security measures previously reported that have not yet been completed, revised estimated costs and estimated completion dates shall be provided.

(~~d~~e) The Plan Update Report shall also include (by specific coded location) a description of each proposed security measure that has not been previously reported, the estimated costs for each, as well as the estimated completion date for each measure.

(~~e~~f) Costs reflected in the initial Plan and in subsequent Plan Update Reports, whether estimated or actual, shall be identified as either capital or expense costs.

(~~f~~g) Beginning August 1, 2005 and by March 1 of every year thereafter, and/or when a change is made, each utility shall submit a Certification Letter to the PUD Director ~~of the Public Utility Division~~, marked as "Highly Sensitive Confidential," certifying that as of the date of the Certification Letter:

(1) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated and defined by this Subchapter;

(2) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated and defined by this Subchapter but has otherwise taken steps to secure its Critical Infrastructure and is not seeking cost recovery under this Subchapter;

(3) The utility does have a Plan but is not seeking cost recovery; or

(4) The utility has a Plan and/or has prepared its Plan Update Report updating the Plan and/or previous year's Plan Update Report;

(A) The redlines contained within the current Plan Update Report encompass in the entirety, all of the changes made to the utility's Plan since the Plan's inception or the previous year's certification; and

(B) The Plan and Plan Update Report are available for Commission and/or Attorney General review at the utility's local place of business.

(~~g~~h) A utility shall not be required to file its initial Plan or any of its subsequent Plan Update Reports with the Commission. Each utility shall instead, secure and maintain on site, at the utility's local place of business, its initial Plan and all subsequent Plan Update Reports.

165:45-21-9. Cost recovery

(a) Each utility seeking cost recovery of expenditures outside of a general rate review related to securing its Critical Infrastructure shall prepare and make available for inspection, its Plan and any subsequent Plan Update Reports in accordance with this Subchapter.

(b) A utility shall file an application with the Commission for cost recovery as provided for within this Subchapter. Cost recovery shall be subject to established rate-making principles. Such cost recovery shall only occur to the extent the utility has incurred all or a portion of its actual security-related costs.

(c) Unless otherwise ordered by the Commission, the utility shall have the burden of proving compliance with all of the provisions of this Subchapter prior to obtaining any cost recovery for security related measures.

(d) Upon approval and Order of the Commission, a utility shall be allowed to recover a return based on its weighted cost of long-term debt and equity on all capital expenditures made for security measures. The utility shall also be allowed to recover related depreciation expense and ad valorem taxes. Such recoveries shall be based upon similar ratemaking treatment

for corresponding cost elements from the utility's most recent general rate case.

(e) Upon approval and Order of the Commission, a utility shall be allowed to recover expenses typically classified as operations and maintenance expenses for ratemaking purposes. The utility may request inclusion of any such similar costs incurred as long as these costs are directly associated with the security measures taken.

(f) The total costs incurred under this Subchapter shall be combined for recovery purposes, for consideration by the Commission.

(g) All costs approved by the Commission for recovery, shall be recovered from the utility's customers through a "Security Cost Rider" based on the projected annual billing units for the utility and shall be subject to annual true-up.

(h) Unless otherwise ordered by the Commission, a utility shall immediately discontinue recovery of the "Security Cost Rider" when the earlier of the following occurs: natural expiration due to the full recovery provided for in a Rider granted under this Subchapter or forced expiration required pursuant to OAC 165:45-21-9(i) and/or OAC 165:45-21-9(j). Under no circumstances, shall the utility be permitted to double recover Homeland Security and Critical Infrastructure related costs.

(i) Unless otherwise ordered by the Commission, any utility with a "Security Cost Rider" currently in effect, that files for a general rate change, shall include in the rate case, all security-related costs and those costs shall be accorded standard ratemaking treatment. A utility shall discontinue its "Security Cost Rider" when the change in rates becomes effective upon Final Order in the rate case.

(j) Unless otherwise ordered by the Commission, all "Security Cost Riders" approved by the Commission, shall expire five years from the initial date of the "Security Cost Rider's" implementation.

(k) Upon the filing of a cost recovery request by a utility, Commission Staff, the state Attorney General's office (based upon that entity's statutory authority) and all other Authorized Participants shall review the cost recovery proposal submitted by the utility and file testimony in accordance with:

(1) Any applicable protective orders issued by the Commission in the security-related cost recovery cause;

(2) OAC 165:45-21-11 (below);

(3) The Commission's Rules of Practice (OAC 165:5); and

(4) Any other protective measures or requirements prescribed by law or the Commission.

(l) Testimony of Commission Staff, the state Attorney General and all other Authorized Participants, shall detail each of the parties' respective recommendations and any objections to the utility's Plan and the utility's request for cost recovery related to the Plan. Also in accordance with the Commission's Rules of Practice, Commission Staff, the state Attorney General and all other Authorized Participants shall provide copies of their respective individual testimonies to one another, with redacted versions of each individual testimony filed with the Commission's Court Clerk ~~at the Commission~~.

(m) Upon notice and hearing, the Commission shall issue an Order regarding any requests for security-related cost recovery.

165:45-21-11. Confidentiality

(a) Pursuant to the Commission's jurisdiction granted under Article IX, Section 18 of the Oklahoma Constitution, 51 O.S. (2001) §24A.22 of the Oklahoma Statutes and OAC 165:5, the Commission's Rules of Practice; all un-redacted documents related to a utility's Homeland Security and Critical Infrastructure Plan shall be considered "Highly Sensitive and Confidential" and shall only be admitted into evidence in en camera proceedings.

(b) "Highly Sensitive Confidential" designation and protection shall extend but not be limited to the following: initial Plans (including underlying documents), Plan Update Reports, Certification Letters, Annual Reports made by Commission Staff, recommendations submitted by the Attorney General of the State of Oklahoma and un-redacted documents used in cost recovery proceedings. For all other documents, the "Highly Sensitive Confidential" designation may be granted upon hearing and Final Order of the Commission.

(c) Each utility's Plan and/or Plan Update Report prepared in accordance with this Subchapter, shall be marked "Highly Sensitive Confidential" and shall be kept and maintained on site at the utility's business office in accordance with ~~OAC 165:45-21-7(g)~~ OAC 165:45-21-7(h), above. Only those individuals on the Staff of the ~~Corporation~~ Commission and in the State Attorney General's office and their respective experts who have been authorized by the Commission, shall have access to the Plan and Plan Update Reports prepared by each utility and any related or supporting documentation thereto. All other parties granted authorized intervenor status to a security cause pursuant to OAC 165:45-21-10(c) may also be granted access to the Plan, Plan Update Reports and supporting documentation after notice and hearing.

APPENDIX A. THIRTY (30) DAY MEDICAL VERIFICATION CERTIFICATE TO SUSPEND DISCONNECTION FOR LIVE THREATENING HEALTH CONDITIONS [REVOKED]

APPENDIX A. THIRTY (30) DAY MEDICAL VERIFICATION CERTIFICATE TO SUSPEND DISCONNECTION FOR LIVE THREATENING HEALTH CONDITIONS [NEW]

Thirty (30) Day Medical Verification Certificate To Suspend Disconnection For Life Threatening Health Conditions

A. INSTRUCTIONS

The Oklahoma Corporation Commission requires gas utilities under its jurisdiction to suspend disconnection of service, or reconnect if disconnected, when a utility consumer or a permanent member of the household has a medical condition wherein discontinuance of the gas service would be life-threatening. A life-threatening condition is defined as one where the consumer or other permanent resident of the household is dependent upon gas-operated equipment that is prescribed by a physician and is needed to sustain the person's life.

Examples of life-sustaining equipment include: kidney dialysis machine, iron lung, oxygen concentrator and certain other oxygen machines, cardiac monitor, heating and air-conditioning equipment, or any other equipment that is prescribed by a licensed medical doctor. If battery backup is normally available for the life-sustaining equipment, then the medical condition is not considered life-threatening. The following equipment is not considered to be life-sustaining equipment: hot water heater, refrigerator, range/stove, nebulizer that is battery-driven or hand-driven or self-contained, battery-driven sleep apnea monitor, battery-driven cardiac monitor.

The utility consumer may initially certify the condition by completing "Form For Utility Consumer Verification" which will suspend disconnection of gas service to the specified residence for a period of thirty (30) calendar days from the initial notification. After the initial thirty (30) calendar days, normal collection action will resume.

An additional thirty (30) calendar-day period shall be extended by the utility at the request of the utility consumer accompanied with verification by a medical or osteopath doctor (use "Form For Medical Or Osteopathic Doctor Verification"). The request for the additional thirty (30) calendar-day extension must be made before the end of the initial thirty (30) calendar-day period. The utility is not required to furnish service to the consumer beyond a total of sixty (60) calendar days for a life-threatening condition without full payment of the account or acceptable payment arrangements on any unpaid balance unless otherwise directed by the Commission. Failure of the consumer to fully comply may result in denial of life-threatening status and renewed collection activity by the utility, including termination of service to the residence.

We appreciate your willingness to participate as a verifier and trust you will do so advisedly, considering the fact that energy consumed during this suspension period must eventually be paid for by the utility consumer. Our intent is to ensure that those utility consumers having genuine life-threatening situations in their homes are not mistaken for those who would abuse this privilege at the expense of others.

B. FORM FOR UTILITY CONSUMER VERIFICATION
(to be completed by the utility consumer for the initial thirty (30) day period)

Name of Consumer?_____
Gas Account No._____

Address_____

City_____**State**_____**Zip**_____**Home Phone**_____

Place of Employment_____

Name of Impaired Individual if other than consumer_____

Relationship to Consumer if other than consumer_____

By signing this Medical Certificate, I acknowledge that a permanent resident of the household is applying for the medical verification certificate to suspend disconnection of gas service for life-threatening conditions and, as the consumer, I am responsible for the payment of bills rendered for gas service during this suspension of disconnection.?

Consumer's Signature_____**Date**_____

C. FORM FOR MEDICAL OR OSTEOPATHIC DOCTOR VERIFICATION
(to be completed by a medical or osteopathic doctor for an additional thirty (30) day period)

Name of Patient_____
Nature of Medical Problem_____
_____
Is this condition considered life-threatening without gas service? Yes_____**?No**___
What is the estimated duration of the life-threatening condition?_____
_____
Specify the effect that discontinuance of gas service might have upon the health of the impaired individual.?_____
_____
Specify any gas-operated equipment necessitated by the medical problem.?_____
_____
Doctor's Name_____
Business Phone_____
Address_____
City_____**State**_____**Zip**_____
Doctor's Signature_____**Date**_____

[OAR Docket #19-494; filed 5-31-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 50. FUEL, PURCHASED GAS, AND PURCHASED POWER ADJUSTMENT CLAUSES

[OAR Docket #19-486]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
165:50-1-2. Definitions [AMENDED]
Subchapter 3. Contents and Standard Provisions of Adjustment Clauses
165:50-3-2. Standard fuel and purchased gas adjustment clause provisions [AMENDED]
165:50-3-3. Standard purchased power adjustment clause provisions; electric cooperatives [AMENDED]
Subchapter 5. Requirements and Procedures Relating to Adjustment Clauses Employed by Public Utilities
165:50-5-2. Monthly adjustments with respect to any approved fuel adjustment clause [AMENDED]
165:50-5-3. Monitoring of fuel adjustment clauses [AMENDED]
165:50-5-5. Report of fuel adjustment clauses by the electric generation cooperatives [AMENDED]
165:50-5-6. Inapplicability of certain rules to electric distribution cooperatives [AMENDED]
Subchapter 7. Purchased Power Adjustment Clauses for Electric Distribution Cooperatives
165:50-7-2. Monitoring of application of adjustment clauses [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution; 17 O.S. § 152(A); and 17 O.S. §§ 158.21 *et seq.*
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 15, 2019.
COMMENT PERIOD:
October 19, 2018 through December 3, 2018
PUBLIC HEARING:
February 7, 2019
ADOPTION:
February 7, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 15, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The purpose of the proposed rules is to add the definition of "PUD" and provide general grammatical changes; clarifying calendar days versus business days; removing REA Form 7A and adding Rural Utility Service (RUS) Form 7; changing references in the rules from "filing" of information with the Commission to "submission" of information to the Commission; and identifying the recipient(s) of the submissions.
CONTACT PERSON:
Jeff W. Kline, Deputy General Counsel, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73105, telephone (405) 521-2308, j.kline@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:50-1-2. Definitions

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

"Act" means 17 O.S. 1977 Supp. §§ 250-64 and as it may hereafter be amended.

"Affiliate," "affiliated person," "corporation," "firm," or **"subsidiary"** means any person, subsidiary, firm, or corporation which is controlled by an entity that also controls the utility, or the utility or an entity controlling the utility has directly or indirectly the power to control.

"Commission" shall mean or refer to the Oklahoma Corporation Commission.

"Electric distribution cooperative" means a cooperative corporation organized and doing business under the Rural Electric Cooperative Act, 18 O.S. 1971, § § 437-437.30, engaged in the retail distribution of electric energy.

"Electric generation cooperative" means a cooperative corporation organized and doing business under the Rural Electric Cooperative Act, 18 O.S. 1971, § § 437-437.30 engaged in the generation and distribution for resale of electric energy.

"Emergency sales of gas" means sales of natural gas made by a public utility or subsidiary thereof to one or more interstate pipelines or other out-of-state customer pursuant to federal law which exempts such transactions from the jurisdiction of the Federal Power Commission.

"Fair field price" means the value attributed to gas produced from wells owned by a public utility, or a subsidiary, or affiliate of a public utility, which shall be the going price paid by the utility, subsidiary, or affiliate to others in the field where such production is located. If the utility, subsidiary, or affiliate is not purchasing gas in such field, then such value shall be the price paid by the utility, subsidiary, or affiliate in the nearest field where conditions are similar. The value to be attributed to residue gas owned by a public utility, or a subsidiary, or affiliate of a public utility, from gas processing plants shall be the going price paid by the utility, subsidiary, or affiliate to others from the same plant. If the utility, subsidiary, or affiliate is not purchasing gas from said plant, then the value shall be the price paid by the utility, subsidiary, or affiliate at the nearest plant where conditions are similar. However, the Commission may require an adjustment of the fair field price when it deems it proper to do so based on information before it.

"Fuel adjustment clause" means any mechanism which allows a public utility or electric generating cooperative to automatically adjust its charges above or below the base amount included in its rates, based upon changes in costs of fuel for generation of electricity, purchased power, or purchased gas, and shall include purchased gas adjustment clauses.

"Heat rate" means a measure of the efficiency of an electric generating station, computed by dividing the total British thermal unit content of the fuel burned by the resulting net kilowatt-hours generated.

"Line loss" means the kilowatt-hours of electricity lost in the operation of an electric transmission or distribution system.

"Public utility" or **"utility"** means any individual, firm, association, partnership, corporation, or any combination thereof, other than a municipal corporation or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electricity, or transmitting, directly or indirectly, or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public or for wholesale, unless its wholesale rates are regulated by a federal agency.

"PUD" means the Public Utility Division of the Oklahoma Corporation Commission.

"Purchased gas adjustment clause" means fuel adjustment clause which allows a public utility ~~or electric generating cooperative~~ to automatically adjust its charges above or below the base amount included in its rates, based upon changes in the cost of purchased gas.

"Purchased power adjustment clause" means any mechanism which allows an electric public utility or electric distribution cooperative to adjust its charges above or below the base amount included in its rates based upon changes in costs of wholesale power purchased from others.

"Thousand cubic feet" or **"Mcf"** means that quantity of gas occupying one thousand cubic feet of space at 60 degrees Fahrenheit (60^{c} F) and an absolute pressure as stated in the utility's tariffs.

SUBCHAPTER 3. CONTENTS AND STANDARD PROVISIONS OF ADJUSTMENT CLAUSES

165:50-3-2. Standard fuel and purchased gas adjustment clause provisions

(a) Standard fuel and purchased gas adjustment provisions set forth in (1) and (2) of this subsection are hereby adopted for use, insofar as feasible, by the public utilities subject to the jurisdiction of the Commission.

(1) **Electric.** The method for use in compensating for charges in cost of fuel is as follows:

(A) Each utility generating electricity and having an approved cost of fuel adjustment clause in its tariff, subject to the Commission's jurisdiction, shall compensate for any variations in the average cost of fuel burned at the utility's thermal generating plant(s) above or below the cost of fuel used in each tariff on which the rate was based, by adjusting the charges, either upward or downward per kWh, billed under its tariffs, approved agreements and special contracts by employing a method approved by the Commission in a public hearing process.

(B) The monthly average actual heat content of each fuel burned and thermal efficiency of each generating plant shall be reported in British Thermal Units (BTU) on a monthly basis to ~~the Public Utility Division~~ PUD. The actual fuel burned and generation for each generating plant shall be reported by fuel type in BTU content, tons, or gallons, as appropriate.

(C) Line losses shall be considered only if reliable evidence clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return. If line losses are allowed by the Commission, the utility will ~~file~~ submit a copy of the most recent applicable line loss study. Line losses will be evaluated for reasonableness on a case-by-case basis.

(2) **Gas.**

(A) **Pressure base.** For the purposes of calculations made in this paragraph, all volumes of gas will be adjusted to a pressure base of the pounds per square inch absolute on which the utility's rates are established and in accordance with gas measurement procedures standard in the industry. All reports to the Commission will be at 14.73 p.s.i.a. pressure base, detailing the conversion multipliers used.

(B) **Determination of Mcf and price paid therefore upon initial receipt of gas.** The total Mcf and the dollar amounts paid therefore shall be calculated for each accounting month on the basis of:

(i) The volumes of gas purchased by the utility or an affiliate from nonaffiliated producers, gatherers, processors, pipelines, and transporters, and the price paid for such gas, and

(ii) The volumes valued at the fair field price represented by gas received from wells owned by the utility or an affiliate and residue gas owned by the utility or an affiliate from gas processing plants, which gas is delivered into the utility's pipeline system, into the pipeline system of an affiliate of the utility, or directly to the utility's customers.

(C) **Adjustments to calculations.** Adjustments to the total Mcf and dollar amounts as determined pursuant to (B) of this paragraph shall be made for volumes of gas removed by treating or processing facilities and compression facilities located on the downstream side of any initial volume or value determination point. The total Mcf and associated value removed from the gas stream due to such treating, processing, and compression shall be subtracted from the total Mcf and dollar amounts as determined pursuant to (B) of this paragraph.

(D) **Gas storage injections and withdrawals.** Accurate records shall be kept to determine the total Mcf and associated value of gas injected into or withdrawn from storages. Each utility having gas in underground storage shall report to the Commission on or before the sixtieth (60th) calendar day following the last day of each month the amount and purchased

cost of gas in storage as of the last day of the preceding month. This report shall be made on a form as approved by the Commission. Total Mcf and associated value shall be subtracted from the total amounts determined pursuant to (B) of this paragraph for any gas injected into storage during the accounting month for which the average cost of gas is being determined. Total Mcf and associated value for any gas withdrawn from storage during the accounting month for which the cost of gas is being determined shall be determined using the last-in, first-out method of inventory accounting and shall be added to the total amounts determined pursuant to (B) of this paragraph.

(E) **Other provisions.** Special provisions which are approved by the utility tariffs.

(F) **Determination of the weighted average cost per Mcf.** The weighted average cost per Mcf for each accounting month shall be calculated by totaling the Mcf and dollar amounts as determined pursuant to the preceding subparagraphs and divided the total dollar amount by the total Mcf.

(G) **Application of the average cost of purchased gas.** Whenever the average cost of purchased gas, determined as provided in the preceding subsections, is less than the base cost per Mcf as specified in the utility's approved tariff, the applicable rate per Mcf of gas delivered will be reduced by an amount equal to the amount that the utility's average cost of purchased gas is less than the base cost per Mcf as specified in the utility's approved tariff. When the average cost of purchased gas is more than the base cost per Mcf as specified in the utility's approved tariff, the applicable rate per Mcf of gas delivered will be increased by an amount equal to the amount that the utility's average cost of purchased gas is more than the base cost per Mcf as specified in the utility's approved tariff. The purchased gas adjustment to be applied to any bill will be based on the average cost of purchased gas for the latest gas purchase accounting month for which said cost has been determined.

(H) **Credits.** Any credits, refunds, or allowances on previously purchased gas received by the utility from any supplier shall be deducted from the cost of gas before computations are made each month.

(I) **Average actual heat content.** Where available, monthly average actual heat content of gas delivered to end users shall be provided in BTUs to ~~the Public Utility Division staff~~ PUD during its annual fuel audit of the utility. The information shall be supplied by utility-defined regions, if available.

(b) Variations from the standard provisions set forth in this Section must be sought pursuant to applications for permission to use such clauses to be filed pursuant to 165:50-5-1.

165:50-3-3. Standard purchased power adjustment clause provisions; electric cooperatives

(a) A Commission-approved purchased power adjustment provision may be adopted for use by electric distribution cooperatives subject to the jurisdiction of the Commission. The method for use by electric distribution cooperatives in compensating for change in the cost of purchased power is as follows:

(1) Each electric distribution cooperative having an approved purchased power adjustment clause in its tariffs designed to compensate for any variation in the cost of purchased power above or below the base costs upon which the tariffs are based, by adjusting the charges, either upward or downward per kWh, billed under its tariffs, agreements, and special contracts approved by the Commission, shall employ the following formula to compensate for such variation: P.A. = (A), where:

(A) P.A. = Power cost adjustment per kWh to be made, and

(B) A = the amount in cents or fraction thereof by which the average cost of power per kWh paid to suppliers of power by the cooperative exceeds or is less than the cost of power per kWh used in the tariffs as the cost of power on which the rate was based. Any credits, refunds, or allowances on previously purchased power by the cooperative from any suppliers shall be deducted from the cost of purchased power before calculating "A" each month.

(2) The Commission shall include in a purchased power adjustment clause an allowance for line losses if a preponderance of evidence points to the probable conclusion that failure to do so will result in less than a reasonable rate of return for the cooperative. When line losses are included in the purchased power adjustment charge, the following formula shall be used: P.A.= A÷(1-B), where:

(A) P.A. and A have the same meaning as in the formula in (a)(1) of this Section.

(B) B = The actual percentage of power losses expressed decimally.

(C) This power loss will be computed monthly based on the following formula:

(i) X = The total purchases in the twelve (12) month period ending one (1) month prior to the sales period.

(ii) Y = The total sales for the preceding twelve (12) month period.

(D) Then: B = (X - Y) ÷ X

(3) Each electric distribution cooperative shall ~~file monthly with the purchased power adjustment a rolling twelve (12) month average line loss schedule. Each electric distribution cooperative shall file annually each calendar year a five (5) year analysis of the line loss by month with the purchased power adjustment clause that coincides with the filing of the annual REA Form 7A.~~ submit the following to PUD, and other parties as directed by a Commission Order or tariff, on a monthly basis:

(A) The purchased power adjustment clause, including the factors enumerated in (2) above;

(B) A rolling twelve (12) month average line loss schedule.

(4) Each electric distribution cooperative shall file annually each calendar year a five (5) year analysis of the line loss by month with the purchased power adjustment clause that coincides with the filing of the annual Rural Utility Service (RUS) Form 7.

(~~4~~5) Line losses will be evaluated for reasonableness on a case-by-case basis.

Variations from the standard provisions set forth in this Section must be sought pursuant to applications for permission to use such clauses, to be filed pursuant to 165:50-7-1.

SUBCHAPTER 5. REQUIREMENTS AND PROCEDURES RELATING TO ADJUSTMENT CLAUSES EMPLOYED BY PUBLIC UTILITIES

165:50-5-2. Monthly adjustments with respect to any approved fuel adjustment clause

(a) No proposed monthly fuel adjustment, purchased power adjustment, or purchased gas adjustment by any public utility shall become effective until after the Commission has had an opportunity, as provided in (c) of this Section, to determine that the adjustment is calculated in accordance with the terms and conditions of the applicable fuel adjustment clause.

(b) Prior to the effectiveness of any monthly fuel, purchased gas, or purchased power adjustment proposed by a public utility, such utility shall file with the Commission, by submitting the following to PUD and other parties as directed by a Commission Order or tariff:

(1) A statement of the items and costs making up the average cost of fuel per million Btu and associated costs in dollars and cents or fraction thereof.

(2) A summary of its fuel and gas purchase invoices and its computations of the proposed monthly fuel adjustment or purchased gas adjustment charges.

(3) A summary of inventory records of fuel and gas going into and taken out of stockpile or storage.

(4) A report containing the average unit price, the change in the average unit price, the volume purchased, and a brief explanation of such unit cost increase.

(5) Any other records which ~~the Commission~~ PUD may request, including, but not limited to, the heat rate efficiency and delivery efficiency for affected electric public utilities and the actual capacity factor for each generating facility utilized to produce electric power.

(c) The records and computations submitted pursuant to (b) of this Section shall be open to public inspection at the Commission.

(d) ~~The Commission~~ PUD or any other affected party shall have five (5) business days after the records and computations prescribed in (b) of this Section have been ~~filed~~ submitted to ~~determine the necessity of administrative proceeding~~ request a hearing thereon. If ~~the Commission does not determine that~~ a hearing ~~is required~~ is not requested, the proposed adjustment charge shall become effective as ~~filed~~ submitted. In the event PUD or an affected party requests a hearing, and the Commission decides to hold a hearing on the information ~~filed~~ submitted, it shall notify the public utility within such five (5) business day period, set the matter for a public hearing to commence within thirty (30) calendar days thereafter, and give notice thereof at least three (3) business days prior to the commencement of such hearing by publication in a newspaper of general circulation in the area served by such utility. The issue to be determined at such hearing shall be either or both of the following determinations

(1) Whether charges or credits made under the fuel adjustment clauses are based upon the actual prices paid for fuel, purchased gas, or purchased power and are properly computed in accordance with the applicable adjustment clause.

(2) Whether the fuel adjustment clauses should be discontinued, amended, or suspended.

(e) In the event that the Commission determines that it is necessary to set any proposed adjustment charge for hearing, the proposed charge shall nevertheless become effective at the option of the utility following the expiration of the five (5) business day period after its records and computations have been ~~filed~~ submitted, pending the Commission's finding with respect to such charges. However, in the discretion of the Commission, the effectiveness of the proposed charge may be conditioned upon the ~~filing~~ submission by the utility with the Commission of an assurance satisfactory to the Commission, which may include a bond with surety of the utility's ability and willingness to refund to its customers any such amounts as the utility may collect from them in excess of the charge approved by the Commission in its finding. If the Commission has not approved, in whole or in part, or denied the proposed charge within ~~a~~ seven (7) ~~day period~~ business days subsequent to the commencement of such hearing, it shall promptly submit a written explanation of its failure to do so to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Office of the Governor.

165:50-5-3. Monitoring of fuel adjustment clauses

The Commission shall continually monitor and oversee the application of all fuel adjustment clauses. A general public hearing relating to the fuel, purchased gas, and purchased power adjustment clauses of all public utilities shall be held whenever the Commission deems it necessary, but no less frequently than once every twelve (12) months. The following procedure shall be followed with respect to such hearings:

(1) Upon application by ~~the Commission staff~~ PUD, an order shall be entered setting a hearing date, and notice shall be given in the form and manner prescribed by the Commission in such order.

(2) ~~The Commission staff~~ PUD, or any other person or entity objecting to the operation of a utility's fuel, purchased gas, or purchased power adjustment clause, shall, at or before such general hearing, file with the Commission a complaint in writing setting forth the reasons for such objection. Thereafter, a separate proceeding involving such utility shall be conducted, in accordance with the Commission's Rules of Practice [OAC 165:5].

(A) If no complaint is filed before or at such general hearing with respect to the operation of the fuel, purchased gas, or purchased power adjustment clauses of a utility, no further proceedings shall be had thereon.

(B) If a complaint is filed, the Commission shall at the general hearing set a date for a further hearing with respect to each utility against which a complaint has been filed. The issues to be determined at such further hearing shall be one or more of the following determinations:

(i) Whether the charges or credits are based upon the actual prices paid for fuel, purchased power, or purchased gas.

(ii) Whether the charges or credits are properly computed in accordance with the applicable fuel adjustment clause.

(iii) Whether the fuel adjustment clause should be amended, discontinued, or suspended because of a change in circumstances since the fuel adjustment clause was approved.

(3) If the Commission finds that the charges or credits are not based upon the actual prices paid for fuel, purchased gas, or purchased power or are not properly computed in accordance with the applicable adjustment clause, it shall recompute the charges or credits and shall direct the public utility to take such action as may be required to insure that the charges or credits properly reflect the actual prices paid for fuel, purchased gas, or purchased power and are properly computed in accordance with the applicable adjustment clause for the applicable period.

165:50-5-5. Report of fuel adjustment clauses by the electric generation cooperatives

(a) Electric generation cooperatives which determine to utilize a fuel adjustment clause shall report such fuel adjustment clause to the Commission. Such cooperatives shall file monthly with ~~the Commission~~ PUD and other parties as directed by Commission Order or tariff by submitting the following:

(1) A report of adjustments charged or credited to its wholesale electric customers on its current monthly billing.

(2) A statement of the items and costs making up the average cost of fuel per million Btu and associated costs in dollars and cents or fraction thereof.

(3) A summary of its fuel and gas purchase invoices and its computation of the proposed monthly fuel adjustment charges.

(4) A summary of inventory records of fuel going into and taken out of stockpile or storage.

(5) A report containing the average unit price, the change in the average unit price, the volume purchased, and a brief explanation of any change in such unit cost.

(6) Any other records pertaining to fuel adjustment charges deemed necessary by the Commission including, but not limited to, the heat rate efficiency and delivery efficiency for affected electric generating cooperatives and the actual capacity factor for each generating facility utilized to produce electric power.

(b) The records and computations provided for in this Chapter shall be open to public inspection at the office of the Commission.

165:50-5-6. Inapplicability of certain rules to electric distribution cooperatives

Sections 165:50-3-1, 165:50-3-2, and 165:50-5-1 through 165:50-5-5~~, 165:50-3-1, and 165:50-3-2~~ in this Chapter shall be inapplicable to electric distribution cooperatives, except as provided in this Chapter.

SUBCHAPTER 7. PURCHASED POWER ADJUSTMENT CLAUSES FOR ELECTRIC DISTRIBUTION COOPERATIVES

165:50-7-2. Monitoring of application of adjustment clauses

Whenever the Commission approves a purchased power adjustment clause pursuant to 165:50-3-3 and 165:50-7-1~~ and 165:50-3-3~~, the clause shall apply to all similar distribution cooperatives affected by such increased cost. In addition, the Commission shall continually monitor and oversee the application of the adjustment clauses. The Commission shall hold a public hearing thereon whenever it deems it necessary, but no less frequently than once every twelve (12) months. The following procedure shall be followed with respect to such hearings:

(1) Upon application by the Commission staff, an order shall be entered setting a hearing date and notice thereof shall be given in the form and manner prescribed by the Commission in such order.

(2) The Commission staff, or any other person or entity objecting to the operation of an electric distribution cooperative's purchased power adjustment clause, shall, at or before such general hearing, file with the Commission a complaint in writing setting forth the reasons for such objection. Thereafter, an appropriate proceeding involving such electric distribution cooperative shall be conducted, in accordance with the Commission's Rules of Practice [OAC 165:5].

(A) If no complaint is filed before or at such general hearing with respect to the operation of the purchased power adjustment clause of an electric distribution cooperative, no further proceeding shall be had thereon.

(B) If a complaint is filed, the Commission shall at the general hearing set an appropriate time for the complaint to be heard, and the issues to be determined at such hearing shall be one or more of the following determinations:

(i) Whether the charges or credits made under the adjustment clauses are based upon the actual prices paid for purchased power.

(ii) Whether the charges or credits are properly computed in accordance with the applicable adjustment clause.

(iii) Whether that portion representing fuel adjustment charges made by an electric generation cooperative are fair, equitable, and properly computed.

(iv) Whether the purchased power adjustment clause should be amended, suspended, or discontinued because of a change in circumstances since the purchased power adjustment clause was approved.

(3) If the Commission finds that the charges or credits are not based upon the actual prices paid for purchased power or are not properly computed in accordance with the applicable adjustment clause, it shall re-compute the charges or credits and shall direct the electric distribution cooperative to take such action as may be required to insure that the charges or credits properly reflect the actual price paid for purchased power and are properly computed in accordance with the applicable adjustment clause for the applicable period.

[OAR Docket #19-486; filed 5-31-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 55. TELECOMMUNICATIONS SERVICES

[OAR Docket #19-487]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Certificates, Reports, and Records
Part 5. Record Requirements
165:55-3-22. Records to be provided to the Commission [AMENDED]
Subchapter 7. Directories, Telephone Numbers, and Customer-Provided Equipment
165:55-7-1. Telephone directories [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution, and 17 O.S. §§ 131 *et seq*.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 15, 2019.
COMMENT PERIOD:
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EFFECTIVE:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rules move the submission of the Annual Report of Operations from May 1 to April 1. Additionally, the adopted rules require each telecommunications service provider to provide specific contact information to the Public Utility Division. Finally, the adopted rules create a notification process, and establishes requirements for a telecommunications service provider to discontinue preparing and distributing printed white pages to its customers.
CONTACT PERSON:
Jeff W. Kline, Deputy General Counsel, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73105, telephone (405) 521-2308, j.kline@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 3. CERTIFICATES, REPORTS, AND RECORDS

PART 5. RECORD REQUIREMENTS

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

(a) **Annual report of operations.** Each telecommunications service provider and IXC shall provide to the Director of the Public Utility Division an annual report, in a format developed by the Director of the Public Utility Division, no later than ~~May~~ April 1 of the year following the reporting year. Proposed revisions to the Annual Report format will be posted to the OCC website at least ninety (90) days prior to their effective date. All carriers will be notified of the posting via e-mail, based on addresses supplied by carriers. Any carrier that objects to the proposed revisions to the Annual Report format may file an Application with the Commission requesting relief from the applicability of the format changes. The filing of an Application will suspend the applicability of the proposed format revisions until an Order is issued by the Commission. Unless an Order revising the Annual Report format is entered at least 90 days prior to the ~~May~~ April 1 filing deadline, carriers will not be required to file an Annual Report in the revised format until the following year.

(b) **Confidentiality of annual report.** All non-publicly available information included in the annual report or an ETC's FCC Form 481 or FCC Form 555 will be considered confidential by the OCC.

(c) **Proof of third-party surety bond, surety bond or irrevocable letter of credit.** Where applicable, not later than May 1 of each year, each telecommunications service provider and IXC which does not have at least one million dollars ($1,000,000) net book value invested in telecommunications plant and/or telecommunications facilities located in the State of Oklahoma, shall provide annually, to the Director of the Public Utility Division, proof of the continuing existence and

sufficiency of the required third-party surety bond, surety bond or irrevocable letter of credit providing coverage at a level of at least one hundred and ten percent (110%) of customer deposits. Such proof shall be in a format developed by the Director of the Public Utility Division and approved by the Commission.

(d) **Exchange maps.** Each telecommunications service provider shall provide the Director of the Public Utility Division two (2) copies of updated exchange maps when the boundaries of an exchange(s) are changed. The maps and descriptions shall be in sufficient detail to permit the location of exchange boundaries on the ground, and be consistent with the format set forth in this subsection.

(1) Each exchange map provided after the effective date of this Chapter shall conform to the following:

(A) One exchange service area per sheet.

(B) Each map shall be on eight and one-half by eleven inches (8.5" x 11") (or larger sheet which folds down to eight and one-half by eleven inches (8.5" x 11"), twenty pounds (20 lbs.) or heavier, white paper.

(C) Each township and range will be specified along the side of the map and, at a minimum, each corner section will be numbered.

(D) The outline of the exchange service area will be a heavy black line with an "E" every one inch (1") or two inches (2") along the boundary.

(E) The name of adjacent incumbent LEC exchanges will be indicated on the exchange map to identify their relative location.

(2) When said boundary map changes involve more than one telephone exchange and more than one incumbent LEC, the changes involved shall be coordinated between the incumbent LECs concerned and a "Joint Application" submitted. After an order is issued by the Commission the incumbent LECs shall submit revised exchange maps containing the revised territory, the new certificate number, the cause number, the order number, and the date of the order approving the change. A copy of each current exchange map shall be made available for review to any interested person upon reasonable notice containing:

(A) Application number.

(B) Maps showing the changes in contrasting colors.

(C) Metes and bounds of changes.

(D) Proposed orders (one for each exchange) with complete metes and bounds of the revised exchange(s).

(e) **Competitive LEC service territories maps.** Each competitive LEC shall either identify the LEC exchanges of their service territory or maintain up-to-date maps showing its service territory. The maps and descriptions shall be in sufficient detail to establish the location of incumbent LEC exchange boundaries on the ground. Each map provided shall conform to the format set out in OAC 165:55-3-22(c)(1). Two (2) copies of each map shall be provided to the Director of the Public Utility Division.

(f) **Contracts and agreements.** Upon request by the Director of the Public Utility Division, a TSP or IXC shall provide a copy of a contract entered into by the TSP or IXC for regulated services.

(g) **Contact names.** Each telecommunications service provider and IXC shall notify, in writing, the Director of the Public Utility Division within thirty (30) days of a change in the company-designated contacts for Public Utility Division and CSD issues. If the below information is unavailable, the telecommunications service provider or IXC may seek a waiver from the PUD Director by making a request in writing.

(1) The update shall include the name(s), physical street address(es), electronic mail addresses and telephone number(s) of the designated individual(s).

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;

(B) Repair and maintenance;

(C) Answering complaints;

(D) Authorizing and/or furnishing refunds to customers; ~~and,~~

(E) Tariff issues; ~~.~~

(F) Billing inquiries;

(G) Regulatory matters;

(H) Oklahoma Universal Service Fund (and Monthly Payout, Fee Assessment, Requests for Funding, if different);

(I) PUD Fee Assessment (and Fee Assessment Payments, if different);

(J) Primary emergency;

(K) Afterhours emergency;

(L) Annual reporting;

(M) Attorney for regulatory matters; and

(N) Community Liaison.

(h) **Other information.** Each telecommunications service provider and IXC shall promptly furnish such other information as PUD or the Commission ~~Staff~~ may request, unless otherwise ordered by the Commission.

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

165:55-7-1. Telephone directories

(a) **Provision of directory to end-users; frequency.** Each telecommunications service provider shall provide in conjunction with the provisioning of local exchange service, or make arrangements to provide to its end-users an alphabetical telephone directory for each service territory, exchange or group of exchanges. Telecommunications service providers may furnish white page directories in a variety of electronic formats, including CD-Rom, via the internet, or as printed directories. Such directory shall be issued at intervals consistent with satisfactory service, which, in the absence of unusual circumstances, will be at least once each year. ~~If any alternative to a printed paper directory is provided, customers are also to be furnished with notification at the time the directory is issued that they may request a printed version of their local directory at no charge. The notification shall also include~~

~~a toll free number established for honoring such customer requests.~~If any alternative format of a white page directory is to be provided in place of a printed paper directory, impacted customers are to be furnished with notification that the telecommunications service provider will no longer provide a printed directory at least ninety (90) calendar days prior to the date the printed directory will no longer be made available. The notification to impacted customers shall, at a minimum, include notice by bill insert. A directory for an exchange or calling area may be issued.

(b) **Listing in directory.** Each telecommunications service provider shall provide its end-users in conjunction with the provisioning of local exchange service, without charge, one listing in the white page directory issued pursuant to this Chapter and inclusion in a database used to provide directory assistance for the end-user's geographic area.

(c) **Provision of directory.** Unless the Commission directs otherwise, a telecommunications service provider that issues a printed paper directory shall furnish each customer, ~~shall be furnished~~ at the customer service address, one (1) directory ~~for each access line being furnished him~~ under current tariffs, unless the customer and the telecommunications service provider that issues a directory, regardless of format, agree this requirement can be fulfilled in an alternative manner. Each telecommunications service provider shall make available its directory to telecommunications service providers for distribution to their end-users.

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

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

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

(B) Emergency numbers;

(C) Instructions to access directory assistance;

(D) Instructions to access repair service;

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

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

(G) Instructions to access Telecommunication Relay Service; and

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

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

(A) Billing procedures.

(B) Customer payment requirements and procedures.

(C) Deposit and guarantee requirements.

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

(E) Procedures for handling inquiries.

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

(G) The telephone number and address of all offices of CSD.

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

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

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

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

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

[OAR Docket #19-487; filed 5-31-19]

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

[OAR Docket #19-488]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:
Subchapter 7. Record Requirements
165:56-7-4. Records to be provided to the Commission [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution, and 17 O.S. §§ 131 *et seq*.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 15, 2019.
COMMENT PERIOD:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rules move the submission of the Annual Report of Operations from May 1 to April 1. Additionally, the adopted rules require each telecommunications carrier to provide specific contact information to the Public Utility Division.
CONTACT PERSON:
Jeff W. Kline, Deputy General Counsel, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73105, telephone (405) 521-2308, j.kline@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 7. RECORD REQUIREMENTS

165:56-7-4. Records to be provided to the Commission

(a) **Annual report.** Not later than ~~May~~ April 1 of the year following the reporting year, each reseller shall provide to the Director of the Public Utility Division an annual report, in the format developed by the Director of the Public Utility Division and approved by the Commission after notice and hearing. The Oklahoma annual report will contain only Oklahoma operations.

(b) **Other information.** Each reseller shall promptly furnish such other information as the Commission Staff may request, unless otherwise ordered by the Commission.

(c) **Contact names.** Each reseller shall notify, in writing, the Director of the Public Utility Division and the Director of the Consumer Services Division within thirty (30) days of a change in the company-designated contacts for Public Utility Division and Consumer Services Division issues. If the below information is unavailable, the reseller may seek a waiver from the PUD Director by making a request in writing.

(1) The update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s).

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;
(B) Repair and maintenance;
(C) Answering complaints;
(D) Authorizing and/or furnishing refunds to customers; ~~and,~~
(E) Tariff issues~~.~~;
(F) Billing inquiries;
(G) Regulatory matters;
(H) Oklahoma Universal Service Fund (and Monthly Payout, Fee Assessment, Requests for Funding, if different);
(I) PUD Fee Assessment (and Fee Assessment Payments, if different);
(J) Primary emergency;
(K) Afterhours emergency;
(L) Annual reporting;
(M) Attorney for regulatory matters; and
(N) Community Liaison.

(d) **Other information.** Each reseller shall promptly furnish such other information as PUD or the Commission may request, unless otherwise ordered by the Commission.

[OAR Docket #19-488; filed 5-31-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 57. OPERATOR SERVICE PROVIDERS TELECOMMUNICATIONS SERVICES

[OAR Docket #19-489]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Certificates, Reports, and Records
Part 3. General Requirements for Records and Reports
165:57-5-23. Records to be provided to the Commission [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution, and 17 O.S. §§ 131 *et seq*.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 15, 2019.
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INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rules move the submission of the Annual Report of Operations from May 1 to April 1. Additionally, the adopted rules require each operator service provider to provide specific contact information to the Public Utility Division.
CONTACT PERSON:
Jeff W. Kline, Deputy General Counsel, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73105, telephone (405) 521-2308, j.kline@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 5. CERTIFICATES, REPORTS, AND RECORDS

PART 3. GENERAL REQUIREMENTS FOR RECORDS AND REPORTS

165:57-5-23. Records to be provided to the Commission

(a) **Annual report of operations.** Not later than ~~May~~ April 1 of the year following the reporting year each OSP shall provide to the Director of the Public Utility Division an annual report in a format approved by the Director of the Public Utility Division. In addition, OSPs shall file a copy of any annual reporting form required by the FCC. The Oklahoma annual report will contain only Oklahoma operations.

(b) **Other information.** Each OSP shall promptly furnish such other information as the Commission Staff may request, unless otherwise ordered by the Commission.

(c) **Contact names.** Each OSP shall notify, in writing, the Director of the Public Utility Division and the Director of the Consumer Services Division within thirty (30) days of a change in the company-designated contacts for Public Utility Division and Consumer Services Division issues. If the below information is unavailable, the OSP may seek a waiver from the PUD Director by making a request in writing.

(1) The update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s).

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;
(B) Repair and maintenance;
(C) Answering complaints;
(D) Authorizing and/or furnishing refunds to customers; ~~and,~~
(E) Tariff issues;
(F) Billing inquiries;
(G) Regulatory matters;
(H) Oklahoma Universal Service Fund (and Monthly Payout, Fee Assessment, Requests for Funding, if different);
(I) PUD Fee Assessment (and Fee Assessment Payments, if different);
(J) Primary emergency;
(K) Afterhours emergency;
(L) Annual reporting;
(M) Attorney for regulatory matters; and
(N) Community Liaison.

(d) **Other information.** Each OSP shall promptly furnish such other information as PUD or the Commission may request, unless otherwise ordered by the Commission.

[OAR Docket #19-489; filed 5-31-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 58. FACILITATION AND PROVISIONING OF PAYPHONE SERVICE

[OAR Docket #19-490]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Certificates, Reports, and Records
Part 5. Record Requirements
165:58-3-22. Records to be provided to the Commission [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution, and 17 O.S. §§ 131 *et seq*.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 15, 2019.
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INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rules move the submission of the Annual Report of Operations from May 1 to April 1. Additionally, the adopted rules require each payphone service provider to provide specific contact information to the Public Utility Division.

CONTACT PERSON:
Jeff W. Kline, Deputy General Counsel, Judicial & Legislative Services Division, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73105, telephone (405) 521-2308, j.kline@occemail.com.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 3. CERTIFICATES, REPORTS, AND RECORDS

PART 5. RECORD REQUIREMENTS

165:58-3-22. Records to be provided to the Commission

(a) **Annual report of operations.** ~~Each~~ Not later than April 1 of the year following the reporting year, each payphone service provider shall provide to the Director of the Public Utility Division an annual report in the format provided by the Director of the Public Utility Division.

(b) **Other information.** Each payphone service provider shall promptly furnish such other information as the Commission Staff may request, unless otherwise ordered by the Commission.

(c) **Contact names.** Each payphone service provider shall notify, in writing, the Director of the Public Utility Division and the Director of the Consumer Services Division within thirty (30) days of a change in the company-designated contacts for Public Utility Division and Consumer Services Division issues. If the below information is unavailable, the payphone service provider may seek a waiver from the PUD Director by making a request in writing.

(1) The update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s).

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;

(B) Repair and maintenance;

(C) Answering complaints;

(D) Authorizing and/or furnishing refunds to customers;

(E) Tariff issues;

(F) Billing inquiries~~.~~;

(G) Regulatory matters;

(H) Oklahoma Universal Service Fund (and Monthly Payout, Fee Assessment, Requests for Funding, if different);

(I) PUD Fee Assessment (and Fee Assessment Payments, if different);

(J) Primary emergency;

(K) Afterhours emergency;

(L) Annual reporting;

(M) Attorney for regulatory matters; and

(N) Community Liaison.

(d) **Other information.** Each payphone service provider shall promptly furnish such other information as PUD or the Commission may request, unless otherwise ordered by the Commission.

[OAR Docket #19-490; filed 5-31-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 59. OKLAHOMA UNIVERSAL SERVICE AND OKLAHOMA LIFELINE

[OAR Docket #19-491]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Oklahoma Universal Service Fund
Part 9. Request for OUSF Funding
165:59-3-64. Identifying and measuring the level of OUSF funding [AMENDED]
165:59-3-70. Procedures for requesting funding from the OUSF - Primary Universal Service [AMENDED]

AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution, and 17 O.S. §§ 139.101 *et seq.*

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
The adopted rules remove language that is unnecessary to the minimum filing requirements found at 165:59-3-70; add clarifying language providing that certain facilities, pursuant to federal separations requirements, can be included in determining Oklahoma Universal Service Fund funding levels; add language specifically excluding broadband Internet access services, as defined in the federal rules, from Primary Universal Service; create a new section establishing the use of an annual variance and risk-based review process in considering subsequent funding years after the initial funding resulting from a request under 17 O.S. § 139.106(G), and limiting the use of this review process to no more than five (5) subsequent twelve (12) month periods; create a procedure for the variance and risk-based review process; and places an aggregate five (5) percent cap on any potential funding increases that might result from a variance and risk-based review process.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 3. OKLAHOMA UNIVERSAL SERVICE FUND

PART 9. REQUEST FOR OUSF FUNDING

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

(a) In identifying and measuring the costs of providing primary universal services, exclusively for the purpose of determining OUSF funding levels under 17 O.S. § 139.106, the eligible local exchange telecommunications service provider serving less than seventy-five thousand (75,000) access lines shall, at its option:

(1) Calculate such costs by including all embedded investments and expenses incurred by the eligible local exchange telecommunications service provider in the provision of primary universal service, and may identify high-cost areas within the local exchange area it serves and perform a fully distributed allocation of embedded costs and identification of associated primary universal service revenue. The cost study shall identify any investments and associated expenses jointly used for the provision of primary universal service and any other services and provide a reasonable allocation of those investments and expenses. Such calculation may be made using fully distributed FCC Parts 32, 36, and 64 costs, if such Parts are applicable. The high-cost area shall be no smaller than a single exchange, wire center, or census block group, chosen at the option of the eligible local exchange telecommunications service provider; or,

(2) Adopt the cost studies approved by the Commission for a local exchange telecommunications service provider that serves seventy-five thousand (75,000) or more access lines; or,

(3) Adopt such other costing or measurement methodology as may be established for such purpose by the FCC pursuant to Section 254 of the Federal Telecommunications Act of 1996.

(b) In identifying and measuring the cost of providing primary universal services, and exclusively for the purpose of determining OUSF funding levels pursuant to 17 O.S. § 139.106, each ILEC which serves seventy-five thousand (75,000) or more access lines and each CLEC shall identify high-cost areas within the local exchange and perform a cost study using a Commission-approved methodology from those identified in subsection (a) of this Section. The high-cost area shall be no smaller than a single exchange, wire center or census block group chosen at the option of the eligible ILEC or CLEC. If the Commission fails to approve the selected methodology within one hundred twenty (120) calendar days of the filing of the selection, the selected methodology shall be deemed approved.

(c) ~~Any cause filed pursuant to 17 O.S. § 139.106(G) shall include the most recent cost study and an order reflecting the amount to be reimbursed shall only be applicable for a twelve (12) month period, unless otherwise determined by the OUSF Administrator or ordered by the Commission.~~ Primary Universal Service provided by an eligible local exchange telecommunications service provider may be provided using facilities, including the end user loop component and functionality, which allow access to the Internet, including access to combined consumer voice and broadband Internet service. The costs and revenues associated with such facilities, calculated pursuant to Parts 32, 36, and 64 of Title 47 of the Code of Federal Regulations, may be included in determining OUSF funding levels, consistent with applicable federal and state laws. Primary Universal Service does not include broadband Internet access service as defined at 47 C.F.R. § 8.1(b).

(d) For any cause filed pursuant to 17 O.S. § 139.106(G), the OUSF Administrator's Determination, or order issued by the Commission, may be the basis for reimbursement for no more than five (5) subsequent twelve (12) month periods beyond the initial request, subject to an annual variance and risk-based review by the OUSF Administrator, pursuant to OAC 165:59-3-70(o).

165:59-3-70. Procedures for requesting funding from the OUSF - Primary Universal Service

(a) An eligible local exchange telecommunications service provider may seek and obtain funds from the OUSF for Primary Universal Service by filing a "Request for OUSF Funding" and "Notice of Request for OUSF Funding" with the Commission's Court Clerk. On the date of filing the Request for OUSF Funding, the eligible local exchange telecommunications service provider shall deliver a filed copy of the Request for OUSF Funding to the OUSF Administrator for processing.

(b) Unless a waiver is granted by the OUSF Administrator, the following minimum filing requirements are necessary for causes filed pursuant to 17 O.S. § 139.106(G), and must be made available at the time of filing:

(1) The name and address of the eligible local exchange telecommunications service provider;

(2) A description of the provisions of the Oklahoma Telecommunications Act relied on for the request;

(3) The amount requested for funding;

(4) A chart of corporate organization listing all employees, and detailing any affiliate relationships;

(5) A list of affiliates, a description of the service(s) or goods provided to or by the requesting eligible telecommunications service provider for each affiliate, and the total expense charged to the requesting eligible local exchange telecommunications service provider by each affiliate in sufficient detail to demonstrate that any affiliate company utilizing employees or assets of the company

are allocated or reimbursed in accordance with 47 C.F.R, 32.27. This information shall be provided for the reimbursement year and the previous three (3) years (4 total), and shall include, but not be limited to, all contracts, memorandum, timesheets, calculations, and studies;

(6) A written description and documentation showing how costs are separated for each regulated and non-regulated service that the requesting eligible local exchange telecommunications service provider provides to, or receives from, any affiliate that is associated with the Request for OUSF Funding. This description must show compliance with the cost allocation standards and procedures as set forth in 47 C.F.R. 64.901. This information shall be provided for the reimbursement year and the previous three (3) years (4 total), and shall include, but not be limited to, all contracts, memorandum, timesheets, calculations, and studies;

(7) If applicable, copies of the eligible local exchange telecommunications service provider's Cost Allocation Manual (CAM), to include any changes to the CAM for the last three (3) years, including documentation supporting the cost allocation procedures and a current example of the application of the CAM's manual. If a CAM is unavailable, similar documentation must be provided;

(8) The most recent three (3) years preceding the request of audited financial statements, or if not subject to an audit, then reviewed financial statements, (including balance sheet, income statement, statement of cash flows accompanying notes, and any associated management letter);

(9) A description of network facilities, identifying all facilities included in the Request for OUSF Funding, with actual documentation available upon request by the OUSF Administrator;

(10) A description of the cost and accounting methodologies used to support the Request for OUSF Funding;

(11) A trial balance and general ledger in Excel format, or other format as agreed to by the Administrator;

(12) If applicable, a fully distributed cost study based on the FCC's Part 32, 36 and 64; provide plant reserve, rate base, income (revenue, expenses, and taxes), and other schedules included in the filing made with NECA or the FCC; a schedule of separations cost study for the reimbursement year. Underlying work-papers to be available onsite;

(13) Copies of the company's annual Federal Universal Service Fund (USF) High Cost Loop Data Collection forms for the reimbursement year and the previous three (3) years (4 total);

(14) The total number of full-time and part-time employees, officers, and/or contractors to include a listing of each of the above positions that includes title, duties, responsibilities, wages and/or salaries and benefits for the reimbursement year and the previous three (3) years (4 total);

(15) A list of expenses sought, including prior period adjustments and/or contingent liabilities that were reported on the eligible local exchange telecommunications service provider's books and records and are part of this request, including but not limited to any:

(A) reimbursed employee business expense, including travel, mileage, car rental, lodging, meals, etc.;

(B) lobbying;

(C) listing of all legal services and fees by law firm;

(D) advertising expenses;

(E) external relation costs;

(F) community outreach;

(G) entertainment;

(H) food, including travel, normal business, and company events;

(I) political contributions;

(J) charitable donations;

(K) penalties for fines or violations;

(L) membership fees and dues;

(M) gifts.

(16) The Federal tax classification (C-Corp, Sub-Chapter S, Partnership, etc.) of the eligible local exchange telecommunications service provider, and copies of the eligible local exchange telecommunications service provider's Federal and State tax returns for the reimbursement year and the previous three (3) years (4 total);

(17) A Description of the time tracking and reporting methods used by the eligible local exchange telecommunications service provider to distribute payroll dollars between regulated and non-regulated affiliates. Provide all supporting documentation for the reimbursement year and the previous three (3) years (4 total);

(18) A list of plant in-service retirements for the reimbursement year and the three (3) years prior to the reimbursement year (4 total);

(19) A plant in-service schedule by account that provides existing plant and additions for the reimbursement year and the three (3) years prior to the reimbursement year (4 total);

(20) Listing by account of all revenues, including aggregate customer revenues by category (residential, business, wholesale, etc.), that were used to off-set the eligible local exchange telecommunications service provider's OUSF funding request. This should include any amount received from the Federal USF, OUSF, and any other federal or state funding sources;

(21) The total number of customers by category (residential, business, wholesale, etc.) for the reimbursement year and the three (3) years prior to the reimbursement year (4 total);

(22) A copy of the eligible local exchange telecommunications service provider's regulated Continuing Property Records (CPR). If the CPRs do not tie to the general ledger, provide a reconciliation of the differences; and

(23) A list and copies of any audits or reviews to include letters, reports, memorandum, etc. conducted by the National Exchange Carriers Association (NECA), USAC, or FCC conducted during the reimbursement year and three (3) years prior to the reimbursement year (4 total).

(c) Unless a waiver is granted by the OUSF Administrator, the following minimum filing requirements are necessary for causes filed pursuant to 17 O.S. § 139.106(K), and must be made available at the time of filing:

(1) The name and address of the eligible local exchange telecommunications service provider;

(2) A description of the provisions of the Oklahoma Telecommunications Act relied on for the request;

(3) The amount requested for funding;

(4) Documentation necessary to substantiate the requested funding; and

(5) The most recently filed jurisdictional cost study;

(6) For highway relocation causes, the additional following minimum filing requirements are necessary:

(A) Copies of all bids;

(B) The request for proposal;

(C) Copies of all invoices and work orders;

(D) Documentation showing internal material accounting;

(E) Documentation showing internal labor accounting, including time sheets, and separate documentation showing accounting of overtime work;

(F) A certificate of completion of the relocation.

(d) No amended Requests for OUSF Funding shall be accepted. Eligible local exchange telecommunications service providers may withdraw the originally filed Request for OUSF Funding and file a new request at any time prior to the issuance of the Determination. Upon the filing of a Withdrawal of Request for OUSF Funding, the Commission's Court Clerk shall close the file, without Commission order. If a new request is filed, it shall be filed under a new cause number.

(e) Requests for OUSF Funding found to be incomplete (missing information required by the form and instruction package contained on the Commission website) may be denied.

(f) It is the intention of the OUSF Administrator that each funding request will be independently evaluated and reviewed on a case-by-case basis.

(g) The eligible local exchange telecommunications service provider requesting OUSF funding for primary universal service shall make every reasonable and timely effort to obtain funding from alternative funding sources designated to support universal service, and shall submit all documentation of the effort to obtain funding from alternative funding sources designated to support universal service as a part of its Request for OUSF Funding, or an explanation for why alternative funding is not available. Upon the eligible local exchange telecommunications service provider producing the documentation that it has sought alternative funding sources or an explanation for why alternative funding is not available, the eligible local exchange telecommunications service provider shall not be precluded from having its Request for OUSF Funding processed.

(h) If an eligible local exchange telecommunications service provider receives funding from alternative funding sources for an investment or expense already reimbursed by the OUSF, the eligible local exchange telecommunications service provider shall refund the double collection to the OUSF by either reducing a prospective funding request from the OUSF by an equivalent amount or remitting cash payment to the OUSF. Under no circumstances will double recovery be allowed.

(i) Concurrent with the filing of the Request for OUSF Funding, the eligible local exchange telecommunications service provider shall:

(1) Provide copies of its Request for OUSF Funding and Notice of the Request for OUSF Funding to the OUSF Administrator and the Oklahoma Attorney General.

(2) Provide Notice of the Request for OUSF Funding, which shall include the dollar amount of the request for lump sum and any recurring amounts, to the contributing providers by providing an electronic copy of such Notice to the OUSF Administrator on the date the eligible local exchange telecommunications service provider files its Request for OUSF Funding with the Commission's Court Clerk, for posting on the Commission website. The OUSF Administrator will then place the Notice on the Commission website within five (5) business days.

(j) The OUSF Administrator and/or contracted agent shall independently evaluate, review, and determine the accuracy of the complete request and issue a determination of the eligibility for funds, which details the amount of funding recoverable from the OUSF, within ninety (90) calendar days. Simultaneously with the OUSF Administrator or contracted agent advising the provider and parties to the cause, the OUSF Administrator or contracted agent shall file the written Determination in the Commission's Court Clerk and post it to the Commission's website. The eligible local exchange telecommunications service provider shall provide a copy of the OUSF Administrator's Determination to all parties of record within five (5) calendar days after it is filed.

(k) Any affected party, as defined in 17 O.S. § 139.106(D)(5), may file a Request for Reconsideration within fifteen (15) calendar days of the Determination being filed by the OUSF Administrator, by following the procedures in OAC 165:59-3-72.

(l) If no Request for Reconsideration is filed, the Determination shall be deemed final on the sixteenth (16) calendar day after the Determination is filed, and the cause with the Commission's Court Clerk shall automatically be closed upon the filing of a Notice of Disbursement by the OUSF Administrator. The OUSF Administrator or contracted agent shall issue payment within forty-five (45) calendar days of the previously mentioned sixteenth (16) day, without an order of the Commission.

(m) Unless good cause is shown, any Request for OUSF Funding pursuant to this Section should be made within a reasonable time from the date the requesting local exchange telecommunications service provider can determine the impact of occurrence of the circumstance giving rise to the request, including receipt or notification of alternative funding designed to support universal service. However, this shall neither preclude a local exchange telecommunications service provider from filing a Request for OUSF Funding, nor shall it preclude such a Request from being processed, prior to the time a final

decision is made regarding alternative funding from a program designed to support universal service.

(n) A Request for OUSF Funding, pursuant to this Section, shall be signed by an attorney for the eligible local exchange telecommunications service provider.

(o) For causes filed pursuant to 17 O.S. § 139.106(G), consistent with OAC 165:59-3-64(d), and when the OUSF Administrator has previously issued an initial Determination or a Commission final order has been issued, an eligible local exchange telecommunications service provider may file an OUSF request pursuant to 17 O.S. § 139.106(G) and request a variance and risk-based review, provided that:

(1) Requests for OUSF Funding made pursuant to the variance and risk-based review shall be filed with the Commission's Court Clerk and provided on the date of filing to the OUSF Administrator for processing.

(2) The above provisions in OAC 165:59-3-70(d)-(f) and (i)-(l) are applicable to causes processed using the variance and risk-based review.

(3) The OUSF Administrator shall develop an annual variance and risk-based review procedure and reporting format that specifies the information to be made available for purposes of such variance and risk-based review.

(4) The annual variance and risk-based review process shall include the submission of all information requested, in a format to be developed by the OUSF Administrator.

(5) Such annual variance and risk-based review shall be based on comparisons between and among the documentation provided with the initial Request for OUSF Funding, and the information subsequently provided in conjunction with an annual variance and risk-based review.

(6) In no case shall an increase in OUSF funding based on an annual variance and risk-based review exceed five (5) percent of the initial amount granted by the Administrator's Determination or a final order issued by the Commission.

[OAR Docket #19-491; filed 5-31-19]

TITLE 165. CORPORATION COMMISSION CHAPTER 65. WATER SERVICE UTILITIES

[OAR Docket #19-492]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
165:65-1-2. Definitions [AMENDED]
Subchapter 3. Plant, Equipment, and Facilities
165:65-3-1. Construction and maintenance of plant, equipment, and facilities [AMENDED]
165:65-3-2. Extent of system in which utility shall maintain service [AMENDED]
165:65-3-3. Service pipes and meter sets [AMENDED]
165:65-3-5. Sale or disposal of facilities by utility [AMENDED]
165:65-3-5.1. Acquisition, control, or merger of domestic public water utilities [REVOKED]
Subchapter 5. Water Quality, Testing, and Pressure
165:65-5-4. Station meters and pressure gauges [AMENDED]
Subchapter 7. Meter Requirements and Testing
Part 1. General Provisions
165:65-7-2. Adjustment of bills [AMENDED]
165:65-7-4. Information as to reading of meters [AMENDED]
Part 3. Testing
165:65-7-12. Meter testing on request of consumer [AMENDED]
Subchapter 9. Records, Reports, and Filing Requirements
165:65-9-1. Retention, location and availability of records; contact persons [AMENDED]
165:65-9-2. Interruptions of service [AMENDED]
165:65-9-2.1. Restoration of service [AMENDED]
165:65-9-7. Filing of rate schedules, contracts, agreements, and rules [AMENDED]
165:65-9-8. Filing of maps [AMENDED]
165:65-9-9. Cost of services, material, or facilities for other types of business or subsidiaries [AMENDED]
165:65-9-10. Accounting [AMENDED]
165:65-9-11. Relief from rate increase requirements [AMENDED]
165:65-9-12. Response to customer complaint inquiry [NEW]
Subchapter 11. Customer Service
Part 1. Deposits and Billing
165:65-11-1. Information on bills [AMENDED]
165:65-11-2. Penalty or charge for late payment of bills [AMENDED]
165:65-11-3. Deposits and interest [AMENDED]
Part 3. Disconnection of Service
165:65-11-10. Disconnection of service by a consumer [AMENDED]
165:65-11-11. Disconnection of service by a utility [AMENDED]
165:65-11-13. Notice of disconnection of service [AMENDED]
165:65-11-14. Commission notification procedure for elderly and/or consumers with disabilities [AMENDED]
165:65-11-15. Delays to disconnection of residential service [AMENDED]
Part 5. Character of Service
165:65-11-22. Change in character of service [AMENDED]
Subchapter 13. Promotional Policies and Practices
165:65-13-6. Contributions [AMENDED]
165:65-13-7. ~~Filing~~ Submission of promotional practices [AMENDED]

AUTHORITY:

Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution; 17 O.S. § 152(A); and 17 O.S. §§ 159.11 *et seq.*

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 8, 2019.

COMMENT PERIOD:

October 19, 2018 through December 3, 2018

PUBLIC HEARING:

January 31, 2019

ADOPTION:

January 31, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 8, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

July 25, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The adopted rules add general grammatical, formatting, and spelling changes; shorten defined terms, and/or other clarifying language; clarifies business day or calendar day; add definitions; clarify reporting requirements; change references in the rule from "filing" of information with the Commission to "submitting" information to the Commission; add a requirement for installation of service lines and marking of trenches for public safety; add a provision concerning events beyond the utility's control; requires the utility to provide an email address to the Commission's Public Utility Division through which a representative of the utility may be contacted; establish requirements for utilities to report cybersecurity or infrastructure security

events that affect immediate customers; require the utility to clearly delineate utility and non-utility expenses and revenues; and add a new requirement for acknowledgement of customer complaint inquiries and clarifying language. Further, the adopted rules add language and requirements for slow meter, non-registering meters, billing issues, and installment payments; require specific billing period for meters for incorrect register and incorrect usage amount; add a requirement for utilities to include contact information for the Consumer Services Division to customer bills; clarifies the method through which utilities are informed of a customer deposits interest rate change; add life-threatening situations to the "false information" section of delays to disconnection of residential service rules; deny a utility's ability to require a new customer deposit from a customer when the utility has no record of returning any previous customer deposit to that customer; modify the Commission notification procedures for elderly and consumers with disabilities; add clarification language for severe weather forecasting for disconnection of service for residential service; and require promotional practices be submitted instead of being filed.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:65-1-2. Definitions

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

"Affiliate" means any person, entity, or business section, or division that directly or through one or more intermediaries controls, is controlled by, or is under common control with the entity in question. Control includes but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct a direction of the management or policies of a person or entity. Control may be exercised through management, ownership of voting securities or other right to vote, by contract or otherwise. A voting interest or ownership of five percent (5%) or more creates a presumption of control.

"Attorney General" means the Oklahoma Attorney General.

"Business day" means Monday through Friday, excluding all legal holidays which have been declared legal holidays by law or proclamation of the Governor of Oklahoma, or those days on which mail is not delivered.

"Commission" means the Oklahoma Corporation Commission.

"Complaint" means an oral, electronic or written communication by an interested party requesting an investigation or corrective action regarding the provision of water services.

"CSD" means the Consumer Services Division of the Oklahoma Corporation Commission.

"Consumer" means any person, firm, corporation, municipality, or agency, other political subdivision of the United States or the State of Oklahoma receiving any type of water service. Any reference to a "customer" or "end-user" contained in a tariff, or in this Chapter, shall be deemed to mean a "consumer," unless the context clearly indicates otherwise.

~~**"Corporation Commission"** means the Oklahoma Corporation Commission.~~

"DEQ" means the Oklahoma Department of Environmental Quality.

"Distribution" or **"Distribution service"** means the transportation of water services through a utility's distribution facilities bundled with any one or more of the services of billing, metering, customer service and similar services.

"Distribution main" means a distribution line that serves as a common source of supply to service lines.

"Distribution system" means any pipeline, meter, metering station, valve, regulator, regulating station and/or delivery station which receives water from any water supply source for service to one or more consumers.

"Electronic notification" means any automated communication received by e-mail, phone, text message or fax.

"Gallon" means one U.S. Standard gallon, containing 231 cubic inches and weighing 8.333 pounds.

"Interested party" means any individual or entity with appropriate authority to act on behalf of a particular consumer or group of consumers or any other party involved in, or affected by, the provision of water services.

"Legal holiday" means only those days declared legal holidays by law or proclamation of the Governor of Oklahoma, or those days on which mail is not delivered or banks are closed, such as Columbus Day.

"Local forecast" means a statement of what the weather is predicted to be, that is issued by the National Weather Service for a specific county, city, and/or zip-code area.

"Meter" means any device that measures the quantity of water transferred from one party to another.

"NWS" means the National Weather Service.

"Pipe" means any tubing used in the gathering, transmission or distribution of water which meets the specifications of the DEQ.

"Premises" means any piece of land or real estate, or any building or other structure or portion thereof, or any facility where water service is furnished to a consumer.

"Prudency review" means, for purposes of this Chapter, a comprehensive review that examines as fair, just and reasonable, a utility's practices and policies and judgment regarding an investment or expense at the time the investment was made or expense was incurred; including direct or indirect maximization of its positive impacts and mitigation of adverse impact upon its ratepayers, without consideration of its ultimate used and useful nature.

"P.s.i.g." means pounds per square inch gauge.

"PUD" means the Public Utility Division of the Oklahoma Corporation Commission.

"Regulator" means a device used to reduce the water pressure.

"Residence" means any dwelling unit containing kitchen appliances, permanent sewer or septic facilities and water service. A weekend cabin and a mobile home are residences

when used as such. An individual room in a hotel or motel is not a residence.

"Service line" means a line that branches off a distribution main or distribution line in order to transport water from the common source of supply to utility meters or to a consumer's piping, whichever is farther downstream, or the connection to a consumer's piping if there is no utility meter.

"Subdivision" means any land, wherever located, whether improved or unimproved, contiguous or not, which is divided into lots or proposed to be divided, for the purpose of disposition pursuant to a common promotional scheme or plan of advertising.

"Tariff" means every rate schedule, or provision thereof, and all terms, conditions, rules and regulations for furnishing water service filed with the Commission and approved by the Director of the Public Utility Division.

"Temporary service" means every rate schedule, or provision thereof, and all terms, conditions, rules and regulations for furnishing water service filed with the Commission and approved by the Director of the Public Utility Division.

"Uniform System of Accounts (USOA)" applicable to water utilities published by the National Association of Regulatory Utility Commissioners (NARUC) or other uniform system acceptable to the Commission may be adopted by a utility.

"Utility" means and includes any corporation, association, company, individual, and the trustees, lessees, or receivers, successors or assigns of any of them, (but shall not include a city, town or other body politic) that now or hereafter may own, operate, or manage any plant or equipment, or any part thereof, directly or indirectly, for public use, for the transmission and distribution of water by pipeline.

SUBCHAPTER 3. PLANT, EQUIPMENT, AND FACILITIES

165:65-3-1. Construction and maintenance of plant, equipment, and facilities

(a) **Water plant and system construction and maintenance.** Each utility shall construct and maintain its entire water plant and system in such condition as will enable it to furnish safe, adequate and reliable service subject only to emergency conditions beyond its control.

(b) **Construction, installation, and maintenance of systems.** Transmission and distribution systems, including transmission mains and pipe lines, distribution mains, pumps, valves, storage tanks, meters, equipment, etc., shall be constructed, installed, and maintained in accordance with all applicable rules and orders of the Commission and DEQ. Utilities must be able to locate water lines consistent with the requirements of 63 O.S. §§ 142.1 *et seq.*

(c) **Statement regarding plant, equipment, and facilities.** Each utility shall ~~file with~~ submit to the Commission annually a statement regarding its plant, equipment, and facilities in such form as the Commission may require. Utilities other than those that purchase water shall provide appropriate authority for their use of water (U.S. Corps of Engineers, Oklahoma Water Resources Board, and/or other appropriate authority). All water service utilities that withdraw groundwater or divert stream water must hold a water right from the Oklahoma Water Resources Board before placing water to use.

(d) **Plans, surveys, and permits.** Each utility shall ~~file with~~ submit to the Commission a certified copy of all plans and surveys of its waterworks which have been filed with the DEQ. A description of the source from which the water supply is derived shall be filed with the Commission, and no new or different source of supply shall be used until a certified copy of the certificate of the DEQ approving the use of the new or different supply has been filed with the Commission. No utility shall sell water or extend water service to a consumer until certified copies of all permits required to be issued by the DEQ to the utility are filed with the Commission.

(e) **Depth of mains.** Water mains, except mains used exclusively for temporary or seasonal service, shall be installed below the normal frost line or otherwise protected to prevent freezing in accordance with DEQ.

(f) **Dead ends.** Insofar as practicable the utility shall design its distribution system so as to avoid dead ends on its mains. Where dead ends exist, under circumstances that adequate water circulation does not exist, the utility shall provide hydrants or valves for the purpose of flushing the mains. Mains without adequate circulation shall be flushed every ninety (90) calendar days, or more often if necessary, to maintain the proper quality of the water. Records shall be kept of the date, place and duration of flushing mains; and such records shall be used as a guide to determine the necessary frequency of flushing of the same mains thereafter.

(g) **Segmentation of systems.** The design of water mains or systems hereafter constructed shall contain valves at intervals throughout the system to facilitate repairs and minimize interruptions of service to consumers.

(h) **Grid systems.** Whenever feasible, the distribution system shall be laid out in a properly segmented grid so that in case of breaks or repairs the interruption of service to the consumers can be kept at a minimum.

(i) **Fire protection service.** Specifications, location, installation, and the responsibility for the maintenance of fire hydrants, public and private fire protection facilities and connecting mains, and the ownership of such facilities shall be subject to negotiation between the utility and the municipality served. Fire hydrants and public and private fire protection facilities shall conform to the requirements of the city where installed or in the absence of city requirements, to the rules and orders of the Commission.

(j) **Valves.** Each utility shall inspect the principal mainline valves on its distribution system at least once every two (2) years. A record of each valve shall be kept showing the size, type, location, date of inspection and the results thereof.

(k) If PUD informs the utility of any safety issues concerning the utility's plant, equipment, or facilities by identifying the relevant Commission rule, or other applicable Federal or State laws implicated by the safety issue, the utility shall electronically provide photographic evidence to PUD showing completion of work and that the issue has been resolved. If the utility has the necessary equipment it shall provide such evidence via

electronic photographs or such other method that will reasonably show the issue has been resolved.

165:65-3-2. Extent of system in which utility shall maintain service

(a) ~~Each~~ With the exception of emergency conditions beyond its control, each utility shall operate and maintain in safe, efficient, and proper condition all the facilities and instrumentalities used in connection with the transmission, distribution, regulation, measurement, and delivery of water to any consumer up to and including the point of delivery into the piping owned by the consumer.

(b) A water utility may operate and maintain any privately owned lines utilized by the utility for transmission and distribution of water, if granted such permission by the owner of the private line.

(c) No residential meter shall be installed inside a residence.

(d) The meter shall be set at the nearest feasible point to the property or curb line of the consumer.

(e) All mains, water lines, pipes, and equipment owned by the consumer from the outflow side of the meter shall be maintained in a safe, efficient, and proper condition by and at the expense of the consumer. The utility shall have the right to inspect a new installation prior to furnishing service and the right to inspect an existing installation under reasonable conditions. Service may be refused or discontinued until the provisions of this Chapter are complied with.

(f) Each water utility, for each locality ~~which~~ that it serves, shall provide contact information for an office or agent where the consumer may pay bills and conduct any other necessary business with a representative of the utility. Such office or agent shall be available to the consumer during reasonable business hours at least five (5) days per week.

(g) The utility shall provide in the telephone directory for each area it serves a telephone listing by which the utility personnel can be notified at any time during a twenty-four (24) hour day period of any utility service deficiency or emergency. If utility personnel are not available to accept the call and the call is recorded, the utility shall contact the consumer to confirm receipt of the call within two (2) hours.

165:65-3-3. Service pipes and meter sets

(a) Upon application by any bona fide applicant for water service, the utility shall provide a tap and a corporation cock at the main, furnish and install a service pipe of suitable material and capacity, furnish and install a shut-off cock, a meter box, and all other fittings necessary to set a meter on the applicant's property abutting upon any public way in which the utility has an adjacent water distribution main.

(b) Where additional meters are furnished by the utility for the convenience of the consumer, a charge for such meters may be made in accordance with a schedule approved by and on file with the Commission.

(c) The utility may charge the residential applicant a tap-on charge specified in its tariff or rules of service on file with and approved by the Commission for furnishing and installing the necessary material and coupling devices, providing the meter setting and connecting the meter to the consumer's house service line. The charge shall be a non-recurring charge for the premises, notwithstanding later change in ownership or consumers there served. Subsequent consumers may be charged a service initiation fee, provided such fee is listed in the utility's approved tariff. The meter box, meter, and all other fittings used in connecting service and serving the meter shall remain the property of the utility. When it is necessary to make a tap-on of a size larger than required for a residential consumer, the tap-on and meter setting cost shall be charged the consumer as specified in the tariff or Rules of Service, or if no such charge is there stated, at the actual cost to the utility.

(d) Where the utility and the consumer cannot agree upon the location, dimensions and type of installation to be made, the utility shall advise the consumer of the CSD and provide the telephone number to the consumer to address the problem and seek resolution. If the problem remains unsolved, either the consumer or the utility may file an application with the Commission for hearing and final determination.

(e) Where circumstances require the meter to be set at a point other than the property or curb line, the proper service pipes shall be installed by the utility from the main to the meter. If the meter is located inside the property line at the consumer's request, the consumer shall pay the cost of the service pipe from the property or curb line to the meter and for installation thereof, under uniform rates to be adopted by the utility and approved by and on file with the Commission. The utility shall own and maintain all service lines and equipment up to the outflow side of the meter wherever installed.

(f) The utility shall provide each service connection with an individual shut-off cock. No tandem service shall be allowed.

(g) The size, design, material, and installation of the consumer's service pipe shall conform to any code, ordinances or requirements of the city or town where installed, or where no such requirements exist, to the rules and orders of the Commission and the Service Rules of the utility filed with and approved by the Commission. No service pipe shall be less than three-fourths inch (3/4") nominal size. All service pipes shall be laid underground at a depth sufficient to prevent freezing, except where service is not intended to be used during freezing weather and the pipes are actually drained during such periods.

(h) In the installation of a service pipe the consumer shall not install any tee or branch connection without consent of the utility. The consumer shall leave the trench open and pipe uncovered until it has been inspected by the utility or inspection waived. The service pipe shall be provided with a suitable shut-off cock by the consumer. The consumer is responsible for maintenance of all service pipes from the outflow side of the meter.

(i) When the installation of a service pipe requires a trench to remain open on the consumer's property for an inspection or waiver of inspection, the utility shall perform the inspection, or request that the inspection be performed if done by a third party, within fourteen (14) calendar days of the installation.

(j) All open trenches shall be clearly marked for the safety of the public using, at a minimum, caution tape or flags.

165:65-3-5. Sale or disposal of facilities by utility

(a) The parties to a transaction, the performance of which will result in the transfer of any portion of a water utility's jurisdictional plant or operating system or the transfer of some or all of a water utility's customers to a person or entity that is not an affiliate of such utility, shall, at least ninety (90) calendar days before the effective date of such sale or transfer, request the approval of the Commission of the transaction by filing an original and ~~eight (8)~~ four (4) copies of a joint application, consistent with OAC 165:5-7-1, with the Commission's ~~Office of the~~ Court Clerk, accompanied by the applicable filing fee. At the time the joint application is filed, the parties to the transaction shall serve a copy of the joint application, with all attachments thereto, upon the Attorney General and the Department of Environmental Quality. Additionally, the person or entity receiving the facilities or customers shall, at the time of the filing, be providing water service to Oklahoma customers or be seeking approval, in the joint application or in a separate cause, to provide such service to Oklahoma customers.

(b) The joint application referred to in (a) of this Section shall include the following information:

(1) The names of the parties to the transaction and the addresses of their respective principal places of business;

(2) A narrative description of the transaction, including, without limitation, a description of the transferring party's jurisdictional plant or operating system to be transferred to the acquiring party, the number and types of customers to be transferred to the acquiring party as a result of the transfer of those jurisdictional assets, the contemplated effective date of the transfer, and the consideration to be given for consummating the transfer;

(3) A statement as to whether the consideration to be given for consummating the transfer is below or above the net book value of the transferred assets;

(4) A narrative description of how the transferred customers will continue to receive safe and reliable water service after the effective date of the transaction, any proposed changes to the rates charged for that service after the effective date of the transaction, including a summary of the effect that the proposed changes to rates would have on an average customer's bill, and any other proposed changes in the terms and conditions of that service after such effective date subject to the terms of (g) of this Section;

(5) A narrative description of the principal occupation or business of the acquiring party and all affiliates thereof during the previous five (5) years, and the names and relevant biographical information of all principals, officers, and directors of the acquiring party;

(6) A narrative description of the operational and managerial experience of the acquiring party's personnel to be responsible for the operation and management of the facilities to be used to provide water service to the transferred customers after the effective date of the transaction;

(7) The names, addresses, email addresses, and telephone numbers of representatives of the acquiring party who will be the contacts for ~~the Public Utility Division~~ PUD and ~~the Consumer Services Division~~ CSD and who will be primarily responsible for:

(A) Customer service issues;

(B) Repair and maintenance issues;

(C) Customer complaint issues;

(D) Authorizing and furnishing refunds to customers;

(E) Tariff issues; and

(F) Receiving notices related to causes docketed at the Commission;

(8) Audited financial statements of the acquiring party, to include but not be limited to balance sheets and income statements, covering the previous three (3) years;

(9) An unaudited financial statement of the acquiring party, covering the most recent quarter closed immediately preceding the filing of the application;

(10) An affidavit by the acquiring party stating that the acquiring party possesses the financial and managerial ability to provide safe and reliable water utility service to the transferred customers and that the acquiring party is aware of and will abide by all Commission rules applicable to the provision of such service;

(11) The information required by OAC 165:65-11-3(o) and (q) and an affirmation that the records and reports required by OAC 165:65-9 exist and may be subject to review by the Commission during the application process.

(12) A copy of the agreement governing the terms of the transaction;

(13) If the acquiring party is also a public utility subject to the jurisdiction of the Commission, a statement to that effect. The information listed in (5) through (9) of this subsection is not required if the acquiring party is a public utility currently engaged in the furnishing of public utility services under the jurisdiction of the Commission at the time that the application is filed; and

(14) The name and address of the acquiring party's service agent registered with the Oklahoma Secretary of State.

(c) Upon Commission approval of the joint application referred to in (a) of this Section, the transferring party shall also transfer to the acquiring party the records required by the Commission to be maintained pursuant to OAC 165:65-9 and OAC 165:65-11-3(o) and (q), to the extent they pertain to the transferred customers.

(d) After notice and hearing, the Commission shall issue an order approving the application if it finds that the transaction is, fair, just, and reasonable and in the public interest. The acquiring party shall have the burden of establishing that the proposed transaction is fair, just and reasonable, as well as in the public interest.

(e) Unless otherwise ordered by the Commission, the hearing referred to in (d) of this Section shall be commenced within sixty (60) calendar days after the joint application referred to in (a) of this Section is filed. Upon motion by any interested party in the proceeding, or *sua sponte*, the Commission shall establish a procedural schedule setting forth dates for the filing of written testimony, discovery, and the hearing on the merits and such other dates, as the Commission deems appropriate.

(f) Notice of the hearing referred to in (d) of this Section shall be mailed to the Attorney General and to each customer of record of the transferring party who will be transferred to the acquiring party, and to any other person directed by the Commission to receive notice, at least twenty (20) calendar days prior to the date of the hearing. The form of the notice must be approved by the Commission prior to such mailing.

(g) If the application is approved, the rates for water service in effect for the transferred customers prior to the effective date of the transfer shall continue to be charged by the acquiring party with respect to those customers, unless and until different rates are reviewed and approved by the Commission in the current cause or in a subsequent cause. If different rates are reviewed and approved and/or changes in the terms and conditions of service are approved by the Commission in the current cause or in a subsequent cause, the acquiring party shall have thirty (30) calendar days after the final order has been issued to submit an original and two (2) copies of the proposed tariffs, which conform to OAC 165:65-9-7, reflecting the changes or additions to rates and/or terms of service to ~~the Public Utility Division~~ PUD for review and approval.

(h) Upon motion, a party may request a waiver from or modification to any of the requirements of this section pursuant to OAC 165:65-1-5.

(i) This section does not apply to transactions that involve discontinuance of service pursuant to OAC 165:65-11-10 or 165:65-11-11 or routine retirement or replacement of facilities.

165:65-3-5.1. Acquisition, control, or merger of domestic public water utilities [REVOKED]

~~(a) An original and eight (8) copies of an application for approval, consistent with OAC 165:5-7-1, shall be filed with the Commission's Office of the Court Clerk no less than forty-five (45) days prior to the effective date of any of the following transactions:~~

~~(1) acquisition of all or any controlling interest in a domestic public utility,~~

~~(2) merger of a domestic public utility,~~

~~(b) At the time the application is filed, the filing party shall serve a copy of the application with all attachments upon the Attorney General and the Department of Environmental Quality. The application shall include the following additional information, made under oath or affirmation:~~

~~(1) The name and address of each acquiring party and all affiliates thereof; and~~

~~(A) If such acquiring party is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years, or~~

~~(B) If such acquiring party is not an individual, a report of the nature of its business and its affiliates' operations during the past five (5) years or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such acquiring party and its subsidiaries; and a list of all individuals who are or who have been selected to become directors or officers of such acquiring party, or who perform or will perform functions appropriate or similar to such positions. Such list shall include for each such individual the information required by (A) of this paragraph;~~

~~(2) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a detailed description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests;~~

~~(3) Audited financial information in a form acceptable to the Commission as to the financial condition of an acquiring party of the preceding three (3) fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar information as of a date not earlier than one hundred thirty five (135) days prior to the filing of the application or the period of the most recent closed quarter prior to the filing of the application;~~

~~(4) Any plans or proposals which an acquiring party may have to liquidate such public utility, to sell its assets or a substantial part thereof, or merge or consolidate it with any person, or to make any other material change in its investment policy, business or corporate structure, or management. If any change is contemplated in the investment policy, or business or corporate structure, such contemplated changes and the rationale therefore shall be explained in detail. If any changes in the management of the domestic public utility or person controlling the domestic public utility are contemplated, the acquiring party shall provide a resume of the qualifications and the names and addresses of the individuals who have been selected or are being considered to replace the then current management personnel of the domestic public utility or the person controlling the domestic public utility.~~

~~(5) The number of shares of any voting security which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition;~~

~~(6) The amount of each class of any voting security which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;~~

~~(7) A full description of any contracts, arrangements, or understanding with respect to any voting security in which any acquiring party is involved, including but not limited to transfer of any securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into;~~

~~(8) A description of the purchase of any voting security during the twelve (12) calendar months preceding the filing of the application, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefore; and~~

~~(9) Copies of all tender offers for, requests for, advertisements for, invitations for tenders of, exchange offers for, and agreements to acquire or exchange any voting securities and, if distributed, of additional soliciting material relating thereto.~~

~~(c) Such additional information as the Commission may prescribe as necessary or appropriate for the protection of ratepayers of the domestic public utility or in the public interest shall be provided as directed by the Commission.~~

~~(d) If a person required to file the application is a partnership, limited partnership, syndicate or other group, the Commission may require that the information called for in (b) of this Section shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group and each person who controls such partner or member. If any such partner, member, person or acquiring party is a corporation or if a person required to file the application is a corporation, the Commission may require that the information called for by (b) of this Section be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent (10%) of the outstanding voting securities of such corporation and each affiliate of such corporation.~~

~~(e) If any material change occurs in the facts set forth in the application filed with the Commission and sent to such domestic public utility, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commission and sent by the person filing the application to the domestic public utility within two (2) business days after such person learns of such change.~~

~~(f) Unless otherwise ordered by the Commission, a hearing shall be commenced within thirty (30) days after the application is filed and shall be concluded within thirty (30) days after its commencement. Notice of hearing shall be mailed to the domestic water utility and to each of its customers prior to the date of the hearing as ordered by the Commission.~~

~~(g) Any application for merger and other acquisition of control shall be deemed approved unless the Commission has, within sixty (60) days after the conclusion of such hearing, entered its order approving the merger or other acquisition.~~

SUBCHAPTER 5. WATER QUALITY, TESTING, AND PRESSURE

165:65-5-4. Station meters and pressure gauges

(a) **Station meters.** The utility shall install station meters and instruments necessary to keep a daily and monthly record of the total amounts of water delivered into the mains.

(b) **Pressure gauges.** Each utility shall provide itself with one (1) or more pressure gauges for ~~the purpose of~~ making pressure surveys as required by this Chapter. These gauges shall be suitable to record the pressure experienced on the utility's system and shall be able to record at least a twenty-four (24) hour continuous test. One recording pressure gauge shall be maintained in continuous service at some representative point on the utility's mains.

(c) **Pressure surveys.** Each utility required to have recording pressure gauges shall make frequent records during periods of maximum use, each covering intervals of at least twenty-four (24) hours duration of the water pressure at various points on the system. All records or charge made by these meters shall be identified, dated, and kept on file and available for inspection for at least two (2) years.

SUBCHAPTER 7. METER REQUIREMENTS AND TESTING

PART 1. GENERAL PROVISIONS

165:65-7-2. Adjustment of bills

(a) **Allowable error in adjustment of charges.** Whenever any water meter is tested by ~~the Commission~~ PUD or the utility at the request of the consumer to determine the accuracy with which it has been registering in service, it may be considered correct if found to have an average error of no more than two percent (2%) and no adjustment of charges shall be required unless the error is greater than two percent (2%).

(b) **Fast meters.** Whenever any water meter tested by ~~the Commission~~ PUD or the utility is found to have an average error of more than two percent (2%) fast, (or in favor of the utility), the utility shall refund to the consumer the overcharge based upon the corrected meter reading for a period equal to one-half (1/2) the time elapsed since the last ~~previous~~ test, but not to exceed six (6) months, unless it can be established that the error was due to some cause, the date of which can be fixed with reasonable certainty, or the error was due to meter tampering or theft, in which case the overcharge shall be computed from that date.

(c) **Slow meters.** Whenever any water meter tested by ~~the Commission~~ PUD or the utility is found to have an average error of more than two percent (2%) slow, (or in favor of the consumer), the utility may charge for the water consumed, but not included in bills previously rendered, based upon the corrected meter reading for a period equal to one-half (1/2) of the time elapsed since the last previous test, but not to exceed six (6) months, unless it can be established that the error was due to ~~some cause, the date of which can be fixed with reasonable certainty, in which case the charge shall be computed from that date~~ meter tampering or theft. The utility shall allow the consumer to pay the corrected amount, in installment payments, over the same period of time in which the incorrect billing took place, but not to exceed six (6) months, unless otherwise agreed to by the utility and consumer.

(d) **Non-registering meter.** If a meter is found not to register or to register intermittently for any period, the utility may charge for an estimated amount of water used, by averaging the amounts registered over corresponding periods in previous

years, or in the absence of such information, over similar periods preceding or subsequent thereto. The estimated billing shall not exceed six (6) months, unless it can be established that the error was due to meter tampering or theft. The utility shall allow the consumer to pay the estimated billing amount, in installment payments, over six (6) months, unless otherwise agreed to by the utility and consumer.

(e) **Incorrect register on meter.** If a meter is found to have an incorrect register, the error shall be corrected. Where the error is adverse to the consumer the utility shall refund to the consumer the excess charged for the water incorrectly metered for the period of time the meter was used in billing the consumer. Where the error is adverse to the company, the utility may charge the consumer the undercharge for the water incorrectly metered for the period of time the meter was used in billing the consumer, ~~and if necessary the utility may receive payment in installments over a reasonable period of time~~ unless it can be established that the error was due to meter tampering or theft. The utility shall allow the consumer to pay any unbilled amount over the same period of time in which the undercharge took place, but not to exceed six (6) months, unless otherwise agreed to by the utility and consumer.

(f) **Inaccurate usage amount.** Bills rendered to the consumer by the utility with inaccurate usage shall be adjusted with the next succeeding bill. The utility shall advise the consumer of the error prior to the next bill being rendered. However, the utility may make a special reading without charge to the consumer and render a corrected bill to the consumer. The utility shall allow the consumer to pay any unbilled amount over the same period of time in which the undercharge took place, unless otherwise agreed to by the utility and consumer.

(g) **Exception.** This Section shall not apply to routine testing and replacement of meters pursuant to OAC 165:65-7-11.

165:65-7-4. Information as to reading of meters

(a) **Meter reading records.** The meter reading records shall show:

(1) Consumer's name, address, and rate schedule symbol.

(2) Identifying number or description of the meter.

(3) Meter readings and dates thereof.

(4) If the reading has been estimated.

(5) Any applicable multiplier or constant.

(b) **Information to customers.** Each utility supplying metered service shall adopt a means of informing its consumers as to the method of reading meters, either by printing on its bills a description of the method of reading meters, by distributing booklets or folders describing the method, or by notice to the effect that the method will be explained by contacting the utility. Meter reading information shall be sent at least annually to each consumer.

(c) **Meter reading information.** Each service meter shall be read by the utility.

(1) **Information required.** Each service meter shall indicate clearly the number of gallons of water registered by the meter. Where water is measured in cubic feet or where the quantity is determined by calculation from recording devices, the utility upon request shall supply the consumer with sufficient information to make clear the method by which the quantity is determined.

(2) **Meter reading.** Each service meter shall be read by the utility at approximate monthly intervals at least ten (10) times a year on approximately the same day of each ~~meter reading~~ meter-reading period. If for reasons beyond the control of the utility it is impossible to read a meter for two (2) successive monthly billing periods, it will be permissible for the utility to submit an estimated bill based upon past service records the amount of such estimated bill to be adjusted as necessary when access to the meter is obtained.

(3) **Access to meters and other property.** The utility shall at all reasonable times have access to meters, service connections, and other property owned by it on the consumer's premises for purpose of meter reading and maintenance. Refusal on the part of the consumer to provide reasonable access for the purpose of meter reading shall be deemed sufficient cause for discontinuance of service on the part of the utility, after notice as provided in this Chapter for discontinuance of service for nonpayment of bills. The utility shall provide its employees with a means of identification in order to claim the right of access.

(4) **Alternative reading periods.** Upon application of the utility and after notice and hearing, the Commission may authorize the reading of meters less frequently than monthly and prescribe conditions and procedures therefore.

(5) **Special meter reading request.** Whenever a special meter reading is required following a request by a consumer, the utility shall not make a charge for the special meter reading, whether or not its applicable tariff authorizes a charge for a special meter reading, unless the consumer has requested and received special meter reading within the previous twelve (12) month period.

PART 3. TESTING

165:65-7-12. Meter testing on request of consumer

(a) Upon receipt of written request of a consumer, the utility shall within ~~ten (10)~~ twenty (20) calendar days thereafter test the accuracy of the meter or replace the meter.

(b) No deposit or payment shall be required, whether or not there is an applicable charge in the utility's tariff, from the consumer for such meter test as requested by the consumer, unless the consumer has requested such meter test within the previous twelve (12) months. If the meter meets the accuracy standards of the Commission, and the consumer has not requested such a test in the previous twelve (12) month period, and the consumer was notified before such test of the tariff charge that might be applicable to such meter test, then the consumer should bear the expense of the test provided an approved charge is in the utility's tariff.

(c) Any charge made pursuant to subsection (b) of this Section shall be refunded to the consumer if the meter is found

when tested to have an average error of more than two percent (2%).

(d) A consumer may make written request to be present when the utility conducts the test on his meter and may have an expert or other representative present at the time, in which case the utility shall conduct the test only in the presence of the persons requested.

(e) A written report stating the name of the consumer requesting the test, the date of the request, the location of the premises where the meter has been installed, the type, make, size and serial number of the meter, the date of removal, the date tested, and the result of the test shall be supplied to such consumer within ten (10) business days after the completion of the test.

SUBCHAPTER 9. RECORDS, REPORTS, AND FILING REQUIREMENTS

165:65-9-1. Retention, location and availability of records; contact persons

(a) **Record retention.** Unless otherwise specified herein, all records required by the rules in this Chapter shall be preserved by the utility in the form and for a period of time not less than two (2) years and shall be available for examination by the Commission or its representatives.

(b) **Record location.** All records required by this Chapter shall be kept within Oklahoma at the office or offices of the utility and shall be open for examination by the Commission or its representatives; provided that if the general office of the utility is located outside of Oklahoma, the records may be kept at the general office. Each utility shall maintain records in such detail that the cost of property located and business done in the State of Oklahoma can be accurately and readily ascertained, and the utility shall make available any such records for examination by the Commission or its authorized representative. Each utility shall notify the Commission as to the location of the office or offices at which the various classes of records are kept and shall file with the Commission such reports as the Commission may from time to time require.

(c) **Submetering records.** In the event of the use of submetering, all submetering records shall be retained for a period of two (2) years and shall be available for inspection by the Commission, the affected consumer and/or duly interested person or entity at a location accessible to the consumer affected by submeters.

(d) **Contact persons.** Each utility shall ~~report to the CSD the name, title, address, and telephone number of the person who should be contacted in connection with general management duties, consumer relations and complaints, engineering operations, meter tests and repairs and emergencies during non-business hours. This information shall be furnished applicable to each operating district, town or any segment of the utility so that the CSD will be able to reach the responsible person at any time. The utility shall report any changes in the above promptly.~~ notify in writing, the PUD Director within thirty (30) days of a change in the company-designated contacts for PUD and CSD issues.

(1) The update shall include the name(s), physical street address(es), electronic mail addresses and telephone number(s) of the designated individual(s), and shall be furnished applicable to each operating district, town or any segment of the utility so that PUD will be able to reach the responsible person at any time. If this information is unavailable, the utility may seek a waiver from the PUD Director by making the request in writing.

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;

(B) Repair and maintenance;

(C) Answering complaints;

(D) Authorizing and/or furnishing refunds to customers;

(E) Tariff issues;

(F) Regulatory matters;

(G) PUD Fee Assessment (and Fee Assessment Payments, if different);

(H) Primary emergency;

(I) After hours emergency;

(J) Annual reporting;

(K) Attorney for regulatory matters;

(L) Community liaison; and

(M) Engineering operations, meter tests and repairs.

(e) **Other information.** Each utility shall promptly furnish such other information as PUD or the Commission may request, unless otherwise ordered by the Commission.

165:65-9-2. Interruptions of service

Each utility shall make reasonable efforts to avoid interruption of service. When an interruption occurs service shall be re-established as soon as possible.

(1) Each utility shall keep a record of interruptions of service on its primary distribution system, including a statement of the time, duration and cause of each such interruption. The record shall be available to the Commission or its representative on request.

(2) The log for each unattended substation shall show interruptions ~~which~~ that require attention to restore service with the estimated time and duration of interruption.

(3) Any planned interruption shall be made at a time that will not cause unreasonable inconvenience to consumers and shall be preceded by at least a two (2) day notice to consumers affected.

(4) The utility is required to report cybersecurity or infrastructure security events that affect customers immediately to the PUD Director or designee.

165:65-9-2.1. Restoration of service

This Section establishes general parameters to ensure timely communication to the Commission, of the utility's implementation of its restoration of service plan, following an unplanned service interruption. Each water utility shall have a written restoration of service policy/plan, which shall include a

communication plan to be followed during unplanned or emergency interruptions, with a current copy ~~filed by September 30 of each year~~ on file with the Commission's CSD Director ~~of the Commission's Consumer Services Division~~ and the Commission's Emergency Liaison. ~~This~~ No later than September 30 of each year, this policy shall be reviewed by the utility at least annually and updated as deemed necessary and appropriate. A statement detailing all changes from the previous edition shall be filed with the Commission and included at the front of the policy on file. Each water utility shall provide and keep current, the phone number of any 24 hour emergency operations center or a list with a minimum of two individuals with 24-hour contact numbers to the Commission's CSD Director ~~of the Consumer Services Division~~ and the Commission's Emergency Liaison. The following items are guidelines to be addressed in the policy:

(1) Assessment of the extent of the service interruption and what resources (equipment, materials, and labor) will be required to restore service. The utility should also attempt to determine the number of customers affected and the geographic extent of the service interruption.

(2) Determination as to whether or not the service restoration can be accomplished by use of in-house personnel only, or if contractors (personnel obtained from other utilities or third-party entities) will be required. The objective is to have service restored as soon as possible.

(3) Identification of priorities for service restoration, based upon emergency needs and upon ease of restoration for the greatest number of consumers for the least expenditure of money, time and effort. Priority shall be given to any life-threatening situations known or discovered during restoration of service.

(4) Once water to installations affected with the interest of public health and safety has been restored (such as hospitals, fire and police departments, and 911 centers), service shall be restored to schools as quickly as feasible, during such time of the year that school is in session.

(5) Attempted notification of high-priority customers or major water consuming facilities who are affected by the service outage, when possible. Radio and/or television should be utilized to notify larger numbers of customers as to the type of service outage, extent of the service outage, and the expected time to restore service. Other means of notification may also be utilized, so long as the result is mass notification on an efficient, effective, and timely basis.

(6) Commission notification through the CSD Director ~~of the Consumer Services Division~~ and the Commission's Emergency Liaison to implement the process outlined in paragraphs A through C below. The Commission notification process to the designated ~~Consumer Services Division~~ CSD individual(s) and the Commission's Emergency Liaison may be accomplished by one or more of the following methods: business telephone and/or e-mail address during the business hours of 8:00 a.m. through 4:30 p.m. Monday through Friday, or emergency cellular telephone number after normal business hours, weekends and holidays. The notification shall consist of the following:

(A) An initial contact to notify Staff of outages which involve a major utility substation or facility, may cause a high degree of public interest or concern, or which have a duration of four (4) hours or more and involve one percent (1%) or fifty (50) customers or more, whichever is greater, of the utility's meter count.

(B) Intermediate contact to provide status reports, as deemed necessary by the utility, or as may be requested by Commission Staff.

(C) A conclusory contact detailing the results and completion of the restoration of service plan implementation.

165:65-9-7. Filing of rate schedules, contracts, agreements, and rules

(a) It shall be unlawful for a utility to furnish, charge for, or receive payment for water service except strictly in accordance with a tariff or rate schedule on file with and approved by the Commission.

(b) No tariff or rate schedule shall be added, deleted, changed, closed or discontinued after the effective date of the rules in this Chapter except pursuant to order of the Commission upon application of the utility and after notice and hearing.

(c) A utility shall not demand or accept payment for service of any kind of a sum greater or less than specified in an approved tariff.

(d) A special contract or agreement other than a filed tariff under which water service is furnished to one or more consumers shall be deemed a tariff for purposes of this Section. From and after the effective date of the rules in this Chapter, no service shall be furnished pursuant to such a contract ~~which~~ that has not been filed with and approved by the Commission. Any special contract for water service made after the effective date of the rules in this Chapter shall not become effective except after approval by order of the Commission.

(e) The utility shall maintain and furnish to a member of the public on request:

(1) A copy of every tariff and rate schedule under which water service is being furnished to consumers within the area serviced by that local office or agent.

(2) A copy of the approved Water Service Utilities rules.

(3) A copy of this Chapter, and all amendments thereto.

(f) A certified copy of every franchise, agreement or permit granted a utility by any municipality shall be filed with the Commission.

(g) A utility shall not sell water to any consumer for resale, except pursuant to a tariff on file with and approved by the Commission which authorizes resale and the consumer has on file with and approved by the Commission tariffs, rate schedules rules and regulations covering such resale or is exempt by law from such requirement.

165:65-9-8. Filing of maps

Each utility shall provide upon request within ten (10) business days to the Commission suitable, detailed maps, a size and media as agreed by the utility and the ~~director of the Public Utility Division~~ PUD Director, of its general system and shall maintain suitable, detailed maps of its entire system, which shall be made available to the Commission on request. The general system maps may be provided by sections or counties where necessary to meet size requirements. Such maps shall be brought up to date annually, not later than ninety (90) calendar days after the end of the utility's fiscal year.

165:65-9-9. Cost of services, material, or facilities for other types of business or subsidiaries

(a) When a utility is engaged in any type of non-utility business or operations, through subsidiaries or otherwise, or in any business not considered in the ratemaking process, and personnel, material, equipment, or any facility of the utility is supplied for the operation of such other type of business or subsidiary, the utility shall keep an accurate account or allocation of all of the cost of personnel, services, material, equipment, or any facility between utility and non-utility operations. There shall be a written accounting thereof between utility and non-utility operations on a monthly basis. This accounting will clearly delineate company's utility and non-utility expenses and revenues for the purposes of accurate ratemaking.

(b) The cost of keeping the records and any other expense caused by furnishing such services, materials, or facilities shall be charged to the recipient thereof. "All of the cost" in this Section shall mean actual cost plus any direct or indirect charges related to the cost of services, materials, or facilities calculated on the same basis used in allocating direct and indirect charges to the utility operations.

(c) Records of and reports on services, materials, or facilities to other types of business or subsidiaries referred to in this Section shall be available to ~~the Commission~~ PUD or its representatives.

165:65-9-10. Accounting

(a) The "Uniform System of Accounts" applicable to water utilities published by the National Association of Regulatory Utility Commissioners (NARUC) or other uniform system acceptable to the PUD shall be adopted by a utility.

(b) All water utilities that have multi-state operations shall maintain records in such detail that the costs of property located and business done in the State of Oklahoma in accordance with geographic boundaries can be accurately and readily ascertained.

(c) No change in or departure from the system used by the utility will be permitted except upon order of the Commission after notice and hearing.

(d) Every water utility shall file with the PUD an annual report on a form furnished by the PUD, the amount of property, revenues, expenses, taxes, depreciation, etc., utilized in or incurred from the furnishing of utility service in the State of Oklahoma. Any cost allocations necessary in developing results of operations for the State of Oklahoma separately shall be accomplished on a basis acceptable to the PUD. The annual report form may be changed by the ~~Director of the Public Utility Division~~ PUD Director or designee upon notice being given by posting on the Commission's website the proposed changes, provided such changes must be posted no later than December 31 of the year for which the proposed changes are to be effective.

(e) The results of operations reported by each water utility in its annual report to the PUD shall be reconciled with the results of operations shown on its books, records, and in its other reports to the Commission.

(f) Each utility shall report to the PUD at the end of the utility's fiscal year, on summary sheets furnished or approved by the PUD, the book value of its utility plant. These reports and annual reports required by (d) of this Section shall be delivered to the PUD not later than one-hundred twenty (120) calendar days after the end of the fiscal year, provided that the PUD may grant an extension for good cause shown.

(g) Each utility shall make special reports at such time and in such form as the PUD may from time to time require.

165:65-9-11. Relief from rate increase requirements

(a) ~~Class C or D water~~ Water utilities, having less than ~~$250,000~~ $400,000 in annual gross revenue within the state, shall not be subject to the requirements of OAC 165:70-7-4 rate regulation as prescribed in Chapter 70, the general rate regulation requirements, unless a water utility proposes an increase in rates and charges which exceeds a fifteen percent (15%) annual increase in revenue, based on the previous twelve (12) months gross revenue generated by the existing water usage rates.

(b) A water utility may not submit more than two (2) consecutive annual submissions using the provisions of this Subchapter, nor may a water utility submit more than three (3) submissions within the most recent five (5) year period using the procedures set forth in this Subchapter.

(c) Each water utility desiring to increase its water rates pursuant to this section shall provide notice to its water customers in no less than two (2) billing cycles with the second notice being given at least sixty (60) calendar days before the effective date of the proposed rate increase. Notice shall be made by regular mail or personal service and be included with each customer's regular bill. Notice to the water utility's customers shall include the following:

(1) Existing rate and proposed rate;

(2) Average dollar increase per customer per rate class;

(3) Percentage of total company regulated revenues increase; and

(4) The procedure necessary for a customer to petition the Commission to examine and determine the reasonableness of the proposed rate increase, pursuant to Section (h) of this Subchapter.

(d) Each water utility desiring to increase its water rates pursuant to this section shall notify the Commission at least seventy-five (75) calendar days before the effective date of the proposed rate increase. Notice to the Commission shall include the following:

(1) A copy of the notice to be provided to its customers;

(2) Verified statement showing the total number of customers of the water utility as of the date of the most recent billing;

(3) Verified statement showing the water utility's total gross revenue for the previous twelve (12) months;

(4) The date of the water utility's last rate increase, the cause number and the final order number, if applicable;

(5) Any anticipated growth or decline in the water utility's customers which is expected to occur during the first twelve (12) months following the proposed rate increase;

(6) The types of customers the water utility serves;

(7) A copy of the water utility's approved tariff sheet showing the existing rates and proposed new rates:

(8) The date of the most recent annual report in accordance with OAC 165:65-9-10(d)-(g).

(e) If, thirty (30) calendar days prior to the effective date of this proposed increase in rates and charges, the Commission has received petitions from fewer than fifteen percent (15%) of the affected customers, requesting that the Commission examine the proposed increase in rates and charges, the Commission shall notify the water utility that the rate increase may be implemented on the proposed effective date and shall apply to all bills normally rendered on and after the effective date.

(f) If, thirty (30) calendar days prior to the effective date of the proposed increase in rates and charges, the Commission has received petitions from fifteen percent (15%) or more of the affected customers, then the Commission shall notify the water utility that it will examine and determine the reasonableness of the proposed increase in rates and charges and the rate increase may not be initiated until the Commission has completed its determination.

(g) A water utility shall not increase its rates and charges under this Section more than once in any twelve (12) month period. If a water utility is eligible to increase its rates and/or charges pursuant to this Section and desires to increase its rates and/or charges above that which is allowed under this Section, it shall file an application pursuant to the Commission's applicable rules, unless otherwise allowed by law.

(h) A petition submitted to the PUD Director ~~of the Public Utility Division~~ requesting the Commission to examine and determine the reasonableness of a water utility's proposed increase in rates and charges shall be in substantially the following form:

(1) Form: The petition shall be headed by a caption, which shall contain:

(A) The name of the utility seeking an increase in rates and charges; and

(B) The relief sought.

(2) Body: The body of the petition shall contain the following:

(A) All allegations of facts, without unnecessary detail, explaining why the customers oppose the increase in rates;

(B) A reference that the petition is submitted pursuant to OAC 165:65-9-11;

(C) The name, address, telephone number, and signature of each petitioning customer;

(D) A copy of the notice provided by the water utility and received by one of the customers signing the petition shall be attached to the petition.

(i) Petitions may be signed only by the affected customers of the water utility. Only one signature per meter shall be counted to determine if the fifteen percent (15%) threshold has been met.

165:65-9-12. Utility acknowledgement of customer complaint inquiries

If PUD contacts a utility concerning a customer complaint, the utility shall respond to PUD within the following time periods:

(1) Inquiries regarding disconnection, suspension, or termination of service shall be acknowledged by the utility within one (1) business day of receipt of inquiry from PUD.

(2) Inquiries other than for disconnection, suspension, or termination of service shall be acknowledged by the utility within three (3) business days of receipt of inquiry from PUD.

SUBCHAPTER 11. CUSTOMER SERVICE

PART 1. DEPOSITS AND BILLING

165:65-11-1. Information on bills

The utility shall bill each consumer as promptly as possible following the reading of his meter. The consumers shall receive their bills by mail, or by electronic notification to consumers who make an affirmative election to receive electronic notification of such information. In no event shall there be a charge for providing a bill through the United States Mail or though different means. The bill shall show:

(1) The reading of the meter at the end of the period for which the bill is rendered.

(2) The date on which the meter was read.

(3) The number and kind of units metered.

(4) The applicable rate schedule or identification of the applicable rate schedule. If the actual rates are not shown, the bill shall carry a statement to the effect that the applicable rate schedule will be furnished on request.

(5) The total amount due for water used. In the case of prepayment meters, the amount of money collected shall be shown.

(6) The date by which the consumer must pay the bill in order to avoid addition of a penalty.

(7) The total amount due after addition of any penalty for nonpayment within a designated period. The terms "gross bill" and "net bill" or other similar terms implying the granting of a discount for prompt payment shall not be used where a penalty is added for nonpayment within a designated period.

(8) A distinct marking to identify an estimated bill.

(9) Any conversions from meter reading units to billing units, or any calculations to determine billing units from

recording or other devices, or any other factors used in determining the bill.

(10) The name and toll-free telephone number of the Commission's CSD, to which the end-user may direct complaints and questions regarding utility services.

165:65-11-2. Penalty or charge for late payment of bills

(a) A utility may make a penalty charge in an amount not to exceed one and one-half (1 1/2%) for delay in receipt of payment by the utility past the due date of the bill, unless otherwise ordered by the Commission. The due date shall be stated on the face of the bill and shall not be earlier than ten (10) days after the bill was mailed, except that for residential consumers, it shall not be earlier than twenty (20) days after the bill is mailed or hand delivered.

(b) A utility shall clearly state upon the face of its bills the amount of late payment penalty, and the date on or before which payment must be received in order to avoid paying the late payment penalty. In its billing, the utility shall not use the term "prompt payment discount" or other words of similar import ~~which~~ that suggest ~~that~~ the consumer will receive a discount or reduction of charges for water service for payment prior to a certain date. The late payment penalty may be applied to any unpaid balance due at each monthly billing period.

165:65-11-3. Deposits and interest

(a) Each utility shall prepare and submit a plan containing criteria for deposits to the Commission for approval. The plan shall include criteria for residential and nonresidential consumers with residential being defined in each utility's tariff.

(1) The residential plan shall conform to all subsections of this Section.

(2) The nonresidential plan shall conform to all subsections of this Section except (b), (c), (d), and (j).

(b) No utility shall require a deposit of a residential consumer who has received the same or similar type and classification of service for twelve (12) consecutive months and service was not terminated for nonpayment nor was payment late more than twice nor was a check for payment dishonored. The twelve (12) month service period shall have been within eighteen (18) months prior to the application for new service. The utility plan may establish other relevant criteria ~~which~~ that will qualify the consumer for nonpayment of a deposit.

(c) No utility shall require a deposit more than one-sixth (1/6) of the estimated annual bill. The utility may allow smaller deposits to be made, in conformance with relevant, objective criteria written in the utility's plan. The utility plan may allow consumers to pay deposits in installments.

(d) Any utility that fails to maintain an accurate record of any customer's deposit history, pursuant to this section, and in accordance with 165:65-11-3(q), may not require a new deposit from that same customer should the customer request new service.

(~~d~~e) A utility may require an advance deposit as a condition of service for consumers other than those consumers addressed in (b).

(~~e~~f) A present consumer may be required to post a deposit as a condition of continued service if undisputed charges have ~~became~~ become delinquent, with delinquent meaning a payment not received on or before the due date as posted on the bill, in two (2) of the last twelve (12) billing periods or if the consumer has had service disconnected during the last twelve (12) months or has presented a check that has been subsequently dishonored.

(~~f~~g) Interest on cash deposits shall be paid by the utility at no less than the rate calculated as follows:

(1) For all consumer deposits returned within one (1) year or less, the interest rate shall be established on the 1st day of January of each year to equal the average of the weekly percent annual yields of one (1) year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point.

(2) For all consumer deposits held by the utility for more than one (1) year, the interest rate shall be established the 1st day of January for each year to equal the average of the weekly percent annual yields of 10 year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point. The utility may pay the average of one (1) year Treasury Security, as referenced in (f)(1) of this Section, for the first year the deposit is held.

(3) Provided, however, that after the interest rate is initially established pursuant to this subsection, the interest rate(s) shall not change unless the application of the formula in (f)(1) and/or (2) results in a change in interest rate(s) that is/are greater than fifty (50) basis points.

(4) The PUD Director ~~of the Public Utility Division~~ shall calculate the interest rate(s) as pursuant to (f)(1) and (2) of this Section, and shall ~~mail~~ provide notice to the utility company via mail, email, or posting on the Commission's website by December 15th of each year, ~~only if a change in the rate(s) is/are necessary~~ pursuant to subsection (f), otherwise the current interest rate(s) will remain in effect.

(~~g~~h) If refund of deposits is made within thirty (30) days of receipt of deposit, no interest payment is required. If the utility retains the deposit more than thirty (30) days, payment of interest shall be made retroactive to the date of deposit. No interest shall accrue on a deposit after discontinuance of service.

(~~h~~i) The deposit shall cease to draw interest on the date it is returned or credited to the consumer's account.

(~~i~~j) The utility plan shall provide the date of payment of interest and whether the interest shall be paid by negotiable instrument or by credit against current billing.

(~~j~~k) Each consumer posting a cash deposit shall receive a ~~nonassignable~~ non-assignable receipt in writing at the time of making the deposit or within the ten (10) days thereafter. When a consumer pays a deposit as a portion of a water service bill, payment of the bill shall serve as a receipt of the deposit. If the deposit is not paid by the due date, the amount of the deposit will become a part of the past due amount owed and monies paid shall be applied to the oldest past due amount. The utility plan shall provide reasonable means whereby a depositor who

applies for the return of his/her deposit, or any deposit to which he/she is entitled, but who is unable to produce the original receipt may not be deprived of his/her deposit or balance.

(~~k~~l) The utility shall automatically refund the deposit for residential service, with accrued interest, after twelve (12) months' satisfactory payment of undisputed charges and where payment was not late more than twice; provided, however, that service has not been disconnected within the twelve (12) month period. Payment of a charge shall be deemed satisfactory if received on or prior to the date the bill is due. Payment of a charge shall be deemed not satisfactory if made by a check subsequently dishonored. The utility plan shall provide for the review of all deposits at least annually and shall provide whether refunds will be paid by negotiable instrument, upon request of the consumer, provided, the consumer's bill is not delinquent, or by credit against current billing.

(~~l~~m) The amount of the deposit, with accrued interest, shall be applied to any unpaid charges at the time of the discontinuance of service. The balance, if any, shall be returned to the consumer within thirty (30) days following the settlement of the consumer's account, either in person or by mailing it to the consumer's last known address.

(~~m~~n) The utility shall provide payment of accrued interest for all consumers annually by negotiable instrument or by credit against current billing.

(~~n~~o) The utility may withhold refund of return of the deposit, pending the resolution of a dispute with respect to charges secured by such deposit.

(~~o~~p) The utility company shall keep records to show:

(1) The name, account number and address of each depositor.

(2) The amount of the deposit and date received.

(3) Each transaction concerning the deposit.

(~~p~~q) Such records shall be retained for two (2) years after deposit and/or interest is refunded or applied.

(~~q~~r) Upon the sale or transfer of any public utility or operating units thereof, the seller shall file with the application for transfer a verified list of all consumers from whom a deposit is being held, the date such deposit was made, the amount thereof, and the unpaid interest thereon. The information provided shall be treated as confidential and shall not be available for public inspection unless ordered by the Commission after notice and hearing.

(~~r~~s) Deposits shall not include membership fees in cooperatives.

(~~s~~t) The deposit made by the consumer with the utility at the time of application for water service shall not constitute an advance payment to cover service bills, but for all purposes it is to be considered as security for the payment of monthly bills or other proper charges.

PART 3. DISCONNECTION OF SERVICE

165:65-11-10. Disconnection of service by a consumer

A consumer may be required to give up to five (5) business days written notice, excluding legal holidays, Saturdays and Sundays, of intention to have service disconnected or to have the account closed and shall be responsible for all charges for service until the expiration thereof. This 5-day written notice provision may be waived by the utility. Such disconnection or closing of the account does not relieve the consumer of obligations incurred prior to disconnection. At the time the consumer requests disconnection or closing of the account, the utility will advise the consumer of any reconnection and service fees, if any reconnection and or service fee applies pursuant to the utility's approved tariffs.

165:65-11-11. Disconnection of service by a utility

(a) **Sufficient reasons for disconnection of service.** A utility may disconnect service to a consumer for any of the following reasons:

(1) Nonpayment of all or any portion of undisputed utility bills or a utility bill which is no longer disputed or for which the Commission's dispute process has been completed.

(2) Failure to comply with the terms and conditions of a settlement agreement or any type of deferred payment agreement or a Commission order.

(3) Failure to post a deposit as prescribed in OAC 165:65-11-3.

(4) Failure to make application for service.

(5) Misrepresentation of identity or facts for the purpose of obtaining service or use of an alias, trade name, business name, relative's name or another person's name as a device to escape payment of an unpaid obligation for utility service provided to the consumer.

(6) Violation of any rule or regulation of the Commission or Commission-approved rule of the utility.

(7) Refusal to grant access at reasonable times for the purpose of installation, inspection, maintenance, replacement, or reading of utility equipment installed upon the premises of the consumer, or maintaining any obstruction that would deny access for these purposes.

(8) Potential adverse effect of the service required by the consumer on the service of other consumers of the utility, provided the consumer has been notified and given a reasonable opportunity to correct the adverse effect.

(9) A consumer provides false or misleading information to the utility in order to avail the consumer of the provisions applicable to the financial assistance delay, deferred payment agreement or Commission notification procedure for elderly and/or handicapped consumers.

(10) Where negligent or wasteful use of water exists on a consumer's premises, which adversely affects the general service, the utility may discontinue the service if the conditions are not corrected. Where such waste threatens the supply to a substantial number of other consumers, service may be discontinued immediately after notice.

(11) Abandonment of the premises served.

(12) Upon request of the consumer pursuant to OAC 165:65-11-10.

(13) Causing injury or threatening to cause injury to an employee of the utility or the family of an employee of the utility or the property of the utility for the purpose of

preventing a utility employee from engaging in activities authorized by law or in retaliation for such activities.

(14) Whenever the utility has reason to believe that continued service will create a condition on the consumer's premises that is dangerous to persons or property.

(15) Violation of the utility's rules regarding the operation of nonstandard equipment or unauthorized attachments, if the consumer was notified first and given a reasonable opportunity to comply with the rules.

(16) Violation of federal, state, or local laws or regulations through use of the service.

(17) Causing damage to utility property.

(18) A condition exists which poses a health or safety hazard.

(19) Unauthorized use of water service accomplished through bypassing of the utility's measuring equipment or tampering with pipes, meters, or other utility equipment.

(20) The utility may disconnect service twenty-four (24) hours after providing notice for violations of (3) through (9) of this subsection.

(b) **Insufficient reasons for disconnection of service.** A utility shall not disconnect service to a consumer for any of the following reasons:

(1) Failure to pay for a different kind or classification of service from that requested.

(2) Failure to pay a bill correcting a previous under billing, due to misapplication of rates, unless the utility offers the consumer a deferred payment agreement as provided elsewhere in this Chapter.

(3) Failure of a previous owner or occupant at the premises or user of the service to pay an unpaid or delinquent account, except where the previous occupant remains an occupant or user of the utility service.

(4) Failure of a consumer to pay any portion of an estimated billing which the consumer disputes, except where the consumer fails to allow a utility representative access to the meter.

(5) If a current consumer in good standing who accepts an additional household member owing a previous bill to the utility unless that additional household member is listed on the lease arrangements or another utility service as a responsible party, or unless the household member shared service with the subscriber at a different or same location.

(6) If a consumer or potential consumer for a previously unpaid account from a different utility beyond the boundaries of the utility's service territory.

(7) Pending verification, service cannot be withheld or disconnected from a consumer whose name was used to obtain service at another location without the consumer's permission or knowledge.

(8) Nonpayment of an amount past due for more than three (3) years if the utility cannot substantiate the charges with a copy of the consumer's complete billing history reflecting usage, consumption and relevant charges.

(9) Failure to pay a past due amount to another utility.

(c) **Effective period of notice.** A utility may disconnect service on the date specified in the notice or within thirty (30) calendar days thereafter, during regular business hours, so long as the disconnection does not occur within the last two (2) hours of the business day; nor shall service be disconnected on a holiday, nor after noon (12:00 p.m.) on Fridays until Monday morning.

(d) **Documentation of reason(s).** The utility shall provide documentation to the consumer indicating the reason(s) that service is being withheld or disconnected.

165:65-11-13. Notice of disconnection of service

(a) **Twenty-four hour notice.** Except as otherwise specifically provided for in this Subchapter (OAC 165:65-11-11), service shall be disconnected only after at least twenty-four (24) hours written notice has been given to the consumer by leaving a copy of such notice with the consumer or by leaving a copy of such notice in a conspicuous place at the premises where service is provided. ~~This notice shall be in writing and state the reason for the action, the amount due, if applicable, the company to contact in bold print, the contact telephone number, in bold print, and the telephone number of the CSD.~~ This notice shall be in writing, in bolded lettering, and state the reason for the disconnection, the amount due, if applicable, and the utility company's name, telephone number, and contact information. After the utility company's contact information, the notice shall include the telephone number of CSD in a printed size smaller than the print size used for the utility company's contact information, not bolded, and shall include the following statement: "For clarification of statutes and rules governing services, or escalations of disputes, you may contact the Oklahoma Corporation Commission's Consumer Services Division." The utility shall submit a copy of the notice to PUD for approval prior to usage.

(b) **Residential notice.** When service to a residential consumer is to be disconnected for nonpayment of a bill for utility service or failure to make a security deposit after a reasonable time, the utility company shall give at least ten (10) days written notice from the date of mailing to the consumer. Said written notice shall be mailed by the utility company to the consumer's billing address, unless the mail is returned from that address as undeliverable, in which case the notice may be delivered to the premises at which the service was rendered.

(1) Notice will be deemed delivered to the consumer three (3) business days after mailing by the utility company, which shall not extend the ten (10) days written notice from the date of mailing to the consumer written notice requirement above.

(2) A notice of disconnection shall contain the following information:

(A) The words "DISCONNECTION NOTICE" OR "CUT OFF NOTICE" in bold print no smaller than one-fourth inch (1/4") tall.

(B) The name and address of the consumer.

(C) A statement of the reason for the proposed disconnection of service.

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

(E) The telephone number in bold print of the utility company where the consumer may make an inquiry.

(F) The approved charges for reconnection.

(G) A statement that the consumer must contact the utility company regarding the disconnection, prior to contacting the Commission's CSD, and should contact CSD if they cannot reach a resolution with the utility.

(H) The address and telephone number of the Commission's CSD, in print size which is smaller than the print size used for the utility company's telephone number.

(I) A statement that advises the consumer of the availability of a deferred payment agreement.

(J) A statement that advises the consumer of the elderly/handicapped notification.

(K) A statement that advises the consumer of the availability of the 20-day financial aid assistance delay.

(L) A statement that advises the consumer there are agencies providing assistance to consumers for their utility bills as well as provide the location of pay agents upon the consumer's request.

(3) The utility company shall notify the consumers in writing, at least annually, of the name and address of the authorized payment agencies, if other than the utility company's offices, where consumers may make payments.

(c) **Commission as intermediary.** Unless otherwise directed by the CSD, the utility company shall not contact the consumer regarding the consumer's account after the Commission has notified the utility company of a complaint or inquiry from the consumer. The Commission shall be the intermediary between the utility and the consumer until the resolution of the problem has been completed.

(d) **Third party notice.** A utility shall permit residential consumers to designate a consenting individual or agency to receive the applicable notice of disconnection.

(e) **Tenant notice.** Where a master metered apartment complex, building, or trailer court is subject to disconnection, the written notice to the consumer shall also be posted in a common area of the premises at least ten (10) days prior to disconnection of service. The utility may contract with tenants for residential service.

(f) **Commercial or business notice.** Service of nonresidential customers or other water systems shall be disconnected for nonpayment of all or any portion of an undisputed utility bill or failure to comply with the provisions of a deferred payment agreement only after at least five (5) business days written notice has been mailed to the consumer by the utility or after the notice is left in a conspicuous place at the premises where service is provided.

165:65-11-14. Commission notification procedure for elderly and/or consumers with disabilities

(a) At any time prior to disconnection of service, the ~~Commission~~ notification procedure shall be available to those elderly and/or consumers with disabilities who have notified the utility in writing that they wish to be included in the following ~~Commission~~ notification procedure:

(1) ~~A utility shall notify the Commission's CSD by telephone at least five (5) days prior to disconnection.~~

~~(2) Such notification shall be confirmed in writing by the utility and mailed, e-mailed, or faxed to the Commission's CSD the same day as the telephone notification. Written confirmation shall contain at a minimum:~~

~~(A) The name, address, telephone number, and account number of the involved parties.~~

~~(B) The words "NOTICE", "SERVICE SUBJECT TO CUTOFF" AND "ELDERLY and/or CONSUMER WITH DISABILITIES" should be conspicuously placed on the notice in bold, capitalized letters.~~

~~(C) The scheduled date for disconnection.~~

~~(D) The unpaid balance amount.~~

~~(E) The name and telephone number of a contact person at the utility.~~

~~(3)~~ For those who have registered with the utility as elderly and/or consumer with disabilities, the ~~The~~ utility shall delay disconnection of service to the elderly and/or consumers with disabilities for five (5) additional business days upon request of the Commission's CSD.

(~~4~~2) Elderly and/or consumers with disabilities are those consumers who have notified the utility in writing that they ~~wish to be included in the Commission notification procedure available to them and who~~:

(A) Have a permanent impairment which substantially limits the disabled consumer's ability to pay for utility service; or

(B) Are sixty-five (65) years of age or older.

(b) The utility shall notify the consumer or other person responsible for the bill, during the initial application for service, annually thereafter, and at any time disconnection is imminent, of this additional notification procedure.

(c) The utility may require verification of the consumer's qualifications.

~~(d) The Commission notification procedure is in addition to the other requirements set forth in this Subchapter, which the utility shall meet prior to disconnection of service.~~

165:65-11-15. Delays to disconnection of residential service

(a) **Limitations on disconnection.** After notice and hearing, the Commission may issue an order that may include limitations on disconnection of residential utility service.

(b) **Temporary ban on disconnections.** The Commission shall have the authority to order a temporary ban on any or all disconnections during periods of extremely severe weather or when circumstances exist such that disconnection could create a situation dangerous to the life or health of consumers or to property.

(c) **Severe weather.**

(1) ~~If the high temperature is actually, or predicted to be, 32 degrees Fahrenheit or below on the day of disconnection or the nighttime low is predicted to be 20 degrees~~

~~Fahrenheit or less, the utility shall suspend its disconnection of service if the water service is used for heating purposes.~~ If the NWS issues a local forecast predicting the temperature will drop below 32 degrees Fahrenheit for any time period during the following twenty-four (24) hours, the utility shall suspend its disconnection of service if the water service is used for heating purposes. The utility must obtain the most recent local forecast for the customer's location from the NWS reports between the hours of 6:00 a.m. and 8:00 a.m. on the morning of the day that the customer's shut-off is scheduled. If the NWS issues an updated forecast on the day of disconnection, then such updated forecast shall be used in place of the earlier obtained forecast.

(2) ~~If the service is utilized for cooling and the temperature is actually, or predicted to be, 101 degrees heat index or higher on the day of disconnection, the utility shall suspend its disconnection of service activity.~~ If the NWS issues a local forecast predicting the temperature will be 101 degrees Fahrenheit heat index or higher on the day of disconnection, or if the actual heat index is 101 degrees Fahrenheit or higher, the utility shall suspend its disconnection of service activity if the service is used for cooling purposes. The utility must obtain the most recent local forecast for the customer's location from the NWS reports between the hours of 6:00 a.m. and 8:00 a.m. on the morning of the day that the customer's shut-off is scheduled. If the NWS issues an updated forecast on the day of disconnection, then such updated forecast shall be used in place of the earlier obtained forecast.

(3) Nothing in this Section shall prohibit a utility from establishing a higher temperature threshold for residential heating purposes below which it will not discontinue utility service or from establishing a lower temperature threshold for residential cooling purposes above which it will not discontinue utility service. The utility may continue to disconnect utility service for unauthorized use of the utility's measuring equipment or tampering with pipes, meters, or any other utility equipment or obtaining service without contract.

(d) **Financial assistance delay.** When a residential consumer has applied for and is awaiting financial assistance, including social security income, from a federal, state, or local social service agency, and the utility has initiated written notice of disconnection, it shall delay disconnection of service for a period of at least twenty (20) calendar days from the date when such notice was either delivered or mailed to the premises where service is rendered, provided:

(1) The reason for disconnection is for nonpayment of the utility bill.

(2) The consumer has notified the utility that the consumer has applied for and is awaiting financial assistance.

(3) Verification from the involved agency must be provided in a form as prescribed by the utility upon its request.

(4) If the expected financial assistance is less than the amount owed for services, the utility may require the consumer to enter into a deferred payment agreement as prescribed in (e) of this Section.

(5) Under no condition is the utility required to furnish service to the consumer unless there is reasonable expectation of payment for such service except where other rules of this Commission apply.

(e) **Deferred payment agreement.** The utility shall be required to offer a deferred payment agreement before disconnecting service for any bill or account balance in excess of fifty dollars ($50.00) when a residential consumer is unable to pay an account in full. The utility shall not disconnect service for nonpayment of a bill if the consumer enters into a deferred payment agreement with the utility. If the terms of the deferred payment agreement are agreed to orally, the utility may send confirmation of such agreement by mail or by electronic notification to consumers who make an affirmative election to receive electronic notification of such information. A deferred payment agreement may be entered into by the consumer up to, but not including, the day of disconnection. Except where payment assistance for the total amount of the bill is pending, the utility may require a reasonable partial payment in accordance with paragraph one (1) of this subsection, at the time the deferred payment agreement is made.

(1) Deferred payment agreement means a just and reasonable agreement offered by the utility and agreed to by the consumer which provides for the payment of all future bills during the period of agreement by the due date and the payment of the balance of any outstanding bills in reasonable installments based upon:

(A) Consideration of the consumer's gross income less employer deductions.

(B) Size of the delinquent account.

(C) Consumer's ability to pay.

(D) Consumer's payment history with the utility.

(E) Length of time and reasons why the debt has not been paid.

(F) Other extraordinary expenses of the consumer.

(G) Loss of income through unemployment or illness.

(H) Any other relevant factors concerning the circumstances of the consumer.

(2) The payments under such an agreement need not be equal in amount.

(3) The consumer shall initiate a renegotiation prior to breach of the deferred payment agreement. The deferred payment agreement shall be renegotiated if financial circumstances, such as loss of income through unemployment or illness, or any other relevant factors concerning the circumstances of the consumer, change during the payment period.

(4) If a consumer fails to comply with the terms of the deferred payment agreement, the consumer will be subject to disconnection without further notice, so long as the disconnection date on the first and second notice has not been passed. If the disconnection date has passed, the utility shall provide at least twenty-four (24) hours notice of disconnection to the consumer.

(5) Under no condition is the utility required to furnish service to the consumer unless there is a reasonable expectation of payment for such service except where other rules of this Commission apply.

(f) **False information.** If a consumer provides false or misleading information to the utility in order to avail the consumer of the provisions applicable to the financial assistance delay, deferred payment agreement, life threatening situation, or Commission notification procedure for elderly and/or consumers with disabilities, the false information shall be grounds for disconnection of service by the utility. The utility may disconnect service upon the utility providing notice to the customer in accordance with OAC 165:65-11-13(a).

(g) **Consumer liability.** Reconnection or continuance of service under this Section shall not in any way relieve the consumer of the consumer's liability incurred for utility service.

PART 5. CHARACTER OF SERVICE

165:65-11-22. Change in character of service

(a) Each utility shall, upon request, give its consumers such information and assistance as is reasonable in order that consumers may secure safe and efficient service.

(b) No change in the characteristics of the water service ~~which~~ that may impair the safe~~,~~ and efficient utilization of the water shall be made.

(c) In order to protect itself against serious and unnecessary waste or misuse of water, the utility may meter any flat rate service connection and apply the regularly established meter rates where the consumer continues to waste or misuse water two (2) business days after the utility has notified him in writing to discontinue such practice.

(d) The utility may require water saving devices to be installed on air conditioning and refrigeration devices of over three (3) tons.

(e) If a change in service to a consumer is required for the convenience or benefit of the utility, the utility shall pay such part of the cost of changing the consumer's equipment as determined by mutual agreement, or by the Commission in the absence of such an agreement, including the cost of making the necessary change in consumer piping.

SUBCHAPTER 13. PROMOTIONAL POLICIES AND PRACTICES

165:65-13-6. Contributions

(a) All gifts, donations, and contributions made by the regulated utility shall be treated as "below the line" expenses and excluded from operating expenses allowable for rate making purposes; including, but not limited to the following:

(1) Contributions to charitable, religious, or educational institutions or associations.

(2) Contributions to civic, community, social, or public welfare organizations or associations.

(3) Payments to cities or towns in excess of franchise taxes or charges ~~which~~ that the regulated utility is obligated to pay pursuant to an enforceable written contract or franchise.

(b) Dues and fees paid to industry, scientific, and professional organizations which in amount bear a reasonable relationship to benefits received from membership therein shall not be restricted in this Section, and may be eligible for recovery.

165:65-13-7. ~~Filing~~ Submission of promotional practices

~~(a) Each utility shall file with the Commission a complete and concise statement of every promotional practice not prohibited by this Chapter which it undertakes and offers for the purpose of encouraging the use of its service or appliances using its utility service on the effective date of this Chapter.~~

~~(b) The utility shall grant the same promotional benefits to every customer or other person falling within the same classification or meeting the same requirements as any person receiving the benefits.~~

~~(c) The utility shall not change, increase, decrease, or alter any promotional benefit or commence any new practice or benefit, except pursuant to order of the Commission upon application of the utility and after notice and hearing; or discontinue any allowance except after written notice to the Commission.~~

The utility shall submit an annual submission of current promotional practices by May 1, and as programs are updated, to PUD. The report shall include a list and description of all promotional practices and activities. Although submission by the utility shall not assume approval by PUD, it will allow PUD and the utility to review and dialogue as to the appropriateness of the promotional practices, whether or not the expenses should be recovered through rates, and ensure that the promotional practices are provided on a nondiscriminatory basis.

[OAR Docket #19-492; filed 5-31-19]

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

[OAR Docket #19-498]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
210:10-1-3. Reports and records for attendance, enrollment, and transportation [AMENDED]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104
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October 9, 2018
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n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The rule describing the creation and maintenance of school attendance, enrollment, and transportation records has been updated to reflect changes in law and practice. The previous rule language referred to requirements that are no longer in effect, such as making records in ink when digital recordkeeping is now authorized. A reference to the County Superintendent has been removed, as that position no longer exists.
CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-3. Reports and records for attendance, enrollment, and transportation

(a) All original attendance records are hereby made official public records, and as such shall be kept daily in ink, or recorded daily in the school district's Schools Interoperability Framework (SIF)-compliant Student Information System~~according to the law and regulations, and on the forms approved by the State Board of Education. Original attendance records for all school districts having less than 50 teachers shall be filed in the office of the County Superintendent at the close of the term for the respective school districts and shall be retained there until the final audits are completed~~. While a school district's Student Information System may serve as a school's official record of student attendance, it is recommended that teachers also keep their own attendance records in hard copy form, so that if any discrepancies arise the Student Information System record may be compared with individual teacher records. Each school district shall be responsible for maintaining an addendum to the attendance records to verify the number of individual student absences for activities.

(b) All original attendance records for schools ~~having more than 50 teachers~~ shall be kept at the respective schools and shall be made available during the summer months for inspection and audit by a representative of the State Board of Education. All attendance record forms shall be approved by the State Board of Education. All Registers of Pupil Attendance, Enrollment and Transportation shall be marked daily in ink as outlined in the register, or recorded as appropriate in the district's Student Information System. Such records shall be kept by a competent individual under supervision of the principal.

(c) At the close of the school year, the ~~County or~~ District Superintendent of Schools shall keep on file all Registers of Pupil Attendance, Enrollment and Transportation, and Class Record Books of all teachers and principals employed under ~~his~~the superintendent's supervision.

[OAR Docket #19-498; filed 5-31-19]

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

[OAR Docket #19-499]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
210:10-1-12. Acquired Immune Deficiency Syndrome (AIDS) [REVOKED]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104
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INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
This rule adopted in the 1980s, which had placed purported limits on a student's right to attend public school if they are living with HIV/AIDS, has been revoked due to its outdated content that is not consistent with current law or scientific understanding. The Oklahoma State Department of Health was consulted and did not object to the revocation.
CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-12. Acquired Immune Deficiency Syndrome (AIDS) [REVOKED]

~~(a) The State Department of Education adheres to the following guidelines, upon the recommendation by the Oklahoma State Health Department, in the event a student is diagnosed as having Acquired Immune Deficiency Syndrome (AIDS).~~

~~(1) When a child in the public schools is diagnosed as having AIDS, the State Health Department must be contacted.~~

~~(2) Determinations regarding the location of an AIDS student's educational program will be made on a case-by-case basis by a team composed in each instance of the child's parent or guardian, the child's physician, the local superintendent, a representative of the State Health Department, and a representative of the State Department of Education.~~

~~(3) The team will meet and make a decision as to whether the child in question should be in attendance in the public schools. Such decision will then be recommended to the local board of education.~~

~~(4) In making a recommendation as to the child's attendance in a public school, the team will utilize the guidelines published by the Centers for Disease Control.~~

~~(b) Questions concerning the administration or implementation of these guidelines should be addressed to the State Department of Education. For any medically related questions, contact the State Health Department Sexually Transmitted Disease Division.~~

[OAR Docket #19-499; filed 5-31-19]

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

[OAR Docket #19-500]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
210:10-1-22. Guidelines for nontraditional public schools [NEW]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 70 O.S. § 3-132; 70 O.S. § 5-117
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GIST/ANALYSIS:
This new rule addresses guidelines for conversion schools and partnership schools, two types of public school entities authorized by statute, which differ from both traditional public schools and charter schools. For conversion schools, the rule clarifies the statutory requirements for "conversion plans" by stating the elements of the plan in clear language, as the authorizing statute uses citations and requires cross-referencing rather than directly stating the requirements. The statutory Open Records Act and Open Meeting Act requirements for conversion plans are also emphasized, and the rule directs a board of education that adopts a conversion plan to provide a copy of the plan to the State Department of Education. For both conversion schools and partnership schools, the rule provides that nontraditional public school sites are subject to the same accreditation standards as charter schools.
CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-22. Guidelines for nontraditional public schools

(a) **Purpose.** Oklahoma law authorizes certain public school entities that are exempt from many of the statutory and regulatory requirements that apply to traditional public schools, but are not classified or operated as charter schools. This section lays out guidelines for "conversion schools" and "partnership schools", two types of nontraditional public schools authorized by state law.

(b) **Conversion schools.** Pursuant to 70 O.S. § 3-132(E), "conversion school" means a school site created by converting all or part of a traditional public school in order to access any or all flexibilities afforded to a charter school. Unlike a charter school, a conversion school is administered by the school district board of education rather than an independent governing board, and the school district itself retains the features of a traditional public school district. A conversion school is subject to all school accreditation requirements that apply to charter schools.

(1) **Conversion plan requirements.** A school district that wishes to convert one or more school sites to access flexibilities available to charter schools is required by the authorizing statute to prepare a conversion plan that includes all of the following features:

(A) A mission statement for the conversion school(s);

(B) A description including, but not limited to, the organizational structure of the school(s);

(C) A description of the facility and location of the conversion school(s);
(D) A description of the grades served;
(E) An outline of criteria designed to measure effectiveness of the conversion school(s);
(F) A demonstration of support for the conversion school(s) from residents of the school district which may include, but is not limited to, a survey of the school district residents or a petition signed by residents of the school district;
(G) Documentation that one or more representatives of the school district pursuing the conversion of a school have completed charter school training as set forth in 70 O.S. § 3-134(A);
(H) Unless otherwise authorized by law or regulation, a description of the academic program aligned with state standards;
(I) A description of the instructional design of the conversion school(s), including the type of learning environment, class size and structure, curriculum overview, and teaching methods;
(J) The plan for using internal and external assessments to measure and report student progress;
(K) The plans for identifying and successfully serving students with disabilities, students who are English language learners, and students who are academically behind;
(L) A description of co-curricular or extracurricular programs and how they will be funded and delivered;
(M) The student discipline policies for the conversion school(s), including those for special education students;
(N) An organizational chart that clearly presents the organizational structure of the conversion school(s), including lines of authority and reporting between the board of education, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;
(O) A clear description of the roles and responsibilities for the board of education, the leadership and management team(s) for the conversion school(s), and any other entities shown in the organizational chart;
(P) The leadership and teacher employment policies for the conversion school(s);
(Q) Proposed governing policies;
(R) Explanations of any partnerships or contractual partnerships central to the operations or mission of the conversion school(s); and
(S) A requirement that the conversion school(s) follow the requirements of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

(2) **Public availability of the conversion plan.** In addition to the statutory requirements listed in (b)(1), the conversion plan must explain in clear language how the features and/or operations of the school(s) proposed for conversion will differ from a traditional public school. The conversion plan and all supporting documents listed in (b)(1) that are not incorporated as part of the conversion plan, as well as any policies unique to the conversion site, shall be in writing and shall be available to the public pursuant to the requirements of the Oklahoma Open Records Act. In addition to making a print copy of the conversion plan available to the public upon request, a school district that wishes to pursue the conversion of one or more school sites shall make the conversion plan available in electronic form on any general website maintained by the school district, and if applicable, on the specific website or web page of any school in the district that would be affected by the conversion if the plan is approved. All votes of a board of education to consider a conversion plan shall be held in an open public session.

(3) **Submission of an approved conversion plan to the State Department of Education.** In addition to the statutory requirement for a board of education that approves a school conversion plan to notify the State Board of Education, upon approval of a school conversion plan by the local school board, the school district shall notify the State Department of Education Office of Accreditation and provide a copy of the approved plan. Approved school conversion plans will be made available on the State Department of Education website in the same manner as other public documents.

(c) **Partnership schools.** Pursuant to 70 O.S. § 5-117(G), the board of education of a school district with an average daily membership (ADA) of thirty thousand (30,000) or more, which is located in whole or part in a county with a population of five hundred thousand (500,000) or more, may contract with a public or private nonsectarian entity for that entity to provide educational and administrative services for one or more schools within the school district. A school that receives educational and/or administrative services by contract with a nonsectarian entity may be referred to as a "partnership school." A partnership school is subject to all school accreditation requirements that apply to charter schools. Any contract for educational and/or administrative services to a partnership school shall be available upon request under the Oklahoma Open Records Act. Upon adoption of any contract for educational and/or administrative services to a partnership school, the school district board of education shall provide a copy of the contract to the State Department of Education Office of Accreditation.

[OAR Docket #19-500; filed 5-31-19]

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

[OAR Docket #19-501]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

Subchapter 3. Child Nutrition Program
Part 3. Child and Adult Care Food Program (CACFP)
210:10-3-20. Definitions [REVOKED]
210:10-3-21. Terms defined in CACFP regulations [REVOKED]
210:10-3-22. Agreement [REVOKED]
210:10-3-23. Specification of meal times [REVOKED]
210:10-3-24. Cycle menus [REVOKED]
210:10-3-25. Recordkeeping [REVOKED]
210:10-3-26. Commodities [REVOKED]
210:10-3-27. Meal pattern requirements [REVOKED]
210:10-3-28. Unrecovered funds [REVOKED]
210:10-3-29. Administrative review [REVOKED]
210:10-3-30. Day care home; sponsoring organizations for day care homes (DCH) agreement [REVOKED]
210:10-3-31. Day care homes; administrative review [REVOKED]
210:10-3-32. Day care homes; meal pattern requirements [REVOKED]
210:10-3-33. Day care homes; unrecovered funds [REVOKED]
210:10-3-34. CACFP procedures for conducting audits of CACFP participants [REVOKED]
210:10-3-35. CACFP claims processing procedures [REVOKED]
210:10-3-36. CACFP approval procedures [REVOKED]
210:10-3-37. CACFP appeal procedures [REVOKED]
210:10-3-38. CACFP procedures for advance funding [REVOKED]
210:10-3-39. CACFP termination procedures [REVOKED]
210:10-3-40. Child and Adult Care Food Program (CACFP) general provisions [NEW]

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 7 C.F.R. Part 226

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The previous content of the Child and Adult Care Food Program (CACFP) subpart is being revoked, as these rules adopted in 1995 no longer consistently reflect the federal laws and regulations that govern the CACFP program. A new rule is adopted under this subchapter, incorporating the federal regulations at 7 C.F.R. Part 226 as Oklahoma's governing rules for the program, with any state level policies specifically required by federal law made available on the State Department of Education website and through the Office of Child Nutrition. Incorporating the federal regulations as Oklahoma's CACFP program rules will ensure that state guidelines are always consistent with the governing federal law and rules, even when changes are made to the program at the federal level.

CONTACT PERSON:

Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 3. CHILD NUTRITION PROGRAM

PART 3. CHILD AND ADULT CARE FOOD PROGRAM (CACFP)

210:10-3-20. Definitions [REVOKED]

~~The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise.~~

~~**"Administrative Review"** means a program compliance evaluation process using forms provided by the State Agency.~~

~~**"Agreement"** means the written consent of obligations between the State Department of Education (SDE) Child Nutrition Programs (CNP) and the Child and Adult Care Food Program applicant.~~

~~**"Application"** means the State Department of Education Child Nutrition Programs' established procedure for determining eligibility of institutions, facilities, and Sponsoring Organizations in the Child and Adult Care Food Program (CACFP)~~

~~**"Approval Visit"** means the technical assistance visit used by the State Agency to complete the approval process for participation in the CACFP.~~

~~**"CACFP"** means Child and Adult Care Food Program.~~

~~**"CMIA"** means Cash Management Improvement Act.~~

~~**"CNP"** means Child Nutrition Programs.~~

~~**"Compliance"** means having met the contractual requirements of the CACFP.~~

~~**"Component"** means a required food group as specified by the USDA. The four food components are milk, meat and meat alternates, fruits and vegetables, and bread and bread alternates.~~

~~**"Coordinator"** means an official employee of the SDE that provides consultative, technical and managerial assistance to CACFP programs. Coordinators also conduct approval visits and administrative reviews of program participants.~~

~~**"Corrective Action Plan"** means a written plan to address deficiencies and identify actions and time frames to be taken for the deficiencies found in an administrative review or audit.~~

~~**"Cycle Menus"** means a set of carefully planned menus that will be rotated according to a definite pattern. Cycle menus contain all required food components.~~

~~**"DCHs"** means Day Care Homes.~~

~~**"DHS"** means the Oklahoma Department of Human Services.~~

~~**"Family Size and Income Application"** means the document used to determine the eligibility status of an enrolled child.~~

~~**"Minimum Meal Patterns"** means the required food components and quantities as set forth by USDA for the CACFP in 7 CFR 226.20 of CACFP regulations.~~

~~**"Multi-sited Institution"** means an institution which has more than one child care facility.~~

~~**"Organization-wide Audit"** means an independent audit of all funds received by an organization, inclusive of federal, state, local, and private funds. The audit requirement applies to CACFP institutions receiving total federal financial assistance that is equal to, or in excess of, $100,000 and is designed to satisfy the needs of all funding sources. The audit must include a random sampling of all federal funds the institution receives and must also be conducted by an independent auditor.~~

~~**"Per Unit Basis"** means individual home basis.~~

~~**"Physical Inventory"** means a visual counting and recording of all unopened food and food related supplies on hand for use in the CACFP.~~

~~**"Point of Service Count"** means the point in the food service operation where a determination can accurately be made that a reimbursable meal has been served.~~

~~**"Program-specific Audit"** means a financial and program compliance audit covering only one specific program (i.e., CACFP).~~

~~**"Quantity"** means the amount of any food item served. Quantities are specified by USDA in CACFP minimum meal pattern requirements.~~

~~**"Review Month"** means the most recent month for which a claim for reimbursement was submitted, provided that such claim covers at least 10 operating days. The review month is examined during an administrative review.~~

~~**"Schedule A"** means a list of facilities or homes and their addresses under an institution's sponsorship.~~

~~**"Schedule B"** means the minimum meal pattern requirements.~~

~~**"SDE"** means the Oklahoma State Department of Education.~~

~~**"Shift"** means an approved time for any approved meal.~~

~~**"Significant"** means any area of noncompliance which is found to be in violation of the ten percent tolerance level of the review period.~~

~~**"Umbrella Sponsor"** means a multi-sited institution.~~

~~**"USDA"** means the United States Department of Agriculture.~~

210:10-3-21. Terms defined in CACFP Regulations [REVOKED]

~~Additionally, the following words and terms are defined in CACFP Regulations 7 CFR 226 and, as used in this part, have those meanings unless the context clearly indicates otherwise.~~

~~(1) "AFDC Assistance Unit Act"~~
~~(2) "Administrative Costs"~~
~~(3) "Adult"~~
~~(4) "Adult Day Care Center"~~
~~(5) "Adult Day Care Facility"~~
~~(6) "Adult Participant"~~
~~(7) "Advanced Payments"~~
~~(8) "CACFP Child Care Standards"~~
~~(9) "Child Care Center"~~
~~(10) "Child Care Facility"~~
~~(11) "Children"~~
~~(12) "Claiming Percentage"~~
~~(13) "Current Income"~~
~~(14) "Day Care Home"~~
~~(15) "Department"~~
~~(16) "Documentation"~~
~~(17) "Enrolled Child"~~
~~(18) "Enrolled Participant"~~
~~(19) "Family"~~
~~(20) "Fiscal Year"~~
~~(21) "FNS"~~
~~(22) "FNSRO"~~
~~(23) "Food Service Equipment Assistance"~~
~~(24) "Food Service Management Company"~~
~~(25) "Food Stamp Household"~~
~~(26) "Free Meal"~~
~~(27) "Functionally Impaired Adult"~~
~~(28) "Household"~~
~~(29) "Income Standards"~~
~~(30) "Income to the Program"~~
~~(31) "Independent Center"~~
~~(32) "Infant Cereal"~~
~~(33) "Infant Formula"~~
~~(34) "Institution"~~
~~(35) "Key Element Reporting System"~~
~~(36) "Meals"~~
~~(37) "Medicaid Participant"~~
~~(38) "Milk"~~
~~(39) "Nonpricing Program"~~
~~(40) "Nonprofit Food Service"~~
~~(41) "Nonresidential"~~
~~(42) "OIG"~~
~~(43) "Operating Costs"~~
~~(44) "Outside-School-Hours Care Center"~~
~~(45) "Participants"~~
~~(46) "Personal Property"~~
~~(47) "Pricing Program"~~
~~(48) "Program"~~
~~(49) "Program Payments"~~
~~(50) "Proprietary Title XIX Center"~~
~~(51) "Proprietary Title XX Center"~~
~~(52) "Reduced-price Meal"~~
~~(53) "Reimbursement"~~
~~(54) "SSI Participant"~~
~~(55) "School Year"~~
~~(56) "Sponsoring Organization"~~
~~(57) "Start-up Payments"~~
~~(58) "State"~~
~~(59) "State Agency"~~
~~(60) "Title XVI"~~
~~(61) "Title XIX"~~
~~(62) "Title XX"~~
~~(63) "Uniform Federal Assistance Regulations"~~
~~(64) "Verification"~~
~~(65) "Yogurt"~~

210:10-3-22. Agreement [REVOKED]

~~(a) The State Agency shall require that a meal analysis be conducted to fulfill the review regulations for Sponsoring Organizations.~~

~~(b) The State Agency shall limit meal services to a maximum of two shifts.~~

~~(c) The State Agency shall require that when an ownership change occurs, the current CACFP Agreement becomes null and void. Notification of such occurrence must be reported immediately to the State Agency. If the new owner chooses to participate in the CACFP, he/she must submit a new application and agreement for participation.~~

~~(d) The State Agency shall require that in the operation of the Child and Adult Care Food Program, the institution designate an authorized representative who may act for the governing body/institution in preparing and signing documents, reports and claims for reimbursement pertaining to the installation and operation of the Program. Only one authorized representative may be designated at any time. The authorized representative accepts responsibility for the monthly claim for reimbursement and will receive all correspondence from the State Agency.~~

~~(e) The State Agency shall require that multi-sited institutions include the following when fulfilling their monitoring responsibilities:~~

~~(1) Each child care and adult care facility must be reviewed at least three times each year with not more than six (6) months elapsing between reviews.~~

~~(2) New child care and adult care facilities must have a review conducted during the first six weeks of Program operations.~~

~~(3) Each outside-school-hours care center must have a review conducted during the first four weeks of Program operations.~~

~~(4) All other outside-school-hours care centers must be reviewed six times each year with not more than three months elapsing between reviews.~~

~~(f) The State Agency shall require that each institution designate a trainer. All CACFP personnel must receive training prior to performing Program duties. Documentation must be maintained on all training conducted. Documentation must include topics covered, personnel in attendance, dates, and locations.~~

~~(g) The State Agency shall require that public and private nonprofit institutions receiving $100,000 or more in total federal funds in the previous fiscal year submit to the State Agency an organization-wide audit by September 30 each year for the previous fiscal year.~~

~~(h) The State Agency shall require that for the purpose of this agreement, Schedule A shall refer to the names and addresses of the child care facilities under the institution's administration.~~

~~(i) The State Agency shall require that for the purpose of this agreement, Schedule B shall refer to the minimum meal patterns as set forth in CFR 226.20 and Section 210:10-3-27 of this Part.~~

~~(j) The State Agency shall require that institutions supply meals without cost to all enrollees at the service institution.~~

~~(k) The State Agency shall require that no Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of the agreement or to any benefit that may arise therefrom: But this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.~~

210:10-3-23. Specification of meal times [REVOKED]

~~The State Agency shall require the following time sequence for meals: at least three (3) hours between main meals (from beginning time to beginning time), two (2) hours between a main meal and a supplement (from beginning time to beginning time). Meals served between the hours of 10 p.m. and 5 a.m. may not be claimed for reimbursement. Suppers must not be served prior to 5 p.m. and not after 8 p.m.~~

210:10-3-24. Cycle menus [REVOKED]

~~The State Agency shall require institutions to develop and follow a thirty (30) day cycle menu for each main meal and supplement served.~~

210:10-3-25. Recordkeeping [REVOKED]

~~(a) The State Agency shall require daily food production records be maintained as well as daily meal counts and menus. These production records must reflect actual quantities served, detailing the following: date; total number served; total served by age group, including adults; menu; total quantity served for each required component, including crediting information~~

~~(b) The State Agency shall require that an accurate physical count at the point of service (at the time the meal is served) be made of all meals and supplements served to participants. A record of meal counts must be posted after each meal service on the meal count worksheet to support claims for reimbursement. Dual signatures are required on the meal count worksheet.~~

~~(c) The State Agency shall require that a physical inventory of CACFP purchased foods be maintained monthly as well as an inventory of USDA donated foods as required by the Department of Human Services.~~

~~(d) The State Agency shall require CACFP institutions to maintain all records for five (5) years following the end of the fiscal year. CACFP records which support claims for reimbursement include the following documents (A system equal to or better than forms provided by the State Agency may be utilized.) Records which must be maintained include the following:~~

~~(1) CACFP 1 Institution Application for Participation and Management Plan~~

~~(2) CACFP 1A Civil Rights Data Collection~~

~~(3) CACFP 2 Facility Application for Participation~~

~~(4) CACFP 2A Agreement with School to Furnish Food Service, if applicable~~

~~(5) CACFP 3 Policy Statement/Public Release~~

~~(6) CACFP 4 Family Size and Income Application for Child Care~~

~~(7) ADC 4 Family Size and Income Application for Adult Care, if applicable~~

~~(8) CACFP 4A Household Size and Income Scales for Child Care~~

~~(9) ADC 4A Household Size and Income Scales for Adult Care, if applicable~~

~~(10) CACFP-4B Letter to Household for Child Care~~
~~(11) ADC-4B Letter to Household for Adult Care, if applicable~~
~~(12) CACFP-5 Electronic Funds Transfer Authorization Form, if applicable~~
~~(13) CACFP-6 Agreement~~
~~(14) CACFP-7 Roster~~
~~(15) CACFP-8 Daily Attendance Records Arrival and Departure, if applicable~~
~~(16) CACFP-9 Meal Count Worksheet for Child Care~~
~~(17) ADC-9 Meal Count Worksheet for Adult Care, if applicable~~
~~(18) CACFP-10 Daily Record of Meals Served, if applicable~~
~~(19) CACFP-11 Itemized Receipts/Food Purchasing Form~~
~~(20) CACFP-12 Expenditure Worksheet~~
~~(21) CACFP-13 Claim for Reimbursement for Child Care~~
~~(22) ADC-13 Claim for Reimbursement for Adult Care, if applicable~~
~~(23) CACFP-13A Notification of Title XX/XIX Under 25%~~
~~(24) CACFP-13B Report of Facilities Operating Under One Institution~~
~~(25) CACFP-14 Preapproval Visit Form, if applicable~~
~~(26) CACFP-14A Monitor Review Form, if applicable~~
~~(27) CACFP-15 Drop and Add Form, if applicable~~
~~(28) Attendance Records (must reflect participants and non-participants, including first and last name)~~
~~(29) Menu Planning Book/Production Records~~
~~(30) Record of Infant Meals and Quantities Served, if applicable~~
~~(31) Record of Monthly Inventory~~
~~(32) Canceled Checks (Documentation for CACFP Expenditures)~~
~~(33) CACFP Notice of Deposit~~
~~(34) Commodity Allocation Receipt, if applicable~~
~~(35) Title XX/XIX Documentation, if applicable~~
~~(36) Copy of Contract for Meals, Contract Meal Delivery Receipts, if applicable~~
~~(37) CN Labels/Product Analysis Statements of On-Site Preparation, if applicable~~
~~(38) Blended Rate Worksheet~~
~~(39) All Correspondence for State Agency~~

~~(e) The State Agency shall require that all Program records be maintained in a central location at the end of the fiscal year.~~

~~(f) The State Agency shall require that records be maintained and immediately available at all times at the location approved on the CACFP Application.~~

~~(g) The State Agency shall require that the institution have thoroughly itemized receipts (name of food item, number of units purchased, unit size, unit cost, total cost, correct date, and place of purchase) which is signed by the purchaser, the cash register tape total, and the food purchasing form grand total must agree.~~

~~(h) The State Agency shall require that a properly approved Family size and Income Application must be categorized according to free, reduced, or not eligible, and be dated and signed by the approval official. Failure to properly approve this application will result in it being classified as "not eligible" (Family size and Income Applications must be taken each fiscal year regardless of previous enrollment). The fiscal year begins October 1 each year and ends September 30.~~

~~(i) The State Agency shall require that a monthly record of participation by free, reduced, or not eligible be maintained for each month claiming for reimbursement on the CACFP. The CACFP Attendance Roster must reflect which children are included in the institution's participation data.~~

~~(j) The State Agency shall require that when zero income is reported, the approving official should issue temporary approval for thirty (30) days. Income update contacts must be made every 30 days and documented on the Family size and Income Application. At the end of 90 days (after three contacts are made), a new application is required. If the household's income is still zero, a new temporary approval should be issued. At this time written documentation must be provided by the household explaining how food, clothing, and shelter are provided. If a new application and written documentation are not provided by the household, the institution must report the child as not eligible.~~

~~(k) The State Agency shall require that all children receiving care must be included on child care center attendance records and are considered to be enrolled in the child care center. Enrolled child means a child whose parents or guardians have submitted to an institution a signed document which indicates that the child is enrolled for care and/or instruction.~~

~~(l) The State Agency shall require that all children participating in at least one meal per month must be reported in participation data as free, reduced, or not eligible. For a child to be categorized free or reduced, a fiscal year Family size and Income Application must be properly completed and approved and kept on file.~~

~~(m) The State Agency shall require that documentation to ensure that no meals are claimed over the four (4) meal limit per child be maintained and must reflect arrival and departure times. The arrival and departure times must be kept on all children. The Daily Record of Meals Served form or equal record system must reflect the meal service participation for each child for each day that he/she is in attendance.~~

~~(n) The State Agency shall require that all meals served to children be reported on the claim for reimbursement as either Program meals or nonclaimable meals. Nonclaimable meals are those served over capacity, meals that are missing components, contract meals served to children enrolled at another center, etc. Income must be reported for nonclaimable children's meals. The price charged for each meal must reflect at least the total cost of the meal, including the value of commodities (the current value of commodities is the current cash in lieu of commodities rate).~~

~~(o) The State Agency shall require that all meals served to adults be reported on the Claim for Reimbursement as Program meals or nonprogram meals. Income from nonprogram adult meals must be reported. The price charged for the meal must reflect at least the total cost of the meal, including the value of~~

~~commodities. Program adults are those involved in the preparation, service, and/or supervision of the participants during the meal service. Supervision means sitting with and eating the same meal served the participants.~~

210:10-3-26. Commodities [REVOKED]

~~(a) The State Agency shall require that institution approvals made after June 1 will be eligible only for cash in lieu of commodities through the end of the following June~~

~~(b) The State Agency shall require that institutions file at least one claim per fiscal year quarter to receive commodities. If one claim per quarter is not submitted to the State Agency, the institution will automatically be placed on the cash in lieu of commodities for the duration of the fiscal year.~~

210:10-3-27. Meal pattern requirements [REVOKED]

~~(a) The State Agency shall require that one of the following methods be used in determining the credibility of breads/bread alternates when reviewing recipes:~~

~~(1) Calculating the weight of each ingredient separately when determining the primary ingredient by weight (this will be treating the recipe exactly the same as a purchased product neither grains nor sugars would be added together in the calculations); or~~

~~(2) Calculating the weight of like ingredients to be added together when determining the primary ingredients by weight.~~

~~(b) The State Agency shall require that whole grain or enriched meal or flour be the predominant ingredient by weight as specified on the label or recipe for all bread/bread alternate products. Whole grains are: barley, wheat, oats, corn, and rice. If the flour or meal used is not whole grain or enriched, it must list the following four nutrients: iron, thiamine, riboflavin, and niacin.~~

~~(c) The State Agency shall require one (1) ounce serving of meat/meat alternate be served at least once a week for Breakfast. This is in addition to the three (3) components required at every reimbursable breakfast served.~~

~~(d) The State Agency shall require that the quantity charts will be used to determine amounts of food needed for the CACFP. These charts are developed using the USDA Food Buying Guide. Therefore, the Food Buying Guide will be the resource material used when evaluating a Program's compliance with meal pattern requirements.~~

210:10-3-28. Unrecovered funds [REVOKED]

~~If an institution terminates the CACFP and owes the State Agency funds due to an overclaim, the institution must submit a payment schedule immediately to repay the debt. The State Agency shall approve a payment schedule of at least one-half ($\frac{1}{2}$) of an average month's reimbursement for the fiscal year in which the assessment was made.~~

210:10-3-29. Administrative review [REVOKED]

~~(a) The State Agency shall require that the State Department of Education Child Nutrition Programs use the administrative review instrument to assess compliance with USDA Regulations and Oklahoma SDE/CNP Codified Policies.~~

~~(b) The State Agency shall require that a corrective action plan be submitted within 15 days from the date of date administrative review letter notifying the institution of the review findings when areas of noncompliance are plan during the administrative review process. The corrective action plan is required to address deficiencies and identify the actions and timeframes to be taken for the deficiencies found.~~

~~(c) The State Agency shall require that money owed to the State Agency as a result of an administrative review or audit be reclaimed by deducting one half ($\frac{1}{2}$) of future reimbursement claims until total amount is collected.~~

~~(d) The State Agency shall require that when conducting administrative reviews, component and quantity issues be addressed as follows:~~

~~(1) Components: The reviewer will examine menus, food production records, receipts, inventory records, and any other support documents needed to evaluate meal components. Meals missing components during the current fiscal year will be disallowed and funds reclaimed.~~

~~(2) Quantities: The reviewer will evaluate the food production records for the review month to determine if adequate quantities to meet minimum meal patterns were served. Any of these meals with inadequate quantities will be disallowed and funds reclaimed for the review month. Inventory records, receipts, and any other support documents may be used to substantiate quantities and meals claimed.~~

~~(e) The State Agency shall require that for the purpose of the administrative review, the following terms shall mean:~~

~~(1) Review Month: for administrative reviews, shall cover the most recent month for which a claim for reimbursement was submitted, provided that such claim for reimbursement covers at least ten (10) operating days.~~

~~(2) Significant: any area of noncompliance which is found to be in violation of ten percent (10%) tolerance level of the review period.~~

~~(f) The State Agency shall require that administrative review follow up procedures be as follows: When a corrective action plan is not sufficient to close an administrative review, a follow up visit will be scheduled using the administrative review follow up action form. The reviewer will assess whether areas of noncompliance were corrected within sixty (60) calendar days of the administrative review. The reviewer will use the administrative review follow up form to document the findings. If the review can be closed due to all areas of noncompliance being corrected, the appropriate reports indicating such will be sent to the State Agency by the reviewer. If areas of noncompliance still exist, a second follow up will be scheduled using the administrative review follow up action form. If at this first follow up the institution is considered seriously deficient, the administrative review follow up form must indicate so and then termination procedures are to be followed.~~

210:10-3-30. Day care homes; sponsoring organizations for day care homes (DCH) agreement [REVOKED]

~~(a) The State Agency shall retain the authority to determine the limits of a reasonable budget, depending upon the size of the Program, duties, and economic conditions of the locale. Adjustments, revisions, or justification shall be on file before approval of the budget.~~

~~(1) If the budgeted administrative costs exceed the allowable amounts calculated under Section 226.12 (a) of USDA Regulations (number of participating homes multiplied by the applicable reimbursement rates plus ten percent [10%] growth allowance) the State Agency shall have the Sponsoring Organization submit:~~

~~(A) documentation providing the source and amount of income to support the additional expenses; or~~

~~(B) a revised administrative budget reflecting reduced costs; or~~

~~(C) a statement explaining how the excess administrative costs will be handled.~~

~~(2) An initial cap not to exceed fifty (50) homes shall be placed on the number of day care homes to be approved for new Sponsoring Organizations. The State Agency shall approve additional homes only if the Sponsoring Organization provides a plan for expansion and, upon the first administrative review conducted within ninety (90) days of approval, evidence of administrative financial capability is demonstrated.~~

~~(3) A cap shall be placed on the number of DCHs for Sponsoring Organizations already participating in the CACFP if the staffing pattern and management plan do not reflect sufficient administrative capability to administer more. Additional homes shall be approved commensurate with the organization's capabilities.~~

~~(4) The budget shall be viewed as a planning document. Amendments shall become an integral component in the budget process and, as such, any budget increase shall be justified in writing before approval by the State Agency and shall not be approved retroactively.~~

~~(b) The State Agency shall place a cap on the number of DCHs to participate with a sponsor if deficiencies in administrative or financial capabilities are noted during a review or audit due to an excessive number of homes. The State Agency shall identify the number of DCHs the Sponsoring Organization can effectively administer and immediately notify the sponsor that it has ten (10) days in which to submit to the State Agency a plan to reduce the homes to the approved cap.~~

~~(1) A Sponsoring Organization that has been identified as being deficient due to audit or review findings shall be notified immediately that no additional homes shall be approved until such time as an acceptable plan is submitted to correct the deficiencies.~~

~~(2) When serious deficiencies such as fraud or misuse of funds result and corrective action would not be practical, immediate termination of the Sponsoring Organization's agreement with CACFP shall be accomplished in accordance with uniform Federal Assistance Regulations as referenced in Section 226.25 (a) of USDA CACFP regulations.~~

~~(c) The State Agency shall not make payments for meals or administration of any DCH approved unless the home has participated at least ten (10) days in the first month of participation.~~

~~(d) The State Agency shall not allow sponsors to approve applications for DCH providers for more than five (5) days per week unless the State Agency is furnished with justification for additional days and grants prior approval.~~

~~(e) The State Agency shall not allow sponsors to approve meal services between the hours of 10 p.m. and 5 a.m.~~

~~(f) The State Agency shall disallow payment(s) to Sponsoring Organizations submitting amended claims. The State Agency shall withhold payments until the Sponsoring Organization demonstrates that it has established procedures to produce a final claim on time each month. The State Agency must ensure that no future adjustments in claims are paid outside the claiming timeframe except in those instances when justified by on-site State Agency review or independent audit.~~

~~(g) The State Agency shall require that the Sponsoring Organization represents and warrants that:~~

~~(1) All Program records will be immediately available, upon request, by state and/or federal personnel.~~

~~(2) It will not pay personnel on a "per unit" basis either for recruitment or ongoing monitoring activities. The State Agency may grant an exception to this provision where warranted by special circumstances.~~

~~(3) Any changes on provider applications must be received in the State Office by the first of each month to be considered for payment for the previous month. This includes additions, deletions, and licensing verification. Sponsors need to ensure that all applications are complete and correct.~~

~~(4) All children with enrollment data will have the opportunity to participate in the Child and Adult Care Food Program. Day care home sponsors must have current, properly completed, and approved Family size and Income Applications on file for any providers who claim their own children's meals. Provider's own children may receive CACFP meal benefits if the provider's household qualifies for free or reduced price meals and at least one nonresidential child, enrolled and receiving care in the provider's home, is in attendance and participating in the meal service. Households that receive food stamps or "Aid to Families With Dependent Children" (AFDC) or "Food Distribution Program on Indian Reservations" (FDPIR) benefits must contain the children's names, the food stamp or AFDC or FDPIR case number for each child, and the signature of an adult household member. Application for all other households must contain: children's names; names of all household members; the amount of income each person received last month and where it came from, which is to be totaled by the institution; and the signature of an adult household member and that adult's social security number or the word "none" if the adult does not have a social security number. A~~

~~properly approved Family size and Income Application must be dated and signed by the approving official.~~

~~(h) The State Agency shall require that a Sponsoring Organization cannot use funds received for provider's payments for administrative expenses. Funds disbursed to Sponsoring Organizations for payments to providers must be received and the checks cashed by providers, or the funds must be returned to the State Agency. Reasons for the Sponsoring Organization returning provider reimbursement to the State Agency include, but are not limited to:~~

~~(1) Provider moved; unable to locate.~~

~~(2) Provider check not cashed by expiration date (imposed by Sponsoring Organization).~~

~~(3) Unearned provider payment discovered after claim submitted.~~

~~(4) Ineligible payment due to audit/review.~~

~~(i) The State Agency shall require that CACFP funds recovered from provider payments or CACFP funds not disbursed to providers will be returned to the State Agency.~~

~~(j) The State Agency shall require that individuals actively engaged in the day to day operations of any Sponsoring Organization, either full or part time, cannot participate in the CACFP as a DCH provider.~~

~~(k) The State Agency shall require that any provider knowingly terminated for cause by another Sponsoring Organization will not be approved to participate under any sponsorship for a five (5) year period.~~

~~(1) The State Agency shall require that a meal analysis must be conducted to be counted as a review. One (1) of these reviews must be conducted on Saturday or Sunday for each home approved to operate more than five (5) days per week.~~

~~(m) The State Agency shall require that no DCH provider shall be allowed to care for another provider's own children.~~

~~(n) The State Agency shall require that three hours shall elapse between the beginning of one main meal service and the beginning of the next main meal service. At least two hours shall elapse between the beginning of a main meal and the beginning of a supplement. Suppers shall not be served prior to 5 p.m. or after 8 p.m.~~

~~(o) The State Agency shall require that pre-planned/printed menus shall not be used by providers to record the meal components served to children in their care and each Sponsoring Organization shall ensure that meal components are manually recorded by the provider on a meal by meal basis daily.~~

~~(p) The State Agency shall require that all records will be maintained for five (5) years following the end of the fiscal year and/or until any pending audit is resolved.~~

~~(q) The State Agency shall require that no Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.~~

~~(r) The State Agency shall require that for the purpose of this Agreement, the term provider's own children shall mean: Natural children, adopted children, children by legal guardianship, and/or all residential children in the household who are part of the economic unit of the family. A family is defined as a group of related or unrelated individuals who are not residents of an institution or boarding house but who are living as one economic unit. An economic unit is a group of related or unrelated people who share housing and/or all significant income and expenses. A foster child in residence with a provider is not considered in the definition of provider's own children.~~

~~(s) The State Agency shall require that this Agreement shall be effective with respect to meals served during the period commencing on the date of approval of the Agreement and ending the following September 30, unless terminated earlier as herein provided. The State Agency may approve the Fiscal Year Agreement by notice in writing given to the Sponsoring Organization, for such period as funds are available for carrying out the Program. (This Agreement may be terminated upon ten (10) days written notice on the part of either party hereto, and the State Agency may terminate this agreement after receipt of evidence that the terms and conditions of this Agreement and the regulations governing the Program have not been fully complied with by the Sponsoring Organization. Any termination of this Agreement by the State Agency shall be in accordance with applicable laws and regulations. No termination or expiration of this Agreement, however, shall affect the obligation of the Sponsoring Organization to maintain and retain records and to make such records available.)~~

~~(t) The State Agency shall require that the terms of this Agreement shall not be modified or changed in any way other than by the consent in writing of both parties hereto.~~

~~(u) The State Agency shall require that the reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of Budget in accordance with Federal Reports Act of 1942.~~

~~(v) The State Agency shall require that in order to qualify for reimbursement under this Agreement in conducting the food service in the day care homes listed in Schedule A, providers will:~~

~~(1) Participate with the Sponsoring Organization for at least one (1) year. If home does not complete year's participation, approval to participate with another Sponsoring Organization will not be made until the following fiscal year.~~

~~(2) Attend a Sponsoring Organization CACFP in service training session annually.~~

~~(3) Develop a 30 day menu cycle for each main meal and supplement served~~

~~(4) Prepare meals on the basis of current participation trends with the objective of providing only one meal per child at each meal service.~~

~~(5) Submit no claim for reimbursement for more than two meals and one supplement or one meal and two supplements per child daily.~~

~~(6) Provide documentation to ensure that no meals are claimed over the three (3) meal limit per child daily. Documentation must be maintained and must reflect arrival and departure times. The record system must reflect the meal service participation for each child for each day that he/she is in attendance.~~

~~(7) Not forbid the availability of the Program as disciplinary action. Meals cannot be used as a reward or as a punishment.~~

~~(w) The State Agency shall require that day care home providers maintain full and accurate records of the Program, including those set forth in this Agreement and retain such records for a period of five (5) years after the end of the fiscal year to which they pertain and/or until any pending audit is resolved.~~

~~(x) The State Agency shall require that, upon request, day care home sponsors and providers make all accounts and/or records pertaining to the Program immediately available to the State Agency and/or the USDA for audit or administrative review.~~

~~(y) The State Agency shall require that public and private nonprofit institutions receiving $100,000 or more total federal funds in the previous fiscal year submit an organization-wide audit by September 30 each year for the previous fiscal year.~~

~~(z) The State Agency shall require that the Sponsoring Organization keep full and accurate records respecting its food service to serve as a basis for the claim for reimbursement and for audit and review purposes. Those Sponsoring Organizations approved for participation in the Child and Adult Care Food Program must maintain separate records for each day care home. The records to be maintained and available at all times at the location approved on the CACFP application include, but are not limited to, the following:~~

~~(1) Sponsor Recordkeeping requirements include:~~

~~(A) DCH - 1 Sponsor Application~~

~~(B) DCH - 1A Sponsor Civil Rights~~

~~(C) DCH - 1B Sponsor Policy Statement~~

~~(D) DCH - 1C Sponsor Agreement With SDE~~

~~(E) DCH - 1D Sponsor Electronic Funds Transfer~~

~~(F) DCH - 1E Basic Responsibilities Outline~~

~~(G) DCH - 1F Civil Rights Complaint Filing Procedure~~

~~(H) DCH - 2 Provider Facility Application~~

~~(I) DCH - 2A Provider Family Size and Income Application~~

~~(J) DCH - 2B Provider Income Scale~~

~~(K) DCH - 2C Letter to Provider~~

~~(L) DCH - 2D Provider Agreement With Sponsor~~

~~(M) DCH - 3 Notification of Meal Changes~~

~~(N) DCH - 4 Providers Eligible to Claim Their Own Children's Meals~~

~~(O) DCH - 5 Training Schedule~~

~~(P) DCH - 6 Review Schedule~~

~~(Q) DCH - 6A Pre-approval Visit Form~~

~~(R) DCH - 6B Monitor Review Form~~

~~(S) DCH - 7 Enrollment Data~~

~~(T) DCH - 8 Daily Arrival and Departure Record~~

~~(U) DCH - 8A Daily Record of Meals Served~~

~~(V) DCH - 8B Weekly Meals Served~~

~~(W) DCH - 8C Infant Meals Served~~

~~(X) DCH - 9 Expenditure Worksheet~~

~~(Y) DCH - 10 CACFP Payment Voucher~~

~~(Z) DCH - 11 CACFP Disbursement Register~~

~~(AA) DCH - 12 Claim for Reimbursement~~

~~(BB) DCH - 12A Claim Attachment~~

~~(CC) 30-day Cycle Menu for Each Provider for Each Meal Service Approved~~

~~(2) Provider Recordkeeping requirements are:~~

~~(A) DCH - 7 Enrollment Data~~

~~(B) DCH - 8 Daily Arrival and Departure Record (Attendance Records)~~

~~(C) DCH - 8A Daily Record of Meals Served (Meal Count by Type)~~

~~(D) DCH - 8B Weekly Meals Served (Recorded Daily on a Meal-by-Meal Basis)~~

~~(E) DCH - 8C Infant Meals Served, if applicable~~

~~(F) 30-day Cycle Menu for Each Main Meal and Supplement Served~~

~~(aa) The State Agency shall require that for the purpose of this Agreement, Schedule A shall refer to the names and addresses of day care home providers under the Sponsoring Organization's administration.~~

~~(bb) The State Agency shall require that for the purpose of this Agreement, Schedule B shall refer to the minimum meal patterns as set forth in CFR 226.20 and OAC 210:10-3-27.~~

~~(cc) The State Agency shall require the basic responsibilities as outlined for umbrella sponsors of family day care homes Child Nutrition Programs. Sponsor responsibilities include:~~

~~(1) Prior to beginning of operation, sponsors shall:~~

~~(A) Complete and submit in duplicate application packet for approval.~~

~~(B) Submit copies of Recordkeeping forms for approval.~~

~~(C) Submit copies of all materials used for outreach purposes and any instructional material(s) left with providers.~~

~~(2) After beginning operation, sponsors shall:~~

~~(A) Maintain itemized receipts and invoices, as well as payroll records, to support administrative costs incurred and reported on monthly claims for reimbursement. These costs are incurred for administering the food service program. These records must be immediately available for review or audit.~~

~~(B) Monitor all homes. One of the three reviews must be conducted on Saturday or Sunday for each home approved to operate more than five days per week. Six reviews are required if a provider has been terminated by another Sponsoring Organization.~~

~~(3) Monitoring responsibilities which shall include as a minimum:~~

~~(A) Menu analysis;~~

~~(B) Meal analysis;~~

~~(C) Record analysis;~~

~~(D) At home assistance for nutrition education, meal preparation, sanitation, recordkeeping, etc.~~

~~(4) Conducting annual in-service workshops (individual training in the home does not constitute a workshop). Sponsors shall maintain documentation on training session date(s) and location(s), as well as topics presented and names of participants.~~

~~(A) Annual inservice workshops shall include as a minimum:~~

~~(i) Training in nutrition and meal pattern requirements;~~

~~(ii) Training in food preparation and sanitation;~~

~~(iii) Training in better management procedures; and~~

~~(iv) Training in recordkeeping requirements.~~

~~(B) Annual inservice workshop training shall be conducted by Sponsoring Organization.~~

~~(dd) The State Agency shall require that in the agreement between Sponsoring Organization and day care home, in accordance with CACFP regulations, the Sponsoring Organization agrees to:~~

~~(1) Provide CACFP recordkeeping forms to providers;~~

~~(2) Limit each meal service to a maximum of two shifts; and~~

~~(3) Keep all CACFP records on a daily and meal by meal basis.~~

210:10-3-31. Day care homes; administrative review [REVOKED]

~~(a) The State Agency shall require that the State Department of Education Child Nutrition Programs Section will use the administrative review instrument to assess compliance with USDA Regulations and Oklahoma SDE/CNP Codified Policies.~~

~~(b) The State Agency shall require that money owed to the State Agency as a result of an administrative review or audit will be forwarded to the State Agency by the sponsor within the timeframe set by the State Agency.~~

~~(c) The State Agency shall require that when conducting administrative reviews, the reviewer will evaluate the cycle menus, weekly meals served form, and any other support documents for the review month to determine if adequate components were served to meet minimum meal pattern requirements. Any of these meals with inadequate components will be disallowed and funds reclaimed for the review month.~~

~~(d) The State Agency shall require that a corrective action plan be submitted within fifteen (15) days from the date of the administrative review letter notifying the institution of the review findings when areas of noncompliance are found during the administrative review process. The corrective action plan is required to address deficiencies and identify the actions and timeframes to be taken for the deficiencies found.~~

~~(e) The State Agency shall require that for the purpose of the administrative review, the following terms shall mean:~~

~~(1) Review month: for administrative reviews, shall cover the most recent month for which a claim for reimbursement was submitted, provided that such claim for reimbursement covers at least ten (10) operating days.~~

~~(2) Significant: any area of noncompliance which is found to be in violation of 10 percent tolerance level for the review period.~~

~~(f) The State Agency shall require that the administrative review follow-up procedures be as follows. When a corrective action plan is not sufficient to close an administrative review, a follow-up visit will be scheduled using the administrative review follow-up action form. The reviewer will assess whether areas of noncompliance were corrected within sixty (60) calendar days of the administrative review. The reviewer will use the administrative review follow-up form to document the findings. If the review can be closed due to all areas of noncompliance being corrected, the appropriate reports indicating such will be sent to the State Agency by the reviewer. If areas of noncompliance still exist, a second follow-up will be scheduled using the administrative review follow-up action form. If at this first follow-up the institution is considered seriously deficient, the administrative review follow-up form must indicate so and then termination procedures are to be followed.~~

210:10-3-32. Day care homes; meal pattern requirements [REVOKED]

~~(a) The state shall require that one of the following methods be used in determining the credibility of bread/bread alternates when reviewing recipes:~~

~~(1) Calculating the weight of each ingredient separately when determining the primary ingredient by weight (this will be treating the recipe exactly the same as a purchased product neither grains nor sugars would be added together in the calculations); or~~

~~(2) Calculating the weight of like ingredients to be added together when determining the primary ingredients by weight.~~

~~(b) The State Agency shall require that whole grain or enriched meal or flour must be the predominant ingredient by weight as specified on the label or recipe for all bread/bread alternate products. Whole grains are: barley, wheat, oats, corn, and rice. If the flour or meal used is not whole grain or enriched, it must list the following four nutrients: iron, thiamine, riboflavin, and niacin.~~

~~(c) The State Agency shall require that the quantity charts will be used to determine amounts of food needed for the CACFP. These charts are developed using the USDA Food Buying Guide. Therefore, the Food Buying Guide will be the resource material used when evaluating a Program's compliance with meal pattern requirements.~~

210:10-3-33. Day care homes; unrecovered funds [REVOKED]

~~The State Agency shall require that if an institution terminates the CACFP and owes the State Agency funds due to an overclaim, the institution must submit a payment schedule immediately to repay the debt. The State Agency shall approve a payment schedule of a minimum of one-half ($\frac{1}{2}$) of an average month's reimbursement for the fiscal year in which the assessment was made.~~

210:10-3-34. CACFP procedures for conducting audits of CACFP participants [REVOKED]

~~(a) All required audits for participants of the CACFP are contracted for with a certified public accounting firm. The firm must have a permit to practice in the State of Oklahoma, be on the State Accounting Board's list of approved government auditors, and meet the requirements of GOVERNMENT AUDITING STANDARDS. After the application process for the~~

~~new fiscal year is completed, the accounting firm is notified as to which entities require audit coverage in accordance with USDA Regulations 226.8 and OMB Circulars A-128 or A-133, as applicable.~~

~~(1) Program Specific Audits are conducted on the following institutions:~~

~~(A) Proprietary Title XX/XIX Institutions receiving $25,000 or more in total CACFP funds in the previous fiscal year. This information is taken from actual monies received from claims filed with the SDE.~~

~~(B) Private Nonprofit Institutions or Public Government Institutions receiving between $25,000 and $100,000 in total federal funds in the previous fiscal year. This information is taken from the new fiscal year application.~~

~~(C) Entities determined by the SDE as needing Program Specific Audits. The decision to add institutions at SDE's discretion will be based on the recommendations of the area consultant or the auditing firm.~~

~~(2) Organization Wide Audits are required to be submitted to the SDE by the following Institutions:~~

~~(A) Private Nonprofit Institutions receiving $100,000 or more in total federal funds in the previous fiscal year. This information is taken from the new fiscal year application.~~

~~(B) Public Government Institutions receiving $100,000 or more in total federal funds in the previous fiscal year. This information is taken from the new fiscal year application.~~

~~(b) After notification by the SDE of the entities requiring a Program Specific Audit, the accounting firm schedules the audits and sends the SDE a schedule of audit dates. The SDE notifies each institution by letter of the date and time of the audit and what information needs to be made available by the institution to the auditor. When the audit is complete, the accounting firm sends three copies of the audit report and accompanying supplementary schedules to the SDE. The report is verified by the SDE and, if necessary, a claim adjustment is made. The audited institution is notified by letter of the audit results and provided a copy of the audit report. Closure procedures are as follows:~~

~~(1) Over/under claims of less than $100 with no material internal control weaknesses: The audit is closed by the SDE. No fiscal action is required, therefore Appeal Procedures are not enclosed.~~

~~(2) Over/under claims of less than $100 with material internal control weaknesses: No fiscal action is requested, therefore Appeal Procedures are not enclosed. Corrective Action Plan (CAP) by the Institution is requested within 30 days from the date the letter was sent from the SDE. The CAP is then forwarded to the area consultant for approval. The consultant determines if the audit can be closed by the CAP or if a follow-up visit is necessary. If the Institution fails to submit a CAP, then the consultant must conduct a follow-up visit. The audit is closed either by the consultant submitting a report approving the CAP or by the consultant submitting a follow-up visit report.~~

~~(3) Over/under claims of more than $100: Fiscal action is required, therefore the Appeal Procedures are enclosed for Institutions that do not concur with the findings. If an appeal of the findings is not requested, then it is assumed that the Institution concurs with the findings. A Corrective Action Plan (CAP) by the Institution is requested within thirty (30) days from the date the letter was sent from the SDE. The CAP is then forwarded to the area consultant for approval. The consultant determines if the audit can be closed by the CAP or if a follow-up visit is necessary. If the institution fails to submit a CAP, then the consultant must conduct a follow-up visit. The audit is closed either by the consultant submitting a report approving the CAP or by the consultant submitting a follow-up visit report.~~

~~(c) For institutions requiring submission of an Organization Wide Audit, the SDE contacts each one by letter. The letter states that the audit for the previous fiscal year must be forwarded to the SDE no later than September 30 of the current fiscal year.~~

~~(1) Once an audit is received by the SDE, it is forwarded to the auditing firm for a desk review to determine the following:~~

~~(A) Whether the audit was performed in accordance with generally accepted auditing standards, GOVERNMENT AUDITING STANDARDS and OMB Circular A-128 or A-133, as applicable;~~

~~(B) That Child and Adult Care Food Program funds disbursed by the Department of Education Child Nutrition Program to the institution were included within the scope of the organization-wide audit;~~

~~(C) The impact of any reportable conditions or instances of noncompliance identified in the organization-wide audit on the Child and Adult Care Food program.~~

~~(2) Upon completion of the desk review, the accounting firm returns the organization wide audit report to the SDE along with the accounting firm's opinion concerning the adequacy of the audit report and a recommendation as to whether additional quality control procedures should be taken. The SDE contacts the institution by letter stating the audit results of the desk review and what, if any, further quality control procedures are needed. Closure procedures are as follows:~~

~~(A) Compliance:~~

~~(i) When the desk review reflects that the organization wide audit is in compliance, the audit is closed by a letter from the SDE.~~

~~(ii) No fiscal action is required, therefore Appeal Procedures are not enclosed.~~

~~(B) Noncompliance:~~

~~(i) When the audit report reflects noncompliance, the Institution is notified by the SDE in writing as to why the audit is unacceptable. The Institution must submit another audit or addendums to the audit that would render the audit is made in compliance. Until the audit is acceptable, the SDE will withhold future reimbursements from the Institution until the audit is made in compliance.~~

~~The institution will be given the right to appeal the claims withheld~~

~~(ii) If the Organization Wide Audit contains discrepancies, the certified public accounting firm under contract with SDE shall have the option of conducting a work paper review. Results will be forwarded to the SDE who will then notify the institution of the findings.~~

~~(iii) No fiscal action is required, therefore Appeal Procedures are not enclosed.~~

~~(C) Institutions not submitting audit by deadline: For audits not received by September 30 of the current fiscal year (auditing the previous fiscal year) the Institution's application to participate in the new fiscal year (beginning October 1) will not be approved. USDA Regulation Section 226.11 (a) states that the SDE "may make payment for meals served in accordance with provisions of the CACFP in the calendar month preceding the calendar month in which the agreement is executed." Therefore, as long as the audit of an institution is received by SDE by November 30, then the Application can be approved to claim for the month of October. If the audit is not received by November 30, then the institution will lose its reimbursement for at least October (due to the fact that the Institution would not have an approved application on file for the new fiscal year), and any subsequent months following until the audit is received. Once an audit is received, the application is approved and a letter is sent to the Institution stating when its application became effective. If reimbursement was not paid due to the application not being approved, the Institution will be given the right to appeal the claims not being paid.~~

210:10-3-35. CACFP claims processing procedures [REVOKED]

~~In order for a child/adult care facility to be eligible for reimbursement for meals served and administrative costs incurred, the facility must be licensed by the Department of Human Services, with a copy of the license, or documentation that a license is being issued, on file in the Child Nutrition Programs Section. Child and adult care centers that operate in public schools who meet state requirements and centers that operate in federal facilities, such as Tinker Air Force Base, who are licensed by the federal government, are not required to have a license on file. Each facility is required to have an approved Application and a signed contract with the Department of Education. In the approved Application, the facility must state whether it is public, private nonprofit, or proprietary Title XX or XIX with the appropriate documentation attached. Once an Application is completed within the office, an approval visit of new institutions is conducted by the CNP area consultant.. The consultant then notifies the office as to when the Institution may begin participating. When all necessary requirements for approval are met, the Secretary adds the Institution to the CACFP data base for the fiscal year in which the Institution has been approved. After the Secretary does this, she/he gives the application to the Claims Processor Supervisor. This person inputs all the information into the computer data base that is necessary to process claims. This includes the effective date of license, licensed capacity, Title XX/XIX information, approved categories of cost, approved types of meals, number of days approved for operation, etc. The Application is then filed with all other approved Applications for that particular fiscal year. The information in the computer is then transferred to a hard copy of an office card. This is done so that if information is needed on a particular Institution, the claims processor can pull the card rather than switching computer programs in the middle of claims processing. The cards are filed at theclaims processor's desk. The Child Nutrition Programs receptionist opens the mail, stamps the claim with the date it arrived, and directs it to the claims processor who attaches the office card to the claim. As the claim is processed, any information entered into the computer is also written on the card. The card remains with the claim throughout the processing of the claim. Payments, adjustments, and year-to-date cost totals are posted to the card for each month that claims are written on the back of the card. Percentage factors for the number of free, reduced, and not eligible meals, and supplements are noted monthly on the cards. Institutions are reimbursed based on the number of meals served times a blended rate or cost, whichever is less. After claims processors audit the claims, the Claims Processor Supervisor batches the claims in bundles and gives them to the Administrative Assistant. This person completes a journal voucher sheet for each batch of claims and enters the total amount of the batch into a log book and assigns the next sequential claim number and journal entry number to the journal entry voucher sheet. The Administrative Assistant then gives the batch back to the Claims Processor Supervisor for her/him to build a magnetic file. The magnetic file is then received by the Financial Manager, via computer. The financial manager then transfers the file to Data Services where a magnetic tape is generated. This is considered Day "1" under the Cash Management Improvement Act (CMIA). From this point, the CMIA CNP timeline is in effect:~~

~~(1) Day 1: By 1 p.m. the Payment File must have been uploaded to the Tandem in Data Services. Data will run computer programs which will format CN Payment File, assign warrant numbers, and a warrant effective date for three (3) days in advance, and create a payment disbursement file for the Treasurer and Journal Record File for the Office of State Finance (OSF). Data Services will give summary report to Child Nutrition to use to draw federal funds and complete the deposit form. If done after 1 p.m., Day 1 will be the next day. At 1 p.m. the File of Payment Disbursements must be received by the Treasurer's Office. Child Nutrition draws federal funds for deposit in Treasurer's bank account. Deposit form is sent to Treasurer. Journal Record File and form are sent to OSF. After 1 p.m. the Treasurer's Office processes disbursement file and prepares electronic funds transfer (EFT) records.~~

~~(2) Day 2: Treasurer sends EFT record to State Treasurer-designated bank, which will warehouse the EFT until effective date (Day 3). Data runs "Notices of Payment" on Tandem. If any paper warrants are issued, the Treasury~~

~~sends them to the State Agency. Child Nutrition picks up payment notices and mails them to the payees.~~

~~(3) Day 3: The federal fund deposit into Treasurer's account is effective. The State Treasurer designated bank sends EFT to payees' banks.~~

210:10-3-36. CACFP approval procedures [REVOKED]

~~(a) An Application and Agreement to participate in the CACFP is received from the Institution by the State Agency. The State Agency date stamps the Application in the box in the upper right corner of the Application and logs it in.~~

~~(b) Within fifteen (15) days from receipt of the Application, the State Agency will review it. A checklist will be completed on the Application, outlining what items are complete or incomplete. Depending on what information is submitted on the Application, the State Agency may contact the Institution for further details. This could be done by telephone or by returning the Application to the Institution for more information. If the Application is returned to the Institution, the steps above are repeated until the State Agency determines that the Application is complete.~~

~~(c) When the Application is found to be complete, a memo is sent to the area coordinator for that Institution. The memo instructs the coordinator as to the date the Institution had a completed Application on file. The coordinator is then given a thirty (30) day timeframe from the point the Application was completed to conduct an approval visit. The coordinator is also mailed the Institution's recordkeeping forms and a copy of the Institution's Application and Facility Application.~~

~~(d) The coordinator then conducts an approval visit and instructs the Institution on the requirements of the CACFP. All forms and requirements are discussed. The coordinator then approves the Institution to begin participating that day; or if the coordinator finds that all the required records are being kept, she/he may date the approval as far back as to the beginning of the previous month in which the Application was completed.~~

~~(e) After the approval date has been determined, the coordinator completes an Approval Visit Form, which is signed by a representative of the Institution indicating that the Institution understands the CACFP and will begin claiming meals for reimbursement on the specified date. A copy of the Approval Visit Form is left with the Institution. The form is then submitted to the State Agency by the coordinator.~~

~~(f) When the State Agency receives the Approval Visit Form from the coordinator, a file is set up, the Institution is assigned an Agreement Number, it is then logged and added to the Agreement Book. The coordinator is mailed an agreement page for her/his territory. A copy of the Institution's approved Application is returned to the Institution.~~

~~(g) For Institutions approved as Proprietary Title XX/XIX the Application must be denied for approval when documentation is not provided to verify that the Title XX/XIX facility received compensation under Title XX/XIX for at least twenty-five percent (25%) of its enrolled participants or twenty five percent (25%) of its licensed capacity. This information is taken from only the month previous to when the Application was received in the State Agency. In a case such as this, the coordinator would deny the Application effective the Approval Visit date. The coordinator would then submit the report to the State Agency which in turn would notify the Institution by letter, including the right to appeal the decision. The Institution must reapply if they wish to participate in the CACFP.~~

~~(h) For any Application that is denied, the Institution will be given the right to appeal. The appeal procedures will be enclosed with a letter from the State Agency outlining the reasons the Application was denied. This letter will be sent to the Institution return receipt requested.~~

210:10-3-37. CACFP appeal procedures [REVOKED]

~~(a) An Institution will be notified in writing by certified mail, return receipt requested, of the grounds upon which the State Department of Education (SDE) based its action. The notice will inform the Institution of its right to appeal. Two types of appeals are authorized:~~

~~(1) The Institution may request a review of the records. Upon receipt of such a request, the SDE will appoint a review official to conduct the review; or~~

~~(2) The Institution may request a hearing. Upon receipt of a request for a hearing, the SDE will appoint a review official to conduct the hearing.~~

~~(b) The written request for a review of records or for a hearing must be filed by the Institution not later than fifteen (15) calendar days from the date the Institution receives the notice of action. A hearing will be held by the review official in addition to, or in lieu of, a review of written information submitted by the Institution only if the Institution so specified in the letter requesting the appeal. Therefore, the written request must specify which type of appeal is requested. The SDE will acknowledge the receipt of the request for appeal within ten (10) calendar days.~~

~~(c) The Institution may refute the information contained in the notice of action in person and by written documentation presented to the review official. In order to be considered, written documentation must be filed with the SDE not later than thirty (30) calendar days after the Institution received the notice of action. The Institution may be represented by legal counsel or another per son. The following applies to the two types of appeals:~~

~~(1) Review of the records procedures~~

~~(A) Upon receipt of an appeal requesting a review of the records, the SDE will notify the Institution of the timelines for submission of documents.~~

~~(B) Failure to submit written documentation to refute the action taken by the SDE within the thirty (30) day time period will constitute the Institution's waiver of the appeal, resulting in the action taken by the SDE being upheld.~~

~~(2) Hearing~~

~~(A) Upon receipt of an appeal requesting a hearing, the SDE will notify the Institution of the timelines for submission of documents.~~

~~(B) Written documentation submitted after the thirty (30) day time period will not be considered at any point during the appeal process, including the hearing.~~

~~(C) If the Institution chooses to be represented by legal counsel, it will notify the Child Nutrition Programs Director of the counsel's name and address.~~

~~(D) The Institution and SDE will be notified by certified mail of the time, date, and place of the hearing. The notice must be provided at least ten (10) calendar days prior to the hearing.~~

~~(E) Failure of the Institution or its representative to appear at a scheduled hearing will constitute the Institution's waiver of the right to a personal appearance before the review official unless the review official agrees to reschedule the hearing.~~

~~(F) The SDE will have representatives in attendance at the hearing who may provide information and documentation supporting the action taken.~~

~~(d) SDE's documents and information relating to the Institution and the action taken will be available for inspection and copying pursuant to Open Records Fee Schedule at the Child Nutrition Programs office.~~

~~(e) The review official will be an independent and impartial official rather than, and not accountable to, any person authorized to make decisions that are subject to appeal.~~

~~(f) The review official will make a determination based on information provided by the SDE, the Institution, and the laws and regulations governing the Child and Adult Care Food Program.~~

~~(g) Within sixty (60) calendar days of receipt of the request for review, the review official's determination will be delivered to the Institution and the SDE.~~

~~(h) The SDE's action will remain in effect during the appeal process. However, participating Institutions and facilities may continue to operate under the Program during an appeal of termination, unless the action is based on imminent danger to the health or welfare of participants. If the Institution or facility has been terminated for this reason, the SDE will so specify in its notice of action. Institutions electing to continue operation while appealing terminations will not be reimbursed for any meals served during the period of the appeal if the SDE's action is upheld.~~

~~(i) The determination by the review official is the final administrative determination to be afforded to the Institution~~

~~(j) Pursuant to the federal regulations, appeals will not be allowed on decisions made by Food Nutrition Services on requests for exceptions to the claims submission deadlines or requests for upward adjustments to claims.~~

210:10-3-38. CACFP procedures for advance funding [REVOKED]

~~Procedures relative to advance funding are:~~

~~(1) An Institution requests advanced funding:~~

~~(A) Advance funding is indicated on the CACFP Application for Participation; or~~

~~(B) State Agency receives a written request from an Institution already participating in the CACFP.~~

~~(2) The State Agency denies or approves the advance funding request:~~

~~(A) If denied, the Institution receives written notice to that effect and the Institution is given the right to appeal the decision. The CACFP Appeal Procedures are followed.~~

~~(B) If approved, the Institution receives written notice to that effect and a copy of the CACFP Procedures for Advance Funding~~

~~(3) Instructions to the Institutions that are approved include:~~

~~(A) A projected claim must he filed by the 10th of the month (or the 15th of the month for Day Care Home [DCH] Sponsors) prior to the month for which the advance is to be made. Example: A projected June claim is due by May 10 (or by May 15 for DCH Sponsors.)~~

~~(B) The actual claim is then due by the 10th of the next month (or by the 15th of the next month for DCH Sponsors). Example: An actual May claim is due by June 10 (or by June 15 for DCH Sponsors).~~

~~(C) Each month a comparison is made of actual claim against the advance made to ensure that the level of funds advanced does not exceed actual reimbursement claimed.~~

~~(D) After three advance payments have been made, the Institution's claim for reimbursement for the third month prior to the month for which the next advance is to be paid shall be validated by the State Agency before further advances are approved. The CNP coordinator assigned to the county in which the Institution is located will schedule a visit for this purpose. Once the claim is validated, advance funding will continue. If further advance funding is denied at this point, the Institution will be notified in writing and be given the opportunity to appeal the decision~~

~~(E) If, as a result of year-end reconciliation as required by the USDA Uniform Federal Assistance Regulations (7 CFR 3015), the State Agency determines that reimbursement earned by the Institution during the fiscal year is less than the amount paid, including advance funding, the State Agency shall demand repayment of the outstanding balance.~~

210:10-3-39. CACFP termination procedures [REVOKED]

~~(a) An Administrative Review/Follow-up is received by the State Agency from the coordinator. The coordinator indicates in the review/follow-up that the center is seriously deficient.~~

~~(b) A letter will be mailed from the State Agency to the Institution indicating that a review was conducted, concurring with the findings of the review. The letter will require the Institution to submit a Corrective Action Plan (CAP) within fifteen (15) days from the date of the letter. The letter will specifically reiterate each finding. The letter will also state the amount of any overclaim. The letter will be sent "return receipt requested" and state the institution is considered to be seriously deficient. The institution will be given the right to appeal actions taken by the State Agency.~~

~~(c) When the Corrective Action Plan is received from the Institution, the State Agency will forward it to the coordinator for review. The coordinator will examine the CAP and schedule~~

~~a follow up visit, sending written notification on the Administrative Review Action Form. If the Corrective Action Plan has not been received by the State Agency on the 15th day from the date of the letter (must be postmarked by the 15th day), the coordinator will send the Institution a notice using the above mentioned form, stating that the CAP must be provided by the time of the follow up. The coordinator will also document that date of the follow up visit. (It may be necessary for the coordinator to check with the State Agency prior to sending this form to make sure the CAP was not postmarked by the 15th day.)~~

~~(d) A first follow up (after an Institution has been declared seriously deficient) will be conducted after the Administrative Review letter has been sent from the State Agency to the Institution. If violations have not been corrected within sixty (60) calendar days of the Administrative Review, the coordinator will document on the Administrative Review Follow-up Form that this Institution continues to be seriously deficient. The coordinator will assess additional fiscal action for the months claimed since the original Administrative Review. The report will also state that termination will result at the time of the second follow up visit if items continue to be found in noncompliance.~~

~~(e) A letter from the State Agency, sent by "return receipt requested," is forwarded to the Institution stating what the coordinator found during the first follow up. the letter will also state, as did the report from the consultant, that the Institution continues to be seriously deficient and that termination will result if items are not found to be corrected at the time of the second follow up If additional funds are reclaimed, the Institution is given the right to appeal this new overclaim amount.~~

~~(f) A second follow up must be conducted within forty five (45) days from the date of the Administrative Review Follow up letter. If the corrective action is not satisfactory by the time the second follow up is conducted, the Institution may be terminated. Coordinator will report results of the visit to the State Agency on the Administrative Review Follow-up Form.~~

~~(g) A letter from the State Agency will be forwarded to the Institution stating what the coordinator found on the second follow up. The letter will state that the Institution is terminated effective the dale of the second follow up. The Appeal Procedures will be enclosed, giving the Institution the right to appeal the termination decision. If the overclaim has not been paid in full, the Institution is requested to submit a payment plan immediately to the State Agency.~~

~~(h) All correspondence with the Institution will be documented and USDA will be notified that the Institution should be added to the Seriously Deficient List updated by FNS.~~

210:10-3-40. Child and Adult Care Food Program (CACFP) general provisions

The Oklahoma State Department of Education (OSDE) Office of Child Nutrition recognizes the federal administrative regulations at 7 C.F.R. Part 226, governing the Child and Adult Food Care Program (CACFP), as the applicable regulations for the CACFP program as administered by the State of Oklahoma. To the extent that the governing regulations at 7 C.F.R. Part 226 refer to additional procedures or requirements that must be adopted by a state as part of its implementation of the CACFP program, the OSDE Office of Child Nutrition will adopt conforming policies and make such policies available on the OSDE website, to be updated each time a change in a CACFP policy is made at the federal or state level.

[OAR Docket #19-501; filed 5-31-19]

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

[OAR Docket #19-502]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Student Assessment
210:10-13-4. Test security and validity [AMENDED]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 70 O.S. § 1210.505 *et seq.*
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 7, 2018
COMMENT PERIOD:
December 3, 2018 through January 9, 2019
PUBLIC HEARING:
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ADOPTION:
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SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 28, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
A provision is added to the administrative rule on assessment security and validity for the Oklahoma School Testing Program (OSTP), to ensure the local school board is apprised in the event a school district is determined to have violated the security provisions of one or more OSTP assessments. The rule historically provided that such a violation shall be reported to the State Superintendent, and the new language provides that such a violation shall also be reported directly to the school district's board of education. Minor terminology updates are also made throughout the rule.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-4. Test security and validity

(a) **Test security.** School administrators and their designees shall maintain security on tests administered under the auspices of the Oklahoma School Testing Program through following the procedures listed below:

(1) **Test coordinators.** School superintendents shall designate both district and building test coordinators before October 1 of each school year. Names and telephone numbers of district test coordinators shall be recorded on the OSTP Questionnaire conducted in the fall semester of each school year. This questionnaire is the order form provided by the testing vendors for all tests in the OSTP including large print and Braille test forms.

(2) **Pretest information.** The State Department of Education shall provide student/parent pretest information materials to schools for designated grade levels before testing.

(3) **Embargo of test materials.** The State Department of Education shall require the contracting test publisher to place an embargo on the sale, sampling, and/or distribution of test materials utilized in the OSTP to any person or organization in Oklahoma (other than the official distribution of such materials purchased for the OSTP by the State Department of Education). This embargo is to be enforced from the first day of contract with the State Department of Education throughout use of this test for the OSTP and until the Department has given notice that the test series is no longer going to be used in the OSTP.

(A) Violation of this agreement by a contracting test publisher can result in automatic and immediate forfeiture of the contract and reimbursement to the State Department of Education (by the contracting company) of any funds expended in the conduct of the OSTP.

(B) No individual person or public or private entity shall obtain copies of any test materials utilized in the OSTP other than through the official distribution of test materials to public schools immediately prior to administration of the annual OSTP. Any person or organization attempting to order such materials from the contracting test publisher (or from other scoring companies handling OSTP or "off-grade" scoring and reporting) shall be reported by the contractor to the State Superintendent of Public Instruction.

(4) **Maintenance of the security of test materials prior to exam administration.** All student test materials (i.e., test booklets, prompts for writing assessment, and answer documents) shall be bound by the test publisher in packages of designated lot sizes. No test booklets shall be viewed by any person other than the student taking the test at the time of testing, except in the case of special education, Section 504, or ELL accommodations which allow a test administrator to assist a student being tested. Test booklets shall be individually sealed, as practicable, to prohibit them from being opened.

(A) When seals are used on test booklets, the following procedures shall be followed:

(i) Test booklets shall remain intact until tests are distributed to students at the beginning of the test administration session;

(ii) Each test booklet seal shall be broken only by the student who is administered the test, except where special education or Section 504 accommodations allow the opening of the test; and

(ii) Unused test booklets shall remain sealed.

(B) When seals are not used on test booklets, the following procedures shall be followed:

(i) Test booklets shall remain closed until distributed to students at the beginning of the test administration session;

(ii) Each test booklet shall be opened only by the student who is administered the test, except where special education or Section 504 accommodations allow the opening of the book and turning of pages by someone other than the students.

(5) **Inventory and accounting of test materials.** All test materials shall be inventoried by the school district upon receipt from the test publisher/contractor. Any discrepancies representing shortages in the quantity of materials supplied and the quantity needed for tests administered shall be reported immediately to the contracting company by the district test coordinator. Immediately upon receipt and inventory of materials, all tests, and other materials shall be locked in a secure place by the district test coordinator or school administrator.

(A) The site level distribution of test documents and materials may occur beginning one week prior to testing. Exceptions to the test materials distribution time limit needed by the largest districts in the state shall be registered with and approved by the State Department of Education Office of ~~Accountability and~~ Assessment at least four weeks prior to the first designated testing window of each year.

(B) During the days in which tests are being administered in each school district, all test administrators are responsible for locking all test materials in a secure place when the tests are not being utilized in the official test administration with students. This includes the time period between completion of the test administration and delivery of the answer documents and other test materials to the district test coordinator. Further, the building test coordinator is responsible for ensuring that materials are properly locked in a secure place at the times specified above.

(C) Test booklets are not to leave school buildings at any time (i.e., students' test booklets are not to be taken home by an employee or the community member/test monitor before, during, or after test administration has been completed). Exceptions to test booklets leaving a school site shall be made at the discretion of the State Department of Education Office of ~~Student~~ Assessment ~~Section~~ for the purpose of secure transport to a site of instruction for the purpose of test administration, upon a written request from a District Test Coordinator. These requests must be

registered with and approved by the Office of ~~Student~~ Assessment ~~Section~~ at least four weeks prior to the first designated testing window of each year.

(D) An accounting is to be conducted on all test booklets. Unused test booklets are to remain in "shrink-wrap" (or otherwise packaged) when possible. All unused tests are to be returned to the test publisher. Failure to return test booklets to the appropriate companies will result in:

(i) A school or district being reported to the State Superintendent; and

(ii) Possible invalidation of the school's and/or district's scores by the State Department of Education Office of ~~Accountability and~~ Assessment.

(E) The contracting test publisher shall print electronically read identification codes on all documents containing secured test items prior to distribution of these materials to the public schools. Within all test program components of the OSTP, the contracting test publisher shall record the specific series of numbers (represented by the "bar codes") assigned to each school district and building site within a district. Inventory lists of test document bar codes by school site shall be provided for each district test coordinator.

(F) The district test coordinator shall ship all answer documents and specified identification forms to the designated scoring/reporting company and all other test materials to the contracting test publisher in accordance with the schedule for return of materials provided in the Test Preparation Manual. If a district fails to return materials and answer documents in a timely fashion, the district may be penalized with additional costs and the test scores for the individual school(s) and/or district in question may be declared invalid. If a district fails to complete or incorrectly completes answer documents and/or demographic pages or other required testing-related materials, the district may be penalized with additional costs and may also receive a deficiency on the district accreditation report.

(G) The contracting test publisher shall submit an inventory of test materials to the State Department of Education each year. This inventory shall document the quantity of materials distributed to each school district and received from each school district-- recorded by school site as indicated by the numbers represented by the "bar codes" printed on test materials. Quantities of writing assessment materials distributed to and retrieved from schools will be reported to the State Department of Education by the contracting test publisher.

(H) School superintendents from whom incomplete quantities of materials have been received shall be notified of this discrepancy and shall be provided a date by which the remaining materials must be returned to the test publisher. The test publisher shall notify the Department of Education of all school districts from which test materials have not been received after this date. Names of these school districts shall be reported to the State Superintendent and may also receive a deficiency on the district accreditation report.

(6) **Prohibition against reproduction of test materials.** Reproduction of any copyrighted test materials--including test documents, teachers' test administration manuals, and student pretest materials--is strictly prohibited. Photocopying or digital copying of these materials constitutes a violation of federal copyright laws. To ensure that all school employees and community members are aware of this regulation and the laws in support of same, the district or building test coordinator shall post a sign to this effect over each copy machine. The Federal Copyright Law--as it applies to the multiple-choice and/or Writing Assessment Component of the OSTP--prohibits the photocopying of any part of the student Test Booklet. This includes the lined writing pages, the writing prompt, and the student's written response. This portion of the set of test documents, as well as the writing prompt, is considered protected under the copyright guidelines. These items shall remain protected, and thus may not be copied, printed, or disseminated in any manner, until they are officially released by the OSDE.

(7) **Other test security violations.** All of the following actions are prohibited as violations of test security:

(A) Teaching test items to students (except in the case of an alternate special education assessment in which authentic performance tasks may be utilized), changing students' answers, or in any manner providing answers to test questions for students before, during, or after test administration has been completed.

(B) Using secured test items as instructional tools or for student "practice"--either verbatim as written or in reworded form. Note: Secured test items are those provided to measure student knowledge and/or skills on OSTP tests. Said items are to be differentiated from sample test items that are provided at the beginning of each subtest and used, according to official test administration procedures, solely for the purpose of understanding directions and marking answers.

(C) Reading secured test items orally to students at any time before, after, or during test administration unless it is an IEP, Section 504, or ELL accommodation, in which case an affidavit shall be signed, prior to reading items, by the test administrator/reader stating they shall not reveal any test items, writing prompts, or other secured information to any person.

(D) Allowing students to view and/or read the writing assessment prompts before test administration or discussing or exposing the theme or topic of the prompt.

(E) Providing answers to secured test items. This includes provision of cues, clues, hints, and/or actual answers in any form--written, printed, verbal (oral), or nonverbal. In regard to the writing assessment

component of the OSTP, prohibited actions include the provision of "hints" or any form of clues in regard to the manner in which students respond to the prompt (e.g., "brainstorming" about the topic of the prompt; offering suggestions regarding how to respond; assisting the student or class in organizing the response; and all other such deviations from the printed instructions for administering the test).

(F) Changing students' responses to secured test items and/or influencing or encouraging students to change their answers to test items at any time.

(G) Deviating from any instruction provided in the official test administration manual or disclosure of any test information that materially inhibits the State Board of Education from exercising its duties set forth in 70 O.S. §1210.508 to develop, field-test, administer, and validate criterion-referenced tests and end-of-instruction assessments.

(8) **Test security forms.** Test Security Forms provided by the State Department of Education's test contractor(s) shall be distributed by the district test coordinator with test materials to the persons designated on each form.

(A) OSTP Test Security Forms shall be provided for the following:

(i) Form 1: Superintendent and District Test Coordinator

(ii) Form 2: Building Principal and Building Test Coordinator

(iii) Form 3: Test Administrators and Test Monitors.

(B) After completing the test administration, these forms shall be signed by the designated persons and returned to the district test coordinator. The district test coordinator shall return all signed forms to the respective scoring company. Failure to sign and return the appropriate forms may result in:

(i) A school or district being reported to the State Superintendent; and

(ii) Invalidation of a school's and/or district's test scores.

(C) The contracting test companies shall provide the State Department of Education the signed OSTP Test Security Forms or a report of names of educators who signed SDE/OSTP Test Security Forms and an accounting of the number of tests and manuals:

(i) Distributed to, and

(ii) Returned from each school district.

(b) **Test administration.** All test administration sessions shall be conducted according to the standardized procedures described in the test administrators' manuals

(1) The standardized procedures include, but are not limited to:

(A) Reading the directions to students verbatim;

(B) Refraining from allowing students to read test items before test timing begins and/or beyond the completion specified for each section of each test; and

(C) Ensuring that only the materials designated for student test use are on the student's desk during test sessions.

(2) Every test administered within the OSTP shall be administered by an education-certified professional person employed by the school district.

(3) All test administration sessions shall be monitored by an adult other than the test administrator. All test monitors shall be approved by the superintendent or school principal. Superintendents and principals may designate school employees or noncertified members of the community to serve as test monitors.

(4) All test administration procedures including time specifications, State Board of Education Rules 210:10-13, and the Instructions for Test Monitors shall be distributed to test monitor(s) before test administration.

(5) School administrators or their designee(s) shall assure that all test administration procedures replicate standardized testing conditions to preserve test validity. Such procedures are stated in the manuals for administering the test.

(c) **Test security violations.** Any violation of security provisions in this Section may constitute a basis for invalidation of the test and test results. Such violations shall be reported to the State Superintendent and the school district board of education, and may result in a school's and/or school district's test scores being declared as invalid.

(d) **Penalties for test security violations.** In addition to any other penalties set forth in this Section, the State Board of Education may revoke the teaching, counseling, administrative, and/or other certificate(s) issued by the State Board of Education to one or more individuals upon a finding of willful violation of any of the provisions set forth in ~~(a)(8)(A)~~(a)(7)(A) through ~~(a)(8)(G)~~(a)(7)(G) of this Section.

[OAR Docket #19-502; filed 5-31-19]

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

[OAR Docket #19-513]

RULEMAKING ACTION:

PERMANENT final adoption of subject matter standards pursuant to 70 O.S. § 11-103.6a-1

RULES:

Subchapter 3. Oklahoma Academic Standards
Part 11. Social Studies
210:15-3-104.5. Social Studies Standards: Overview [NEW]
210:15-3-104.6. Social Studies Standards for Pre-Kindergarten [NEW]
210:15-3-105. Social Studies Standard for Kindergarten [NEW]
210:15-3-105.1. Social Studies Standards for First Grade [NEW]
210:15-3-105.2. Social Studies Standards for Second Grade [NEW]
210:15-3-105.3. Social Studies Standards for Third Grade [NEW]
210:15-3-105.4. Social Studies Standards for Fourth Grade [NEW]
210:15-3-105.5. Social Studies Standards for Fifth Grade [NEW]
210:15-3-105.6. Social Studies Standards for Sixth Grade [NEW]
210:15-3-105.7. Social Studies Standards for Seventh Grade [NEW]
210:15-3-105.8. Social Studies Standards for Eighth Grade [NEW]

210:15-3-106. Economics [NEW]
210:15-3-107. Oklahoma History [NEW]
210:15-3-108. Psychology [NEW]
210:15-3-109. United States Government [NEW]
210:15-3-110. United States History [NEW]
210:15-3-111. World Geography [NEW]
210:15-3-112. World History [NEW]
210:15-3-113. Sociology [NEW]

AUTHORITY:
70 O.S. § 3-104; 70 O.S. § 11-103.6a; 70 O.S. § 11-103.6a-1

ADOPTION:
February 28, 2019

SUBMISSION OF ADOPTED STANDARDS TO LEGISLATURE:
March 5, 2019

LEGISLATIVE APPROVAL:
Because the Legislature did not adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission for review, the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) as of May 1, 2019.

EFFECTIVE:
July 25, 2019

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
The rules set forth Oklahoma's new subject matter standards for the study of Social Studies in Pre-Kindergarten through Twelfth Grade. The Legislature did not adopt a joint resolution approving or disapproving the standards within thirty (30) legislative days after submission for review, and the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) on May 1, 2019. 70 O.S. § 11-103.6a-1(E) directs the State Board of Education to submit final approved standards for publication in the Oklahoma Administrative Code in the same manner as agency rules.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE EFFECTIVE AS OF JULY 25, 2019:

SUBCHAPTER 3. OKLAHOMA ACADEMIC STANDARDS

PART 11. SOCIAL STUDIES

210:15-3-104.5. Social Studies Standards: Overview

(a) **Purpose.** Having a literate citizenry rests on a commitment to democratic values and practicing them. It requires the ability to use knowledge about one's community, nation, and world. It also requires the ability to apply inquiry processes, as well as to employ skills of data collection and analysis, collaboration, decision-making, and problem-solving. Young people who are knowledgeable, skillful, and committed to democracy are necessary to sustaining and improving the democratic way of life. This will also enable our students to become participating members of a global community. A well-rounded, vigorous social studies education encourages and enables each student to acquire a core of basic knowledge, an arsenal of useful skills, and a way of thinking drawn from many academic disciplines. Thus equipped, students are prepared to become informed, contributing, and participating citizens in this democratic republic - the United States of America.

(b) **Structure.** The standards are comprised of two primary components, content standards and social studies practices. The content standards designate specific learning targets at each grade level or course. These content standards are derived from the major disciplines of the social sciences: history, geography, civics, and economics. The social studies practices define basic skills and disciplinary tools to prepare students for college, career, and civic life. These practices are meant to be integrated with the instruction of content standards.

(c) **Social Studies Content Strands.** Social studies is a systematic and coordinated discipline designed to promote civic competence by drawing upon four content strands: history, geography, civics, and economics. These strands draw from all fields of study related to the social sciences to provide a framework used in the development of the content standards for social studies and are to be threaded through an integrated program, from grades pre-K through twelve (12), as appropriate at each level. While at some grades and for some courses, specific strands will be more dominant than others, all strands are represented and interrelated in the standards for each grade and course.

(1) **Strand 1: History.** History focuses on the written record of human experience revealing how individuals and societies developed institutions, philosophies, ideals, and cultural values, and resolved their problems. A balanced study of history helps students understand the "how and why" of past societies' successes and the consequences of their choices. By studying the choices and decisions of the past, students can confront today's problems with a deeper awareness of their alternatives and likely consequences.

(2) **Strand 2: Geography.** Geography has more to do with asking questions and solving problems than with rote memorization of isolated facts. It is the study of the earth's surface and the processes that shape it, the relationships between the relationships between people and environments, and the connections between people and places. As a discipline, geography provides the skills to help students answer questions about where things are, how they got there, and how they interact with other things - in the past, now, and in the future.

(3) **Strand 3: Civics.** "Civics" is defined to mean the study of the rights and duties of Oklahoma and United States citizens and of how those governments work. This strand helps students understand the essential principles and workings of their political system and those of others, as well as the relationship of American politics and government to world affairs. The goal of civics is to develop literate, informed, competent, and responsible citizens who are politically aware, active and committed to the fundamental values and principles of American constitutional democracy.

(4) **Strand 4: Economics.** Economics provides students with an understanding of how individuals, communities, states, and nations allocate both scarce and abundant resources. A clear understanding of economics enables students to comprehend the various competing economic philosophies, ideas, and forces that affect them every day, to measure the effectiveness of each, and to identify and evaluate the consequences of personal decisions and public policies. Students then will understand how a market economy effectively functions, preparing them to be producers, consumers, and citizens.

(d) **Social Studies Practices.** The social studies practices reflect the key skills and disciplinary tools to prepare students for college, career, and civic life. The practices are meant to be integrated with the instruction of content standards. The five (5) social studies practices are designed to support student mastery of the content through a progression of skills from pre-kindergarten through twelfth grade.

(1) **Engage in Civic Discourse.** This practice involves understanding civic virtues and the role of civic institutions. Students will gain knowledge of the history, principles, and foundations of American democracy to participate in civic and democratic processes. Students will identify the institutions of American government to analyze their role as responsible citizens. Students will understand the principles of government, the benefits of democratic systems, and their responsibilities as citizens.

(A) Students will demonstrate an understanding of the virtues that citizens should use when interacting with each other and the virtues that guided official government institutions.

(B) Students will demonstrate an understanding of the important institutions of their society and the principles that these institutions are intended to reflect.

(C) Students will demonstrate understanding of the processes and rules by which groups of people make decisions, govern themselves, and address public problems.

(2) **Analyze and Address Authentic Civic Issues.** This practice involves understanding the importance of critical questioning to solve real world problems. Students will develop essential questions to frame independent inquiry related to the past and present. Students will identify and address public problems individually and collaboratively to improve communities and society. Students will determine the kinds of sources that will be helpful in answering essential, compelling, and supporting questions addressing authentic civic issues.

(A) Students will demonstrate the capability for developing essential, compelling, and supporting questions that address authentic civic issues.

(B) Students will demonstrate the ability to investigate problems taking into consideration multiple points of view represented in arguments, the structure of an explanation, and other sources.

(3) **Acquire, Apply, and Evaluate Evidence.** This practice involves understanding and using strategies to analyze evidence in the social sciences. Students will evaluate historical, geographic, and economic information. Students will draw conclusions from primary and secondary sources to formulate informed decisions. Students will use interdisciplinary tools and master the basic concepts of the social studies in order to acquire and apply content understanding in all related fields of study.

(A) Students will develop skills and practices which demonstrate an understanding that historical inquiry is based on the analysis and evaluation of evidence and its credibility.

(B) Students will demonstrate an understanding of geographic concepts and develop mastery of geographic tools and ways of thinking in order to become geographically informed.

(C) Students will analyze the principles of economic systems and develop an understanding of the benefits of a market system in local, national, and global settings.

(4) **Read Critically and Interpret Information Sources.** This practice involves understanding the purpose of engaging with text. Students will evaluate factual information and points of view as presented in text. Students will read historical and contemporary texts to engage in collaborative discussion. Students will engage in critical, active reading of grade-level appropriate primary and secondary sources related to key social studies concepts, including frequent analysis and interpretation of informational sources.

(A) Students will comprehend, evaluate, and synthesize textual sources to acquire and refine knowledge in the social studies.

(B) Students will apply critical reading and thinking skills to interpret, evaluate, and respond to a variety of complex texts from historical, ethnic, and global perspectives.

(5) **Engage in Evidence-Based Writing.** This practice involves understanding the multiple purposes of the writing process. Students will develop written products designed for a variety of social studies related investigations. Students will use and integrate evidence to present knowledge and support opinion. Students will apply effective communication skills by developing a variety of evidence-based written products designed for multiple purposes and tasks, in order to demonstrate their understandings of social studies concepts, ideas, and content.

(A) Students will summarize and paraphrase, integrate evidence, and cite sources to create written products, research projects, and presentations for multiple purposes related to social studies content.

(B) Students will engage in authentic inquiry to acquire, refine, and share knowledge through written presentations related to social studies.

210:15-3-104.6. Social Studies Standards for Pre-Kindergarten

(a) **Pre-Kindergarten Content Standard 1.** The student will exhibit traits of good citizenship.

(1) Describe the importance of rules and personal responsibilities including working together to make decisions as a member of a family and classroom community.
(2) Explain the need to respect the uniqueness of individuals in our class and community.
(3) Describe the concept of being a citizen.
(4) Identify the United States flag as a symbol of the country.

(b) **Pre-Kindergarten Content Standard 2.** The student will demonstrate knowledge of basic physical and human geographic concepts.
(1) Explain that a map is a drawing of a place.
(2) Use basic directional terms in relation to the student's relative location.
(3) Describe a classroom as a community.
(4) Identify family customs and traditions as basic elements of culture.

(c) **Pre-Kindergarten Content Standard 3.** The student will understand that history relates to events and people of other times and places.
(1) Explain history as things that happened in the past.
(2) Describe how we honor people and events of the past.
(3) Use words and phrases, such as before and after, as they relate to chronology and time in order to explain how things change.
(4) Explain that lessons can be learned from the past.

(d) **Pre-Kindergarten Content Standard 4.** The student will identify basic economic concepts.
(1) Identify basic needs all people share.
(2) Explain that people work to earn money to buy things they need and want.
(3) Explain how resources are used by people to meet their needs.
(4) Describe how various school personnel provide needed services.

210:15-3-105. Social Studies Standards for Kindergarten

(a) **Kindergarten Content Standard 1.** The student will exhibit traits of good citizenship.
(1) Describe the importance of rules, personal responsibilities, and natural consequences as a member of a family, class, and school.
(2) Identify ways to be an active member of the community.
(3) Identify the United States flag as a symbol of the country, explaining the stripes as symbols for the first states and the stars as symbols for the current states in our country.
(4) Identify the purpose of the Pledge of Allegiance and explain appropriate flag etiquette.
(5) Identify other important United States symbols including the Statute of Liberty located in New York Harbor.

(b) **Kindergarten Content Standard 2.** The student will demonstrate knowledge of basic physical and human geographic concepts.
(1) Explain that a globe is a model of the Earth and that a map is a drawing of a place; construct basic maps.
(2) Identify basic cardinal directions and relative location terms.
(3) Identify the shape of Oklahoma on a map.
(4) Explain that the school is part of a larger community and one's community is within the state of Oklahoma.
(5) Describe what makes one's community alike or different from other communities.
(6) Describe family and community customs and traditions as basic elements of culture.

(c) **Kindergarten Content Standard 3.** The student will understand that history relates to events and people of other times and places.
(1) Explain how events of the past may have affected our community and the way we live today.
(2) Explain how we honor people and events of the past.
(3) Use words and phrases related to chronology and time to explain how things change including before/after and today/tomorrow/yesterday.
(4) Explain that different types of sources can be used to learn about the past.

(d) **Kindergarten Content Standard 4.** The student will identify basic economic concepts.
(1) Describe the basic needs of all people: food, clothing, and shelter; differentiate between these needs and a want.
(2) Explain the relationship between work and earning money.
(3) Identify ways that people use their money, including spending and saving.
(4) Explain how various community members including police officers, firefighters, soldiers, school personnel, business professionals, and medical personnel impact the student's life.

210:15-3-105.1. Social Studies Standards for First Grade

(a) **First Grade Content Standard 1.** The student will analyze their role as a citizen in a community.
(1) Describe the need for written laws and the main purpose of government, including the concept of consequences for one's actions when a law or rule is violated.
(2) Describe how citizens within communities work together to accomplish common tasks and fulfil roles of authority.
(3) Explain patriotic traditions including the Pledge of Allegiance; describe appropriate flag etiquette and proper behavior during the playing of *The Star-Spangled Banner*.
(4) Identify important symbols of the United States including the bald eagle and the Liberty Bell, and explain their meanings.

(b) **First Grade Content Standard 2.** The student will demonstrate knowledge of basic geographic concepts.
(1) Describe the difference between physical and political maps; construct basic maps of specific places.
(2) Identify cardinal directions and use them to identify specific locations on a map.

(3) Identify the difference between continents and oceans.

(4) Compare the features of urban and rural communities.

(5) Describe community customs and traditions as basic elements of culture.

(c) **First Grade Content Standard 3.** The student will examine important events and historical figures in the nation's past.

(1) Explain why people may see events from different points of view.

(2) Describe the contributions of people and groups that have shaped our history and ways we commemorate important places and events of the past.

(3) Read and construct basic timelines to understand the chronology of events in history.

(4) Identify primary sources and how they help us to learn about the past.

(d) **First Grade Content Standard 4.** The student will describe the characteristics of the American economic system.

(1) Explain the costs and benefits of spending and saving in order to meet needs and wants.

(2) Describe ways people are paid for their labor and how goods and services are purchased using money and credit.

(3) Identify and explain the roles of consumers and producers in the American economy.

(4) Describe the role of banks in the community.

210:15-3-105.2. Social Studies Standards for Second Grade

(a) **Second Grade Content Standard 1.** The student will explain the importance of the basic principles that provide the foundation of the American system of government.

(1) Describe the Constitution of the United States as the structure for our national government.

(2) Summarize the five key individual rights and liberties protected by the First Amendment to the Constitution of the United States.

(3) Explain how active citizens participate in the government by voting to elect officials that represent them.

(4) Identify the basic roles of national leaders including the President of the United States, the members of the United States Congress, and the justices of the Supreme Court.

(5) Explain how all people can play an important role in their community.

(b) **Second Grade Content Standard 2.** The student will describe the physical and human characteristics of their environment.

(1) Construct basic maps using cardinal directions and map symbols.

(2) Describe absolute and relative location using latitude, longitude, and hemispheres on basic maps and globes.

(3) Use political maps to locate the state of Oklahoma and the six bordering states.

(4) Identify and locate basic landforms, bodies of water, continents, and oceans on a map.

(5) Describe how communities modify the environment to meet their needs.

(6) Describe customs, traditions, clothing, food, housing, and music as basic elements of various cultures represented within the local community.

(c) **Second Grade Content Standard 3.** The student will examine the lives of notable Americans who expanded peoples' rights and freedoms throughout our history.

(1) Analyze the contributions of people and groups who have shaped our history and who are honored by holidays and commemorative months.

(2) Compare perspectives of people in the past to people in the present.

(3) Compare different accounts of the same historical event using primary and secondary sources.

(4) Explain possible reasons for events in the past.

(d) **Second Grade Content Standard 4.** The student will understand basic economic concepts in the American economy.

(1) Explain the importance of supply and demand in the consumer and producer relationship.

(2) Explain how barter and trade can lead to interdependence among communities.

(3) Describe the connection between taxes and community services, including schools, sanitation and water, fire and police protection, parks and recreation, libraries, and roads.

(4) Describe how setting goals and creating a budget helps people pay for things they need and want.

210:15-3-105.3. Social Studies Standards for Third Grade

(a) **Third Grade Content Standard 1.** The student will analyze the traits of good citizens.

(1) Examine and determine the main purposes of Oklahoma's state government and identify elected leaders of the state of Oklahoma and the three branches of government.

(2) Explain that tribal governments in Oklahoma have a right to self-government, known as sovereignty.

(3) Describe the historical significance of the symbols of Oklahoma including the Oklahoma State Seal and the Oklahoma Flag; explain how the name of Oklahoma is derived from the Choctaw language.

(4) Describe relationships between people and events of the past, including those commemorated on national, state, and community holidays.

(5) Define the concept of civic virtue and responsibilities of the citizen at the local, state, and tribal levels, including respect for diversity.

(b) **Third Grade Content Standard 2.** The student will examine Oklahoma's geography and how people of Oklahoma interact with their environment.

(1) Examine Oklahoma's political and physical features.

(A) Identify the state of Oklahoma using relative location, absolute location (latitude and longitude), direction, scale, size, and shape using physical and political maps.

(B) Interpret thematic maps of Oklahoma with the essential map elements of title, legend, scale, and directional indicators.

(C) Identify Oklahoma's major landforms and bodies of water on a physical map.

(D) Identify Oklahoma's major metropolitan centers and cities on a political map.

(E) Describe the climate and various natural vegetation zones found in Oklahoma.

(F) Identify the six states bordering Oklahoma on a map.

(2) Examine the interaction of the environment and the peoples of Oklahoma.

(A) Describe how early American Indians used Oklahoma's natural resources, such as bison hunting, fur trading, and farming.

(B) Describe how pioneers to Oklahoma adapted to and modified their environment, such as sod houses, windmills, and crops.

(C) Summarize how the weather and the environment have impacted the economy of Oklahoma in events such as the Dust Bowl, floods, and tornadoes.

(D) Summarize how Oklahomans affect and change their environment such as the construction of the McClellan-Kerr Arkansas River Navigational System, creation of recreational lakes by the building of dams, irrigation of croplands, and the establishment of wildlife refuges.

(3) Identify the characteristics of renewable and nonrenewable resources and evaluate the role of citizens in conserving natural resources.

(c) **Third Grade Content Standard 3.** The student will analyze the significant events and historic personalities contributing to the development of the state of Oklahoma.

(1) Understand and describe the relationship between historic events and chronology through the creation of basic timelines.

(2) Read and interpret primary sources related to key events in Oklahoma's past.

(3) Describe American Indian pre-contact cultures that have inhabited what is now Oklahoma, such as the Spiro Mound Builders.

(4) Identify cultural similarities and differences of the existing sovereign tribal nations in Oklahoma, especially those near the local community.

(5) Describe early expeditions into Oklahoma such as those of Coronado, Washington Irving, and George Catlin.

(6) Describe the migrations, settlements, relocations, and forced removals of American Indians.

(7) Describe cowboy life and cattle drives as typified by experiences along such routes as the Chisholm Trail and the impact of Mexican ranching traditions on the cattle industry and cowboy culture.

(8) Distinguish between the points of view of both American Indians and settlers regarding the opening of territories in Oklahoma for settlement.

(9) Commemorate Statehood Day, November 16, as the joining of Indian and Oklahoma Territories.

(10) Describe the contributions of Oklahoma's military personnel, including the Buffalo Soldiers, the code talkers, and the 45th Infantry.

(11) Explain how Oklahomans come together to help one another during difficult times, such as recovering from the bombing of the Oklahoma City Murrah Building, exhibiting what has become known as the "Oklahoma Standard".

(12) Examine notable historic and present-day Oklahomans, utilizing biographies and information texts, such as Jim Thorpe, Sequoyah, Will Rogers, Wiley Post, Mickey Mantle, Shannon Lucid, Bill Pickett, Clara Luper, and Maria Tallchief.

(d) **Third Grade Content Standard 4.** The student will identify and describe basic economic activities creating prosperity in the state of Oklahoma.

(1) Compare differences among human, natural, and capital resources to produce goods and services.

(2) Summarize how the factors of scarcity and surplus and the laws of supply and demand of natural and human resources require people to make choices about producing and consuming goods and services.

(3) Examine how the development of Oklahoma's major economic activities have contributed to the growth of the state, including the mining and energy industry, agriculture, aviation, tourism, tribal enterprises, and military installations.

210:15-3-105.4. Social Studies Standards for Fourth Grade

(a) **Fourth Grade Content Standard 1.** The student will describe the features of self-government and the role of citizens of the United States.

(1) Describe the concepts of democracy and representative government, including the rule of law, equality, the common good, and individual rights.

(A) Explain the concept of civic responsibilities, including respect for the law, the necessity for compromise, civic participation, and public service.

(B) Understand the necessity of respect for diversity of the individual and diversity of groups comprising American society.

(2) Compare powers exercised by the local, state, and national levels of governments, recognizing tribal sovereignty as a tribal nation's inherent right to self-govern.

(3) Summarize the role of citizens as responsible stewards of natural resources and the environment.

(A) Describe the benefits of participation in recycling and non-littering activities.

(B) Identify present-day examples of ways to conserve natural resources and the development of alternative, sustainable energy sources.

(b) **Fourth Grade Content Standard 2.** The student will examine the physical geography and environments of the United States.

(1) Use maps and other geographic representations (such as globes and graphs), tools, and technologies to acquire, process, and report information from a spatial perspective.

(A) Use and describe various elements of maps, including keys/legends, scale, cardinal directions, and intermediate directions.

(B) Interpret aerial photographs, satellite images, and thematic maps to locate and identify physical and human features of the United States and North America.

(C) Use latitude and longitude to identify the location of physical and human features of the United States.

(2) Identify major physical features in the United States and analyze how physical processes shape places.

(A) Identify and describe the physical characteristics of places, including the major landforms, bodies of water, vegetation, and climates in the United States.

(B) Describe the location and characteristics of the major ecosystems in the United States.

(3) Explain how people create regions using common geographic characteristics.

(A) Identify and describe the major physical, cultural, and economic regions of the United States, comparing one's own region to the other regions.

(B) Explain how and why regions change over time by comparing regions in the past with life in the same regions in the present.

(4) Describe how physical processes of the Earth's surface impact humans and their environment.

(A) Identify and describe the different climates in the United States using maps, globes, and graphs.

(B) Explain how climate and natural processes including floods, wind, and storms impact how we live.

(5) Identify and locate on a political map the fifty states and the United States capitol.

(c) **Fourth Grade Content Standard 3.** The student will analyze the human characteristics of the United States and how geography impacts historic events.

(1) Identify and describe early settlement patterns of regions in the United States.

(A) Draw conclusions from maps to show how climate, vegetation, natural resources, and historic events affect the location and growth of settlements.

(B) Identify major American Indian groups and their ways of life in each region, including economic activities, customs, and viewpoints on land usage and ownership.

(C) Summarize the reasons for key expeditions of North America by Spain, France, and England, and their impact on the development of each region.

(D) Identify push and pull factors of human migration.

(E) Evaluate the impact of the Columbian Exchange on American Indian groups, African slaves and European settlers, including agriculture, trade, culture, military alliances, control of territory, and the sudden and significant decline of indigenous peoples.

(2) Examine the characteristics of culture, including the distribution and complexity of the regions of the United States.

(A) Identify the characteristics of culture (language, customs, beliefs, food, clothing, shelter) and compare the cultural characteristics of different regions of the United States.

(B) Explain how the characteristics of culture affect the ways in which people live.

(d) **Fourth Grade Content Standard 4.** The student will identify basic economic activities of the United States.

(1) Analyze how humans adapt to and modify their environments in order to survive and grow.

(A) Explain how humans depend upon the physical environment for food, shelter, and economic activities.

(B) Distinguish between renewable and nonrenewable resources.

(C) Explain how physical environments can provide both opportunities and limitations for human activity.

(2) Describe the patterns and networks of economic interdependence among regions of the United States.

(A) Identify and locate on a map the major cities of the United States, including their relative location to natural resources and transportation routes.

(B) Identify the major economic activities of each region of the United States by comparing how people satisfy their basic needs through the production of goods and services.

(C) Describe the relative location of the natural resources, such as fossil fuels, minerals, and soils, and their relationship to each region's major economic activities, including agriculture, manufacturing, transportation, energy, and services.

(3) Explain how economic activities can threaten the physical environment.

(A) Identify ways in which humans can change ecosystems, such as clearing forests, draining wetlands, and diverting waterways, but examining present-day issues related to the use of resources.

(B) Identify examples of changes in land use in local communities and how the physical environment can be stressed by human activities.

210:15-3-105.5. Social Studies Standards for Fifth Grade

(a) **Fifth Grade Content Standard 1.** The student will examine and compare the Jamestown and Plymouth settlements as the foundations of American culture and society.

(1) Summarize reasons for European colonization of North America and the impact on the development of the American colonies.

(2) Examine the economic and political motivations for English settlements at Roanoke and Jamestown.

(3) Explain the economic and political motivations of immigrants and indentured servants who came to Virginia.

(4) Explain the early successes and challenges of the Jamestown settlement including the leadership of John Smith, interrelationships with American Indians, challenges of the Starving Times, and the export of natural resources for profit.

(5) Explain the English commitment to the permanent settlement at Jamestown as evidenced through the events of 1619 including:

(A) Representative government established through the House of Burgesses

(B) Private ownership of land

(C) Introduction of Africans as slave labor

(D) Arrival of women and families

(6) Analyze the religious, economic, and political motivations of immigrants and indentured servants who migrated to Plymouth.

(7) Explain the early successes and challenges of the Plymouth settlement including:

(A) Practice of self-government established by the Mayflower Compact

(B) Contributions of American Indians including Chief Massasoit and Squanto

(C) Leadership of William Bradford

(8) Explain how American Indian agricultural practices, such as the Three Sisters, contributed to the early survival of the colonists.

(b) **Fifth Grade Content Standard 2.** The student will compare the development of the New England Colonies, the Middle Colonies, and the Southern Colonies.

(1) Explain the contributions of important citizens and groups to the foundation of the colonies, including the Puritans and Quakers, Roger Williams, Anne Hutchinson, William Penn, Lord Baltimore, and James Oglethorpe.

(2) Compare the economic development of the three colonial regions including:

(A) Agriculture and exports affected by climate and natural resources

(B) A labor system utilizing indentured servants

(C) Slave labor central to the growth of the economy

(3) Explain the international economic and cultural interactions resulting from the triangular trade routes, including the forced migration of Africans through the Transatlantic slave trade and experiences of the Middle Passage.

(4) Analyze the forms of self-government in the three colonial regions, including the role of religion in the establishment of some colonial governments, the Virginia House of Burgesses, and New England town hall meetings.

(5) Explain the evolving relationships between American Indians and the British colonists involving territorial claims.

(6) Explain that tribal sovereignty is a tribal nation's inherent right to self-govern.

(7) Compare daily life in the colonies as experienced by different social classes, plantation owners, farmers, merchants, craftsmen, artisans, women, and children.

(8) Compare the experiences of both free and enslaved Africans in the British colonies, including resistance efforts by enslaved peoples and attempts to maintain aspects of African culture.

(c) **Fifth Grade Content Standard 3.** The student will examine the foundations of the American nation established during the Revolutionary Era.

(1) Examine the causes and effects of significant events leading to armed conflict between the thirteen American colonies and Great Britain, including:

(A) French and Indian War

(B) Proclamation of 1763

(C) Sugar and Stamp Acts

(D) Townshend Act

(E) Colonial arguments regarding taxation and rightful representation in Parliament

(F) Boycotts of British goods and the efforts of the Committees of Correspondence

(G) Quartering Act

(H) Boston Massacre

(I) Tea Act and the Boston Tea Party

(J) Coercive Acts (Intolerable Acts)

(K) British raids on Lexington and Concord

(L) Publication of *Common Sense* by Thomas Paine

(2) Analyze the ideals stated in the Declaration of Independence, drafted by Thomas Jefferson and adopted July 4, 1776, used to:

(A) Identify natural, unalienable rights, such as life, liberty, and the pursuit of happiness

(B) Declare the equality of all individuals

(C) Define the purpose of government

(D) Establish the principle of self-government and consent of the governed

(E) Explain specific colonial grievances

(3) Explain the importance of the Articles of Confederation as the first American national system of government under which the colonies waged a war in order to gain independence.

(4) Compare the Iroquois Confederacy's representative government to the early attempts of the colonies to unite as one nation.

(5) Compare the advantages and disadvantages of the British and the American colonies at the eve of and during the Revolutionary War, including political and military leadership, military strength, population, resources, foreign alliances, and motivations for fighting.

(6) Analyze the relationships of significant military and diplomatic events of the Revolutionary War, including the leadership of General George Washington; experiences of Valley Forge; impact of the battles of Bunker Hill, Trenton, Saratoga, and Yorktown; and the Treaty of Paris in 1783.

(7) Identify the points of view of major groups that remained loyal to Britain, joined the patriot cause, or remained neutral.

(8) Identify the contributions of key individuals involved in the American Revolution including Patrick Henry, Samuel Adams, John Adams, Abigail Adams, Paul Revere, Nathan Hale, John Paul Jones, Thayendanegea (Joseph Brant), Nancy Ward the Beloved Woman of the Cherokee, Marquis de Lafayette, Benjamin Franklin, Mercy Otis Warren, and Phyllis Wheatley.

(d) **Fifth Grade Content Standard 4.** The student will examine the formation of the American system of government following the American Revolution.

(1) Evaluate issues and events that led to the Constitutional Convention, including a weak national government and Shays' Rebellion.

(2) Identify key leaders and explain the debates and compromises of the Constitutional Convention, including:

(A) Virginia and New Jersey Plans

(B) Great Compromise

(C) Three-fifths compromise and its maintenance of the institution of slavery

(D) Father of the Constitution, James Madison

(E) President of the Convention, George Washington

(3) Examine the purposes and basic responsibilities of government as described in the Preamble of the Constitution of the United States, which established the supreme law of the land.

(4) Describe the relationship between the federal government and sovereign American Indian nations, as established under the Constitution of the United States.

(5) Compare the viewpoints of the Federalists, led by James Madison, and Anti-Federalists, such as George Mason, over the addition of a Bill of Rights.

(6) Explain how the Constitution of the United States was amended to include the Bill of Rights and summarize the liberties protected in each of the ten amendments.

(e) **Fifth Grade Content Standard 5.** The student will describe the structure and responsibilities of the American system of government and the role of the individual citizen.

(1) Examine the key principles of government established in the Constitution of the United States, including:

(A) Separation of powers among three branches of government

(B) The system of checks and balances

(C) Shared powers between the federal and state governments

(2) Describe the roles of Congress, the President, and the Supreme Court in the legislative process.

(3) Describe the responsibilities of United States citizens, including:

(A) Registration and voting in public elections

(B) Becoming informed voters

(C) Engagement in civil discourse

(D) Service on trial juries

(E) Payment of taxes

(F) Obedience to laws

(G) Registration for military service

210:15-3-105.6. Social Studies Standards for Sixth Grade

(a) **Sixth Grade Content Standard 1.** The student will analyze data from a geographic perspective using the skills and tools of geography.

(1) Apply geographic information to support analysis from primary and secondary sources located in a variety of texts.

(2) Describe how various map projections distort the surface of the Earth and apply the concepts of scale, distance, direction, relative location, absolute location, and latitude and longitude.

(3) Integrate visual information, draw conclusions, and make predictions from geographic data and analyze spatial distribution and patterns by interpreting that data as displayed on geographic tools.

(4) Integrate visual information and develop the skill of mental mapping of the political and physical features of Earth's surface in order to organize information about people, places, and environments.

(5) Describe and analyze the role of geographic factors on current events and issues.

(b) **Sixth Grade Content Standard 2.** The student will analyze the physical systems of the major regions of the Western Hemisphere.

(1) Use visual information to identify and describe on a physical map the landforms, bodies of water, climate, and vegetation zones that are important to each region.

(2) Explain how the processes and factors of latitude, elevation, Earth-Sun relationships, prevailing winds, and proximity to bodies of water influence climate.

(3) Describe the predominant natural resources found in each region.

(4) Describe the relationship, and summarize the impact, of the distribution of major renewable and nonrenewable resources on each region.

(c) **Sixth Grade Content Standard 3.** The student will identify the characteristics, distribution, and demographic patterns of human populations and systems of the Western Hemisphere.

(1) Identify on a political map the major countries and population centers of each region.

(2) Identify and describe cultural traits of language, ethnic heritage, religion, and traditions practiced among peoples.

(3) Analyze the impact of geography on population distribution, growth, and change, applying geographic concepts of population density and the availability of resources.

(4) Describe how the push and pull factors of migration have affected settlement patterns and the human characteristics of places over time.

(5) Compare the systems of government, including representative government (democracy, republic, constitutional monarchy) and authoritarian systems (dictatorship, absolute monarchy).

(6) Identify the role of the citizen in the selection of government officials and lawmaking; compare individual liberties under different forms of government.

(7) Identify and explain topics related to indigenous sovereignty.

(8) Evaluate how the three levels of economic activities (primary, secondary, tertiary) contribute to the development of a nation and region.

(9) Describe benefits and limitations of the traditional, market, and command economic systems, including how government policies affect economic activities and trade relationships.

(10) Identify the common characteristics of developed and developing countries, including the impact of education and technology; analyze data used by geographers such as literacy rate, life expectancy, per capita income, and infant mortality.

(d) **Sixth Grade Content Standard 4.** The student will analyze the interactions of humans and their environment in the Western Hemisphere.

(1) Describe the commercial agriculture and industrial regions that support human development.

(2) Evaluate the effects of human modification on the natural environment through transformation caused by subsistence and commercial agriculture, industry, demand for energy, and urbanization.

(3) Analyze the impact of climate and natural disasters on human populations, including forced migration, scarcity of consumer goods, economic activities, and loss of life.

(4) Analyze environmental challenges of each region.

(5) Evaluate the role of ecotourism in creating environmental awareness of resources, climate, cultures, and wildlife.

(6) Describe the role of citizens as responsible stewards of natural resources and the environment.

(e) **Sixth Grade Content Standard 5.** The student will compare common physical and human characteristics of regions which create identity or uniqueness and influence people's perceptions of the Western Hemisphere.

(1) Define the concept of region and identify the major political, physical, cultural, and economic regions.

(2) Explain how cultural diffusion, both voluntary and forced, impacts societies of a region.

(3) Describe patterns of global economic interdependence and trade, including the concepts of balance of trade and supply and demand; compare measures of economic growth including Gross Domestic Product (GDP) and Gross National Product (GNP).

(4) Analyze global interdependence which explains the outsourcing of technological and manufacturing jobs to developing regions.

(5) Analyze reasons for conflict and cooperation among and between groups, societies, nations, and regions.

210:15-3-105.7. Social Studies Standards for Seventh Grade

(a) **Seventh Grade Content Standard 1.** The student will analyze data from a geographic perspective using the skills and tools of geography.

(1) Integrate specific geographic information to support analysis from primary and secondary sources located in texts, documents, newspapers, magazines, journals, political cartoons, and online news sources.

(2) Apply the concepts of scale, distance, direction, relative location, absolute location, and latitude and longitude.

(3) Explain the relationship between the continents, world oceans, and major cultural regions.

(4) Integrate visual information and apply the skill of mental mapping of the political and physical features of Earth's surface in order to organize information about people, places, and environments.

(5) Integrate visual information, draw conclusions and make predictions from geographic data, and analyze spatial distribution and patterns by interpreting that data as displayed on geographic tools.

(6) Describe and analyze the role of geographic factors on current events and issues.

(b) **Seventh Grade Content Standard 2.** The student will analyze the physical systems of the major regions of the Eastern Hemisphere.

(1) Identify on a physical map the major landforms and bodies of water of each region.

(2) Describe the distribution of major renewable and nonrenewable resources of each region.

(3) Explain how the competition for scarce resources can cause both economic and political conflict and cooperation.

(c) **Seventh Grade Content Standard 3.** The student will identify the characteristics, distribution, and demographic patterns of human populations and systems of the Eastern Hemisphere.

(1) Identify on a political map the major countries and population centers of each region.

(2) Compare common cultural traits, including language, ethnic heritage, social systems, and traditions, and explain how these traits can both unify or divide people.

(3) Evaluate the impact of a region's major religions, including geographic hearths, major beliefs, customs, and the significance of religion in contemporary societies; explain how religion can both unify or divide people.

(4) Evaluate and summarize the impact of geography on population distribution, density, growth, change, settlement patterns, the availability of resources, and migration, including push and pull factors.

(5) Describe reasons for and analyze from multiple perspectives the challenges and benefits of migration on native and immigrant populations.

(6) Describe the distribution of resources and evaluate how the three levels of economic activities (primary, secondary, tertiary) contribute to the development of a country or region.

(7) Compare the structures of representative governments and authoritarian systems.
(8) Identify the role of the citizen in the selection of government officials and lawmaking; compare individual liberties under different forms of government.
(9) Identify and explain the advantages and disadvantages of traditional market and command economic systems.
(10) Explain the role of government policies in utilizing wealth from natural resources to finance development.
(11) Assess the influence of economic development and distribution of wealth on society.
(12) Distinguish between developed and developing regions using the Human Development Index; analyze data used by geographers, including literacy rate, life expectancy, infant mortality, and per capita income.

(d) **Seventh Grade Content Standard 4.** The student will analyze the interactions of humans and their environment in the Eastern Hemisphere.
(1) Analyze the impact of climate events, weather patterns, and natural disasters on human populations and the environment, resulting in forced migrations, scarcity of consumer goods, economic activities, and loss of life.
(2) Explain how climate change is affecting environments and human populations.
(3) Explain the differences among subsistence, cash crop, and commercial agriculture, including impact on economic development.
(4) Evaluate the effects of human modification of and adaptation to the natural environment through transformation caused by agriculture, the use of modern irrigation methods, industry, demand for energy, and urbanization.
(5) Summarize the role of ecotourism in creating environmental awareness of resources, climate, cultures, and wildlife.
(6) Describe the role of citizens as responsible stewards of natural resources and the environment.

(e) **Seventh Grade Content Standard 5.** The student will compare common physical and human characteristics of regions which create identity or uniqueness and influence people's perceptions of the Eastern Hemisphere.
(1) Define the concept of region and explain how and why regions change over time through physical and human processes which operate to modify the Earth's surface.
(2) Describe how cultural diffusion, both voluntary and forced, impacts society.
(3) Explain patterns of global interdependence and world trade, including the impact of changing technology on trade routes.
(4) Explain patterns of global economic interdependence and world trade, focusing on the concepts of balance of trade and supply and demand; compare the economic measurements of productivity, Gross Domestic Product (GDP) and Gross National Product (GNP).
(5) Analyze global interdependence which explains the outsourcing of technological and manufacturing jobs to developing regions.
(6) Analyze reasons for conflict and cooperation among groups, societies, and countries, including the creation and involvement of supranational organizations.
(7) Describe how political, economic, and cultural forces challenge contemporary political arrangements leading to the devolution of states (civil wars, terrorism, genocide, and ethnic separatism).

210:15-3-105.8. Social Studies Standards for Eighth Grade

(a) **Eighth Grade Content Standard 1.** The student will analyze the foundations of the United States by examining the causes, events, and ideologies which led to the American Revolution.
(1) Describe the political climate in the British colonies prior to the French and Indian War including the policy of salutary neglect, mercantilism through the Navigation Acts and colonial reaction through the Albany Plan of Union; compare the Iroquois Confederacy to early attempts to unite the colonies.
(2) Summarize the political and economic consequences of the French and Indian War including imperial policies of taxation, the Proclamation of 1763 and the migration of colonists into American Indian sovereign territories.
(3) Summarize British attempts to regulate the colonies and colonial responses including:
(A) Sugar Act
(B) Stamp Act Congress Resolves
(C) Committees of Correspondence
(D) Legal principle of taxation and political representation
(E) Townshend Act and boycott of British goods
(F) Quartering Act
(G) Boston Massacre
(H) Tea Act and Boston Tea Party
(I) Coercive Acts (Intolerable Acts)
(J) First Continental Congress
(K) British raids on Lexington and Concord
(4) Analyze the significance of the Second Continental Congress including:
(A) Formation of the Continental Army
(B) Establishment of currency
(C) Olive Branch Petition
(D) French alliance negotiated by Benjamin Franklin
(E) Committee to draft a Declaration of Independence
(5) Analyze the ideological and propaganda war between Great Britain and the colonies including:
(A) Points of view of the Patriots and Loyalists
(B) Writings of Mercy Otis Warren and Phyllis Wheatley
(C) Use of Paul Revere's engraving of the Boston Massacre
(D) Rejection of the Olive Branch Petition
(E) "Give Me Liberty or Give Me Death" speech attributed to Patrick Henry

(F) *Common Sense* pamphlet by Thomas Paine

(6) Examine the central ideas expressed in the Declaration of Independence, drafted by Thomas Jefferson and adopted July 4, 1776, and their intellectual origins including:

(A) John Locke's theory on natural and unalienable rights, including life, liberty, and the pursuit of happiness

(B) The ideals of equality for all individuals, including the impact of the First Great Awakening

(C) The purpose of government as a social contract requiring the consent of the governed

(D) Economic and political grievances against British policies

(b) **Eighth Grade Content Standard 2.** The student will examine key military and diplomatic events of the Revolutionary War that resulted in an independent nation.

(1) Explain the purpose of the Articles of Confederation which established the first American national system of government to support and conduct a war against Britain.

(2) Evaluate the motivations and points of view of various populations to remain loyal to Britain, joint the patriot cause, or choose neutrality, including:

(A) Patriots and Loyalists and their political, economic, and family interests

(B) American Indians and the preservation of their homelands, cultures, and trade

(C) Women and their political status

(D) Free and enslaved blacks and their petitions to colonial governments for a ban on slavery.

(3) Identify and evaluate the contributions of individuals and significant groups toward winning independence from British rule.

(4) Compare the advantages and disadvantages of the British and American colonists including political and military leadership, military strength, population and resources, motivation, foreign alliances, financial and military support, and the British recruitment of enslaved black men in exchange for freedom.

(5) Summarize the impact of key military and diplomatic events of the Revolutionary War including:

(A) Military leadership of General George Washington

(B) Victories at Boston, Trenton, and Saratoga

(C) Publication of Thomas Paine's *The Crisis*

(D) Valley Forge encampment

(E) French alliance, negotiated by Benjamin Franklin

(F) Victory at Yorktown

(G) Treaty of Paris, 1783

(c) **Eighth Grade Content Standard 3.** The student will examine the formation of the American system of government following the Revolutionary War and the creation of the Constitution of the United States as the supreme law of the land.

(1) Examine the strengths and weaknesses of the Articles of Confederation that led to the Constitutional Convention in Philadelphia in 1787, including:

(A) Resolution of disputes over the western territories as resolved by the Northwest Ordinance

(B) Organization and leadership necessary to win the war

(C) Lack of a common national currency

(D) Lack of a common defense

(E) Lack of a national judiciary

(F) Mismanagement of war debts due to an inability to tax

(G) Unanimous vote required to amend the Articles

(H) Civil unrest as typified in Shays' Rebellion

(2) Analyze the significance of the Constitutional Convention; contributions of the Framers; major debates and compromises including the Virginia and New Jersey Plans and the Great Compromise; the leadership of James Madison, Father of the Constitution; and George Washington, President of the Convention.

(3) Describe how the framers of the Constitution addressed the issue of slavery, including the Three-Fifths Compromise which maintained the institution of slavery in both northern and southern states, the Fugitive Slave Clause, and the delayed ban on the slave trade.

(4) Explain the significance of the Commerce Clause in establishing a constitutional relationship between Indian tribes and the United States government.

(5) Examine the concept of self-government, the purpose, and the responsibilities of government as expressed in the Preamble to the Constitution of the United States.

(6) Analyze the key principles of government established by the Constitution of the United States including:

(A) Federalism (reserved and concurrent powers)

(B) Separation of powers among three branches of government (legislative, executive, judicial)

(C) A system of checks and balances among the three branches

(D) Popular sovereignty and consent of the governed

(E) Judicial review

(F) Rule of law

(7) Examine the Federalist and Anti-Federalist arguments for and against the ratification of the Constitution as expressed in the *Federalist Papers* authored by James Madison, Alexander Hamilton, and John Jay, and the writings of Anti-Federalists such as George Mason, including concerns over a strong central government and the omission of a bill of rights.

(8) Explain how the Constitution of the United States was amended to include a Bill of Rights; identify and analyze the guarantees of individual rights and liberties as expressed in each of the ten amendments.

(9) Identify the structure and responsibilities of the elected and appointed officials of the three branches of government in relationship to the legislative process, including the role of Congress and the President, as well as the Supreme Court's power of judicial review.

(10) Describe the responsibilities of United States citizens such as:

(A) Registering and voting in public elections

(B) Engaging in informed civil discourse
(C) Serving on a jury
(D) Paying taxes
(E) Obeying laws
(F) Registering for military service

(d) **Eighth Grade Content Standard 4.** The student will examine the political and economic changes that occurred during the Early Federal Period.

(1) Analyze the impact of the Whiskey Rebellion and enforcement of the government's right to tax.

(2) Describe President Washington's attempt to develop a cohesive Indian policy, which included respectful interactions with American Indian leaders, treaties to delineate tribal lands, and precedent-setting practices of assimilation.

(3) Describe the advice in President Washington's Farewell Address and its impact.

(4) Evaluate the impact of the Alien and Sedition Acts on individual rights during the Adams Administration, including the responses of the Democratic-Republicans in the *Virginia and Kentucky Resolutions*.

(e) **Eighth Grade Content Standard 5.** The student will analyze the political and geographic changes that occurred during the Jeffersonian Era.

(1) Explain the impact of the peaceful transfer of power form one political party to another, as exhibited by the presidential election of 1800.

(2) Analyze the impact of the Supreme Court under the leadership of Chief Justice John Marshall and the *Marbury v. Madison* decision which confirmed the principle of judicial review.

(3) Analyze the acquisition of the Louisiana territory, the contributions of the Lewis and Clark Corps of Discovery Expedition and the eventual establishment of the Indian Territory.

(f) **Eighth Grade Content Standard 6.** The student will examine the political, economic, and social transformations during the "Era of Good Feelings".

(1) Explain how the War of 1812 confirmed American independence and fueled a spirit of nationalism, reflected in the lyrics of our national anthem, "The Star-Spangled Banner", by Francis Scott Key.

(2) Examine the Monroe Doctrine as a policy of isolationism which was designed to protect American interests in the Western Hemisphere.

(3) Analyze the impact of *McCulloch v. Maryland*, which established federal supremacy concerning taxation.

(4) Examine the increased tension between Southern sectionalist and Northern nationalist perspectives.

(5) Summarize the impact of the Missouri Compromise on the expansion of slavery into new territories.

(g) **Eighth Grade Content Standard 7.** The student will examine the political, economic, and social transformations of the Jacksonian Era.

(1) Describe the factors that led to the election of Andrew Jackson including the "Corrupt Bargain" election of 1824, the expansion of voting rights, and Jackson's political success by identifying with the "common man".

(2) Analyze the impact the Nullification Crisis had on the development of the states' rights debate.

(3) Analyze the impact of Jackson's policies and decisions concerning Native American nations and their tribal sovereignty as a nation's inherent right to self-govern, including:

(A) Non-adherence to federal treaties
(B) Disregard for the *Worcester v. Georgia* decision
(C) Forced removals of American Indians

(h) **Eighth Grade Content Standard 8.** The student will examine the political, economic, social, and geographic changes that occurred during the period of westward expansion.

(1) Examine the concept and opposing perspectives toward Manifest Destiny as a motivation and justification for westward expansion.

(2) Explain the territorial growth of the United States including the annexation of Texas, Mexican Cession, and the Gadsden Purchase; describe the need to maintain a balance of "free" and "slave" states.

(3) Identify push and pull factors of mass migration and the settlement of western territories including the California Gold Rush, settlement of Oregon, and the Mormon migration.

(4) Analyze the consequences of westward expansion, including the impact on the culture of American Indians and their homelands, and the growing sectional tension regarding the expansion of slavery.

(i) **Eighth Grade Content Standard 9.** The student will analyze the social and economic transformations of the early nineteenth century.

(1) Explain the impact of the Industrial Revolution in the North including the concentration of population, manufacturing, and transportation.

(2) Describe the plantation system and its reliance on a slave labor system in the South, including how Eli Whitney's invention of the cotton gin increased the profitability of the crop and led to the expansion of slavery.

(3) Compare perspectives and experiences of both free and enslaved blacks, including the:

(A) Everyday life of free African Americans
(B) Everyday acts of resistance to slavery
(C) Efforts of Harriet Tubman and the Underground Railroad
(D) Nat Turner's Rebellion
(E) Legal restrictions and Slave Codes

(4) Summarize the impact of the Abolitionist Movement, including the writings and work of Frederick Douglass and William Lloyd Garrison.

(5) Identify the ideals, significance, and key leaders of the Second Great Awakening and the Women's Suffrage Movement, including the *Declaration of Sentiments* and the leadership of Susan B. Anthony, Elizabeth Cady Stanton, and Sojourner Truth.

(j) **Eighth Grade Content Standard 10.** The student will analyze major political, economic, and social events that resulted in the Civil War.

(1) Summarize the importance of slavery as the principal cause of increased sectional polarization leading to the Civil War.
(2) Evaluate the goals of the Compromise of 1850 regarding the issue of slavery.
(3) Evaluate the impact of the publication of *Uncle Tom's Cabin*, by Harriet Beecher Stowe, on anti-slavery sentiments.
(4) Analyze the impact of the Kansas-Nebraska Act on the issue of popular sovereignty in new territories regarding the institution of slavery, repeal of the Missouri Compromise, and factional feuds in Bleeding Kansas.
(5) Summarize the *Dred Scott v. Sanford* case which declared slaves as property and motivated John Brown's Raid on the federal arsenal at Harper's Ferry.

(k) **Eighth Grade Content Standard 11.** The student will analyze the course and consequences of the Civil War.
(1) Analyze the immediate impact of the presidential election of 1860, including:
(A) Secession of southern states which declared slavery as the central factor for seceding
(B) Lincoln's goal to preserve the Union
(C) Formation of the Confederate States of America
(D) Confederate attack on Fort Sumter
(E) Tensions over strategic border states
(2) Compare the advantages and disadvantages of the Union and the Confederacy including natural resources, population, industrialization, and the military leadership of Ulysses S. Grant and Robert E. Lee.
(3) Evaluate the impact and contributions of specific groups in the Civil War including free and enslaved African Americans, American Indians, women, and immigrants.
(4) Discuss the key strategies utilized during the war, such as the Anaconda Plan, Total War, and the southern defense strategy.
(5) Summarize the significance of the key battles of the war, including Antietam, Gettysburg, Vicksburg, and Lee's surrender at Appomattox.
(6) Analyze the *Emancipation Proclamation*, including its role in expanding the goals of the war and its impact on slavery; identify the significance of Juneteenth in relationship to the emancipation.
(7) Explain how the *Gettysburg Address* clarified the Union's motivation for winning the war.
(8) Evaluate the impact of Lincoln's assassination, loss of his leadership,

(l) **Eighth Grade Content Standard 12.** The student will analyze the political, social, and economic transformations during the Reconstruction Era to 1877.
(1) Compare the major plans and policies proposed for Reconstruction.
(2) Analyze the impact of state and federal legislation following the Civil War, including:
(A) 13th, 14th, and 15th Amendments
(B) Black Codes and Jim Crow laws
(C) Establishment of the Freedmen's Bureau
(3) Compare the emerging social structure of the South, including the:
(A) Influx of carpetbaggers and scalawags
(B) Rise of the Ku Klux Klan and its acts of intimidation and violence
(C) Election of blacks to government positions
(D) Expansion of the tenant and sharecropper systems
(E) Migration of former slaves
(4) Assess the impact of the presidential election of 1876 as an end to reconstruction in the South, including decline of black leadership, loss of enforcement of the 14th and 15th Amendments, and the development of segregated societies.
(5) Evaluate the impact of federal policies including:
(A) Homestead Act of 1862 and the resulting movement westward to free land
(B) Impact of continued displacement of American Indians
(C) President Grant's Peace Policy on Indian affairs
(D) The development of the Transcontinental Railroad

210:15-3-106. Economics

(a) **Economics Content Standard 1.** The student will develop and apply economic reasoning and decision-making skills.
(1) Define and apply basic economic concepts of money supply, scarcity, surplus, choice, opportunity cost, cost/benefit analysis, risk/reward relationship, incentive, disincentive, and trade-off to a variety of economic situations.
(2) Determine appropriate courses of economic actions using a variety of economic reasoning and decision-making models.
(3) Examine how the decision-making process is impacted by the scope of the decision and the size of the decision-making entity.
(4) Explain that people tend to respond to fair treatment with fair treatment and to unfair treatment with retaliation, even when such reactions might not maximize their material wealth.

(b) **Economics Content Standard 2.** The student will evaluate how societies answer the three basic economic questions: what goods and services to produce, how to produce them, and for whom they are produced.
(1) Compare the world's basic economic systems of market (free enterprise), command, and mixed market economies, identifying countries that have adopted each and comparing the results such economic systems have produced in those countries as measured by GDP, national prosperity, and individual income and wealth.
(2) Describe the role of the factors of production, land, labor, capital, entrepreneurship, and technology as well as the place of imports and exports in economic systems.
(3) Answer how the three basic economic questions affect personal income and in turn impact the economic system.

(4) Explain the costs and benefits of government fiduciary policy and regulations including the impact both have on competition.

(5) Describe the impact of comparative and absolute advantage upon the three basic economic questions.

(c) **Economics Content Standard 3.** The student will explain how prices are set in a market economy and will determine how price provides incentives to buyers and sellers.

(1) Analyze how price and non-price factors affect the demand and supply of goods and services available in the marketplace.

(2) Explain what causes shortages and surpluses including government-imposed price floors, price ceilings, and other government regulations and the impact they have on prices and people's decisions to buy or sell.

(3) Evaluate the role of the government within the economy as to defining, establishing, and enforcing property rights.

(d) **Economics Content Standard 4.** The student will evaluate how changes in the level of competition in different markets affect prices.

(1) Explain how competition impacts the free market production and the allocation of goods and services to consumers.

(2) Explain how people's own self-interest, incentives, and disincentives influence market decisions.

(e) **Economics Content Standard 5.** The student will describe the role of economic institutions including banks, credit unions, corporations, governments, and not-for-profits in a market economy.

(1) Evaluate the impact of government ensuring the protection of private property rights and the rule of law in a market economy.

(2) Describe how banks allow people to pool their incomes and provide future income through investment in stocks.

(3) Identify how credit unions, corporations, and not-for-profits influence a market economy.

(4) Explain how successive deposits and loans made by commercial banks can cause the money supply to expand.

(f) **Economics Content Standard 6.** The student will analyze how money makes it easier to trade, borrow, save, invest, and compare the value of goods and services.

(1) Explain how individuals, businesses, and the overall economy benefit from the various uses of money, such as trading, borrowing, investing, and diversifying, versus saving money.

(2) Identify the components of the money supply and the different functions of money; give examples of each.

(3) Explain how the value of money is determined by the goods and services it can buy.

(g) **Economics Content Standard 7.** The student will evaluate how interest rates impact decisions in the market economy.

(1) Define interest rates and inflation; analyze the relationship between interest rates and inflation rates to both the borrower and the lender.

(2) Determine how changes in real interest rates impact people's decisions to borrow money and purchase goods in a market economy.

(h) **Economics Content Standard 8.** The student will analyze the role of entrepreneurs and laborers within a market economy.

(1) Identify both an entrepreneur and a laborer and describe how their decisions affect job opportunities for others, such as profit-maximizing level of output, hiring the optimal number of workers, comparing marginal costs and benefits of producing more or less of a resource.

(2) Analyze the potential risks and potential gains of entrepreneurs opening new businesses or inventing a new product; determine the financial and nonfinancial incentives that motivate entrepreneurs.

(3) Evaluate the costs and benefits of incorporation, including the expansion of resources and reduction of risks.

(i) **Economics Content Standard 9.** The student will evaluate the economic role of government in a free market and a mixed market economy.

(1) Explain the aspects of and differences between a free market and a mixed market economy.

(2) Explain the purpose, costs, and benefits of government assistance programs and government funded services and projects.

(3) Evaluate the impact of voters' decisions as they relate to governmental economic policy.

(j) **Economics Content Standard 10.** The student will examine current economic conditions in the United States.

(1) Determine how interest rates, unemployment, Consumer Price Index (CPI), individual savings and debt, government debt, government-enforced price ceilings, labor supply, and inflation impact current economic conditions in the United States.

(2) Explain how these conditions have an impact on consumers, producers, and government policy makers.

(3) Explain how changes in supply and demand cause prices to change and in turn, cause buyers and sellers to change, including changes in price of productive resources and technologies used to make the product, profit opportunities available to producers for selling other products, number of sellers in a market, consumer incomes, consumer options, and the number of consumers in a market.

(k) **Economics Content Standard 11.** The student will identify the basic measures of a nation's economic output and income.

(1) Explain Gross Domestic Product (GDP) and Gross National Product (GNP) and how they are used to describe economic output over time; compare the GDP of various countries representing market, command, and mixed economic systems.

(2) Describe the impact on the economy when GDP and GNP are growing or declining.

(3) Evaluate the impact of self-interest, competition, collusion, technological advancement, standard of living, the business cycle, and fluctuation to the GDP.

(4) Examine the differences between the nominal and the real GDP.

(l) **Economics Content Standard 12.** The student will explain the role of inflation and unemployment in an economic system.

(1) Define inflation and determine how it is measured, including the impact inflation has on different sectors of the United States economy.

(2) Define the causes of unemployment, as well as the different types of unemployment; determine how unemployment is measured that the impact it has on different sectors of the United States economy.

(m) **Economics Content Standard 13.** The student will identify the potential economic impact of policy changes by the Federal Reserve and the federal government.

(1) Compare fiscal and monetary policy and the impact each has on the economy.

(2) Explain the role of the Federal Reserve System within government economic policy.

(3) Evaluate the conditions under which the federal government and the Federal Reserve implement expansionary or contractionary policies.

210:15-3-107. Oklahoma History

(a) **Oklahoma History Content Standard 1.** The student will describe the state's geography and the historic foundations laid by Native American, European, and American cultures.

(1) Integrate visual information to identify and describe the significant physical and human features including major trails, railway lines, waterways, cities, ecological regions, natural resources, highways, and landforms.

(2) Summarize the accomplishments of pre-contact cultures including the Spiro Mound Builders.

(3) Compare the goals and significance of early Spanish, French, and American interactions with American Indians, including trade, the impact of disease, the arrival of the horse, and new technologies.

(4) Compare cultural perspectives of American Indians and European Americans regarding land ownership, structure of self-government, religion, and trading practices.

(b) **Oklahoma History Content Standard 2.** The student will evaluate the major political and economic events that transformed the land and its people from early contact through Indian Removal and its aftermath.

(1) Summarize and analyze the role of river transportation to early trade and mercantile settlements including Chouteau's Trading Post at Three Forks.

(2) Describe the major trading and peacekeeping goals of early military posts including Fort Gibson.

(3) Analyze the motivations for removal of American Indians and the passage of the Indian Removal Act of 1830; trace the forced removal of American Indian nations, including the impact on the tribal nations removed to present-day Oklahoma and tribal resistance to the forced relocations.

(4) Describe the consequences of Indian Removal on intertribal relationships with western nations, such as the Osage, Comanche, Kiowa, Cheyenne and Arapaho.

(c) **Oklahoma History Content Standard 3.** The student will evaluate the major political and economic events that transformed the land and its people from the outbreak of the Civil War through allotment and land openings.

(1) Summarize the impact of the Civil War and Reconstruction Treaties on American Indian peoples, territories, and tribal sovereignty, including:

(A) Required enrollment of the Freedmen

(B) Second Indian Removal

(C) Significance of the Massacre at the Washita

(D) Reasons for the reservation system and the controversy regarding the reservation system as opposed to tribal lands

(E) Establishment of the western military posts including the role of the Buffalo Soldiers

(F) Construction of railroads through Indian Territory

(2) Assess the impact of the cattle and coal mining industries on the location of railroad lines, transportation routes, and the development of communities.

(3) Analyze the influence of the idea of Manifest Destiny on the Boomer Movement.

(4) Compare multiple points of view to evaluate the impact of the General Allotment Act and Dawes Act which resulted in the loss of tribal communal lands through a transfer to individual property and the redistribution of lands, including the Unassigned Lands and the Cherokee Outlet, by various means.

(5) Explain how American Indian nations lost control over tribal identity and citizenship through congressional action, including the Indian Reorganization Act.

(d) **Oklahoma History Content Standard 4.** The student will analyze the formation of constitutional government in Oklahoma.

(1) Compare the governments among the American Indian nations and the movement for the state of Sequoyah.

(2) Describe the proposal for an all-black state advocated by Edward McCabe.

(3) Explain the impact of the Enabling Act on single statehood.

(4) Describe and summarize attempts to create a state constitution joining Indian and Oklahoma Territories, including the impact of the Progressive and Labor Movements resulting in statehood on November 16, 1907.

(5) Compare Oklahoma's state government to the United States' national system of government including the branches of government, their functions, and powers.

(6) Describe the division, function, and sharing of powers among levels of government including city, county, state, and tribal.

(7) Identify major sources of local and state revenues and the services provided including education, health and human services, transportation, courts, corrections, and public safety.

(8) Describe state constitutional provisions including the direct primary, initiative petition, referendum, and recall.

(e) **Oklahoma History Content Standard 5.** The student will examine Oklahoma's political, social, cultural, and economic transformation during the early decades following statehood.

(1) Examine the policies of the United States and their effects on American Indian identity, culture, economy, tribal government, and sovereignty including:

(A) Passage of the Indian Citizenship Act of 1924

(B) Effects of the federal policy of assimilation, including Indian boarding schools (1880s-1940s)

(C) Authority to select tribal leaders as opposed to appointment by the federal government

(D) Exploitation of American Indian resources, lands, trust accounts, head rights, and guardianship as required by the Bureau of Indian Affairs

(2) Examine multiple points of view regarding the evolution of race relations in Oklahoma, including:

(A) Growth of all-black towns (1865-1920)

(B) Passage of Senate Bill 1 establishing Jim Crow laws

(C) Rise of the Ku Klux Klan

(D) Emergence of "Black Wall Street" in the Greenwood District

(E) Causes of the Tulsa Race Riot and its continued social and economic impact

(F) The role labels play in understanding historic events, for example "riot" versus "massacre"

(3) Analyze how various segments of Oklahoma society including agricultural, mining, and state politics were influenced by the organized labor and socialist movements.

(4) Examine how the economic cycles of boom and bust of the oil industry affected major sectors of employment, mining, and the subsequent development of communities, as well as the role of entrepreneurs, including J.J. McAlester, Frank Phillips, E.W. Marland, and Robert S. Kerr, and the designation of Tulsa as the "Oil Capital of the World".

(5) Evaluate the impact of the boom and bust cycle of Oklahoma's agricultural production due to mechanization and the needs of World War I, including its effect as a precursor of the Great Depression.

(6) Analyze William H. "Alfalfa Bill" Murray's response to the conditions created by the Great Depression.

(7) Describe the impact of environmental conditions and human mismanagement of resources resulting in the Dust Bowl and the migration of the "Okies", the national perceptions of Oklahomans, and the New Deal policies regarding conservation of natural resources.

(8) Describe the contributions of Oklahomans including African-American jazz musicians, the political and social commentaries of Will Rogers,

(f) **Oklahoma History Content Standard 6.** The student will investigate how post-war social, political, and economic events continued to transform the state of Oklahoma from the 1950s through the present.

(1) Evaluate the progress of race relations and actions of civil disobedience in the state including:

(A) Judicial interpretation of the Equal Protection Clause of the 14th Amendment which ultimately resulted in the desegregation of public facilities and public schools and universities

(B) Landmark Supreme Court cases of *Sipuel v. Board of Regents of the University of Oklahoma* (1948) and *McLaurin v. Oklahoma Board of Regents for Higher Education* (1950)

(C) Lunch counter sit-ins organized by Clara Luper and the National Association for the Advancement of Colored People (NAACP)

(D) Leadership of Governor Gary in the peaceful integration of the public common and higher education systems

(2) Analyze the impact of economic growth in various sectors including:

(A) Impact of rural to urban migration

(B) Development of wind, water, and timber resources

(C) Continuing role of agriculture

(D) Emergence of tourism as an industry

(E) Development of the aerospace and aviation industry including the Federal Aviation Administration (FAA) and the influence of weather research on national disaster preparedness

(F) Oil and gas boom and bust, including the discovery of new fossil fuel resources

(G) Improvement of the state's transportation infrastructures, such as the interstate highway system and the McClellan-Kerr Arkansas River Navigation System

(3) Describe the artistic contributions of Oklahomans in the fields of music, art, literature, theater, and dance, such as Ralph Ellison and the Five Indian Ballerinas.

(4) Summarize the impact of individual Oklahomans' leadership on state and national politics including political realignment.

(5) Analyze the evolving relationship between state and tribal governments impacting tribal self-determination and control over American Indian lands and resources including issues of jurisdiction, taxation, and gaming.

(6) Examine the migrations of major cultural and ethnic groups, including Asians, African Americans, American Indians, and Latinos to the state of Oklahoma, and their impact on the social and economic transformation of the modern state of Oklahoma.

(7) Analyze the causes and effects of the domestic terrorist attack on the Murrah Federal Building in Oklahoma City including the responses of Oklahomans to the act, concept of the "Oklahoma Standard", and the creation of the Oklahoma City National Memorial and Museum.

(8) Describe the changing perceptions, both internal and external, of the state and its citizens, as reflected in *The Grapes of Wrath*, the musical *Oklahoma!*, Route 66, and the professional basketball team the Oklahoma City Thunder.

(9) Examine ongoing issues including immigration, criminal justice reform, employment, environmental issues, race relations, civic engagement, and education.

210:15-3-108. Psychology

(a) **Psychology Content Standard 1.** The student will examine the foundations of psychology and its origins as a separate social science discipline.

(1) Analyze the definition of psychology in the context of psychology as an empirical science and the major approaches to psychology including cognitive-behavioral, psychoanalytic, cognitive, and humanistic.

(2) Evaluate the origins of psychology based on significant historic figures including Wilhelm Wundt, William James, John B. Watson, and Karen Horney.

(3) Classify the various subfields in psychology including vocational applications such as counseling, industrial, clinical, experimental, and educational psychology.

(b) **Psychology Content Standard 2.** The student will examine the development of psychology as an empirical science by describing the scientific method, explaining research strategies, and identifying ethical issues.

(1) Describe the scientific method as the framework for research and apply the principles of research design to an appropriate experiment.

(2) Compare quantitative and qualitative research strategies including experiments, surveys, focus groups, and narratives as the foundation of research in psychology.

(3) Identify ethical standards psychologists must address regarding research with human and non-human participants.

(4) Explore the various modes of psychological testing including personality, intelligence, and projective, while assessing the reliability of each.

(c) **Psychology Content Standard 3.** The student will investigate the structure, biochemistry, and circuitry of the brain and the nervous system to understand their roles in affecting behavior.

(1) Identify and describe the structure and function of the brain including the hypothalamus, prefrontal lobe, corpus callosum, hemispheres, and amygdala.

(2) Examine the structure and function of the nervous and endocrine systems and how they affect behavior.

(3) Identify the parts of a neuron and explain neurotransmission, including the role and impact of various neurotransmitters.

(4) Explain the processes of sensation and perception, as well as the capabilities and limitations of sensory processes including the visual, auditory, kinesthetic, olfactory, and gustatory sensory systems.

(5) Describe the interaction of a person and the environment in determining perception, including Gestalt principles and how one's experiences and expectations influence perception.

(6) Identify various stages of consciousness including sleep and dreams, hypnosis, meditation, and psychoactive drugs.

(d) **Psychology Content Standard 4.** The student will analyze physical, social, emotional, moral, and cognitive development from conception through the latter stages of adulthood.

(1) Explain the interaction of environmental and biological factors in human development including the role of the brain in all aspects of development.

(2) Compare the theories of Jean Piaget, Sigmund Freud, Lawrence Kohlberg, Carl Jung, and Erick Erickson regarding human development.

(e) **Psychology Content Standard 5.** The student will understand how organisms adapt to their environment through learning and cognition.

(1) Identify and explain the major theories of learning including Ivan Pavlov's classical conditioning, B.F. Skinner's and Albert Bandura's operant conditioning, and Bandura's observational learning.

(2) Describe the process, organization, and factors that influence memory and recall.

(3) Analyze strategies and impediments involved in problem solving and decision making, and how this knowledge could be applied to daily life.

(f) **Psychology Content Standard 6.** The student will understand the principles of motivation and emotion.

(1) Compare the predominant theories of motivation and emotion including the biological, social-cognitive, humanistic, and cultural theories.

(2) Analyze the biological and environmental influences on positive and negative emotion.

(g) **Psychology Content Standard 7.** The student will understand how society and culture influence a person's behavior and mental processes.

(1) Evaluate the factors that lead to conformity, obedience, and nonconformity as demonstrated in experiments including the Stanford Prison Experiment, Milgram Experiment, or Solomon Ash's studies.

(2) Explain how bias, discrimination, and use of stereotypes influence behavior with regard to gender, race, sexual orientation, and ethnicity as demonstrated in the studies of the Brown Eyed/Blue Eyed Experiment, and the Clark Doll Experiment.

(3) Examine influences on aggression and conflict, including the factors associated with the bystander effect as demonstrated in such cases as the Kitty Genovese murder.

(h) **Psychology Content Standard 8.** The student will examine how psychological disorders are diagnosed, classified, and treated.

(1) Analyze the methods of determining abnormal behavior and the tools used to diagnose and classify disorders.

(2) Describe symptoms and causes of major categories of psychological disorders including schizophrenia, mood, anxiety, personality, somatoform, and dissociative disorders.

(3) Compare available treatment options and how they evolved through history and among different cultures.

(i) **Psychology Content Standard 9.** The student will evaluate the many factors that promote mental health.

(1) Identify and explain potential sources of stress, effects of stress, and various coping strategies for dealing with stress.
(2) Describe the characteristics of and factors that promote resilience and optimism.
(3) Analyze the relationship between psychological health and physiological health.
(4) Identify mental health disorders such as eating disorders and obsessive compulsive disorders.

210:15-3-109. United States Government

(a) **United States Government Content Standard 1.** The student will compare the formation of contemporary governments in terms of access, use, and justification of power.
(1) Compare the essential characteristics of limited versus unlimited governments.
(2) Compare historic and contemporary examples of unlimited governments to examples of limited systems.
(3) Compare the advantages and disadvantages of the ways governmental power is distributed, shared, and structured in unitary, federal, and confederal systems in terms of effectiveness, prevention of abuse of power, and responsiveness to the popular will.
(4) Compare the role of government in market and command economic systems.

(b) **United States Government Content Standard 2.** The student will describe the historical and philosophical foundations of the republican system of government in the United States.
(1) Summarize the major documents contributing to the formation of constitutional government in the United States, including the Magna Carta, the Mayflower Compart, and the English Bill of Rights.
(2) Identify the central ideas and importance of the concept of inalienable rights, including life, liberty, and the pursuit of happiness, the social contract, and the grievances stated in the *Declaration of Independence* and reflected in the Constitution of the United States.
(3) Evaluate the necessity of a written constitution to set forth enumerated powers, to organize government, and to distribute powers among the three branches of government, the states, and the people.
(4) Compare the points of view toward the structure and powers of government as expressed in the *Federalist Papers*, authored by Madison, Hamilton, and Jay, as well as the writings of the Anti-Federalists.
(5) Analyze the constitutional amendment process including the 27 amendments to the Constitution of the United States.

(c) **United States Government Content Standard 3.** The student will analyze the fundamental principles of the American system of government resulting in a republic, as established in the Constitution of the United States, the "supreme law of the land."
(1) Examine the American system of federalism and evaluate the changes that have occurred in the relationship between the states and the national government over time.
(2) Analyze the system of federalism including the:
(A) Enumerated (express) powers
(B) Implied powers
(C) Powers denied to the national government
(D) Reserved powers to the states
(E) Concurrent powers
(3) Summarize and explain the relationships and the responsibilities among national, state, tribal, and local governments.
(4) Explain that tribal sovereignty is a tribal nation's inherent power to self-govern, such as challenges made regarding the Major Crimes Act.
(5) Analyze how the Commerce Clause established the initial constitutional relationship between the Indian tribes and the United States government.
(6) Explain how power is separated as well as shared under the American system including the:
(A) System of separation of powers
(B) System of checks and balances
(C) Principle of judicial review
(7) Evaluate the importance of the rule of law on the purposes and functions of government; explain how the rule of law provides for the protection of individual liberties, including due process and equality under the law.
(8) Analyze the concept of popular sovereignty, including the government's responsibility to legitimize majority rule while protecting minority rights.
(9) Analyze the rights and liberties guaranteed to all citizens in the Bill of Rights and how they are protected at the state level through the doctrine of incorporation using the 14th Amendment.
(10) Analyze historic and contemporary examples of landmark Supreme Court decisions which have addressed and clarified individual rights under the First Amendment, including:
(A) *Gitlow v. New York* (1925)
(B) *West Virginia v. Barnette* (1943)
(C) *Engel v. Vitale* (1962)
(D) *Tinker v. Des Moines* (1969)
(E) *Texas v. Johnson* (1989)
(11) Analyze historic and contemporary examples of landmark Supreme Court cases which have specified individual rights of due process under the Constitution, including:
(A) *Mapp v. Ohio* (1961)
(B) *Gideon v. Wainwright*(1963)
(C) *Miranda v. Arizona* (1966)
(D) *Roe v. Wade* (1973)
(E) *Furman v. Georgia* (1972)

(d) **United States Government Content Standard 4.** The student will examine the Constitution of the United States by comparing the legislative, executive, and judicial branches of government as they address the needs of the public.
(1) Explain the purposes of government expressed in the Preamble and how the Constitution of the United States preserves the core principles of American society.
(2) Examine the structure, functions, and authority exercised by the executive, legislative, and judicial branches of government.

(A) Identify the constitutional qualifications for holding public office and the terms of office, including the composition of Congress, the Supreme Court, and the executive branch.

(B) Explain the steps of the legislative process, including the role of Congress and the president.

(C) Explain the role of the executive branch, including the function of the bureaucracy in implementing public policy.

(D) Identify the issues and describe the significance of landmark Supreme Court decisions including *Marbury v. Madison* (1803), *McCulloch v. Maryland* (1819), *United States v. Nixon* (1974), *Bush v. Gore* (2000), and *Citizens United v. F.E.C.* (2010).

(E) Examine how government exercises its authority in real world situations including current issues and events.

(e) **United States Government Content Standard 5. The** student will be able to evaluate the significance of civic participation in order to ensure the preservation of our constitutional government.

(1) Define civic virtue and explain the individual's duty and responsibility to participate in civic life by voting, serving on juries, volunteering within the community, running for office, serving on a political campaign, paying state and federal taxes prior to the April 15 annual deadline, and respecting legitimate authority.

(2) Explain the naturalization process under the laws of the United States.

(3) Analyze how our system of government provides citizens opportunities to monitor and influence the actions of the government and hold elected officials accountable.

(4) Analyze factors affecting the political process and their role in government, including the role of political parties, interest groups, mass media, public opinion, and campaign funding.

(5) Explain the steps of the electoral process including the components of local and national campaigns, the nominative process, and the Electoral College.

(f) **United States Government Content Standard 6.** The student will examine the United States public policy formation process.

(1) Examine the budget process including significant policy issues and examples of economic trade-offs that occur when addressing competing public needs.

(2) Examine how the government influences the economy using fiscal and monetary policy.

(3) Explain the role of the national government in formulating and carrying out domestic policy.

(4) Evaluate the role of the national government in formulating and carrying out foreign policy, national defense, and participation in international alliances and organizations.

210:15-3-110. United States History

(a) **United States History Content Standard 1.** The student will analyze the transformation of the United States through its civil rights struggles, immigrant experiences, and settlement of the American West in the Post-Reconstruction Era, 1865 to the 1920s.

(1) Explain the constitutional issues that arise in the post-Civil War era including federalism, separation of powers, and the system of checks and balances.

(2) Analyze the post-Reconstruction civil rights struggles.

(A) Identify the significance of Juneteenth in relation to emancipation and modern-day celebrations.

(B) Examine the purposes and effects of the 13th, 14th, and 15th Amendments.

(C) Assess the impact of the Black Codes, Jim Crow laws, and the actions of the Ku Klux Klan.

(3) Analyze the impact of westward expansion and immigration on migration, settlement patterns in American society, economic growth, and American Indians.

(A) Summarize the reasons for immigration, shifts in settlement patterns, the immigrant experience at processing centers such as Ellis Island and Angel Island, and the impact of Nativism and Americanization.

(B) Analyze the creation of federal immigration policies including the Chinese Exclusion Act, the Gentleman's Agreement, federal court decisions, the Supreme Court's application of the 14th Amendment, and the Immigration Act of 1924.

(C) Examine the rationale behind federal policies toward American Indians including the establishment of reservations, attempts at assimilation, the end of the Indian Wars at Wounded Knee, and the impact of the Dawes Act on tribal sovereignty and land ownership.

(D) Compare viewpoints of American Indian resistance to United States Indian policies as evidenced by Red Cloud in his "Cooper Union" speech, Quanah Parker, and Chief Joseph as expressed in his "I Will Fight No More Forever" speech.

(b) **United States History Content Standard 2.** The student will analyze the social, economic, and political changes that occurred during the American Industrial Revolution, the Gilded Age, and significant reform movements from the 1870s to the 1920s.

(1) Evaluate the transformation of American society, economy, and politics during the American Industrial Revolution.

(A) Analyze the impact of capitalism, laissez-faire policy, and the role of leading industrialists as "robber barons", "captains of industry", and "philanthropists" including John D. Rockefeller, and Andrew Carnegie and his Gospel of Wealth on American society.

(B) Identify the impact of new inventions and industrial production methods including new technologies by Thomas Edison, Alexander G. Bell, Henry Ford, and the Bessemer process.

(C) Evaluate the contributions of muckrakers, including Ida Tarbell, Jacob Riis, and Upton Sinclair, in changing government policies regarding child labor, working conditions, and regulation of big business.

(D) Analyze major social reform movements including the Women's Suffrage and Temperance Movement, and the leadership of Susan B. Anthony, Alice Paul, and Jane Addams.

(E) Evaluate the significance of the Labor Movement on the organization of workers including the impact of the Pullman strikes, the Haymarket Riot, and the leadership of Eugene V. Debs.

(F) Assess and summarize changing race relations as exemplified in the *Plessy v. Ferguson* case.

(G) Compare early civil rights leadership including the viewpoints of Booker T. Washington and W.E.B. DuBois in response to rising racial tensions, the anti-lynching work of Ida B. Wells, and the use of poll taxes and literacy tests to disenfranchise blacks.

(2) Evaluate the rise and reforms of Populism and the Progressive Movement including:

(A) Direct primary, initiative petition, referendum, and recall intended to limit the corrupting influence of political machines

(B) Impact of William Jennings Bryan and his "Cross of Gold" speech on the political landscape

(C) Series of events leading up to, and the effects of, the 16th, 17th, 18th, 19th, and 21st Amendments to the Constitution of the United States

(3) Analyze and summarize the key personalities, actions, and policies of Presidents Theodore Roosevelt, William Howard Taft, and Woodrow Wilson by:

(A) Comparing the policies of Roosevelt and Taft on environmental conservation and trust busting

(B) Evaluating the 1912 presidential election including the role of Roosevelt's "Bull Moose Party" and Eugene V. Debs' Socialist Party

(C) Describing the policies of Wilson on the issue of women's right to vote

(c) **United States History Content Standard 3.** The student will analyze the expanding role of the United States in international affairs as America was transformed into a world power in the late 19th and early 20th centuries, 1890 to 1920.

(1) Evaluate the impact of American imperialism on international relations and explain its impact on developing nations.

(A) Compare the economic, religious, social, and political rationales for American imperialism including the concept of "white man's burden", the annexation of Hawaii, the impact of Admiral Alfred T. Mahan and the actions of the Anti-Imperialist League.

(B) Assess the role of yellow journalism and jingoism in inciting the desire of Americans to go to ward with Spain.

(C) Examine how the Spanish-American War resulted in the rise of the United States as a world power and led to new territorial acquisitions and national insurrections in Cuba and the Philippines.

(D) Compare the foreign policies of Presidents Roosevelt, Taft, and Wilson including Big Stick Diplomacy, Dollar Diplomacy, Missionary Diplomacy, the Roosevelt Corollary, military interventionism, and the territorial acquisition and construction of the Panama Canal.

(2) Evaluate the long-term impact of America's entry into World War I on national politics, the economy, and society.

(A) Summarize the transformation of the United States from a position of neutrality to engagement in World War I, including the Zimmerman Telegram and the threats to international trade caused by unrestricted submarine warfare.

(B) Analyze the impact of the war on the home front including the use of propaganda, women's increased role in industry, the marshaling of industrial production, and the Great Migration.

(C) Analyze the institution of a draft and the suppression of individual liberties resulting in the First Red Scare, including the Palmer Raids and the Sacco-Vanzetti trials.

(D) Evaluate Wilson's foreign policy as proposed in his Fourteen Points, and the reasons for the nation's return to isolationism highlighted by the Senate's rejection of the League of Nations.

(d) **United States History Content Standard 4.** The student will analyze the cycles of boom and bust of the 1920s and 1930s on the transformation of American government, the economy, and society.

(1) Examine the economic, political, and social transformations between the World Wars.

(A) Describe modern forms of cultural expression including the significant impact of people of African descent on American culture as exhibited by the Harlem Renaissance and the Jazz Age.

(B) Describe the rising racial tensions in American society including the resurgence of the Ku Klux Klan, increased lynchings, race riots as typified by the Tulsa Race Riot, the rise of Marcus Garvey and black nationalism, and the use of poll taxes and literacy tests to disenfranchise blacks.

(C) Assess the impact of the *Indian Citizenship Act of 1924* on the American Indian nations.

(D) Examine growing labor unrest and industry's reactions, including the use of sit-down strikes and court injunctions, and why socialism and communism appealed to labor.

(E) Describe the booming economy based upon access to easy credit through installment buying of appliances and inventions of modern convenience including the automobile.

(2) Analyze the effects of the destabilization of the American economy.

(A) Identify causes contributing to an unstable economy including the overproduction of agriculture products, greater speculation and buying on margin in the Stock Market, and the government's pro-business and laissez-faire policies.

(B) Examine the role of the Stock Market Crash and bank failures in weakening both the agricultural

and manufacturing sectors of the economy leading to the Great Depression.

(C) Analyze how President Herbert Hoover's financial policies and massive unemployment as exemplified by the Bonus Army March and Hoovervilles impacted the presidential election of 1932.

(D) Compare points of view regarding the economic and social impact of the Great Depression on individuals, families, and the nation.

(3) Analyze the impact of the New Deal in transforming the federal government's role in domestic economic policies.

(A) Assess changing viewpoints regarding the expanding role of government as expressed in President Franklin Roosevelt's First Inaugural Address.

(B) Examine how national policies addressed the economic crisis including John Maynard Keynes' theory of deficit spending, Roosevelt's court packing plan, and the new federal agencies of the Social Security Administration, Federal Deposit Insurance Corporation (FDIC), Works Progress Administration (WPA), Civilian Conservation Corps (CCC), and the Tennessee Valley Authority (TVA).

(C) Summarize the causes and impact of the Dust Bowl including the government's responses.

(e) **United States History Content Standard 5.** The student will analyze the United States' role in international affairs by examining the major causes, events, and effects of the nation's involvement in World War II, 1933 to 1946.

(1) Describe the transformations in American society and government policy as the nation mobilized for entry into World War II.

(A) Examine the roles of appeasement and isolationism in the United States' reluctance to respond to Fascist military aggression in Europe and Asia, including the Neutrality Acts and the Lend-Lease program.

(B) Evaluate the industrial mobilization for war and the psychological preparation for war as reflected in President Franklin Roosevelt's "Four Freedoms" speech.

(C) Examine President Franklin Roosevelt's "Day Which Will Live In Infamy" speech and America's conduct of the war, including the role of women and minorities in the war effort, rationing, the internment of Americans of Japanese descent and the treatment of Americans of German and Italian descent, including the *Korematsu v. United States* decision.

(2) Analyze the series of events affecting the outcome of World War II including major battles, military turning points, and key strategic decisions in both the European and Pacific Theaters of operation including Pearl Harbor, the D-Day Invasion, development and use of the atomic bomb, the island-hopping strategy, the Allied conferences at Yalta and Potsdam, and the contributions of Generals MacArthur and Eisenhower.

(3) Summarize American reactions to the events of the Holocaust resulting in United States participation in the Nuremburg Trials which held Nazi leaders accountable for war crimes.

(f) **United States History Content Standard 6.** The student will analyze the origins of international alliances and efforts at containment of Communism following World War II.

(1) Analyze the origins of international alliances and efforts at containment of Communism following World War II.

(A) Identify the origins of Cold War confrontations between the Soviet Union and the United States including the leadership of President Harry Truman, the postwar division of Berlin, the Berlin Blockade and Airlift, the Iron Curtain, and the Marshall Plan.

(B) Describe the roles and consequences of the spheres of influence created by the formation of the United Nations and the North Atlantic Treaty Organization (NATO) by the United States and the formation of the Warsaw Pact by the Soviet Union.

(C) Assess the impact and successes of the Truman Doctrine including the American military response to the invasion of South Korea.

(D) Evaluate the Kennedy administration's international goals as expressed in his "Inaugural Address" in light of the subsequent building of the Berlin Wall, the Bay of Pigs Invasion, the Cuban Missile Crisis, the National Aeronautics and Space Administration (NASA), and the establishment of the Peace Corps.

(2) Describe domestic events related to the Cold War and its aftermath.

(A) Summarize the reasons for the public fear of communist influence within the United States and how politicians capitalized on this fear including the leadership of President Dwight D. Eisenhower, the Army-McCarthy hearings, the Second Red Scare, the Alger Hiss controversy, and the Rosenbergs' spy trials.

(B) Examine the impact of the proliferation of nuclear weapons and the resulting nuclear arms race, the concept of brinkmanship, the doctrine of mutually assured destruction (MAD), the launching of Sputnik, and the space race.

(C) Evaluate the continuing role of radio, television, and other mass media in relationship to the Nixon and Kennedy debates as part of the 1960 and subsequent elections.

(3) Analyze the series of events and long term foreign and domestic consequences of the United States' military involvement in Vietnam including the Domino Theory, the Gulf of Tonkin Resolution, the Tet Offensive, the presidential election of 1968, university student protests led by the counterculture movement, expanded television coverage of the war, the War Powers Resolution Act, and the 26th Amendment.

(4) Analyze the political and economic impact of President Nixon's foreign policies including détente and the opening of China.

(g) **United States History Content Standard 7.** The student will analyze the cause and effects of significant domestic events and policies from 1945 to 1975.

(1) Analyze the major events, personalities, tactics, and effects of the Civil Rights Movement.

(A) Assess the effects of President Truman's decision to desegregate the United States Armed Forces and the legal attacks on segregation by the NAACP and Thurgood Marshall, the United States Supreme Court decisions in the cases of Oklahomans Ada Lois Sipuel Fisher and George McLaurin, and the differences between *de jure* and *de facto* segregation.

(B) Evaluate the events arising from "separate but equal" policies, such as poll taxes and literacy tests, violent responses such as the Birmingham church bombing and the assassination of Dr. Martin Luther King, Jr., and conflicts over segregation including:

(i) *Brown v. Board of Education of Topeka* decision

(ii) Montgomery Bus Boycott

(iii) Desegregation of Little Rock Central High School

(iv) Oklahoma City lunch counter sit-ins led by Clara Luper

(v) Freedom Rides

(vi) Marches on Washington and Selma to Montgomery

(vii) Adoption of the 24th Amendment

(viii) Passage of the *Civil Rights Act of 1964* and the *Voting Rights Act of 1965*

(C) Compare the viewpoints and the contributions of civil rights leaders and organizations linking them to events of the movement, including Dr. Martin Luther King, Jr., and his "I Have A Dream" speech, the leadership of Malcolm X, and the role of organizations, such as the Black Panthers; describe the tactics used at different times including civil disobedience, non-violent resistance, sit-ins, boycotts, marches, and voter registration drives.

(2) Analyze the ongoing social and political transformations within the United States.

(A) Summarize and examine the United States Supreme Court's use of the 14th Amendment incorporation doctrine in applying the Bill of Rights to the states, thereby securing and further defining individual rights and civil liberties.

(B) Assess the rise of liberalism in the 1960s and the lasting impact of President Lyndon Johnson's civil rights initiatives, the war on poverty, and the Great Society.

(C) Describe the goals and effectiveness of American Indian movements on tribal identity and sovereignty including the American Indian Movement (AIM), and mismanagement by the federal government causing the occupations at Wounded Knee and Alcatraz.

(D) Describe the goals and effectiveness of the social movement of the United Farm Workers and César Chávez.

(E) Compare the changing roles of women from the Post-War Era through the 1970s including the goals of the Women's Liberation Movement and the National Organization of Women under the leadership of Betty Friedan, various debates on the Equal Rights Amendment, and the United States Supreme Court's ruling in *Roe v. Wade*.

(F) Evaluate the impact of the Watergate Scandal on executive powers including the role of the media, the Pentagon Papers, the first use of the 25th Amendment, and President Ford's decision to pardon former President Nixon.

(h) **United States History Content Standard 8.** The student will analyze the impact of foreign and domestic policies from 1977 to 2001.

(1) Evaluate President Jimmy Carter's foreign policy in the Middle East including the Camp David Accords, the Organization of Petroleum Exporting Countries (OPEC) oil embargo, and the response to the 1979 Iran hostage crisis.

(2) Analyze the economic and political impact of the rise of conservatism and President Reagan's domestic and foreign policies including Reaganomics, the Iran-Contra Scandal, and Reagan's "Tear Down This Wall" speech in West Berlin.

(3) Summarize the series of events leading to the emergence of the United States as the sole superpower following the fall of the Berlin Wall and the collapse of the Soviet Empire.

(4) Describe the goal of President George H.W. Bush's foreign policy in forming an international coalition to counter Iraqi aggression in the Persian Gulf.

(5) Describe and evaluate the influence of William J. Clinton's presidency, including the:

(A) Continuing global influence of the United States including the North American Free Trade Agreement (NAFTA) and the NATO interventions to restore stability to the former Yugoslav republics

(B) Political impact of Clinton's impeachment

(6) Evaluate the rise of terrorism and its impact on the United States including the 1995 bombing of the Murrah Federal Building, the first attack on the World Trade Center Towers in 1993, the attacks on September 11, 2001, the USA PATRIOT Act, and the creation of the Department of Homeland Security.

(i) **United States History Content Standard 9.** The student will examine contemporary challenges and successes in meeting the needs of the American citizen and society, 2002 to the present.

(1) Assess George W. Bush's presidency, including the causes, conduct, and consequences of the United States led wards in Afghanistan and Iraq, efforts to counter and combat terrorism, and domestic issues such as the Federal Emergency Management Agency (FEMA) response to Hurricane Katrina and the Great Recession.

(2) Assess Barack Obama's presidency, including the significance of his election, the wars in Afghanistan and Iraq, handling of economic conditions, establishment of Deferred Action for Childhood Arrivals (DACA), and reforms to healthcare.

(3) Examine the ongoing issues to be addressed by the Donald Trump and subsequent administrations, including taxation, immigration, employment, climate change, race relations, religious discrimination and bigotry, civic engagement, and perceived biases in the media.

210:15-3-111. World Geography

(a) **World Geography Content Standard 1.** The student will use maps and other geographic representations, tools, and technologies to acquire, research, process, and solve problems from a spatial perspective.

(1) Analyze key concepts underlying the geographical perspectives of location, space, place, scale, pattern, regionalization, and globalization.

(2) Utilize geographic skills to understand and analyze the spatial organization of people, places, and environments on the Earth's surface.

(3) Define regions and evaluate the regionalization process to characterize and analyze changing interconnections among places.

(4) Utilize geographic technologies of Geographical Information System (GIS), remote sensing, and Global Positioning System (GPS) sources of geographical data including census data, population pyramids, cartograms, and satellite imagery.

(b) **World Geography Content Standard 2.** The student will analyze how human population is organized geographically in order to understand the cultural, political, and economic systems of the world.

(1) Analyze geographic data measuring population including density, distribution, patterns of composition (age, sex, race, and ethnicity), and population trends and projections.

(2) Describe and summarize the push and pull theory of migration and its impact on human capital and demographic transitions, including the research of major voluntary and involuntary migrations.

(3) Compare and contrast the impact of population policies on the patterns of fertility, mortality, and health.

(c) **World Geography Content Standard 3.** The student will analyze the components and regional variations of cultural patterns and processes.

(1) Assess the spatial dimensions of culture as defined by language, religion, ethnicity, and gender.

(2) Analyze and summarize the role the environment plays in determining a region's culture.

(3) Explain the processes of cultural diffusion, acculturation, assimilation, and globalization regarding their impact on defining a region.

(4) Compare the world's major cultural landscapes to analyze cultural differences, cultural identity, social mores, and sets of beliefs which determine a sense of place.

(5) Explain how cultural characteristics such as language, ethnicity, and religion impact different regions.

(d) **World Geography Content Standard 4.** The student will explain the political organization of space.

(1) Describe and summarize the different forces that shape the evolution of the world's contemporary political map including the rise of nation-states.

(2) Analyze the concept of territoriality, the nature and meaning of boundaries, and their influence on identity, interaction, and exchange.

(3) Compare the world's political patterns of organization including federal and unitary states.

(4) Examine changes and challenges to political/territorial arrangements, the changing nature of sovereignty, and evolution of contemporary political patterns.

(5) Evaluate how the forces of cooperation and conflict among people influence the division and control of territory and resources.

(e) **World Geography Content Standard 5.** The student will analyze agricultural and commercial land use.

(1) Examine the origin and diffusion of agriculture including the Agricultural Revolutions and the Green Revolution.

(2) Describe and summarize the characteristics of modern commercial agriculture including major production regions, variations within major zones, and effects of markets.

(3) Analyze settlement patterns associated with major agricultural regions and linkages among regions of food production and consumption.

(4) Describe the impact of agricultural practices including irrigation, conservation, desertification, deforestation, organic farming, pesticides and herbicides, and genetic modification on the environment and the quality of life.

(5) Examine common characteristics of rural communities including the impact of the environment on location; the political, economic, and cultural function of rural communities; the types of transportation, communication, and trade linkages among rural areas; and the impact of modern migration to urban centers.

(f) **World Geography Content Standard 6.** The student will analyze the impact of industrialization on economic development.

(1) Examine the changing roles of natural resources, energy, and technology that resulted in the industrial revolution.

(2) Evaluate the impact of industrialization and government policies of both market and command economic systems on the availability and use of natural resources, environmental concerns, and sustainable development.

(3) Compare contemporary patterns of industrialization and development in selected regions of the world including the Pacific Rim, Central Asia, and the Arabian Peninsula.

(4) Analyze why some economies achieve rapid growth while other economies with similar resources struggle to reach developed status.

(5) Summarize common characteristics of developed nations including variations in levels of development; moderns patterns of deindustrialization; and economic restructuring, globalization, and international division of labor.

(g) **World Geography Content Standard 7.** The student will evaluate specific textual and visual evidence to analyze cities and urban land use.

(1) Examine the origin, development, and character of cities including the impact of the environment on location; the political, economic, and cultural functions of cities; historical distribution of cities; and the types of transportation, communication, and trade linkages among cities.

(2) Analyze contemporary patterns of rural migration on urban development including the concept of suburbanization, edge cities, megacities, and global cities.

(3) Describe the factors that impact cities over time including uneven development, changing economic and demographic structures, transportation and infrastructure, housing, and urban planning.

210:15-3-112. World History

(a) **World History Content Standard 1.** The student will analyze and summarize the impact of the major patterns of political, economic, and cultural change over time to 1450 CE, and their long-term influences.

(1) Evaluate the impact of geography and trade on the development of culture in Africa, Asia, and Europe including religion, philosophy, and political belief.

(2) Describe the origins, major beliefs, spread, and lasting impact of the world's major religions and philosophies, including Judaism, Hinduism, Buddhism, Christianity, Islam, Confucianism, and Sikhism.

(3) Compare the contributions of Greek and Roman philosophers, including Plato, Aristotle, and Cicero, and their impact on Western society.

(4) Explain the economic, political, and cultural impact of interregional trade networks.

(5) Describe the institution of slavery around the world prior to the 15th century as a widespread result of warfare and economic practices.

(b) **World History Content Standard 2.** The student will analyze patterns of social, economic, political, and cultural changes during the rise of Western civilization and the Global Age (1400 - 1750 CE).

(1) Assess the significance of the Renaissance on politics, economics, and artistic creativity, including the works of Machiavelli, Michelangelo, and da Vinci.

(2) Summarize the causes of and influence of the theological movements of the Reformation and how those movements subsequently transformed society.

(3) Analyze migration, settlement patterns, cultural diffusion, and the transformations caused by the competition for resources among European nations during the Age of Exploration.

(4) Explain how slavery and the slave trade was used for the development and growth of colonial economies.

(5) Compare the various forms of government established by:

(A) Divine right rule, such as the Mandate of Heaven in China and absolutism in England and France

(B) Magna Carta in England, the English Civil War, and the Glorious Revolution

(C) Enlightened monarchs such as Catherine the Great and Frederick the Great

(6) Compare how scientific theories and technological discoveries brought about social and cultural changes, including those made by Copernicus, Galileo, and Newton; describe the impact of Islamic learning.

(7) Analyze the impact of the Enlightenment on modern government and economic institutions, including the theories of Hobbes, Locke, Voltaire, Rousseau, Montesquieu, and Adam Smith.

(c) **World History Content Standard 3.** The student will analyze the political, economic, and social transformations brought about by the events of the age of revolutions and imperialism (1750 - 1900 CE).

(1) Analyze the causes and global impact of:

(A) England's Glorious Revolution

(B) The American Revolution

(C) The French Revolution including the Napoleonic Wars

(D) The Congress of Vienna

(2) Summarize the influence and global impact of emerging democratic ideals on the Latin American and Caribbean revolutions, including Haiti and Mexico, and the leadership of Simon Bolivar.

(3) Evaluate the economic and social impact of the Industrial Revolution.

(4) Analyze how the Industrial Revolution gave rise to socialism and communism, including ideas and influence of Karl Marx.

(5) Explain the rationales for and consequences of imperialism on Asia, Africa, and the Americas, such as colonization and the exploitation of natural resources and peoples; summarize various efforts to resist imperialism.

(d) **World History Content Standard 4.** The student will evaluate the global transformation created by the World Wars (1900 - 1945 CE).

(1) Explain the complex and multiple causes of World War I, including militarism, nationalism, imperialism, systems of alliances, and other significant causes.

(2) Describe the significant events of World War I, including key strategies, advancements in technology, the war's significant turning points, and its lasting impact.

(3) Analyze the immediate and long-term global consequences of the Treaty of Versailles.

(4) Analyze socialism, communism, and the Bolshevik Revolution as responses to capitalism.

(5) Describe the economic, social, and political conditions that caused World War II including:

(A) Failure of the Treaty of Versailles

(B) Impact of global depression

(C) Rise of totalitarian regimes in the Soviet Union, Germany, Italy, and Japan

(6) Examine the significant events of World War II from a global perspective, such as campaigns in Africa, Asia, and the Pacific.

(7) Evaluate the effects of World War II including military and economic power shifts, purposes of the United Nations and North Atlantic Treaty Organization (NATO), and the origins and escalation of the Cold War.

(8) Examine the causes, series of events, and effects of the Holocaust through eyewitnesses such as inmates, survivors, liberators, and perpetrators.

(9) Summarize world responses to the Holocaust, resulting in the Nuremburg Trials, the move to establish a Jewish homeland, and the creation of the Universal Declaration of Human Rights and its impact on human rights today.

(e) **World History Content Standard 5.** The student will evaluate post-World War II regional events leading to the transformations of the modern world (1945 - 1990 CE).

(1) Describe the creation of the modern state of Israel and ongoing territorial disputes, including the impact of significant regional leaders.

(2) Evaluate the ongoing regional disputes of the Middle East, including the Iranian Revolution, the Iran-Iraq conflict, and the invasion of Kuwait.

(3) Analyze the major developments in Chinese history during the second half of the 20th century including the:

(A) Chinese Civil War and the Communist Revolution in China

(B) Rise of Mao Zedong and the political, social, and economic upheavals under his leadership

(C) Student protests of Tiananmen Square

(D) Economic reforms under the leadership of Deng Xiaoping

(4) Examine the origins of India and Pakistan as independent nations, including the:

(A) Struggle for independence achieved through Mohandas Gandhi's non-violent civil disobedience movement

(B) Development of India's industrial economy

(C) Ongoing struggles in the region

(5) Evaluate the people, events, and conditions leading to the end of the Cold War including the:

(A) Effects of Poland's Solidarity Movement

(B) Policies of the perestroika and glasnost

(C) Fall of the Berlin Wall

(D) Breakup of the Soviet Union

(6) Assess the impact of African independence movements on human rights and the global expansion of democracy including the:

(A) Effects of Pan-Africanism on changing political boundaries

(B) The struggle for self-government in Ghana, including the influence of Kwame Nkrumah

(C) Creation and dismantling of South Africa's apartheid system, including the influence of Nelson Mandela and Desmond Tutu

(7) Compare multiple perspectives to examine the religious, ethnic, and political origins, as well as the lasting impact, of modern genocide and conflicts including:

(A) Actions of the Khmer Rouge in Cambodia

(B) Northern Ireland's Troubles

(C) Ethnic cleansing in the Balkans

(D) Rwanda's mass murders

(E) Crisis in Darfur

(f) **World History Content Standard 6.** The student will evaluate contemporary global issues and challenges.

(1) Describe the ongoing impact of interdependence on the world's economies resulting in the creation and growth of multinational organizations, international trade agreements, and the challenges faced by the global economy.

(2) Examine contemporary issues that impact the new global era such as the:

(A) Changing patterns of population

(B) Cycle of disease and poverty

(C) Status of women

(D) Environmental issues

(3) Describe the impact of trade and interdependence on cultural diffusion.

(4) Analyze responses by world governments concerning the rise and impact of international terrorism, and their responses to regional disputes such as Syria.

210:15-3-113. Sociology

(a) **Sociology Content Standard 1.** The student will recognize sociology as a social science, identify methods and strategies of research, and examine the contributions of sociology to the understanding of social issues.

(1) Describe the development of the field of sociology as a social science.

(2) Identify the contributions of leading theorists within sociology including Auguste Comte, Emile Durkheim, Harriet Martineau, Herbert Spencer, Max Weber, C. Wright Mills, Karl Marx, and W.E.B. DuBois.

(3) Evaluate different sociological research methods including participant observation, natural observation, library research, questionnaires, experiments, interviews, and case studies.

(4) Conduct research on an issue using the scientific method of inquiry including developing a hypothesis, gathering and interpreting data, and drawing conclusions.

(b) **Sociology Content Standard 2.** The student will examine the influence of culture and the way cultural transmission is accomplished.

(1) Examine how relationships, structures, patterns, and processes influence culture.

(2) Recognize the key components of a culture including knowledge, language and communication, customs, values, and physical artifacts.

(3) Explain the differences between a culture and a society.

(4) Analyze the influences of genetic inheritance and culture on human behavior including the debate over nature versus nurture.

(5) Compare various subcultures including counter cultures, pop cultures, ethnic cultures, and religious cultures.

(6) Describe factors that have led to cultural diversity within the United States.

(c) **Sociology Content Standard 3.** The student will identify how social status influences individual and group behaviors.

(1) Describe how social status affects social order including upper class, middle class, lower class, white-collar professionals, blue-collar workers, and the unemployed.

(2) Recognize how role expectations can lead to conflict including gender, age, racial groups, and ethnic groups within different societies.

(d) **Sociology Content Standard 4.** The student will examine how social groups are composed of people who share common characteristics including interests, beliefs, behaviors, and feelings.

(1) Examine why individuals become members of or associate with different social groups.

(2) Compare various types of norms including folkways, mores, laws, and taboos; explain why rules of behavior are considered important to society.

(3) Evaluate the characteristics of primary groups including small size, intimate settings, and enduring relationships, and how members' behavior are influenced by the primary group.

(4) Evaluate the characteristics of secondary groups including less permanence, less personal, and having a special purpose; explain how members' behaviors are influenced by secondary groups.

(5) Investigate stereotypes of different groups including gangs, generational groups, immigrants, and the homeless.

(e) **Sociology Content Standard 5.** The student will identify the effects of social institutions on individual and group behavior, and explain how these institutions influence the development of the individual.

(1) Analyze the impact of social institutions on individuals, groups, and organizations within society; explain how these institutions transmit the values of society including familial, religious, educational, economic, and political.

(2) Examine rites of passage within various social institutions such as religious ceremonies, school proms, quinceañeras, graduation, marriage, and retirement.

(3) Define ethnocentrism and xenophobia; analyze how they can be beneficial or destructive to a culture.

(f) **Sociology Content Standard 6.** The student will examine social change over time and the various factors that lead to these changes.

(1) Examine environmental, political, economic, scientific, and technological influences upon immediate and long-term social change.

(2) Describe how collective behavior can influence and change society including sit-ins, organized demonstrations, and the use of social media.

(g) **Sociology Content Standard 7.** The student will analyze social problems that affect large numbers of people or result from imbalances within a social system.

(1) Distinguish between characteristics of a social problem as compared to an individual problem.

(2) Analyze patterns of behavior found within social problems and their implications for society including juvenile crime, drug addiction, and long-term unemployment.

(3) Examine individual and group response and potential resolutions to social problems as well as the consequences of such solutions.

(h) **Sociology Content Standard 8.** The student will explore both individual and collective behavior.

(1) Describe the traditions, roles, and expectations necessary for a society to continue and flourish.

(2) Examine factors that can lead to the breakdown and disruption of a society.

(3) Differentiate the impact of individual leaders of different social and political movements including Mohandas Gandhi, Dr. Martin Luther King, Jr., and Susan B. Anthony.

(4) Interpret how social behavior is influenced by propaganda, the news media, and advertising.

(5) Investigate the impact of rumor, gossip, and other inaccurate communications upon group behavior.

[OAR Docket #19-513; filed 5-31-19]

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

[OAR Docket #19-512]

RULEMAKING ACTION:

PERMANENT final adoption of subject matter standards pursuant to 70 O.S. § 11-103.6a-1, resulting in the REVOCATION of the superseded standards

RULES:

Subchapter 3. Oklahoma Academic Standards

Part 11. Social Studies

210:15-3-90.2. Pre-Kindergarten: Our America [REVOKED]

210:15-3-90.3. Kindergarten: Symbols of America [REVOKED]

210:15-3-91.1. Grade 1: American Heroes [REVOKED]

210:15-3-92.2. Grade 2: Our Democratic Heritage [REVOKED]

210:15-3-93.3. Grade 3: Oklahoma Studies [REVOKED]

210:15-3-94.4. Grade 4: United States Studies: Regional Geography and History - The Why of Where: Places, Patterns of Settlement, and Global Interactions [REVOKED]

210:15-3-95.5. Grade 5: United States Studies: Creating the United States: The Foundation, Formation, and Transformation of the American Nation, 1607-1806 [REVOKED]

210:15-3-96.6. Grade 6: World Geography: The Western Hemisphere - The Why of Where: Places, Patterns of Settlement, and Global Interactions [REVOKED]

210:15-3-97.7. Grade 7: World Geography: The Eastern Hemisphere - The Why of Where: Places, Patterns of Settlement, and Global Interactions [REVOKED]

210:15-3-98.8. Grade 8: Creating the United States. The Foundation, Formation, and Transformation of the American Nation, 1754-1877 [REVOKED]

210:15-3-99.9. High School Economics: Incentives and Disincentives: Land, Labor, Capital, and Entrepreneurship [REVOKED]

210:15-3-100.1. Oklahoma History and Government - The Foundation, Formation, and Transformation of the State of Oklahoma [REVOKED]
210:15-3-100.2. High School Psychology: Foundations and Formation of Human Development [REVOKED]
210:15-3-100.3. High School Sociology: Formations and Patterns of Group Behavior [REVOKED]
210:15-3-101.1. United States government - freedom for all: securing rights and defining responsibilities [REVOKED]
210:15-3-102.2. United States History - Creating the United States: The American Nation in Transformation, 1878 to the Present [REVOKED]
210:15-3-103.3. High school world history - cultural connections, turning points, and transformation of the world into the modern era [REVOKED]
210:15-3-104.4. World Human Geography - The Why of Where: Places, Patterns of Settlement, and Global Interactions [REVOKED]

AUTHORITY:
70 O.S. § 3-104; 70 O.S. § 11-103.6a; 70 O.S. § 11-103.6a-1

ADOPTION:
February 28, 2019

SUBMISSION OF ADOPTED STANDARDS TO LEGISLATURE:
March 5, 2019

LEGISLATIVE APPROVAL:
Because the Legislature did not adopt a joint resolution approving or disapproving the Social Studies standards within thirty (30) legislative days after submission for review, the standards were deemed approved pursuant to 70 O.S. § 11-103.6a-1(C) as of May 1, 2019.

EFFECTIVE:
July 25, 2019

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
The social studies subject standards have been revised pursuant to 70 O.S. § 11-103.6a-1, and these former social studies standards have now been superseded and must therefore be revoked. 70 O.S. § 11-103.6a-1(E) directs the State Board of Education to submit final approved standards for publication in the Oklahoma Administrative Code in the same manner as agency rules.

CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE EFFECTIVE AS OF JULY 25, 2019:

SUBCHAPTER 3. OKLAHOMA ACADEMIC STANDARDS

PART 11. SOCIAL STUDIES

210:15-3-90.2. Pre-Kindergarten: Our America [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS (PALS) FOR LEARNING: Process and Literacy Skills Standard 1.** The student will develop and demonstrate Common Core informational text reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) With prompting and support, ask and answer questions about key details in a text.~~

~~(B) With prompting and support, identify the main topic and retell key details of a text.~~

~~(C) With prompting and support, describe the connection between two individuals, events, ideas, or pieces of information in a text.~~

~~(2) **Craft and Structure.** With prompting and support, ask and answer questions about unknown words in a text.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) With prompting and support, describe the relationship between illustrations and the text in which they appear (e.g., what person, place, thing, or idea in the text an illustration depicts).~~

~~(B) With prompting and support, identify basic similarities in and differences between two texts on the same topic (e.g., in illustrations, descriptions, or procedures).~~

~~(b) **Process and Literacy Skills Standard 2.** The student will develop and demonstrate Common Core writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Use a combination of drawing, dictating, and writing to compose opinion pieces in which they tell a reader the topic or the name of the book they are writing about and state an opinion or preference about the topic or book (e.g., "My favorite American symbol or holiday is . . .").~~

~~(B) Use a combination of drawing, dictating, and writing to compose informative/explanatory texts in which they name what they are writing about and supply some information about the topic.~~

~~(C) Use a combination of drawing, dictating, and writing to narrate a single event or several loosely linked events, tell about the events in the order in which they occurred, and provide a reaction to what happened.~~

~~(2) **Production and Distribution of Writing.** With guidance and support from adults, explore a variety of digital tools to produce and publish writing, including in collaboration with peers.~~

~~(3) **Research to Build and Present Knowledge.** With guidance and support from adults recall information from experiences or gather information from provided sources to answer a question.~~

~~(c) **Process and Literacy Skills Standard 3.** The student will develop and demonstrate Common Core speaking and listening skills.~~

~~(1) **Comprehension and Collaboration.**~~

~~(A) Participate in collaborative conversations with diverse partners about Pre-Kindergarten Our America topics and texts with peers and adults in small and larger groups.~~

~~(B) Confirm understanding of a social studies text read aloud or information presented orally or through other media by asking and answering questions about key details and requesting clarification if something is not understood.~~

~~(2) **Presentation of Knowledge and Ideas.**~~

~~(A) Describe familiar people, places, things, and events and, with prompting and support, provide additional detail.~~

~~(B) Add social studies focused drawings or other visual displays to descriptions as desired to provide additional detail.~~

~~(d) **Social Studies Content Skills.**~~

~~(1) **Citizenship Literacy: Content Standard 1.** The student will exhibit traits of good citizenship.~~

~~(A) Recognize the importance of rules and responsibilities as a member of the family, class, and school.~~

~~(B) Identify the United States flag as a symbol of the country including the learning of The Pledge of Allegiance and practicing appropriate flag etiquette.~~

~~(2) **Economic Literacy: Content Standard 2.** The student will identify basic economic concepts.~~

~~(A) Explain how various community people including police officers, firefighters, soldiers, school personnel, business professionals, and medical personnel impact his/her life.~~

~~(B) Explain the relationship between work and earning money.~~

~~(C) Describe the basic needs of food, clothing, and shelter that are common to all people.~~

~~(3) **Geography Literacy: Content Standard 3.** The student will demonstrate knowledge of basic physical and human geographic concepts.~~

~~(A) Explain that a map is a drawing of a place and the globe is a model of Earth.~~

~~(B) Locate the United States on a world map and a globe.~~

~~(C) Identify the state of Oklahoma on a map of the United States.~~

~~(D) Describe family customs and traditions as basic elements of culture.~~

~~(4) **History Literacy: Content Standard 4.** The student will understand that history relates to events and people of other times and places.~~

~~(A) Recognize that commemorative holidays honor people and events of the past including Columbus Day, Veterans Day, Thanksgiving Day, Washington's Birthday, and Independence Day.~~

~~(B) Identify important American symbols and explain their meanings including United States Flag, the Bald Eagle, the Statue of Liberty, and the Liberty Bell.~~

~~(C) Use words and phrases related to chronology and time to explain how things change including before/after and today/tomorrow/yesterday.~~

210:15-3-90.3. Kindergarten: Symbols of America [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS (PALS) FOR LEARNING: Process and Literacy Skills Standard 1.** The student will develop and demonstrate Common Core informational text reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) With prompting and support, ask and answer questions about key details in a text.~~

~~(B) With prompting and support, identify the main topic and retell key details of a text.~~

~~(C) With prompting and support, describe the connection between two individuals, events, ideas, or pieces of information in a text.~~

~~(2) **Craft and Structure.** With prompting and support, ask and answer questions about unknown words in a text.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) With prompting and support, describe the relationship between illustrations and the text in which they appear (e.g., what person, place, thing, or idea in the text an illustration depicts).~~

~~(B) With prompting and support, identify basic similarities in and differences between two texts on the same topic (e.g., in illustrations, descriptions, or procedures).~~

~~(b) **Process and Literacy Skills Standard 2.** The student will develop and demonstrate Common Core writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Use a combination of drawing, dictating, and writing to compose opinion pieces in which they tell a reader the topic or the name of the book they are writing about and state an opinion or preference about the topic or book (e.g., "My favorite American symbol or holiday is . . .").~~

~~(B) Use a combination of drawing, dictating, and writing to compose informative/explanatory texts in which they name what they are writing about and supply some information about the topic.~~

~~(C) Use a combination of drawing, dictating, and writing to narrate a single eventer several loosely linked events, tell about the events in the order in which they occurred, and provide a reaction to what happened.~~

~~(2) **Production and Distribution of Writing.** With guidance and support from adults, explore a variety of digital tools to produce and publish writing, including in collaboration with peers.~~

~~(3) **Research to Build and Present Knowledge.** With guidance and support from adults recall information from experiences or gather information from provided sources to answer a question.~~

~~(c) **Process and Literacy Skills Standard 3.** The student will develop and demonstrate Common Core speaking and listening skills.~~

~~(1) **Comprehension and Collaboration.**~~

~~(A) Participate in collaborative conversations with diverse partners about Kindergarten Symbols of America topics and texts with peers and adults in small and larger groups.~~

~~(B) Confirm understanding of a social studies text read aloud or information presented orally or through other media by asking and answering questions about key details and requesting clarification if something is not understood.~~

~~(2) **Presentation of Knowledge and Ideas.** Describe familiar people, places, things, and events and, with prompting and support, provide additional detail.~~

~~(3) Add social studies focused drawings or other visual displays to descriptions as desired to provide additional detail.~~

~~(d) **Social Studies Content Skills.**~~

~~(1) **Civics Citizenship Literacy: Content Standard 1.** The student will exhibit traits of good citizenship.~~

~~(A) Recognize the importance of rules and responsibilities as a member of the family, class, and school.~~

~~(B) Identify the United States flag as a symbol of the country including learning The Pledge of Allegiance and practicing appropriate flag etiquette.~~

~~(2) **Economics Literacy: Content Standard 2.** The student will identify basic economic concepts.~~

~~(A) Explain how various community people including police officers, firefighters, soldiers, school personnel, business professionals, and medical personnel impact his/her life.~~

~~(B) Explain the relationship between work and earning money.~~

~~(C) Describe the basic needs of food, clothing, and shelter that are common to all people.~~

~~(3) **Geography Literacy: Content Standard 3.** The student will demonstrate knowledge of basic physical and human geographic concepts.~~

~~(A) Explain that a map is a drawing of a place and the globe is a model of Earth.~~

~~(B) Locate the United States on a world map and a globe.~~

~~(C) Identify the state of Oklahoma on a map of the United States.~~

~~(D) Describe family customs and traditions as basic elements of culture.~~

~~(4) **History Literacy: Content Standard 4.** The student will understand that history relates to events and people of other times and places.~~

~~(A) Recognize that commemorative holidays honor people and events of the past including Columbus Day, Veterans Day, Thanksgiving Day, Martin Luther King, Jr. Day, Washington's Birthday, Flag Day, and Independence Day.~~

~~(B) Identify important American symbols and explain their meanings including United States Flag, the Bald Eagle, the Statue of Liberty, and the Liberty Bell.~~

~~(C) Use words and phrases related to chronology and time to explain how things change including before/after, past/present/future, and today/tomorrow/yesterday.~~

210:15-3-91.1. Grade 1: American Heroes [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS (PALS) FOR LEARNING: Process and Literacy Skills Standard 1.** The student will develop and demonstrate Common Core informational text reading literacy skills.~~

~~(1) **Ideas and Details.**~~

~~(A) Ask and answer questions about key details in a text.~~

~~(B) Identify the main topic and retell key details of a text.~~

~~(C) Describe the connection between two individuals, events, ideas, or pieces of information in a text.~~

~~(2) **Text and Structure.**~~

~~(A) Ask and answer questions to help determine or clarify the meaning of words and phrases in a text.~~

~~(B) Know and use various text features (e.g., headings, tables of contents glossaries, electronic menus, icons) to locate key facts or information in a text.~~

~~(C) Distinguish between information provided by pictures or other illustrations and information provided by the words in a text.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Use the illustrations and details in a text to describe its key ideas.~~

~~(B) Identify basic similarities in and differences between two texts on the same topic (e.g., in illustrations, descriptions, or procedures).~~

~~(b) **Process and Literacy Skills Standard 2.** The student will develop and demonstrate Common Core writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write opinion pieces in which they introduce the topic they are writing about, state an opinion, supply a reason for the opinion, and provide some sense of closure.~~

~~(B) Write informative/explanatory texts in which they name a topic, supply some facts about the topic, and provide some sense of closure.~~

~~(C) Write narratives in which they recount two or more appropriately sequenced events, include some details regarding what happened, use temporal words to signal event order, and provide some sense of closure.~~

~~(2) **Production and Distribution of Writing.** With guidance and support from adults, use a variety of digital tools to produce and publish writing, including in collaboration with peers.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Participate in shared research and writing projects (e.g., write a short step by step sequence of instructions for proper flag etiquette and/or proper behavior during the national anthem).~~

~~(B) With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.~~

~~(c) **Process and Literacy Skills Standard 3.** The student will develop and demonstrate Common Core speaking and listening skills.~~

~~(1) **Comprehension and Collaboration.**~~

~~(A) Participate in collaborative conversations with diverse partners about Grade 1 American Heroes topics and texts with peers and adults in small and larger groups.~~

~~(B) Ask and answer questions about key details in a social studies text read aloud or information presented orally or through other media.~~

~~(2) **Presentation of Knowledge and Ideas.**~~

~~(A) Describe social studies related people, places, things, and events with relevant details, expressing ideas clearly~~

~~(B) Add social studies focused drawings or other visual displays to descriptions when appropriate to clarify ideas, thoughts, and feelings.~~

~~(d) **Social Studies Content Skills.**~~

~~(1) **Citizenship Literac: Content Standard 1.** The student will analyze his/her role as a citizen in a community.~~

~~(A) Identify the main purpose of government, its rules and laws including the concept of consequences for one's actions when a law or rule is violated. (CCRIT 2)~~

~~(B) Participate in patriotic traditions including the recitation of *The Pledge of Allegiance*, the singing of *My Country 'Tis of Thee*, and demonstration of appropriate flag etiquette and proper behavior during the playing of the national anthem.~~

~~(C) Identify important American symbols and explain their meanings including United States Flag, the Bald Eagle, the Statue of Liberty, and the Liberty Bell.~~

~~(D) Describe how historic figures display character traits of fairness, respect for others, stewardship of natural resources, courage, equality, hard work, self-discipline, and commitment to the common good.~~

~~(E) Describe relationships between people and events of the past which are commemorated on Columbus Day, Veterans Day, Thanksgiving Day, Martin Luther King, Jr. Day, Washington's Birthday, Lincoln's Birthday, Flag Day, and Independence Day. (CCRIT 3)~~

~~(2) **Economics Literacy: Content Standard 2.** The student will describe the characteristics of the American economic system.~~

~~(A) Summarize the need for money, how money is earned, and how money and credit are used in order to meet needs and wants including the costs and benefits of spending and saving. (CCRIT 2)~~

~~(B) Define and explain the roles of consumers and producers in the American economy.~~

~~(C) Summarize how historic inventors and entrepreneurs contributed to the prosperity of the nation including Samuel F. B. Morse, John Deere, Alexander Graham Bell, Orville and Wilbur Wright, and Thomas Edison. (CCRIT 2)~~

~~(3) **Geography Literacy: Content Standard 3.** The student will demonstrate knowledge of basic geographic concepts.~~

~~(A) Define and compare the physical features of urban and rural communities.~~

~~(B) Construct maps and identify cardinal directions of north, south, east, and west, and identify locations on the map of their community, Oklahoma, and the United States.~~

~~(C) Locate on a map and globe the United States, the seven continents, and five oceans.~~

~~(4) **History Literacy: Content Standard 4.** The student will examine important events and historic figures in the nation's past.~~

~~(A) Understand chronological sequencing of events by creating basic timelines. (CCRIT 5)~~

~~(B) Participate in shared research using biographies and informational text the contributions of historic figures in American history including Squanto, the Pilgrims, George Washington, Benjamin Franklin, Paul Revere, Thomas Jefferson, Meriwether Lewis, William Clark, Sacagawea, Daniel Boone, Abraham Lincoln, and George Washington Carver. (CCW 7).~~

~~(C) Identify the significance of historic places and monuments and describe their connection to real events of the past including the Plimoth Plantation, Mount Vernon, Washington Monument, Lincoln Memorial. (CCRIT 3)~~

~~(D) Commemorate the contributions to the American nation of significant groups including National Hispanic History Month, Native American Heritage Month, and Black History Month.~~

210:15-3-92.2. Grade 2: Our Democratic Heritage [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS (PALS) FOR LEARNING: Process and Literacy Skills Standard 1.** The student will develop and demonstrate Common Core informational text reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Ask and answer such questions as *who*, *what*, *where*, *when*, *why*, and *how* to demonstrate understanding of key details in a text.~~

~~(B) Identify the main topic of a multi-paragraph text (e.g., primary or secondary sources) as well as the focus of specific paragraphs within the text.~~

~~(C) Describe the connection between a series of historic events or social studies concepts.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases in a social studies text.~~

~~(B) Know and use various text features (e.g., maps, graphs, charts captions, bold print, subheadings, glossaries, indexes, electronic menus, and icons) to locate key facts or information in a text efficiently.~~

~~(C) Identify the main purpose of a text, including what the author wants to answer, explain, or describe in primary and secondary informational texts.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Explain how specific images (e.g., a diagram, landforms, satellite photos, maps, and charts) contribute to and clarify a text.~~

~~(B) Compare and contrast the most important points presented by two texts on the same topic.~~

~~(b) **Process and Literacy Skills Standard 2.** The student will develop and demonstrate Common Core writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write opinion pieces in which they introduce the topic they are writing about, state an opinion, supply reasons that support the opinion, use linking words to connect opinion and reasons, and provide a concluding statement or section.~~

~~(B) Write informative/explanatory texts in which they introduce a topic, use facts and definitions to develop points, and provide a concluding statement or section.~~

~~(C) Write narratives in which they recount a sequence of events, include details to describe actions, thoughts, and feelings, use temporal words to signal event order (e.g., cause and effect relationships), and provide a sense of closure.~~

~~(2) **Production and Distribution of Writing.** With guidance and support from adults, use a variety of digital tools to produce and publish writing, including in collaboration with peers.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Participate in shared research and writing projects (e.g., primary and secondary sources on a single topic).~~

~~(B) Recall information from experiences or gather information from provided sources to answer a question.~~

~~(c) **Process and Literacy Skills Standard 3.** The student will develop and demonstrate Common Core speaking and listening skills.~~

~~(1) **Comprehension and Collaboration.**~~

~~(A) Participate in collaborative conversations with diverse partners about *Grade 2 Our Democratic Heritage* topics and texts with peers and adults in small and larger groups.~~

~~(B) Recount or describe key ideas or details from a social studies text read aloud or information presented orally or through other media.~~

~~(C) Ask and answer questions about what a speaker says in order to clarify comprehension, gather additional information, or deepen understanding of a social studies topic or issue.~~

~~(2) **Presentation of Knowledge and Ideas.**~~

~~(A) Tell a social studies related story with appropriate facts and relevant, descriptive details, and speaking audibly in coherent sentences.~~

~~(B) Create audio recordings of social studies stories or poems; add drawings or other visual displays to stories or recounts of experiences when appropriate to clarify ideas, thoughts, and feelings.~~

~~(d) **Social Studies Content Skills.**~~

~~(1) **Citizenship Literacy: Content Standard 1.** The student will explain the importance of the basic principles that provide the foundation of the American system of government.~~

~~(A) Summarize the five key individual rights and liberties protected by the First Amendment to the United States Constitution. (CCRIT 2)~~

~~(B) Identify the basic roles of national leaders including the President of the United States and the members of the United States Congress.~~

~~(C) Identify important American symbols and explain their meanings including United States Flag, the Bald Eagle, the Statue of Liberty, Lady Justice, and the Liberty Bell.~~

~~(D) Participate in patriotic traditions including the recitation of *The Pledge of Allegiance* and singing of *The Star-Spangled Banner*, and demonstrate proper flag etiquette and appropriate behavior during both.~~

~~(E) Describe relationships between people and events of the past as commemorated on Columbus Day, Veterans Day, Thanksgiving Day, Martin Luther King, Jr. Day, Washington's Birthday, Lincoln's Birthday, Flag Day, and Independence Day. (CCRIT 3)~~

~~(2) **Economics Literacy: Content Standard 2.** The student will understand basic economic concepts in the American economy.~~

~~(A) Describes ways people are paid for their labor and how goods and services are purchased through means like check, cash, and credit cards and provide examples of interdependence through trade/barter and purchase.~~

~~(B) Describe the connection between taxes and community services including schools, sanitation and water, fire and police protection, libraries, and roads. (CCRIT 3)~~

~~(3) **Geography Literacy: Content Standard 3.** The student will examine how humans modify their environment.~~

~~(A) Construct basic maps using legends, scale, and intermediate directions including the introduction of latitude and longitude and the division of the Earth into four hemispheres.~~

~~(B) Identify basic natural landforms and bodies of water and man-made environments including examples found in the community and the United States: plains, mountains, peninsulas, and islands; rivers, lakes, oceans, seas, gulfs, bays, and harbors; and highways, cities, airports, and railroads.~~

~~(C) Locate on a physical map of the United States the major natural features including the Mississippi River, Colorado River, Rio Grande, Great Lakes, Rocky and Appalachian Mountain Ranges, the Great Plains, the Atlantic and Pacific Oceans, and the Gulf of Mexico.~~

~~(D) Locate on a political map of the United States the state of Oklahoma and the six bordering states, and the major cities of Washington, D.C., New York City, Los Angeles, and Chicago.~~

~~(4) **History Literacy: Content Standard 4.** The student will examine the lives of notable Americans who expanded peoples' rights and freedoms in the American system of government.~~

~~(A) Participate in shared and individual research using biographies and informational text historic examples of honesty, courage, patriotism, self-sacrifice, and other admirable character traits seen in citizens and leaders including Abigail Adams, Francis Scott Key, Harriet Tubman, Abraham Lincoln, Chief Joseph, Eleanor Roosevelt, Fred Korematsu, Jackie Robinson, Dr. Martin Luther King, Jr., Rosa Parks, César Chávez, and Senator Daniel Inouye. (CCW 7)~~

~~(B) Analyze the significance of historic places including the White House, the United States Capitol, the United States Supreme Court, the Washington Monument, and the Lincoln Memorial.~~

~~(C) Commemorate months designated to the contributions the American nation of significant groups to the history of including National Hispanic History Month, Native American Heritage Month, Black History Month, Women's History Month, and Asian Pacific American Heritage Month.~~

~~(D) Understand chronological sequencing and the connection between historic events and individuals through the creation of basic timelines. (CCRIT 3)~~

210:15-3-93.3. Grade 3: Oklahoma Studies [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS (PALS) FOR LEARNING: Process and Literacy Skills Standard 1.** The student will develop and demonstrate Common Core informational text reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Ask and answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.~~

~~(B) Determine the main idea of a text; recount the key details and explain how they support the main idea.~~

~~(C) Describe the relationship between a series of historic events or social studies concepts, using language that pertains to time, sequence, and cause/effect.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of general academic and social studies domain-specific words and phrases in a text relevant to Grade 3 Oklahoma Studies.~~

~~(B) Use text features and search tools (e.g., timelines, maps, charts, graphs, images, artwork, photographs, key words, sidebars, hyperlinks) to locate information relevant to a given topic.~~

~~(C) Distinguish their own point of view from that of the author of a primary or secondary text.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Use information gained from illustrations (e.g., maps, photographs) and the words in a text to demonstrate understanding of the text (e.g., where, when, why, and how key events occur).~~

~~(B) Describe the logical connection between particular sentences and paragraphs in a text (e.g., comparison, cause/effect, first/second/third in a sequence).~~

~~(C) Compare and contrast the most important points and key details presented in two texts on the same topic.~~

~~(b) **Process and Literacy Skills Standard 2.** The student will develop and demonstrate Common Core writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write opinion pieces on topics or texts, supporting a point of view with reasons.~~

~~(B) Write informative/explanatory texts to examine a topic and convey ideas and information clearly.~~

~~(C) Write narratives based on historic Oklahomans and/or events using descriptive details and clear event sequences.~~

~~(2) **Production and Distribution of Writing.** With guidance and support from adults, use technology to produce and publish writing (using keyboarding skills) as well as to interact and collaborate with others.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short research projects that build knowledge about a topic related to Oklahoma.~~

~~(B) Recall information from experiences or gather information from print and digital sources; take brief notes on sources and sort evidence into provided categories.~~

~~(4) **Range of Writing.** Write routinely over extended time frames and shorter time frames for a range of social studies tasks, purposes, and audiences~~

~~(c) **Process and Literacy Skills Standard 3.** The student will develop and demonstrate Common Core speaking and listening skills.~~

~~(1) **Comprehension and Collaboration.**~~

~~(A) Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on *Grade 3 Oklahoma Studies topics and texts*, building on others' ideas and expressing their own clearly.~~

~~(B) Determine the main ideas and supporting details of a social studies text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.~~

~~(C) Ask and answer questions about social studies information from a speaker, offering appropriate elaboration and detail.~~

~~(2) **Presentation of Knowledge and Ideas.**~~

~~(A) Report on a social studies topic or text or tell a social studies related story with appropriate facts and relevant, descriptive details, and speaking clearly at an understandable pace.~~

~~(B) Create engaging audio recordings of social studies stories or poems that demonstrate fluid reading at an understandable pace; add visual displays when appropriate to emphasize or enhance certain facts or details.~~

~~(d) **Social Studies Content Skills.**~~

~~(1) **Citizenship Literacy: Content Standard 1.** The student will analyze the traits of good citizens.~~

~~(A) Commemorate Celebrate Freedom Week by recognizing the sacrifices and contributions to American freedom by veterans and by reciting the social contract selection from the *Declaration of Independence: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed*.~~

~~(B) Examine and determine the main purposes of State of Oklahoma's government and identify representative leaders of the state of Oklahoma and the three branches of government. (CCRIT2)~~

~~(C) Describe the connection between the historic significance of past events and people and the symbols of Oklahoma's history including the Oklahoma State Seal and the Oklahoma flag. (CCRIT 3)~~

~~(D) Describe relationships between people and events of the past as commemorated on Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Martin Luther King, Jr. Day, Washington's Birthday, Lincoln's Birthday, Memorial Day, Flag Day, and Independence Day. (CCRIT 3)~~

~~(2) **Economics Literacy: Content Standard 2.** The student will identify and describe basic economic activities creating prosperity in the state of Oklahoma.~~

~~(A) Summarize how scarcity and surplus require people to make choices about producing and consuming goods and services. (CCRIT 2)~~

~~(B) Compare differences among human, natural, and capital resources used to produce goods and services.~~

~~(C) Examine how the development of Oklahoma's major economic activities have contributed to the growth of the state including the oil and natural gas industry, agriculture and livestock, aviation, tourism, and military installations.~~

~~(3) **Geography Literacy: Content Standard 3.**~~

~~(A) The student will examine Oklahoma's geography and how people of Oklahoma interact with their environment.~~

~~(i) The student will examine Oklahoma's political and physical features using text features and search tools. (CCRIT 5)~~

~~(ii) Distinguish among map symbols and identify relative location, direction, scale, size and shape using physical and political maps of Oklahoma including the use of latitude and longitude.~~

~~(iii) Interpret thematic maps of Oklahoma with the essential map elements of title, legend, scale, and directional indicators.~~

~~(iv) Identify Oklahoma's major landforms and bodies of water on a physical map including Arbuckle Mountains, Ozark Plateau, Wichita Mountains, Kiamichi Mountains, Black Mesa, Red River, Canadian River, Arkansas River, Lake Texoma, Lake Eufaula, and Lake Tenkiller, Grand Lake of the Cherokees, and the Great Salt Plains.~~

~~(v) Identify Oklahoma's major metropolitan centers and cities on a political map including Oklahoma City, Tulsa, Lawton, Stillwater, Norman, Muskogee, Woodward, McAlester, and Ponca City.~~

~~(vi) Describe the climate and various natural vegetation zones found in Oklahoma including the Great Plains and the Cross Timbers.~~

~~(B) The student will examine through short research projects the interaction of the environment and the peoples of Oklahoma. (CCW 7)~~

~~(i) Describe how early Native Americans used Oklahoma's natural resources to survive including the use of the bison, fur trading, and farming.~~

~~(ii) Describe how pioneers to Oklahoma adapted to and modified their environment including sod houses, wind mills, and crops.~~

~~(iii) Summarize how contemporary Oklahomans affect and change their environments including the Kerr-McLellan Navigation System, creation of recreational lakes by the construction of dams, irrigation of croplands, and the establishment of wildlife refuges. (CCRIT 2)~~

~~(4) **History Literacy: Content Standard 4.** The student will analyze the significant events and historic personalities contributing to the development of the state Oklahoma.~~

~~(A) Understand and describe the relationship between historic events and chronology through the creation of basic timelines. (CCRIT 3)~~

~~(B) Read and interpret primary sources related to key events in Oklahoma's past to demonstrate understanding of a text including Catlin's artwork, Sequoyah's syllabary, news accounts and photographs of the land openings, and the Dust Bowl, as well as the musical lyrics of *This Land is Your Land* and the state song, *Oklahoma*. (CCRIT 1)~~

~~(C) Describe the many Native American cultures that have inhabited present day Oklahoma including the Spiro Mound Builders, the Five Tribes, and the Plains Indians.~~

~~(D) Describe early expeditions in Oklahoma including those of Coronado, Washington Irving, and George Catlin.~~

~~(E) Describe the migrations and settlements by Native Americans including the Trail of Tears.~~

~~(F) Describe cowboy life and cattle drives as typified by experiences along the Chisholm Trail.~~

~~(G) Explain the opening of the Unassigned Lands and distinguish between the points of view of both Native Americans and settlers. (CCRIT6)~~

~~(H) Commemorate Statehood Day as the joining of Indian and Oklahoma Territories.~~

~~(I) Summarize how the weather and the environment have impacted the economy of Oklahoma in events like the Dust Bowl. (CCRIT 2)~~

~~(J) Conduct short research projects and examine notable historic and present-day Oklahomans utilizing biographies and informational texts to describe their significant contributions including Sequoyah, Bill Pickett, Jim Thorpe, the Kiowa Six (formerly the Kiowa Five), Will Rogers, Wiley Post, Woody Guthrie, Clara Luper, Wilma Mankiller, Gordon Cooper, Shannon Lucid, Mickey Mantle, Carl Albert, and the Five Ballerinas. (CCW 7)~~

~~(K) Develop an understanding and appreciation of the historic and contemporary racial, ethnic, and cultural groups of Oklahoma.~~

~~(L) Identify and describe the historic significance of state and local landmarks including the Buffalo Soldiers' Old Post at Fort Sill, the Nellie Johnstone Number 1, the Oklahoma Capitol, Route 66, and the Oklahoma City National Memorial.~~

210:15-3-94.4. Grade 4: United States Studies: Regional Geography and History - The Why of Where: Places, Patterns of Settlement, and Global Interactions [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS (PALS) FOR LEARNING: Process and Literacy Skills Standard 1.** The student will develop and demonstrate Common Core informational text reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Refer to details and examples in a text when explaining what the text says explicitly and when drawing inferences from the text~~

~~(B) Determine the main idea of a text and explain how it is supported by key details; summarize the text.~~

~~(C) Explain events, ideas, or historic and geographic concepts based on specific information in the text.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of social studies specific words or phrases in a text relevant to United States geography and history.~~

~~(B) Describe the overall structure (e.g., comparison, cause/effect, geographic/historic problem/solution) of events, ideas, concepts, or information in a text.~~

~~(C) Compare and contrast a firsthand (primary source) and secondhand account (secondary source) of the same event or topic.~~

~~(3) **Integration of Knowledge and Ideas.** Interpret qualitative and quantitative information and explain how the information contributes to an understanding of the text.~~

~~(b) **Process and Literacy Skills Standard 2.** The student will develop and demonstrate Common Core writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write opinion pieces on United States Regional and History topics or texts, supporting a point of view with reasons and information.~~

~~(B) Write informative/explanatory texts to examine a topic and convey ideas and information clearly.~~

~~(C) Write narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development and organization are appropriate to task, purpose, and audience.~~

~~(B) With some guidance and support from adults, use technology, including the Internet, to produce and publish writing as well as to interact and collaborate with others.~~

~~(C) Conduct short research projects that build knowledge through investigation of different aspects of United States regional geography and history.~~

~~(D) Recall and gather relevant information from experiences or print and digital sources; take notes and categorize information, and provide a list of sources.~~

~~(E) Draw evidence from literary or informational social studies texts to support analysis, reflection, and research.~~

~~(3) **Range of Writing.** Write routinely over extended time frames and shorter time frames for a range of social studies tasks, purposes, and audiences.~~

~~(c) **Process and Literacy Skills Standard 3.** The student will develop and demonstrate Common Core speaking and listening skills.~~

~~(1) **Comprehension and Collaboration.**~~

~~(A) Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on *Grade 4 United States Regional Geography and History topics and texts*, building on others' ideas and expressing their own clearly.~~

~~(B) Paraphrase portions of a social studies text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.~~

~~(C) Identify the reasons and evidence a speaker provides to support particular points regarding a social studies topic.~~

~~(2) **Presentation of Knowledge and Ideas.**~~

~~(A) Report on a social studies topic or text, tell a social studies related story in an organized manner, using appropriate facts and relevant, descriptive details to support main ideas or themes; and speak clearly at an understandable pace.~~

~~(B) Add audio recordings and visual displays to social studies presentations when appropriate to enhance the development of main ideas or themes.~~

~~(d) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will analyze the physical, cultural, political, economic, and the historic features and places of the regions of the United States.~~

~~(A) The student will identify and locate both relative and absolute location (latitude and longitude), the physical features of the regions of the United States including bodies of water, major rivers and drainage systems, mountain ranges, and unique, natural geographic features.~~

~~(i) Locate landforms and bodies of water on a map of North America: the United States, the Atlantic and Pacific Oceans, and the Gulf of Mexico; the major river drainage systems including the Mississippi, Ohio, Missouri, Arkansas, Colorado, Columbia, and Rio Grande Rivers; the Great Lakes, the Great Salt Lake, and the Chesapeake Bay; the Great Plains and the Continental Divide; and the Appalachian, Rocky, Sierra Nevada, Cascade, and Brooks Mountain Ranges.~~

~~(ii) Identify, locate, and describe unique, natural geographic features of the United States including Niagara Falls, the Everglades, Death Valley, the Petrified Forest and the Painted Desert, the Grand Canyon, the Great Salt Lake, the Great Basin, the Mojave Desert, the Redwood Forest, the Badlands in South Dakota, Yellowstone and Grand Teton National Parks, Yosemite National Park, and Hawaii Volcanoes National Park.~~

~~(B) The student will identify and analyze the cultural and historic features of the United States.~~

~~(i) Locate the current boundaries of the United States including Alaska and Hawaii.~~

~~(ii) Identify the states, state capitals, and major cities in each region.~~

~~(iii) Identify the historic significance of major national monuments, historic sites, and landmarks including the Jefferson, Lincoln, and Washington Monuments, the White House, the U.S. United States Capitol, the United States Supreme Court, Mount Vernon, Monticello, Colonial Williamsburg, James Towne Historic Site, Dr. Martin Luther King, Jr. National Historic Site in Atlanta, Ellis Island, the Statue of Liberty, the 9/11 memorials, Independence Hall, the Jefferson National Expansion Memorial /Gateway Arch in St. Louis, the Oklahoma City National Memorial, Mount Rushmore, Little Bighorn National Monument, the Golden Gate Bridge, and Pearl Harbor National Park.~~

~~(iv) Describe the diverse but unified nature of the American people by identifying the distinctive contributions to American culture of Native Americans, African Americans, major European groups, major Spanish-speaking groups, and Asian Americans.~~

~~(v) Describe the purpose of local, state, tribal, and national governments in meeting the needs of American citizens including the basic structure of the national government centered in Washington, D.C.~~

~~(vi) Commemorate Celebrate Freedom Week by recognizing the sacrifices and contributions to American freedom by veterans and by reciting the social contract selection from the *Declaration of Independence: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.*~~

~~(C) Compare and contrast the regional vegetation, climate, and spatial distribution and use of natural resources.~~

~~(D) Analyze natural resources and how they impacted the economy of each region including fishing, farming, ranching, mining, manufacturing, tourism, and oil and gas, and their connections to global trade.~~

~~(E) Summarize how people interact with their environment to resolve geographic challenges including housing, industry, transportation, communication, bridges, dams, tunnels, canals, freshwater supply, irrigation systems, and landfills. (CCRIT 2)~~

~~(2) **Content Standard 2.** The student will examine Native American groups and European explorations and settlements impacting the development of the major regions of the United States.~~

~~(A) Identify the major Native American groups and their ways of life in each region including traditional housing and economic activities, customs and storytelling, viewpoints on land usage and ownership, and their contributions to American culture and history.~~

~~(B) Examine and summarize the reasons for the key expeditions of Spain, France, and England and their impact on the development of each region including the explorers Columbus, Ponce de León, Desoto, Coronado, Marquette and Jolliet, LaSalle, Cabot, Hudson, Drake, and Raleigh. (CCRIT 2)~~

~~(C) Summarize how France, Spain, England, Russia, and the Netherlands culturally influenced different regions of the United States in which they settled including regional place names, architectural features, customs, and language. (CCRIT 2)~~

~~(D) Identify and evaluate instances of both cooperation and conflict between Native American groups and European settlers arising from the Columbian Exchange including agriculture, trade, cultural exchanges, military alliances, wars, and control of territory.~~

210:15-3-95.5. Grade 5: United States Studies: Creating the United States: The Foundation, Formation, and Transformation of the American Nation, 1607-1806 [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS (PALS) FOR LEARNING: Process and Literacy Skills Standard 1.** The student will develop and demonstrate Common Core informational text reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Quote accurately from a text when explaining what the text says explicitly and when drawing inferences from the text.~~

~~(B) Determine two or more main ideas of a text and explain how they are supported by key details; summarize the text.~~

~~(C) Explain the relationships or interactions between two or more individuals, events, ideas, or concepts in United States history primary and/or secondary sources based on specific information in the texts.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of social studies specific words and phrases in a text relevant to United States history and government.~~

~~(B) Compare and contrast the overall structure (e.g., chronology, comparison, cause/effect, historic problem/solution) of events, ideas, concepts, or information in two or more texts.~~

~~(C) Analyze multiple accounts of the same event or topic, noting important similarities and differences in the point of view they represent.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Draw on information from multiple print or digital sources (e.g., timelines, maps, graphs, charts, political cartoons, images, artwork), demonstrating the ability to locate an answer to a question or to solve an historic problem.~~

~~(B) Identify and explain how an author uses reasons and evidence to support particular points in a text.~~

~~(C) Integrate information from several texts on the same topic in order to write or speak about the subject knowledgeably.~~

~~(b) **Process and Literacy Skills Standard 2.** The student will develop and demonstrate Common Core writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write opinion pieces on topics in U.S. history and government, supporting a point of view with reasons and information.~~

~~(B) Write informative/explanatory texts to examine a topic in United States history and government.~~

~~(C) Write historically based narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development and organization are appropriate to the task, purpose, and audience.~~

~~(B) With some guidance and support from adults, use technology, including the Internet, to produce and publish writing as well as to interact and collaborate with others.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short research projects that use several primary and secondary sources to build knowledge through investigation of different aspects of United States history and government.~~

~~(B) Gather and recall relevant information from experiences, print and digital sources; summarize or paraphrase information in notes and finished work, and provide a list of sources.~~

~~(C) Draw evidence from literary or informational texts to support analysis, reflection, and research.~~

~~(4) **Range of Writing.** Write routinely over extended time frames and shorter time frames for a range of U.S. history and government tasks, purposes, and audiences.~~

~~(c) **Process and Literacy Skills Standard 3.** The student will develop and demonstrate Common Core speaking and listening skills.~~

~~(1) **Comprehension and Collaboration.**~~

~~(A) Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on Grade 5 United States History topics and texts, building on others' ideas and expressing their own clearly.~~

~~(B) Summarize a social studies text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.~~

~~(C) Summarize the points a speaker makes and explain how each claim is supported by reasons and evidence.~~

~~(2) **Presentation of Knowledge and Ideas.**~~

~~(A) Report on a United States History topic or text or present an opinion, sequencing ideas logically and using appropriate facts and relevant, descriptive details to support main ideas or themes; and speak clearly at an understandable pace.~~

~~(B) Include multimedia components (e.g., graphics, sound) and visual displays in United States History presentations when appropriate to enhance the development of main ideas or themes.~~

~~(d) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will examine James Towne Settlement and Plimoth Plantation as the foundations of American culture and society. (CCRIT 3 and 8)~~

~~(A) Examine the economic and political reasons and motivations for English exploration and settlement in Virginia as evidenced through the competition for resources and the gaining of national wealth and prestige at Roanoke and James Towne. (CCRIT 8)~~

~~(B) Analyze the economic, political, and religious reasons and motivations of free immigrants and indentured servants from the British Isles who came to Virginia. (CCRIT 8)~~

~~(C) Explain the contributions, relationships, and interactions of John Smith, Powhatan, and John Rolfe to the establishment and survival of the James Towne settlement including the Starving Times and the development of tobacco as Virginia's cash crop. (CCRIT 3)~~

~~(D) Identify and explain the reasons for the English commitment to the permanent settlement of James Towne as evidenced through the foundational events of 1619 including the introduction of:~~

~~(i) Representative government with the meeting of the House of Burgesse.~~

~~(ii) Private ownership of land, and~~

~~(iii) Africans as laborers; initially as indentured servants and later lifetime slavery. (CCRIT 8)~~

~~(E) Use specific textual evidence from primary and secondary sources to summarize the successes and challenges the settlement of Plimoth Plantation experience in regards to their approach to:~~

~~(i) Religious motivations for migration,~~

~~(ii) Governing institutions as established by the Mayflower Compact,~~

~~(iii) Relationship with Native Americans, and~~

~~(iv) The contributions of the Pilgrims, William Bradford, Chief Massasoit, and Squanto. (CCRIT 1 and 3)~~

~~(2) **Content Standard 2.** The student will compare and contrast the developments of the New England Colonies, the Middle Colonies, and the Southern Colonies based on economic opportunities, natural resources, settlement patterns, culture, and institutions of self-government. (CCRIT 5, 6 and 7; CCW 9)~~

~~(A) Compare and contrast the three colonial regions in regards to natural resources, agriculture, exports, and economic growth including the different uses of the labor systems use of indentured servants and slaves. (CCRIT 5 and CCRIT 6)~~

~~(B) Analyze the similarities and differences of self-government in the three colonial regions including the role of religion in the establishment of some colonies, the House of Burgesses in Virginia, and town hall meetings in New England. (CCRIT 6)~~

~~(C) Explain the international economic and cultural interaction occurring because of the triangular trade routes including the forced migration of Africans in the Middle Passage to the British colonies. (CCRIT 3)~~

~~(D) Analyze and explain the relationships and interactions of ongoing encounters and conflicts between Native Americans and the British colonists involving territorial claims including King Phillip's War. (CCRIT 3)~~

~~(E) Draw evidence using informational texts and analyze the contributions of important individuals and groups to the foundation of the American system including Roger Williams, the Puritans, William Penn and the Quakers, Lord Baltimore, and James Oglethorpe. (CCRIT 7 and CCW 9)~~

~~(F) Analyze and compare the daily life in the colonies as experienced by different social classes including large landowners, craftsmen and artisans, farmers, women, enslaved and freed African Americans, indentured servants, merchants, and Native Americans, noting important similarities and differences in the points of view they represent. (CCRIT 6)~~

~~(3) **Content Standard 3.** The student will examine the foundations of the American nation laid during the Revolutionary Era through the contributions of historic individuals and groups, the spreading of the ideals found within the *Declaration of Independence*, and the significant military and diplomatic events of the Revolutionary War that resulted in an independent United States. (CCRIT 1, 3, 5, 6, and CCW 7, 9)~~

~~(A) Research and examine the causes and effects of significant events leading to armed conflict between the colonies and Great Britain by drawing evidence from informational texts about the following events including (CCRIT 3, 5, 6 and CCW 7, 9)~~

~~(i) The *Proclamation of 1763* by King George III in restricting the perceived rights of the colonists to Native American lands which they believed they had earned by fighting during the French and Indian War,~~

~~(ii) The *Sugar* and *Stamp Acts* as the first direct taxes levied by Parliament on the American colonists,~~

~~(iii) The boycotts of British goods and the efforts of the Committees of Correspondence as economic means of protesting British policies the colonists thought were violating their rights to govern themselves including the right of self-taxation in hopes of getting the acts repealed,~~

~~(iv) The Quartering Act as a way for the British government to share the costs of defending the colonies and of controlling the growing colonial discontent,~~

~~(v) The Boston Massacre as a sign the colonists were beginning to change protest tactics from peaceful means to direct, physical confrontation,~~

~~(vi) Colonial arguments that there should be no taxation without representation in Parliament,~~

~~(vii) The Boston Tea Party and issuance of the *Coercive Acts* (the Intolerable Acts) as punishment for destroying private property,~~

~~(viii) The British raids on Lexington and Concord, which provoked colonial armed resistance resulting in the siege of the British in Boston, and~~

~~(ix) The publication of Thomas Paine's pamphlet, *Common Sense*, which made a rational argument for colonial independence.~~

~~(B) Draw specific evidence from the *Declaration of Independence* to identify and explain the colonial grievances which motivated the Second Continental Congress to make arguments for and to declare independence from Great Britain and establish the ideals in American society of equality, inalienable rights, and the consent of the governed. (CCRIT 8 and CCW 9)~~

~~(C) Commemorate Celebrate Freedom Week by recognizing the sacrifices and contributions to American freedom by veterans and by reciting the social contract selection from the *Declaration of Independence: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.*~~

~~(D) Draw specific evidence from informational texts and analyze the formation, benefits, and weaknesses of the first American national system of government under the *Articles of Confederation* including conducting and winning the Revolutionary War and management of the western territories. (CCRIT 7 and CCW 9)~~

~~(E) Analyze and explain the relationships of significant military and diplomatic events of the Revolutionary War including the leadership of General George Washington, the experiences at Valley Forge, the impact of the battles at Trenton, Saratoga, and Yorktown, as well as the recognition of an independent United States by Great Britain through the *Treaty of Paris*. (CCRIT 3)~~

~~(F) Identify and explain the contributions and points of view of key individuals and groups involved in the American Revolution including Patrick Henry, Samuel Adams, John Adams, Abigail Adams, Paul Revere, Benjamin Franklin, Thomas Jefferson, Mercy Otis Warren, Phyllis Wheatley, the Sons and Daughters of Liberty, patriots, and loyalists by drawing information from multiple sources. (CCRIT 7, 8 and CCW 7, 9)~~

~~(4) **Content Standard 4.** The student will examine the formation of the American system of government following the American Revolution.~~

~~(A) Draw specific evidence from informational texts and examine the issues and events encountered by the young nation that led to the Constitutional Convention in Philadelphia in 1787 including a weak national government, the *Northwest Ordinance*, and civil unrest as typified in Shays' Rebellion. (CCRIT 3 and CCW9)~~

~~(B) Examine the contributions and leadership of George Washington, James Madison, George Mason, and Gouverneur Morris as evidenced in the great issues, debates, and compromises of the Constitutional Convention including the *Virginia Plan* and the *New Jersey Plan*, slavery, the Three-fifths Compromise, and the Great Compromise. (CCRIT 2)~~

~~(C) Determine the main purposes of the United States government as expressed in the *Preamble* and as evidenced in the *United States Constitution* including the principles reflected in the separation of powers, checks and balances, and shared powers between the federal and state governments, and the basic responsibilities of the three branches of government. (CCRIT 2)~~

~~(D) Explain the process of ratification of the United States Constitution as well as compare and contrast the viewpoints of the Federalists and Anti-Federalists over the addition of a bill of rights. (CCRIT 5)~~

~~(E) Examine the *Bill of Rights* and summarize the liberties protected in all 10 amendments. (CCRIT 2)~~

~~(5) **Content Standard 5.** The student will compare and contrast the continued formation of the new nation under the leadership of Presidents Washington, Adams, and Jefferson. (CCRIT 5)~~

~~(A) Analyze the formation of the new government and the presidential leadership qualities of George Washington including the precedent set by his decision not to seek a third term and the impact of his *Farewell Address*.~~

~~(B) Explain the impact of the presidential election of 1800 regarding the peaceful transfer of political power from one party to another.~~

~~(C) Examine the transformative impact of the Louisiana Purchase in 1803 upon the American system in regards to the explorations by Lewis and Clark and the concept of Manifest Destiny as America expanded westward.~~

210:15-3-96.6. Grade 6: World Geography: The Western Hemisphere - The Why of Where: Places, Patterns of Settlement, and Global Interactions [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Literacy Skills Standard 1.** The student will develop and demonstrate Common Core Social Studies reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of the source distinct from prior knowledge or opinions.~~

~~(C) Identify key steps in a text's description of a process related to history/social studies (e.g., how a bill becomes law, how interest rates are raised or lowered).~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary specific to domains related to history/social studies.~~

~~(B) Describe how a text presents information (e.g., sequentially, comparatively, causally).~~

~~(C) Identify aspects of a text that reveal an author's point of view or purpose (e.g., loaded language, inclusion or avoidance of particular facts).~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate visual information (e.g., in charts, graphs, photographs, videos, or maps) with other information in print and digital texts.~~

~~(B) Distinguish among fact, opinion, and reasoned judgment in a text.~~

~~(C) Analyze the relationship between a primary and secondary source on the same topic.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 8, read and comprehend history/social studies texts in the grades 6-8 text complexity band independently and proficiently.~~

~~(b) **Literacy Skills Standard 2.** The student will develop and demonstrate Common Core Social Studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline-specific content*.~~

~~(i) Introduce claim(s) about a topic or issue, acknowledge and distinguish the claim(s) from alternate or opposing claims, and organize the reasons and evidence logically.~~

~~(ii) Support claim(s) with logical reasoning and relevant, accurate data and evidence that demonstrate an understanding of the topic or text, using credible sources.~~

~~(iii) Use words, phrases, and clauses to create cohesion and clarify the relationships among claim(s), counterclaims, reasons, and evidence.~~

~~(iv) Establish and maintain a formal style.~~

~~(v) Provide a concluding statement or section that follows from and supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/ experiments, or technical processes.~~

~~(i) Introduce a topic clearly, previewing what is to follow; organize ideas, concepts, and information into broader categories as appropriate to achieving purpose; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with relevant, well-chosen facts, definitions, concrete details, quotations, or other information and examples~~

~~(iii) Use appropriate and varied transitions to create cohesion and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to inform about or explain the topic.~~

~~(v) Establish and maintain a formal style and objective tone.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented.~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) With some guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on how well purpose and audience have been addressed.~~

~~(C) Use technology, including the Internet, to produce and publish writing and present the relationships between information and ideas clearly and efficiently.~~

~~(D) Conduct short research projects to answer a question (including a self-generated question), drawing on several sources and generating additional related, focused questions that allow for multiple avenues of exploration.~~

~~(E) Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.~~

~~(F) Draw evidence from informational texts to support analysis reflection, and research.~~

~~(3) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will analyze data from a geographic perspective using the skills and tools of geography.~~

~~(A) Cite specific geographic information to support analysis from primary and secondary sources located in texts, documents, newspapers, magazines, journals, political cartoons, and online news sources.~~

~~(B) Integrate visual information, draw conclusions, and make predictions from geographic data and analyze spatial distribution and patterns by interpreting that data as displayed on globes, graphs, charts, satellite and other forms of visual imagery including data from bar and line graphs, pie charts, thematic maps, population pyramids, climagraphs, cartagrams, contour/relief maps, GIS systems, and diagrams.~~

~~(C) Describe basic types of map projections and compare how they display information including Mercator, Peterson, and Robinson, and apply the concepts of scale, distance, direction, relative location, absolute location, and latitude and longitude.~~

~~(D) Integrate visual information and apply the skill of mental mapping of the political and physical features of Earth's surface and to organize information about people, places, and environments.~~

~~(E) Conduct short research projects by investigating contemporary events and issues from political, economic, social, and geographic perspectives.~~

~~(F) Commemorate Celebrate Freedom Week by recognizing the sacrifices and contributions to American freedom by veterans and by reciting the social contract selection from the *Declaration of Independence: We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.*~~

~~(d) **Content Standard 2.** The student will examine the cultural and physical characteristics of the major regions of the Western Hemisphere.~~

~~(1) Define the concept of region and identify major political, physical, and economic regions of the Western Hemisphere including~~

~~(A) The political regions of North America, Central America, South America, and the Caribbean.~~

~~(B) The physical regions including the Amazon rainforest and the North American Great Plains, and~~

~~(C) The economic regions including commercial agriculture in North America and subsistence agriculture of Amazonian communities.~~

~~(2) Describe specific political regions of the Western Hemisphere and identify on a political map the major urban centers and countries including~~

~~(A) All nations of North America, Central America, South America, and the Caribbean, and~~

~~(B) Major metropolitan areas including New York City, Los Angeles, Chicago, Houston, Washington, DC, Miami, Toronto, Montreal, Vancouver, Mexico City, Panama City, San Jose, Rio de Janeiro, Buenos Aires, Santiago, Caracas, Bogota, Sao Paulo, San Juan, and Havana.~~

~~(3) Describe the characteristics and relative location of major cultural regions of the Western Hemisphere including~~

~~(A) the Maya civilization of Mesoamerica,~~

~~(B) the Inca civilization of Latin America,~~

~~(C) the Inuit indigenous peoples of the Arctic,~~

~~(D) Hispanic communities of the United States and indigenous peoples of North and South America, and French-speaking Quebec.~~

~~(4) Explain and summarize how common characteristics can link as well as divide regions including~~

~~(A) The question of sovereignty for French speaking Canadians,~~

~~(B) The free trade relationships established by NAFTA, and~~

~~(C) The establishment of *maquiladoras* on the United States-Mexican border.~~

~~(5) Cite specific textual and visual evidence in order to analyze reasons for conflict and cooperation among groups, societies, countries, and regions of the Western Hemisphere including:~~

~~(A) The bi-national construction of the St. Lawrence Seaway,~~

~~(B) Disputes between South American nations over fishing rights off the Pacific Coast,~~

~~(C) The strain on international relations caused by immigration, and~~

~~(D) Relief efforts of the United Nations following natural disasters.~~

~~(e) **Content Standard 3.** The student will examine the interactions of physical systems that shape the patterns of Earth's surface.~~

~~(1) Integrate visual information in order to identify on a physical map and describe the major landforms and bodies of water of the Western Hemisphere including~~

~~(A) Bodies of Water – Mississippi, Colorado, MacKenzie, Rio Grande, and Amazon Rivers, Gulf of Mexico, Hudson Bay, Straits of Magellan and the Bering Strait, Atlantic, Pacific, Arctic and Southern Oceans, the Great Lakes, and the concept of drainage systems and the Continental Divide.~~

~~(B) Landforms – the Appalachian, Rocky, Andes, and Cascade Mountain Ranges, the Atacama and Sonoran Deserts, the Hawaiian and Greater Antilles archipelagos, the Pampas and Great Plains, the Canadian Shield, the Yucatan Peninsula, the Isthmus of Panama, and the Great Basin.~~

~~(2) Describe how the processes and factors of latitude, elevation, Earth-Sun relationship, prevailing winds, and proximity to bodies of water influence climate and how humans respond to regional climate patterns and events including drought and *El Niño*.~~

~~(3) Analyze the impact of natural disasters on human populations including forced migration, scarcity of consumer goods, and loss of employment.~~

~~(f) **Content Standard 4.** The student will analyze the human systems of the Western Hemisphere in the context of the world's peoples and cultures.~~

~~(1) Identify and describe cultural traits of language, ethnic heritage, social systems, religion, and traditions including how cultural diffusion impacts societies.~~

~~(2) Describe and compare examples of the market and command economic systems including how governments affect economic activities in such systems.~~

~~(3) Describe the major political systems of representative governments (democracy, republic, constitutional monarchy) and authoritarian systems (dictatorship)~~

~~including the role of the citizen in the selection of government officials, lawmaking, and the liberties guaranteed under different forms of government.~~

~~(4) Cite specific textual evidence to explain patterns of global economic interdependence and world trade including the concepts of balance of trade, supply and demand, and measures of economic growth including Gross Domestic Product (GDP).~~

~~(5) Analyze the impact of geography on population location, growth, and change, applying geographic concepts of population density, the availability of resources, settlement patterns, and migrational push and pull factors including the twentieth century Asian and Caribbean refugee migration to North America or the pattern of Hispanic workers migrating to the United States.~~

~~(g) **Content Standard 5.** The student will analyze the interactions of humans and their environment in the western hemisphere.~~

~~(1) Integrate and compare visual information of the common characteristics of developed and developing countries including access to human and economic capital, the impact of education and technology; and analyze data used by geographers including literacy rate, life expectancy, and per capita income.~~

~~(2) Summarize the impact of the distribution of major renewable and nonrenewable resources and evaluate how the three levels of economic activities (primary, secondary, and tertiary) contribute to the development of a country or region including~~

~~(A) The United States' and Canada's access to fossil fuels, water, iron, and arable soil,~~

~~(B) Agricultural development dependent on the natural aquifers of the Great Plains,~~

~~(C) The nationalized oil production in Venezuela and Mexico, and~~

~~(D) North America's access to iron and coal enabling a productive steel industry.~~

~~(3) Evaluate the effects of human modification of and adaptation to the natural environment including~~

~~(A) Terraced farmland of the Andes,~~

~~(B) Construction of the Panama Canal,~~

~~(C) Clear-cutting of the boreal forests of North America, and~~

~~(D) Diversion of the Colorado River for irrigation and municipal water.~~

~~(4) Analyze regional problems of the western hemisphere having spatial dimensions including~~

~~(A) Oil spills in the Gulf of Mexico,~~

~~(B) Deforestation of Amazonia,~~

~~(C) Air pollution and urban sprawl of Mexico City, and~~

~~(D) Water pollution from industrial run-off into the Great Lakes.~~

~~(5) Summarize the role of citizens as responsible stewards of natural resources and the environment including~~

~~(A) Careful use of fertilizer and pesticides to avoid polluting the land and the water supply,~~

~~(B) Participation in recycling and anti-littering activities,~~

~~(C) Conservation of natural resources, and~~

~~(D) Support of alternative and sustainable energy sources.~~

210:15-3-97.7. Grade 7: World Geography: The Eastern Hemisphere - The Why of Where: Places, Patterns of Settlement, and Global Interactions [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Literacy Skills Standard 1.** The student will develop and demonstrate Common Core Social Studies reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of the source distinct from prior knowledge or opinions.~~

~~(C) Identify key steps in a text's description of a process related to history/social studies (e.g., how a bill becomes law, how interest rates are raised or lowered).~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary specific to domains related to history/social studies.~~

~~(B) Describe how a text presents information (e.g., sequentially, comparatively, causally).~~

~~(C) Identify aspects of a text that reveal an author's point of view or purpose (e.g., loaded language, inclusion or avoidance of particular facts).~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate visual information (e.g., in charts, graphs, photographs, videos, or maps) with other information in print and digital texts.~~

~~(B) Distinguish among fact, opinion, and reasoned judgment in a text.~~

~~(C) Analyze the relationship between a primary and secondary source on the same topic.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 8, read and comprehend history/social studies texts in the grades 6-8 text complexity band independently and proficiently.~~

~~(b) **Literacy Skills Standard 2.** The student will develop and demonstrate Common Core Social Studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline specific content.*~~

~~(i) Introduce claim(s) about a topic or issue, acknowledge and distinguish the claim(s) from alternate or opposing claims, and organize the reasons and evidence logically.~~

~~(ii) Support claim(s) with logical reasoning and relevant, accurate data and evidence that~~

~~demonstrate an understanding of the topic or text, using credible sources.~~

~~(iii) Use words, phrases, and clauses to create cohesion and clarify the relationships among claim(s), counterclaims, reasons, and evidence.~~

~~(iv) Establish and maintain a formal style.~~

~~(v) Provide a concluding statement or section that follows from and supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic clearly, previewing what is to follow; organize ideas, concepts, and information into broader categories as appropriate to achieving purpose; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with relevant, well-chosen facts, definitions, concrete details, quotations, or other information and examples.~~

~~(iii) Use appropriate and varied transitions to create cohesion and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to inform about or explain the topic.~~

~~(v) Establish and maintain a formal style and objective tone.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented.~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) With some guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on how well purpose and audience have been addressed.~~

~~(C) Use technology, including the Internet, to produce and publish writing and present the relationships between information and ideas clearly and efficiently.~~

~~(D) Conduct short research projects to answer a question (including a self-generated question), drawing on several sources and generating additional related, focused questions that allow for multiple avenues of exploration.~~

~~(E) Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.~~

~~(F) Draw evidence from informational texts to support analysis reflection, and research.~~

~~(3) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c) **Social Studies Content Standards.**~~

~~(1) **Content Standard 1.** The student will analyze data from a geographic perspective using the skills and tools of geography.~~

~~(A) Cite specific geographic information to support analysis from primary and secondary sources located in texts, documents, newspapers, magazines, journals, political cartoons, and online news sources.~~

~~(B) Integrate visual information, draw conclusions, and make predictions from geographic data and analyze spatial distribution and patterns by interpreting that data as displayed on globes, graphs, charts, satellite and other forms of visual imagery including data from bar and line graphs, pie charts, thematic maps, population pyramids, climagraphs, cartagrams, contour/relief maps, GIS systems, and diagrams.~~

~~(C) Apply the concepts of scale, distance, direction, relative location, absolute location, and latitude and longitude.~~

~~(D) Integrate visual information and apply the skill of mental mapping of the political and physical features of Earth's surface and to organize information about people, places, and environments.~~

~~(E) Conduct short research projects by investigating contemporary events and issues from political, economic, social, and geographic perspectives.~~

~~(F) Commemorate Celebrate Freedom Week by recognizing the sacrifices and contributions to American freedom by veterans and by reciting the social contract selection from the *Declaration of Independence: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.*~~

~~(2) **Content Standard 2.** The student will examine the human and physical characteristics of the major regions of the Eastern Hemisphere.~~

~~(A) Integrate visual information in order to describe specific political regions of the Eastern Hemisphere, and identify on a political map the major urban areas and countries including:~~

~~(i) Europe – London/United Kingdom, Paris/France, Rome/Italy, Berlin/Germany, and Moscow/Russia,~~

~~(ii) Southwest Asia – Mecca/Saudi Arabia, Jerusalem/Israel, Tehran/Iran, Beirut/Lebanon, and Bagdad/Iraq,~~

~~(iii) South Asia – Mumbai/India, Pakistan, Afghanistan,~~

~~(iv) East and Southeast Asia – Beijing/China, Seoul/South Korea, Tokyo/Japan, Indonesia, Vietnam, and Malaysia,~~

~~(v) Africa – Cairo/Egypt, Nairobi/Kenya, South Africa, Libya, Sudan, and Nigeria, and~~

~~(vi) Oceania – Australia and New Zealand.~~

~~(B) Integrate visual information in order to describe the characteristics and relative location of physical and cultural regions of the Eastern Hemisphere including~~

~~(i) Physical Regions –~~

~~(I) Sub-Saharan savannas and rainforests,~~

~~(II) Pacific Ring of Fire,~~

~~(III) Rhine-Danube industrial corridor, and~~

~~(IV) The Himalayan Mountain Range.~~

~~(ii) Cultural Regions –~~

~~(I) The Sahel's and Sahara's nomadic peoples,~~

~~(II) Jerusalem's religious significance to Judaism, Christianity, and Islam, and~~

~~(III) The cultural hearths of the Nile, Indus, Ganges, Hwang He River Valleys, and Mesopotamia.~~

~~(C) Explain and summarize how common physical or human characteristics can link as well as divide regions including~~

~~(i) Extensive inland waterway systems of natural rivers and manmade canals that link European trading centers,~~

~~(ii) Ural Mountains that physically divide Europe from Asia,~~

~~(iii) Sahara Desert that physically and culturally divides North Africa from Sub-Sahara Africa,~~

~~(iv) Multiple languages, religion, and the legacy of the caste system in India that present barriers to cultural unity, and~~

~~(v) Cultural differences resulting in civil war and genocide in Darfur and Rwanda.~~

~~(D) Cite specific textual evidence to analyze reasons for conflict and cooperation among groups, societies, countries, and regions of the Eastern Hemisphere and the involvement of multinational organizations of the United Nations and the North Atlantic Treaty Organization including~~

~~(i) Multinational peace-keeping efforts to stabilize Arab-Israeli relations,~~

~~(ii) Roots of disputes between India and Pakistan resulting in the threat of conventional war and nuclear war,~~

~~(iii) Impact of multiple ethnic groups on Nigerian political stability,~~

~~(iv) Coordination of currency and free trade zones created by the European Union,~~

~~(v) Humanitarian relief efforts by the United Nations to address hunger in Africa, and~~

~~(vi) The struggle for and achievement of civil liberties and economic opportunities in South Africa's post-apartheid era.~~

~~(E) Explain and summarize how and why regions change over time through physical and human processes which operate to modify Earth's surface including the:~~

~~(i) Cultural diffusion brought about by North Africa's location central to trade across multiple continents,~~

~~(ii) Impact of overgrazing and drought leading to desertification in the Sahel,~~

~~(iii) Results of the Green Revolution in Central Asia, and~~

~~(iv) Effects of abundant oil supplies in the Persian Gulf region.~~

~~(3) **Content Standard 3.** The student will examine the interactions of physical systems that shape the patterns of Earth's surface in the Eastern Hemisphere.~~

~~(A) Integrate visual information to identify on a physical map and describe the major landforms and bodies of water including~~

~~(i) Landforms – the Iberian, Scandinavian, and Indochina Peninsulas; the Urals, Pyrenees, Alps, and Himalayan Mountain Ranges; the Sahara, Kalahari, and Gobi Deserts; and the Great Rift Valley.~~

~~(ii) Bodies of water – Danube, Volga, Nile, Congo, Niger, Tigris, Euphrates, Indus, Ganges, and Yangtze Rivers; Mediterranean, Arabian and North Seas; Persian Gulf; Bay of Bengal; Strait of Gibraltar; Atlantic, Arctic, Indian, Pacific, and the Southern Oceans.~~

~~(B) Analyze from multiple perspectives the impact of natural disasters on human populations resulting in forced migration, scarcity of consumer goods, and loss of employment including~~

~~(i) The impact of plate tectonics resulting in earthquakes, tsunamis, and volcanic eruptions on human and physical systems bordering the Pacific Ring of~~

~~(ii) Frequent drought of northern Africa and Southwest Asia that creates stress on humans and wildlife,~~

~~(iii) The impact of monsoon patterns and typhoon activity on agriculture and loss of life in South Asia, and~~

~~(iv) Regular flooding of China's rivers resulting in the accumulation of loess.~~

~~(4) **Content Standard 4.** The student will analyze the world's peoples and cultures in the context of the human systems in the Eastern Hemisphere.~~

~~(A) Compare and contrast the common cultural traits including language, ethnic heritage, social systems, religions, and traditions and how cultural diffusion impacts societies.~~

~~(B) Describe the world's major religions including Buddhism, Christianity, Daoism, Hinduism, Islam, and Judaism including the geographic origins, major beliefs, and customs of the five major world religions and the significance of religion in contemporary societies.~~

~~(C) Integrate visual information to analyze data used by geographers to measure the human characteristics used to define developed versus developing countries including literacy rates, life expectancy, infant mortality rate, Gross Domestic Product (GDP), and per capita income.~~

~~(D) Compare and contrast the market and command economic systems and how governments affect economic activities in such systems including~~

~~(i) Economic reforms in China that are moving China from a command system toward a market system.~~

~~(ii) The economic advantages and disadvantages of Sweden's mixed market system,~~

~~(iii) The economic prosperity generated by Japan's market system, and~~

~~(iv) The economic development limitations of North Korea's command economic system.~~

~~(E) Compare and contrast the major political systems of representative governments (democracy, republic, and constitutional monarchy) and authoritarian systems (dictatorship and absolute monarchy) including the role of the citizen in the selection of government officials lawmaking, and the liberties guaranteed under different forms of government.~~

~~(i) The symbolic role of the British crown in comparison to the absolute authority of the monarchy of Saudi Arabia.~~

~~(ii) The transformation of the former Soviet Union from an authoritarian system to the limited representative democracy of Russia.~~

~~(F) Integrate visual information to explain patterns of global economic interdependence and world trade focusing on the concepts of imports and exports, supply and demand, Gross National Product (GNP), and balance of trade including~~

~~(i) The European Union's single currency and open single market that link economies and governments.~~

~~(ii) The relative isolation of Japan and the United Kingdom that require extensive trade patterns for natural resources and markets,~~

~~(iii) Outsourcing of technological and manufacturing jobs to developing regions of Asia, and~~

~~(iv) Control over production and supply of global oil reserves as exercised by the Oil Producing and Exporting Countries (OPEC).~~

~~(G) Evaluate and summarize the impact of geography on population location, growth, change and density and on the availability of resources, settlement patterns, and migration including the~~

~~(i) Impact of push and pull factors on the rural migration to overcrowded urban centers in India,~~

~~(ii) Challenges of under-population on the labor market in developed nations of Europe,~~

~~(iii) Changing face of European cultures as a result of recent patterns of immigration, and~~

~~(iv) Impact of China's one-child policy on population growth and culture.~~

~~(5) **Content Standard 5.** The student will analyze the interactions of humans and their environment in the Eastern Hemisphere.~~

~~(A) Cite specific textual and visual evidence to describe the relationship between the distribution of major renewable and nonrenewable resources and evaluate how the three levels of economic activities (primary, secondary, and tertiary) contribute to the development of a country or region including the~~

~~(i) Abundant energy resources driving China's rapid development,~~

~~(ii) Reserves of valuable minerals responsible for South Africa's economic growth,~~

~~(iii) Accessibility of coal and iron reserves contributing to steel industries of western Europe and Russia, and~~

~~(iv) Value of North Sea petroleum reserves to developed nations' economies.~~

~~(B) Evaluate the effects of human modification of and adaptation to the natural environment including the~~

~~(i) Deforestation of Indonesia's rainforests,~~

~~(ii) Creation of living space through the drainage of seawater and the system of dikes in the Netherlands,~~

~~(iii) Transformation of arid lands of the Arabian Peninsula through introduction of western irrigation methods,~~

~~(iv) Use of terrace farming and double cropping as solutions to food needs of East Asia, and~~

~~(v) Benefits and dangers of nuclear power generation as exemplified by the environmental disaster at Chernobyl.~~

~~(C) Integrate visual information to analyze regional problems and policies having spatial dimensions in the Eastern Hemisphere including the~~

~~(i) Management of the Aral Sea's water resources,~~

~~(ii) Impact of economic development on Russia's Arctic regions, and~~

~~(iii) Transformation of the environment and population centers caused by the construction of the Three Gorges Dam in China.~~

210:15-3-98.8. Grade 8: Creating the United States. The Foundation, Formation, and Transformation of the American Nation, 1754-1877 [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Literacy Skills Standard 1.** The student will develop and demonstrate Common Core Social Studies reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of the source distinct from prior knowledge or opinions.~~

~~(C) Identify key steps in a text's description of a process related to history/social studies (e.g., how a bill becomes law, how interest rates are raised or lowered).~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary specific to domains related to history/social studies.~~

~~(B) Describe how a text presents information (e.g., sequentially, comparatively, causally).~~

~~(C) Identify aspects of a text that reveal an author's point of view or purpose (e.g., loaded language, inclusion or avoidance of particular facts).~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate visual information (e.g., in charts, graphs, photographs, videos, or maps) with other information in print and digital texts.~~

~~(B) Distinguish among fact, opinion, and reasoned judgment in a text.~~

~~(C) Analyze the relationship between a primary and secondary source on the same topic.~~

~~(4) **Range of Reading and Level of Text Complexity.**~~

~~(A) By the end of grade 8, read and comprehend history/social studies texts in the grades 6-8 text complexity band independently and proficiently.~~

~~(b) **Literacy Skills Standard 2.** The student will develop and demonstrate Common Core Social Studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline-specific content*.~~

~~(i) Introduce claim(s) about a topic or issue, acknowledge and distinguish the claim(s) from alternate or opposing claims, and organize the reasons and evidence logically.~~

~~(ii) Support claim(s) with logical reasoning and relevant, accurate data and evidence that demonstrate an understanding of the topic or text, using credible sources.~~

~~(iii) Use words, phrases, and clauses to create cohesion and clarify the relationships among claim(s), counterclaims, reasons, and evidence.~~

~~(iv) Establish and maintain a formal style.~~

~~(v) Provide a concluding statement or section that follows from and supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic clearly, previewing what is to follow; organize ideas, concepts, and information into broader categories as appropriate to achieving purpose; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with relevant, well-chosen facts, definitions, concrete details, quotations, or other information and examples.~~

~~(iii) Use appropriate and varied transitions to create cohesion and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to inform about or explain the topic.~~

~~(v) Establish and maintain a formal style and objective tone.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented.~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) With some guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on how well purpose and audience have been addressed.~~

~~(C) Use technology, including the Internet, to produce and publish writing and present the relationships between information and ideas clearly and efficiently.~~

~~(D) Conduct short research projects to answer a question (including a self-generated question), drawing on several sources and generating additional related, focused questions that allow for multiple avenues of exploration.~~

~~(E) Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.~~

~~(F) Draw evidence from informational texts to support analysis reflection, and research.~~

~~(3) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c)~~ **~~Social Studies Content Skills.~~**

~~(1)~~ **~~Content Standard 1.~~** ~~The student will analyze the foundations of the United States by examining the causes, events, and ideologies which led to the American Revolution.~~

~~(A) Summarize the political and economic consequences of the French and Indian War on the 13 colonies including the imperial policies of requiring the colonies to pay a share of the costs of defending the British Empire and the precedent of the Albany Plan of Union as an early attempt to unify the colonies.~~

~~(B) Cite specific textual evidence to summarize the significance of British attempts to regulate colonial rights, as well as the colonial responses to these measures including~~

~~(i) The restriction of colonial rights as British subjects including colonial opposition and protests against taxation without representation, the boycotts of British goods, Patrick Henry's *Stamp Act Resolves*, the Committees of Correspondence, and the Boston Massacre,~~

~~(ii) The Coercive Acts of 1774 (the Intolerable Acts) as British punishment for the Boston Tea Party and the convening of the First Continental Congress as a colonial response,~~

~~(iii) The Battles of Lexington and Concord as a rallying point of armed colonial resistance, and~~

~~(iv) Patrick Henry's *Give Me Liberty or Give Me Death* speech and Thomas Paine's pamphlet *Common Sense* advocating the defense of colonial rights and independence.~~

~~(C) Cite specific textual evidence to analyze the ideological and propaganda war between Great Britain and her North American colonies including the~~

~~(i) Points of views of the Patriots and the Loyalists about independence,~~

~~(ii) Writings of Mercy Otis Warren and Phyllis Wheatley,~~

~~(iii) Use of Paul Revere's engraving of the Boston Massacre,~~

~~(iv) Rejection of the *Olive Branch Petition* by King George III, and~~

~~(v) Grievances which motivated the Second Continental Congress to make arguments for and to declare independence from Great Britain thus creating the United States of America.~~

~~(D) Determine the central ideas and grievances expressed in the *Declaration of Independence* and their intellectual origin including~~

~~(i) John Locke's theory of natural rights,~~

~~(ii) The concept of the social contract,~~

~~(iii) The ideals established in the American society of equality, inalienable rights, and the consent of the governed; and~~

~~(iv) Evaluate the contributions of Thomas Jefferson and the Committee of Five in drafting the *Declaration of Independence*.~~

~~(E) Commemorate Celebrate Freedom Week by recognizing the sacrifices and contributions to American freedom by veterans and by reciting the social contract selection from the *Declaration of Independence: We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.*~~

~~(2)~~ **~~Content Standard 2.~~** ~~The student will examine the foundations of the American nation laid during the Revolutionary Era through the contributions of significant individuals and groups involved in the key military and diplomatic events of the Revolutionary War that resulted in an independent nation.~~

~~(A) Analyze the formation of the first American national system of government under the *Articles of Confederation* including the success of conducting and winning the Revolutionary War.~~

~~(B) Compare and contrast the different motivations and choices that various colonial populations had regarding the War for Independence including~~

~~(i) Whether to fight for independence, remain loyal to the king, or to be neutral.~~

~~(ii) The choices that free and enslaved African Americans had of escaping to freedom, or joining the British or Colonial forces, or remaining enslaved,~~

~~(iii) The decisions Native Americans had as to which side to support in hopes of protecting their traditional cultures and native territories, and~~

~~(C) Cite specific textual evidence to summarize the impact of key military and diplomatic events including the~~

~~(i) Military leadership of George Washington,~~

~~(ii) Victories at Boston, Trenton, and Saratoga,~~

~~(iii) French Alliance,~~

~~(iv) Publication of Thomas Paine's *The Crisis*,~~

~~(v) Valley Forge Encampment, and~~

~~(vi) Defeat of Lord Cornwallis's army at the Siege of Yorktown.~~

~~(3)~~ **~~Content Standard 3.~~** ~~The student will examine the formation of the American system of government following the Revolutionary War that led to the creation of the *United States Constitution*.~~

~~(A) Examine and summarize the issues encountered by the young nation that led to the Constitutional Convention in Philadelphia in 1787 including the~~

~~(i) Strengths and weaknesses of the *Articles of Confederation*,~~

~~(ii) Lack of a common national currency,~~

~~(iii) Lack of a common defense,~~

~~(iv) Management of the war debts,~~

~~(v) Disputes over the western territories as resolved by the *Northwest Ordinance*, and~~

~~(vi) Civil unrest as typified in Shays' Rebellion.~~

~~(B) Analyze the significance of the Constitutional Convention, its major debates and compromises including the *Virginia Plan*, the *New Jersey Plan*, the Great Compromise, the Three-fifths Compromise, and the key contributions of George Washington, James Madison, George Mason, and Gouverneur Morris.~~

~~(C) Cite specific textual evidence to examine the arguments for and against the ratification of the *United States Constitution* as expressed in the *Federalist Papers Number 10 and Number 51*, as well as Anti-Federalist concerns over a strong central government and the omission of a bill of rights.~~

~~(D) Explain the constitutional principles of popular sovereignty, consent of the governed, separation of powers, checks and balances, federalism, and judicial review.~~

~~(E) Cite specific textual evidence and summarize the rights and responsibilities all Americans possess under the *United States Constitution* as guaranteed in the *Bill of Rights* including the freedoms of religion, speech, press, assembly, petition, and the rights to due process and trial by jury.~~

~~(4) **Content Standard 4.** The student will examine the political, economic, social, and geographic transformation of the United States during the early to mid-1800s.~~

~~(A) Analyze the impact and consequences of major events and issues facing early presidential administrations including~~

~~(i) The suppression of the Whiskey Rebellion and establishment of the government's right to tax,~~

~~(ii) President George Washington's advice for the new nation in his *Farewell Address*,~~

~~(iii) The restriction of individual rights in the *Alien and Sedition Acts* and the responses of the Republican-Democrats in the Virginia and Kentucky *Resolutions*,~~

~~(iv) The impact of the presidential election of 1800 and the peaceful transfer of political power from one party to another,~~

~~(v) The acquisition of territory through the *Louisiana Purchase* and the contributions of the explorations of Lewis and Clark,~~

~~(vi) How the Marshall Court's precedent setting decisions in *Marbury v. Madison* and *McCulloch v. Maryland* interpreted the *United States Constitution* and established the United States Supreme Court as an independent and equal branch of the federal government.~~

~~(vii) The War of 1812 which confirmed American independence and fueled a spirit of nationalism,~~

~~(viii) The increased sectional tensions as the nation dealt with the expansion of slavery and attempts to limit it through the *Missouri Compromise*, and~~

~~(ix) The Monroe Doctrine as an attempt to protect American interests and territory in the western hemisphere.~~

~~(B) Summarize the significance and impact of the Jacksonian Era including the:~~

~~(i) Election of Andrew Jackson as a victory for the common man,~~

~~(ii) Nullification Crisis and the development of the states' rights debates as typified by the arguments put forth by Senator Daniel Webster and Senator John C. Calhoun, and~~

~~(iii) Impact of government policies, non-adherence to treaties, and territorial expansion on Native American lands including the resistance and removal of the Five Tribes.~~

~~(C) Cite specific textual and visual evidence to compare the sectional economic transformations including the concentration of population, manufacturing, shipping, and the development of the railroad system in the North as contrasted to the plantation system, the increased demand for cotton brought about by the invention of the cotton gin, and the reliance on a slave labor system in the South.~~

~~(D) Analyze points of view from specific textual evidence to describe the variety of African American experiences, both slave and free, including Nat Turner's Rebellion, legal restrictions in the South, and efforts to escape via the Underground Railroad network including Harriet Tubman.~~

~~(E) Analyze and summarize the significance of the Abolitionist and Women's Suffrage Movements including the influence of the Second Great Awakening and the *Declaration of Sentiments*, and the leadership of Frederick Douglass, William Lloyd Garrison, Sojourner Truth, Susan B. Anthony, and Elizabeth Cady Stanton to the respective movements.~~

~~(F) Examine the concept of Manifest Destiny as a motivation and justification for westward expansion, including the~~

~~(i) Territorial growth resulting from the annexation of Texas, the *Mexican Cession*, and the *Gadsden Purchase*,~~

~~(ii) Causes of the rapid settlement of Oregon and California,~~

~~(iii) Impact upon Native American culture and tribal lands, and~~

~~(iv) Growing sectional tensions regarding the expansion of slavery.~~

~~(5) **Content Standard 5.** The student will analyze the social and political transformation of the United States as~~

~~a result of the causes, course, and consequences of the American Civil War during the period of 1850 to 1865.~~

~~(A) Cite specific textual evidence to summarize the importance of slavery as a principal cause of increased sectional polarization as seen in the following significant events including the~~

~~(i) *Compromise of 1850* as a last attempt to reach a compromise regarding slavery,~~

~~(ii) Publication of *Uncle Tom's Cabin* as fuel for anti-slavery sentiments,~~

~~(iii) *Kansas Nebraska Act* as it established the principle of popular sovereignty in new territories, repealed the *Missouri Compromise*, and led to factional feuds in Bleeding Kansas, and~~

~~(iv) *Dred Scott v. Sanford* case which declared slaves as property and motivated John Brown's Raid on the federal arsenal at Harper's Ferry.~~

~~(B) Cite specific textual and visual evidence to analyze the significance and results of the presidential election of 1860 including the~~

~~(i) Secession of South Carolina as expressed in the *Ordinance of Secession*,~~

~~(ii) Goal of President Abraham Lincoln to preserve the Union,~~

~~(iii) Formation of the Confederate States of America,~~

~~(iv) Opening attack on Fort Sumter, and~~

~~(v) Rising tensions over the strategic Border States.~~

~~(C) Compare the advantages and disadvantages of the Union and the Confederacy upon the eve of the war including the political/military leadership of President Lincoln to Confederate President Jefferson Davis and the military leadership of Union General Ulysses S. Grant to Confederate General Robert E. Lee.~~

~~(D) Identify and summarize the consequences of the major turning points of the war including the~~

~~(i) Anaconda Plan and Total War Strategy,~~

~~(ii) Battle of Antietam as a catalyst for the issuance of the *Emancipation Proclamation* and its role in expanding the goals of the war to include the ending of slavery,~~

~~(iii) Battle of Gettysburg as inspiration for the *Gettysburg Address* and how Lincoln's speech clarified the Union's motivations for winning the war,~~

~~(iv) Capture of Vicksburg in securing the Union's control of the Mississippi River,~~

~~(v) *Second Inaugural Address* of President Lincoln, calling for national reconciliation,~~

~~(vi) Generosity of the North in terms of surrender demands as offered to General Lee at Appomattox Courthouse, and~~

~~(vii) Impact of Lincoln's assassination and loss of his leadership on plans for reconstruction.~~

~~(6) **Content Standard 6.** The student will analyze the transformation of politics and society during the Reconstruction Era, 1865 to 1877.~~

~~(A) Compare and contrast the various policies and plans for the reconstruction of the Confederacy including those proposed by President Lincoln, President Andrew Johnson, and the Radical Republicans.~~

~~(B) Cite specific textual evidence to analyze the impact of the *13th, 14th and 15th Amendments*, the Black Codes, the Freedmen's Bureau, and Jim Crow laws.~~

~~(C) Identify points of view regarding the social changes following the Civil War including the role of carpetbaggers and scalawags, the rise of the Ku Klux Klan, elected Black officials, and sharecroppers.~~

~~(D) Evaluate the impact of the *Homestead Act of 1862* and the resulting movement westward to free land including the impact of continued displacement of Native Americans.~~

~~(E) Assess the impact of the presidential election of 1876 as an end to the reconstruction of the South.~~

210:15-3-99.9. High School Economics: Incentives and Disincentives: Land, Labor, Capital, and Entrepreneurship [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Process and Literacy Standard 1.** Reading Skills. The student will develop and demonstrate social studies Common Core reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.~~

~~(C) Analyze in detail a series of events described in a text; determine whether earlier events caused later ones or simply preceded them.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.~~

~~(B) Analyze how a text uses structure to emphasize key points or advance an explanation or analysis.~~

~~(C) Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate quantitative or technical analysis (e.g., charts, research data) with qualitative analysis in print or digital text.~~

~~(B) Assess the extent to which the reasoning and evidence in a text support the author's claims.~~

~~(C) Compare and contrast treatments of the same topic in several primary and secondary sources.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 10, read and comprehend history/social studies texts in the grades 9–10 text complexity band independently and proficiently.~~

~~(b) **Process and Literacy Standard 2: Writing Skills.** The student will develop and demonstrate Common Core social studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline-specific content*.~~

~~(i) Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among the claim(s), counterclaims, reasons, and evidence.~~

~~(ii) Develop claim(s) and counterclaims fairly, supplying data and evidence for each while pointing out the strengths and limitations of both claim(s) and counterclaims in a discipline appropriate form and in a manner that anticipates the audience's knowledge level and concerns.~~

~~(iii) Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.~~

~~(iv) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(v) Provide a concluding statement or section that follows from or supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic and organize ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.~~

~~(iii) Use varied transitions and sentence structures to link the major sections of the text, create cohesion, and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to manage the complexity of the topic and convey a style appropriate to the discipline and context as well as to the expertise of likely readers.~~

~~(v) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.~~

~~(C) Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.~~

~~(B) Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.~~

~~(C) Draw evidence from informational texts to support analysis, reflection, and research.~~

~~(4) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will develop and apply economic reasoning and decision-making skills.~~

~~(A) Define and apply basic economic concepts of scarcity, surplus, choice, opportunity cost, cost/benefit analysis, risk/reward relationship, incentive, disincentive, and trade-off to a variety of economic situations.~~

~~(B) Determine appropriate courses of economic actions using a variety of economic reasoning and~~

~~decision-making models including the PACED Decision-Making Model by using the five step process of:~~

~~(i) P = Stating the PROBLEM,~~

~~(ii) A = Listing the ALTERNATIVES,~~

~~(iii) C = Identifying the CRITERIA,~~

~~(iv) E = EVALUATING the options, based on the criteria, and~~

~~(v) D = Making a DECISION.~~

~~(2) **Content Standard 2.** The student will evaluate how societies answer the three basic economic questions: what goods and services to produce, how to produce them, and for whom are they produced.~~

~~(A) Compare the world's basic economic systems of market (free enterprise), command, and mixed market economies identifying countries that have adopted each and comparing and contrasting the results those economic systems have produced in those countries as measured by GDP, national prosperity, and individual income and wealth.~~

~~(B) Describe the role of the factors of production, land, labor, capital, entrepreneurship, and technology in economic systems.~~

~~(3) **Content Standard 3.** The student will explain how prices are set in a market economy using supply and demand graphs and will determine how price provides incentives to buyers and sellers.~~

~~(A) Analyze how price and non-price factors affect the demand and supply of goods and services available in the marketplace.~~

~~(B) Explain what causes shortages and surpluses including government imposed price floors, price ceilings, and other government regulations and the impact they have on prices and people's decisions to buy or sell.~~

~~(4) **Content Standard 4.** The student will evaluate how changes in the level of competition in different markets affect prices.~~

~~(A) Explain how competition impacts the free market including the concepts that competition among sellers lowers costs and prices while encouraging increased production and competition among buyers increases prices and the allocation of goods and services to consumers willing and able to pay higher prices.~~

~~(B) Explain how people's own self-interest, incentives and disincentives influence market decisions.~~

~~(5) **Content Standard 5.** The student will describe the role of economic institutions including banks, labor unions, corporations, governments, and not-for-profits in a market economy.~~

~~(A) Evaluate the impact of government ensuring the protection of private property rights and the rule of law in a market economy.~~

~~(B) Describe how banks match savers with borrowers and allow people to pool their incomes and provide future income through investing in stocks.~~

~~(C) Identify how labor unions, corporations, and not-for-profits influence a market economy.~~

~~(6) **Content Standard 6.** The student will analyze how money makes it easier to trade, borrow, save, invest, and compare the value of goods and services.~~

~~(A) Explain how individuals, businesses and the overall economy benefit from using and saving money.~~

~~(B) Identify the components of the money supply, the different functions of money, and give examples of each.~~

~~(C) Explain how the value of money is determined by the goods and services it can buy.~~

~~(7) **Content Standard 7.** The student will evaluate how interest rates impact decisions in the market economy.~~

~~(A) Analyze the relationship between interest rates and inflation rates.~~

~~(B) Determine how changes in real interest rates impact people's decisions to borrow money and purchase goods in a market economy.~~

~~(8) **Content Standard 8.** The student will analyze the role of entrepreneurs in a market economy.~~

~~(A) Analyze the potential risks and potential gains of entrepreneurs opening new businesses or inventing a new product, and determine the financial and non-financial incentives that motivate them.~~

~~(B) Identify an entrepreneur and describe how his/her decisions affect job opportunities for others.~~

~~(9) **Content Standard 9.** The student will evaluate the economic role of government in a market economy.~~

~~(A) Explain the role that government has in dealing with issues such as poverty, pollution, and medical research.~~

~~(B) Describe the costs and benefits of government assistance programs, education, and other government funded services and projects.~~

~~(10) **Content Standard 10.** The student will examine current economic conditions in the United States.~~

~~(A) Determine how interest rates, unemployment, Consumer Price Index (CPI), individual savings and debt, government debt, labor supply, and inflation impact current economic conditions in the United States.~~

~~(B) Explain how these conditions have an impact on consumers, producers, and government policy-makers.~~

~~(11) **Content Standard 11.** The student will identify Gross Domestic Product (GDP) and Gross National Product (GNP) as basic measures of a nation's economic output and income.~~

~~(A) Explain GDP and GNP and how they are used to describe economic output over time and compare the GDP of various countries representing free-market, command, and mixed economies.~~

~~(B) Describe the impact on the economy when GDP and GNP are growing or declining.~~

~~(12) **Content Standard 12.** The student will explain the role of inflation and unemployment in an economic system.~~

~~(A) Define inflation and determine how it is measured and the impact it has on different sectors of the United States economy.~~

~~(B) Define the different types of unemployment and determine how it is measured and the impact it has on different sectors of the United States economy.~~

~~(13) **Content Standard 13.** The student will identify the potential economic impact of policy changes by the Federal Reserve and the federal government.~~

~~(A) Compare and contrast fiscal and monetary policy and their impact on the economy.~~

~~(B) Evaluate the conditions under which the federal government and the Federal Reserve implement expansionary or contractionary policies.~~

210:15-3-100.1. Oklahoma History and Government - The Foundation, Formation, and Transformation of the State of Oklahoma [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Process and Literacy Standard 1.** Reading Skills. The student will develop and demonstrate social studies Common Core reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.~~

~~(C) Analyze in detail a series of events described in a text; determine whether earlier events caused later ones or simply preceded them.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.~~

~~(B) Analyze how a text uses structure to emphasize key points or advance an explanation or analysis~~

~~(C) Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate quantitative or technical analysis (e.g., charts, research data) with qualitative analysis in print or digital text.~~

~~(B) Assess the extent to which the reasoning and evidence in a text support the author's claims.~~

~~(C) Compare and contrast treatments of the same topic in several primary and secondary sources.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 10, read and comprehend history/social studies texts in the grades 9–10 text complexity band independently and proficiently.~~

~~(b) **Process and Literacy Standard 2: Writing Skills.** The student will develop and demonstrate Common Core social studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline-specific content*.~~

~~(i) Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among the claim(s), counterclaims, reasons, and evidence.~~

~~(ii) Develop claim(s) and counterclaims fairly, supplying data and evidence for each while pointing out the strengths and limitations of both claim(s) and counterclaims in a discipline appropriate form and in a manner that anticipates the audience's knowledge level and concerns.~~

~~(iv) Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.~~

~~(v) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(vi) Provide a concluding statement or section that follows from or supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic and organize ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.~~

~~(iii) Use varied transitions and sentence structures to link the major sections of the text, create cohesion, and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to manage the complexity of the topic and convey a style appropriate to the discipline and context as well as to the expertise of likely readers.~~

~~(v) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.~~

~~(C) Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.~~

~~(B) Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.~~

~~(C) Draw evidence from informational texts to support analysis, reflection, and research.~~

~~(4) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will describe the state's geography and the historic foundations laid by Native American, European, and American cultures.~~

~~(A) Integrate visual information to identify and describe the significant physical and human features including major trails, railway lines, waterways, cities, ecological regions, natural resources, highways, and landforms.~~

~~(B) Summarize the accomplishments of prehistoric cultures including the Spiro Mound Builders.~~

~~(C) Compare and contrast the goals and significance of early Spanish, French, and American expeditions including the impact of disease, interactions with Native Americans, and the arrival of the horse and new technologies.~~

~~(D) Compare and contrast cultural perspectives of Native Americans and European Americans regarding land ownership and trading practices.~~

~~(2) **Content Standard 2.** The student will evaluate the major political and economic events that transformed the land and its people prior to statehood.~~

~~(A) Summarize and analyze the role of river transportation to early trade and mercantile settlements including Chouteau's Trading Post at Three Forks.~~

~~(B) Describe the major trading and peacekeeping goals of early military posts including Fort Gibson.~~

~~(C) Integrate visual and textual evidence to explain the reasons for and trace the migrations of Native American peoples including the Five Tribes into present day Oklahoma, the *Indian Removal Act of 1830*, and tribal resistance to the forced relocations.~~

~~(D) Summarize the impact of the Civil War and Reconstruction Treaties on Native American peoples, territories, and tribal sovereignty including the~~

~~(i) Required enrollment of the Freedmen,~~

~~(ii) Second Indian Removal and the role of the Buffalo Soldiers,~~

~~(iii) Significance of the Massacre at the Washita,~~

~~(iv) Reasons for the reservation system, and~~

~~(v) Establishment of the western military posts of Fort Sill, Fort Supply, and Fort Reno.~~

~~(E) Cite specific textual and visual evidence to assess the impact of the cattle and coal mining industries on the location of railroad lines, transportation routes, and the development of communities.~~

~~(F) Analyze the influence of the idea of Manifest Destiny on the Boomer Movement including the official closing of the frontier in 1890.~~

~~(G) Compare and contrast multiple points of view to evaluate the impact of the *Dawes Act* which resulted in the loss of tribal communal lands and the redistribution of lands by various means including land runs as typified by the Unassigned Lands and the Cherokee Outlet, lotteries, and tribal allotments.~~

~~(3) **Content Standard 3.** The student will analyze the formation and development of constitutional government in Oklahoma.~~

~~(A) Compare and contrast the development of governments among the Native American tribes, the movement for the state of Sequoyah, the proposal for an all Black state, and the impact of the *Enabling Acton* single statehood.~~

~~(B) Describe and summarize attempts to create a state constitution joining Indian and Oklahoma Territories including the impact of the Progressive and Labor Movements resulting in statehood on November 16, 1907.~~

~~(C) Compare and contrast Oklahoma's state government to the United States' national system of government including the branches of government, their functions, and powers.~~

~~(D) Describe the division, function, and sharing of powers among levels of government including city, county, tribal, and state.~~

~~(E) Identify major sources of local and state revenues and the services provided including education, infrastructure, courts, and public safety.~~

~~(F) Describe state constitutional provisions including the direct primary, initiative petition, referendum, and recall.~~

~~(4) **Content Standard 4.** The student will examine the transformation of Oklahoma during times of boom and bust of the 1920s through the 1940s.~~

~~(A) Compare and contrast the successes and failures of the United States policy of assimilation of the Native Americans in Oklahoma including the passage of the *Indian Citizenship Act of 1924* and the effects of the Indian boarding schools (1880s-1940s) upon Native Americans' identity, culture, traditions, and tribal government and sovereignty.~~

~~(B) Examine multiple points of view regarding the historic evolution of race relations in Oklahoma including *Senate Bill 1* establishing Jim Crow laws, the growth of all-Black towns, the Tulsa Race Riot, and the resurgence of the Ku Klux Klan.~~

~~(C) Summarize the impact of the national Socialist movement and organized labor on various segments of Oklahoma society including agriculture, mining, and state politics.~~

~~(D) Examine how the economic cycles of boom and bust of the oil industry affected major sectors of employment, mining, and the subsequent development of communities, as well as the role of entrepreneurs including J.J. McAlester, Frank Phillips, E.W. Marland, and Robert S. Kerr.~~

~~(E) Cite specific textual and visual evidence to evaluate the impact of the boom and bust cycle of Oklahoma's agricultural production as a response to the needs of World War I, and its effect as a precursor of the Great Depression.~~

~~(F) Cite specific textual and visual evidence of the environmental conditions and the impact of human mismanagement of resources resulting in the Dust Bowl including the migration of the Okies, the national perceptions of Oklahomans as shaped by *The Grapes of Wrath*, and the New Deal policies regarding conservation of natural resources.~~

~~(G) Describe the contributions of Oklahomans in 1920s and 1930s including Deep Deuce and African-American jazz musicians, Will Rogers's and Woody Guthrie's political and social commentaries, Wiley Post's aviation milestones, and the artwork of the Kiowa Six (formerly the Kiowa Five).~~

~~(H) Summarize and analyze the impact of mobilization for World War II including the establishment of military bases and prisoner of war installations and the contributions of Oklahomans to the war effort including the Native American code talkers and the 45th Infantry Division.~~

~~(5) **Content Standard 5.** The student will investigate how post-war social, political, and economic events continued to transform the state of Oklahoma during the 1950s through the present.~~

~~(A) Cite specific textual and visual evidence to evaluate the progress of race relations and actions of civil disobedience in the state including the~~

~~(i) Judicial interpretation of the equal protection clause of the *14th Amendment* which ultimately resulted in the desegregation of public facilities, and public schools and universities,~~

~~(ii) Landmark Supreme Court cases of *Sipuel v. Board of Regents of the University of Oklahoma (1948)* and *McLaurin v. Oklahoma Board of Regents for Higher Education (1950)*,~~

~~(iii) Lunch counter sit-ins organized by Clara Luper and the NAACP, and (iv) Leadership of Governor Gary in the peaceful integration of the public common and higher education systems.~~

~~(B) Analyze the impact of economic growth in various sectors including the~~

~~(i) Impact of rural to urban migration,~~

~~(ii) Development of water and timber resources,~~

~~(iii) Emergence of the tourism as an industry,~~

~~(iv) Discovery of new fossil fuel resources, Tulsa's designation as Oil Capital of the World, and the opening of the Anadarko Basin, and~~

~~(v) Improvement of the state's transportation infrastructures and the Kerr-McClellan Navigation System.~~

~~(C) Cite specific textual and visual evidence to describe the artistic contributions of Oklahomans in the fields of music, art, literature, theater and dance including Ralph Ellison and the Five Indian Ballerinas as well as the perceptions of Oklahoma by the rest of the nation because of the musical *Oklahoma*.~~

~~(D) Summarize the impact of Oklahoma's leadership on state and national politics including the rise of viable two-party elections, Governor Henry Bellmon, and United States Representative Carl Albert.~~

~~(E) Analyze the evolving relationship between state and tribal governments impacting tribal self-determination and control over Native American lands and resources including issues of joint jurisdiction, taxation, and gaming.~~

~~(F) Cite specific textual and visual evidence to analyze the oil and gas boom of the 1970s and the subsequent bust of the energy industry during the 1980s including the impact of the Penn Square Bank Collapse on the state's economy, employment, and banking.~~

~~(G) Describe the contemporary role the state's agriculture plays in feeding the nation and the world including the wheat, corn, cattle, pork, and chicken industries.~~

~~(H) Explain the leadership of Oklahoma and its people in the field of aeronautics including the Federal Aviation Administration, NASA space program, and the influence of weather research on national disaster preparedness.~~

~~(I) Examine major cultural and ethnic groups' contributions to the social and economic transformation of the modern state of Oklahoma.~~

~~(J) Cite specific textual and visual evidence to analyze the causes and effects of the domestic terrorist attack on the Murrah Federal Building in Oklahoma City including the responses of Oklahomans to the event, the concept of the "Oklahoma Standard," and the creation of the Oklahoma City National Memorial and Museum.~~

210:15-3-100.2. High School Psychology: Foundations and Formation of Human Development [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Process and Literacy Standard 1.** Reading Skills. The student will develop and demonstrate social studies Common Core reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.~~

~~(C) Analyze in detail a series of events described in a text; determine whether earlier events caused later ones or simply preceded them.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.~~

~~(B) Analyze how a text uses structure to emphasize key points or advance an explanation or analysis.~~

~~(C) Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate quantitative or technical analysis (e.g., charts, research data) with qualitative analysis in print or digital text.~~

~~(B) Assess the extent to which the reasoning and evidence in a text support the author's claims.~~

~~(C) Compare and contrast treatments of the same topic in several primary and secondary sources.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 10, read and comprehend history/social studies texts in the grades 9–10 text complexity band independently and proficiently.~~

~~(b) **Process and Literacy Standard 2: Writing Skills.** The student will develop and demonstrate Common Core social studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline-specific content*.~~

~~(i) Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among the claim(s), counterclaims, reasons, and evidence.~~

~~(ii) Develop claim(s) and counterclaims fairly, supplying data and evidence for each while pointing out the strengths and limitations of both claim(s) and counterclaims in a discipline-appropriate form and in a manner that anticipates the audience's knowledge level and concerns.~~

~~(iii) Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.~~

~~(iv) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(v) Provide a concluding statement or section that follows from or supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic and organize ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.~~

~~(iii) Use varied transitions and sentence structures to link the major sections of the text, create cohesion, and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to manage the complexity of the topic and convey a style appropriate to the discipline and context as well as to the expertise of likely readers.~~

~~(v) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.~~

~~(C) Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.~~

~~(B) Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.~~

~~(C) Draw evidence from informational texts to support analysis, reflection, and research.~~

~~(4) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will examine the foundations of psychology and its origins as a separate social science discipline.~~

~~(A) Analyze the definition of psychology in the context of psychology as an empirical science and the major approaches to psychology including behavioral, psychoanalytical, cognitive, and humanistic.~~

~~(B) Evaluate the origins of psychology based on significant historic figures including Wilhelm Wundt, William James, John B. Watson, Carl Jung, and Karen Horney.~~

~~(C) Classify the various subfields in psychology including vocational applications such as counseling, industrial, clinical, experimental, and educational psychology.~~

~~(2) **Content Standard 2.** The student will examine the development of psychology as an empirical science by describing the scientific method, explaining research strategies and identifying ethical issues.~~

~~(A) Describe the scientific method as the framework for research and apply the principles of research design to an appropriate experiment.~~

~~(B) Compare and contrast quantitative and qualitative research strategies including experiments, surveys, focus groups, and narratives as the foundation of research in psychology.~~

~~(C) Identify ethical standards psychologists must address regarding research with human and non-human participants.~~

~~(D) Explore the various modes of psychological testing including personality, intelligence, and projective while assessing the reliability of each.~~

~~(3) **Content Standard 3.** The student will investigate the structure, biochemistry and circuitry of the brain and the nervous system to understand their roles in affecting behavior.~~

~~(A) Identify and describe the structure and function of the brain including the hypothalamus, prefrontal lobe, corpus callosum, hemispheres, and amygdala.~~

~~(B) Examine the structure and function of the nervous and endocrine system and how they affect behavior.~~

~~(C) Identify the parts of a neuron and explain neurotransmission including the role and impact of various neurotransmitters.~~

~~(D) Explain the processes of sensation and perception, as well as the capabilities and limitations of sensory processes including the visual, auditory, kinesthetic, olfactory, and gustatory sensory systems.~~

~~(E) Describe the interaction of a person and the environment in determining perception including Gestalt principles and how one's experiences and expectations influence perception.~~

~~(F) Identify various states of consciousness including sleep and dreams, hypnosis, meditation, and psychoactive drugs.~~

~~(4) **Content Standard 4.** The student will analyze physical, social, emotional, moral, and cognitive development from conception through the latter stages of adulthood.~~

~~(A) Explain the interaction of environmental and biological factors in human development including the role of the brain in all aspects of development.~~

~~(B) Compare the theories of Jean Piaget, Sigmund Freud, Lawrence Kohlberg, and Erik Erikson regarding human development.~~

~~(5) **Content Standard 5.** The student will understand how organisms adapt to their environment through learning and cognition.~~

~~(A) Identify and explain the major theories of learning including Ivan Pavlov's classical conditioning, B. F. Skinner's Operant conditioning, and Albert Bandura's observational learning.~~

~~(B) Describe the process, organization, and factors that influence memory and recall.~~

~~(C) Analyze strategies and impediments involved in problem solving and decision making and how this knowledge could be applied to daily life.~~

~~(6) **Content Standard 6.** The student will understand the principles of motivation and emotion.~~

~~(A) Compare the predominant theories of motivation and emotion including the biological, social-cognitive, humanistic, and cultural theories.~~

~~(B) Analyze the biological and environmental influences on positive and negative emotion.~~

~~(7) **Content Standard 7.** The student will understand how society and culture influence a person's behavior and mental processes.~~

~~(A) Evaluate the factors that lead to conformity, obedience, and nonconformity as demonstrated in experiments including the Stanford Prison Experiment, Milgram Experiment, or Solomon Asch's studies.~~

~~(B) Explain how bias, discrimination, and use of stereotypes influence behavior with regard to gender, race, sexual orientation, and ethnicity as demonstrated in the studies of the Brown-Eyed/Blue-Eyed Experiment and the Clark Doll Experiment.~~

~~(C) Examine influences on aggression and conflict including the factors associated with the bystander effect as demonstrated in such cases as the Kitty Genovese murder.~~

~~(8) **Content Standard 8.** The student will examine how psychological disorders are diagnosed, classified, and treated.~~

~~(A) Analyze the methods of determining abnormal behavior and the tools used to diagnose and classify disorders.~~

~~(B) Describe symptoms and causes of major categories of psychological disorders including schizophrenic, mood, anxiety, personality, somatoform, and dissociative disorders.~~

~~(C) Compare available treatment options and how they evolved through history and among different cultures.~~

~~(9) **Content Standard 9:** The student will evaluate the many factors that promote mental health.~~

~~(A) Identify and explain potential sources of stress, effects of stress, and various coping strategies for dealing with stress.~~

~~(B) Describe the characteristics of and factors that promote resilience and optimism.~~

~~(C) Analyze the relationship between psychological health and physiological health.~~

210:15-3-100.3. High School Sociology: Formations and Patterns of Group Behavior [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Process and Literacy Standard 1.** Reading Skills. The student will develop and demonstrate social studies Common Core reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.~~

~~(C) Analyze in detail a series of events described in a text; determine whether earlier events caused later ones or simply preceded them.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.~~

~~(B) Analyze how a text uses structure to emphasize key points or advance an explanation or analysis.~~

~~(C) Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate quantitative or technical analysis (e.g., charts, research data) with qualitative analysis in print or digital text.~~

~~(B) Assess the extent to which the reasoning and evidence in a text support the author's claims.~~

~~(C) Compare and contrast treatments of the same topic in several primary and secondary sources.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 10, read and comprehend history/social studies texts in the grades 9–10 text complexity band independently and proficiently.~~

~~(b) **Process and Literacy Standard 2: Writing Skills.** The student will develop and demonstrate Common Core social studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline-specific content*.~~

~~(i) Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among the claim(s), counterclaims, reasons, and evidence.~~

~~(ii) Develop claim(s) and counterclaims fairly, supplying data and evidence for each while pointing out the strengths and limitations of both~~

~~claim(s) and counterclaims in a discipline appropriate form and in a manner that anticipates the audience's knowledge level and concerns.~~

~~(iii) Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.~~

~~(iv) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(v) Provide a concluding statement or section that follows from or supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic and organize ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.~~

~~(iii) Use varied transitions and sentence structures to link the major sections of the text, create cohesion, and clarify the relationships among ideas and concepts~~

~~(iv) Use precise language and domain-specific vocabulary to manage the complexity of the topic and convey a style appropriate to the discipline and context as well as to the expertise of likely readers.~~

~~(v) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.~~

~~(C) Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.~~

~~(B) Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.~~

~~(C) Draw evidence from informational texts to support analysis, reflection, and research.~~

~~(4) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will recognize sociology as a social science, identify methods and strategies of research, and examine the contributions of sociology to the understanding of social issues.~~

~~(A) Describe the development of the field of sociology as a social science.~~

~~(B) Identify the contributions of leading theorists within sociology including Auguste Comte, Emile Durkheim, Harriet Martineau, Herbert Spencer, Max Weber, C. Wright Mills, Karl Marx, and W.E.B. Dubois.~~

~~(C) Evaluate different sociological research methods including participant observation, natural observation, library research, questionnaires, experiments, interviews, and case studies.~~

~~(D) Conduct research on an issue using the scientific method of inquiry including developing a hypothesis, gathering and interpreting data, and drawing conclusions.~~

~~(2) **Content Standard 2.** The student will examine the influence of culture and the way cultural transmission is accomplished.~~

~~(A) Examine how relationships, structures, patterns, and processes influence culture.~~

~~(B) Recognize the key components of a culture including knowledge, language and communication, customs, values, and physical artifacts.~~

~~(C) Explain the differences between a culture and a society.~~

~~(D) Analyze the influences of genetic inheritance and culture on human behavior including the debate over nature versus nurture.~~

~~(E) Compare and contrast various subcultures including counter culture, pop culture, ethnic cultures, and religious cultures.~~

~~(F) Describe factors that have led to cultural diversity within the United States.~~

~~(3) **Content Standard 3.** The student will identify how social status influences individual and group behaviors.~~

~~(A) Describe how social status affects social order including upper class, middle class, lower class, white collar professionals, blue collar workers, and the unemployed.~~

~~(B) Recognize how role expectations can lead to conflict including gender, age, racial groups, and ethnic groups within different societies.~~

~~(4) **Content Standard 4.** The student will examine how social groups are composed of people who share common characteristics including interests, beliefs, behaviors, and feelings.~~

~~(A) Examine why individuals become members of or associate with different social groups.~~

~~(B) Compare and contrast various types of norms including folkways, mores, laws, and taboos, and explain why rules of behavior are considered important to society.~~

~~(C) Evaluate the characteristics of primary groups including small size, intimate settings, and enduring relationships and how members' behaviors are influenced by the primary groups.~~

~~(D) Evaluate the characteristics of secondary groups including less permanence, less personal, and having a special purpose, and how members' behaviors are influenced by the secondary groups.~~

~~(E) Investigate stereotypes of different groups including gangs, baby boomers, immigrants, and the homeless.~~

~~(5) **Content Standard 5:** The student will identify the effects of social institutions on individual and group behavior, and how these institutions influence the development of the individual.~~

~~(A) Analyze the impact of social institutions on individuals, groups, and organizations within society, and how these institutions transmit the values of society including familial, religious, educational, economic, and political.~~

~~(B) Examine rites of passage within various social institutions including religious ceremonies, school proms, *quinceañeros*, graduation, marriage, and retirement.~~

~~(C) Define ethnocentrism and xenophobia, and analyze how they can be beneficial or destructive to a culture.~~

~~(6) **Content Standard 6.** The student will examine social change over time and the various factors that lead to these changes.~~

~~(A) Examine environmental, political, economic, scientific, and technological influences upon immediate and long-term social change.~~

~~(B) Describe how collective behavior can influence and change society including sit-ins, organized demonstrations, and the use of social media.~~

~~(7) **Content Standard 7.** The student will analyze social problems that affect large numbers of people or result from imbalances within a social system.~~

~~(A) Distinguish between characteristics of a social problem as compared to an individual problem.~~

~~(B) Analyze patterns of behavior found within social problems and their implications for society including juvenile crime, drug addiction, and long-term unemployment.~~

~~(C) Examine individual and group response and potential resolutions to social problems as well as the consequences of such solutions.~~

~~(8) **Content Standard 8.** The student will explore both individual and collective behavior.~~

~~(A) Describe the traditions, roles, and expectations necessary for a society to continue and flourish.~~

~~(B) Examine factors that can lead to the breakdown and disruption of a society.~~

~~(C) Differentiate the impact of individual leaders of different social and political movements including Mohandas K. Gandhi, Adolf Hitler, Dr. Martin Luther King, Jr., Osama Bin Laden, and Susan B. Anthony.~~

~~(D) Interpret how social behavior is influenced by propaganda, the news media, and advertising.~~

~~(E) Investigate the impact of rumor, gossip, and other inaccurate communications upon group behavior.~~

210:15-3-101.1. United States government - freedom for all: securing rights and defining responsibilities [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Process and Literacy Standard 1.** Reading Skills. The student will develop and demonstrate social studies Common Core reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.~~

~~(C) Analyze in detail a series of events described in a text; determine whether earlier events caused later ones or simply preceded them.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.~~

~~(B) Analyze how a text uses structure to emphasize key points or advance an explanation or analysis.~~

~~(C) Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate quantitative or technical analysis (e.g., charts, research data) with qualitative analysis in print or digital text.~~

~~(B) Assess the extent to which the reasoning and evidence in a text support the author's claims.~~

~~(C) Compare and contrast treatments of the same topic in several primary and secondary sources.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 10, read and comprehend history/social studies texts in the grades 9–10 text complexity band independently and proficiently.~~

~~(b) **Process and Literacy Standard 2: Writing Skills.** The student will develop and demonstrate Common Core social studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline specific content*.~~

~~(i) Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among the claim(s), counterclaims, reasons, and evidence.~~

~~(ii) Develop claim(s) and counterclaims fairly, supplying data and evidence for each while pointing out the strengths and limitations of both claim(s) and counterclaims in a discipline appropriate form and in a manner that anticipates the audience's knowledge level and concerns.~~

~~(iii) Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.~~

~~(iv) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(v) Provide a concluding statement or section that follows from or supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic and organize ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.~~

~~(iii) Use varied transitions and sentence structures to link the major sections of the text, create cohesion, and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to manage the complexity of the topic and convey a style appropriate to the discipline and context as well as to the expertise of likely readers.~~

~~(v) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.~~

~~(C) Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.~~

~~(B) Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.~~

~~(C) Draw evidence from informational texts to support analysis, reflection, and research.~~

~~(4) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time~~

~~frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will compare the formation of contemporary governments in terms of access, use, and justification of power.~~

~~(A) Contrast the essential characteristics of limited versus unlimited governments with an understanding that the United States' constitutional system establishes legal restraints on governmental power.~~

~~(B) Cite specific textual evidence to compare and contrast historic and contemporary examples of unlimited governments, known as authoritarian or totalitarian systems including dictatorships, theocracies, and absolute monarchies to examples of limited systems including direct democracies, representative democracies, constitutional monarchies, and republics.~~

~~(C) Summarize and explain how the American system is a representative republic in which the citizenry is sovereign.~~

~~(D) Compare the advantages and disadvantages of the major ways governmental power is distributed, shared, and structured in unitary, federal, and confederal systems in terms of effectiveness, prevention of abuse of power, and responsiveness to the popular will.~~

~~(E) Compare and contrast the property and due process rights in the United States free market economy which are protected by the *United States Constitution* to the restricted property and due process rights existing/non-existing under command economic systems.~~

~~(2) **Content Standard 2.** The student will describe the historic and philosophical foundations of the United States republican system of government.~~

~~(A) Cite specific textual evidence and compare points of view to examine the philosophical contributions of the Enlightenment including the writings of Montesquieu, Locke, and Thomas Jefferson; the early experiences of colonial self-government; and the influence of religious texts including *The Bible* to the foundation of the American political thought.~~

~~(B) Cite specific textual evidence and summarize the impact of major historic events of the Revolutionary Era and major documents contributing to the formation of constitutional government in the United States including the *Mayflower Compact* (1620), the *Fundamental Orders of Connecticut*(1639), the *English Bill of Rights* (1689), the *Albany Plan of Union* (1754), the *Virginia Declaration of Rights* (1776), the *Articles of Confederation* (1781), and the colonial/revolutionary writings of Patrick Henry, Thomas Paine, and James Otis.~~

~~(C) Determine the central ideas and importance of the concept of inalienable rights, the social contract or compact, the 27 grievances as stated in the *Declaration of Independence*, and the discussions of enumerated versus implied powers; and cite specific textual and visual to evidence explain how the protection of these rights were incorporated in the *United StatesConstitution* and the federal *Bill of Rights* as a fundamental purpose of the government.~~

~~(D) Evaluate the necessity for a written constitution to set forth the organization or government and to distribute powers among the three different branches government and the states, or the people.~~

~~(E) Analyze the events and major conflicts, beliefs, and arguments which led to the addition of the *Bill of Rights* to the *United States Constitution*; and compare the points of view as expressed in *Federalist PapersNumber 10 and Number 51* and the writings of the Anti-Federalists including Patrick Henry and George Mason.~~

~~(F) Analyze the steps of the constitutional amendment process including examples of recent attempts to amend the *United States Constitution* as exemplified in the issues of the *Equal Rights Amendment* and flag desecration.~~

~~(3) **Content Standard 3.** The student will analyze the fundamental principles of the American system of government.~~

~~(A) Explain the concept of popular sovereignty as exercised by the nation's people who possess the ultimate source of authority.~~

~~(B) Examine the American system of federalism and evaluate the changes that have occurred in the relationship between the states and the national government over time.~~

~~(C) Analyze the enumerated powers delegated to the federal government by the states in the *United States Constitution*, the limits placed on the powers of the national government, and the powers of the states including the reserved and concurrent powers.~~

~~(D) Summarize and explain the relationships and the responsibilities between national and state governments including tribal and local governments.~~

~~(E) Cite specific textual evidence and summarize how power is separated as well as shared under the American system including the separation of powers and checks and balance, which is designed to prevent abuse of power by any government body at the local, state, tribal, and federal levels.~~

~~(F) Evaluate the importance of the rule of law and on the sources, purposes, and functions of government, and explain how the rule of law provides for the protection of individual liberties, public order, management of conflict, and assurance of domestic and national security.~~

~~(G) Analyze the United States government's responsibility to protect minority rights while legitimizing majority rule including the rights of due process and equality under the law.~~

~~(H) Cite specific textual evidence and compare points of view regarding the shared values and ideals of American political culture as set forth in basic documents and speeches including the *Declaration of Sentiments*, Abraham Lincoln's *Gettysburg Address*, Franklin Roosevelt's *Four Freedoms* speech, and Dr. Martin Luther King, Jr.'s *Letter From Birmingham Jail*.~~

~~(4) **Content Standard 4.** The student will examine the *United States Constitution* by comparing the legislative, executive, and judicial branches of government as they form and transform American society.~~

~~(A) Cite specific textual evidence to explain the purposes expressed in the *Preamble* and how the *United States Constitution* preserves those core principles of American society.~~

~~(B) Examine the makeup, organization, functions, and authority exercised by the executive, legislative, and judicial branches of government.~~

~~(i) Identify constitutional qualifications for holding public office, the terms of office, and the expressed powers delegated to each branch of the national government including the numbers of members comprising the United States Congress and United States Supreme Court.~~

~~(ii) Evaluate the extent to which each branch of government reflects the people's sovereignty including current issues concerning representation such as term limitations and legislative redistricting.~~

~~(iii) Describe the process in which public policy is formulated into law including both the constitutional and operational procedures utilized in the modern legislative process.~~

~~(iv) Explain why certain provisions of the *United States Constitution* result in tensions among the three branches, and evaluate how the functions of the national government have changed over time through executive actions and judicial interpretation of the necessary and proper clause.~~

~~(v) Compare and contrast the structure of the national branches of government to Oklahoma's state government.~~

~~(vi) Apply the principles of limited government, federalism, checks and balances, and separation of powers to the workings of the three branches of government in real-world situations including current issues and events.~~

~~(vii) Identify the issues behind and explain the changes resulting from landmark United States Supreme Court decisions including *Marbury v. Madison* (1803), *McCulloch v. Maryland* (1819),*Plessy v. Ferguson (1896), Brown v. Board of Education of Topeka, Kansas* (1954), *Mapp v. Ohio* (1961), *Engel v. Vitale* (1962), *Miranda v. Arizona* (1966), *Furman v. Georgia* (1972), *Roe v. Wade* (1973), *United States v. Nixon* (1974), and *Bush v. Gore* (2000).~~

~~(C) Analyze steps of the political process and its role in the United States' representative government.~~

~~(i) Evaluate the role of political parties, interest groups including organized labor and the media in influencing the public agenda, public opinion, and the actions of government.~~

~~(ii) Describe the electoral process including the components of national campaigns, the nominative process, campaign funding, and the Electoral College.~~

~~(D) Explain the role of the national government in formulating and carrying out domestic policy.~~

~~(i) Identify major sources of revenues for the federal government and how revenue is budgeted.~~

~~(ii) Analyze significant policy issues and how they reflect the nation's interests and principle including entitlements and environmental concerns.~~

~~(E) Investigate the role government plays in the growth and stability of the economy including the inseparable relationship between political and economic freedoms.~~

~~(i) Describe the steps of the budget process including examples of economic trade-offs that occur when addressing competing public needs.~~

~~(ii) Determine how the government influences economic growth by using the tools of fiscal and monetary policy.~~

~~(iii) Explain how legislation, executive departments, and regulatory agencies affect both economic sectors and individual citizens.~~

~~(F) Summarize and explain the major responsibilities of the national government in formulating and carrying out foreign policy.~~

~~(i) Evaluate the effectiveness of cooperative efforts exercised through international alliances and organizations from the perspective of the United States including the United Nations, the North Atlantic Treaty Organization, and the *North American Free Trade Agreement*.~~

~~(ii) Examine issues of national sovereignty and human rights on contemporary decisions of foreign policy.~~

~~(5) **Content Standard 5.** Students will be able to evaluate the significance of civic participation in order to insure the preservation of constitutional government.~~

~~(A) Distinguish between civic life and private life by defining civic virtue and explaining the individual's duty and responsibility to participate in civic life by voting, serving on juries, volunteering within the community, running for office, serving on a political campaign, paying taxes for governmental services, and respecting lawful authority.~~

~~(B) Analyze how the structures of government provide citizens opportunities to monitor and influence the actions of the government and hold elected officials accountable.~~

~~(C) Evaluate historic and contemporary examples of American citizens who have attempted to make the values and principles of the *United States Constitution* a reality.~~

~~(i) Analyze the rights and liberties guaranteed to all citizens in and protected by the *Bill of Rights*, how they are applied and protected within the states through the *14th Amendment*, and sustained through the actions of individual citizens.~~

~~(ii) Explain the impact on American politics, both historically and presently, of the racial, religious, socioeconomic, and ethnic diversity of American society including the importance of adhering to constitutional values in managing conflicts over diversity.~~

210:15-3-102.2. United States History - Creating the United States: The American Nation in Transformation, 1878 to the Present [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Process and Literacy Standard 1.** Reading Skills. The student will develop and demonstrate social studies Common Core reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.~~

~~(C) Analyze in detail a series of events described in a text; determine whether earlier events caused later ones or simply preceded them.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.~~

~~(B) Analyze how a text uses structure to emphasize key points or advance an explanation or analysis.~~

~~(C) Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate quantitative or technical analysis (e.g., charts, research data) with qualitative analysis in print or digital text.~~

~~(B) Assess the extent to which the reasoning and evidence in a text support the author's claims.~~

~~(C) Compare and contrast treatments of the same topic in several primary and secondary sources.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 10, read and comprehend history/social studies texts in the grades 9-10 text complexity band independently and proficiently.~~

~~(b) **Process and Literacy Standard 2: Writing Skills.** The student will develop and demonstrate Common Core social studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline-specific content*.~~

~~(i) Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among the claim(s), counterclaims, reasons, and evidence.~~

~~(ii) Develop claim(s) and counterclaims fairly, supplying data and evidence for each while pointing out the strengths and limitations of both claim(s) and counterclaims in a discipline appropriate form and in a manner that anticipates the audience's knowledge level and concerns.~~

~~(iii) Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.~~

~~(iv) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(v) Provide a concluding statement or section that follows from or supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic and organize ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.~~

~~(iii) Use varied transitions and sentence structures to link the major sections of the text, create cohesion, and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to manage the complexity of the topic and convey a style appropriate to the discipline and context as well as to the expertise of likely readers.~~

~~(v) Establish and maintain a formal style and objective tone while attending to the norms and~~

~~conventions of the discipline in which they are writing.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.~~

~~(C) Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.~~

~~(B) Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.~~

~~(C) Draw evidence from informational texts to support analysis, reflection, and research.~~

~~(4) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will analyze the transformation of the United States through its civil rights struggles, immigrant experiences, settlement of the American West, and the industrialization of American society in the Post-Reconstruction through the Progressive Eras, 1865 to 1900.~~

~~(A) Cite specific textual evidence to analyze the post-Reconstruction civil rights struggles.~~

~~(i) Examine the purposes and effects of the *13th, 14th, and 15th Amendments*.~~

~~(ii) Assess the impactof the Black Codes, Jim Crow laws, and the actions of the Ku Klux Klan.~~

~~(B) Integrate specific textual and visual evidence to analyze the impact of Westward Movement and immigration on migration, settlement patterns in American society, economic growth, and Native Americans.~~

~~(i) Summarize the reasons for immigration, shifts in settlement patterns, and the immigrant experience including the *Chinese Exclusion Act*, the impact of Nativism, Americanization, and the immigrant experiences at Ellis Island.~~

~~(ii) Examine the rationale behind federal policies toward Native Americans including the establishment of reservations, attempts at assimilation, the end of the Indian Wars at Wounded Knee, and the impact of the *Dawes Act* on tribal sovereignty and land ownership.~~

~~(iii) Compare the contrasting viewpoints of Native American leadership's resistance to United States Indian policies as evidenced by Red Cloud and his Cooper Union speech, Seattle, Quanah Parker, and Chief Joseph as expressed in his *I Will Fight No More Forever* speech.~~

~~(C) Evaluate the impact of industrialization on the transformation of American society, economy, and politics.~~

~~(i) Analyze the perception of leading industrialists as "robber barons" and as "philanthropists" including John D. Rockefeller and Andrew Carnegie and his *Gospel of Wealth* essay on American society.~~

~~(ii) Identify the impact of new inventions and industrial production methods including new technologies by Thomas Edison, Alexander G. Bell, and the Bessemer process.~~

~~(iii) Evaluate the contributions of muckrakers including Ida Tarbell and Upton Sinclair that changed government policies regarding child labor, working conditions, and the *Sherman Antitrust Act*.~~

~~(iv) Analyze major social reform movements including the Women's Suffrage and Temperance Movements and their significant leaders including Susan B. Anthony, Alice Paul, and Jane Addams.~~

~~(v) Evaluate the significance of the Labor Movement on the organization of workers including the impact of the Pullman strikes, the Haymarket Riot, and the leadership of Eugene V. Debs.~~

~~(vi) Evaluate the rise and reforms of the Progressive Movement including the~~

~~(I) Direct primary, initiative petition, referendum, and recall,~~

~~(II) Impact of William Jennings Bryan and his *Cross of Gold* speech on the: political landscape, and~~

~~(III) Conservation of the environment under the leadership of Theodore Roosevelt.~~

~~(IV) Analyze the series of events leading to and the effects of the *16th, 17th, 18th, 19th, and 21st Amendments* to the *United States Constitution*.~~

~~(vii) Assess and summarize changing race relations as exemplified in the *Plessy v. Ferguson* case.~~

~~(viii) Cite specific textual evidence to compare and contrast early civil rights leadership including the viewpoints of Booker T. Washington, W. E. B. Du Bois, and Marcus Garvey in response to rising racial tensions.~~

~~(2) **Content Standard 2.** The student will analyze the expanding role of the United States in international affairs as America was transformed into a world power in the late 19th and early 20th centuries, 1890 to 1920.~~

~~(A) Cite specific textual and visual evidence to evaluate the impact of American imperialism on international relations and explain its impact on developing nations.~~

~~(i) Compare and contrast the economic, religious, social, and political rationales for American imperialism including the concept of "white man's burden," the annexation of Hawaii, the impact of Admiral Alfred T. Mahan, and the actions of the Anti-Imperialist League.~~

~~(ii) Assess the role of yellow journalism in inciting American desire to go to war with Spain.~~

~~(iii) Examine how the Spanish-American War resulted in the rise of the United States as a world power, and led to new territorial acquisitions and national insurrections in Cuba and the Philippines.~~

~~(iv) Compare and contrast the foreign policies of Presidents Theodore Roosevelt, William Howard Taft, and Woodrow Wilson including Big Stick Diplomacy, Dollar Diplomacy, the *Roosevelt Corollary*, Missionary Diplomacy, military interventionism, and the territorial acquisition and construction of the Panama Canal.~~

~~(v) Analyze and summarize the 1912 presidential election including the key personalities of President William Howard Taft, Theodore Roosevelt, Woodrow Wilson, and Eugene V. Debs; and the key issues of dealing with the trusts, the right of women to vote, and trade tariffs; and the impact of the "Bull Moose Party" on the outcome of the election.~~

~~(B) Evaluate the long-term impact of America's entry into World War I on national politics, the economy, and society.~~

~~(i) Summarize the transformation of the United States from a position of neutrality to engagement in World War I including the *Zimmerman Note* and the threats to international trade caused by unrestricted submarine warfare.~~

~~(ii) Analyze the experiences of the war's home front including the use of propaganda, women's increased role in industry, the marshaling of industrial production, the Great Migration, the institution of a draft, and the suppression of individual liberties resulting in the First Red Scare.~~

~~(iii) Cite specific textual and visual evidence to examine Wilson's foreign policy as proposed in his *Fourteen Points* and the reasons for the nation's return to isolationism including the rejection of the League of Nations.~~

~~(3) **Content Standard 3.** The student will analyze the cycles of boom and bust of the 1920s and 1930s on the transformation of American government, the economy, and society.~~

~~(A) Examine the economic, political, and social transformations between the World Wars.~~

~~(i) Cite specific textual and visual evidence to describe modern forms of cultural expression including the Harlem Renaissance, the Jazz Age, and "talkies" (movies).~~

~~(ii) Describe the rising racial tensions in American society including the resurgence of the Ku Klux Klan, increased lynchings, race riots as typified by the Tulsa Race Riot, and the use of poll taxes and literacy tests to disenfranchise blacks and poor whites.~~

~~(iii) Examine growing labor unrest and industry's reactions including the use of sit-down strikes and court injunctions, and why socialism and communism appealed to labor resulting in the First Red Scare.~~

~~(iv) Describe the booming economy based upon access to and easy credit through installment buying of appliances and inventions of modern conveniences including the automobile.~~

~~(v) Assess the impact of the *Indian Citizenship Act of 1924* upon the various Native American tribes.~~

~~(B) Cite specific textual and visual evidence to analyze the effects of the destabilization of the American economy.~~

~~(i) Identify causes contributing to an unstable economy including the overproduction of agriculture products, greater speculation and buying on margin in the Stock Market, and the government's *laissez faire* policy.~~

~~(ii) Examine the role of the Stock Market Crash and bank failures in weakening both the agricultural and manufacturing sectors of the economy leading to the Great Depression.~~

~~(iii) Analyze how President Herbert Hoover's financial policies and massive unemployment as exemplified by the Bonus Army March and Hoovervilles impacted the presidential election of 1932.~~

~~(C) Cite specific textual and visual evidence to compare points of view regarding the economic and~~

~~social impact of the Great Depression on individuals, families, and the nation.~~

~~(i) Analyze the impact of the New Deal in transforming the federal government's role in domestic economic policies.~~

~~(ii) Assess changing viewpoints regarding the expanding role of government as expressed in President Franklin Roosevelt's *First Inaugural Address* and the *Four Freedoms* speech.~~

~~(iii) Examine how national policies addressed the economic crisis including deficit spending, Roosevelt's court packing plan, and the new federal agencies of the Social Security Administration, Federal Deposit Insurance Corporation, Works Progress Administration, and Tennessee Valley Authority.~~

~~(iv) Cite specific textual and visual evidence to summarize the causes and impact of the Dust Bowl including the government's responses.~~

~~(4) **Content Standard 4.** The student will analyze the United States role in international affairs by examining the major causes, events, and effects of the nation's involvement in World War II, 1933 to 1946.~~

~~(A) Cite specific textual and visual evidence to examine the transformations in American society and government policy as the nation mobilized for entry into World War II.~~

~~(i) Examine the roles of appeasement and isolationism in the United States' reluctance to respond to Fascist military aggression in Europe and Asia including the *Neutrality Acts* and the Lend-Lease Program.~~

~~(ii) Evaluate the mobilization for war as stated in President Roosevelt's *Day Which Will Live in Infamy* speech including the role of women and minorities in the war effort, rationing, the internment of Japanese Americans and the *Korematsu v. United States* decision, and the internment of Americans of German and of Italian descent.~~

~~(B) Cite specific textual and visual evidence to analyze the series of events affecting the outcome of World War II including major battles, military turning points, and key strategic decisions in both the European and Pacific Theaters of operation including Pearl Harbor, the D-Day Invasion, development and use of the atomic bomb, the island-hopping strategy, the Allied conference at Yalta, and the contributions of Generals MacArthur and Eisenhower.~~

~~(C) Summarize American reactions to the events of the Holocaust resulting in United States participation in the Nuremburg Trials, which held Nazi leaders accountable for war crimes.~~

~~(5) **Content Standard 5.** The student will analyze foreign and domestic policies during the Cold War, 1945 to 1975.~~

~~(A) Cite specific textual and visual evidence to analyze the origins of international alliances and efforts at containment of Communism following World War II.~~

~~(i) Identify the origins of Cold War confrontations between the Soviet Union and the United States including the leadership of President Harry Truman, the postwar division of Berlin, the Berlin blockade and Airlift, the fall of the Iron Curtain, and the Marshall Plan.~~

~~(ii) Describe the role of the United States in the formation of the United Nations, NATO and the resulting Warsaw Pact, and the dividing of the political world into the Western and Soviet spheres of influence.~~

~~(iii) Assess the impact and successes of the *Truman Doctrine* including the American military response to the invasion of South Korea.~~

~~(iv) Compare and contrast the domestic and international goals of President Kennedy's administration as expressed in his *Inaugural Address* to the subsequent building of the Berlin Wall, the Bay of Pigs Invasion, the Cuban Missile Crisis, and the establishment of the Peace Corps.~~

~~(B) Cite specific textual and visual evidence to describe events which changed domestic policies during the Cold War and its aftermath.~~

~~(i) Summarize the reasons for the public fear of communist influence within the United States and how politicians capitalized on these threats including the leadership of President Dwight D. Eisenhower, the Army-McCarthy hearings, the Second Red Scare, and the Rosenbergs' spy trials.~~

~~(ii) Examine the impact of the proliferation of nuclear weapons and the resulting nuclear arms race, the concept of brinkmanship, the doctrine of mutually assured destruction (MAD), and the launching of *Sputnik* and the space race.~~

~~(C) Cite specific textual and visual evidence to analyze the series of events and long-term foreign and domestic consequences of the United States' military involvement in Vietnam including the Domino Theory, the *Gulf of Tonkin Resolution*, the Tet Offensive, the presidential election of 1968, university student protests, expanded television coverage of the war, the *War Powers Act*, and the *26th Amendment*.~~

~~(D) Cite specific textual and visual evidence to analyze the major events, personalities, tactics, and effects of the Civil Rights Movement.~~

~~(i) Assess the effects of President Truman's decision to desegregate the United States armed forces, and the legal attacks on segregation by the the cases of Ada Lois Sipuel Fisher and George McLaurin, and the differences between *de jure* and *de facto* segregation.~~

~~(ii) Compare and contrast segregation policies of "separate but equal," disenfranchisement of African Americans through poll taxes, literacy tests, and violence; and the sustained attempts to dismantle segregation including the *Brown v.*~~

~~*Board of Education* decision, Rosa Parks and the Montgomery Bus Boycott, the desegregation of Little Rock Central High School, the Oklahoma City lunch counter sit-ins led by Clara Luper, the Freedom Rides, the March on Washington, the Birmingham church bombing, the adoption of the *24th Amendment*, the passage of the *Civil Rights Act of 1964* and the *Voting Rights Act of 1965*, the Selma to Montgomery marches, and the assassination of Dr. Martin Luther King, Jr.~~

~~(iii) Compare and contrast the view points and the contributions of civil rights leaders and organizations linking them to events of the movement including Dr. Martin Luther King, Jr. and his *I Have a Dream* speech, Malcolm X, NAACP, SCLC, CORE, SNCC, and the tactics used at different times including civil disobedience, non-violent resistance, sit-ins, boycotts, marches, and voter registration drives.~~

~~(iv) Evaluate the effects the Civil Rights Movement had on other contemporaneous social movements including the Women's Liberation Movement, the United Farm Workers and César Chávez, and the American Indian Movement.~~

~~(E) Cite specific textual and visual evidence to analyze the ongoing social and political transformation within the United States.~~

~~(i) Summarize and examine the United States Supreme Court's use of the incorporation doctrine in applying the *Bill of Rights* to the states, thereby securing and further defining individual rights and civil liberties.~~

~~(ii) Assess the lasting impact of President Lyndon Johnson's civil rights initiatives, the war on poverty, and the Great Society.~~

~~(iii) Describe the goals and effectiveness of the Native American movement on tribal identity and sovereignty including the American Indian Movement (AIM) and the Siege at Wounded Knee.~~

~~(iv) Cite specific textual and visual evidence to compare and contrast the changing roles of women from the Post-war Era through the 1970s including the goals of the Women's Liberation Movement, the National Organization of Women (NOW), the attempts to ratify the *Equal Rights Amendment* (ERA), and the United States Supreme Court's ruling in *Roe v. Wade*.~~

~~(v) Analyze the political and economic impact of President Nixon's foreign policies including détente and the opening of China.~~

~~(vi) Evaluate the impact of the Watergate Scandal on executive powers including the role of the media, the *Pentagon Papers*, and the first use of the *25th Amendment*, and President Ford's decision to pardon former President Nixon.~~

~~(6) **Content Standard 6.** The student will analyze the foreign and domestic policies in the contemporary era, 1977 to the present.~~

~~(A) Cite specific textual and visual evidence to evaluate President Carte's foreign policy in the Middle East including the *Camp David Accords*, the OPEC oil embargo, and the response to the 1979 Iranian hostage crisis.~~

~~(B) Analyze the economic and political impact of President Reagan's domestic and foreign policies including Reaganomics, the Iran-Contra Scandal, and Reagan's *Tear Down This Wall* speech in West Berlin.~~

~~(C) Summarize the series of events leading to the emergence of the United States as the sole superpower following the fall of the Berlin Wall, the reunification of Germany, and the collapse of the Soviet Empire.~~

~~(D) Describe the goal of President H.W. Bush's foreign policy in forming an international coalition to counter Iraqi aggression in the Persian Gulf.~~

~~(E) Describe and evaluate the continuing global influence of the United States under the leadership of President Bill Clinton including NAFTA and the NATO interventions to restore stability to the former Yugoslav republics.~~

~~(F) Evaluate the rise of terrorism and its impact on the United States including the 1995 bombing of the Murrah Federal Building, the first attack on the World Trade Center Towers in 1993, the attacks on September 11, 2001, the *PATRIOT ACT*, and the creation of the Department of Homeland Security.~~

~~(7) **Content Standard 7.** The student will examine contemporary challenges and successes in meeting the needs of the American citizen and society, 2002 to the present.~~

~~(A) Cite specific textual and visual evidence to assess the causes, conduct, and consequences of the United States led wars in Afghanistan and Iraq including President George W. Bush's leadership, the efforts to counter and combat terrorism, and the impact of President Barack Obama's election on the course of the wars.~~

~~(B) Examine the ongoing issues of immigration, employment, climate change, environmental pollution, globalization, population growth, race relations, women's issues, healthcare, civic engagement, education, and the rapid development of technology.~~

210:15-3-103.3. High school world history - cultural connections, turning points, and transformation of the world into the modern era [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Process and Literacy Standard 1.** Reading Skills. The student will develop and demonstrate social studies Common Core reading literacy skills.~~

~~(1) **Key Ideas and Detail.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.~~

~~(C) Analyze in detail a series of events described in a text; determine whether earlier events caused later ones or simply preceded them.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.~~

~~(B) Analyze how a text uses structure to emphasize key points or advance an explanation or analysis.~~

~~(C) Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate quantitative or technical analysis (e.g., charts, research data) with qualitative analysis in print or digital text.~~

~~(B) Assess the extent to which the reasoning and evidence in a text support the author's claims.~~

~~(C) Compare and contrast treatments of the same topic in several primary and secondary sources.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 10, read and comprehend history/social studies texts in the grades 9–10 text complexity band independently and proficiently.~~

~~(b) **Process and Literacy Standard 2. Writing Skills.** The student will develop and demonstrate Common Core social studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline-specific content*.~~

~~(i) Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among the claim(s), counterclaims, reasons, and evidence.~~

~~(ii) Develop claim(s) and counterclaims fairly, supplying data and evidence for each while pointing out the strengths and limitations of both claim(s) and counterclaims in a discipline-appropriate form and in a manner that anticipates the audience's knowledge level and concerns.~~

~~(iii) Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.~~

~~(iv) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(v) Provide a concluding statement or section that follows from or supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic and organize ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic~~

~~(iii) Use varied transitions and sentence structures to link the major sections of the text, create cohesion, and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to manage the complexity of the topic and convey a style appropriate to the discipline and context as well as to the expertise of likely readers.~~

~~(v) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.~~

~~(C) Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.~~

~~(B) Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate~~

~~information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.~~

~~(C) Draw evidence from informational texts to support analysis, reflection, and research.~~

~~(4) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c) **Social Studies Content Skills.**~~

~~(1) **Content Standard 1.** The student will analyze and summarize the impact on the modern world of the major world religions and the philosophical political principles of ancient and classical societies.~~

~~(A) Cite specific textual and visual evidence to evaluate the impact of geography and various trade networks connecting Asia, Europe, and Africa on the spread of religions, philosophies, and political beliefs.~~

~~(B) Examine the origins, traditions, beliefs, and impact of Judaism on ancient and modern societies including the religious concept of monotheism and its influence into the modern eras.~~

~~(C) Compare using specific textual evidence the contributions of Greek and Roman political philosophers to political ideas using selections from Plato's *Republic*, Aristotle's *Politics*, Cicero's *On the Republic* and *On the Laws*, and their impact on later political thought in Western societies.~~

~~(D) Examine the origins, traditions, and beliefs of Hinduism and Buddhism, and explain their influence on the civilization of India, China, and Southeast Asia, and their influence into the modern eras.~~

~~(E) Examine the origins, traditions, beliefs, and impact of Christianity including its spread under the Roman Empire; its preservation by the Roman Catholic Church and the Byzantines and Orthodox churches; and its influence into the modern eras.~~

~~(F) Examine the origins, traditions, beliefs, and impact of Confucianism and Daoism including how those ideas and beliefs influenced Asian civilizations into the modern eras.~~

~~(G) Examine the origins, traditions, beliefs, and impact of Islam including the religious, political, and economic causes and effects of the Crusades on the spread of Islam, and the influence of Islam into the modern eras.~~

~~(2) **Content Standard 2.** The student will analyze patterns of social, economic, political, and cultural changes of the Renaissance and Reformation.~~

~~(A) Cite specific textual and visual evidence to assess the significance of the Renaissance on politics and artistic creativity as exemplified by Machiavelli, Michelangelo, and daVinci.~~

~~(B) Summarize how the theological movements during the Reformation transformed society by comparing the impact of the ideas of Martin Luther and John Calvin.~~

~~(C) Analyze migration, settlement patterns, and cultural diffusion caused by the competition for resources among European nations during the Age of Exploration including the impact of the Columbian Exchange and the Atlantic slave trade.~~

~~(3) **Content Standard 3.** The student will evaluate modern revolutionary movements influenced by the European Age of Absolutism and the Enlightenment including political, economic, and social transformations.~~

~~(A) Summarize the establishment and authority exercised by absolute monarchies including Louis XIV, Frederick the Great, and Peter the Great.~~

~~(B) Compare how scientific theories and technological discoveries including those made by Newton, Copernicus, and Galileo brought about social and cultural changes.~~

~~(C) Cite specific textual and visual evidence to analyze the impact of the Enlightenment including the theories of John Locke and Adam Smith on modern government and economic institutions.~~

~~(D) Compare and contrast the causes and lasting impact of England's *Glorious Revolution*, the American Revolution, and the French Revolution on the decline of monarchy and on the rise of representative government including the impact of the Napoleonic Wars and the resulting Congress of Vienna.~~

~~(E) Summarize the influence and global impact of emerging democratic ideals on the Latin American and Caribbean revolutions including Haiti, Mexico, and Bolivia.~~

~~(4) **Content Standard 4.** The student will evaluate the global transformation brought about by the Industrial Revolution and the World Wars.~~

~~(A) Summarize the impact of massive social and economic changes as a result of industrialization including Marxist criticisms of capitalism.~~

~~(B) Cite specific textual and visual evidence to explain the rationales and consequences of imperialism on Asia, Africa, and the Americas including colonization and the exploitation of natural resources and peoples.~~

~~(C) Analyze socialism, communism, and the Bolshevik Revolution as responses to market economies.~~

~~(D) Evaluate the forces of nationalism and militarism, as well as the systems of alliances as causes of World War I.~~

~~(E) Examine the causes of World War II including the failure of the *Treaty of Versailles*, the impact of the Great Depression, and the rise of totalitarian regimes in the Soviet Union, Germany, Italy, and Japan.~~

~~(F) Cite specific textual and visual evidence to analyze the World War II including the leadership of Winston Churchill, Franklin Roosevelt, Josef Stalin, Adolf Hitler, Benito Mussolini, and Hideki Tôjô, the key strategic decisions, and the war's significant turning points.~~

~~(G) Evaluate the effects of World War II including military and economic power shifts, purposes of the United Nations and NATO, and the origins and escalation of the Cold War.~~

~~(H) Cite specific textual and visual evidence to examine the causes, course, and effects of the Holocaust and compare and contrast eyewitness accounts of camp inmates, survivors, liberators, and perpetrators and summarize world responses resulting in the Nuremburg Trials and the move to establish a Jewish homeland in Palestine.~~

~~(5) **Content Standard 5.** The student will evaluate post World War II regional events leading to the transformations of the modern world.~~

~~(A) Cite specific textual and visual evidence to describe the creation of the modern state of Israel, the ongoing regional disputes with its Arab neighbors, the continuing hostilities between Iran and Iraq, and the impact of significant regional leaders including Golda Meir, Anwar Sadat, Yasser Arafat, Saddam Hussein, and the Ayatollah Khomeini.~~

~~(B) Compare the Chinese Communist Revolution under the leadership of Mao Zedong, the effects of the Great Leap Forward and the Cultural Revolution to recent attempts toward economic and democratic reforms including the Tiananmen Square demonstrations, limited privatization, and foreign investments.~~

~~(C) Cite specific textual and visual evidence to examine the origins of India as a modern world power by tracing the struggle for independence achieved through Mohandas K. Gandhi's non violent civil disobedience movement, the development of India's industrial and service oriented economy, and the ongoing threat of nuclear warfare between India and Pakistan.~~

~~(D) Evaluate the effects of Poland's Solidarity Movement on the Eastern Bloc nations, Soviet President Mikhail Gorbachev's policies of *perestroika* and *glasnost*, the fall of the Berlin Wall, the reunification of Germany, the collapse of Communism and the breakup of the Soviet Union that resulted in new independent countries.~~

~~(E) Assess the impact of continuing African independence movements on human rights and the global expansion of democracy including the effects of Pan-Africanism on changing political boundaries, Kwame Nkrumah's struggle for self-government in Ghana, and South Africa dismantling its apartheid system under the leadership of Nelson Mandela and Desmond Tutu.~~

~~(F) Compare and contrast multiple perspectives to examine the religious, ethnic and political origins, as well as the lasting impact of modern genocide and conflicts including Northern Ireland's Troubles, acts of genocide by the Khmer Rouge in Cambodia, ethnic cleansing in the Balkans, Rwanda's mass murders, and the ethnic and religious crisis in Darfur.~~

~~(6) **Content Standard 6.** The student will evaluate contemporary global issues and challenges.~~

~~(A) Describe the ongoing impact of interdependence on the world's economies resulting in the creation and growth of multinational organizations including the challenges faced by the European Economic Community, the cooperative efforts of OPEC, the emergence of the Pacific Rim economy, and the roles of the World Bank and World Trade Organization.~~

~~(B) Cite specific textual and visual evidence to examine the changing patterns of population growth, the cycle of disease and poverty, the impact of the Green Revolution on future food supplies, and the status of women in developing regions.~~

~~(C) Cite specific textual and visual evidence to describe the impact of ongoing cultural diffusion as a result of the development of mass communication, social media, transportation systems, and global trade.~~

~~(D) Describe the rise of international terrorism including the causes and effects of the attacks on the World Trade Center Towers in 1993, the attacks on 9/11 in 2001, and other acts of international terrorism including London, Madrid, and Mumbai, and analyze the policies and actions of world powers to counter and combat terrorism including the wars in Afghanistan and Iraq.~~

210:15-3-104.4. World Human Geography - The Why of Where: Places, Patterns of Settlement, and Global Interactions [REVOKED]

~~(a) **PROCESS AND LITERACY SKILLS: Process and Literacy Standard 1.** Reading Skills. The student will develop and demonstrate social studies Common Core reading literacy skills.~~

~~(1) **Key Ideas and Details.**~~

~~(A) Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.~~

~~(B) Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.~~

~~(C) Analyze in detail a series of events described in a text; determine whether earlier events caused later ones or simply preceded them.~~

~~(2) **Craft and Structure.**~~

~~(A) Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.~~

~~(B) Analyze how a text uses structure to emphasize key points or advance an explanation or analysis.~~

~~(C) Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.~~

~~(3) **Integration of Knowledge and Ideas.**~~

~~(A) Integrate quantitative or technical analysis (e.g., charts, research data) with qualitative analysis in print or digital text.~~

~~(B) Assess the extent to which the reasoning and evidence in a text support the author's claims.~~

~~(C) Compare and contrast treatments of the same topic in several primary and secondary sources.~~

~~(4) **Range of Reading and Level of Text Complexity.** By the end of grade 10, read and comprehend history/social studies texts in the grades 9-10 text complexity band independently and proficiently.~~

~~(b) **Process and Literacy Standard 2: Writing Skills.** The student will develop and demonstrate Common Core social studies writing literacy skills.~~

~~(1) **Text Types and Purposes.**~~

~~(A) Write arguments focused on *discipline-specific content*.~~

~~(i) Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among the claim(s), counterclaims, reasons, and evidence.~~

~~(ii) Develop claim(s) and counterclaims fairly, supplying data and evidence for each while pointing out the strengths and limitations of both claim(s) and counterclaims in a discipline-appropriate form and in a manner that anticipates the audience's knowledge level and concerns.~~

~~(iii) Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.~~

~~(iv) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(v) Provide a concluding statement or section that follows from or supports the argument presented.~~

~~(B) Write informative/explanatory texts, including the narration of historic events, scientific procedures/experiments, or technical processes.~~

~~(i) Introduce a topic and organize ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.~~

~~(ii) Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.~~

~~(iii) Use varied transitions and sentence structures to link the major sections of the text, create cohesion, and clarify the relationships among ideas and concepts.~~

~~(iv) Use precise language and domain-specific vocabulary to manage the complexity of the topic and convey a style appropriate to the discipline and context as well as to the expertise of likely readers.~~

~~(v) Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.~~

~~(vi) Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).~~

~~(C) See note; not applicable as a separate requirement.~~

~~(2) **Production and Distribution of Writing.**~~

~~(A) Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.~~

~~(B) Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.~~

~~(C) Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.~~

~~(3) **Research to Build and Present Knowledge.**~~

~~(A) Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.~~

~~(B) Gather relevant information from multiple authoritative print and digital sources, using advanced searches effectively; assess the usefulness of each source in answering the research question; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and following a standard format for citation.~~

~~(C) Draw evidence from informational texts to support analysis, reflection, and research.~~

~~(4) **Range of Writing.**~~

~~(A) Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.~~

~~(B) Note: Students' narrative skills continue to grow in these grades. The Standards require that students be able to incorporate narrative elements effectively into arguments and informative/explanatory~~

~~texts. In history/social studies, students must be able to incorporate narrative accounts into their analyses of individuals or events of historic import.~~

~~(c)~~ ~~**Social Studies Content Skills.**~~

~~(1)~~ ~~**Content Standard 1.**~~ ~~The student will cite specific textual and visual evidence including maps and other geographic representations, tools and technologies to acquire, research, process, and solve problems from a spatial perspective.~~

~~(A)~~ ~~Analyze key concepts underlying the geographical perspectives of location, space, place, scale, pattern, regionalization, and globalization.~~

~~(B)~~ ~~Utilize geographic skills to understand and analyze the spatial organization of people, places, and environments on the Earth's surface.~~

~~(C)~~ ~~Define regions and evaluate the regionalization process to characterize and analyze changing interconnections among places.~~

~~(D)~~ ~~Utilize geographic technologies of GIS, remote sensing, and GPS sources of geographical data including census data, population pyramids, climagraphs, cartagrams, and satellite imagery.~~

~~(2)~~ ~~**Content Standard 2.**~~ ~~The student will evaluate specific textual and visual evidence to analyze how human population is organized geographically in order to understand the cultural, political, and economic systems of the world.~~

~~(A)~~ ~~Analyze geographic data measuring population including density; distribution; patterns of composition: age, sex, race, and ethnicity; and population trends and projections.~~

~~(B)~~ ~~Describe and summarize the push and pull theory of migration and its impact on human capital and demographic transitions including the research of major voluntary and involuntary migrations.~~

~~(C)~~ ~~Compare and contrast the impact of population policies on the patterns of fertility, mortality, and health.~~

~~(3)~~ ~~**Content Standard 3.**~~ ~~The student will evaluate specific textual and visual evidence to analyze the components and regional variations of cultural patterns and processes.~~

~~(A)~~ ~~Assess the spatial dimensions of culture as defined by language, religion, race, ethnicity, and gender.~~

~~(B)~~ ~~Analyze and summarize the role the environment plays in determining a region's culture.~~

~~(C)~~ ~~Explain the processes of cultural diffusion, acculturation, assimilation, and globalization regarding their impact on defining a region.~~

~~(D)~~ ~~Compare and contrast the world's major cultural landscapes to analyze cultural differences, cultural identity, social mores and sets of beliefs which determine a sense of place.~~

~~(E)~~ ~~Summarize the impact of the world's major religions of Buddhism, Christianity, Daoism, Hinduism, Islam, and Judaism on modern societies.~~

~~(4)~~ ~~**Content Standard 4.**~~ ~~The student will evaluate specific textual and visual evidence to explain the political organization of space.~~

~~(A)~~ ~~Describe and summarize the different forces that shape the evolution of the contemporary world's political map including the rise of nation-states.~~

~~(B)~~ ~~Analyze the concept of territoriality, the nature and meaning of boundaries, and their influence on identity, interaction, and exchange.~~

~~(C)~~ ~~Compare and contrast the world's political patterns of organization including federal and unitary states.~~

~~(D)~~ ~~Examine changes and challenges to political/territorial arrangements, the changing nature of sovereignty, and evolution of contemporary political patterns.~~

~~(E)~~ ~~Evaluate how the forces of cooperation and conflict among people influence the division and control of territory and resources.~~

~~(5)~~ ~~**Content Standard 5.**~~ ~~The student will evaluate specific textual and visual evidence to analyze agricultural and rural land use.~~

~~(A)~~ ~~Examine the origin and diffusion of agriculture including the Neolithic Revolution and the Green Revolution.~~

~~(B)~~ ~~Describe and summarize the characteristics of modern commercial agriculture including major production regions, variations within major zones, and effects of markets.~~

~~(C)~~ ~~Analyze settlement patterns associated with major agricultural regions and linkages among regions of food production and consumption.~~

~~(D)~~ ~~Research and describe the impact of agricultural practices including irrigation, conservation, desertification, deforestation, organic farming, pesticides and herbicides, and genetic modification on the environment and the quality of life.~~

~~(E)~~ ~~Examine common characteristics of rural communities including the impact of the environment on location; the political, economic, and cultural functions of rural communities; the types of transportation, communication, and trade linkages among rural areas; and the impact of modern migration to urban centers.~~

~~(6)~~ ~~**Content Standard 6.**~~ ~~The student will evaluate specific textual and visual evidence to analyze the impact of industrialization on economic development.~~

~~(A)~~ ~~Examine the changing roles of natural resources, energy, and technology that resulted in the Industrial Revolution.~~

~~(B)~~ ~~Evaluate the impact of industrialization and government policies of both market and command economic systems on the availability and use of natural resources, environmental concerns, and sustainable development.~~

~~(C) Compare and contrast contemporary patterns of industrialization and development in selected regions of the world including the Pacific Rim, Central Asia, and the Middle East.~~

~~(D) Analyze why some economies achieve rapid growth while other economies with similar resources struggle to reach developed status.~~

~~(E) Summarize common characteristics of developed nations including variations in levels of development, modern patterns of deindustrialization and economic restructuring, globalization, and international division of labor.~~

~~(7) **Content Standard 7.** The student will evaluate specific textual and visual evidence to analyze cities and urban land use.~~

~~(A) Examine the origin, development, and character of cities including the impact of the environment on location; the political, economic, and cultural functions of cities; historical distribution of cities; and the types of transportation, communication, and trade linkages among cities.~~

~~(B) Analyze contemporary patterns of rural migration upon urban development including the concept of suburbanization, edge cities, megacities, and global cities.~~

~~(C) Describe the factors that impact cities over time including uneven development, changing economic and demographic structures, transportation and infrastructure, housing, and urban planning.~~

[OAR Docket #19-512; filed 5-31-19]

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

[OAR Docket #19-503]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Special Education
210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program [AMENDED]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 70 O.S. § 13-101.2
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 7, 2018
COMMENT PERIOD:
December 3, 2018 through January 9, 2019
PUBLIC HEARING:
January 9, 2019
ADOPTION:
January 24, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 28, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The statute governing the Lindsey Nicole Henry Scholarship for Students with Disabilities Program was amended to add new categories of eligible students, which are reflected in the updated rule, as are updates about the application process. While the scholarship was initially limited to students with disabilities who have attended public school in Oklahoma and been served under the Individuals with Disabilities Education Act (IDEA), eligibility was later expanded to include students who have been served through the SoonerStart program for children with disabilities age birth through two, and most recently for students who have been in an out-of-home placement through the Department of Human Services (DHS), who have been in out-of-home placement with the Office of Juvenile Affairs, or who have been adopted while in the permanent custody of DHS. The new eligibility categories are added to the rule to reflect current law, along with updates necessary due to changes in practice, such as applications now being accepted by email. Content is also added to the rule clarifying the federal civil rights provisions that apply to participating private schools, and providing that participating schools may be asked to periodically verify that they continue to meet the eligibility requirements for the Lindsey Nicole Henry program.
CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 13. SPECIAL EDUCATION

210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program

(a) **Scholarship Requests.** The parent or legal guardian of an eligible student with disabilities who has been admitted to an approved private school may request a Lindsey Nicole Henry Scholarship from the Oklahoma State Department of Education (OSDE).

(1) A complete Lindsey Nicole Henry Scholarship for Students with Disabilities Application and all required documentation must be submitted by postal mail, email, or fax to the State Department of Education by December 1 of the year that the scholarship is being requested for. Scholarship requests received after December 1 shall be eligible for consideration, but funding for scholarship requests received after December 1 shall not be available until the beginning of the following school year.

(2) Upon receipt of a Lindsey Nicole Henry Scholarship request, the State Department of Education shall notify the school district of residence.

(3) All recipients of the Lindsey Nicole Henry Scholarship must submit a renewal request for the scholarship each year, by submitting a current Lindsey Nicole Henry Scholarship for Students with Disabilities Application to the State Department of Education. Renewal requests

should be submitted in June or July prior to the beginning of the academic year for which the scholarship renewal is requested. If the application is received after the beginning of the school year, the scholarship will be prorated according to the date the renewal request is approved. If a renewal application is not submitted by December 1, the scholarship will be terminated.

(4) If the required annual renewal requests and all other required documentation are submitted to the State Department of Education as provided for in this section and in 70 O.S. § 13-101.2, the scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of twenty-two (22), whichever occurs first.

(5) 70 O.S. § 13-101.2 provides that ~~Acceptance~~acceptance of a Lindsey Nicole Henry Scholarship shall have the same effect as a parental revocation of consent under 20 U.S.C. Section 1414(a)(1)(D) and 1414(C) of the Individuals with Disabilities Education Act (IDEA). The State Department of Education will provide a form, available online from the agency website, which a parent/guardian shall complete to indicate that they understand the revocation of consent for service under IDEA. The parent/guardian shall return the completed revocation of consent form to OSDE, and a copy of the form shall be forwarded by OSDE to the school district that most recently served the student.

(b) **Payments.** Payment of scholarship funds shall be made by the State Department of Education with an individual warrant made payable to the participating student's parent or guardian, and mailed by the Department to the private school where the student is enrolled.

(1) Upon issuance of a Lindsey Nicole Henry Scholarship warrant, the parent or legal guardian to whom the warrant is made shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(2) The initial payment shall be made after the State Department of Education verifies acceptance and enrollment at the approved private school. Quarterly payments shall be made upon verification of continued enrollment and attendance at the private school.

(3) The parent or legal guardian may not designate any entity or individual associated with the private school as the attorney in fact for the parent or legal guardian to endorse a warrant. Failure to comply with this subsection will result in forfeiture of the scholarship.

(c) **Private School Eligibility.** In order to be eligible to accept students on the scholarship, private schools must be accredited by the State Board of Education or another accrediting association approved by the State Board of Education, and meet all other requirements for participating private schools as listed in 70 O.S. § 13-101.2. No out of state schools are eligible to participate in the scholarship program. The State Department of Education shall maintain a list of private schools that have been determined to be eligible to participate in the Lindsey Nicole Henry scholarship program, to be posted on the State Department of Education website and updated each time a school is added to or removed from the program. Participating schools may be required to periodically provide documentation to OSDE demonstrating that they continue to meet the eligibility requirements for participation in the Lindsey Nicole Henry Scholarship Program. A participating school shall not be required to submit documentation of continued eligibility more than one (1) time per year, unless OSDE receives information that a participating school may no longer meet the program eligibility requirements, in which case documentation of continued eligibility may be requested from the school in question upon receipt of such a complaint. Scholarship requests shall only be considered when the parent of an eligible student submits documentation that the student has been admitted to a school that has been approved as of the date the scholarship request is received by the State Department of Education. Schools that wish to participate in the Lindsey Nicole Henry Scholarship Program should note that the antidiscrimination provisions of 42 U.S.C. § 2000d, which a school must comply with in order to participate in the program, incorporate Executive Order 13160 (2000) and prohibit discrimination on the following bases:

(1) Race;

(2) Sex;

(3) Color;

(4) National origin;

(5) Disability;

(6) Religion;

(7) Age (except as appropriate in a common education context);

(8) Sexual orientation; and

(9) Status as a parent.

(d) **Student Eligibility.** To be eligible for a Lindsey Nicole Henry Scholarship, a student must meet all of the following criteria:

(1) Has been identified as a student with a disability, and has had an individualized Education Program (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA);

(2) Has an IEP in effect at the time the scholarship request is received by the State Department of Education;

(3) Has been accepted by a private school approved by the State Department of Education for participation in the Lindsey Nicole Henry scholarship program; and

(4) Falls within one of the following three categories:

(A) Has spent the prior school year in attendance at a public school in Oklahoma; or

(B) Is the child of a member of the United States Armed Forces who transfers to a school in Oklahoma from another state or from a foreign country pursuant to a permanent change of station orders; or

(C) Has been provided services under an Individual Family Service Plan (IFSP) through the SoonerStart program, and during transition was evaluated and determined to be eligible for school district services.

(5) A student who was in out-of-home placement with the Department of Human Services (DHS), a student who was adopted while in the permanent custody of DHS, or

a student who was in out-of-home placement with the Office of Juvenile Affairs (OJA) is eligible to apply for the Lindsey Nicole Henry Scholarship regardless of whether they have been identified as a student with disabilities or whether they have spent the prior school year in attendance at an Oklahoma public school.

(e) **Amount of Scholarship.** The maximum scholarship granted for an eligible student with disabilities shall be equivalent to the total State Aid factors for the applicable school year multiplied by the grade and disability weights generated by that student for the applicable school year. For a participating student who is eligible under (d)(5) of this section, the maximum amount of the scholarship shall be equivalent to the total State Aid factors for the applicable school year multiplied by the grade weight and any other factors applicable to the student.

(1) The disability weights used in calculating the scholarship amount shall include all disability weights which correspond to the disabilities included in the multidisciplinary evaluation and eligibility group summary (MEEGS) for the student at the time the request for a scholarship is made by the parent or legal guardian.

(2) The maximum scholarship amount shall be calculated by the State Board of Education for each year the student is participating in the Lindsey Nicole Henry Scholarship program.

(3) Within ten (10) days after receiving a scholarship request, the State Department of Education shall notify the participating private school of the amount of the scholarship, provided the total State Aid factors have been determined for the current fiscal year.

(f) **Tracking.** Lindsey Nicole Henry Scholarship students shall be tracked through the computerized record system used by the State Department of Education.

[OAR Docket #19-503; filed 5-31-19]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #19-504]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
210:20-1-2. Prohibition on aiding and abetting sexual abuse [NEW]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 20 U.S.C. § 7926
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
20 U.S.C. § 7926 directs all state and local education agencies that receive federal funding to adopt a prohibition on their employees and contractors assisting any school employee or contractor in obtaining employment if it is known, or believed based on probable cause, that the person seeking employment engaged in sexual misconduct with a student or minor. This new rule satisfies the policy adoption obligation at the state level, and directs school districts and charter schools to adopt their own policies consistent with the federal prohibition.
CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

210:20-1-2. Prohibition on aiding and abetting sexual abuse

(a) **General prohibition.** Pursuant to 20 U.S.C. § 7926, it is prohibited for any individual who is employed by a school district or charter school, is under contract with a school district or charter school, or is in any capacity the agent of a school district or charter school, to assist any school employee, contractor, or agent in obtaining a new job if the individual or agency knows, or has probable cause to believe, that such person engaged in sexual misconduct with a minor or a student.

(b) **Limited exception.** The prohibition in subsection (a) shall not apply if the information giving rise to the probable cause:

(1) Has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and

(2) Has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.) and the associated implementing regulations under 34 C.F.R. Part 106, or any succeeding regulations; and

(3) One of the following conditions has occurred:

(A) The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged

misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probably cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law; or

(B) The school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of the alleged misconduct; or

(C) At least four (4) years have passed from the date on which the information was reported to a law enforcement agency, and the case or investigation remains open and there have been no charges filed against, or indictment of, the school employee, contractor, or agent.

(c) **Local policies.** Pursuant to 20 U.S.C. § 7926, a school district or charter school shall adopt a policy consistent with federal law and this administrative rule, prohibiting its employees, contractors, or agents from assisting any individual currently or formerly associated with the district in an employee, contractor, or agent capacity from obtaining new employment if the individual or district knows, or has probable cause to believe, that such person has engaged in sexual misconduct with a minor or student.

(d) **Reporting obligation.** In addition to the federal prohibition on assisting in the employment of individuals known or believed based on probable cause to have engaged in sexual misconduct with a minor or student, Oklahoma school districts and charter schools are required by 70 O.S. § 6-101.25 to notify the State Board of Education if a superintendent has recommended a teacher's termination or non-reemployment based on allegations of sexual misconduct or any other crime listed in 70 O.S. § 3-104(6), and the teacher is either terminated or non-reemployed, or resigns from their position.

(e) **Certification.** Notwithstanding the applicability of any exceptions listed in subsection (b) of this rule, the State Board of Education may suspend or revoke any certificate issued by the Board, impose other sanctions against the holder of such a certificate, or decline to issue a certificate to an applicant if the individual:

(1) Has assisted another person in obtaining, or seeking to obtain, a new job, other than by routine transmission of administrative and personnel files; and

(2) Knew, or had probably cause to believe, that the person assisted has previously engaged in sexual misconduct with a minor or student.

[OAR Docket #19-504; filed 5-31-19]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #19-505]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 1. General Teaching Certificate Requirements
210:20-9-9. Kinds, types, classes, and processing fees of certificates [AMENDED]

AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 59 O.S. § 4003

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 2, 2018

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SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
Pursuant to House Bill 2933 (2018), the rule that addresses processing fees for teaching certificates has been amended to provide for the one-time fee waiver now required by state law for low-income individuals as defined by 59 O.S. § 4003. This statutory definition of "low-income individual" includes recipients of state or federal public assistance programs, including but not limited to Temporary Assistance to Needy Families (TANF), Medicaid, or the Supplemental Nutrition Assistance Program (SNAP). An individual whose household adjusted gross income is below 140% of the federal poverty threshold is also eligible for the one-time waiver of certification fees.

CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 1. GENERAL TEACHING CERTIFICATE REQUIREMENTS

210:20-9-9. Kinds, types, classes, and processing fees of certificates

(a) **Kinds of certificates.** The specific use of each kind of certificate, in terms of the nature of services which the holder is permitted to render, is regulated by rules of the State Board of Education. The kinds of certificates available are:

(1) Administrative certificate

(A) Elementary principal (Grades Pre-Kindergarten (Pre-K) through eight (8))

(B) Middle level principal (Grades five (5) through nine (9) (optional))

(C) Secondary principal (Grades five (5) through twelve (12))

(D) Superintendent (Grades Pre-Kindergarten (Pre-K) through twelve (12))

(2) Early childhood education certificate (Grades Pre-Kindergarten (Pre-K) through three (3))

(3) Elementary school certificate (Grades one (1) through eight (8))

(4) Middle level certificate (Grades five (5) through eight (8) (optional))

(5) Pre-Kindergarten - secondary certificate (Grades Pre-Kindergarten (Pre-K) through twelve (12))

(6) Secondary school certificate (Grades five (5) through twelve (12))

(7) Other certified personnel certificate (Grades Pre-Kindergarten (Pre-K) through twelve (12))

(8) Career ~~technology~~Technology certificate (Grades five (5) through twelve (12))

(b) **Types of certificates.** The endorsement indicates the type of license/certificate issued.

(c) **Classes of certificates.** The class determines the term of validity. The classes of certificates are:

(1) Standard certificate and Career Technology standard certificate - valid for five (5) years and renewal upon compliance with prescribed conditions

(2) Provisional certificate - term of validity varies depending upon regulatory basis for issuance

(d) **Processing fees of certificates.**

(1) Certificate $50.00

(2) Renewals $50.00

(3) Alternative Placement Application/Evaluation $50.00

(4) All other transactions will be $50 or less

(e) **One-time fee waiver for eligible low income applicants.** Pursuant to 59 O.S. § 4003, an individual who meets the statutory guidelines for identification as a "low-income individual" at the time they submit their application for initial educator certification or certificate renewal shall be eligible for a one-time waiver of certification fees. The fee waiver for low-income individuals is available for any type or class of certificate issued by the State Board of Education. For purposes of the fee waiver, "low-income individual" means an individual who is enrolled in a state or federal public assistance program including, but not limited to, Temporary Assistance for Needy Families (TANF), Medicaid, or the Supplemental Nutrition Assistance Program (SNAP), or whose household adjusted gross income is below one hundred forty percent (140%) of the federal poverty line. An eligible individual is authorized to receive a waiver of certification fees only one time, but the fee waiver is available for either initial certification or certificate renewal. An individual who wishes to apply for a one-time waiver of certification fees shall submit such a request to the State Department of Education Office of Certification along with their initial certification or certificate renewal application materials, and must provide official documentation of their participation in a qualifying program or their qualifying household income. If eligibility cannot be determined from the documentation of program participation or income provided with the application materials, the Office of Certification may require the applicant to submit additional documentation in order to authorize the fee waiver.

[OAR Docket #19-505; filed 5-31-19]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #19-506]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9-91. Application for new certificates [AMENDED]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 70 O.S. § 6-189
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9-91. Application for new certificates [AMENDED]
Gubernatorial approval:
September 10, 2018
Register publication:
36 Ok Reg 13
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18-665
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The rule outlining applicant requirements for the issuance of new teaching certificates has been amended pursuant to House Bill 3220 (2018). Under a provision in 70 O.S. § 6-189, the State Board of Education and the State Board of Career and Technology Education "shall promulgate rules for a certification system option specifically for teachers and instructors in the technology center school districts." The new technology center certification option is required to be competency-based, and reflect industry-based skills, standards, and certifications. The eligibility requirements for applicants include: an associate's degree, an industry recognized credential relevant to the technology center subject matter to be taught, appropriate professional development, and the criminal history record checks that are mandatory for

all teacher certification applicants. The State Department of Education's rule amendment, previously in place under an emergency rule adoption, provides that the State Board of Education may issue a technology center teaching certificate to a qualified applicant upon recommendation by the Department of Career and Technology Education. This permanent version of the emergency rule amendment will ensure the technology center certification provision remains in place after the emergency version of the rule expires.

CONTACT PERSON:

Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 9. TEACHER CERTIFICATION

210:20-9-91. Application for new certificates

The application processes for individuals seeking new certificates are described separately for individuals completing requirements at an in-state college or an out-of-state college.

(1) **Graduates of Oklahoma colleges and universities.** The application process for graduates of Oklahoma colleges and universities is as follows:

(A) The completed application may be submitted to the director of teacher education at the recommending college or sent directly to the State Department of Education along with an official up-to-date transcript(s) and the appropriate processing fee. See 210:20-9-9 (d)

(B) The signature of the director of teacher education verifies that the applicant has met the requirements of the institution's approved teacher education program for the license/certificate sought and that the applicant possesses the character and general fitness to be a teacher. Application approval by the State Department of Education verifies that the applicant has met an approved program.

(i) Vocational certificate applicants: The director of teacher education at the recommending institution or the applicant will forward the application to the appropriate state supervisor at the Oklahoma Department of Career and Technology Education. After approving the application the state supervisor will send it, along with supporting documents, to the State Department of Education.

(ii) Nonvocational certificate applicants: The director of teacher education at the recommending institution shall forward the approved application, along with supporting documents, to the State Department of Education.

(2) **Graduates of out-of-state colleges and universities.** The application process for graduates of out-of-state colleges and universities is as follows:

(A) The applicant will submit the following items to the State Department of Education as part of the application process:

(i) the completed application form

(ii) official up-to-date transcripts of all college course work

(iii) documentation the applicant has completed an accredited teacher preparation program

(iv) the appropriate processing fee for each class of certificate sought. See 210:20-9-9 (d)

(B) For vocational certificate applications, the applicant will submit all items in (2) (A) of this section directly to the State Department of Education.

(3) **Applicants who are certified out-of-state.** The State Board of Education shall issue a teaching certificate to an applicant who submits a valid out-of-state teaching certificate issued by a state or territory of the United States, a completed application for certification, and the applicable certification fee, and has on file with the State Department of Education a current Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation and a national criminal history record check as defined in 74 O.S. § 150.9. The applicant shall be responsible for the costs of the criminal history record checks. The Oklahoma certificate shall be valid only for the subject areas and grade levels most closely aligned to those recognized on the applicant's out-of-state certificate. An applicant who holds valid teaching certificates issued by more than one state is eligible for Oklahoma certification in the subject area(s) most closely aligned to any subject area(s) listed on any of the valid out-of-state certificates submitted to the State Department of Education. An applicant who is issued an Oklahoma teaching certificate under this subsection may be eligible for up to five (5) years of credit for documented and verified out-of-state teaching experience.

(4) **Applicants who are certified out-of-country.** The temporary certification of visiting teachers from outside the United States, who serve in teaching positions in Oklahoma schools as guest or exchange teachers under the provisions of 22 C.F.R. § 62.24, is governed not by this section but by OAC 210:20-9-98. The following provisions apply to applicants for Oklahoma teacher certification who hold a teacher certification issued in a country other than the United States:

(A) **Completed application and documentation.** To be eligible for consideration for an Oklahoma teaching certificate based on teaching credentials issued in a country outside the United States, an applicant must submit a completed application for certification, the applicable certification fee, and verifiable documentation of each of the requirements of this section to the State Department of Education. It is the responsibility of the applicant to obtain translation and any necessary analysis of documentation in

a language other than English. The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(B) **Verification of lawful presence in the United States.** In accordance with 8 U.S.C. § 1621 and 56 O.S. § 71, an applicant for certification based on an out-of-country teacher certification must provide proof of lawful presence in the United States. Under federal and state law an applicant for a state benefit such as professional licensure is not required to be a U.S. citizen, but if the applicant is not a U.S. citizen they must document that they are a qualified alien under the federal Immigration and Nationality Act who is lawfully present in the U.S. Because lawful presence is distinct from work authorization under federal immigration and labor laws, an applicant who meets all criteria for teacher certification under this subsection may be eligible for certification prior to receiving authorization to work in the United States. The State Board of Education and the State Department of Education have no authority regarding an individual's eligibility for employment under federal law, and make no representation regarding the employment authorization status of an individual who is issued an Oklahoma teaching certificate under this subsection. A school district is responsible for verifying the work authorization status of every individual employed by the district.

(C) **Baccalaureate degree or equivalent.** To be eligible for consideration for an Oklahoma teaching certificate, an applicant must submit documentation verifying that the individual has received a baccalaureate college degree (4-year undergraduate degree), or the equivalent of a baccalaureate degree in the higher education system of the country where the degree was conferred. It is the responsibility of the applicant to obtain any necessary translation and analysis of their foreign education credentials from a reputable educational credential evaluation service approved by the State Department of Education, including but not limited to services approved by the National Association of Credential Evaluation Services (NACES). The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(D) **Out-of-country teaching certification and statement of good standing.**

(i) An applicant for Oklahoma certification under this subsection must submit a copy of their valid current teacher certification issued outside the United States. An applicant who holds teaching credentials issued in more than one country may submit each valid current teaching certification, but is only required to submit the most recently issued out-of-country certification. It is the responsibility of the applicant to obtain any necessary translation and analysis of the certification(s) from a reputable educational credential evaluation service. The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(ii) An Oklahoma teaching certificate issued under this subsection shall be valid only for the subject areas and grade levels most closely aligned to those recognized on the applicant's out-of-country teaching certificate. For an applicant who holds teaching certifications issued by more than one licensing jurisdiction, the Oklahoma teaching certificate may include the grade level(s) or subject area(s) most closely aligned to the grade level(s) or subject area(s) recognized on any of the applicant's currently valid certifications. If the applicant's out-of-country teaching certification does not specify subject areas, the applicant may provide verification of teaching experience in one or more subjects that correspond to Oklahoma certification areas, plus documentation of a passing score on the Oklahoma Subject Area Test (OSAT) in the subject area(s).

(iii) The applicant must also submit written verification, on the letterhead of the licensing authority that issued their out-of-country teaching certification, or the school system where they were most recently employed, indicating their good standing as a member of the teaching profession whose teaching certification has not been revoked or suspended. If the applicable entity does not use an official letterhead, an alternative verification method such as notarization or apostille may beacceptable subject to the approval of the State Department of Education Office of Certification. It is the responsibility of the applicant to obtain any necessary translation and analysis of the statement of good standing from a reputable educational credential evaluation service, or a reputable translation service, subject to the approval of the Office of Certification. The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(E) **Verification of teaching experience.** An applicant must submit documentation confirming that they were employed as a teacher for at least two (2) of the five (5) years preceding the application for Oklahoma certification. Teaching experience may be confirmed with a properly completed and verified "Proof of Teaching Experience" form upon approval of the State Department of Education Office of School Personnel Records. An applicant who is issued an Oklahoma teaching certificate under this subsection may be eligible for up to five (5) years of credit for documented and verified out-of-country teaching experience.

(F) **Recommendation by school administrator or education official.** An applicant must submit a letter of recommendation from a national, regional, or local education official or school administrator who

has worked with or evaluated the applicant in a professional capacity. It is the responsibility of the applicant to obtain any necessary translation of the letter of recommendation from a reputable educational credential evaluation service, or a reputable translation service, subject to the approval of the Office of Certification. The applicant shall be responsible for the costs of any necessary translation and/or analysis.

(G) **Criminal history record check and statement of eligibility for certification.** An applicant shall have on file with the State Department of Education a current Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation and a national criminal history record check as defined in 74 O.S. § 150.9. In addition to the criminal history record checks required by state law, an applicant for Oklahoma certification under this subsection must affirm that they have not been convicted in any jurisdiction, and have not received a suspended or deferred sentence in any jurisdiction, for a crime or attempted crime which would make an individual ineligible for teacher certification under 70 O.S. § 3-104(6)(a) if committed or attempted in Oklahoma.

(H) **English proficiency.** So that they may adequately instruct and communicate with students, an applicant for Oklahoma certification based on a teacher certification issued in another country must be proficient in spoken and written English. By submitting an application for certification under this subsection, an applicant affirms that their command of spoken and written English is equivalent, at a minimum, to competence under the Test of English as a Foreign Language (TOEFL), the International English Language Testing System (IELTS), the American Council on the Teaching of Foreign Languages (ACTFL) oral and written English proficiency assessments, or a similar reputable English language competence examination, subject to the approval of the Office of Certification.

(5) **Technology center teaching certificate applicants.** Pursuant to 70 O.S. § 6-189, the State Board of Education may issue a technology center teaching certificate to an individual who meets the requirements established by the Oklahoma Department of Career and Technology Education (ODCTE) at Oklahoma Administrative Code 780:20-3-4(a)(2), including a current criminal history record check, and is recommended by ODCTE for technology center teaching certification. The technology center teaching certificate shall be valid only for the subject area(s) aligned to the applicant's degree, credential, and/or work experience, and credit earned by students shall be awarded in accordance with 70 O.S. § 11-103.6.

[OAR Docket #19-506; filed 5-31-19]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #19-507]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9-102. Paraprofessional credentials and ~~Career~~ career development program for paraprofessionals [AMENDED]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 70 O.S. § 6-127A
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GIST/ANALYSIS:
The rule outlining qualifications for public school paraprofessionals in certain roles, as well as the program through which paraprofessionals can become certified as teachers, has been updated to clarify existing federal and state requirements and establish two categories of paraprofessional credentials. The two classifications of public school paraprofessionals that are addressed in federal law are those who serve in Title I schools and those who serve special education students, and the rule now provides a process to obtain a state credential verifying that a paraprofessional in one of these setting meets the requirements applicable to their role.
CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 9. TEACHER CERTIFICATION

210:20-9-102. Paraprofessional credentials and ~~Career~~career development program for paraprofessionals

(a) **Purpose.** Under Oklahoma law at 70 O.S. § 6-127A, a public school paraprofessional is an employee of a school district whose position is instructional in nature, or who delivers other direct services to students and/or their parents, and for which a certified teacher or other professional has the ultimate responsibility for the design, implementation, and evaluation of the individual educational programs or related services and student performance. Individuals must meet requirements established by federal and state law to be authorized to serve as public school paraprofessionals in Title I schools and in special education settings. The State Board of Education is also authorized to issue provisional teaching certification to a qualifying individual with a paraprofessional credential and relevant experience serving as a paraprofessional.

(~~a~~b) **Paraprofessional credential.** ~~The State Department of Education shall issue a paraprofessional credential to an applicant who meets all of the following requirements:~~An individual who wishes to apply for a paraprofessional credential shall submit an application and all required supporting documentation to the State Department of Education Office of Certification.

(1) **Tier 1.** In order to qualify for a Tier 1 Oklahoma paraprofessional credential issued by the Oklahoma State Department of Education (OSDE), which is required for general education paraprofessionals in Title I schools and available to general education paraprofessionals in other settings, an applicant shall meet the following eligibility criteria, established through the Elementary and Secondary Education Act (ESEA):

(~~1~~A) Has a high school diploma, or a General Educational Development (GED) Diploma or other certificate of high school equivalency recognized by the State of Oklahoma.

~~(2) Has met a career development paraprofessional program approved by the State Board of Education; and~~

(~~3~~B) Has on file with the State Board of Education a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation (OSBI) as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation (FBI). Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of obtaining the criminal history records.

(C) Meets at least one of the following criteria:

(i) Has completed at least two (2) years of study at an institution of higher education, defined as completion of at least forty-eight (48) credit hours of college coursework; or

(ii) Has obtained an associate's degree or higher; or

(iii) Has either passed the Oklahoma General Education Test (OGET), obtained a National Career Readiness Certificate through successful completion of the ACT WorkKeys assessment, or passed the ParaPro Assessment offered through the Educational Testing Service.

(2) **Tier 2.** In order to qualify for a Tier 2 Oklahoma paraprofessional credential issued by the State Department of Education, which is valid for special education paraprofessionals, an applicant shall meet the criteria for a Tier 1 paraprofessional credential and all of the following qualifications:

(A) Has completed the Oklahoma Special Education Paraprofessional Training available at Career Technology centers, equivalent training provided by the State Department of Education through an in-person or online program, or other state-approved training provided by a school district.

(B) Has completed training in cardiovascular pulmonary resuscitation (CPR) and First Aid.

(C) Has completed training in Universal Precautions/Bloodborne Pathogens.

(3) **Provisional employment of paraprofessionals in special education settings.** In the event a school district requires a special education paraprofessional in order to provide necessary services to one or more students with disabilities, but is unable to secure the services of an individual who holds a Tier 2 paraprofessional credential at the time the services must be delivered, the district may employ an individual on a provisional basis if the district determines the individual is able to provide the appropriate paraprofessional services. An individual who is employed as a paraprofessional to provide special education services on a provisional basis must meet the criteria for a Tier 1 credential, and obtain all training required to qualify for a Tier 2 credential as listed in (b)(2) of this section, within one hundred twenty (120) calendar days of employment providing special education paraprofessional services in order to continue providing special education paraprofessional services, provided a criminal history record check is obtained within sixty (60) calendar days of initial employment pursuant to 70 O.S. § 5-142. If it is necessary for a school district to provisionally employ a paraprofessional to provide special education services, the district shall report the provisional placement of the paraprofessional and the paraprofessional's starting date of employment to the State Department of Education Office of Special Education.

(~~b~~c) **Provisional teaching certificates - paraprofessional.** The State Department of Education shall issue a provisional teaching certificate, valid for up to three (3) years, in early childhood, elementary education, or special education to a paraprofessional who meets all of the following requirements:

(1) Has been employed for one full school year (i.e., two consecutive semesters, three consecutive trimesters, or four consecutive quarters) in an accredited public or private school as a paraprofessional in the area for which a certificate is being pursued. The full school year (or the equivalent in consecutive school terms) of required paraprofessional experience must be completed in one school

district or accredited private school;~~For purposes of this paragraph, experience obtained while teaching with a non-traditional certification in special education issued in accordance with the provisions of 210:20-9-105 shall not count toward the one year experience requirement;~~

(2) Has earned at least a bachelor's degree from a college or university whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has attained a cumulative grade point average of not less than 2.5 on a 4.0 scale;

(3) Has passed all of the following teacher competency examinations adopted by the Oklahoma Commission for Teacher Preparation prior to July 1, 2014, or adopted by the Commission for Educational Quality and Accountability on and after July 1, 2014:

(A) The Oklahoma General Education Test (OGET);

(B) The Oklahoma Subject Area Test (OSAT) in Early Childhood, Elementary Education, or Special Education; and

(C) The Oklahoma Professional Teaching Exam (OPTE) (PK-8);

(4) Has on file with the State Board of Education a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of the criminal history records;

(5) Has made application for teacher certification to the Oklahoma State Department of Education.

(~~c~~d) **Standard teaching certificate - paraprofessional.** The State Department of Education shall issue a standard teaching certificate to individuals who have met all of the requirements of (b) of this section and met all of the following requirements:

(1) The applicant has successfully completed at least one (1) full school year (i.e., two consecutive semesters, three consecutive trimesters, or four consecutive quarters) of teaching service in a public or private school accredited by the State Board of Education or a private school accrediting organization approved by the Board. The full school year (or the equivalent in consecutive school terms) of required teaching experience must be completed in one school district or accredited private school;

(2) The applicant provides at least two (2) favorable recommendations for granting a standard teaching certificate to the applicant from:

(A) ~~A~~The superintendent of a school district ~~board of education~~where the applicant has served as a teacher, or the principal of a school site where the applicant has served as a teacher; and

(B) The chair or director of the accredited teacher preparation program in which the applicant completed the coursework requirements set forth in (3) of this subsection.

(3) Within three (3) years of initial issuance of the provisional teaching certificate in accordance with the provisions of ~~(b)~~(c) of this Section, the applicant has successfully completed twelve (12) semester hours of professional education coursework from an institution of higher education whose accreditation is recognized by the Oklahoma State Regents for Higher Education. The twelve (12) hours of coursework required by this paragraph shall consist of coursework that:

(A) Is offered in a teacher preparation program that has been accredited by the Oklahoma Commission for Teacher Preparation prior to July 1, 2014 or accredited by the Commission for Educational Quality and Accountability on and after July 1, 2014;

(B) Is related to the area of teacher certification sought;

(C) Includes a minimum of three (3) semester hours in reading instruction.

(~~d~~e) **Reporting.** Any individual who has been issued a provisional certificate in accordance with the provisions of ~~(b)~~(c) of this Section shall be reported on the certified personnel report and be considered as any other certified employee.

[OAR Docket #19-507; filed 5-31-19]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #19-508]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 18. Lead and Master Teachers [NEW]
210:20-18-1. Lead and master teaching certificates [NEW]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 70 O.S. § 6-190
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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GIST/ANALYSIS:

Pursuant to Senate Bill 980 (2018), the State Board of Education was directed to adopt rules implementing fees and renewal details for two new classes of advanced teacher certification, a lead teaching certificate and a master teaching certificate. The proposed rule clarifies the statutory eligibility requirements for the lead teaching certificate and master teaching certificate, and establish a fee that is linked by reference to the standard certification fee listed in *Oklahoma Administrative Code* 210:20-9-9. The renewal requirements incorporate the standard certificate renewal process at 210:20-9-96, with additional requirements specific to the two advanced classes of certification. The rule also outlines how a lead teacher or master teacher may return to standard certification if they are no longer eligible for or no longer wish to hold the advanced certification.

CONTACT PERSON:

Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 18. LEAD AND MASTER TEACHERS

210:20-18-1. Lead and master teaching certificates

(a) **Purpose.** Pursuant to Senate Bill 980 (2018), two advanced classes of teacher certification, a lead teaching certificate and a master teaching certificate, are available to applicants who meet the statutory criteria and make application to the State Board of Education.

(b) **Effect of lead or master certification status on school districts.** Because a teacher certified as either a lead teacher or a master teacher is subject to contract requirements under 70 O.S. § 6-190 in addition to those that apply to a teacher with standard certification, a school district shall consider the school district obligations to teachers who hold a lead or master teaching certificate when recommending a teacher for advanced certification, and when entering an employment contract with such a teacher. If a person who holds a lead or master teaching certificate changes school districts during the validity period of the certificate, the terms of the contracts required under 70 O.S. § 6-190 shall be subject to approval by the new employing school district.

(1) **School board recommendation for lead or master teaching certificate.** In order for a teacher to be eligible for a lead or master teacher certificate, the board of education of the teacher's employing school district must submit a recommendation to the State Board of Education indicating that the local board has determined the applying teacher's eligibility under the statutory criteria and is in favor of the teacher's advanced certification. The school district that recommends a teacher for lead or master teacher certification will be responsible for meeting the contract requirements associated with the advanced certification beginning with the school year following submission of the application.

(2) **Contract requirements for lead and master teachers.** In addition to the contract requirements applicable to all certified teachers employed by Oklahoma public school districts, the following additional terms apply to the advanced certification classes:

(A) **Lead teachers.** An individual who holds a lead teaching certificate may have a teaching load of not more than seventy-five percent (75%) student instruction to allow the teacher to mentor other teachers. The contract of a lead teacher shall provide for an additional ten (10) days to be used to strengthen instructional leadership, as well as a salary supplement of at least three thousand dollars ($3,000) or the district's daily rate of pay, whichever is higher, in addition to the salary the teacher is entitled to under 70 O.S. § 18-114.14.

(B) **Master teachers.** An individual who holds a master teaching certificate may have a teaching load of not more than fifty percent (50%) student instruction to allow the master teacher to spend time on co-teaching, co-planning, peer reviews, and other duties mutually agreed on by the district superintendent and the master teacher. The contract of a master teacher shall provide for an additional fifteen (15) days to be used to strengthen leadership, as well as a salary supplement of at least five thousand dollars ($5,000) or the district's daily rate of pay, whichever is higher, in addition to the salary the teacher is entitled to under 70 O.S. § 18-114.14.

(c) **Criteria for lead teaching certificate.** The State Board of Education shall issue a lead teaching certificate to any person who upon application:

(1) Has a minimum of five (5) years of experience as a teacher, as reflected in the official record of teacher experience maintained by the State Department of Education Office of School Personnel Records;

(2) Participates in a meaningful individualized program of professional development as provided for in 70 O.S. § 6-101.10;

(3) Has earned a "highly effective" or "superior" rating on their most recent districtevaluation conducted pursuant to 70 O.S. § 6-101.16; and

(4) Has been recommended by their employing school district for lead teacher certification.

(d) **Criteria for master teaching certificate.** The State Board of Education shall issue a master teaching certificate to any person who upon application:

(1) Has a minimum of seven (7) years of experience as a teacher;

(2) Has either:

(A) Earned a "superior" rating on their most recent district evaluation conducted pursuant to 70 O.S. § 6-101.16; or

(B) Earned a "highly effective" rating on their most recent district evaluation conducted pursuant to 70 O.S. § 6-101.16 and holds or has held National Board certification; and

(3) Has been recommended by their employing school district for master teacher certification.

(e) **Fees and renewal schedule for lead and master teaching certificates.** The application fee for a lead teaching certificate or a master teaching certificate shall be the same as the fee for a standard teaching certificate as established in *Oklahoma Administrative Code* 210:20-9-9. The validity period of a lead teaching certificate or a master teaching certificate shall be the same as the validity period of a standard teaching certificate as established in *Oklahoma Administrative Code* 210:9-9-94. Renewal procedures and timelines for a lead teaching certificate or a master teaching certificate shall be the same as those established for a standard teaching certificate in *Oklahoma Administrative Code* 210:20-9-96, with the additional requirement that a lead teaching certificate may only be renewed if the teacher received a "superior" or "highly effective" rating on their most recent district evaluation, and a master teaching certificate may only be renewed if the teacher received either a "superior" rating on their most recent district evaluation, or received a "highly effective" rating and holds or has held a National Board certification.

(f) **Standard certification available to lead or master teacher who no longer meets requirements.** An individual who holds a lead teaching certificate or a master teaching certificate may obtain a standard teaching certificate if they no longer meet the requirements for the advanced certification, or no longer wish to hold the advanced certification. Upon receipt of a written request for standard certification from an individual who holds a lead or master teaching certificate, the State Department of Education shall issue a standard teaching certificate with a validity period that ends on the same date as the lead or master teaching certificate currently held by the individual. Upon issuance of the standard teaching certificate, the lead teaching certificate or master teaching certificate previously held by the individual shall be deemed void. A lead teacher or master teacher who returns to standard teaching certification is responsible for notifying the school district(s) where they are currently employed, as well as any district with which a contract has been entered for the following school year, of their change in certification class.

[OAR Docket #19-508; filed 5-31-19]

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

[OAR Docket #19-509]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools
Part 5. Standard III: Administration and Organization
210:35-3-46. Administrative and supervisory services [AMENDED]

AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 70 O.S. § 1-109; 70 O.S. § 18-108
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GIST/ANALYSIS:
This rule is updated due to changes in law and practice since the initial adoption, predominantly involving requirements for school district academic calendars and kindergarten programs. Content referring to the discontinued "elementary superintendent" certification status is deleted from the rule, as it is no longer in use. References to the length of early childhood and kindergarten programs have changed in statute, so old provisions inconsistent with the current guidelines have also been stricken from the rule. Two additional provisions addressing the State Board of Education's authority to grant certain statutory waivers were removed from the rule, as they are sufficiently addressed by statute. A provision requiring school districts to notify the State Department of Education Office of Accreditation within 72 hours in case of fire, tornado, or other such emergency situation is updated to clarify that the notification requirement applies to all school districts regardless of their academic calendar.
CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

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

PART 5. STANDARD III: ADMINISTRATION AND ORGANIZATION

210:35-3-46. Administrative and supervisory services

(a) The school site shall be part of a system employing a full-time superintendent. If a vacancy occurs in the superintendency during the course of the school year, a certified replacement must be employed within forty-five (45) school days.

(b) It shall further be the responsibility of the local board, upon the recommendation of the superintendent, to employ an administrative head to be known as a principal for each of the schools within the district. Private schools shall employ a full-time principal/headmaster. ~~An elementary district shall employ a full-time elementary superintendent. With the exception of requirements for certification, the term superintendent as used in these standards shall mean an elementary school superintendent, headmaster, or superintendent.~~ Full time is defined as employed full time and therefore allows administrators to teach.

(c) Instructional leadership shall be the chief function of the school's principal. The principal shall be responsible for the improvement of instruction and be given the authority and resources needed to accomplish this goal. The principal shall help clarify the goals of the school, help obtain resources for it, coordinate its various activities, and promote its continuous evaluation to determine improvements needed.

(d) Lines of administrative and supervisory authority between the central office staff and the principal shall be defined clearly and shall give the principal responsibility for initiating appropriate changes to meet the needs of the students.

(e) The principal shall be involved in the selection, assessment, evaluation, retention, and promotion of all personnel assigned to the school.

(f) While working with faculty, staff, or students in the school, central office and other supplementary personnel shall coordinate their activities through the principal.

(g) The principal shall have the responsibility and the authority for the administration of the non-instructional programs in the school.

(h) The local board shall adopt a school calendar and school day consistent with statutory requirements in Oklahoma.

~~(1) The early childhood school day shall consist of not less than 2 1/2 hours per session. Early childhood may meet for less than 2 1/2 hours a day the first five (5) days of school.~~

~~(2) The kindergarten school day shall consist of not less than 2 1/2 hours per day. Kindergarten may meet for less than 2 1/2 hours for the first five (5) days of school.~~

~~(3) A school day for first graders shall consist of not less than three (3) hours per day during the first two (2) weeks of school if the teachers devote the afternoon to parent teacher conferences.~~

~~(i) If, because of emergency situations, school has been missed more than fifteen (15) days, the State Board of Education will consider forgiving a portion of those days or in rare instances all days missed, on a case-by-case basis. Exceptions to the fifteen (15) day minimum will be made at the recommendation of the State Superintendent and forgiveness will be considered by the State Board of Education on a case-by-case basis. [70 O.S., Section 1-109]~~

(~~j~~i) If a school district on a traditional 180 day academic calendar rather than a 1,080 hour academic calendar determines that it is necessary to deviate from the required 6 hour school day because of severe weather conditions or fire, the administrator should report this, in writing, to the State Department of Education~~, Accreditation Section,~~ Office of Accreditation within seventy-two (72) hours. Any loss of school time shall require the superintendent to report the amount of time lost and the procedures to be used to make up the lost time. If a school district on a 1,080 hour academic calendar adopted pursuant to 70 O.S. § 1-109 determines that it is necessary to cancel or shorten a school day due to severe weather or other such unavoidable conditions, the district may adapt the length of subsequent school days as necessary to ensure class is in session for at least the 1,080 hours required for the school year. Any such adaptations to a school district's academic calendar that are made during the school year must be reported to the State Department of Education Office of Accreditation within seventy-two (72) hours, but pre-approval for the calendar adjustment is not required provided class time for the school year will not be reduced below 1,080 hours.

~~(k) Schools shall obtain permission from the State Board of Education before conducting Saturday classes to complete a standard school term including professional days. [70 O.S., Section 1-112]~~

[OAR Docket #19-509; filed 5-31-19]

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

[OAR Docket #19-510]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 29. Alternative Education Academies, Programs, and Schools
210:35-29-8. Requirements for alternative education programs [AMENDED]
AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 70 O.S. § 1210.568
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This The rule that outlines general requirements for alternative education programs is being amended to incorporate guidelines for how an elementary school district (grades K-8) may request a waiver from the State Board

of Education from the statutory requirement to implement an alternative education program. Elementary districts are authorized to request this waiver under 70 O.S. § 568(F). The new provision will establish an application deadline of May 15 prior to the school year the waiver is requested for, so that alternative education funds declined by an elementary district that does not implement a program may be distributed among districts that do provide alternative education services.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 29. ALTERNATIVE EDUCATION ACADEMIES, PROGRAMS, AND SCHOOLS

210:35-29-8. Requirements for alternative education programs

(a) **General requirements.** Alternative education is an educational process incorporating appropriate structure, curriculum, interaction, and reinforcement strategies to stimulate learning with students who are at risk of failing to complete their secondary education for reasons which may include academic deficiency, behavioral difficulties, excessive absences, pregnancy or parenting, family issues, substance abuse, financial issues, physical or mental health issues, state custody, juvenile justice involvement, and/or other such factors, not including disability status. An alternative education program must provide the additional services and supports outlined in statute, and not merely an opportunity for credit recovery. To qualify as an approved alternative education program, a school district's alternative school or alternative education program must meet all requirements listed at 70 O.S. § 1210.568, including:

(1) Student-teacher ratios conducive to effective learning for at-risk students;

(2) Appropriate structure, curriculum, interaction, and reinforcement strategies for effective instruction;

(3) An intake and screening process to determine eligibility of students;

(4) Appropriately certified teaching faculty;

(5) Teaching faculty with experiences or personal traits that qualify them for successful work with at-risk students;

(6) Collaboration with state and local agencies;

(7) Courses that meet the curricular standards adopted by the State Board of Education and additional remedial courses;

(8) Individualized instruction;

(9) Clear and measurable program goals and objectives;

(10) Counseling and social service components;

(11) Graduation plan for each student;

(12) Life skills instruction;

(13) Opportunities for arts education;

(14) A proposed annual budget;

(15) An evaluation component that includes an annual written self-evaluation;

(16) Service to students in grades six (6) through twelve (12) who are most at risk of not completing high school for reasons other than disability; and

(17) Opportunities for student participation in vocational programs and extra-curricular activities such as athletics, band, and clubs.

(b) **Submission of alternative education plan.** Each school district shall submit and certify an Alternative Education Implementation Plan to the State Department of Education by September 15 of each year. This plan shall outline how the district will meet the criteria listed in subsection (a) to serve its at-risk students. The plan must be submitted and certified by school districts providing their own alternative education programs, as well as districts which offer alternative education through interlocal cooperative arrangements, and districts which have no alternative education program and receive no alternative education funding.

(c) **Alternative education waiver available for elementary school districts.** For an elementary school district, which does not offer high school grades, the State Board of Education is authorized at 70 O.S. § 1210.568(F) to grant a waiver from the statutory requirement to implement and provide an alternative education program. An elementary school district wishing to request such a waiver must submit an application to the State Department of Education Office of Accreditation no later than May 15 prior to the school year for which the waiver is requested. An elementary school district that has not received any alternative education funding pursuant to 70 O.S. § 1210.568 shall be granted this waiver automatically and need not apply, but an elementary district that has received any amount of alternative education funding must apply for the waiver by May 15 prior to the applicable school year in order to be exempt from implementing an alternative education program.

(~~c~~d) **Deregulation not necessary for conforming alternative education programs.** A school district need not apply to the State Board of Education for a deregulation in order to implement an alternative education program that meets all requirements listed in this subchapter and at 70 O.S. § 1210.566 through 70 O.S. § 1210.568.

[OAR Docket #19-510; filed 5-31-19]

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

[OAR Docket #19-511]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 87. ~~Rules for Payments to~~ Charter Schools

210:40-87-4. Penalty for noncompliance [AMENDED]

210:40-87-6. Charter school insurance and surety bonding [AMENDED]

AUTHORITY:
State Board of Education; 70 O.S. § 3-104; 70 O.S. § 3-132
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Two of the rules addressing charter schools have been updated to reflect changes to the Oklahoma Charter Schools Act in the time since their adoption. Both amended sections were originally drafted to refer only to school districts as charter school sponsors, while the Charter Schools Act now authorizes sponsorship by other entities including technology center districts, colleges that are part of the State System of Higher Education, federally recognized Indian tribes, and in certain instances the State Board of Education.
CONTACT PERSON:
Lori Murphy, Assistant General Counsel, Oklahoma State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Telephone number: (405) 522-5260

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 87. ~~RULES FOR PAYMENTS TO~~ CHARTER SCHOOLS

210:40-87-4. Penalty for noncompliance

Upon notice of noncompliance and verification by the charter school of a sponsor's failure to disburse state funding to the charter school as outlined in Oklahoma Administrative Code 210:40-87-3, the State Department of Education may make a recommendation to the State Board of Education to withhold future payments of funds until the ~~district~~sponsor disburses payments to the charter school in accordance with 70 O.S. § 3-142 and these ~~policies~~administrative rules. In the event such a recommendation is made, the ~~local school board~~sponsor shall be notified in writing and given an opportunity to appear and provide information prior to any decision by the State Board of Education to invoke the penalty within ~~these rules~~this section.

210:40-87-6. Charter school insurance and surety bonding

(a) **Liability insurance.** Each charter school shall be required to furnish and maintain liability insurance coverage and fidelity bonding of the same terms, conditions, types and amounts required of public schools under Oklahoma law. The provisions of this subsection shall not be interpreted to preclude any charter school from obtaining liability insurance coverage or fidelity bonds in addition to or in excess of the requirements of this section.

(b) **Surety bonds.** Charter school officers and/or employees shall be required to furnish and maintain surety bonds with the same terms, conditions, penalty, types and amounts required of public school officers and/or employees under Oklahoma law.

(1) All surety bonds shall comply with the requirements set forth in 70 O.S. § 5-116a, provided that in the case of a charter school established in accordance with the provisions of the Oklahoma Charter Schools Act, ~~at~~ the surety bond shall be made payable to the charter school ~~instead of the school district~~.

(2) The provisions of this subsection shall not be interpreted to preclude any charter school officer and/or employee from furnishing and maintaining a surety bond in excess of the requirements of this section.

(3) Further, the provisions of this subsection shall not be interpreted to preclude a ~~school board, school district, or~~ charter school sponsor from requiring a charter school officer and/or employee charged with custody of public funds from furnishing a surety bond as a prerequisite of employment unless otherwise prohibited by law.

[OAR Docket #19-511; filed 5-31-19]

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

[OAR Docket #19-439]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Records and Inspections
240:1-3-4. Copies [AMENDED]
AUTHORITY:
Oklahoma Employment Security Commission; 40 O.S. §4-302
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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FINAL ADOPTION:
May 28, 2019

EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
This is a cleanup amendment to remove an obsolete subsection from the rule. The governing statute at 40 O.S. §4-508(D), gives the OESC 20 days to produce documents requested. Subsection (b) is being deleted because it exceeds that 20-day time period. The correct time period is specifically set out by this amendment.
CONTACT PERSON:
Gina Antipov, Secretary V, Legal Department, OESC, 2401 N. Lincoln Blvd., Oklahoma City, OK 73152, 405-557-7146, Gina.Antipov@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 3. RECORDS AND INSPECTIONS

240:1-3-4. Copies

~~(a)~~ Any person wishing to obtain a copy of any record must follow the procedures in rules 240:1-3-2 or 240:1-3-3 and include a request for copies in the writing, administrative subpoena, court order or waiver of confidentiality. The document requesting the records must allow at least twenty (20) days from the date of service for production of the documents.
~~(b) In the event the request constitutes more than twenty (20) pages, the legal division or custodian of records may arrange to mail the copies to the requester, within twenty five (25) days from the date of receipt of the request.~~

[OAR Docket #19-439; filed 5-30-19]

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

[OAR Docket #19-440]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General provisions
240:10-1-2. Definitions [AMENDED]
Subchapter 3. Benefits
Part 3. Computation~~Rates~~
240:10-3-12. Payment of benefits [AMENDED]
Part 5. Eligibility
240:10-3-20. Instructions to secure work [AMENDED]
Subchapter 5. Contributions
Part 1. General provisions
240:10-5-2. Definitions [AMENDED]
Part 7. Collection of contributions
240:10-5-33. Application of payments to Computer Assessment Fund and Technology Reinvestment Apportionment [AMENDED]
Part 19. Maintenance and production of work records
240:10-5-91. Employer's Quarterly Contribution Wage Reports [AMENDED]
240:10-5-96. Application for Oklahoma UI tax account number [AMENDED]
Subchapter 11. Assessment Board Procedure
Part 1. General Provisions
240:10-11-5. Jurisdiction [AMENDED]
Part 5. Hearings
240:10-11-27. Documents and electronically recorded or stored information [NEW]
Subchapter 13. Appeal Tribunal Procedure
Part 5. Hearings
240:10-13-47. Documents and electronically recorded or stored information [NEW]
AUTHORITY:
Oklahoma Employment Security Commission; 40 O.S. §§4-302, 1-209, 2-619, 3-102, 3-512, 4-310.1, 4-503, 26 USCA §6402.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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n/a
GIST/ANALYSIS:
240:10-1-2. The definition of "profiling" is being deleted because this program for identifying claimants likely to exhaust benefits has been replaced by the Re-employment Services and Eligibility Assessment (RESEA). New definitions defining "RESEA" and "RESEA Selection" are being added to the definition section for use in administering the new program. The definition of "temporary layoff" is being amended to reflect actual agency policy. A temporary layoff can last no more than 8 weeks in any benefit year. The request must be made in writing and must include a specific recall date. The employer may apply to the Commission for an extension of the recall date that will not exceed 4 additional weeks in the benefit year. Language in this definition relating to a temporary layoff by federal agencies or federal contractors has been deleted from this definition, and a new definition of "temporary layoff-federal" has been added to the rule. When a federal agency or federal contractor lays off employees for a temporary period of time due to the needs of the federal government, the employer maintains an attachment to the employee by means of its contract of employment. No recall date is required for federal temporary layoffs.

240:10-3-12. The amendments to this statute reflect changes in the debit card and direct deposit procedures for unemployment benefits. In the current rule, the claimant can choose at the onset of the claim whether or not to be paid through the use of a debit card or direct deposit to the claimant's bank account. The state-selected vendor for debit cards has made changes to this procedure. At this time, all claimants get a debit card. Once the claimant has been issued a debit card, the claimant can request direct deposit into another bank account. All direct deposit information will be given by the claimant to the state-selected vendor, and the state-selected vendor will make arrangements for the direct deposits into the other bank account. The changes to this rule reflect the current procedure.

240:10-3-20. This rule is being amended in subsection (b) to state specifically that a claimant must make two work search efforts each week. Subsection (b) contains a list of appropriate work search activities. Three items are being deleted from this list because staff did not feel like they were activities of significant import to consider them to be a "work search."

A new subsection (c) is being added to state that the Commission may increase the number of work searches required each week based on the circumstances of the claimant. There were two subsections in the original rule that spoke to the waiver of the work search requirement. These subsections are being combined into one subsection (d). The newly-defined "temporary layoff-federal" is referenced in the new work search waiver subsection.

240:10-5-2. The definition of "substantially all" is being amended to remove reference to the statute at 40 O.S. §3-111 because that statute was repealed. It is being replaced with a reference to 40 O.S. §1-208 which is the definition of "employer" in the governing act. This definition will be used to terminate an employer that has sold its business to another entity.

New definitions of "substantially common control," "substantially common management," and "substantially common ownership," have been added to aid in the implementation of the successor statute at 40 O.S. §3-111.1. These definitions indicate that substantially common ownership, management, and control will be found if 60% of any of these aspects of a business of the predecessor is also found to be in place with the successor entity.

240:10-5-33. A new subsection (b) is being added to this rule to state that if a payment is received to pay back indebtedness in a delinquent taxpayer account, and there is an amount owing for the OESC Technology Reinvestment Apportionment, the money received in the payment will first be applied to the amounts owing for the OESC Technology Reinvestment Apportionment and any remaining money shall be applied pursuant to Rule 240:10-5-32 which relates to regular tax indebtedness.

240:10-5-91. This is a cleanup and clarification amendment to state that the paper form OES-3 for the filing of the employer's quarterly unemployment taxes is to be used only for those employees who have been granted an exception from filing through the employer portal as required by subsection (d) of the rule.

240:10-5-96. This rule is being amended to clarify that trustees of trusts must complete certain portions of the application for a UI tax number in the same manner as owners, corporate officers, and other employers. An employing unit is defined in the governing act at 40 O.S. §1-209. The definition includes trusts that have employees.

240:10-11-5. This rule is being amended to include in the jurisdiction of the Assessment Board the hearings concerning a protest made by a debtor to the OESC through the procedures of the U.S. Treasury Offset Program. This is being done pursuant to 26 USCA §6402, and 40 O.S. §§2-619 and 3-512.

240:10-11-27. This is a new rule that requires each party to a hearing before the Assessment Board to deliver all documents and electronically recorded evidence to the Assessment Board 5 days before the hearing so that copies can be delivered to the opposing party.

240:10-13-47. This is a new rule that requires each party to a hearing before the Appeal Tribunal to deliver all documents and electronically recorded evidence to the Appeal Tribunal 5 days before the hearing so that copies can be delivered to the opposing party.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

240:10-1-2. Definitions

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

"Commuting distance" means an automobile driving distance of fifty (50) miles from a claimant's place of residence.

"Full-time work" means employment in thirty-two (32) or more hours of work per week.

"Good cause" means reasons beyond the control of the party seeking relief.

"Independent contractor" means:

(A) Any person who performs services according to their own methods and without control except as to results is an independent contractor, if they are:

(i) Customarily engaged in an independently-established business; or

(ii) Performing service outside the usual course of the contractor's business and outside the places of such business.

(B) In order to be considered "without control" the individual providing the service shall:

(i) Provide their own tools and equipment;

(ii) Pay their own ordinary and customary business expenses;

(iii) Risk losing money from the contract;

(iv) Be free to hire their own assistants; and

(v) Be responsible for obtaining and maintaining all business, tax registrations and all business occupational licenses required by federal, state, or local laws or ordinances.

(C) A written contract relating to such services shall be considered under 40 O.S. Section 1-210 (14), along with all other pertinent evidence in determining employment status and shall not be accorded any greater weight than any other evidence.

(D) This definition shall not be interpreted or construed as conflicting with Section 3304 (a) (6) (a) of the Federal Unemployment Tax Act.

"Interested Party" means:

(A) In an unemployment claim appeal - the Commission, a claimant who files a claim for unemployment benefits with the Commission, and any employer who properly files a written objection to the claim pursuant to 40 O.S. § 2-503 (E) and 2-507.

(B) In an unemployment tax protest - the Commission and the employer with an account that is directly affected by a decision made by the Commission or its representative.

(C) In a supplemental unemployment benefit plan appeal - the Commission, the employer that made application for approval of the plan, and the collective bargaining agent of the employees, if any exists.

"Leases" and **"Rents"** mean a contract between an owner of a business, building, or property and a leasee, in which:

(A) Space is leased, sublet, or rented for the purpose of operating or conducting a trade or business by the leasee;

(B) The lease or rental fee is set at a fixed amount per month, that remains constant for the term of the lease, sublease, or rental contract; and

(C) Is not based upon a percentage of income or revenue earned in the trade or business.

"Mail", "Mailed", and **"Mailing"**, as used in 40 O.S. §1-224, shall mean the mailing of a document through the United States Postal Service or a private delivery service designated by the United States Secretary of the Treasury pursuant

to 26 U.S.C. §7520(f), as a delivery service that may deliver returns, claims, statements, or other documents to the Internal Revenue Service.

"Part-time work" means employment of less than thirty-two (32) hours of work in a week.

~~**"Profiling"** means:~~

~~(A) A systematic computer generated process that:~~

~~(i) Identifies those claimants most likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;~~

~~(ii) Refers identified claimants to reemployment services; and~~

~~(iii) Collects follow-up information relating to the services received.~~

~~(B) Data elements which may be used in the identification process for profiling are:~~

~~(i) Recall status;~~

~~(ii) Union hiring hall agreement;~~

~~(iii) Education;~~

~~(iv) Job tenure;~~

~~(v) Industry;~~

~~(vi) Occupation;~~

~~(vii) Unemployment rate;~~

~~(viii) Number of prior UI claims; and~~

~~(ix) Maximum weekly benefit amount.~~

~~(C) Data elements prohibited for usage in profiling are:~~

~~(i) Age;~~

~~(ii) Race or ethnic group;~~

~~(iii) Sex;~~

~~(iv) Color;~~

~~(v) National origin;~~

~~(vi) Disability;~~

~~(vii) Religion;~~

~~(viii) Political affiliation; and~~

~~(ix) Citizenship.~~

"Reasonable cash value" [40:1-218] means an amount estimated and determined by consideration of the position held, type of work performed, duration of the work, and customary compensation of like providers in like industries.

"Reemployment Services" means those services which provide job search assistance and job placement services, which are counseling, testing, and providing occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

"RESEA" means Re-Employment Services and Eligibility Assessment.

"RESEA Selection" means:

(A) A systematic computer generated process that:

(i) Identifies those claimants most likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;

(ii) Refers identified claimants to reemployment services; and

(iii) Collects follow-up information relating to the services received.

(B) Data elements which may be used in the identification process for RESEA selection are:

(i) Recall status;

(ii) Union hiring hall agreement;

(iii) Education;

(iv) Job tenure;

(v) Industry;

(vi) Occupation;

(vii) Unemployment rate;

(viii) Number of prior UI claims; and

(ix) Maximum weekly benefit amount.

(C) Data elements prohibited for usage in RESEA selection are:

(i) Age;

(ii) Race or ethnic group;

(iii) Sex;

(iv) Color;

(v) National origin;

(vi) Disability;

(vii) Religion;

(viii) Political affiliation; and

(ix) Citizenship.

"Temporary Layoff" means a short term cessation of work or employment in which the employer maintains an attachment to an employee by means of a recall date. A temporary layoff may be requested by an employer for no more than eight (8) weeks in any benefit year. A request for a temporary layoff must be made by the employer to the Commission in writing and must include a specific recall date within eight (8) weeks of the cessation of work or employment. The employer may apply to the Commission for an extension of the recall date. The extension shall not exceed four (4) additional weeks in the benefit year. ~~or, in cases involving a federal agency or federal contractor with employees who have agreed to refrain from seeking employment elsewhere as part of their terms of employment when work is ceased due to the needs of the federal government, and the federal employer or federal contractor maintains an attachment to an employee by means of its contract of employment, then a recall date will not be required.~~

"Temporary Layoff-Federal" means a short-term cessation of work or employment in cases involving a federal agency or federal contractor with employees who have agreed to refrain from seeking employment elsewhere as part of their terms of employment when work is ceased due to the needs of the federal government, and the federal employer or federal contractor maintains an attachment to an employee by means of its contract of employment. In these cases, a recall date will not be required. The provisions of 40 O.S. §2-105.1 on reimbursed pay or back pay shall apply to this type of temporary layoff.

"Wages"

(A) **"Gratuities"** or **"Tips"** The employer shall include as wages all monies paid as gratuities or tips received by an individual in the course of his or her work pursuant to 40 O.S. Section 1-218 or, if actual information is not available, gratuities and tips shall be allocated to the employer in the amount of 8% of gross receipts.

(B) **"Noncash remuneration"** Noncash remuneration means meals, lodging or any other payment in kind received by a worker from the employing unit in addition to or in lieu of cash payments for services except for meals and lodging that are furnished on the business premises of the employer for the convenience of the employer pursuant to 40 O.S. Section 1-218(6).

"Wages paid"

(A) The term "wages paid", as defined in 40 O.S. Section 1-219, shall include both wages actually received by the worker and wages constructively paid. Wages shall be considered constructively paid when they are credited to the account of or set apart for a worker so that they may be drawn upon by the worker at any time although not then actually in the worker's possession. A mere crediting of the wages to the worker's account, without actually making them available to the worker so that they may be drawn upon by him/her at any time, does not constitute constructive payment.

(B) In the case of an employer who terminates his/her coverage as of January 1st of some year, the term "wages paid" shall include all wages earned for all pay periods up to and including the last payroll period ending in that year, at the end of which, the employer's coverage is terminated.

(C) "Wages paid" to the worker are to be reported in the calendar quarter in which they were actually paid.

"Week" For the purpose of paying benefits and for the purpose of this Chapter, a "week" as defined in 40 O.S. §1-220 shall consist of a calendar week which begins at 12:01 A.M. Sunday and ends at midnight the following Saturday.

"Working day" means:

(A) For employers, any day the employer as open and conducting its regular business activities.

(B) For claimants, any day the claimant's employer or former employer scheduled the claimant to work and the claimant was present and working at his or her assigned activities for part or all of the scheduled work hours for that day.

SUBCHAPTER 3. BENEFITS

PART 3. COMPUTATION~~RATES~~

240:10-3-12. Payment of benefits

(a) ~~As of December 1, 2008, all~~All unemployment benefits payable by the Commission pursuant to the provisions of the Employment Security Act of 1980, shall be paid through the state selected vendor.~~by direct deposit to the bank account of the eligible claimant, or by crediting a debit card issued to the eligible claimant. The debit card will be the payment method unless the claimant designates direct deposit.~~ The state selected vendor shall mail each claimant a debit card through which unemployment benefit payments to the claimant shall be made. The debit card shall be mailed to the address given by the claimant in the claimant's initial claim for benefits or in the latest notice of change of address. The claimant shall be responsible for the debit card and any PIN associated with the debit card.

(b) ~~The claimant must communicate the direct deposit information as directed by the Commission.~~ If the claimant wants to have his or her benefit payments made by direct deposit to the claimant's bank account, the claimant shall communicate this to the state selected vendor through the communication method provided by the state selected vendor. The payment option may be changed during the claimant's benefit year.

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

(1) Claimant's bank account number

(2) Claimant's bank routing number

(3) Any other information required by the state selected vendor

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

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

PART 5. ELIGIBILITY

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

(a) **Able and available to accept employment.** When a claimant files an initial claim for benefits, the Commission shall instruct the claimant that, in addition to registering for work in the Oklahoma labor exchange system or the system in the state in which the claimant resides, the claimant must diligently search for suitable employment.

(b) **Seek and accept work.** The Commission shall direct and require that in diligently searching for work the claimant must do those things that a reasonably prudent individual would be expected to do to secure work using any means that are appropriate and customary each week. A diligent work search requires that a claimant make two (2) work search efforts each week and consists of some combination of the following elements:

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

(2) Participation in all reemployment services offered to the claimant by the Commission or any other State Employment Service.

(3) Submit applications for work with employers.

(4) ~~Present oneself in a manner designed to encourage favorable employment consideration.~~

~~(5)~~ Register with the placement service of any professional organization the claimant is a member of.

(~~6~~5) Register with the placement service of any school, college, university, or training institution from which the claimant graduated.

(~~7~~6) Take examinations for work with governmental agencies.

~~(8) Search print media, on-line media, and social networks for employers seeking workers.~~

~~(9) Seek to expand your work search by a self-assessment of skills and abilities that may not have been utilized in the claimant's last employment.~~

(c) **Increase of work search requirements.** The number of work search efforts described in subsection (b) may be increased at the discretion of the Commission based on the circumstances of each claimant.

(d) **Waiver of work search requirement.** If an employee is involved in a temporary layoff, a temporary layoff-federal, or is receiving supplemental unemployment benefit payments through an approved plan, the work search requirement is met if the employee maintains an attachment to the employer and remains available to return to work for the employer.

~~(d) **Waiver of work search requirement.**~~ The work search requirement may be waived by the Executive Director in consultation with the Deputy Director, the General Counsel, and a designated Division Director if it is found that claimants in a specific geographic area or region of the state are prevented from making a reasonable work search as a direct result of natural disaster, fire, flood, or explosion.

SUBCHAPTER 5. CONTRIBUTIONS

PART 1. GENERAL PROVISIONS

240:10-5-2. Definitions

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

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

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

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

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

"Substantially All" as used in the context of 40 O.S. ~~§3-111~~§1-208, means that the ~~successor or~~ acquiring employer has acquired ~~the predecessor's~~another employer's trade, employees, organization, business, or assets to such an extent that ~~the predecessor~~the acquired employer is unable to continue in business.

"Substantially Common Control" means that sixty percent (60%) of the methods or mechanisms of control of the predecessor is found to be in place and ongoing in the successor entity, as used in the context of 40 O.S. §3-111.1.

"Substantially Common Management" means that sixty percent (60%) of the management positions of the predecessor entity remain in place in management positions with the successor entity, as used in the context of 40 O.S. §3-111.1,

"Substantially Common Ownership" means that sixty percent (60%) of the ownership of the predecessor entity in terms of the number of investor/owners or capital invested, controls at least sixty percent (60%) of the ownership interest in the successor entity, as used in the context of 40 O.S. §3-111.1

PART 7. COLLECTION OF CONTRIBUTIONS

240:10-5-33. Application of payments to Computer Assessment Fund and Technology Reinvestment Apportionment

(a) For all calendar quarters in which the computer fund assessment provided for in 40 O.S. Section 6-104 is applicable, any money received in payment of any indebtedness related to those quarters will be first applied to any amounts owing for the computer fund assessment. Any money remaining shall be applied pursuant to rule 240:10-5-32.

(b) For all calendar quarters in which the OESC Technology Reinvestment Apportionment provided for in 40 O.S. Section 6-204 is applicable, any money received in payment of any indebtedness related to those quarters will be first applied to any amounts owing for the OESC Technology Reinvestment Apportionment. Any money remaining shall be applied pursuant to rule 240:10-5-32.

PART 19. MAINTENANCE AND PRODUCTION OF WORK RECORDS

240:10-5-91. Employer's Quarterly Contribution Wage Reports

(a) **Due date of report.** Each employer shall report both contributions and "wages paid" (as defined in OAC 240:10-1-2) through the Employer Portal on the Commission Internet website, or if an exception has been granted, on paper Form OES-3, Employer's Quarterly Contribution and Wage Report, for each quarterly period in which ~~said~~the employer is subject to the Employment Security Act of 1980, on or before the last day of the month following the calendar quarter to be reported. However, an employing unit which has not previously qualified as an employer under the Employment Security Act of 1980 and who first qualifies as an employer during a calendar year shall file Form OES-3, Employer's Quarterly Contribution and Wage Reports, for all past periods of that calendar year on or before the due date for the quarterly report for that quarter in which such employing unit becomes an employer subject to the Employment Security Act of 1980. ~~[40:4-503]~~

(b) **Information required.**

(1) All instructions furnished with the official forms must be followed.

(2) All information required on the official forms shall be given.

(c) **Date of filing.** The date of filing of the Employer's Quarterly Contribution and Wage Report shall be determined by the date that an employer's fully completed report form is submitted for filing with the Commission pursuant to 40 O.S. §1-224.

(d) **Report filing.**

(1) This subsection shall apply to all Employer's Quarterly Contribution and Wage Reports that are due for filing after January 1, 2011.

(2) All employers with an assigned Oklahoma State Unemployment Tax Act (SUTA) account number shall be required to file the Employer's Quarterly Contribution and Wage Report through the employer portal on the Commission Internet website, unless an exception is granted by the Commission.

(3) All third party administrators shall be required to file the Employer's Quarterly Contribution and Wage Report through the employer portal on the Commission Internet website for clients with an assigned Oklahoma SUTA account number, unless an exception is granted by the Commission.

(e) **Authorization.** This rule is authorized by 40 O.S. §§3-102, 4-302, and 4-503.

240:10-5-96. Application for Oklahoma UI Tax Account Number

(a) Each employer must file an application for Oklahoma UI Tax Account Number, OES-1, in order to establish an Oklahoma UI Tax Account.

(b) All information requested in blocks 1, 2, 3, 4, and 5 of the form must be completed with all information requested including the social security number of the trustees, owners, directors, officers, partners, corporate officers or members of the entity filing the application.

(c) Blocks 6 through 17 must be truthfully filled out with all information that is applicable to the entity. The form must be signed by an owner, partner, director, officer or member of the entity in block 18 with the title of the signator and the date of signing specifically stated.

(d) If the Commission becomes aware of the existence of an employer that has failed or refused to file a form OES-1, the Commission may file the form on behalf of the employer using any information the Commission has available to it.

SUBCHAPTER 11. ASSESSMENT BOARD PROCEDURE

PART 1. GENERAL PROVISIONS

240:10-11-5. Jurisdiction

(a) The Assessment Board shall have jurisdiction to hear the following types of cases:

(1) ~~An appeal to a determination regarding~~Hearings concerning employer liability for unemployment contributions, pursuant to 40 O.S. Sections 1-208 and 1-210.

(2) ~~An appeal to a determination regarding~~Hearings concerning whether a worker is an independent contractor or an employee, pursuant to 40 O.S. Section 1-210(14).

(3) ~~An appeal to a determination made pursuant to~~Hearings concerning any provision contained in Article III of the Employment Security Act of 1980, 40 O.S. Sections 3-101, et seq.

(4) ~~An appeal to a determination to~~Hearings concerning the intercept of state tax refunds through the Oklahoma Tax Commission, pursuant to 68 O.S. Section 205.2(B).

(5) Hearings concerning a protest made by a debtor through the procedures of the Treasury Offset Program pursuant to 26 USCA Section 6402.

(b) The Commission, or its appointee, may assign other subjects of appeal to the Assessment Board as it deems appropriate.

PART 5. HEARINGS

240:10-11-27. Documents and electronically recorded or stored information

Each party to a hearing before the Assessment Board must deliver all documents and electronically recorded or stored evidence to the Assessment Board at least five (5) days before the date of hearing in order for copies to be made and delivered to the opposing party in preparation for the hearing.

SUBCHAPTER 13. APPEAL TRIBUNAL PROCEDURE

PART 5. HEARINGS

240:10-13-47. Documents and electronically recorded or stored information

Each party to a hearing before the Appeal Tribunal must deliver all documents and electronically recorded or stored evidence to the Appeal Tribunal at least five (5) days before the date of hearing in order for copies to be made and delivered to the opposing party in preparation for the hearing

[OAR Docket #19-440; filed 5-30-19]

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

[OAR Docket #19-476]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
265:25-1-4. Building permits ~~- application - plans and specifications - construction or repair of correctional facilities~~ [AMENDED]
265:25-1-5. Carbon dioxide [NEW]
265:25-1-6. Smoke detection [NEW]
265:25-1-7. Access control [NEW]
265:25-1-8. Smoke control [NEW]
265:25-1-9. Corbon monoxide [NEW]
265:25-1-10. Inspection [NEW]
AUTHORITY:
Oklahoma State Fire Marshal Commission; 74 O.S. § 324.11.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
March 11, 2019
COMMENT PERIOD:
January 15, 2019 through February 15, 2019
PUBLIC HEARING:
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EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
265:25-1-4 redefines the use and occupancy classifications, authority having jurisdiction, positive pressure primary water source, assembly and educational building/press boxes, carbon dioxide system, smoke detection system, access control system, smoke control system and carbon monoxide system and inspections using referenced state codes and standards.
CONTACT PERSON:
Susie Cain, Executive Secretary to the State Fire Marshal, 2401 NW 23rd Street, Suite 4, Oklahoma City, OK 73107, 405-522-5009

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

265:25-1-4. Building permits~~ - application - plans and specifications - construction or repair of correctional facilities~~

~~In accordance with 74 O.S., Section 324.11 the following use groups and occupancies are incorporated by reference:~~

~~(1) Educational buildings:~~
~~(A) Schools.~~
~~(B) Academics.~~
~~(C) Nursery schools.~~
~~(D) Kindergartens.~~
~~(E) Child day-care facilities.~~
~~(F) Colleges and universities.~~
~~(2) Hospitals:~~
~~(A) Health care facilities:~~
~~(i) Hospitals.~~
~~(ii) Nursing homes.~~
~~(B) Residential custodial care facilities:~~
~~(i) Nurseries.~~
~~(ii) Homes for the infirm aged.~~
~~(iii) Care institutions.~~
~~(iv) Supervisory care facilities.~~
~~(v) Ambulatory care facilities.~~
~~(3) Assembly Halls:~~
~~(A) Armory.~~
~~(B) Assembly hall for 50 or more persons:~~
~~(i) Theaters.~~
~~(ii) Motion picture theaters.~~
~~(iii) Assembly halls.~~
~~(iv) Auditoriums.~~
~~(v) Exhibition halls.~~
~~(vi) Museums.~~
~~(vii) Libraries.~~
~~(viii) Dance halls.~~
~~(ix) Club rooms.~~
~~(x) Passenger stations and terminals for train depots.~~
~~(xi) Recreation piers.~~
~~(C) Auditorium.~~
~~(D) Bonded warehouses.~~
~~(E) Convents.~~
~~(F) Convention halls.~~
~~(G) Churches.~~
~~(4) Dormitory for sleeping accommodations:~~
~~(A) Motels and hotels.~~
~~(B) Dormitories.~~
~~(C) Rooming houses.~~
~~(D) Residential restrained care institutions.~~
~~(E) Penal institutions.~~
~~(F) Jails.~~
~~(G) Correction centers.~~
~~(H) Orphanages for age 6 years and older.~~
~~(I) Reformitories.~~
~~(J) Detention centers.~~
~~(5) Factories.~~
~~(6) Stadiums.~~
~~(A) Coliseums.~~
~~(B) Bleachers.~~
~~(C) Grandstands.~~
~~(7) Warehouses.~~
~~(8) Government buildings:~~
~~(A) Municipal.~~
~~(B) County.~~
~~(C) State.~~
~~(9) Gymnasium.~~

(a) Application for building permit shall be made to, and such building permit shall be issued by, any city, town or county in whose jurisdiction the construction or alteration is

planned. In all geographical areas wherein no such permit is required by local authorities such permit must be obtained from the State Fire Marshal's Office for all Use and Occupancy Classifications identified in the International Building Code and Specific Situations identified in the International Fire Code by submitting applications, checklists, building plans and, if new construction only, site plans for review and, upon approval, be permitted by the State Fire Marshal's Office.

(b) Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structures, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing systems, the installation of which is regulated by the state-adopted building codes, or to cause any such work to be performed, shall first make application to the State Fire Marshal's Office and obtain the required permit.

(c) After any change of ownership, change in occupancy use or classification, and/or the building has remained unoccupied or vacated for at least 90 days involving any of the use and occupancy classifications identified in the International Building Code and Specific Situations identified in the International Fire Code must be brought up to current code requirements.

(d) All State owned or State occupied projects must be permitted by the State Fire Marshal's Office.

(e) The Authority Having Jurisdiction (AHJ) hierarchy is as follows:

(1) The State Fire Marshal's Office has jurisdiction for the entire State of Oklahoma unless the County or City has provided the State Fire Marshal's Office with approved documentation, entirely filled out with no alterations (AHJ letter).

(2) County assumes the responsibility from the State Fire Marshal's Office and has jurisdiction for the entire County within the State of Oklahoma and has provided the State Fire Marshal's Office with approved documentation, entirely filled out with no alterations (AHJ letter).

(3) City assumes the responsibility from the State Fire Marshal's Office and has jurisdiction for the entire city limits within the State of Oklahoma and has provided the State Fire Marshal's Office with approved documentation, entirely filled out with no alterations (AHJ letter).

(4) Subdivision assumes the responsibility from the State Fire Marshal's Office and has jurisdiction for the entire subdivision limits within the State of Oklahoma and has provided the State Fire Marshal's Office with approved documentation.

(f) All cities, towns, or counties that assume building permitting jurisdiction will be asked to provide an AHJ letter in writing every three (3) years as provided by the State Fire Marshal's Office. Any city, town, or county designated as the authority having jurisdiction will be considered by the State Fire Marshal's Office as responsible for the entire jurisdiction identified by the State Fire Marshal's Office in the AHJ letter.

(g) Only a positive pressure primary water source and/or tanks can be used as a reliable primary water source:

(1) No ponds;

(2) No pools;

(3) No open top containers;

(4) No cisterns; or

(5) No similar sources as identified above.

265:25-1-5. Carbon dioxide

All occupancies under the jurisdiction of the State Fire Marshal's Office with a carbon dioxide system must have properly installed carbon dioxide detector(s). If there is a fire alarm system installed the carbon dioxide detector(s) must be tied to the fire alarm system and sound a general alarm both in the audible and visual form. If there is not a fire alarm system the carbon dioxide detector(s) must provide a local alarm both in the audible and visual form. Plans must be submitted to and reviewed for approval by the State Fire Marshal's Office. All carbon dioxide permitting requirements are identified on the State Fire Marshal's Office website. NFPA 72 and NFPA 55.

265:25-1-6. Smoke detection

All occupancies under the jurisdiction of the State Fire Marshal's Office with a smoke detection system tied directly to the electrical system (as permitted by the International Building Code and the International Fire Code) and not tied to the fire alarm system must follow all the permitting requirements for a fire alarm system as identified on the State Fire Marshal's website. Plans must be submitted to and reviewed for approval by the State Fire Marshal's Office. NFPA 72, International Building Code and International Fire Code.

265:25-1-7. Access control

All occupancies under the jurisdiction of the State Fire Marshal's Office with access controlled entrance and/or egress must initially make contact with the appropriate fire alarm company to discuss proper connections. Plans must be submitted to and reviewed for approval by the State Fire Marshal's Office. All permitting requirements are identified on the State Fire Marshal's Office website. NFPA 72, NFPA 101 Life Safety Code, International Building Code and International Fire Code.

265:25-1-8. Smoke control

All occupancies under the jurisdiction of the State Fire Marshal's Office with a smoke control system must initially make contact with the appropriate fire alarm company and heating ventilation and air conditioning company to discuss proper connections, activation and desired results. Plans must be submitted to and reviewed for approval by the State Fire Marshal's Office. All permitting requirements are identified on the State Fire Marshal's website. NFPA 92, NFPA 92A, International Building Code and International Fire Code.

265:25-1-9. Carbon monoxide

All occupancies under the jurisdiction of the State Fire Marshal's Office with a carbon monoxide system must have properly installed carbon monoxide detector(s). If there is a fire alarm system installed, the carbon monoxide detector(s) must be tied to the fire alarm system and sound a general alarm

both in the audible and visual form. If there is not a fire alarm system, the carbon monoxide detector(s) must provide a local alarm both in the audible and visual form. Plans must be submitted to and reviewed for approval by the State Fire Marshal's Office. All permitting requirements are identified on the State Fire Marshal's Office website. NFPA 72, NFPA 720, International Building Code and International Fire Code.

265:25-1-10. Inspections

(a) As referenced by 74 O. Section 324.11, all Correctional facilities are required to be annually inspected by the State Fire Marshal's Office. All inspections will be conducted using the NFPA 101 Life Safety Code.

(b) As referenced by the Oklahoma Department of Human Services in Title 10, Ch. 51, Section 1430.12, the State Fire Marshal's Office is required to inspect all Day Care Facilities that fall under the State Fire Marshal's Office jurisdiction. All inspections will be conducted using the NFPA 101 Life Safety Code.

(c) The State Fire Marshal's Office conducts inspections of Education facilities up to the 12th grade that fall under the jurisdiction of the State Fire Marshal's Office. All inspections will be conducted using the NFPA 101 Life Safety Code.

(d) As referenced by the Oklahoma Department of Health in Title 63, Ch. 1, Article 8, Section 1-828, the State Fire Marshal's Office is required to annually inspect all Assisted Living Facilities that fall under the jurisdiction of the State Fire Marshal's Office. All inspections will be conducted using the NFPA 101 Life Safety Code.

(e) The State Fire Marshal's Office conducts inspections of state-owned facilities and facilities rented by the State of Oklahoma. All inspection will be conducted using the NFPA 101 Life Safety Code.

(f) As referenced by the Horse Racing Commission in Title 3A, Ch. 2, Section 205.5, all Race Tracks are required to be annually inspect by the State Fire Marshal's Office. All inspections will be conducted using the NFPA 101 Life Safety Code.

(g) All Educational facilities are required to have a commercial fire alarm system installed in accordance with NFPA 72. The commercial fire alarm system shall be monitored by a central station.

[OAR Docket #19-476; filed 5-31-19]

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

[OAR Docket #19-452]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
317:2-1-2 [AMENDED]
317:2-1-6 [AMENDED]
317:2-1-7 [AMENDED]
317:2-1-10 [AMENDED]
317:2-1-11 [AMENDED]
317:2-1-12 [AMENDED]
317:2-1-13 [AMENDED]
317:2-1-14 [AMENDED]
317:2-1-16 [AMENDED]
(Reference APA WF # 18-15A)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 C.F.R. Section 431.200 to 431.246 and 455.422; 12 O.S. Section 951; 56 O.S. Section 1011.9; 63 O.S. Section 5030.3; 68 O.S. Section 205.2; 75 O.S. Sections 305 and 309
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 19, 2018
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed revisions change all of the agency's appeals rules to extend the length of time that appeals can be submitted from twenty (20) days to thirty (30) days of the date of an adverse agency action. Additionally, the revisions will add Supplemental Hospital Offset Payment Program (SHOPP) appeals to the list of other grievance procedures and processes.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

317:2-1-2. Appeals

(a) **Request for Appeal.**

(1) For the purpose of calculating the timeframe for requesting an administrative appeal of an agency action, the date on the written notice shall not be included. The last day of the thirty-day (30-day) timeframe shall be included, unless it is a legal holiday as defined by 25 Oklahoma Statutes (O.S.) § 82.1, or any other day the Oklahoma Health Care Authority (OHCA) is closed or closes early, in which case, the timeframe runs until the close of the next full business day.

(2) An appeals request that an aggrieved member or provider sends via mail is deemed filed on the date that the agency receives it.

(~~a~~b) **Member Process Overview.**

(1) The appeals process allows a member to appeal a decision relating to program benefits. Examples are

decisions involving medical services, prior authorizations for medical services, or discrimination complaints.

(2) In order to ~~file~~initiate an appeal, the member ~~files~~must file a LD-1 (Member Complaint/Grievance Form) within ~~twenty (20)~~thirty (30) calendar days of the ~~triggering event. The triggering event occurs at the time when the member (the "Appellant") knew or should have known the facts or circumstances serving as the basis for an appeal~~date the OHCA sends written notice of its action, in accordance with Oklahoma Administrative Code (OAC) 317:2-1-2(a), above, or, in matters in which a formal notice is not sent by the agency, within thirty (30) days of the date on which the member knew or should have known the facts or circumstances serving as the basis for appeal.

(3) If the LD-1 form is not received ~~within twenty (20) days of the triggering event~~timely, ~~OHCA~~the Administrative Law Judge (ALJ) will cause to be issued a letter stating the appeal will not be heard ~~because it is untimely~~. In the case of tax warrant intercept appeals, if the LD-1 form is not received by OHCA within the timeframe pursuant to ~~Title 68 Oklahoma Statutes, Sec. 205.2~~68 O.S. § 205.2, OHCA similarly will cause to be issued a letter stating the appeal will not be heard because it is untimely.

(4) If the LD-1 form is not completely filled out or if necessary documentation is not included, then the appeal will not be heard.

(5) OHCA will advise members that if assistance is needed in reading or completing the grievance form, arrangements will be made to provide such assistance.

(6) Upon receipt of the member's appeal, a fair hearing before the ~~Administrative Law Judge (ALJ)~~ALJ will be scheduled. The member will be notified in writing of the date and time of the hearing. The member must appear at the hearing, either in person or telephonically. Requests for a telephone hearing must be received in writing on OHCA's LD-4(Request for Telephonic Hearing) form no later than ten (10) calendar days prior to the scheduled hearing date. Telephonic hearing requests will only be granted by the OHCA's Chief Executive Officer (CEO) or his/her designee, at his/her sole discretion, for good cause shown, including, for example, the member's physical condition, travel distances, or other limitations that either preclude an in-person appearance or would impose a substantial hardship on the member.

(7) The hearing shall be conducted according to OAC 317:2-1-5. The ALJ's decision may be appealed to the CEO of the OHCA, which is a record review at which the parties do not appear (OAC 317:2-1-13).

(8) Member appeals are ordinarily decided within ninety (90) days from the date on which the member's timely request for a fair hearing is received, unless, in accordance with ~~42 Code of Federal Regulations, Sec. 431.244(f)~~Section 431.244(f) of Title 42 of the Code of Federal Regulations:

(A) The Appellant was granted an expedited appeal pursuant to ~~OAC 317:2-1-2.4~~OAC 317:2-1-2.5;

(B) OHCA cannot reach a decision because the Appellant requests a delay or fails to take a required action, as reflected in the record; or

(C) There is an administrative or other emergency beyond OHCA's control, as reflected in the record.

(9) Tax warrant intercept appeals will be heard directly by the ALJ. A decision is normally rendered by the ALJ within twenty (20) days of the hearing before the ALJ.

(~~b~~c) **Provider Process Overview.**

(1) The proceedings as described in this subsection contain the hearing process for those appeals filed by providers. These appeals encompass all subject matter cases contained in ~~OAC 317:2-1-2(c)(2)~~OAC 317:2-1-2(d)(2).

(2) All provider appeals are initially heard by the OHCA ALJ under ~~OAC 317:2-1-2(c)(2)~~OAC 317:2-1-2(d)(2).

(A) In order to initiate an appeal, ~~A~~a provider ~~who wants to contest an adverse OHCA determination (the "Appellant") must initiate an appeal by filing with OHCA the proper~~must file the appropriate LD form within ~~twenty (20)~~thirty (30) calendar days of the date ~~of~~the OHCA sends written notice of ~~an adverse determination or other~~its action ~~taken by OHCA~~, in accordance with OAC 317:2-1-2(a), above. LD-2 forms should be used for Program Integrity audit appeals; LD-3 forms are to be used for all other provider appeals.

(B) Except for OHCA Program Integrity audit appeals, ~~If~~if the appropriate LD form is not received ~~within twenty (20) days of the date of notice~~timely, ~~OHCA~~the ALJ will cause a letter to be issued stating that the appeal will not be heard ~~because it is untimely~~.

(C) A decision ordinarily will be issued by the ALJ within forty-five (45) days of the close of all evidence in the appeal.

(D) Unless otherwise limited by OAC 317:2-1-7 or 317:2-1-13, the ALJ's decision is appealable to OHCA's CEO.

(~~c~~d) **ALJ jurisdiction.** The ALJ has jurisdiction of the following matters:

(1) **Member Appeals.**

(A) Discrimination complaints regarding the SoonerCare program;

(B) Appeals which relate to the scope of services, covered services, complaints regarding service or care, enrollment, disenrollment, and reenrollment in the SoonerCare Program;

(C) Fee for Service appeals regarding the furnishing of services, including prior authorizations;

(D) Appeals which relate to the tax warrant intercept system through the OHCA. Tax warrant intercept appeals will be heard directly by the ALJ. A decision will be rendered by the ALJ within twenty (20) days of the hearing;

(E) Proposed administrative sanction appeals pursuant to OAC 317:35-13-7. Proposed administrative

sanction appeals will be heard directly by the ALJ. A decision by the ALJ will ordinarily be rendered within twenty (20) days of the hearing before the ALJ. This is the final and only appeals process for proposed administrative sanctions;

(F) Appeals which relate to eligibility determinations made by OHCA; and

(G) Appeals of insureds participating in Insure Oklahoma which are authorized by OAC 317:45-9-8~~(a); and~~.

(2) **Provider Appeals.**

(A) Whether Pre-admission Screening and Resident Review (PASRR) was completed as required by law;

(B) Denial of request to disenroll member from provider's SoonerCare Choice panel;

(C) Appeals by Long Term Care facilities for administrative penalty determinations as a result of findings made under OAC 317:30-5-131.2(b)(5)(B) and (d)(8);

(D) Appeals of Professional Service Contract awards and other matters related to the Central Purchasing Act pursuant to ~~Title 74 O. S. § 85.1~~Title 74 O.S. § 85.1 et seq.;

(E) Drug rebate appeals;

(F) Provider appeals of OHCA Program Integrity audit findings pursuant to OAC 317:2-1-7. This is the final and only appeals process for appeals of OHCA Program Integrity audit findings;

(G) Oklahoma Electronic Health Records Incentive program appeals related only to incentive payments, incentive payment amounts, provider eligibility determinations, and demonstration of adopting, implementing, upgrading, and meaningful use eligibility for incentives;

(H) Supplemental Hospital Offset Payment Program (SHOPP) annual assessment, Supplemental Payment, fees or penalties as specifically provided in OAC 317:2-1-15; and

(I) The Nursing Facility Supplemental Payment Program (NFSPP) and its issues consisting of the amount of each component of the Intergovernmental transfer, the Upper Payment Limit payment, the Upper Payment Limit gap, and the penalties specifically provided in OAC 317:30-5-136. This is the final and only process for appeals regarding NFSPP.

317:2-1-6. Other grievance procedures and processes

Other grievance procedures and processes include those set out in Oklahoma Administrative Code (OAC) 317:2-1-7 ~~(Provider Appeals of OHCA Audit Findings)~~(Program Integrity Audit Appeals); ~~317:2-1-8 (Nursing Home Provider Contract Appeals);~~ OAC 317:2-1-9 (OHCA's Designated Agent's Appeal Process for QIO Services); OAC 317:2-1-10 (Drug Rebate Appeal Process); OAC 317:2-1-11 [Medicaid Drug Utilization Review Board (DUR) Appeal Process]; OAC 317:2-1-12 ~~(For Cause Provider Contract Suspension/Termination Appeals Process)~~(For Cause and Immediate Provider Contract Termination Appeals Process); ~~and~~ OAC 317:2-1-14 (Contract Award Protest Process)~~.~~; and OAC 317:2-1-15 (Supplemental Hospital Offset Payment Program (SHOPP) Appeals).

317:2-1-7. Program Integrity Audit Appeals

All appeals related to audits originating from Program Integrity resulting in overpayments are heard by an Administrative Law Judge (ALJ) pursuant to ~~56 O.S. § 1011.9~~56 Oklahoma Statutes (O.S.) § 1011.9.

(1) If the ~~OHCA~~Oklahoma Health Care Authority (OHCA) determines a provider received an overpayment based upon audit ~~findings~~findings/report issued pursuant to ~~OAC~~Oklahoma Administrative Code (OAC) 317:30-3-2.1, the provider may appeal the audit ~~findings~~findings/report. If a provider elects to appeal the audit ~~findings~~findings/report, the provider must file its appeal with the OHCA's Legal Docket Clerk, using Form LD-2. The LD-2 must be received by the OHCA Legal Docket Clerk within ~~20~~thirty (30) calendar days of the date of the initial audit ~~findings~~findings/report or within ~~20~~thirty (30) calendar days of the date of the reconsideration audit ~~findings following reconsideration~~findings/report. The computation of time shall be calculated in accordance with ~~12 O.S. § 2006~~OAC 317:2-1-2(a).

(2) The provider must attach a statement to the LD-2 that specifies what findings and/or claims are being appealed, as well as all factual and legal bases for the appeal. The provider shall attach the following to the LD-2 form:

(A) Citations for any statute or rule that the provider contends has been violated;

(B) The provider's name, address, e-mail address, and telephone number;

(C) The name, address, e-mail address, and telephone number of the provider's authorized representative, if any; and

(D) The LD-2 must be signed by the provider or provider's authorized representative.

(i) For purposes of this section, "provider" means the person or entity against whom the overpayment is sought.

(ii) Consistent with Oklahoma rules of practice, an individual provider may appear on his/her own behalf or may be represented by an attorney licensed to practice law within the State of Oklahoma. In the case of an entity, the provider entity must be represented by an attorney licensed to practice within the State of Oklahoma. Attorneys not licensed to practice in Oklahoma must comply with 5 O.S. Art II, Sec. 5, and rules of the Oklahoma Bar Association.

(3) A provider or the provider's authorized representative shall immediately report any change in contact information during the course of the appeal to the OHCA Legal Docket Clerk.

(4) The OHCA, on its own initiative or upon written request of a party, may consolidate or join appeals if to do so will expedite the processing of the appeals and not adversely affect the interest of the parties.

(5) The provider has the burden of proof to prove that the overpayment determination and the errors identified in the audit ~~findings~~findings/report are inaccurate. The provider must prove the relief sought by a preponderance of the evidence standard, as defined by the Oklahoma Supreme Court. In adjudicating an appeal under the preponderance of the evidence standard, the ALJ will examine each piece of evidence for relevance, probative value, and credibility, to determine whether the fact to be proven is proved by the greater weight of the evidence.

(6) Within approximately ~~45~~forty-five (45) days of receiving the LD-2, the Legal Docket Clerk will schedule a prehearing conference before an ALJ. This period of time is intended to provide the parties an opportunity to settle the dispute prior to the prehearing. Settlement of audit appeals is encouraged and can begin at any time of the audit appeal process between the provider and OHCA's Legal Division. If a settlement is reached, the terms shall be set out in writing and signed by both parties and/or their authorized representatives. Unless otherwise warranted, an Agreed Order setting out the terms of the settlement shall be presented to the ALJ for approval. In limited situations, a settlement may be agreed to be a confidential settlement by the parties and will not be submitted as an Agreed Order to the ALJ. In the case of confidential settlements, the Appellant shall file a motion to dismiss the appeal with prejudice which informs the ALJ that the matter has been settled and that the audit appeal is moot.

(7) Audit appeals which are not settled will commence with a prehearing conference before the assigned ALJ as follows:

(A) The prehearing conference shall be informal, structured by the ALJ, and not open to the public. The ALJ shall record the prehearing conference by digital recording.

(i) Each party shall be notified of the date of the prehearing conference at least ~~30~~thirty (30) calendar days prior to the scheduled prehearing conference.

(ii) Each party shall appear in person or through their authorized representative.

(iii) Witnesses, not including a named party, shall not appear at the prehearing conference. Nor shall any witness testimony be presented at the prehearing conference.

(B) A request for continuance of a prehearing conference can be made up to three (3) business days prior to the scheduled prehearing conference date. A lesser period of time may be permitted for good cause shown. The ALJ shall rule on the request and in no case shall a combination of continuance exceed a total of ~~30~~thirty (30) calendar days except for good cause shown.

(C) Within ~~20~~twenty (20) days prior to the prehearing conference, the Appellant provider shall file a prehearing conference statement with the Legal Docket Clerk and provide a copy to the other party; and within ~~10~~ten (10) days prior to the prehearing conference, the OHCA shall file a prehearing conference statement with the docket clerk and provide a copy to the other party. Each party's prehearing conference statement shall include:

(i) A brief statement of its case, including a list of stipulations and legal and factual issues to be heard;

(ii) A list of any witnesses who have direct knowledge of the facts surrounding the issues of the appeal and who are expected to be called at the hearing. The list shall include a brief statement of the testimony each witness will offer;

(iii) A list of all exhibits, together with a copy thereof, which each party intends to offer into evidence at the hearing; and

(iv) Any requests for discovery.

(D) At the prehearing conference, the parties shall clarify and isolate the legal and factual issues involved in the audit appeal.

(E) Each party shall be present, on time, and prepared. Failure to do so may result in dismissal of the appeal or other sanctions unless good cause is shown. A prehearing conference shall not be continued if a party fails to be prepared to identify issues, propose witnesses, or provide exhibits, unless the ALJ finds good cause is shown.

(F) Following the prehearing conference, the ALJ shall issue a Scheduling Order setting forth deadlines for parties to complete discovery, submit briefs as directed by the ALJ, submit prehearing motions, and other deadlines as may be needed. The ALJ should attempt to issue the Scheduling Order within two (2) weeks of the prehearing conference. Upon completion of discovery and the submission of any motions or briefs, the ALJ shall issue a Prehearing Order that shall identify all issues to be presented at the hearing; a final list of witnesses to be called by each party; a final list of exhibits to be used by each party; and the hearing date and anticipated duration of the hearing. The Prehearing Order should be filed by the ALJ no later than ~~10~~ten (10) days prior to the hearing.

(8) The ALJ shall:

(A) Limit all decisions, rulings, and orders to matters directly related to the contested overpayment determination resulting from the audit findings issued pursuant to OAC 317:30-3-2.1 and procedural matters set forth within OAC 317:2-1-7;

(B) Hear and rule on pending requests or motions as expeditiously as possible. This includes setting filing and responsive deadlines in accordance with Title 12 of the Oklahoma Statutes and the Rules for District Courts of Oklahoma. To preserve judicial efficiency, a reply to a response to a motion shall not

be filed by a party without leave of Court to do so and such permission shall not be routinely granted;

(C) Rule on whether witnesses have knowledge of the facts at issue;

(D) Rule on whether discovery requests and other motions and requests are relevant;

(E) Rule on whether to grant a party's request to depose a witness. To preserve judicial efficiency, depositions shall not be routinely permitted and shall only be permitted by order of the ALJ;

(F) Strike or deny witnesses, documents, exhibits, discovery requests, and other requests or motions which are cumulative, not relevant, not material, used as a means of harassment, unduly burdensome, or not timely filed; and

(G) Identify and rule on ~~errors~~the specific audit findings being appealed and~~ issues~~ to be heard at the administrative hearing.

(9) As the purpose of the administrative process is to expedite a limited appellate review of the audit findings, the ALJ shall ensure a timely resolution of the appeal. The ALJ shall schedule a hearing within ~~90~~ninety (90) days of the prehearing conference. A party may request a continuance of the hearing by motion, which shall only be permitted if the ALJ finds good cause exists and neither party shall be prejudiced by the continuation.

(10) At the hearing:

(A) Each party shall appear in person or through their authorized representative.

(B) All witnesses must appear in person to provide testimony.

(C) All relevant exhibits provided with and specifically identified in each party's prehearing conference statement or final exhibit list, that have not been objected to or stricken by the ALJ, shall be deemed admissible at the hearing.

(D) Each party ~~is responsible to~~shall provide a sufficient number of copies of its own exhibits at the hearing. This is in addition to any other copies of exhibits that were previously produced prior to the hearing unless otherwise ordered by the ALJ.

(E) The hearing will be limited to one (1) day. Each side will be allowed four (4) hours to present its case-in-chief, which is inclusive of any time needed for cross-examination of witnesses by the opposing party. For good cause shown, the ALJ may increase or decrease the time limit for each party to present its case-in-chief, taking into account the time limits of the entire appeal process.

(11) The ALJ should attempt to make the final hearing decision within 90 days from the date of the hearing. Any appeal of the final order pursuant to 12 O.S. § 951 must be filed with the District Court of Oklahoma County within ~~30~~thirty (30) days.

(A) The following items shall constitute the record on appeal:

(i) all motions and orders filed with the Legal Docket Clerk;

(ii) all exhibits admitted during the hearing; and

(iii) the transcripts of proceedings, if any.

(B) It shall be the duty of the Appellant in any District Court appeal to order a written transcript of proceedings to be used on appeal. The transcript must be ordered within 30 days of the filing of an appeal in the District Court and any costs associated with the preparation of the transcript shall be borne by the Appellant.

(12) All orders and settlements are non-precedential decisions.

(13) The prehearing conference, the hearing, and any supplementary hearings or conferences shall be digitally recorded and closed to the public.

(14) The record of the appeal, confidential settlements, and any audio recordings shall remain confidential.

317:2-1-10. Drug Rebate appeal process

The purpose of this Section is to afford a process to both the manufacturer and the state to administratively resolve drug rebate discrepancies. These rules anticipate discrepancies between the manufacturer and ~~OHCA~~the Oklahoma Health Care Authority (OHCA) which would require the manufacturer to pay a higher rebate or a lower rebate. These regulations provide a mechanism for both informal dispute resolution of drug rebate discrepancies between the manufacturer and OHCA and a mechanism for appeals of drug rebate discrepancies between the manufacturer and OHCA.

(1) The process begins at the end of each calendar quarter when the OHCA mails a copy of the State's past quarter's utilization data to the manufacturer. Utilization data and a billing for rebates will be mailed to the manufacturer within ~~60~~sixty (60) days after the end of each quarter. It is this data which dictates the application of the federal drug rebate formula.

(2) Within ~~30~~thirty (30) days from the date utilization data is sent to the manufacturer, the manufacturer may edit state data and resolve data inconsistencies with the state. The manufacturer may utilize telephone conferences, letters and any other mechanism to resolve data inconsistencies in mutual agreement with the state.

(3) Within ~~30~~thirty (30) days after the utilization data is mailed to the manufacturer, the manufacturer may:

(A) pay the same amount as billed by the state with the quarterly utilization date;

(B) pay an amount which differs from the amount billed by the state with the utilization data and send disputed data information;

(C) pay nothing and send no disputed data information;

(D) pay nothing and send disputed data information.

(4) In the event the state receives the rebate amount billed by the 30th day, the dispute ends.

(5) If after ~~30~~thirty (30) days one of the following events occurs, the state will acknowledge the receipt of the correspondence and review the disputed data:

(A) the receipt of an amount lower than that billed to the manufacturer;

(B) the receipt of disputed data.

(6) In the event no disputed data is received and no payment is received, interest will be computed in accordance with the provisions of federal law found at ~~42 U.S.C. Section 1396b(d)(5)~~42 United States Code (U.S.C.) § 1396b(d)(5) and will be compounded upon the amount billed from ~~38~~thirty-eight days after the date utilization data is sent.

(7) In the event a lower amount than billed is paid or in the event disputed data is sent, and no money is received, interest will be computed in accordance with 42 U.S.C. Section 1396b(d)(5) and will be computed from ~~38~~thirty-eight days from the date utilization data is sent to the manufacturer.

(8) Within ~~70~~seventy (70) days from the date utilization data is sent to the manufacturer, the state will make its final informal review of the disputed data. OHCA will mail a second notice to the manufacturer which will include:

(A) receipt of the rebate, if any;

(B) receipt of the dispute;

(C) a statement regarding the interest amount; and

(D) a statement regarding the appeal rights of the manufacturer with a copy of the appeal form.

(9) Within ~~90~~ninety (90) days of the date utilization data is sent to the manufacturer or within ~~20~~thirty (30) days of the date a second notice is mailed to the manufacturer, whichever is sooner, the state or the manufacturer may request a hearing to administratively resolve the matter.

(10) The administrative appeal of drug rebate discrepancies includes:

(A) The appeal process will begin by the filing of a form LD-2 by the manufacturer or OHCA.

(B) The process afforded the parties will be the process found at ~~OAC 317:2-1-2(b) and (c)~~OAC 317:2-1-2(c) and (d).

(C) With respect to the computation of interest, interest will continue to be computed from the ~~38~~thirty-eight (38) day based upon the policy contained in the informal dispute resolution rules above.

(D) The ~~ALJ's~~Administrative Law Judge's (ALJ) decision will constitute the final administrative decision of the OHCA.

(E) If the decision of the ALJ affirms the decision of OHCA in whole or in part, payment from the manufacturer must be made within ~~30~~thirty (30) days of the decision. If the decision of the ALJ reverses the decision of the OHCA, the OHCA will make such credit or action within ~~30~~(30) days of the decision of the ALJ.

(F) The nonpayment of the rebate by the manufacturer within ~~30~~thirty (30) days after the ALJ's decision will be reported to the Centers for Medicare and Medicaid Services and may be the basis of an exclusion action by the OHCA.

317:2-1-11. Medicaid Drug Utilization Review Board (DUR) appeal process

This Section explains the appeal process, pursuant to ~~63 O.S. §5030.3(B)(Supp. 1999)~~Title 63 Oklahoma Statutes (O.S.) § 5030.3(B), accorded any party aggrieved by a decision of the ~~OHCA~~Oklahoma Health Care Authority (OHCA) Board or ~~Administrator (CEO)~~Chief Executive Officer (CEO) concerning a proposed recommendation of the Medicaid Drug Utilization Review Board (DUR).

(1) The aggrieved party may appeal pursuant to ~~OAC~~Oklahoma Administrative Code (OAC) 317:2-1-2 et seq. (OHCA Appeals).

(2) The Board finds that the prescription of Title 63 O.S. § 5030.3(B) is somewhat contradictory with the functions of the DUR Board. More specifically, in most instances, the DUR Board suggests policies that must be rule made. Rules promulgated by the OHCA Board do not lend to an "individual proceeding notice" as contemplated by Article II of the Oklahoma Administrative Procedures Act, specifically, ~~Title 75 O.S. §309~~Title 75 O.S. § 309. Thus, in instances where the OHCA Board promulgates rules as a result of policy recommendations by the DUR Board, this Board will consider a party aggrieved by these rules to have filed a Petition for Rulemaking under ~~75 O.S. §305~~75 O.S. § 305. In making this interpretation of ~~63 O.S. §5030.1~~63 O.S. § 5030, the Board will not enforce the last sentence of ~~75 O.S. §305~~75 O.S. § 305. In making this interpretation, the Board finds that it is taking two somewhat conflicting provisions, and combining them to effectuate the intent of the legislature - to provide a hearing to those aggrieved by recommendations by the DUR Board and accepted by the OHCA Board.

(3) In instances where the DUR Board makes a recommendation accepted by the Board against an individual provider [for example, a recommendation under 42 ~~U.S.C.~~United States Code 1396r-8(g)(3)(C)(iii)(IV)], OHCA will provide an individual proceeding under the Oklahoma Administrative Procedures Act.

(4) In any appeal under (1) and (2) of this subsection, the OHCA Board delegates the OHCA ALJ to preside over the above hearing and present the Board with proposed findings of fact and conclusions of law in accordance with Article II of the Administrative Procedures Act. The OHCA Board may accept the ALJ's written decision, reject it, or amend the recommendations.

(5) Appeals filed pursuant to (1) and (2) of this subsection, will be made within ~~20~~thirty (30) days of the OHCA Board's acceptance of the recommendation by the DUR Board.

(6) After Proposed Findings of Fact and Conclusions of Law are presented to the OHCA Board, the Board will have a period of 120 days to issue a final administrative order.

(7) The Agency's Legal Services Division will construct a form called the LD-3, which will be used for parties to file an action under (1) and (2) of this subsection.

317:2-1-12. For cause and immediate provider contract termination appeals process

This section explains the appeals process for providers whose SoonerCare contracts have been terminated by the ~~OHCA~~Oklahoma Health Care Authority (OHCA) for cause.

(1) **~~30~~Thirty (30) day for cause termination.** Pursuant to the terms of all provider contracts with the OHCA, either party may terminate the contract for cause with a ~~30~~thirty (30) day written notice to the other party.

(A) **Notice of proposed termination.** The OHCA will provide notice to the provider of the proposed termination of the provider's contract. The written notice of termination will state:

(i) the reasons for the proposed termination;

(ii) the date upon which the termination will be effective; and

(iii) a statement that the provider has a right to OHCA review prior to the termination of the provider's contract.

(B) **Right to OHCA review prior to termination of provider contract.** Before the provider's contract is terminated, the OHCA will give the provider the opportunity to submit documents and written arguments against the termination of the provider's contract. The provider's written response requesting a review must be submitted within ~~20~~thirty (30) days from the date of the notice. If a written response is not received within ~~20~~thirty (30) days, the notice of termination will become final and there will be no further right to review or appeal post-termination.

(C) **Notice of termination.**

(i) After the OHCA review of the provider's written response, the OHCA will make a final administrative decision regarding the contract termination.

(ii) Should the OHCA decide that the provider's contract should not be terminated, the provider will be notified in writing of the reasons for the OHCA's decision.

(iii) Should the OHCA make a decision to terminate the provider's contract, the OHCA will send a subsequent notice stating:

(I) the reasons for the decision;

(II) the effective date of the termination of the contract; and

(III) the provider's right to request a post termination panel committee desk review within ~~20~~thirty (30) days of the date of the termination letter.

(2) **Immediate termination.** The OHCA will provide notice to the provider of the termination of the provider's contract. The written notice of termination will state:

(A) the reasons for the proposed termination;

(B) the date upon which the termination will be effective; and

(C) a statement that the provider has a right to appeal the termination of the provider's contract in a post-termination panel committee desk review within ~~20~~thirty (30) days of the date of the termination letter.

(3) **Post-termination panel committee desk review.** After the effective date of the termination of the provider's contract, the provider is entitled to receive a post-termination panel committee desk review. The panel review committee for the OHCA will be comprised of three (3) employees of the OHCA as designated by the Chief Executive Officer or his/her designee. Any OHCA employee who was involved with the underlying investigation of the provider's case for purpose of the termination will not be a panel review committee member. The purpose and scope of the panel committee desk review will be limited to issues raised in the OHCA's letter of termination as the basis of terminating the provider's contract. The panel committee does not have jurisdiction to hear issues not addressed in the termination notice.

(A) The provider must request a panel committee desk review within ~~20~~thirty (30) days of the date of the termination letter. The provider must submit a brief written statement detailing the facts which are refuted by the provider. Any documentation the provider requests consideration of by the panel review committee must also be submitted with the written statement.

(B) The OHCA may submit any additional documents to the panel committee for the desk review that may contradict the documents submitted by the provider for the purposes of the desk review. Any additional information that OHCA submits to the panel review committee will also be provided to the provider.

(C) The panel review committee will issue a written decision regarding the provider's contract termination approximately ~~60~~sixty (60) days from receipt of the provider's written statement and documentation.

(4) **~~60~~Sixty (60) day without cause termination.** Pursuant to the terms of all provider contracts with the OHCA, either party may terminate the contract without cause with a ~~60~~sixty (60) day written notice to the other party. As such, there is no right to appeal or review of a ~~60~~sixty (60) day contract termination.

317:2-1-13. Appeal to the Chief Executive Officer

(a) The Oklahoma Health Care Authority offers approximately ~~40~~forty (40) different types of administrative appeals. Some of the appeals are appealable to the Chief Executive Officer (CEO) and some are not. The following appeals may be heard by the ~~Chief Executive Officer~~CEO following the decision of an Administrative Law Judge:

(1) Appeals under ~~317:2-1-2(c)(1)(A)~~Oklahoma Administrative Code (OAC)317:2-1-2(d)(1)(A) to ~~(c)(1)(G)~~(d)(1)(G), with the exception of subsection ~~(c)(1)(E)~~(d)(1)(E);

(2) Appeals under ~~317:2-1-2(c)(2)(A)~~OAC 317:2-1-2(d)(2)(A) to ~~(c)(2)(I)~~(d)(2)(I), with the exceptions of subsections ~~(c)(2)(F) and(G)~~(d)(2)(F) and (G); and

(3) Appeals under ~~317:2-1-8 and~~ 317:2-1-10.

(b) Appeals to the ~~Chief Executive Officer~~CEO must be filed with the OHCA within ~~20~~thirty (30) days of the date of the Order, or decision by OHCA.
(c) No new evidence may be presented to the ~~Chief Executive Officer~~CEO.
(d) Appeals to the ~~Chief Executive Officer~~CEO under (a) of this Section may be filed by the provider, member, or agency. The ~~Chief Executive Officer~~CEO will ordinarily render decisions within ~~60~~sixty (60) days of the receipt of the appeal.

317:2-1-14. Contract award protest process

Suppliers who respond to a solicitation issued and awarded by the Authority pursuant to ~~74 Okla. Stat. 85.5 T~~74 Oklahoma Statutes(O.S.) § 85.5 (T) may protest the award of a contract under such solicitation.

(1) A supplier shall submit written notice to the ~~Director of Legal Operations~~OHCA Legal Division of a protest of an award of a contract by OHCA ~~pursuant to 74 Okla. Stat. 85.5 T~~ within ten (10) business days of contract award. The protest shall state supplier facts and reasons for protest.

(2) The ~~Legal Operations Director~~OHCA Legal Division shall review the supplier's protest and contract award documents. Written notice of the decision ~~by the Legal Operations Director~~ to sustain or deny the supplier's protest will be sent to the supplier within ten (10) business days of receipt of supplier's written notice.

(3) If the ~~Legal Operations Director~~OHCA Legal Division denies the supplier's protest, the supplier may request a hearing to administratively resolve the matter within ~~twenty (20)~~thirty (30)~~business~~ calendar days of receipt of the ~~Legal Operations Director's~~ written denial by filing a form LD-2 with the Docket Clerk.

(4) The process afforded the supplier will be the process found at ~~OAC 317:2-1-2(b)(1)~~Oklahoma Administrative Code 317:2-1-2(c)~~ through (2)(D)~~.

(5) The ~~ALJ's~~Administrative Law Judge's decision will constitute the final administrative decision of the ~~OHCA~~Oklahoma Health Care Authority.

317:2-1-16. Nursing Facility Supplemental Payment Program appeals

In accordance with Oklahoma Administrative Code (OAC) 317:30-5-136, the Oklahoma Health Care Authority (OHCA) is authorized to promulgate rules for appeals of the Nursing Facility Supplemental Payment Program (NFSPP). The rules in this section describe those appeal rights.

(1) The following are appealable issues of the program: the assessed amount for each component of the intergovernmental transfer (IGT), the Upper Payment Limit (UPL) payment, the UPL Gap payment, and penalties for the non-state government-owned entity (NSGO). This is the final and only process for appeals regarding NFSPP. Suspensions or terminations from the program are not appealable in the administrative process.

(2) Appeals are heard by the OHCA Administrative Law Judge (ALJ).

(3) To file an appeal, the NSGO (appellant is the NSGO who files an appeal) shall file an LD-2 form within ~~twenty (20)~~thirty (30) days from the date of the OHCA letter which advises the NSGO of component of IGT, UPL payment, UPL Gap payment and/or a penalty. An IGT that is not received by the date specified by OHCA, or that is not in the total amount indicated on the notice of program reimbursement (NPR) shall be subject to penalty and suspension from the program. Any applicable penalties shall also be deducted from the UPL payment regardless of any appeal action requested by the facility. Any change in the payment amount resulting from an appeals decision in which a recoupment or additional allocation is necessary will be adjusted in the future from any SoonerCare payments.

(4) The LD-2 shall only be filed by the NSGO or the NSGO's attorney in accordance with (5) below.

(5) Consistent with Oklahoma rules of practice, the non-state government-owned (NSGO) entity shall be represented by an attorney licensed to practice within the State of Oklahoma. Attorneys not licensed to practice in Oklahoma shall comply with Article II, Section ~~(§)~~ 5 of Title 5 of the Oklahoma Statutes (O.S.), and rules of the Oklahoma Bar Association.

(6) The hearing will be conducted in an informal manner, without formal rules of evidence or procedure. However, parties who fail to appear at a hearing, after notification of said hearing date, will have their cases dismissed for failure to prosecute.

(7) The appellant has the burden of proof by the preponderance of the evidence standard as defined by the Oklahoma Supreme Court.

(8) The docket clerk will send the appellant and any other necessary party a notice which states the hearing location, date, and time.

(9) The ALJ may:

(A) Identify and rule on issues being appealed which will be determined at the administrative hearing;

(B) Require the parties to state their positions concerning appeal issue(s);

(C) Require the parties to produce for examination those relevant witnesses and documents under their control;

(D) Rule on whether witnesses have knowledge of the facts at issue;

(E) Establish time limits for the submission of motions or memoranda;

(F) Rule on relevant motions, requests, and other procedural items; limiting all decisions to procedure matters and issues directly related to the contested determination resulting from ~~Oklahoma Administrative Code 317:30-5-136~~OAC 317:30-5-136;

(G) Rule on whether discovery requests are relevant;

(H) Strike or deny witnesses, documents, exhibits, discovery requests, and other requests or motions which are cumulative, not relevant, not material, or

used as a means of harassment, unduly burdensome, or not timely filed;

(I) Schedule pre-hearing conferences to settle, simplify, or identify issues in a proceeding or to consider other matters that may end the appeal;

(J) Impose appropriate sanctions against any party failing to obey an order of the ALJ;

(K) Rule on any requests for extension of time;

(L) Dismiss an issue or appeal if:

(i) it is not timely filed or is not within the OHCA's jurisdiction or authority;

(ii) it is moot or there is insufficient evidence to support the allegations;

(iii) the appellant fails or refuses to appear for a scheduled meeting, conference or hearing; or

(iv) the appellant refuses to accept a settlement offer which affords the relief the party could reasonably expect if the party prevailed in the appeal;

(M) Set and/or limit the time frame for the hearing.

(10) After the hearing:

(A) The ALJ should attempt to make the final hearing decision within ninety (90) days from the date of the hearing and send a copy of the ALJ's decision to both parties outlining their rights to appeal the decision. Any appeal of the final order pursuant to 12 O.S. § 951 shall be filed with the District Court of Oklahoma County within ~~30~~thirty (30) days.

(B) It shall be the duty of the appellant in any District Court appeal to order a written transcript of proceedings to be used on appeal. The transcript must be ordered within thirty (30) days of the filing of an appeal in the District Court and any costs associated with the preparation of the transcript shall be borne by the appellant.

(11) All orders and settlements are non-precedential decisions.

(12) The hearing shall be digitally recorded and closed to the public.

(13) The case file and any audio recordings shall remain confidential.

[OAR Docket #19-452; filed 5-30-19]

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

[OAR Docket #19-450]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-19.4 [AMENDED]
Appendix A. Risk Levels for Providers [NEW]
(Reference APA WF # 18-13)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 C.F.R. Section 455.436; 42 C.F.R. Section 455.450
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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EFFECTIVE:
September 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed revisions establish application fees required by federal law for providers enrolling or re-enrolling in Medicaid. The revisions will define providers who are exempted from the application fee as individual physician or non-physician practitioners; providers who enrolled with and paid the fee to Medicare; and providers who enrolled with and paid the fee to another state Medicaid agency. Additional revisions will outline provider screening and enrollment requirements designed to help defend against Medicaid provider fraud, waste, and/or abuse. Provider screening requirements are outlined according to three categorical screening levels: limited-risk, moderate-risk, and high-risk. Examples of screening requirements are licensure verification, on-site visits, and fingerprint-based background checks.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-19.4. ~~Applicants subject to a fingerprint-based criminal background check~~Application fee, provider screening, and applicants subject to a fingerprint-based criminal background check

~~(a) Applicants designated as "'high' categorical risk" in accordance with Federal law, including, but not limited to, 42 C.F.R. § 424.518 and 42 C.F.R. Part 455, Subpart E, or if otherwise required by State and/or Federal law, shall be subject to~~

~~a fingerprint-based criminal background check as a condition of new or renewed contract enrollment.~~

~~(b) Any applicant subject to a fingerprint-based criminal background check as provided in subsection (a) of this Section, shall be denied enrollment if he/she has a felonious criminal conviction and may be denied enrollment for a misdemeanor criminal conviction relating, but not limited, to:~~

~~(1) The provision of services under Medicare, Medicaid, or any other Federal or State health care program;~~

~~(2) Homicide, murder, or non-negligent manslaughter;~~

~~(3) Aggravated assault;~~

~~(4) Kidnapping;~~

~~(5) Robbery;~~

~~(6) Abuse, neglect, or exploitation of a child or vulnerable adult;~~

~~(7) Human trafficking;~~

~~(8) Negligence and/or abuse of a patient;~~

~~(9) Forcible rape and/or sexual assault;~~

~~(10) Terrorism;~~

~~(11) Embezzlement, fraud, theft, breach of fiduciary duty, or other financial misconduct; and/or~~

~~(12) Controlled substances, provided the conviction was entered within the preceding ten-year period.~~

~~(c) Any OHCA decision denying an application for contract enrollment based on the applicant's criminal history pursuant to OAC 317:30-3-19.4 shall be a final agency decision that is not administratively appealable. However, nothing in this section shall preclude an applicant whose criminal conviction has been overturned on final appeal, and for whom no other appeals are pending or may be brought, from reapplying for enrollment.~~

Pursuant to Subpart E of Part 455 of Title 42 of the Code of Federal Regulations (C.F.R.), an enrolling or re-enrolling SoonerCare provider must meet the screening requirements described in this rule and pay an application fee if required in the appendix to this rule. See Appendix A at the end of this chapter.

(1) Application fees. The amount of the application fee is the amount established by the Center for Medicare and Medicaid Services (CMS) in accordance with 42 United States Code § 1395cc (j)(2)(C)(i), adjusted for inflation.

(A) Per 42 C.F.R. § 455.460, the application fee shall not apply to the following providers:

(i) Individual physician or non-physician practitioners;

(ii) Providers who have enrolled or re-enrolled in Medicare, and have met the provider screening requirements and paid an application fee to CMS or its designee; and

(iii) Providers who have enrolled or re-enrolled in another state's Medicaid or CHIP program, and have met the provider screening requirements and paid an application fee to the State Medicaid Agency or its designee.

(iv) A provider must submit documentation to support any claim that it meets the exemption(s) described in paragraph (1)(A)(ii) and/or (1)(A)(iii) of this rule.

(B) The application fee will not be refunded if:

(i) Enrollment or re-enrollment is denied as a result of failure to meet the provider screening requirements described in this rule; or

(ii) Enrollment or re-enrollment is denied based on the results of the provider screening.

(2) Risk categories. Federal law requires the OHCA to screen all providers based on a categorical risk level of "limited," "moderate," or "high." If more than one risk level applies to a provider, the highest level of screening is required.

(A) Limited-risk screens include:

(i) Verification that the provider meets any applicable federal regulations, or state requirements for the provider type;

(ii) License verification, including state licensure verification in states other than Oklahoma; and

(iii) Database checks, including, but not limited to, those required by 42 C.F.R. § 455.436.

(B) Moderate-risk screens include:

(i) All limited-risk screening requirements; and

(ii) Pre- and post-enrollment site visits by OHCA Provider Enrollment staff to confirm the accuracy of the provider's application and to determine compliance with federal and state enrollment requirements.

(iii) Enrolled providers must permit the CMS, its agents, its designated contractors, or OHCA to conduct unannounced on-site inspections of any and all provider locations.

(C) High-risk screens include:

(i) All limited-risk screening requirements;

(ii) All moderate-risk screening requirements; and

(iii) A fingerprint-based criminal background check of the provider, or of any person with a five percent (5%) or more direct or indirect ownership interest in the provider.

(3) OHCA's risk categories. OHCA has adopted the same risk categories as have been established for Medicare providers in 42 C.F.R. § 424.518. For certain Medicaid providers that are not recognized under Medicare, risk categories have been set forth in OHCA's "Appendix A. Risk Levels for Providers," using criteria similar to that used for Medicare providers, in determining the risk of fraud, waste and abuse.

(4) Changes in risk categories. In accordance with 42 C.F.R. § 455.450(e), limited- and moderate-risk providers are moved to the high-risk category whenever:

(A) OHCA imposes a payment suspension on a provider based on a credible allegation of fraud, waste or abuse;

(B) The provider has an existing Medicaid overpayment;

(C) The provider has been excluded by the Office of the Inspector General for the Department of Health

and Human Services or any other state's Medicaid program within the previous ten (10) years; or

(D) OHCA or CMS lifted a temporary moratorium for the particular provider type in the previous six (6) months and a provider that was prevented from enrolling based on the moratorium applies for enrollment within six (6) months from the date the moratorium was lifted.

(5) Fingerprint-based criminal background check. Any applicant subject to a fingerprint-based criminal background check as provided in subsection (2)(C)(iii) of this rule, shall be denied enrollment if he/she has a felonious criminal conviction and may be denied enrollment for a misdemeanor criminal conviction relating, but not limited, to:

(A) The provision of services under Medicare, Medicaid, or any other Federal or State health care program;

(B) Homicide, murder, or non-negligent manslaughter;

(C) Aggravated assault;

(D) Kidnapping;

(E) Robbery;

(F) Abuse, neglect, or exploitation of a child or vulnerable adult;

(G) Human trafficking;

(H) Negligence and/or abuse of a patient;

(I) Forcible rape and/or sexual assault;

(J) Terrorism;

(K) Embezzlement, fraud, theft, breach of fiduciary duty, or other financial misconduct; and/or

(L) Controlled substances, provided the conviction was entered within the preceding ten-year period.

(6) The appropriate screening based on screening risk level must be given to all service locations of an enrolled provider. Providers must disclose all service locations at time of enrollment and notify the agency of changes or additional service locations.

(7) In accordance with 42 C.F.R. § 455.452, the OHCA reserves the right to conduct additional screenings and background checks as is determined necessary.

(8) Any OHCA decision denying an application for contract enrollment based on the applicant's criminal history pursuant to Oklahoma Administrative Code 317:30-3-19.4 shall be a final agency decision that is not administratively appealable. However, nothing in this section shall preclude an applicant whose criminal conviction has been overturned on final appeal, and for whom no other appeals are pending or may be brought, from reapplying for enrollment.

APPENDIX A. RISK LEVELS FOR PROVIDERS [NEW]

Low Risk Provider Types	
41	Adult Day Services
09	Advance Practice Nurse
46	Advantage Home Delivered Meals
39	Agency Companion- DDSD
02	Ambulatory Surgical Center
60	Anesthesiologist Assistant
44	Architectural Modification
36	Assisted Living Services
20	Audiologist
47	Birthing Center
21	Case Management Agency- DDSD
15	Chiropractor
08	Clinic/Group
58	Community Transition Services
27	Dentist
39	Direct Support Services- DDSD
42	Employee Training Specialist
11	Family Training Services- DDSD
08	Federally Qualified Health Center
30	Free Standing Dialysis Clinic
50	Group Home-DDSD
39	Habilitation Training- DDSD
43	Homemaker Services
01	Hospital
63	Inpatient Psychiatric Facility
01	I/T/U Hospital
08	I/T/U Outpatient Clinic
03	Nursing Facility
03	Nursing Facility- Extended Respite
Varies	Medicare Crossover Providers
16	Nurse
23	Nutritionist
17	Occupational Therapy Business-DDSD
19	Optician
18	Optometrist
36	Personal Care
24	Pharmacy
31/52	Physician
10	Physician Assistant
14	Podiatrist
13	Public Health Agency
38	Respite Care
37	Room and Board
8	Rural Health Clinic

Moderate Risk Provider Types	
26	Ambulance Services
53	Behavioral Health Practitioner- Under Supervision
06	Hospice
29	Independent Diagnostic Testing Facility/Mobile X-ray
28	Independent Laboratory
53	Licensed Behavioral Health Practitioner
11	Outpatient Behavioral Health Agency Services
11	Paraprofessionals – Behavioral Health
17	Physical Therapists Group and/or Individual
25	Revalidating DME/Medical Supplies
05	Revalidating Home Health Agencies
High Risk Provider Types	
25	Newly Enrolling DME/Medical Supplies
05	Newly Enrolling Home Health Agencies

[OAR Docket #19-450; filed 5-30-19]

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

[OAR Docket #19-465]

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Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
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Part 75. Federally Qualified Health Centers
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(Reference APA WF # 18-25)
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The proposed revisions eliminate references to sections that have been revoked. The sections were revoked in past rulemaking sessions; however language, in other parts of the Chapter, referring to these sections, were inadvertently missed. Further revisions will correct misspelled words and grammatical mistakes for better flow and understanding.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-19.5. Termination of provider agreements

Pursuant to the terms of ~~OHCA's~~the Oklahoma Health Care Authority's (OHCA) Standard Provider Agreement, both OHCA and a provider may terminate the agreement without cause on sixty (60) days' notice, or for-cause on thirty (30) days' notice. In addition, OHCA can terminate the agreement immediately in order to protect the health and safety of members, or upon evidence of fraud (including, but not limited to, a credible allegation of fraud as defined by 42 C.F.R. § 455.2). Conduct that may serve as a basis for a for-cause termination of a provider includes, but is not limited to, any of the following:

(1) **Noncompliance.** The provider is determined not to be in compliance with the enrollment requirements described in ~~OAC~~Oklahoma Administrative Code (OAC) 317:30-3-2~~, OAC 317:30-3-19~~ and 317:30-3-19.3, or in the enrollment application applicable for its provider type. OHCA may, but is not required to, request additional documentation from the provider to determine compliance.

(2) **Provider exclusion, debarment, or suspension.** The provider or any owner, managing employee, authorized or delegated official, medical director, supervising physician, or other health care personnel thereof is:

(A) Excluded from the Medicare, Medicaid, or any other Federal health care program, as defined in 42 C.F.R § 1001.2; or

(B) Debarred, suspended, or otherwise excluded from participating in any other Federal procurement or nonprocurement program or activity.

(3) **Convictions.** Conviction of the provider or any of its affiliates for a Federal or State offense that OHCA has determined to be detrimental to the best interests of the program and its members. Such offenses may include, but are not limited to, those offenses enumerated in OAC 317:30-3-19.3 and OAC 317:30-3-19.4.

(4) **False or misleading information.** The provider submitted or caused to be submitted misleading or false information on its enrollment application to be enrolled or to maintain enrollment in the SoonerCare program. In addition to termination of a contract, offenders may be referred for prosecution, which could result in fines or imprisonment, or both, in accordance with current law and regulations.

(5) **On-site review.** OHCA determines, upon on-site review, that the provider is no longer operational, able to furnish SoonerCare covered items, or able to safely and adequately render services; or is not meeting SoonerCare enrollment requirements under statute or regulation to supervise treatment of, or to provide SoonerCare covered items or services for SoonerCare members.

(6) **Misuse of billing number.** The provider knowingly sells to or allows another individual or entity to use its billing number. This does not include those providers who enter into a valid reassignment of benefits as specified in 42 U.S.C. § 1396a(a)(32) or a change of ownership as outlined in 42 C.F.R. § 455.104(c) (within thirty-five (35) days of a change in ownership).

(7) **Abuse of billing privileges.** The provider submits a claim or claims for services that reasonably could not

have been rendered, or that do not accurately reflect those services actually rendered, to a specific individual on the date of service. These instances include, but are not limited to: upcoding; unbundling of services; services that are purportedly provided to a member who has died prior to the date of service; services that are purportedly provided on a date on which the directing physician or member is not in the State or country or is otherwise physically incapable of providing or receiving the service; or the equipment necessary for testing was not present where the testing is said to have occurred, or was incapable of operating correctly at the supposed time of testing.

(8) **Failure to report.** The provider did not comply with the reporting requirements specified in the SoonerCare Provider Agreement or any applicable State and/or Federal statutes or regulations, including without limitation, changes in the provider's licenses, certifications, and/or accreditations provided at the time of enrollment. Providers shall report and update a change in mailing address within fourteen (14) days of such change.

(9) **Failure to document or provide OHCA access to documentation.**

(A) The provider did not comply with the documentation or OHCA access requirements specified in the SoonerCare Provider Agreement.

(B) OHCA may suspend all SoonerCare payments to a provider who refuses or fails to produce for inspection those financial and other records as are required by 42 C.F.R. § 431.107 and the executed SoonerCare Provider Agreement, until such time as all requested records have been submitted to OHCA for review.

(10) **Adverse audit determinations.** The provider receives an adverse Program Integrity audit that demonstrates fraud, waste, abuse, and/or repeated failure or inability to comply with SoonerCare billing and provision of service requirements.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 75. FEDERALLY QUALIFIED HEALTH CENTERS

317:30-5-664.8. Obstetrical care provided by Health Centers

(a) **Billing written agreement.** In order to avoid duplicative billing situations, a Health Center must have a written agreement with its physician, certified nurse midwife, advanced practice nurse, or physician assistant that specifically identifies how obstetrical care will be billed. The agreement must specifically identify the service provider's compensation for Health Center core services and other health services that may be provided by the Health Center.

(b) **Prenatal or postpartum services.**

(1) If the Health Center compensates the physician, certified nurse midwife or advanced practice nurse for the provision of obstetrical care, then the Health Center bills the ~~OHCA~~Oklahoma Health Care Authority (OHCA) for each prenatal and postpartum visit separately using the appropriate ~~CPT~~Current Procedural Terminology (CPT) evaluation and management code(s) as provided in the Health Center billing manual.

(2) If the clinic does not compensate the provider for the provision of obstetrical care, then the provider must bill the OHCA for prenatal care according to the global method described in the SoonerCare Traditional provider specific rules for physicians, certified nurse midwives, physician assistants, and advanced practice nurses ~~(~~[refer to ~~OAC~~Oklahoma Administrative Code (OAC) 317:30-5-22~~)~~].

(3) Under both billing methods, payment for prenatal care includes all routine or minor medical problems. No additional payment is made to the prenatal provider except in the case of a major illness distinctly unrelated to pregnancy.

(c) **Delivery services.** Delivery services are billed using the appropriate CPT codes for delivery. If the clinic does not compensate the provider for the provision of obstetrical care, then the provider must be individually enrolled and bill for those services using his or her assigned provider number. The costs associated with the delivery must be excluded from the cost settlement/encounter rate setting process~~(see OAC 317:30-5-664.11)~~.

[OAR Docket #19-465; filed 5-30-19]

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

[OAR Docket #19-453]

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Part 1. General Scope and Administration
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Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Services
317:30-5-95.31 [AMENDED]
Part 9. Long-Term Care Facilities
317:30-5-136 [AMENDED]
317:30-5-136.1 [AMENDED]
Part 83. Residential Behavior Management Services
317:30-5-746 [AMENDED]
(Reference APA WF # 18-15B)

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n/a
GIST/ANALYSIS:
The proposed revisions change all of the agency's appeals rules to extend the length of time that appeals can be submitted from twenty (20) days to thirty (30) days of the date of an adverse agency action.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-2.1. Program Integrity Audits/Reviews

(a) This section applies to all contracted providers. The following words and terms, when used in this Section, shall have the following meaning:

(1) **"Contractor/provider"** means any person or organization that has signed a provider agreement with the Oklahoma Health Care Authority (OHCA).

(2) **"Error Rate"** means the percentage of dollars of audited claims found to be billed in error.

(~~2~~3) **"Extrapolation"** means the methodology of estimating an unknown value by projecting, with a calculated precision (i.e., margin of error), the results of a probability sample to the universe from which the sample was drawn.

(~~3~~4) **"Probability sample"** means the standard statistical methodology in which a sample is selected based on the theory of probability (a mathematical theory used to study the occurrence of random events).

(5) **"Sample"** means a statistically valid number of claims obtained from the universe of claims audited/reviewed.

(~~4~~6) **"Universe"** means all paid claims or types of paid claims audited/reviewed during a specified timeframe.

~~(5) **"Sample"** means a statistically valid number of claims obtained from the universe of claims audited/reviewed.~~

~~(6) **"Error Rate"** means the percentage of dollars of audited claims found to be billed in error.~~

(b) An OHCA audit/review includes an examination of provider records, by either an on-site or desk audit. Claims may be examined for compliance with provider contracts and/or relevant Federal and State laws and regulations, as well as for practices indicative of fraud, waste, and/or abuse of the SoonerCare program, including, but not limited to, inappropriate coding and consistent patterns of overcharging.

(c) An initial audit/review report contains preliminary findings. Within ~~twenty (20)~~thirty (30) calendar days of the date of notice regarding the audit/review report, a provider may elect to:

(1) Remit the identified overpayment to the OHCA;

(2) Request informal reconsideration of the initial audit report ~~per~~pursuant to~~OAC 317:30-3-2.1(d)~~ Oklahoma Administrative Code (OAC) 317:30-3-2.1(d); or

(3) Request a formal appeal of the initial audit report ~~per~~pursuant to OAC 317:30-3-2.1(e).

(d) If a provider requests an informal reconsideration, the provider, within ~~twenty (20)~~thirty (30) calendar days of the date of notice of the audit/review report, shall:

(1) Produce any and all written existing documentation that is relevant to, and could reasonably be used to clarify or rebut, the findings ~~as~~ identified in the initial report. Documents submitted for reconsideration shall not be altered or created for purposes of the audit; and

(2) Specifically identify those claims and findings to be reviewed for reconsideration. Any claims or findings not specifically identified by the provider for reconsideration will be deemed to have been waived by the provider for purposes of both the informal reconsideration and the formal appeal, if requested. The reconsideration findings will replace the initial findings and be identified as the final audit report.

(e) A request for an informal reconsideration does not limit a provider's right to a formal appeal as long as any formal appeal of the final audit report is received by the OHCA Legal Docket Clerk within ~~twenty (20)~~thirty (30) calendar days of the date of notice of the final audit report. However, all claims and findings not specifically identified by the provider upon an informal reconsideration request will be deemed to have been waived by the provider for purposes of a subsequent formal audit appeal. Additionally, the provider must specifically identify each claim to be contested on appeal, and any remaining appealable claim that has not already been waived during the informal reconsideration and is not specifically identified in the initial appeal filing, will be deemed waived on appeal.

(f) If the provider does not request either an informal reconsideration or a formal appeal within the specified timeframe, the initial report will become the final audit report and the provider will be obligated to reimburse OHCA for any identified overpayment, which amount shall be immediately due and

payable to OHCA. OHCA may, at its discretion, withhold the overpayment amount from the provider's future payments.

(g) When OHCA conducts a probability sample audit, the sample claims are selected on the basis of recognized and generally accepted sampling methods. If an audit reveals an error rate exceeding ~~10%~~ten percent (10%), OHCA shall extrapolate the error rate to the universe of the dollar amount of the audited paid claims.

(1) When using statistical sampling, OHCA uses a sample that is sufficient to ensure a minimum confidence level of ~~95%~~ninety-five percent (95%).

(2) When calculating the amount to be recovered, OHCA ensures that all overpayments and underpayments reflected in the probability sample are totaled and extrapolated to the universe from which the sample was drawn.

(3) OHCA does not consider non-billed services or supplies when calculating underpayments and overpayments.

(h) If a probability sample audit reveals an error rate of ~~10%~~ten percent (10%) or less, the provider will be required to reimburse OHCA for any overpayments noted during the audit/review.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 6. INPATIENT PSYCHIATRIC SERVICES

317:30-5-95.31. Prior Authorization and extension procedures for children

(a) Prior authorization for inpatient psychiatric services for children must be requested from the ~~OHCA~~Oklahoma Health Care Authority (OHCA) or its designated agent. The OHCA or its designated agent will evaluate and render a decision within ~~24~~twenty-four (24) hours of receiving the request. A prior authorization will be issued by the OHCA or its designated agent, if the member meets medical necessity criteria. For the safety of SoonerCare members, additional approval from OHCA, or its designated agent is required for placement on specialty units or in special population programs or for members with special needs such as very low intellectual functioning.

(b) Extension requests (psychiatric) must be made through OHCA, or its designated agent. All requests are made prior to the expiration of the approved extension. Requests for the continued stay of a child who has been in an acute psychiatric program for a period of ~~15~~fifteen (15) days and in a psychiatric residential treatment facility for ~~3~~three (3) months will require a review of all treatment documentation completed by the OHCA designated agent to determine the efficiency of treatment.

(c) Providers seeking prior authorization will follow OHCA's, or its designated agent's, prior authorization process guidelines for submitting behavioral health case management requests on behalf of the SoonerCare member.

(d) In the event a member disagrees with the decision by OHCA, or its designated agent, the member receives an evidentiary hearing under ~~OAC 317:2-1-2(a)~~Oklahoma Administrative Code 317:2-1-2(b). The member's request for such an appeal must ~~commence~~be received within ~~20~~thirty (30) calendar days of the initial decision.

PART 9. LONG-TERM CARE FACILITIES

317:30-5-136. Nursing Facility Supplemental Payment Program

(a) **Purpose.** The Nursing Facility Supplemental Payment Program (NFSPP) is a supplemental payment, up to the Medicare upper payment limit (UPL), made to a non-state government-owned entity that owns and as applicable has operating responsibility for a nursing facility(ies).

(b) **Definitions.** The following words and terms, when used in this Section have the following meaning, unless the context clearly indicates otherwise:

(1) **"Funds"** means a sum of money or other resources, as outlined in Public Funds as the State Share of Financial Participation, 42 Code of Federal Regulation (C.F.R.), Sec.433.51, appropriated directly to the State or local Medicaid agency, or funds that are transferred from other public agencies (including Indian tribes) to the State or local agency and under its administrative control, or funds certified by the contributing public agency as representing expenditures eligible for Federal Financial Participation (FFP).

(2) **"Intergovernmental transfer (IGT)"** means a transfer of state share funds from a non-state government-owned entity to the Oklahoma Health Care Authority (OHCA).

(3) **"Non-state government-owned (NSGO)"** means an entity owned and/or operated by a unit of government other than the state and the application packet is accepted and determined complete by OHCA as a qualified NSGO.

(4) **"Resource Utilization Groups (RUGs)"** means the system used to set Medicare per diem payments for skilled-nursing facilities, as the basis to demonstrate a Medicare payment estimate for use in the UPL calculation.

(5) **"Supplemental payment calculation period"** means the State Fiscal Year for which supplemental payment amounts are calculated based on Medicaid paid claims (less leave days) compiled from the state's Medicaid Management Information System (MMIS) at a minimum yearly to a maximum quarterly.

(6) **"Upper payment limit (UPL)"** means a reasonable estimate of the amount that would be paid for the services furnished by a facility under Medicare equivalent payment.

(c) **Eligible nursing facilities.** A nursing facility that is owned and as applicable under the operational responsibility of an NSGO, is eligible for participation when the following conditions are met:

(1) the nursing facility is licensed and certified by the Oklahoma State Department of Health;

(2) the participating NSGO has provided proof that it holds the facility's license and has complete operational responsibility for the facility;

(3) the participating NSGO has completed and submitted the Agreement of Participation application at minimum thirty (30) days prior to the start of the participation quarter and received the application packet is accepted and determined complete by OHCA;

(4) the facility is an active participant in the Focus on Excellence program and has earned at minimum ~~100~~one-hundred (100) points; does not receive an immediate jeopardy (IJ) scope and severity tag for abuse or neglect on three (3) separate surveys within a twelve (12) month period; and

(5) the facility and NSGO comply with care criteria requirements. All facilities shall provide supporting documentation (e.g., baselines, written plan, improvement summary, data sources) for the care criteria metrics.

(d) **NSGO participation requirements.** The following conditions are required of the NSGO:

(1) shall provide proof of ownership, if applicable (i.e. Change of Ownership) as licensed operator of the nursing facility;

(2) shall provide proof of proximity requirements of no greater than one hundred fifty (150) miles of NSGO. Exceptions may be made at the sole discretion of OHCA;

(3) shall execute a nursing facility provider contract as well as an agreement of participation with the OHCA;

(4) shall provide OHCA with an executed Management Agreement between the NSGO and the facility manager;

(5) shall provide and identify the state share dollars' source of the IGT;

(6) shall pay the calculated IGT to OHCA by the required deadline;

(7) shall utilize program dollars for health care related expenditures; and

(8) shall provide per facility, the per patient per Medicaid day (PPMD) IGT within specified timeframe of receipt of the Notice of Program Reimbursement (NPR) as indicated below:

(A) For the first year-$6.50 PPMD.

(B) For the second year-$7.50 PPMD.

(C) For the third year-$8.50 PPMD, or the equivalent of ten percent (10%) of nursing facility budget of the current fiscal year, whichever is less. This amount excludes any IGT for actual administration cost associated with the nursing home UPL supplemental program. Any remaining IGT after administration cost shall be distributed through the rate setting methodology process. Distribution shall occur once escrowed funds reach an amount sufficient to distribute as determined by OHCA.

(e) **Change in ownership.**

(1) A nursing facility participating in the supplemental payment program shall notify the OHCA of changes in ownership (CHOW) that may affect the nursing facility's continued eligibility within thirty (30) days after such change.

(2) For a nursing facility that changes ownership on or after the first day of the SoonerCare supplemental payment limit calculation period, the data used for the calculations will include data from the facility for the entire upper payment limit calculation period relating to payments for days of service provided under the prior owner, pro-rated to reflect only the number of calendar days during the calculation period that the facility is owned by the new owner.

(f) **Care Criteria.** Each facility shall be required to participate in the following care criteria components to receive UPL financial reimbursement.

(1) **Component 1- Quality Improvement Plan.** A facility shall hold monthly Quality Improvement Plan meetings. The meetings shall be tailored to identify an improvement plan for quality enhancement focused on nursing facility safety, quality of resident life, personal rights, choice and respect. Consistent with 42 CFR 483.75. Quality indicators shall be identified during the meetings and include the following:

(A) A written plan to include but not limited to the development, implementation and evaluation of the quality enhancement indicator. The plan shall be reviewed monthly for ongoing quality indicator progress, completion of the quality indicator and/or routine updates on the sustainability of current and/or prior indicators achieved.

(B) The design and scope of the plan should include the specific system and service that will be utilized to monitor and track performance improvement, the staff included to improve the quality indicator, resident choice, subjective/objective evidence and ongoing measures taken to ensure stability and enhancement. This may include but not be limited to a written policy, a procedure manual, data collections systems, management practices, resident/staff interviews, and trainings.

(C) Outcomes shall include evidence of improvement, cost expenditures toward improvement goal, how the facility shall continue to monitor the effectiveness of its quality enhancement and how it shall have ongoing sustainability.

(D) Facility shall submit program documentation monthly. The information shall include A-D as well as OHCA required form LTC-19.

(E) The quality improvement plan shall be reviewed monthly by the OHCA quality review team. Payment shall be assessed in increments of 20 percent (20%) per month for a total of 60 percent (60%) per quarter if approved.

(2) **Component 2- Health Improvement Plan.**

(A) A facility shall hold quarterly Health Improvement Plan meetings. The meetings shall be tailored to identify an improvement plan for the quality indicators of urinary tract infection, unintended weight loss, developing or worsening pressure ulcers, and received antipsychotic medication. Meetings include the following:

(i) A written plan to include but not limited to the development, implementation and evaluation of the quality enhancement indicator. The plan shall be reviewed quarterly for ongoing quality indicator progress, completion of the quality indicator and/or routine updates on the sustainability of current and/or prior indicators achieved.

(ii) The design and scope of the plan should include the specific system and service that shall be utilized to monitor and track performance improvement, the staff included to improve the quality indicator, resident choice, subjective/objective evidence and ongoing measures taken to ensure stability and enhancement. This may include but not be limited to a written policy, a procedure manual, data collections systems, management practices, resident/staff interviews, and trainings.

(iii) Outcomes shall include evidence of improvement, cost expenditures toward improvement, how the facility will continue to monitor the effectiveness of its quality enhancement and how it shall have ongoing sustainability.

(iv) Facility shall submit program documentation quarterly. The information will include i-iii as well as OHCA required form LTC-18.

(B) The health improvement plan shall be reviewed quarterly by the OHCA quality review team. Payment shall be assessed in increments of ten percent (10%) by achieving five percent (5%) relative improvement or by achieving the national average benchmark per each of the four (4) components quarterly for a total of forty percent (40%) per quarter if approved.

(3) **Care Criteria Evaluation and Audit.** The care criteria measures may be evaluated at the discretion of OHCA on an annual basis after each fiscal year, following implementation of the program. However, OHCA reserves the right to conduct intermittent evaluations within any given year based on the quality, care and safety of SoonerCare members. The evaluation may be conducted by an independent evaluator. In addition, care criteria metrics may be internally evaluated after each fiscal year at the discretion of OHCA. The OHCA may make adjustments to the care criteria measures based on findings and recommendations as a result of the independent or internal evaluation.

(g) **Supplemental Payments.**

(1) The nursing facility supplemental payments to a NSGO under this program shall not exceed Medicare payment principles pursuant to Inpatient Services: Application of Upper Payment Limits, 42 ~~Code of Federal Regulation~~C.F.R., Sec. 447.272. Payments are made in accordance with the following criteria:

(A) The methodology utilized to calculate the upper payment limit is the RUGs.

(B) The eligible supplemental amount is the difference/gap between the SoonerCare payment and the Medicare equivalent payment as determined based on compliance with the care criteria metrics.

(2) The amount of the eligible supplemental payment is associated with improvement of care of SoonerCare nursing facility residents as demonstrated through the care criteria. The quality components are evaluated monthly with a quarterly payout. Component 1 is assessed at twenty percent (20%) per month with a possible total achievement of sixty percent (60%) per quarter. Component 2 is assessed at ten percent (10%) per each of the four (4) components with a possible total achievement of 40 percent (40%) per quarter. Facilities will be reimbursed accordingly based on the percentage of care criteria earned.

(h) **Disbursement of payment.** NSGOs shall secure allowable IGT funds from a NSGO to fund the non-federal share amount. The method is as follows:

(1) The OHCA or its designee will notify the NSGO of the non-federal share amount to be transferred by an IGT, via electronic communications and NPR, for purposes of seeking federal financial participation (FFP) for the UPL supplemental payment, within twenty-five (25) business days after the end of the quarter. This amount will take into account the percentage of metrics achieved under the care criteria requirement. The NSGO will have five (5) business days to sign the participant agreement and make payment of the state share in the form of an IGT either in person or via mail. The date the NPR is sent by OHCA or its designee to the provider (NSGO) is the official date the clock starts to measure the five (5) business days. In addition, the NSGO shall also be required to remit, upon receipt of the NPR, the applicable PPMD IGT in full, pursuant to (d) (7) above.

(2) If the full IGT and the PPMD IGT are received within five (5) business days, the UPL payment will then be disbursed to the NSGO by OHCA within ten (10) business days in accordance with established payment cycles.

(i) **Penalties.**

(1) Receipt of the total IGT(s) within five (5) business days is not subject to any penalty.

(2) Any total IGT received after the fifth (5th) business day, but with an OHCA date stamp or mailing postal mark on or prior to five (5) business days from the official date of the receipt of the NPR will not be subject to penalty.

(3) Any total IGT with an OHCA date stamp or mailing postal mark received with a date after five (5) business days of receipt of the NPR, but not exceeding eight (8) business days of receipt of the NPR shall be deemed late and subject to a penalty in accordance with (3)(A) below.

(A) A five percent (5%) penalty will be assessed for the total IGT payments received after five (5) business days, but within eight (8) business days of receipt of the NPR. The five percent (5%) penalty will be assessed on the total eligible supplemental payment for the quarter in which the IGT is late and assessed to the specific NSGO as applicable.

(B) OHCA will notify the NSGO of the assessed penalty via invoice. If the NSGO fails to pay OHCA the assessed penalty within the time frame noted on the invoice to the NSGO, the assessed penalty will

be deducted from the nursing facility's Medicaid payment. The penalty shall be paid regardless of any appeals action requested by the NSGO. Should an appeals decision result in a disallowance of a portion or the entire assessed penalty, reimbursement to the NSGO will be made to future nursing facility Medicaid payments.

(C) An NSGO that remits payment of the total IGT under the circumstances listed in (i) (2) or (i) (3) above will receive payment during the next available OHCA payment cycle.

(4) The first violation by an NSGO to remit the full IGT as indicated on the NPR by OHCA or its designee within the defined timeframes shall subject the NSGO to a penalty. The second violation by an NSGO to remit the full IGT indicated on the NPR by OHCA or its designee within the defined timeframes shall subject the NSGO to a penalty and a suspension for two (2) consecutive quarters. The NSGO will not be eligible to participate in the program during suspended quarters. A third violation by an NSGO to remit the full IGT indicated on the NPR by OHCA or its designee within the defined timeframes shall subject the NSGO to termination from the NFSPP. If the NSGO desires to participate again, it will be required to reapply. Reentry into the program is at the sole discretion of the OHCA. If the NSGO is readmitted to the program, terms of participation may include a probationary period with defined requirements.

(5) If OHCA receives a partial IGT or receives a full IGT after eight (8) business days of the receipt of the NPR, the NSGO shall be deemed to have voluntarily elected to withdraw participation in the NFSPP.

(6) If a nursing facility fails to meet the benchmarks of component 1 and/or component 2 of the care criteria for two (2) consecutive quarters, the facility shall be suspended for two (2) subsequent quarters and will not be eligible to participate in the program during suspended quarters. A facility that has been suspended for a total of four (4) quarters within a two (2) year period due to non-compliance with the Care Criteria shall be terminated from the program, and if the facility wishes to participate again, it will be required to reapply. Reentry into the program is at the sole discretion of the OHCA. If the facility is readmitted to the program, terms of participation may include a probationary period with defined requirements as it relates to care.

(j) **Appeals.** Applicant and participant appeals may be filed in accordance with grievance procedures found at Oklahoma Administrative Code ~~317:2-1-2(b)~~317:2-1-2(c) and 317:2-1-16.

317:30-5-136.1. Focus on Excellence

(a) **Purpose.** The Focus on Excellence (FOE) program was established through Oklahoma State Statute, Title 56, Section 56-1011.5. FOE's mission is to enhance the quality of life for target citizens by delivering effective programs and facilitating partnerships with providers and the community they serve. The program has a full commitment to the very best in quality, service and value which will lead to measurably improved quality outcomes, healthier lifestyles; greater satisfaction and confidence for our members.

(b) **Eligible Providers.** Any Oklahoma long-term care nursing facilities that are licensed and certified by the Oklahoma State Department of Health and accommodate SoonerCare members at their facility as defined in Oklahoma Administrative Code (OAC) 317:30-5-120.

(c) **Quality measure care criteria.** To maintain status in the FOE program, each nursing facility must enter quality data either monthly, quarterly, annually for the following care criteria metrics. All metrics in detail can be found on the Oklahoma Health Care Authority's (OHCA) FOE website or on FOE/QOC (Quality of Care) Data Collection Portal.

(1) **Person-Centered Care.** Facility must meet six (6) out of ten (10) of the established measurement criteria for this metric to receive the points. This metric is measured quarterly and must be completed by the 15th of the month following the close of the quarter.

(2) **Direct-Care Staffing.** Facility must maintain a direct care staffing ratio of three and a half (3.5) hours per patient day to receive the points for this metric. This metric must be completed monthly by the 15th of each month.

(3) **Resident/Family Satisfaction.** Facility must maintain a score of 76 of a possible 100 points on overall satisfaction to receive the points for this metric. This metric is collected in a survey format and must be completed once a year in the fall. Surveys are to be completed by the resident, power of attorney and/or with staff assistance.

(4) **Employee Satisfaction.** Facility must maintain a score of 70 points or higher in order to receive the points for this metric. Surveys are completed by FOE facility employees and must be completed once a year in the fall.

(5) **Licensed-Nurse Retention.** Facility must maintain a one-year tenure rate of 60 percent (60%) or higher of its licensed nursing staff to receive the points for this metric. This metric must be completed monthly by the 15th of the month.

(6) **Certified Nurse Assistant (CNA) Retention.** Facility must maintain a one-year tenure rate of 50 percent (50%) or higher of its CNA staff to receive the points for this metric. This metric must be completed monthly by the 15th of the month.

(7) **Distance Learning Program Participation.** Facility must contract and use an approved distance learning vendor for its frontline staff in order to receive points for this metric. This metric is measured quarterly and must be completed by the 15th of the month following the close of the quarter.

(8) **Peer Mentoring.** Facility must establish a peer-mentoring program in accordance with OHCA guidelines. This metric is measured quarterly and must be completed by the 15th of the month following the close of the quarter.

(9) **Leadership Commitment.** Facility must meet six (6) out of ten (10) of the established measurement criteria

for this metric to receive the points. This metric is measured quarterly and must be completed by the 15th of the month following the close of the quarter.

(d) **Payment.** The amount of eligible dollars is reimbursable based on the SoonerCare FOE nursing facility meeting the quality metric thresholds listed in (b). Facilities must meet a minimal of 100 points to even be eligible for reimbursement.

(1) **Distribution of Payment.** OHCA will notify the FOE facility of the quality reimbursement amount on a quarterly basis.

(2) **Penalties.** Facilities that do not submit on the appropriate due dates will not receive reimbursable dollars. Facilities that do not submit quality measures will not receive reimbursable dollars for those specific measures. Due dates can be found on the OHCA FOE webpage.

(e) **Appeals.** Facilities can file an appeal with the Quality Review Committee and in accordance, with the grievance procedures found at OAC ~~317:2-1-2(b)~~317:2-1-2(c) and 317:2-1-16.

PART 83. RESIDENTIAL BEHAVIOR MANAGEMENT SERVICES

317:30-5-746. Appeal of Prior Authorization Decision

If a denial decision is made, an appeal may be initiated by the member or the member's legal guardian. The denial can be appealed to the Oklahoma Health Care Authority within ~~20~~thirty (30) calendar days of the receipt of the notification of the denial by the OHCA or its designated agent.

[OAR Docket #19-453; filed 5-30-19]

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

[OAR Docket #19-448]

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PERMANENT final adoption
RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-28 [AMENDED]
(Reference APA WF # 18-10)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section; 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board
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GIST/ANALYSIS:
The proposed revisions outline how to qualify for the Electronic Health Records (EHR) Incentive Program by changing the timeframe in which hospitals must meet SoonerCare patient volume criteria for a continuous 90-day period from the preceding calendar year to the preceding federal fiscal year. The proposed revisions also add a 30-day time limit for eligible providers to submit documentation or make corrections to avoid denial of their EHR attestation.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-28. Oklahoma Electronic Health Records Incentive Program

(a) **Program.** The Oklahoma Electronic Health Records (EHR) Incentive Program is authorized by the American Recovery and Reinvestment Act of 2009. Under this program, SoonerCare providers may qualify for incentive payments if they meet the eligibility guidelines in this section and demonstrate they are engaged in efforts to adopt, implement, upgrade, or meaningfully use certified ~~electronic health records (EHR)~~EHR technology. The Oklahoma EHR ~~incentive program~~Incentive Program is governed by the policy in this section and the Electronic Health Records Program Final Rule issued by the ~~CMS~~Center for Medicare and Medicaid Services (CMS) in CMS-0033-F and ~~45 CFR 170~~Section 170 of Title 45 of the Code of Federal Regulations (C.F.R.). Providers should also use the EHR program manual as a reference for additional program details.

(b) **Eligible providers.** To qualify for incentive payments, a provider must be an "eligible professional" or an "eligible hospital." Providers who receive incentive payments must have an existing Provider Agreement with the ~~OHCA~~Oklahoma Health Care Authority (OHCA).

(1) **Eligible professionals.** An eligible professional is defined as a physician, a physician assistant practicing

in a Federally Qualified Health Center (FQHC) or Rural Health Center (RHC) led by a physician assistant, a board certified pediatrician, a nurse practitioner, a certified nurse midwife, or a dentist. OHCA will determine eligibility based on the provider type, specialty associated with the provider in the ~~MMIS system~~Medicaid Management Information System, and documentation.

(A) Eligible professionals may not be hospital-based, unless they practice predominantly at an FQHC or RHC as defined by the CMS ~~Final Rule~~final rule. A "hospital-based" professional furnishes ninety percent (90%) or more of their SoonerCare-covered professional services during the relevant EHR reporting period in a hospital setting, whether inpatient or Emergency Room, through the use of the facilities and equipment of the hospital. Specific exclusions to the "hospital-based" definition may be allowed by federal law and are detailed in the Oklahoma EHR Incentive Program provider manual.

(B) Eligible professionals may not participate in both the Medicaid and Medicare EHR incentive payment program during the same payment year.

(2) **Eligible hospitals.** Eligible hospitals are ~~Children's Hospitals~~children's hospitals or ~~Acute Care Hospitals~~acute care hospitals, including ~~Critical Access Hospitals~~critical access hospitals and cancer hospitals. An ~~Acute Care Hospital~~acute care hospital is defined as a health care facility where the average length of patient stay is twenty-five (25) days or fewer and that has a CMS certification number that has the last four (4) digits in the series 0001-0879 and 1300-1399. A ~~Children's Hospital~~children's hospital is defined as a separately certified children's hospital, either freestanding or hospital-within-hospital, that predominantly treats individuals under ~~21~~twenty-one (21) years of age and has a CMS certification number with the last ~~4~~four (4) digits in the series 3300-3399 or, if it does not have a CMS certification number, has been provided an alternative number by CMS for purposes of enrollment in the Medicaid EHR ~~incentive program~~Incentive Program. Hospitals that do not meet either of the preceding definitions are not eligible for incentive payments.

(c) **Patient volume.** Eligible professionals and eligible hospitals must meet SoonerCare patient volume criteria to qualify for incentive payments. Patient volume criteria compliance will be verified by the OHCA through claims data and provider audits. When calculating SoonerCare patient volume, all SoonerCare populations may be counted. To calculate patient volume, the provider's total SoonerCare patient encounters in the specified reporting period must be divided by the provider's total patient encounters in the same reporting period.

(1) **Eligible professionals.** Eligible professionals must meet a ~~30%~~thirty percent (30%) SoonerCare patient volume threshold over a continuous ~~90-day~~ninety-day (90-day) period in the preceding calendar year or the preceding ~~12-month~~twelve-month (12-month) period from the date of attestation. The only exception is for pediatricians, as discussed in ~~OAC~~Oklahoma Administrative Code (OAC) 317:30-3-28(c)(5).

(2) **Eligible hospitals.** With the exception of children's hospitals, which have no patient volume requirement, eligible hospitals must meet a ~~10%~~ten percent (10%) SoonerCare patient volume threshold over a continuous ~~90-day~~ninety-day (90-day) period in the preceding ~~calendar year~~federal fiscal year or over the ~~most recent continuous 12 month period~~preceding twelve-month (12-month) period from the date of attestation for which data are available prior to the payment year.

(3) **FQHC or RHC patient volume.** Eligible professionals practicing predominantly in ~~an~~a FQHC or RHC may be evaluated according to their "needy individual" patient volume. To qualify as a "needy individual," patients must meet one (1) of the following criteria:

(A) Received medical assistance from SoonerCare;

(B) Were furnished uncompensated care by the provider; or

(C) Were furnished services at either no cost or reduced cost based on a sliding scale determined by the individual's ability to pay.

(4) **Clinics and group practices.** Clinics or group practices may calculate patient volume using the clinic's or group's SoonerCare patient volume under the following conditions:

(A) The clinic or group practice's patient volume is appropriate as a patient volume methodology calculation for the eligible professional;

(B) There is an auditable data source to support the patient volume determination;

(C) All eligible professionals in the clinic or group practice use the same methodology for the payment year;

(D) The clinic or group practice uses the entire practice's patient volume and does not limit patient volume in any way; and

(E) If an eligible professional works inside and outside of the clinic or practice, the patient volume calculation includes only those encounters associated with the clinic or group practice, and not the eligible professional's outside encounters.

(5) **Pediatricians.** Pediatricians may qualify for 2/3 incentive payments if their SoonerCare patient volume is ~~20-29%~~twenty to twenty-nine percent (20-29%). A pediatrician is defined as a medical doctor who diagnoses, treats, examines, and prevents diseases and injuries in children and possesses a valid, unrestricted medical license and board certification in Pediatrics through either the American Board of Pediatrics (ABP) or the American Osteopathic Board of Pediatrics (AOBP). To qualify as a pediatrician for the purpose of receiving a 2/3 payment under the incentive program, the provider must provide OHCA with a copy of their pediatric licenses and board certification.

(6) **~~Out-of-state patients~~Out-of-state patients.** For eligible professionals and eligible hospitals using ~~out-of~~

~~state~~out-of-state Medicaid recipients for patient volume requirement purposes, the provider must retain proof of the encounter for the ~~out-of-state~~out-of-state patient.

(d) **Attestation.** Eligible professionals and eligible hospitals must execute an amendment to their SoonerCare Provider Agreement to attest to meeting program criteria through the Electronic Provider Enrollment (EPE) system in order to qualify for incentive payments. Registration in the CMS EHR Incentive Payment Registration and Attestation system is a pre-requisite to EPE attestation. All required/supporting documentation, additional documentation requests, and/or attestation corrections must be submitted or completed within thirty (30) days of notification to avoid denial of the EHR attestation.

(e) **Adoption/ Implementation/ Upgrade (A/I/U).** Eligible professionals or eligible hospitals in their first participation year under the Oklahoma EHR Incentive ~~Payment~~ Program may choose to attest to adopting, implementing, or upgrading certified EHR technology. Proof of A/I/U must be submitted to OHCA in order to receive payment.

(f) **Meaningful use.** Eligible professionals in their second through sixth participation year and eligible hospitals in their second through third participation year must attest to meaningful use of certified EHR technology. Eligible hospitals must attest to meaningful use if they are participating in both the Medicare and Oklahoma EHR Incentive Programs in their first participation year. The definition of "meaningful use" is outlined in, and determined by, the Electronic Health Records Program Final Rule CMS-0033-F.

(g) **Payment.** Eligible professionals may receive a maximum of $63,750 in incentive payments over six (6) years. Providers must begin their participation by 2016 to be eligible for payments. Payments will be made one (1) time per year per provider and will be available through 2021. Eligible hospitals cannot initiate payments after 2016 and payment years must be consecutive after 2016.

(1) Eligible professionals and eligible hospitals must use a Taxpayer Identification Number (TIN) to assign a valid entity as the incentive payments recipient. Valid entities may be the individual provider or a group with which the provider is associated. The assigned payee must have a current Provider Agreement with OHCA.

(2) The provider is responsible for repayment of any identified overpayment. In the event OHCA determines monies have been paid inappropriately, OHCA will recoup the funds by reducing any future payments owed to the provider.

(h) **Administrative appeals.** Administrative appeals of decisions related to the Oklahoma ~~Electronic Health Records~~EHR Incentive Program will be handled under the procedures described in OAC ~~317:2-1-2(b)~~317:2-1-2(c). The only exception to this section is when CMS conducts meaningful use audits. Results of any adverse CMS audits are subject to the CMS administrative appeals process and not the state appeal process.

[OAR Docket #19-448; filed 5-30-19]

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

[OAR Docket #19-464]

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RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-31 [AMENDED]
Part 3. General Medical Program Information
317:30-3-64 [AMENDED AND RENUMBERED TO 317:30-3-92]
Part 6. Out-Of-State Services [NEW]
317:30-3-89 [NEW]
317:30-3-90 [NEW]
317-30-3-91 [NEW]
317-30-3-92 [NEW]
Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Services
317:30-5-95.24 [AMENDED]
(Reference APA WF # 18-24)
AUTHORITY:
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The proposed revisions define and clarify coverage and reimbursement for services rendered by providers that are physically located outside of Oklahoma. Additions will delineate out-of-state services, provider participation requirements, prior authorizations, and documentation/medical records requirements; and will outline reimbursement criteria for out-of-state providers who do not accept the payment rate established through the State Plan. Additionally, the "payment for lodging and meals" section will be moved under the new Part 6. Finally, revisions will strike out old out-of-state policy then replace with references directing to the new part.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-31. Prior authorization for health care-related goods and services

(a) Under the Oklahoma SoonerCare program, there are health care-related goods and services that require prior authorization (PA) by the Oklahoma Health Care Authority (OHCA). PA is a process to determine if a prescribed good or service is medically necessary; it is not, however, a guarantee of member eligibility or of SoonerCare payment. All goods or services requiring PA will be authorized on the basis of information submitted to OHCA, including:

(1) the relevant code, as is appropriate for the good or service requested (for example, Current Procedural Terminology (CPT) codes for services; Healthcare Common Procedure Coding System (HCPCS) codes, for durable medical equipment; or National Drug Codes (NDC), for drugs); and/or

(2) any other information required by OHCA, in the format as prescribed. The OHCA authorization file will reflect the codes that have been authorized.

(b) The OHCA staff will issue a determination for each requested good or service requiring a PA. The provider will be advised of that determination, either through the provider portal, or for requests made for out-of-state services, meals, mileage, transportation and lodging, by letter or other written communication. The member will be advised by letter. Policy regarding member appeal of a denied PA is available at ~~OAC~~Oklahoma Administrative Code (OAC) 317:2-1-2.

(c) The following is an inexhaustive list of the goods and services that may require a PA, for at least some SoonerCare member populations, under some circumstances. This list is subject to change, with OHCA expressly reserving the right to add a PA requirement to a covered good or service or to remove a PA requirement from a covered good or service.

(1) Physical therapy for children

(2) Speech therapy for children

(3) Occupational therapy for children

(4) High Tech Imaging (for ex. CT, MRA, MRI, PET)

(5) Some dental procedures, including, but not limited to orthodontics (orthodontics are covered for children only)

(6) Inpatient psychiatric services

(7) Some prescription drugs and/or physician administered drugs

(8) Ventilators

(9) Hearing aids (covered for children only)

(10) Prosthetics

(11) High risk OB services

(12) ~~Urine drug testing~~Drug testing

(13) Enteral therapy (covered for children only)

(14) Hyperalimentation

(15) Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services, supplies, or equipment that are determined to be medically necessary for a child or adolescent, and which are included within the categories of mandatory and optional services in Section 1905(a) of Title XIX, regardless of whether such services, supplies, or equipment are listed as covered in Oklahoma's State Plan

(16) Adaptive equipment for persons residing in private Intermediate Care Facilities for Individuals with Intellectual Disabilities

(17) Some ancillary services provided in a long term care hospital or in a long term care facility

(18) Rental of hospital beds, support surfaces, oxygen and oxygen related products, continuous positive airway pressure devices (CPAP and BiPAP), pneumatic compression devices, and lifts

(19) Allergy testing and immunotherapy

(20) Bariatric surgery

(21) Genetic testing

(22) Out-of-state services

(23) Meals, travel, and lodging

(d) Providers should refer to the relevant Part of OAC 317:30-5 for additional, provider-specific guidance on PA requirements. Providers may also refer to the OHCA Provider Billing and Procedure Manual, available on OHCA's website, and the SoonerCare Medical Necessity Criteria for Inpatient Behavioral Health Services Manual to see how and/or where to submit PA requests, as well as to find information about documentation.

PART 3. GENERAL MEDICAL PROGRAM INFORMATION

317:30-3-64. Payment for lodging and meals [AMENDED AND RENUMBERED FROM 317:30-3-64]

~~(a) Payment for lodging and/or meals assistance for an eligible member and/or an approved medical escort is provided only when medically necessary in connection with transportation to and from SoonerCare compensable services. The member and/or medical escort must make a reasonable effort to secure lodging at a hospital or non-profit organization. The Oklahoma Health Care Authority (OHCA) has discretion and final authority to approve or deny any lodging and/or meal services.~~

~~(1) Lodging and/or meals are reimbursable when prior approved. Payment for lodging and/or meals is limited to a period of up to 24 hours prior to the start of member's medical services and up to 24 hours after the services end. Lodging is approved for the member and/or one approved medical escort. The following factors may be considered by the OHCA when approving reimbursement for a member and/or one medical escort:~~

~~(A) travel is to obtain specialty care; and~~

~~(B) the trip cannot be completed during SoonerRide operating hours; and/or~~

~~(C) the trip is 100 miles or more from the member's residence, as listed in the OHCA system, to the medical facility; and/or~~

~~(D) the member's medical treatment requires an overnight stay, or the condition of the member discourages traveling.~~

~~(2) When a member is not required to have a PCP or when a PCP referral is not required to obtain a SoonerCare covered service, a member may go to any provider they choose but SoonerCare will not reimburse for transportation, lodging, or meals if the distance is beyond what is considered the nearest appropriate facility.~~

~~(3) Meals will be reimbursed if lodging criteria is met. Duration of the trip must be 18 hours or greater.~~

~~(4) Reimbursement for meals is based on a daily per diem and may be used for breakfast, lunch or dinner, or all three meals, whichever is required.~~

~~(5) During inpatient or outpatient medical stays, lodging and/or meals services are reimbursed for a period of up to 14 days without prior approval; stays exceeding the 14 day period must be prior approved. A member may not receive reimbursement for lodging and/or meals services for days the member is an inpatient in a hospital or medical facility.~~

~~(6) For eligible members in the Neonatal Intensive Care Unit (NICU) a minimum visitation of 6 hours per day for the approved medical escort is required for reimbursement of lodging and/or meals services. Non-emergency transportation services for medically necessary visitation may be provided for eligible medical escorts.~~

~~(b) Lodging must be with a SoonerCare contracted Room and Board provider, when available, before direct reimbursement to a member and/or medical escort can be approved. If lodging and/or meals assistance with contracted Room and Board providers are not available, the member and/or medical escort may request reimbursement assistance by submitting the appropriate travel reimbursement forms. The travel reimbursement forms may be obtained by contacting SoonerCare Care Management division. Any lodging and/or meal expenses claimed on the travel reimbursement forms must be documented with the required receipts and medical records to document the lodging criteria have been met. Reimbursement must not exceed state per diem amounts. The OHCA has discretion and the final authority to approve or deny lodging and/or meals reimbursement.~~

~~(c) Payment for transportation and lodging and/or meals of one medical escort may be approved if the service is required.~~

~~(d) If the Oklahoma Department of Human Services (OKDHS) removes a child from his/her home, a court must appoint a temporary guardian. During this time the temporary guardian is eligible for medical escort related lodging and/or meals services. It is the responsibility of the OHCA to determine this necessity. The decision should be based on the following circumstances:~~

~~(1) when the individual's health or disability does not permit traveling alone; and~~

~~(2) when the individual seeking medical services is a minor child.~~

PART 6. OUT-OF-STATE SERVICES

317:30-3-89. Definitions

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

"Emergency" means a serious situation or occurrence that happens unexpectedly and demands immediate action such as a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected, by a reasonable and prudent layperson, to result in placing the member's health in serious jeopardy, serious impairment to bodily function, or serious dysfunction of any bodily organ or part.

"Out-of-state provider" means a provider contracted with SoonerCare in accordance with Oklahoma Administrative Code (OAC) 317:30-3-2, if:

(A) The physical address where services are or will be rendered is located outside the Oklahoma border and within the United States; or

(B) The physical address where services are or will be rendered is located within the Oklahoma border, but:

(i) The out-of-state provider maintains all member and/or billing records outside the Oklahoma border; and

(ii) The out-of-state provider is unable to produce the originals or exact copies of the member and/or billing records from the location in Oklahoma where services are rendered.

"Temporary" means lasting for a limited period of time, such as when a member is on vacation, but does not include situations in which a SoonerCare member leaves Oklahoma for the purpose of receiving medical care and treatment.

317:30-3-90. Out-of-state services

(a) Consistent with Section 431.52 of Title 42 of the Code of Federal Regulations (C.F.R.), an eligible SoonerCare member who is a resident of Oklahoma but who is temporarily out of state, may receive services from an out-of-state provider to the same extent that he or she would receive such services in Oklahoma, if:

(1) Medical services are needed for a medical emergency, as determined by the attending physician or other provider (M.D., D.O., P.A., or A.P.R.N). For any provider, who is not contracted at the time the services are provided, documentation as requested from the Oklahoma Health Care Authority (OHCA) of the emergency must be submitted, including, but not limited to, emergency room reports, medical histories, discharge summaries, and all other relevant medical reports.

(2) Medical services are needed and the member's health would be endangered if he or she were required

to return to Oklahoma for medical care and treatment, as determined by the attending physician or other provider (M.D., D.O., P.A., or A.P.R.N). For any provider, who is not contracted at the time the services are provided, documentation of the nature and possible extent of the endangerment must be submitted as requested from the OHCA.

(3) The Oklahoma Health Care Authority's (OHCA) Chief Medical Officer (CMO), or his or her designee, determines, on the basis of medical advice, that the needed medical services, or necessary supplemental resources, are more readily available in the state where the member is located at the time of needing medical treatment. Prior authorization must be obtained from the OHCA's CMO, or his or her designee, before the services are rendered; or

(4) The customary or general practice for members residing in a particular locality within Oklahoma is to use medical resources in another state, and the member is using a provider that is contracted with the OHCA.

(A) Except for out-of-state inpatient psychiatric services, no prior authorization is necessary for services provided in accordance with paragraph (a)(4), above, if the member obtains them from an out-of-state provider that is:

(i) Located in a border state (Arkansas, Colorado, Kansas, Missouri, New Mexico, or Texas) within fifty (50) miles of the Oklahoma border; and

(ii) Contracted with the OHCA;

(iii) Provided, however, that nothing in this paragraph shall be interpreted to eliminate or otherwise affect a prior authorization requirement established by any other OHCA rule, including, but not limited to, Oklahoma Administrative Code (OAC) 317:30-3-31, that would have to be met if the health care-related good and/or service were provided in Oklahoma.

(B) In all other instances, prior authorization must be obtained from the OHCA's CMO, or his or her designee, before the services are rendered.

(b) Except as provided in subsections (a)(1),(a)(2) and (a)(4)(A), above, SoonerCare will not pay for any services furnished by an out-of-state provider unless prior authorization has been obtained from the OHCA's CMO, or his or her designee, before the services are rendered. Prior authorization must be obtained in all instances in which the member is located in Oklahoma at the time the services are determined to be medically necessary.

(1) As part of this authorization process, the following documents must be submitted to the OHCA's CMO, or his or her designee:

(A) Documents sufficient to establish the "medical necessity" of the services requested, as that term is defined by OAC 317:30-3-1(f). See also OAC 317:30-3-31, Prior authorization for health care-related goods and services. Examples of such documents may include, but are not limited to, Histories of Present Illnesses (HPIs), physical exams, laboratory reports, imaging reports, progress notes, hospital charts, and/or other relevant medical records; and

(B) Documents sufficient to establish that the health care needs of the member cannot be met in Oklahoma. Such documents shall include, but not be limited to, a letter from the referring provider that contains:

(i) A clear presentation of the member's medical condition and diagnosis for which out-of-state treatment is requested, including a summary of treatment to date that is supported by the documents in paragraph (b)(1)(A), above;

(ii) Names of physicians and/or facilities in Oklahoma that the member has previously been referred to for diagnosis and/or treatment;

(iii) Physicians consulted by the attending physician relative to diagnosis and/or availability of recommended treatment in Oklahoma;

(iv) Recommended treatment or further diagnostic work; and

(v) Reasons why medical care cannot be provided in Oklahoma or the next closest location outside Oklahoma.

(C) Except for emergency medical or behavioral health cases, prior authorization requests for out-of-state services must be made in writing with all the necessary documents that show medical necessity and details of the services provided, including but not limited to, relevant medical history, description of services and procedures to be performed, Histories of Present Illnesses (HPIs), physical exams, laboratory reports, imaging reports, and received by the OHCA at least ten (10) calendar days prior to the date services are to be provided in another state or at the discretion of the CMO or his/her designee.

(i) Emergency medical or behavioral health cases must be identified as such by the physician or provider in the prior authorization request.

(ii) Any telephone request for prior authorization of out-of-state services will only be accepted in emergency situations, and must be promptly followed by a written request.

(2) Prior authorization requirements for medically necessary lodging, transportation, and/or meals assistance associated with out-of-state services are established in other OHCA rules, including, but not limited to, OAC 317:30-3-92, 317:30-5-327.1, and 317:35-3-2.

(c) The restrictions established in subsections (a) through (b), above, shall not apply to children who reside outside Oklahoma and for whom the Oklahoma Department of Human Services makes Title IV-E adoption assistance payments or Title IV-E foster care maintenance payments.

(d) Denials of requests for prior authorization may be appealed in accordance with OAC 317:2-1-2(d)(1)(C).

(e) Out-of-state providers shall, upon request by authorized OHCA representatives, make available fiscal and medical records as required by applicable federal regulations, OHCA

rules, and the Provider Agreement. Such records shall be made available for review by authorized OHCA representatives at the OHCA's address in Oklahoma City, Oklahoma.

317:30-3-91. Reimbursement of services rendered by out-of-state providers

(a) Before an out-of-state provider can receive reimbursement, it shall contract with SoonerCare and be subject to enrollment, including, but not limited to, providing information requested by the Oklahoma Health Care Authority (OHCA) such as name, address, Social Security Number or Tax Identification Number, and verification of licensure and insurance. Out-of-state providers are also subject to the same screening rules, policies, and procedures as in-state providers, including, but not limited to Oklahoma Administrative Code (OAC) 317:30-3-2, and 317:30-3-19.3 through 317:30-3-19.4. Once the OHCA approves enrollment, the provider will receive a SoonerCare provider number that will allow claims to be processed.

(b) While the member's physician may suggest where the member be sent, the OHCA's Chief Medical Officer (CMO), or his or her designee, is responsible for making the final determination based on the most cost effective institution and treatment consistent with the recognized standards of care. Reimbursement for services rendered by out-of-state providers shall be as follows:

(1) Reimbursement for inpatient hospital services shall be made in accordance with OAC 317:30-5-47.

(2) Reimbursement for outpatient hospital services shall be made in accordance with OAC 317:30-5-42.14 and 317:30-5-566.

(3) Reimbursement for physician services shall be the lower of the SoonerCare maximum allowable fee as of the date the service was rendered, available at www.okhca.org (SoonerCare Fee Schedules), or the provider's actual charge. Exceptions to the above reimbursement method are payments for outpatient clinical diagnostic laboratory tests performed by a physician or independent laboratory. These tests will be reimbursed at the lower of the provider's actual charge or a rate of reimbursement equal to the rate paid by Medicare.

(4) Unless authorized by the Oklahoma State Plan, any reimbursement shall not exceed the rate paid by Medicare.

(c) The OHCA may negotiate a higher reimbursement rate for an out-of-state service that is prior authorized, provided that:

(1) The service is not available in Oklahoma; and

(2) The negotiated reimbursement does not exceed the rate paid by Medicare, unless as authorized by the Oklahoma State Plan. Services not covered by Medicare but covered by SoonerCare may be reimbursed as determined by the OHCA.

(d) Individual cases which are adversely affected by these reimbursement procedures may be presented to the OHCA's CMO, or his or her designee, for consideration as an exception to this rule on a case-by-case basis. The CMO's decision, or that of his or her designee, shall be the agency's final decision and is not otherwise appealable under these rules.

(e) Reimbursement of medically necessary lodging, transportation, and/or meals assistance associated with out-of-state services is governed by other OHCA rules, including, but not limited to, OAC 317:30-3-92, 317:30-5-327.1, and 317:35-3-2, as well as Part 31 of OAC 317:30-5.

317:30-3-92. Payment for lodging and meals

(a) Payment for lodging and/or meals assistance for an eligible member and an approved medical escort, if needed, is provided only when medically necessary in connection with transportation to and from SoonerCare compensable services. The member and any medical escort must make a reasonable effort to secure lodging at a hospital or non-profit organization. The Oklahoma Health Care Authority (OHCA) has discretion and final authority to approve or deny any lodging and/or meal services.

(1) Lodging and/or meals are reimbursable when prior authorized. Payment for lodging and/or meals is limited to a period of up to twenty-four (24) hours prior to the start of member's medical services and up to twenty-four (24) hours after the services end. Lodging is authorized for the member and one approved medical escort, if needed. The following factors may be considered by the OHCA when approving reimbursement for a member and any medical escort:

(A) Travel is to obtain specialty care; and

(B) The trip cannot be completed during SoonerRide operating hours; and/or

(C) The trip is one hundred (100) miles or more from the member's residence, as listed in the OHCA system, to the medical facility; and/or

(D) The member's medical treatment requires an overnight stay, or the condition of the member discourages traveling.

(2) When a member is not required to have a Primary Care Provider (PCP) or when a PCP referral is not required to obtain a SoonerCare covered service, a member may go to any provider they choose, but SoonerCare will not reimburse for transportation, lodging, or meals if the distance is beyond what is considered the nearest appropriate facility.

(3) Meals will be reimbursed if lodging criteria is met. Duration of the trip must be eighteen (18) hours or greater.

(4) Reimbursement for meals is based on a daily per diem and may be used for breakfast, lunch or dinner, or all three (3) meals, as required.

(5) During inpatient or outpatient medical stays, lodging and/or meals services are reimbursed for a period of up to fourteen (14) days without prior authorization; stays exceeding the fourteen (14) day period must be prior authorized. A member may not receive reimbursement for lodging and/or meals services for days the member is an inpatient in a hospital or medical facility.

(6) For eligible members in the Neonatal Intensive Care Unit (NICU), a minimum visitation of six (6) hours per day for the approved medical escort is required for reimbursement of lodging and/or meals services. Non-emergency transportation services for medically

necessary visitation may be provided for eligible medical escorts.

(b) Lodging must be with a SoonerCare contracted Room and Board provider, when available, before direct reimbursement to a member and/or medical escort can be authorized. If lodging and/or meals assistance with contracted Room and Board providers are not available, the member and any medical escort may request reimbursement assistance by submitting the appropriate travel reimbursement forms. The travel reimbursement forms may be obtained by contacting SoonerCare Care Management division. Any lodging and/or meal expenses claimed on the travel reimbursement forms must be documented with the required receipts and medical records to document the lodging criteria have been met. Reimbursement must not exceed state per diem amounts. The OHCA has discretion and the final authority to approve or deny lodging and/or meals reimbursement.

(c) Payment for transportation and lodging and/or meals of one medical escort may be authorized if the service is required.

(d) If the Oklahoma Department of Human Services (DHS) removes a child from his/her home, a court must appoint a temporary guardian. During this time the temporary guardian is eligible for medical escort-related lodging and/or meals services. It is the responsibility of the OHCA to determine this necessity. The decision should be based on the following circumstances:

(1) When the individual's health or disability does not permit traveling alone; and

(2) When the individual seeking medical services is a minor child.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 6. INPATIENT PSYCHIATRIC SERVICES

317:30-5-95.24. Prior authorization of inpatient psychiatric services for children

(a) All inpatient psychiatric services for members under ~~21~~twenty-one (21) years of age must be prior authorized by the ~~OHCA~~Oklahoma Health Care Authority (OHCA) or its designated agent. All inpatient acute and residential psychiatric services will be prior authorized for an approved length of stay. Admission requirements for services must be provided in accordance with Code of Federal Regulations, Title 42 Public Health, Part 441 and 456. Additional information will be required for a SoonerCare compensable approval on enhanced treatment units or in special population programs.

(b) Staffing ratios shall always be present for each individual unit not by facility or program. Patients shall be grouped for accommodation by gender, age, and treatment needs. At a minimum, children, adolescent, and adult treatment programs shall be separate with distinct units for each population. A unit is determined by separate and distinct sleeping, living, and treatment areas often separated by walls and/or doors. A unit that does not allow clear line of sight due to the presence of walls or doors is considered a separate unit. Each individual unit shall have assigned staff to allow for appropriate and safe monitoring of patients and to provide active treatment.

(c) In an acute care setting, at least one Registered Nurse (RN) must be on duty per unit at all times, with additional RNs to meet program needs. RNs must adhere to Oklahoma Department of Health policy at Oklahoma Administrative Code (OAC) 310:667-15-3 and OAC 310:667-33-2(a)(3).

(d) Regular residential treatment programs require a staffing ratio of 1:6 during routine waking hours and 1:8 during time residents are asleep with ~~24~~twenty-four (24) hour nursing care supervised by an RN for management of behaviors and medical complications. At a minimum, the supervising RN must be available by phone and on-site within one (1) hour. If the supervising RN is off-site, then an RN or LPN must be on-site to adhere to a ~~24~~twenty-four (24) hour nursing care coverage ratio of 1:30 during routine waking hours and 1:40 during time residents are asleep.

(e) Specialty residential treatment at this level is a longer term treatment that requires a higher staff to member ratio because of the need for constant, intense, and immediate reinforcement of new behaviors to develop an understanding of the behaviors. The environment of specialized residential treatment centers requires special structure and configuration (e.g., sensory centers for autistic members) and specialized training for the staff in the area of the identified specialty. The physician will see the child at least one (1) time a week.

(f) A ~~PRTF~~Psychiatric Residential Treatment Facility (PRTF) will not be considered a specialty treatment program for SoonerCare without prior approval of the OHCA behavioral health unit.

(g) A treatment program that has been approved as a specialized treatment program must maintain medical records that document the degree and intensity of the psychiatric care delivered to the children.

(h) Criteria for classification as a specialized PRTF will require a staffing ratio of 1:3 at a minimum during routine waking hours and 1:6 during time residents are asleep with ~~24~~twenty-four (24) hour nursing care supervised by a RN for management of behaviors and medical complications. The PRTF will be a secure unit, due to the complexity of needs and safety considerations. Admissions will be restricted to children that meet the medical necessity criteria for ~~RTC~~Residential Treatment Center (RTC) and also meet at least two or more of the following:

(1) Have failed at other levels of care or have not been accepted at other levels of care;

(2) Behavioral, emotional, and cognitive problems requiring secure residential treatment that includes 1:1, 1:2, or 1:3 staffing due to the member being a danger to themselves and others, for impairments in socialization problems, communication problems, and restricted, repetitive and stereotyped behaviors. These symptoms are severe and intrusive enough that management and treatment in a less restrictive environment places the child and others in danger but, do not meet acute medical necessity criteria. These symptoms which are exhibited across multiple environments must include at least two or more of the following:

(A) Marked impairments in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

(B) Inability to regulate impulse control with frequent displays of aggression or other dangerous behavior toward self and/or others regularly;

(C) Failure to develop peer relationships appropriate to developmental level;

(D) Lack of spontaneously seeking to share enjoyment, interests, or achievements with other people;

(E) Lack of social or emotional reciprocity;

(F) Lack of attachment to caretakers;

(G) Require a higher level of assistance with activities of daily living requiring multiple verbal cues 50 percent of the time to complete tasks;

(H) Delay, or total lack of, the development of spoken language which is not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime;

(I) Marked impairment in individuals with adequate speech in the ability to initiate or sustain a conversation with others;

(J) Stereotyped and repetitive use of language or idiosyncratic language;

(K) Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level;

(L) Encompassing preoccupation with one or more stereotyped and restricted pattern and interest that is abnormal in intensity of focus;

(M) Inflexible adherence to specific, nonfunctional routines or rituals;

(N) Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting or complex whole body movements);

(O) Persistent occupation with parts of objects;

(3) Member is medically stable, but has co-morbid medical conditions which require specialized medical care during treatment;

(4) Full scale IQ below 40 (profound mental retardation intellectual disability).

(i) Non-authorized inpatient psychiatric services will not be SoonerCare compensable.

(j) The designated agent will prior authorize all services for an approved length of stay based on the medical necessity criteria described in OAC 317:30-5-95.25 through 317:30-5-95.31.

(k) ~~Out of state placements must be approved by the agent designated by the OHCA and subsequently approved by the OHCA, Medical Services Behavioral Health Division. Requests for admission to Psychiatric Residential Treatment Facilities or acute care units will be reviewed for consideration of level of care, availability, suitability, and proximity of suitable services.~~For out-of-state placement policy, refer to OAC 317:30-3-89 through 317:30-3-92. A prime consideration for placements will be proximity to the family or guardian in order to involve the family or guardian in Active Treatment, including discharge and reintegration planning. Out of state facilities are responsible for insuring appropriate medical care as needed under SoonerCare provisions as part of the per-diem rate.

(l) Inpatient psychiatric services in all acute hospitals and psychiatric residential treatment facilities are limited to the approved length of stay. OHCA, or its designated agent, will approve lengths of stay using the current OHCA Behavioral Health medical necessity criteria as described in OAC 317:30-5-95.25 through OAC 317:30-5-95.31. The approved length of stay applies to both hospital and physician services. The Child and Adolescent Level of Care Utilization System (CALOCUS®) is a level of care assessment that will be used as a tool to determine the most appropriate level of care treatment for a member by LBHPs in the community.

[OAR Docket #19-464; filed 5-30-19]

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

[OAR Docket #19-447]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-33 [NEW]
(Reference APA WF # 18-09)

AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 U.S.C. § 1396a(a)(30)(A); 56 O.S. § 1010.4(B)(5); 42 CFR § 447.45(f)

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n/a

INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
The proposed revisions establish a new section addressing suspended claims review and/or prepayment review. This policy will align the agency with state and federal laws that require the OHCA to safeguard against unnecessary utilization of medical supplies and services. Additionally, the revisions will help to ensure that payments are consistent, efficient, economical, and provide good quality of care. Please refer to 42 United States Code Section 1396a(a)(30)(A); 42 Code of Federal Regulations Section 447.45(f); and 56 Oklahoma Statutes Section 1010.4(B)(5). These revisions

will help ensure that reimbursements are for medically necessary, correctly and/or appropriately billed, medical supplies and services. The changes define and explain the various reviews that may be performed by the OHCA or its contractor before the OHCA pays a claim.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 1. GENERAL SCOPE AND ADMINISTRATION

317:30-3-33. Suspended claims review and/or prepayment review

Suspended claims review and/or prepayment review occurs after a healthcare good or service has been furnished and a claim for payment has been filed with the Oklahoma Health Care Authority (OHCA) by the provider, but before the claim has been paid. Suspended claims review and/or prepayment review may be performed by the OHCA or its contractor or designee, and may take the form of different types of reviews, including, but not limited to:

(1) Any claims review process(es) required by federal and/or state law, including Section 447.45(f) of Title 42 of the Code of Federal Regulations (C.F.R.);

(2) The suspended claims review process to confirm, prior to payment, the medical necessity of the healthcare good or service provided and use of the appropriate modifier, based on, among other things, the claim's diagnosis, code, and/or modifier, as well as any attached medical record(s) or other supporting documentation; and

(3) Any provider-specific prepayment review, in which a provider's claims are temporarily held in the payment system, pending review of medical records and/or other supporting documentation, in order to confirm that the submitted claims were billed appropriately and relate to healthcare goods or services that are covered and medically necessary. OHCA shall notify the provider in writing within ten (10) business days before the effective start date of any provider-specific prepayment review, informing the provider as to the:

(A) Implementation date, scope, and nature of the review;

(B) Process for submitting claims and supporting documentation; and

(C) Any accuracy goals that must be met before removal from the provider-specific prepayment review status can occur.

(4) Suspended claims review and/or prepayment review is not a sanction and cannot be appealed, nor is it subject to an informal hearing. However, any claim that is denied for payment by OHCA as a result of suspended claims review and/or prepayment review may be resubmitted to OHCA for reconsideration, in accordance with Oklahoma Administrative Code 317:30-3-11.1 and/or 317:30-3-20.

[OAR Docket #19-447; filed 5-30-19]

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

[OAR Docket #19-461]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-40 [AMENDED]
(Reference APA WF # 18-22A)

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The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Sections 441.301 et. seq. of Title 42 of the Code of Federal Regulations

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INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed revisions add language to clarify that a member receives services based on current needs through the Home and Community-Based Service waivers. Additional revisions will eliminate and update outdated policy in order to better align with current business practices.

CONTACT PERSON:

Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 3. GENERAL MEDICAL PROGRAM INFORMATION

317:30-3-40. Home and Community-Based Services Waivers (HCBS) for persons with intellectual disabilities or certain persons with related conditions

(a) **Introduction to HCBS ~~Waivers~~waivers for persons with intellectual disabilities.** The Medicaid ~~Home and Community-Based Services (HCBS)~~ HCBS ~~Waiver~~waiver programs are authorized~~ in accordance with~~ per Section 1915(c) of the Social Security Act.

(1) Oklahoma Department of Human Services Developmental Disabilities Services Division ~~(DDSD)~~(DDS) operates HCBS ~~Waiver~~waiver programs for persons with intellectual disabilities and certain persons with related conditions. The Oklahoma Health Care Authority (OHCA), ~~as~~is the State's~~ single~~ Medicaid agency, retains and exercises administrative authority over all HCBS ~~Waiver~~waiver programs.

(2) Each waiver allows for the provision of specific SoonerCare-compensable services that assist members to reside in the community and avoid institutionalization.

(3) ~~Waiver~~HCBS waiver services:

(A) complement and supplement services available to members through the Medicaid State Plan or other federal, state, or local public programs, as well as informal supports provided by families and communities;

(B) ~~can~~are only~~ be~~ provided to persons who are Medicaid eligible, outside of a nursing facility, hospital, or institution;~~ and~~

(C) are not intended to replace other services and supports available to members~~.~~; and

(D) are authorized based solely on current need.

(4) ~~Any waiver service~~HCBS waiver services must be:

(A) appropriate to the member's needs; and

(B) included in the member's Individual Plan (IP).

(i) The IP:

(I) is developed annually by the member's Personal Support Team, per ~~OAC~~Oklahoma Administrative Code (OAC) 340:100-5-52; and

(II) contains detailed descriptions of services provided, documentation of amount and frequency of services, and types of providers to provide services.

(ii) Services are authorized,~~in accordance with~~ per OAC 340:100-3-33 and 340:100-3-33.1.

(5) ~~DDSD~~DDS furnishes case management, targeted case management, and services to members as a Medicaid State Plan ~~service under~~services, per Section 1915(g)(1) of the Social Security Act~~ in accordance with~~ and per OAC 317:30-5-1010 through 317:30-5-1012.

(b) **Eligible providers.** All providers must have entered into contractual agreements with OHCA to provide HCBS for persons with an intellectual disability or related conditions.

(1) All providers, except pharmacy, specialized medical supplies and durable medical equipment providers must be reviewed by ~~OKDHS DDSD.~~DHS DDS. The review process verifies~~:~~ that:

(A) the provider meets the licensure, certification or other standards~~ as~~ specified in the approved HCBS ~~Waiver~~waiver documents; and

(B) organizations that do not require licensure ~~wishing~~wanting to provide HCBS services meet program standards, are financially stable and use sound business management practices.

(2) Providers who do not meet ~~the~~program standards in the review process~~ will~~ are not ~~be~~ approved for a provider agreement.

(3) Provider agreements with providers that fail to meet programmatic or financial requirements may not be renewed.

(c) **Coverage.** All services must be included in the member's IP~~. Arrangements for services must be made with~~ and arranged by the member's case manager.

[OAR Docket #19-461; filed 5-30-19]

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

[OAR Docket #19-456]

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PERMANENT final adoption
RULES:
Subchapter 3. General Provider Policies
Part 4. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program/Child-Health Services
317:30-3-65.4 [AMENDED]
(Reference APA WF # 18-17)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F) (1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Title 42 of the Code of Federal Regulations (CFR), Part 441, Subpart B
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GIST/ANALYSIS:
The proposed revisions add coverage and reimbursement language for maternal depression screenings at Early and Periodic Screening, Diagnostic and Treatment (EPSDT) at well-child visits. Providers will be reimbursed for conducting a maternal depression screening at the child's well-child visit. The policy will also reiterate how the Oklahoma Health Care Authority adopts and utilizes the American Academy of Pediatrics' Bright Futures periodicity schedule including for the maternal depression screenings. Additionally, the proposed revisions will update the child abuse section to provide a more thorough explanation of how to report abuse and neglect including clarifying text, and updating outdated citations.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 3. GENERAL PROVIDER POLICIES

PART 4. EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) PROGRAM/CHILD-HEALTH SERVICES

317:30-3-65.4. Screening components

Comprehensive Early and Periodic Screening, Diagnosis and Treatment (EPSDT) screenings are performed by, or under the supervision of, a SoonerCare physician or other SoonerCare practitioner. SoonerCare physicians are defined as all licensed allopathic and osteopathic physicians in accordance with the rules and regulations covering the Oklahoma Health Care Authority's (OHCA) SoonerCare program. Other SoonerCare practitioners are defined as all contracted physician assistants and advanced practice registered nurses in accordance with the rules and regulations covering the OHCA's SoonerCare program. At a minimum, screening examinations must include, but not be limited to, the following components:

(1) **Comprehensive health and developmental history.** Health and developmental history information may be obtained from the parent or other responsible adult who is familiar with the member's history and include an assessment of both physical and mental health development. Coupled with the physical examination, this includes:

(A) **Developmental assessment.** Developmental assessment includes a range of activities to determine whether an individual's developmental processes fall within a normal range of achievement according to age group and cultural background. Screening for development assessment is a part of every routine, initial and periodic screening examination. Acquire information on the member's usual functioning as reported by the member, teacher, health professional or other familiar person. Review developmental progress as a component of overall health and well-being given the member's age and culture. As appropriate, assess the following elements:

(i) Gross and fine motor development;
(ii) Communication skills, language and speech development;
(iii) Self-help, self-care skills;
(iv) Social-emotional development;
(v) Cognitive skills;
(vi) Visual-motor skills;
(vii) Learning disabilities;
(viii) Psychological/psychiatric problems;
(ix) Peer relations; and
(x) Vocational skills.

(B) **Assessment of nutritional status.** Nutritional assessment may include preventive treatment and follow-up services including dietary counseling and nutrition education if appropriate. This is accomplished in the basic examination through:

(i) Questions about dietary practices;
(ii) Complete physical examination, including an oral dental examination;
(iii) Height and weight measurements;
(iv) Laboratory test for iron deficiency; and
(v) Serum cholesterol screening, if feasible and appropriate.

(2) **Comprehensive unclothed physical examination.** Comprehensive unclothed physical examination includes the following:

(A) **Physical growth.** Record and compare height and weight with those considered normal for that age. Record head circumference for children under one year of age. Report height and weight over time on a graphic recording sheet.

(B) **Unclothed physical inspection.** Check the general appearance of the member to determine overall health status and detect obvious physical defects. Physical inspection includes an examination of all organ systems such as pulmonary, cardiac, and gastrointestinal.

(3) **Immunizations.** Legislation created the Vaccine for Children Program effective October 1, 1994. Vaccines are provided free of charge to all enrolled providers for SoonerCare eligible children and adolescents. Participating providers may bill for an administration fee set by the Centers for Medicare and Medicaid Services (CMS) on a regional basis. They may not refuse to immunize based on inability to pay the administration fee.

(4) **Appropriate laboratory tests.** A blood lead screening test (by either finger stick or venipuncture) must be performed between the ages of nine and 12 months and at 24 months. A blood lead test is required for any child up to age 72 months who had not been previously screened. A blood lead test equal to or greater than 10 micrograms per deciliter (ug/dL) obtained by capillary specimen (fingerstick) must be confirmed using a venous blood sample. If a child is found to have blood lead levels

equal to or greater than 10 ug/dL, the Oklahoma Childhood Lead Poison Prevention Program (OCLPPP) must be notified according to rules set forth by the Oklahoma State Board of Health defined in Oklahoma Administrative Code (OAC) 310:512-3-5.

(A) The OCLPPP schedules an environmental inspection to identify the source of the lead for children who have a persistent blood lead level 15 ug/dL or greater. Environmental inspections are provided through the Oklahoma State Department of Health (OSDH) upon notification from laboratories or providers and reimbursed through the OSDH cost allocation plan approved by OHCA.

(B) Medical judgment is used in determining the applicability of all other laboratory tests or analyses to be performed unless otherwise indicated on the periodicity schedule. If any laboratory tests or analyses are medically contraindicated at the time of the screening, they are provided when no longer medically contraindicated. Laboratory tests should only be given when medical judgment determines they are appropriate. However, laboratory tests should not be routinely administered.

(5) **Health education.** Health education is a required component of screening services and includes anticipatory guidance. At the outset, the physical and dental assessment, or screening, gives the initial context for providing health education. Health education and counseling to parents, guardians or members is required. It is designed to assist in understanding expectations of the member's development and provide information about the benefits of healthy lifestyles and practices as well as accident and disease prevention.

(6) **Vision and hearing screens.** Vision and hearing services are subject to their own periodicity schedules. However, age-appropriate vision and hearing assessments may be performed as a part of the screening as outlined at OAC 317:30-3-65.7 and 317:30-3-65.9.

(7) **Dental screening services.** An oral screening may be included in the EPSDT screening and as a part of the nutritional status assessment. Federal regulations require a direct dental referral for every member in accordance with the American Academy of Pediatric Dentistry periodicity schedule and at other intervals as medically necessary. Therefore, when an oral screening is done at the time of the EPSDT screening, the member may be referred directly to a dentist for further screening and/or treatment. Specific dental services are outlined in OAC 317:30-3-65.8.

~~(8) **Child abuse.** Instances of child abuse and/or neglect are to be reported in accordance with state law, including, but not limited to, 10A of Oklahoma Statutes, Section 1-2-101. Any person suspecting child abuse or neglect shall immediately report it to the Oklahoma Department of Human Services (DHS) Hotline at 1-800-522-3511.~~

(8) **Maternal depression screens.** A maternal depression screening may be provided to the child's mother during the child's EPSDT screening as per the established guidelines in the American Academy of Pediatrics Bright Futures' periodicity schedule.

(9) **Reporting suspected abuse and/or neglect.** Instances of child abuse and/or neglect are to be reported in accordance with state law, including, but not limited to, 10A Oklahoma Statute (O.S.) § 1-2-101 and 43A O.S. § 10-104. Any person suspecting child abuse or neglect shall immediately report it to the Oklahoma Department of Human Services (DHS) hotline, at 1-800-522-3511; any person suspecting abuse, neglect, or exploitation of a vulnerable adult shall immediately report it to the local DHS County Office, municipal or county law enforcement authorities, or, if the report occurs after normal business hours, the DHS hotline. Health care professionals who are requested to report incidents of domestic abuse by adult victims with legal capacity shall promptly make a report to the nearest law enforcement agency, per 22 O.S. § 58.

[OAR Docket #19-456; filed 5-30-19]

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

[OAR Docket #19-463]

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Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
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317:30-5-11 [AMENDED]
(Reference APA WF # 18-23)
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GIST/ANALYSIS:

The proposed revisions clarify that when rendering a direct physician service visit in a nursing facility, a psychiatrist or a physician with appropriate behavioral health training is required to perform such service. Additionally, revisions will clarify that other than the two (2) allowable direct physician services visit in a nursing facility, reimbursement for psychiatric services to members residing in a nursing facility is not allowed. Revisions will also reflect policy changes to update the child abuse section to provide a more thorough explanation of how to report abuse and neglect, including clarifying text, and updating outdated citations. Further revisions will also reference the new out-of-state policy.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 1. PHYSICIANS

317:30-5-2. General coverage by category

(a) **Adults.** Payment for adults is made to physicians for medical and surgical services within the scope of the Oklahoma Health Care Authority's (OHCA) SoonerCare program, provided the services are reasonable and necessary for the diagnosis and treatment of illness or injury, or to improve the functioning of a malformed body member. Coverage of certain services must be based on a determination made by the OHCA's medical consultant in individual circumstances.

(1) Coverage includes the following medically necessary services:

(A) Inpatient hospital visits for all SoonerCare covered stays. All inpatient services are subject to post-payment review by the OHCA, or its designated agent.

(B) Inpatient psychotherapy by a physician.

(C) Inpatient psychological testing by a physician.

(D) One (1) inpatient visit per day, per physician.

(E) Certain surgical procedures performed in a Medicare certified free-standing ambulatory surgery center (ASC) or a Medicare certified hospital that offers outpatient surgical services.

(F) Therapeutic radiology or chemotherapy on an outpatient basis without limitation to the number of treatments per month for members with proven malignancies.

(G) Physician services on an outpatient basis include:

(i) A maximum of four (4) primary care visits per member per month, with the exception of SoonerCare Choice members, or

(ii) A maximum of four (4) specialty visits per member per month.

(iii) Additional visits are allowed per month for treatment related to emergency medical conditions and ~~Family Planning~~family planning services.

~~(H) Direct physician services in a nursing facility for those members residing in a long term care facility. A maximum of two nursing facility visits per month are allowed. To receive payment for a second nursing facility visit in a month denied by Medicare for a Medicare/SoonerCare member, attach the EOMB from Medicare showing denial and mark "carrier denied coverage".~~

(H) Direct physician services in a nursing facility.

(i) A maximum of two (2) nursing facility visits per month are allowed; and if the visit (s) is for psychiatric services, it must be provided by a psychiatrist or a physician with appropriate behavioral health training.

(ii) To receive payment for a second nursing facility visit in a month denied by Medicare for a Medicare/SoonerCare member, attach the explanation of Medicare benefits (EOMB) showing denial and mark "carrier denied coverage."

(I) Diagnostic x-ray and laboratory services.

(J) Mammography screening and additional follow-up mammograms as per current guidelines.

(K) Obstetrical care.

(L) Pacemakers and prostheses inserted during the course of a surgical procedure.

(M) Prior authorized examinations for the purpose of determining medical eligibility for programs administered by OHCA. A copy of the authorization, ~~OKDHS~~ Oklahoma Department of Human Services (DHS) form 08MA016E, Authorization for Examination and Billing, must accompany the claim.

(N) If a physician renders direct care to a member on the same day as a dialysis treatment, payment is allowed for a separately identifiable service unrelated to the dialysis.

(O) Family planning includes sterilization procedures for legally competent members ~~21~~twenty-one (21) years of age and over who voluntarily request such a procedure and execute the federally mandated consent form with his/her physician. A copy of the consent form must be attached to the claim form. Separate payment is allowed for the insertion and/or implantation of contraceptive devices during an office visit. Certain family planning products may be obtained through the Vendor Drug Program. Reversal of sterilization procedures for the purposes of conception is not allowed. Reversal of sterilization procedures are allowed when medically indicated and substantiating documentation is attached to the claim.

(P) Genetic counseling.

(Q) Laboratory testing.

(R) Payment for ultrasounds for pregnant women as specified in ~~OAC~~Oklahoma Administrative Code (OAC) 317:30-5-22.

(S) Payment to the attending physician in a teaching medical facility for compensable services when the physician signs as claimant and renders personal and identifiable services to the member in conformity with federal regulations.

(T) Payment to the attending physician for the services of a currently Oklahoma licensed physician in training when the following conditions are met~~;~~:

(i) Attending physician performs chart review and signs off on the billed encounter;

(ii) Attending physician is present in the clinic/or hospital setting and available for consultation; and

(iii) Documentation of written policy and applicable training of physicians in the training program regarding when to seek the consultation of the attending physician.

(U) Payment for services rendered by medical residents in an outpatient academic setting when the following conditions are met:

(i) ~~the~~The resident has obtained a medical license or a special license for training from the appropriate regulatory state medical board; and

(ii) has the appropriate contract on file with the OHCA to render services within the scope of their licensure.

(V) The payment to a physician for medically directing the services of a ~~CRNA~~certified registered nurse anesthetist (CRNA) or for the direct supervision of the services of an ~~Anesthesiologist Assistant~~anesthesiologist assistant (AA) is limited. The maximum allowable fee for the services of both providers combined is limited to the maximum allowable had the service been performed solely by the anesthesiologist.

(W) Screening and follow up ~~Pap Smears~~pap smears as per current guidelines.

(X) Medically necessary solid organ and bone marrow/stem cell transplantation services for children and adults are covered services based upon the conditions listed in (i)-(iv) of this subparagraph:

(i) Transplant procedures, except kidney and cornea, must be prior authorized to be compensable.

(ii) To be prior authorized all procedures are reviewed based on appropriate medical criteria.

(iii) To be compensable under the SoonerCare program, all organ transplants must be performed at a facility which meets the requirements contained in Section 1138 of the Social Security Act.

(iv) Procedures considered experimental or investigational are not covered.

(Y) Donor search and procurement services are covered for transplants consistent with the methods used by the Medicare program for organ acquisition costs.

(Z) Donor expenses incurred for complications are covered only if they are directly and immediately attributable to the donation procedure. Donor expenses that occur after the ~~90~~ninety (90) day global reimbursement period must be submitted to the OHCA for review.

(AA) Total parenteral nutritional ~~therapy (TPN)~~(TPN) therapy for identified diagnoses and when prior authorized.

(BB) Ventilator equipment.

(CC) Home dialysis equipment and supplies.

(DD) Ambulatory services for treatment of members with tuberculosis (TB). This includes, but is not limited to, physician visits, outpatient hospital services, rural health clinic visits and prescriptions. Drugs prescribed for the treatment of TB beyond the prescriptions covered under SoonerCare require prior authorization by the University of Oklahoma College of Pharmacy Help Desk using form ~~"Petition for TB Related Therapy".~~"Petition for TB Related Therapy." Ambulatory services to members infected with TB are not limited to the scope of the SoonerCare program, but require prior authorization when the scope is exceeded.

(EE) Smoking and ~~Tobacco Use Cessation Counseling~~tobacco use cessation counseling for treatment of members using tobacco.

(i) Smoking and ~~Tobacco Use Cessation Counseling~~tobacco use cessation counseling consists of the 5As:

(I) Asking the member to describe their smoking use;

(II) Advising the member to quit;

(III) Assessing the willingness of the member to quit;

(IV) Assisting the member with referrals and plans to quit; and

(V) Arranging for follow-up.

(ii) Up to eight (8) sessions are covered per year per individual.

(iii) Smoking and ~~Tobacco Use Cessation Counseling~~tobacco use cessation counseling is a covered service when performed by physicians, physician assistants (PA), advanced registered nurse practitioners (ARNP), certified nurse midwives (CNM), dentists, Oklahoma State Health Department (OSDH) and ~~FQHC~~Federally Qualified Health Center (FQHC) nursing staff, and ~~Maternal/Child Health Licensed Clinical Social Workers with a certification as a Tobacco Treatment Specialist Certification (CTTS).~~maternal/child health licensed clinical social worker trained as a certified tobacco treatment specialist (CTTS). It is reimbursed in addition to any other appropriate global payments for obstetrical care, ~~PCP~~primary care provider (PCP) care coordination payments, evaluation and management codes, or other appropriate services rendered. It must be a

significant, separately identifiable service, unique from any other service provided on the same day.

(iv) Chart documentation must include a separate note that addresses the 5A's and office note signature along with the member specific information addressed in the five (5) steps and the time spent by the practitioner performing the counseling. Anything under three (3) minutes is considered part of a routine visit and not separately billable.

(FF) Immunizations as specified by the Advisory Committee on Immunization Practices (ACIP) guidelines.

(GG) Genetic testing and other molecular pathology services are covered when medically necessary. Genetic testing may be considered medically necessary when the following conditions are met:

(i) The member displays clinical features of a suspected genetic condition, is at direct risk of inheriting the genetic condition in question (e.g., a causative familial variant has been identified) or has been diagnosed with a condition where identification of specific genetic changes will impact treatment or management; and

(ii) Clinical studies published in peer-reviewed literature have established strong evidence that the result of the test will positively impact the clinical decision-making or clinical outcome for the member; and

(iii) The testing method is proven to be scientifically valid for the identification of a specific genetically-linked inheritable disease or clinically important molecular marker; and

(iv) A medical geneticist, physician, or licensed genetic counselor provides documentation that supports the recommendation for testing based on a review of risk factors, clinical scenario, and family history.

(2) General coverage exclusions include the following:

(A) Inpatient admission for diagnostic studies that could be performed on an outpatient basis.

(B) Services or any expense incurred for cosmetic surgery.

(C) Services of two (2) physicians for the same type of service to the same member on the same day, except when supplemental skills are required and different specialties are involved.

(D) Routine eye examinations for the sole purpose of prescribing glasses or visual aids, determination of refractive state, treatment of refractive errors or purchase of lenses, frames or visual aids.

(E) Pre-operative care within ~~24~~twenty-four (24) hours of the day of admission for surgery and routine post-operative care as defined under the global surgery guidelines promulgated by Current Procedural Terminology (CPT) and the Centers for Medicare and Medicaid Services (CMS).

(F) Payment to the same physician for both an outpatient visit and admission to hospital on the same date.

(G) Sterilization of members who are under ~~21~~twenty-one (21) years of age, mentally incompetent, or institutionalized or reversal of sterilization procedures for the purposes of conception.

(H) Non-therapeutic hysterectomies.

(I) Medical services considered experimental or investigational.

(J) Payment for more than four (4) outpatient visits per member (home or office) per month, except visits in connection with family planning, services related to emergency medical conditions, or primary care services provided to SoonerCare Choice members.

(K) Payment for more than two (2) nursing facility visits per month.

(L) More than one (1) inpatient visit per day per physician.

(M) Physician services which are administrative in nature and not a direct service to the member including such items as quality assurance, utilization review, treatment staffing, tumor board review or multidisciplinary opinion, dictation, and similar functions.

(N) Charges for completion of insurance forms, abstracts, narrative reports or telephone calls.

(O) Payment for the services of social workers, licensed family counselors, registered nurses or other ancillary staff, except as specifically set out in OHCA rules.

(P) Induced abortions, except when certified in writing by a physician that the abortion was necessary due to a physical disorder, injury or illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the woman in danger of death unless an abortion is performed, or that the pregnancy is the result of an act of rape or incest. (Refer to OAC 317:30-5-6 or 317:30-5-50~~.~~).

(Q) Speech and ~~Hearing~~hearing services.

(R) Mileage.

(S) A routine hospital visit on the date of discharge unless the member expired.

(T) Direct payment to perfusionist as this is considered part of the hospital reimbursement.

(U) Inpatient chemical dependency treatment.

(V) Fertility treatment.

(W) Payment for removal of benign skin lesions.

(X) Sleep studies.

(b) **Children.** Payment is made to physicians for medical and surgical services for members under the age of ~~21~~twenty-one (21) within the scope of the ~~Authority's~~ SoonerCare program, provided the services are medically necessary for the diagnosis and treatment of illness or injury, or to improve the functioning of a malformed body member. Medical and surgical services for children are comparable to those listed for adults. For services rendered to a minor child, the child's parent or court-appointed legal guardian must provide written

authorization prior to the service being rendered, unless there is an explicit state or federal exception to this requirement. In addition to those services listed for adults, the following services are covered for children.

(1) **Pre-authorization of inpatient psychiatric services.** All inpatient psychiatric services for members under ~~21~~twenty-one (21) years of age must be prior authorized by an agency designated by the ~~Oklahoma Health Care Authority~~OHCA. All psychiatric services are prior authorized for an approved length of stay. Non-authorized inpatient psychiatric services are not SoonerCare compensable.

(A) All residential and acute psychiatric services are authorized based on the medical necessity criteria as described in OAC 317:30-5-95.25,317:30-5-95.27 and 317:30-5-95.29.

(B) ~~Out of state placements are not authorized unless it is determined that the needed medical services are more readily available in another state or it is a general practice for members in a particular border locality to use resources in another state. If a medical emergency occurs while a member is out of the State, treatment for medical services is covered as if provided within the State. A prime consideration for placements is proximity to the family or guardian in order to involve the family or guardian in discharge and reintegration planning.~~For out of state placements refer to OAC 317:30-3-89 through 317:30-3-92.

(2) **General acute care inpatient service limitations.** All general acute care inpatient hospital services for members under the age of ~~21~~twenty-one (21) are not limited. All inpatient care must be medically necessary.

(3) **Procedures for requesting extensions for inpatient services.** The physician and/or facility must provide necessary justification to enable OHCA, or its designated agent, to make a determination of medical necessity and appropriateness of treatment options. Extension requests for psychiatric admissions must be submitted to the OHCA or its designated agent. Extension requests must contain the appropriate documentation validating the need for continued treatment in accordance with the medical necessity criteria described in OAC 317:30-5-95.26, 317:30-5-95.28 and 317:30-5-95.30. Requests must be made prior to the expiration of the approved inpatient stay. All decisions of OHCA or its designated agent are final.

(4) **Utilization control requirements for psychiatric beds.** Utilization control requirements for inpatient psychiatric services for members under ~~21~~twenty-one (21) years of age apply to all hospitals and residential psychiatric treatment facilities.

(5) **Early and periodic screening diagnosis and treatment (EPSDT) program.** Payment is made to eligible providers for ~~Early and Periodic Screening, Diagnosis, and Treatment (EPSDT)~~EPDST of members under age ~~21~~twenty-one (21). These services include medical, dental, vision, hearing and other necessary health care. Refer to OAC 317:30-3-65.2 through 317:30-3-65.11 for specific guidelines.

~~(6) **Child abuse/neglect findings.** Instances of child abuse and/or neglect discovered through screenings and regular exams are to be reported in accordance with State Law. Section 7103 of Title 10 of the Oklahoma Statutes mandates reporting suspected abuse or neglect to the Oklahoma Department of Human Services. Section 7104 of Title 10 of the Oklahoma Statutes further requires reporting of criminally injurious conduct to the nearest law enforcement agency.~~

(6) **Reporting suspected abuse and/or neglect.** Instances of child abuse and/or neglect are to be reported in accordance with state law, including, but not limited to, 10A Oklahoma Statute (O.S.) § 1-2-101 and 43A O.S. § 10-104. Any person suspecting child abuse or neglect shall immediately report it to the Oklahoma Department of Human Services (DHS) hotline, at 1-800-522-3511; any person suspecting abuse, neglect, or exploitation of a vulnerable adult shall immediately report it to the local DHS county office, municipal or county law enforcement authorities, or, if the report occurs after normal business hours, the DHS hotline. Health care professionals who are requested to report incidents of domestic abuse by adult victims with legal capacity shall promptly make a report to the nearest law enforcement agency, per 22 O.S. § 58.

(7) **General exclusions.** The following are excluded from coverage for members under the age of ~~21~~twenty-one (21):

(A) Inpatient admission for diagnostic studies that could be performed on an outpatient basis.

(B) Services or any expense incurred for cosmetic surgery unless the physician certifies the procedure emotionally necessary.

(C) Services of two (2) physicians for the same type of service to the same member on the same day, except when supplemental skills are required and different specialties are involved.

(D) Pre-operative care within ~~24~~twenty-four (24) hours of the day of admission for surgery and routine post-operative care as defined under the global surgery guidelines promulgated by ~~Current Procedural Terminology (CPT)~~CPT and ~~the Centers for Medicare and Medicaid Services (CMS)~~CMS.

(E) Payment to the same physician for both an outpatient visit and admission to hospital on the same date.

(F) Sterilization of members who are under ~~21~~twenty-one (21) years of age, mentally incompetent, or institutionalized or reversal of sterilization procedures for the purposes of conception.

(G) Non-therapeutic hysterectomies.

(H) Medical ~~Services~~services considered experimental or investigational.

(I) More than one (1) inpatient visit per day per physician.

(J) Induced abortions, except when certified in writing by a physician that the abortion was necessary due to a physical disorder, injury or illness, including a life-endangering physical condition caused by or

arising from the pregnancy itself, that would place the woman in danger of death unless an abortion is performed, or that the pregnancy is the result of an act of rape or incest. (Refer to OAC 317:30-5-6 or 317:30-5-50~~.~~).

(K) Physician services which are administrative in nature and not a direct service to the member including such items as quality assurance, utilization review, treatment staffing, tumor board review or multidisciplinary opinion, dictation, and similar functions.

(L) Payment for the services of social workers, licensed family counselors, registered nurses or other ancillary staff, except as specifically set out in OHCA rules.

(M) Direct payment to perfusionist as this is considered part of the hospital reimbursement.

(N) Charges for completion of insurance forms, abstracts, narrative reports or telephone calls.

(O) Mileage.

(P) A routine hospital visit on date of discharge unless the member expired.

(c) **Individuals eligible for Part B of Medicare.** Payment is made utilizing the OHCA allowable for comparable services. Claims filed with Medicare Part B should automatically cross over to OHCA. The ~~explanation of Medicare Benefits (EOMB)~~EOMB reflects a message that the claim was referred to SoonerCare. If such a message is not present, a claim for coinsurance and deductible must be filed with the OHCA within ~~90~~ninety (90) days of the date of Medicare payment and within one (1) year of the date of service in order to be considered timely filed.

(1) In certain circumstances, some claims do not automatically ~~"cross over".~~"cross over." Providers must file a claim for coinsurance and/or deductible to SoonerCare within ~~90~~ninety (90) days of the Medicare payment and within one (1) year from the date of service.

(2) If payment was denied by Medicare Part B and the service is a SoonerCare covered service, mark the claim "denied by Medicare" and attach the ~~Medicare~~ EOMB showing the reason for the denial.

317:30-5-11. Psychiatric services

(a) Payment is made for procedure codes listed in the ~~Psychiatry~~psychiatry section of the most recent edition of the American Medical Association Current Procedural Terminology (CPT) codebook. The codes in this service range are accepted services within the SoonerCare program for children and adults with the following exceptions:

(1) Psychiatric evaluation of hospital records, other psychiatric reports, psychometric and/or projective tests, and other accumulated data for medical diagnostic purposes.

(2) Interpretation or explanation of results of psychiatric, other medical examinations and procedures, or other accumulated data to family or other responsible persons, or advising them how to assist the patient.

(3) Preparation of report of patient's psychiatric status, history, treatment, or progress (other than for legal or consultative purposes) for other physicians, agencies, or insurance carriers.

(4) Unlisted psychiatric service or procedure.

(b) All services must be medically necessary and appropriate and include at least one (1) ~~Diagnostic and Statistical Manual (DSM)~~ diagnosis from the most recent version of the ~~DSM.~~Diagnosis and Statistical Manual of Mental Disorders (DSM).

(c) Services in the psychiatry section of the CPT manual must be provided by a board eligible or board certified psychiatrist or a physician, physician assistant, or nurse practitioner with additional training that demonstrates the knowledge to conduct the service performed.

(d) Psychiatric services performed via telemedicine are subject to the requirements found in ~~OAC~~Oklahoma Administrative Code (OAC) 317:30-3-27.

(e) With the exception of the two (2) allowable direct physician services in a nursing facility (refer to OAC 317:30-5-2), reimbursement for psychiatric services to members residing in a nursing facility is not allowed. Provision of these services is the responsibility of the nursing facility and reimbursement is included within the all-inclusive per diem payment that nursing facilities receive for the member's care.

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

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Part 3. Hospitals
317:30-5-40.1 [AMENDED]
317:30-5-42.10 [AMENDED]
(Reference APA WF # 18-01)
Gubernatorial approval:
November 26, 2018
Register publication:
36 Ok Reg 127
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18-744
(Reference APA WF # 18-01)
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed revisions strengthen the language delineating medical necessity and compensable and non-compensable lab services. Additional revisions clarify that the Oklahoma Health Care Authority (OHCA) does not pay for all lab services listed in the Centers for Medicare and Medicaid Services (CMS) fee schedule, but only those that are medically necessary in addition to the four other conditions required for payment.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 1. PHYSICIANS

317:30-5-20. Laboratory services

This Section covers the guidelines for payment of laboratory services by a provider in his/her office, a certified laboratory and for a pathologist's interpretation of laboratory procedures.

(1) **Compensable services.** Providers may be reimbursed for compensable clinical diagnostic laboratory services only when they personally perform or supervise the performance of the test. If a provider refers specimen to a certified laboratory or a hospital laboratory serving outpatients, the certified laboratory or the hospital must bill for performing the test.

(A) Reimbursement for lab services is made in accordance with the Clinical Laboratory Improvement Amendment of 1988 (CLIA). These regulations provide that payment may be made only for services furnished by a laboratory that meets CLIA conditions, including those furnished in physicians' offices. Eligible providers must be certified under the CLIA program and have obtained a CLIA ID number from ~~CMS~~Centers for Medicare and Medicaid Services and have a current contract on file with the ~~OHCA~~Oklahoma Health Care Authority (OHCA). Providers performing laboratory services must have the appropriate CLIA certification specific to the level of testing performed.

(B) Only medically necessary laboratory services are compensable.

(i) Testing must be medically indicated as evidenced by patient-specific indications in the medical record.

(ii) Testing is only compensable if the results will affect patient care and are performed to diagnose conditions and illnesses with specific symptoms.

(iii) Testing is only compensable if the services are performed in furtherance of the diagnosis and/or treatment of conditions that are covered under SoonerCare.

(C) Laboratory testing must be ordered by the physician or non-physician provider, and must be individualized to the patient and the patient's medical history or assessment indicators as evidenced in the medical documentation.

(2) **Non-compensable laboratory services.**

(A) Laboratory testing for routine diagnostic or screening tests performed without apparent relationship to treatment or diagnosis of a specific illness, symptom, complaint or injury is not covered.

(B) Non-specific, blanket panel or standing orders for laboratory testing, custom panels particular to the ordering provider, or lab panels which have no impact on the patient's plan of care are not covered.

(C) Split billing, or dividing the billed services for the same patient for the same date of service by the same rendering laboratory into two or more claims is not allowed.

(~~A~~D) Separate payment is not made for blood specimens obtained by venipuncture or urine specimens collected by a laboratory. These services are considered part of the laboratory analysis.

(~~B~~E) Claims for inpatient full service laboratory procedures are not covered since this is considered a part of the hospital rate.

(~~C~~F) Billing multiple units of nucleic acid detection for individual infectious organisms when testing for more than one (1) infectious organism in a specimen is not permissible. Instead, OHCA considers it appropriate to bill a single unit of a procedure code indicated for multiple organism testing.

(~~D~~G) Billing multiple Current Procedural Terminology (CPT) codes or units for molecular pathology tests that examine multiple genes or incorporate multiple types of genetic analysis in a single run or report is not permissible. Instead, OHCA considers it appropriate to bill a single CPT code for such test. If an appropriate code does not exist, then one (1) unit for

an unlisted molecular pathology procedure may be billed.

(3) **Covered services by a pathologist.**

(A) A pathologist may be paid for the interpretation of inpatient surgical pathology specimen when the appropriate CPT procedure code and modifier is used.

(B) Full service or interpretation of surgical pathology for outpatient surgery performed in an outpatient hospital or ~~Ambulatory Surgery Center~~ambulatory surgery center setting.

(4) **Non-compensable services by a pathologist.** The following are non-compensable pathologist services:

(A) Experimental or investigational procedures.

(B) Interpretation of clinical laboratory procedures.

PART 3. HOSPITALS

317:30-5-40.1. General information

(a) This Chapter applies to coverage in an inpatient and/or outpatient setting. Coverage is the same for adults and children unless otherwise indicated.

(b) **Professional Services.** Payment is made to a participating hospital group or corporation for hospital based physician's services. The hospital must have a Hospital Group Physician's Contract with OHCA for this method of billing.

(c) **Prior Authorization.** OHCA requires prior authorization for certain procedures to validate the medical need for the service.

(d) **Medical necessity.** Medical necessity requirements are listed at OAC 317:30-3-1(f) and 317:30-5-20.

317:30-5-42.10. Laboratory

~~Payment is made for all laboratory tests listed in the Clinical Diagnostic Laboratory fee schedule from CMS.~~ To be eligible for payment as a laboratory/pathology service, the service must be:

(1) Ordered and provided by or under the direction of a physician or other licensed practitioner within the scope of practice as defined by state law;

(2) Provided in a hospital or independent laboratory;

(3) Directly related to the diagnosis and treatment of a medical condition;~~and~~

(4) Authorized under the laboratory's CLIA certification~~.~~; and

(5) Considered medically necessary as defined in OAC 317:30-3-1(f) and 317:30-5-20.

[OAR Docket #19-442; filed 5-30-19]

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

[OAR Docket #19-445]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 9. Long-Term Care Facilities
317:30-5-123 [AMENDED]
(Reference APA WF # 18-07A)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 Code of Federal Regulations, Sec. 483.102
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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EFFECTIVE:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed revisions incorporate new language to clarify that the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) will be used for diagnostic purposes of a mental illness and/or intellectual disability in Medicaid certified nursing facility admissions. Further revisions will reflect policy changes made to the appeals rules to extend the length of time in which an appeal can be submitted from twenty (20) days to thirty (30) days of the date of an adverse agency action. Lastly, revisions will also involve limited rewriting aimed at clarifying text, eliminating redundancies, and updating outdated terminology.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 9. LONG-TERM CARE FACILITIES

317:30-5-123. Member certification for ~~long term~~long-term care

(a) **Medical eligibility.** Initial approval of medical eligibility for long-term care is determined by the Oklahoma Department of Human Services ~~(OKDHS)~~(DHS) area nurse, or nurse designee. The certification is obtained by the facility at the time of admission.

(1) **~~Pre-admission~~Preadmission screening.** Federal regulations govern the State's responsibility for Preadmission Screening and Resident Review (PASRR) for individuals with mental illness and intellectual disability. ~~PASRR applies to the screening or reviewing of all individuals for mental illness or intellectual disability or related conditions who apply to or reside in Title XIX certified nursing facilities regardless of the source of payment for the nursing facility (NF) services and regardless of the individual's or resident's known diagnoses.~~ PASRR applies to the screening or reviewing of all individuals for mental illness, intellectual disability, or related conditions who apply to or reside in a Title XIX certified nursing facility (NF), regardless of the source of payment for the NF services and/or the individual's or resident's known diagnoses. Individuals referred for admission to a NF must be screened for a major mental disorder, diagnosable under the most current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM). The NF must independently evaluate the Level I PASRR ~~Screen~~screen regardless of who completes the form and determine whether or not to admit an individual to the facility. Nursing facilities which inappropriately admit a person without a PASRR ~~Screen~~screen are subject to recoupment of funds. PASRR is a requirement for nursing facilities with dually certified (both Medicare and Medicaid) beds. There are no PASRR requirements for Medicare skilled beds that are not dually certified, nor is PASRR required for individuals seeking residency in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(2) **PASRR Level I screen.**

(A) Form LTC-300R, Nursing Facility Level of Care Assessment, must be completed by an authorized NF official or designee. An authorized NF official or designee must consist of one (1) of the following:

(i) The NF administrator or co-administrator;

(ii) A licensed nurse, social service director, or social worker from the NF; or

(iii) A licensed nurse, social service director, or social worker from the hospital.

(B) Prior to admission, the authorized NF official must evaluate the properly completed ~~OHCA~~Oklahoma Health Care Authority (OHCA) Form LTC-300R and the Minimum Data Set (MDS), if available. Any other readily available medical and social information is also used to determine if there currently exists any indication of mental illness, an intellectual disability, or other related condition, or if such condition existed in the applicant's past history. Form LTC-300R constitutes the Level I PASRR ~~Screen~~screen and is utilized in determining whether or not a Level II ~~Assessment~~assessment is necessary prior to allowing the member to be admitted. The NF is also responsible for consulting with the Level of Care Evaluation Unit (LOCEU) regarding any ~~mental illness, or an intellectual disability related condition information that becomes known either from completion of the MDS or throughout the resident's stay.~~information on a mental illness, intellectual disability or related condition that becomes known either from completion of the MDS or throughout the resident's stay.

(C) The NF is responsible for determining from the evaluation whether or not the member can be admitted to the facility. A "yes" response to any question from Form LTC-300R, Section E, will require the facility to contact the LOCEU for a consultation to determine if a Level II ~~Assessment~~assessment is needed. If there is any question as to whether or not there is evidence of mental illness, an intellectual disability, or related condition, LOCEU should be contacted prior to admission. The original Form LTC-300R must be submitted electronically or by mail to the LOCEU within ~~10~~ten (10) days of the resident admission. SoonerCare payment may not be made for a resident whose LTC-300R requirements have not been satisfied in a timely manner.

(D) Upon receipt and review of the Form LTC-300R, the LOCEU may, in coordination with the ~~OKDHS~~DHS area nurse, re-evaluate whether a Level II PASRR assessment may be required. If a Level II ~~Assessment~~assessment is not required, the process of determining medical eligibility continues. If a Level II is required, a medical decision is not made until the results of the Level II ~~Assessment~~assessment are known.

(3) **Level II Assessment for PASRR.**

(A) Any one of the following three (3) circumstances will allow a member to enter the NF without being subjected to a Level II PASRR ~~Assessment~~assessment.

(i) The member has no current indication of mental illness, ~~or~~ intellectual disability, or other related condition and there is no history of such condition in the member's past.

(ii) The member does not have a diagnosis of intellectual disability or related condition.

(iii) An individual may be admitted to ~~an~~a NF if he/she has indications of mental illness ~~or an~~, intellectual disability, or other related condition, but is not a danger to self and/or others, and is being released from an acute care hospital as part of a medically prescribed period of recovery (~~Exempted Hospital Discharge~~exempted hospital discharge). If an individual is admitted to ~~an~~a NF

based on ~~Exempted Hospital Discharge~~an exempted hospital discharge, it is the responsibility of the NF to ensure that the individual is either discharged by the 30th day or that a Level II has been requested and is in process. ~~Exempted Hospital Discharge~~An exempted hospital discharge is allowed only if all three (3) of the following conditions are met:

(I) The individual must be admitted to the NF directly from a hospital after receiving acute inpatient care at the hospital (not including psychiatric facilities);

(II) The individual must require NF services for the condition for which he/she received care in the hospital; and

(III) The attending physician must certify in writing before admission to the facility that the individual is likely to require less than ~~30~~thirty (30) days of NF services. The NF will be required to furnish this documentation to OHCA upon request.

(B) If the member has current indications of mental illness ~~or~~, intellectual disability, or other related condition, or if there is a history of such condition in the member's past, the member cannot be admitted to the NF until the LOCEU is contacted for consultation to determine if a Level II PASRR ~~Assessment~~assessment must be performed. Results of any Level II PASRR ~~Assessment~~assessment ordered must indicate that NF care is appropriate prior to allowing the member to be admitted.

(C) The OHCA LOCEU authorizes ~~Advance Group Determinations~~advance group determinations for the mental illness and intellectual disability authorities in the following categories listed in (i) through (iii) of this subparagraph. Preliminary screening by the LOCEU may indicate eligibility for NF level of care prior to consideration of the provisional admission.

(i) **Provisional admission in cases of delirium.** Any person with mental illness, intellectual disability, or related condition that is not a danger to self and/or others, may be admitted to a Title XIX certified NF if the individual is experiencing a condition that precludes screening, i.e., effects of anesthesia, medication, unfamiliar environment, severity of illness, or electrolyte imbalance.

(I) A Level II evaluation is completed immediately after the delirium clears. The LOCEU must be provided with written documentation by a physician that supports the individual's condition which allows provisional admission as defined in (i) of this subparagraph.

(II) Payment for NF services will not be made after the provisional admission ending date. If an individual is determined to need a longer stay, the individual must receive a Level II evaluation before continuation of the stay may be permitted and payment made for days beyond the ending date.

(ii) **Provisional admission in emergency situations.** ~~Any person with a mental illness, an intellectual disability~~Any person with mental illness, intellectual disability, or related condition, who is not a danger to self and/or others, may be admitted to a Title XIX certified NF for a period not to exceed seven (7) days pending further assessment in emergency situations requiring protective services. The request for Level II evaluation must be made immediately upon admission to the NF if a longer stay is anticipated. The LOCEU must be provided with written documentation from ~~OKDHS~~DHS Adult Protective Services which supports the individual's emergency admission. Payment for NF services will not be made beyond the emergency admission ending date.

(iii) **Respite care admission.** Any person with mental illness, ~~an~~ intellectual disability, or related condition, who is not a danger to self and/or others, may be admitted to a Title XIX certified NF to provide respite to in-home caregivers to whom the individual is expected to return following the brief NF stay. Respite care may be granted up to ~~15~~fifteen (15) consecutive days per stay, not to exceed ~~30~~thirty (30) days per calendar year.

(I) In rare instances, such as illness of the caregiver, an exception may be granted to allow ~~30~~thirty (30) consecutive days of respite care. However, in no instance can respite care exceed ~~30~~thirty (30) days per calendar year.

(II) Respite care must be approved by LOCEU staff prior to the individual's admission to the NF. The NF provides the LOCEU with written documentation concerning circumstances surrounding the need for respite care, the date the individual wishes to be admitted to the facility, and the date the individual is expected to return to the caregiver. Payment for NF services will not be made after the respite care ending date.

(4) **Resident Review.**

(A) The facility's routine resident assessment will identify those individuals previously undiagnosed as intellectually disabled or mentally ill. A new condition of intellectual disability or mental illness must be referred to LOCEU by the NF for determination of the need for the Level II ~~Assessment~~assessment. The facility's failure to refer such individuals for a Level II ~~Assessment~~assessment may result in recoupment of funds.

(B) A Level II ~~Resident Review~~resident review may be conducted the following year for each resident of a NF who was found to experience a serious mental illness with no primary diagnosis of dementia on his or her ~~pre-admission~~preadmission Level II, to determine whether, because of the resident's physical

and mental condition, the resident requires the level of services provided by a NF and whether the resident requires specialized services.

(C) A significant change in a resident's mental condition could trigger a Level II ~~Resident Review~~resident review. If such a change should occur in a resident's condition, it is the responsibility of the NF to notify the LOCEU of the need to conduct a resident review.

(5) **Results of Level II ~~Pre-Admission~~Preadmission Assessment and Resident Review.** Through contractual arrangements between the OHCA and the mental illness or intellectual disability authorities, individualized assessments are conducted and findings presented in written evaluations. The evaluations determine if NF services are needed, if specialized services or less than specialized services are needed, and if the individual meets the federal PASRR definition of mental illness~~ or~~, intellectual disability, or related conditions. Evaluations are delivered to the LOCEU to process formal, written notification to member, guardian, NF, and interested parties.

(6) **Readmissions and interfacility transfers.** The ~~Preadmission Screening~~preadmission screening process does not apply to readmission of an individual to a NF after transfer for a continuous hospital stay, and then back to the NF. There is no specific time limit on the length of absence from the NF for the hospitalization. ~~Inter-facility~~Interfacility transfers are also subject to preadmission screening. In the case of transfer of a resident from a NF to a hospital or to another NF, the transferring NF is responsible for ensuring that copies of the resident's most recent LTC-300R and any PASRR evaluations accompany the transferring resident. The receiving NF must submit an updated LTC-300R that reflects the resident's current status to LOCEU within ten (10) days of the transfer. Failure to do so could result in possible recoupment of funds. LOCEU should also be contacted prior to admitting out-of-state NF applicants with mental illness~~ or~~, intellectual disability, or related condition, so that PASRR needs can be ascertained. Any PASRR evaluations previously completed by the referring state should be forwarded to LOCEU as part of this PASRR consultation.

(7) **PASRR appeals process.**

(A) Any individual who has been adversely affected by any PASRR determination made by the State in the context of either a preadmission screening or an annual resident review may appeal that determination by requesting a fair hearing. If the individual does not consider the PASRR decision a proper one, the individual or their authorized representative must contact the local county ~~OKDHS~~DHS office to discuss a hearing. Forms for requesting a fair hearing (~~OKDHS~~DHS Form 13MP001E, Request for a Fair Hearing), as well as assistance in completing the forms, can be obtained at the local county ~~OKDHS~~DHS office. Any request for a hearing must be ~~made no later than 20 days following the date of written notice.~~received by OHCA within thirty (30) days of the date of written notice. Appeals of these decisions are available under ~~OAC~~Oklahoma Administrative Code (OAC) 317:2-1-2. All individuals seeking an appeal have the same rights, regardless of source of payment. Level I determinations are not subject to appeal.

(B) When the individual is found to experience mental illness,~~ an~~ intellectual disability, or related condition through the Level II ~~Assessment~~assessment, the PASRR determination made by the mental illness or intellectual disability authorities cannot be countermanded by the OHCA, either in the claims process or through other utilization control/review processes, or by the State Department of Health. Only appeals determinations made through the fair hearing process may overturn a PASRR determination made by the mental illness or intellectual disability authorities.

(b) **Determination of Title XIX medical eligibility for ~~long term~~long-term care.** The determination of medical eligibility for care in a NF is made by the ~~OKDHS~~DHS area nurse, or nurse designee. The procedures for determining NF program medical eligibility are found in OAC 317:35-19. Determination of ICF/IID medical eligibility is made by LOCEU. The procedures for obtaining and submitting information required for a decision are outlined below.

(1) **Pre-approval of medical eligibility.** Pre-approval of medical eligibility for private ICF/IID care is based on results of a current comprehensive psychological evaluation by a licensed psychologist or state staff psychologist, documentation of intellectual disability or related condition prior to age ~~22~~twenty-two (22), and the need for active treatment according to federal standards. Pre-approval is made by LOCEU analysts.

(2) **Medical eligibility for ICF/IID services.** Within ~~30~~thirty (30) calendar days after services begin, the facility must submit the original of the Nursing Facility Level of Care Assessment ~~(Form LTC 300R)~~(Form LTC 300) to LOCEU. Required attachments include current (within ~~90~~ninety (90) days of requested approval date) medical information signed by a physician, a current (within ~~12~~twelve (12) months of requested approval date) psychological evaluation, a copy of the pertinent section of the ~~Individual Developmental Plan~~individual development plan or other appropriate documentation relative to discharge planning and the need for ICF/IID level of care, and a statement that the member is not an imminent threat of harm to self or others (i.e., suicidal or homicidal). If pre-approval was determined by LOCEU and the above information is received, medical approval will be entered on ~~MEDATS~~Medical Eligibility Determination Application Tracking System (MEDATS).

(3) **Categorical relationship.** Categorical relationship must be established for determination of eligibility for long-term medical care. If categorical relationship to disability has not already been established, the proper forms and medical information are submitted to LOCEU. (Refer to OAC 317:35-5-4). In such instances, LOCEU

will render a decision on categorical relationship using the same definition as used by the Social Security Administration (SSA). A follow-up is required by the ~~OKDHS~~DHS worker with SSA to be sure that their disability decision agrees with the decision of LOCEU.

[OAR Docket #19-445; filed 5-30-19]

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

[OAR Docket #19-459]

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RULES:
Subchapter 5. Individual Providers and Specialties
Part 85. Advantage Program Waiver Services
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317:30-5-763 [AMENDED]
(Reference APA WF # 18-21A)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Section 162 of Title 56 of the Oklahoma Statutes and Sections 430 and 431 of Title 42 of the Code of Federal Regulations
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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GIST/ANALYSIS:
The proposed revisions update spouse and legal guardian requirements as paid service providers for personal care services. Additional revisions will align current rules on how SoonerCare (Medicaid) funding is used for caregiver direct care support reimbursement and update assisted living rules regarding Home and Community-Based Service (HCBS) waivers for visitation in residential HCBS settings. Further revisions will ensure that policy aligns rules with the Centers for Medicare and Medicaid Services' restrictions in the assisted living facilities for overnight visits of member's guests. Finally, the proposed revisions will remove and update outdated policy in order to align with current business practices.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 85. ADVANTAGE PROGRAM WAIVER SERVICES

317:30-5-761. Eligible providers

~~Advantage~~ADvantage Program service providers, except pharmacy providers, must be certified by the ADvantage Program ADvantage Administration (AA) and ~~all providers~~ must have a current signed SoonerCare (Medicaid) contract on file with the Oklahoma Health Care Authority (OHCA), the State Medicaid ~~Agency.~~agency.

(1) The provider ~~programmatic certification~~programmatic-certification process must verify the provider meets licensure, certification and training standards as specified in the ~~Waiver~~waiver document and agrees to ADvantage Program Conditions of Participation. Providers must obtain ~~programmatic certification~~programmatic-certification to be ADvantage ~~Program~~program certified.

(2) The provider ~~financial certification~~financial-certification process must verify that the provider uses sound business management practices and has a ~~financially stable~~financially-stable business. All providers, except for nursing facility (NF) respite, medical equipment and supplies, and environmental modification providers, must obtain financial certification to be ADvantage ~~Program~~program certified.

(3) Providers may fail to gain or may lose ADvantage ~~Program~~program certification due to failure to meet programmatic or financial standards.

(4) At a minimum, provider financial certification is reevaluated annually.

(5) The Oklahoma Department of Human Services (DHS) Aging Services (AS) evaluates adult day health and home-delivered meal providers for compliance with ADvantage ~~programmatic certification~~programmatic-certification requirements. When an adult day health or home-delivered meal provider does not have a contract with AS, the provider must obtain programmatic certification to be ADvantage ~~program~~Program certified. ~~For assisted living services provider programmatic certification, the ADvantage program relies in part upon the Oklahoma State Department of Health Protective Health Services for review and verification of provider compliance with ADvantage standards for assisted living services providers.~~ Providers of medical equipment and supplies, environmental modification, personal emergency response systems, hospice, Consumer-Directed ~~personal~~Personal Assistance Services and Supports

(CD-PASS), and NF respite services do not have a programmatic evaluation after the initial certification.

(6) DHS AS does not authorize~~ a legal guardian for a member or~~ an active power of attorney ~~for~~of a member to be ~~that CD-PASS~~the member's CD-PASS services provider.

(7) ~~DHS AS may authorize a member's legally responsible spouse to be SoonerCare reimbursed per 1915(c) ADvantage Program as a service provider.~~

~~(8)~~ DHS AS may authorize a member's legally-responsible spouse or legal guardian to be SoonerCare (Medicaid) reimbursed, per 1915(c) ADvantage Program as a personal care, service provider~~ except as a provider of CD-PASS services~~. Authorization for a spouse or legal guardian as a provider requires the criteria in (A) through (D) and monitoring provisions to be met.

(A) Authorization for a spouse or legal guardian to be the care provider for a member may occur only when the member is offered a choice of providers and documentation demonstrates:

(i) ~~no other provider is available; or~~no provider included on the Certified Agency Report (CAR) has available staffing; This is as evidenced by supportive documentation, which affirms no provider within the members service area can staff and all area providers attempt to employ staff to serve; or

(ii) ~~available providers are unable to provide necessary care to the member; or~~

~~(iii)~~ the member's needs are so ~~extensive~~complex that unless the spouse or legal guardian ~~providing~~provides the care~~, is prohibited from working outside of the home due to the member's need for care.~~ the member's risk level would increase; and

(iii) it is mentally or physically detrimental for someone other than the spouse or legal guardian to provide care. This is evidenced by the documentation from a qualified clinician or medical provider such as a physician or licensed psychologist.

(B) The service must:

(i) meet the definition of a service/support as outlined in the federally-approved ~~Waiver~~waiver document;

(ii) be necessary to avoid institutionalization;

(iii) be a service/support specified in the person-centered service plan;

(iv) be provided by a person who meets the provider qualifications and training standards specified in the ~~Waiver~~waiver for that service;

(v) be paid at a rate that does not exceed that which would otherwise be paid to a provider of a similar service and does not exceed what is allowed by OHCA for the payment of personal care or personal assistance services; and

(vi) not be an activity the spouse or legal guardian would ordinarily perform or is responsible to perform.~~ When any of the following criteria are met, assistance or care provided by the spouse or guardian is determined to exceed the extent and/or nature of the assistance he or she is expected to ordinarily provide as spouse or guardian. The spouse or guardian:~~

~~(I) resigned from part-time or full-time employment to provide care for the member; or~~

~~(II) has reduced employment from part-time or full-time to provide care for the member; or~~

~~(III) took a leave of absence without pay to provide care for the member; or~~

~~(IV) provides assistance and/or care for the member 35 or more hours per week without pay and the member has remaining unmet needs because another provider is unavailable due to the nature of the assistance and/or care, special language or communication needs, or the member's intermittent hours of care requirements.~~

(C) The spouse or legal guardian service provider complies with:

(i) ~~not~~ providing no more than ~~40~~forty (40) hours of services in a seven-day (7-day) period;

(ii) planned work schedules that must be available in advance for the member's case manager, and variations to the schedule must be noted and supplied to the case manager two (2) weeks in advance unless the change is due to an emergency;

(iii) maintaining and submitting time sheets and other required documentation for hours paid; and

(iv) ~~is documented in~~ the person-centered service plan as the member's care provider.

(D) In addition to case management, monitoring, and reporting activities required for all ~~Waiver~~waiver services, the ~~state~~State is obligated to additional monitoring requirements when members elect to use a spouse or legal guardian as a paid service provider. The AA monitors, through quarterly documentation submitted by the case manager, ~~at least quarterly: expenditures, monthly home visits with member, and the health safety, and welfare status of the individual member.~~the continued appropriateness of the policy exception that allows the spouse or legal guardian to serve as the member's paid caregiver.

(~~9~~8) Providers of durable medical equipment and supplies must comply with Oklahoma Administrative Code 317:30-5-210(2) regarding proof of delivery for items shipped to the member's residence.

(~~10~~9) DHS AS periodically performs a programmatic audit of adult day health, assisted living, case management, home care (providers of skilled nursing, personal care, in-home respite, and advanced supportive/restorative assistance and therapy services) and CD-PASS providers. ~~If~~When due to a programmatic audit, a provider Plan of Correction (POC) is required, the AA may stop new cases and referrals to the provider until the ~~Plan of Correction~~(POC) is approved, implemented, and follow-up

review occurs. Depending on the nature and severity of problems discovered during a programmatic audit~~,~~ and at the discretion of the DHS AS, members determined to be at risk for health or safety may be transferred from a provider requiring a ~~Plan of Correction~~POC to another provider.

317:30-5-763. Description of services

Services included in the ADvantage Program are:

(1) **Case management.**

(A) Case management services, regardless of payment source, assist a member to gain access to medical, social, educational, or other services that may benefit him or her to maintain health and safety. Case managers:

(i) initiate and oversee necessary assessments and reassessments to establish or reestablish ~~Waiver~~waiver program eligibility;

(ii) develop the member's comprehensive person-centered service plan, listing only the services necessary to prevent institutionalization of the member, as determined through the assessments;

(iii) initiate the addition of necessary services or deletion of unnecessary services, as dictated by the member's condition and available support; and

(iv) monitor the member's condition to ensure delivery and appropriateness of services and initiate person-centered service plan reviews. Case managers submit an individualized Form 02CB014, Services Backup Plan, on all initial service plans, annually at reassessment, and on updates as appropriate throughout the year, reflecting risk factors and measures in place to minimize risks. When a member requires hospital or nursing facility (NF) services, the case manager:

(I) assists the member in accessing institutional care and, as appropriate, periodically monitors the member's progress during the institutional stay;

(II) helps the member transition from institution to home by updating the person-centered service plan;

(III) prepares services to start on the date the member is discharged from the institution; and

(IV) must meet ADvantage Program minimum requirements for qualification and training prior to providing services to ADvantage members.

(B) Providers of ADvantage services for the member or for those who have an interest in or are employed by an ADvantage provider for the member must not provide case management or develop the person-centered service plan, except when the ~~AA~~ADvantage Administration (AA) demonstrates the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area, also provides other ADvantage services. Prior to providing services to members receiving Consumer-Directed Personal Assistance Services and Supports (CD-PASS), case manager supervisors, and case managers are required to receive training and demonstrate knowledge regarding the CD-PASS service delivery model, "Independent Living Philosophy," and demonstrate competency person-centered planning.

(C) Providers may only claim time for billable case management activities, described as:

(i) any task or function, per Oklahoma Administrative Code (OAC) 317:30-5-763(1)(A) that only an ADvantage case manager because of skill, training, or authority can perform on behalf of a member; and

(ii) ancillary activities, such as clerical tasks including, but not limited to, mailing, copying, filing, faxing, driving time, or supervisory and administrative activities are not billable case management activities. The administrative cost of these activities and other normal and customary business overhead costs are included in the reimbursement rate for billable activities.

(D) Case management services are prior authorized and billed per ~~15-minute~~fifteen-minute (15-minute) unit of service using the rate associated with the location of residence of the member served.

(i) Standard rate~~:~~. case management services are billed using a standard rate for reimbursement for billable service activities provided to a member who resides in a county with a population density greater than ~~25~~twenty-five (25) persons per square mile.

(ii) Very rural/difficult service area rate~~:~~. case management services are billed using a very rural/difficult service area rate for billable service activities provided to a member who resides in a county with a population density equal to, or less than ~~25~~twenty-five (25) persons per square mile. Exceptions are services to members who reside in Oklahoma ~~DHS AS~~Department of Human Services (DHS) Aging Services identified ~~Zip~~zip codes in Osage County adjacent to the metropolitan areas of Tulsa and Washington ~~Counties.~~counties. Services to these members are prior authorized and billed using the standard rate.

(iii) The latest United States Census, Oklahoma ~~Counties~~counties population data is the source for determination of whether a member resides in a county with a population density equal to, or less than ~~25~~twenty-five (25) persons per square mile, or resides in a county with a population density greater than ~~25~~twenty-five (25) persons per square mile.

(2) **Respite.**

(A) Respite services are provided to members who are unable to care for themselves. Services are provided on a short-term basis due to the primary caregiver's absence or need for relief. Payment for

respite care does not include room and board costs unless more than seven (7) hours are provided in a ~~nursing facility.~~NF. Respite care is only utilized when other sources of care and support are exhausted. Respite care is only listed on the service plan when it is necessary to prevent institutionalization of the member. Units of services are limited to the number of units approved on the service plan.

(B) In-home respite services are billed per ~~15-minute~~fifteen-minute (15-minute) units of service. Within any one-day (1-day) period, a minimum of eight (8) units ~~(2 hours~~[two (2) hours] must be provided with a maximum of ~~28 units (7 hours)~~twenty-eight (28) units [seven (7) hours] provided. The service is provided in the member's home.

(C) Facility-based extended respite is filed for a per diem rate when provided in a ~~nursing facility.~~NF. Extended respite must be at least eight (8) hours in duration.

(D) In-home extended respite is filed for a per diem rate. A minimum of eight (8) hours must be provided in the member's home.

(3) **Adult day health (ADH) care.**

(A) ADH is furnished on a regularly-scheduled basis for one (1) or more days per week in an outpatient setting. It provides both health and social services necessary to ensure the member's optimal functioning. Most assistance with activities of daily living (ADLs), such as eating, mobility, toileting, and nail care are integral services to ADH care service and are covered by the ADH care basic reimbursement rate.

(B) ADH care is a ~~15-minute~~fifteen-minute (15-minute) unit of service. No more than eight (8) hours, ~~32~~thirty-two (32) units ~~(eight hours)~~[eight (8) hours] are authorized per day. The number of units of service a member may receive is limited to the number of units approved on the member's approved service plan.

(C) Physical, occupational, and speech therapies are only provided as an enhancement to the basic ADH care service when authorized by the service plan and are billed as a separate procedure. ADH care therapy enhancement is a maximum of one (1) session unit per day of service.

(D) Meals provided as part of this service do not constitute a full nutritional regimen. One (1) meal, that contains at least one-third (1/3) of the current daily dietary recommended intake (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, is provided to those participants who are in the center for four (4) or more hours per day, and does not constitute a full nutritional regimen. Member's access to food at any time must also be available in addition to the required meal and is consistent with an individual not receiving Medicaid-funded services and supports.

(E) ~~Personal care~~Personal-care service enhancement in ADH is assistance in bathing, hair care, or laundry service, authorized by the person-centered service plan and billed as separate procedures. This service is authorized when ~~as~~an ADvantage Waiver member who uses ADH requires assistance with bathing, hair care, or laundry to maintain health and safety. Assistance with bathing, hair care, or laundry service is not a usual and customary ADH care service. ADH personal care enhancement is a maximum of one (1) unit per day of bathing, hair care, or laundry service.

(F) DHS Home and Community-Based Services (HCBS) Waiver settings have qualities defined in federal regulation, per Section (§) 441.301 (c)(4) of Title 42 of Code of Federal Regulations (CFR)~~[42 CFR § 441.301 (c)(4)]~~ based on the individual's needs,~~of the individual~~ defined in the member's authorized service plan.

(i) The ADH center is integrated and supports full access of ADvantage members to the greater community, including opportunities to:

(I) seek employment and work in competitive integrated ADH Center, not a requirement for persons that are retirement age;

(II) engage in community life;

(III) control personal resources; and

(IV) receive services in the community, to the same degree as individuals not receiving ADvantage Program or other Medicaid HBCS Waiver services.

(ii) The ADH is selected by the member from all available service options and given the opportunity to visit and understand the options.

(iii) The ADH ensures the member's rights of privacy, dignity, respect, and freedom from coercion and restraint.

(iv) The ADH optimizes the member's initiative, autonomy, and independence in making life choices including, but not limited to:

(I) daily activities;

(II) the physical environment; and

(III) with whom to interact.

(v) The ADH facilitates the member's choice regarding services and supports including the provider.

(vi) Each member has the freedom and support to control his or her own schedules, activities, and access to food at any time.

(vii) Each member may have visitors whenever he or she chooses.

(viii) The ADH center is physically accessible to the member.

(G) ADH centers that are presumed not to be ~~Home and Community-Based~~HCBS settings per 42 CFR § 441.301(c)(5)(v) include~~:~~, ADH centers:

(i) ~~ADH centers~~ in a publicly- or privately-owned facility providing inpatient treatment;

(ii) ~~ADH centers~~ on the grounds of or adjacent to a public institution; and

(iii) ~~ADH centers~~ with the effect of isolating individuals from the broader community of individuals not receiving ADvantage Program or another Medicaid HCBS;

(H) ~~If~~When the ADH is presumed not HCBS, according to 42 CFR § 441.301(c)(5)(v), it may be subject to heightened scrutiny by AA, OHCA, and ~~CMS.~~Centers for Medicare and Medicaid Services (CMS). The ADH must provide evidence that the ADH portion of the facility has clear administrative, financial, programmatic, and environmental distinctions from the institution and comply with additional monitoring by the AA.

(4) **Environmental modifications.**

(A) Environmental modifications are physical adaptations to the home, required by the member's person-centered service plan that are necessary to ensure the member's health, welfare, and safety ~~of the member~~ or enable the member to function with greater independence in the home, and that without such, the member would require institutionalization. Adaptations or improvements to the home not of direct medical or remedial benefit to the ~~Waiver~~waiver member are excluded.

(B) All services require prior authorization.

(5) **Specialized medical equipment and supplies.**

(A) Specialized medical equipment and supplies are devices, controls, or appliances specified in the person-centered service plan that enable members to increase their abilities to perform ~~Activities of Daily Living (ADLs),~~ADLs, or to perceive, control, or communicate with the environment in which they live. Necessary items for life support, ancillary supplies, and equipment necessary for the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid ~~state plan~~State Plan are also included. This service excludes any equipment and/or supply items not of direct medical or remedial benefit to the ~~Waiver~~waiver member~~. This service is~~ and necessary to prevent institutionalization.

(B) Specialized medical equipment and supplies are billed using the appropriate HealthCare Common Procedure Code (HCPC). Reoccurring supplies shipped and delivered to the member are compensable only when the member remains eligible for Waiver services, continues to reside in the home, and is not institutionalized in a hospital, skilled nursing facility, or nursing home. It is the provider's responsibility to verify the member's status prior to shipping and delivering these items. Payment for medical supplies is limited to the SoonerCare (Medicaid) rate when established, to the Medicare rate, or to actual acquisition cost, plus ~~30~~thirty (30) percent. All services must have prior authorization.

(6) **Advanced supportive/restorative assistance.**

(A) Advanced supportive/restorative assistance services are maintenance services used to assist a member who has a chronic, yet stable condition. These services assist with ADLs that require devices and procedures related to altered body functions. These services are for maintenance only and are not utilized as treatment services.

(B) Advanced supportive/restorative assistance service is billed per ~~15 minute~~fifteen-minute (15-minute) unit of service. The number of units of service a member may receive is limited to the number of units approved on the person-centered service plan.

(7) **Nursing.**

(A) Nursing services are services listed in the person-centered service plan that are within the scope of the Oklahoma Nursing Practice Act. These services are provided by a registered nurse (RN), a licensed practical nurse (LPN), or a licensed vocational nurse (LVN) under the supervision of an RN licensed to practice in the state. Nursing services may be provided on an intermittent or part-time basis or may be comprised of continuous care. The provision of the nursing service works to prevent or postpone the institutionalization of the member.

(B) Nursing services are services of a maintenance or preventative nature provided to members with stable, chronic conditions. These services are not intended to treat an acute health condition and may not include services reimbursable under either the Medicaid or ~~the~~ Medicare Home Health Program. This service primarily provides nurse supervision to the personal care assistant or to the advanced supportive/restorative assistance aide and assesses the member's health and prescribed medical services to ensure they meet the member's needs as specified in the person-centered service plan. A nursing assessment/evaluation, on-site visit is made to each member, with additional visits for members with advanced supportive/restorative assistance services authorized to evaluate the condition of the member and medical appropriateness of services. An assessment/evaluation report is forwarded to the ADvantage Program case manager in accordance with review schedule determined between the case manager and outlined in the member's person-centered service plan, to report the member's condition or other significant information concerning each ADvantage member.

(i) The ADvantage Program case manager may recommend authorization of nursing services as part of the interdisciplinary team planning for the member's person-centered service plan and/or assessment/evaluation of the:

(I) member's general health, functional ability, and needs; and/or

(II) adequacy of personal care and/or advanced supportive/restorative assistance services to meet the member's needs, including providing on-the-job training and competency testing for personal care or advanced supportive/restorative care aides per rules and regulations for the delegation of nursing tasks established by the Oklahoma Board of Nursing.

(ii) In addition to assessment/evaluation, the ADvantage Program case manager may recommend authorization of nursing services to:

(I) prepare a one-week (1-week) supply of insulin syringes for a person who is blind and has diabetes~~, who~~ and can safely self-inject the medication but cannot fill his or her own syringe. This service includes monitoring the member's continued ability to self-administer the insulin;

(II) prepare oral medications in divided daily compartments for a member who self-administers prescribed medications but needs assistance and monitoring due to a minimal level of disorientation or confusion;

(III) monitor a member's skin condition when a member is at risk for skin breakdown due to immobility or incontinence or the member has a chronic stage II decubitus ulcer requiring maintenance care and monitoring;

(IV) provide nail care for the member with diabetes or member who has circulatory or neurological compromise; and

(V) provide consultation and education to the member, member's family, or other informal caregivers identified in the person-centered service plan, regarding the nature of the member's chronic condition. Skills training, including return skills demonstration to establish competency, to the member, family, or other informal caregivers as specified in the person-centered service plan for preventive and rehabilitative care procedures are also provided.

(C) Nursing service includes interdisciplinary team planning and recommendations for the member's person-centered service plan development and/or assessment/evaluation or for other services within the scope of the Oklahoma Nursing Practice Act, including private duty nursing. Nursing services are billed per ~~15-minute~~fifteen-minute (15-minute) unit of service. A specific procedure code is used to bill for interdisciplinary team planning and recommendations for the member's person-centered service plan other procedure codes may be used to bill for all other authorized nursing services. A maximum of eight (8) units, two (2) hours, per day of nursing for service plan development and assessment evaluation are allowed. An agreement by a provider to perform a nurse evaluation is also an agreement to provide the Medicaid in-home care services for which the provider is certified and contracted. Reimbursement for a nurse evaluation is denied when the provider that produced the nurse evaluation fails to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted.

(8) **Skilled nursing services.**

(A) Skilled nursing services listed in the person-centered service plan that are within the scope of the state's Nurse Practice Act and are ordered by a licensed physician, osteopathic physician, physician assistant, or an advanced practice nurse and are provided by an RN, LPN, or LVN under the supervision of an RN, licensed to practice in the state. Skilled nursing services provided in the member's home or other community setting are services requiring the specialized skills of a licensed nurse. The scope and nature of these services are intended for treatment of a disease or a medical condition and are beyond the scope of ADvantage nursing services. These intermittent nursing services are targeted toward a prescribed treatment or procedure that must be performed at a specific time or other predictable rate of occurrence. The RN contacts the member's physician to obtain necessary information or orders pertaining to the member's care. When the member has an ongoing need for service activities requiring more or less units than authorized, the RN must recommend, in writing, that the service plan be revised.

(B) Skilled nursing services are provided on an intermittent or part-time basis, and billed per ~~15-minute~~fifteen-minute (15-minute) units of service. Skilled nursing services are provided when nursing services are not available through Medicare or other sources or when SoonerCare plan nursing services limits are exhausted. Amount, frequency, and duration of services are prior-authorized in accordance with the member's person-centered service plan.

(9) **Home-delivered meals.**

(A) Home-delivered meals provide one (1) meal per day. A home-delivered meal is a meal prepared in advance and brought to the member's home. Each meal must have a nutritional content equal to at least one-third of the dietary reference intakes as established by the Food and Nutrition Board of the National Academy of Sciences. Home-delivered meals are only provided to members who are unable to prepare meals and lack an informal provider to do meal preparation.

(B) Home-delivered meals are billed per meal, with one (1) meal equaling one (1) unit of service. The limit of the number of units a member is allowed to receive is in accordance with the member's person-centered service plan. The provider must obtain a signature from the member or the member's representative at the time the meal is delivered. In the event the member is temporarily unavailable, such as at a

doctor's appointment and the meal is left at the member's home, the provider must document the reason a signature was not obtained. The signature logs must be available for review.

(10) **Occupational therapy services.**

(A) Occupational therapy services are services that increase functional independence by enhancing the development of adaptive skills and performance capacities of members with physical disabilities and related psychological and cognitive impairments. Services are provided in the member's home and are intended to help the member achieve greater independence enabling him or her to reside and participate in the community. Treatment involves the therapeutic use of self-care, work and play activities, and may include modification of the tasks or environment to enable the member to achieve maximum independence, prevent further disability, and maintain health. Under a physician's order, a licensed occupational therapist evaluates the member's rehabilitation potential and develops an appropriate written, therapeutic regimen. The regimen utilizes paraprofessional, occupational therapy assistant services, within the limitations of his or her practice, working under the supervision of a licensed occupational therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services when appropriate. The occupational therapist ensures monitoring and documentation of the member's rehabilitative progress and reports to the member's case manager and physician to coordinate the necessary addition or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Occupational therapy services are billed per ~~15-minute~~fifteen-minute (15-minute) unit of service. Payment is not allowed solely for written reports or record documentation.

(11) **Physical therapy services.**

(A) Physical therapy services are those services that maintain or improve physical disability through the evaluation and rehabilitation of members disabled by pain, disease, or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves the use of physical therapeutic means, such as massage, manipulation, therapeutic exercise, cold and/or heat therapy, hydrotherapy, electrical stimulation, and light therapy. Under a physician's order, a licensed physical therapist evaluates the member's rehabilitation potential and develops an appropriate, written, therapeutic regimen. Under the Oklahoma Physical Therapy Practice Act, a physical therapist may evaluate a member's rehabilitation potential and develop and implement an appropriate, written, therapeutic regimen without a referral from a licensed health care practitioner for a period not to exceed ~~30-calendar~~thirty-calendar (30-calendar) days. Any treatment required after the ~~30-calendar~~thirty-calendar (30-calendar) day period requires a prescription from a physician or the physician's assistant of the licensee. The regimen utilizes paraprofessional physical therapy assistant services, within the limitations of his or her practice, working under the supervision of the licensed physical therapist. The regimen includes education and training for informal caregivers to assist with and/or maintain services when appropriate. The licensed physical therapist ensures monitoring and documentation of the member's rehabilitative progress and reports to the member's case manager and physician to coordinate the necessary addition or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Physical therapy services are authorized as ADH care therapy enhancement and are a maximum of one (1) session unit per day of service. Payment is not allowed solely for written reports or record documentation.

(12) **Speech and language therapy services.**

(A) Speech and language therapy services are those that maintain or improve speech and language communication and swallowing disorders/disability through the evaluation and rehabilitation of members disabled by pain, disease, or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Services involve the use of therapeutic means, such as evaluation, specialized treatment, or development and oversight of a therapeutic maintenance program. Under a physician's order, a licensed speech and language pathologist evaluates the member's rehabilitation potential and develops an appropriate, written, therapeutic regimen. The regimen utilizes Speech Language Pathology Assistant services within the limitations of his or her practice, working under the supervision of the licensed Speech and Language Pathologist. The regimen includes education and training for informal caregivers to assist with, and/or maintain services when appropriate. The Speech and Language Pathologist ensures monitoring and documentation of the member's rehabilitative progress and reports to the member's case manager and physician to coordinate the necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Speech and language therapy services are authorized as ADH ~~care therapy~~care-therapy enhancement and are a maximum of one (1) session unit per day of service. Payment is not allowed solely for written reports or record documentation.

(13) **Hospice services.**

(A) Hospice services are palliative and comfort care provided to the member and his or her family when a physician certifies the member has a terminal illness, with a life expectancy of six (6) months or less,

and orders hospice care. ADvantage hospice care is authorized for a six-month (6-month) period and requires physician certification of a terminal illness and orders of hospice care. When the member requires more than six (6) months of hospice care, a physician or nurse practitioner must have a face-to-face visit with the member ~~30-calendar~~thirty-calendar (30-calendar) days prior to the initial hospice authorization ~~end-date,~~end-date, and re-certify that the member has a terminal illness, has six (6) months or less to live, and orders additional hospice care. After the initial authorization period, additional periods of ADvantage hospice may be authorized for a maximum of ~~60-calendar~~sixty-calendar (60-calendar) day increments with physician certification that the member has a terminal illness and six (6) months or less to live. A member's person-centered service plan that includes hospice care must comply with Waiver requirements to be within total person-centered service plan cost limits.

(B) A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional, and spiritual stresses experienced during the final stages of illness, through the end of life, and bereavement. The member signs a statement choosing hospice care instead of routine medical care with the objective to treat and cure the member's illness. Once the member has elected hospice care, the hospice medical team assumes responsibility for the member's medical care for the illness in the home environment. Hospice care services include nursing care, physician services, medical equipment and supplies, drugs for symptom and pain relief, home health aide and personal care services, physical, occupational and speech therapies, medical social services, dietary counseling, and grief and bereavement counseling to the member and/or the member's family.

(C) A hospice person-centered service plan must be developed by the hospice team in conjunction with the member's ADvantage case manager before hospice services are provided. The hospice services must be related to the palliation or management of the member's terminal illness, symptom control, or to enable the member to maintain ADL and basic functional skills. A member who is eligible for Medicare hospice provided as a Medicare Part A benefit, is not eligible to receive ADvantage hospice services.

(D) Hospice services are billed per diem of service for days covered by a hospice person-centered service plan and while the hospice provider is responsible for providing hospice services as needed by the member or member's family. The maximum total annual reimbursement for a member's hospice care within a ~~12-month~~twelve-month (12-month) period is limited to an amount equivalent to ~~85~~eighty-five (85) percent of the Medicare hospice cap payment, and must be authorized on the member's person-centered service plan.

(14) **ADvantage personal care.**

(A) ADvantage personal care is assistance to a member in carrying out ADLs, such as bathing, grooming, and toileting or in carrying out instrumental activities of daily living (IADLs), such as preparing meals and laundry service, to ensure the member's personal health and safety, or to prevent or minimize physical health regression or deterioration. Personal care services do not include service provision of a technical nature, such as tracheal suctioning, bladder catheterization, colostomy irrigation, or the operation and maintenance of equipment of a technical nature.

(B) ADvantage home care agency skilled nursing staff working in coordination with an ADvantage case manager is responsible for the development and monitoring of the member's personal care services.

(C) ADvantage personal care services are prior-authorized and billed per ~~15-minute~~fifteen-minute (15-minute) unit of service, with units of service limited to the number of units on the ADvantage approved person-centered service plan.

(15) **Personal emergency response system~~.~~ (PERS).**

(A) ~~Personal emergency response system (PERS)~~PERS is an electronic device that enables members at high risk of institutionalization, to secure help in an emergency. Members may also wear a portable "help" button to allow for mobility. PERS is connected to the person's phone and programmed to signal, per member preference, a friend, relative, or a response center, once the "help" button is activated. For an ADvantage member to be eligible for PERS service, the member must meet all of the service criteria in (i) through (vi). The:

(i) member has a recent history of falls as a result of an existing medical condition that prevents the member from getting up unassisted from a fall;

(ii) member lives alone and without a regular caregiver, paid or unpaid, and therefore is left alone for long periods of time;

(iii) member demonstrates the capability to comprehend the purpose of and activate the PERS;

(iv) member has a health and safety plan detailing the interventions beyond the PERS to ensure the member's health and safety in his or her home;

(v) member has a disease management plan to implement medical and health interventions that reduce the possibility of falls by managing the member's underlying medical condition causing the falls; and

(vi) PERS service avoids premature or unnecessary institutionalization of the member.

(B) PERS services are billed using the appropriate Healthcare Common Procedure Coding System~~(HCPC)~~ (HCPCS) procedure code for installation, monthly service, or PERS purchase. All services

are prior authorized per the ADvantage approved service plan.

(16) **CD-PASS.**

(A) CD-PASS are personal services assistance (PSA) and advanced personal services assistance (APSA) that ~~enable~~enables a member in need of assistance to reside in his or her home and community of choice, rather than in an institution; and to carry out functions of daily living, self-care, and mobility. CD-PASS services are delivered as authorized on the person-centered service plan. The member becomes the employer of record and employs the PSA and the APSA. The member is responsible, with assistance from ADvantage Program Administrative Financial Management Services (FMS), for ensuring the employment complies with state and federal labor law requirements. The member/employer may designate an adult family member or friend, who is not a PSA or APSA to the member, as an "authorized representative" to assist in executing the employer functions. The member/employer:

(i) recruits, hires and, as necessary, discharges the PSA or APSA;

(ii) is solely responsible to provide instruction and training to the PSA or APSA on tasks and works with the consumer directed agent/case manager (CDA) to obtain ADvantage skilled nursing services assistance with training, when necessary. Prior to performing an APSA task for the first time, the APSA must demonstrate competency in the tasks in an on-the-job training session conducted by the member and the member must document the attendant's competency in performing each task in the APSA's personnel file;

(iii) determines where and how the PSA or APSA works, hours of work, what is to be accomplished and, within individual budget allocation limits, wages to be paid for the work;

(iv) supervises and documents employee work time; and

(v) provides tools and materials for work to be accomplished.

(B) The services the PSA may provide include:

(i) assistance with mobility and transferring in and out of bed, wheelchair, or motor vehicle, or all;

(ii) assistance with routine bodily functions, such as:

(I) bathing and personal hygiene;

(II) dressing and grooming; and

(III) eating, including meal preparation and cleanup;

(iii) assistance with home services, such as shopping, laundry, cleaning, and seasonal chores;

(iv) companion assistance, such as letter writing, reading mail, and providing escort or transportation to participate in approved activities or events. "Approved activities or events," means community, civic participation guaranteed to all citizens including, but not limited to, exercise of religion, voting or participation in daily life activities in which exercise of choice and decision making is important to the member, and may include shopping for food, clothing, or other necessities, or for participation in other activities or events specifically approved on the person-centered service plan.

(C) An APSA provides assistance with ADLs to a member with a stable, chronic condition, when such assistance requires devices and procedures related to altered body function if such activities, in the opinion of the attending physician or licensed nurse, may be performed if the member were physically capable, and the procedure may be safely performed in the home. Services provided by the APSA are maintenance services and are never used as therapeutic treatment. Members who develop medical complications requiring skilled nursing services while receiving APSA services are referred to his or her attending physician, who when appropriate, ~~order~~orders home health services. APSA includes assistance with health maintenance activities that may include:

(i) routine personal care for persons with ostomies, including tracheotomies, gastrostomies, and colostomies with well-healed stoma, external, indwelling, and suprapubic catheters that include changing bags and soap and water hygiene around the ostomy or catheter site;

(ii) removing external catheters, inspecting skin, and reapplication of same;

(iii) administering prescribed bowel program, including use of suppositories and sphincter stimulation, and enemas pre-packaged only without contraindicating rectal or intestinal conditions;

(iv) applying medicated prescription lotions or ointments and dry, non-sterile dressings to unbroken skin;

(v) using a lift for transfers;

(vi) manually assisting with oral medications;

(vii) providing passive range of motion (non-resistive flexion of joint) therapy, delivered in accordance with the person-centered service plan unless contraindicated by underlying joint pathology;

(viii) applying non-sterile dressings to superficial skin breaks or abrasions; and

(ix) using universal precautions as defined by the Centers for Disease Control and Prevention.

(D) FMS are program administrative services provided to participating CD-PASS members/employers by AA. FMS are employer-related assistance that provides Internal Revenue Service (IRS) fiscal reporting agent and other financial management tasks and functions including, but not limited to:

(i) processing employer payroll, after the member/employer has verified and approved the employee timesheet, at a minimum of

semi-monthly, and associated withholding for taxes, or for other payroll withholdings performed on behalf of the member as employer of the PSA or APSA;

(ii) other employer related payment disbursements as agreed to with the member/employer and in accordance with the member/employer's individual budget allocation;

(iii) responsibility for obtaining criminal and abuse registry background checks on prospective hires for PSA or APSA on the member/employer's behalf;

(iv) providing orientation and training regarding employer responsibilities, as well as employer information and management guidelines, materials, tools, and staff consultant expertise to support and assist the member successfully perform employer-related functions; and

(v) making Hepatitis B vaccine and vaccination series available to PSA and APSA employees in compliance with Occupational Safety and Health Administration (OSHA) standards.

(E) The PSA service is billed per ~~15-minute~~fifteen-minute (15-minute) unit of service. The number of units of PSA a member may receive is limited to the number of units approved on the person-centered service plan.

(F) The APSA service is billed per ~~15-minute~~fifteen-minute (15-minute) unit of service. The number of units of APSA a member may receive is limited to the number of units approved on the person-centered service plan.

(17) **Institutional transition services.**

(A) Institutional transition services are those services necessary to enable a member to leave the institution and receive necessary support through ADvantage ~~Waiver~~waiver services in his or her home and community.

(B) Transitional case management services are services per ~~Oklahoma Administrative Code (OAC)~~OAC 317:30-5-763(1) required by the member and included on the member's person-centered service plan that are necessary to ensure the member's health, welfare, and safety~~ of the member~~, or to enable the member to function with greater independence in the home, and without which, the member would continue to require institutionalization. ADvantage transitional case management services assist institutionalized members who are eligible to receive ADvantage services in gaining access to needed Waiver and other State plan services, as well as needed medical, social, educational, and other services to assist in the transition, regardless of the funding source for the services to which access is gained. Transitional case management services may be authorized for periodic monitoring of an ADvantage member's progress during an institutional stay and for assisting the member transition from institution to home by updating the person-centered service plan, including necessary institutional transition services to prepare services and supports to be in place or to start on the date the member is discharged from the institution. Transitional case management services may be authorized to assist individuals that have not previously received ADvantage services, but were referred by DHS AS to the case management provider for assistance in transitioning from the institution to the community with ADvantage services support.

(i) Institutional transition case management services are prior authorized and billed per ~~15-minute~~fifteen-minute (15-minute) unit of service using the appropriate ~~Healthcare Common Procedure Coding (HCPC)~~HCPC procedure code and modifier associated with the location of residence of the member served, per OAC 317:30-5-763(1)(C).

(ii) A unique modifier code is used to distinguish transitional case management services from regular case management services.

(C) Institutional transition services may be authorized and reimbursed, per the conditions in (i) through (iv).

(i) The service is necessary to enable the member to move from the institution to his or her home.

(ii) The member is eligible to receive ADvantage services outside of the institutional setting.

(iii) Institutional transition services are provided to the member within ~~180~~one-hundred and eighty (180) calendar-days of discharge from the institution.

(iv) Services provided while the member is in the institution are claimed as delivered on the day of discharge from the institution.

(D) When the member receives institutional transition services but fails to enter the ~~Waiver,~~waiver, any institutional transition services provided are not reimbursable.

(18) **Assisted living services (ALS).**

(A) ALS are personal care and supportive services furnished to ~~Waiver~~waiver members who reside in a homelike, non-institutional setting that includes ~~24-hour,~~twenty-four (24) hour on-site response capability to meet scheduled or unpredictable member needs and to provide supervision, safety, and security. Services also include social and recreational programming and medication assistance, to the extent permitted under State law. The ALS provider is responsible for coordinating services provided by third parties to ADvantage members in the assisted living center~~.~~ (ALC). Nursing services are incidental rather than integral to the provision of ALS. ADvantage reimbursement for ALS includes services of personal care, housekeeping, laundry, meal preparation, periodic nursing evaluations, nursing supervision during nursing intervention, intermittent or unscheduled

nursing care, medication administration, assistance with cognitive orientation, assistance with transfer and ambulation, planned programs for socialization, activities, and exercise, and for arranging or coordinating transportation to and from medical appointments. Services, except for planned programs for socialization, activities, and exercise are to meet the member's specific needs as determined through the individualized assessment and documented on the member's person-centered service plan.

(B) The ADvantage ALS philosophy of service delivery promotes member choice, and to the greatest extent possible, member control. A member has control over his or her living space and his or her choice of personal amenities, furnishings, and activities in the residence. The ADvantage member must have the freedom to control his or her schedule and activities. The ALS provider's documented operating philosophy, including policies and procedures, must reflect and support the principles and values associated with the ADvantage assisted living philosophy and approach to service delivery emphasizing member dignity, privacy, individuality, and independence.

(C) ADvantage ALS required policies for admission and termination of services and definitions.

(i) ADvantage-certified assisted living centers (ALC) are required to accept all eligible ADvantage members who choose to receive services through the ALC, subject only to issues relating to, one (1) or more of the following:

(I) rental unit availability;

(II) the member's compatibility ~~of the member~~ with other residents;

(III) the center's ability to accommodate residents who have behavior problems, wander, or have needs that exceed the services the center provides; or

(IV) restrictions initiated by statutory limitations.

(ii) The ALC may specify the number of units the provider is making available to service ADvantage members. At minimum, the ALC must designate ~~10~~ten (10) residential units for ADvantage members. Residential units designated for ADvantage may be used for other residents at the ALC ~~if~~when there are no pending ADvantage members for those units. Exceptions may be requested in writing subject to the approval of AA.

(iii) Mild or moderate, cognitive impairment of the applicant is not a justifiable reason to deny ALC admission. Centers are required to specify whether they are able to accommodate members who have behavior problems or wander. Denial of admission due to a determination of incompatibility must be approved by the case manager and the ~~ADvantage Administration (AA).~~AA. Appropriateness of placement is not a unilateral determination by the ALC. The ADvantage case manager, the member, or member's designated representative, and the ALC in consultation determine the appropriateness of placement.

(iv) The ALC is responsible for meeting the member's needs for privacy, dignity, respect, and freedom from coercion and restraint. The ALC must optimize the member's initiative, autonomy and independence in making life choices. The ALC must facilitate member choices regarding services and supports, and who provides them. Inability to meet those needs is not recognized as a reason for determining an ADvantage member's placement is inappropriate. The ALC agrees to provide or arrange and coordinate all of the services listed in the Oklahoma State Department of Health (OSDH) regulations, per OAC 310:663-3-3, except for specialized services.

(v) In addition, the ADvantage participating ALC agrees to provide or coordinate the services listed in (I) through (III).

(I) Provide an emergency call system for each participating ADvantage member.

(II) Provide up to three (3) meals per day plus snacks sufficient to meet nutritional requirements, including modified special diets, appropriate to the member's needs and choices; and provide members with ~~24 hour~~twenty-four (24) hour access to food by giving members control in the selection of the foods they eat, by allowing the member to store personal food in his or her room, by allowing the member to prepare and eat food in his or her room, and allowing him or her to decide when to eat.

(III) Arrange or coordinate transportation to and from medical appointments. The ALC must assist the member with accessing transportation for integration into the community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, and control his or her personal resources and receive services in the community to the same degree of access as residents not receiving ADvantage services.

(vi) The provider may offer any specialized service or rental unit for members with Alzheimer's disease and related dementias, physical disabilities, or other special needs the facility intends to market. Heightened scrutiny, through additional monitoring of the ALC by AA, ~~will be~~is utilized for those ALC's that also provide inpatient treatment; settings on the grounds of or adjacent to a public institution and/or other settings that tend to isolate individuals from the community. The ALC must include evidence that the ALC portion of the facility has clear administrative, financial, programmatic and environmental distinctions from the institution.

(vii) When the provider arranges and coordinates services for members, the provider is obligated to ensure the provision of those services.

(viii) Per OAC 310:663-1-2, "personal care" is defined as "assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, and includes assistance with toileting." For ADvantage ALS, assistance with "other personal needs" in this definition includes assistance with grooming and transferring. The term "assistance" is clarified to mean hands-on help, in addition to supervision.

(ix) The specific ALS assistance provided along with amount and duration of each type of assistance is based upon the member's assessed need for service assistance and is specified in the ALC's service plan that is incorporated as supplemental detail into the ADvantage comprehensive person-centered service plan. The ADvantage case manager in cooperation with ALC professional staff, develops the person-centered service plan to meet member needs. As member needs change, the person-centered service plan is amended consistent with the assessed, documented need for change in services.

(x) Placement, or continued placement of an ADvantage member in an ALC, is inappropriate when any one (1) or more of the conditions exist.

(I) The member's needs exceed the level of services the center provides. Documentation must support ALC efforts to provide or arrange for the required services to accommodate participant needs.

(II) The member exhibits behavior or actions that repeatedly and substantially interferes with the rights or well-being of other residents and the ALC documented efforts to resolve behavior problems including medical, behavioral, and increased staffing interventions. Documentation must support the ALC attempted interventions to resolve behavior problems.

(III) The member has a complex, unstable, or unpredictable medical condition and treatment cannot be developed and implemented appropriately in the assisted living environment. Documentation must support the ALC attempts to obtain appropriate member care.

(IV) The member fails to pay room and board charges and/or DHS determined vendor payment obligation.

(xi) Termination of residence when inappropriately placed. Once a determination is made that a member is inappropriately placed, the ALC must inform the member,~~and~~ the member's representative, when ~~any,~~applicable, the AA and the member's ADvantage case manager. The ALC must develop a discharge plan in consultation with the member, the member's representative, the ADvantage case manager, and the AA. The ALC and case manager must ensure the discharge plan includes strategies for providing increased services, when appropriate, to minimize risk and meet the higher care needs of members transitioning out of the ALC, when the reason for discharge is inability to meet member needs. When voluntary termination of residency is not arranged, the ALC must provide written notice to the member and to the member's representative, with a copy to the member's ADvantage case manager and the AA~~, giving the member 30 calendar days~~ The written notice ~~of the ALC's~~provides intent to terminate the residency agreement and move the member to an appropriate care provider. The ~~30 calendar day~~thirty (30) calendar-day requirement must not apply when emergency termination of the residency agreement is mandated by the member's immediate health needs or when the termination of the residency agreement is necessary for the physical safety of the member or other ALC residents. The written~~ notice of~~ involuntary termination of residency notice for reasons of inappropriate placement must include:

(I) a full explanation of the reasons for the termination of residency;

(II) the notice date;

(III) the date notice was given to the member and the member's representative, the ADvantage ~~Case Manager,~~case manager, and the AA;

(IV) the date the member must leave ALC; and

(V) notification of appeal rights and the process for submitting appeal of termination of Medicaid ALS to OHCA.

(D) ADvantage ALS provider standards in addition to licensure standards.

(i) **Physical environment.**

(I) The ALC must provide lockable doors on the entry door of each rental unit and an attached, lockable compartment within each member unit for valuables. Members must have exclusive rights to his or her unit with lockable doors at the entrance of the individual or shared rental unit. Keys to rooms may be held by only appropriate ALC staff as designated by the member's choice. Rental units may be shared only when a request to do so is initiated by the member. Members must be given the right to choose his or her roommate.

(II) The member has a legally enforceable agreement, lease, with the ALC. The member must have the same responsibilities and protections from eviction as all tenants under the landlord tenant law of the state, county, city, or other designated entity.

(III) The ALC must provide each rental unit with a means for each member to control the temperature in the residential unit through the use of a damper, register, thermostat, or other reasonable means under the control of the member and that preserves privacy, independence, and safety, provided that the ~~Oklahoma State Department of Health~~OSDH may approve an alternate means based on documentation that the design of the temperature control is appropriate to the special needs of each member who has an alternate temperature control.

(IV) For ALCs built prior to January 1, 2008, each ALC individual residential unit must have a minimum total living space, including closets and storage areas, of ~~250~~two-hundred and fifty (250) square feet; for ALCs built after December 31, 2007, each ALC individual residential unit must have a minimum total living space, including closets and storage areas, of ~~360~~three-hundred and sixty (360) square feet.

(V) The ALC must provide a private bathroom for each living unit that must be equipped with one lavatory, one toilet, and one bathtub or shower stall.

(VI) The ALC must provide at a minimum~~,~~; a kitchenette, defined as a space containing a refrigerator, adequate storage space for utensils, and a cooking appliance, a microwave is acceptable.

(VII) The member is responsible for furnishing the rental unit. When a member is unable to supply basic furnishings defined as a bed, dresser, nightstand, chairs, table, trash can, and lamp, or if member supplied furnishings pose a health or safety risk, the member's ADvantage case manager in coordination with the ALC, must assist the member in obtaining basic furnishings for the rental unit. The member must have the freedom to furnish and decorate the rental unit within the scope of the lease or residency agreement.

(VIII) The ALC must meet the requirements of all applicable federal and state laws and regulations including, but not limited to, state and local sanitary codes, state building and fire safety codes, and laws and regulations governing use and access by persons with disabilities.

(IX) The ALC must ensure the design of common areas accommodates the special needs of the resident population and that the rental unit accommodates the special needs of the member in compliance with the Americans with Disabilities Act accessibility guidelines per 28 Code of Federal Regulations, Part 36, Appendix A, at no additional cost to the member.

(X) The ALC must provide adequate and appropriate social and recreational space for residents and the common space must be proportionate to the number of residents and appropriate for the resident population.

(XI) The ALC must provide appropriately monitored outdoor space for resident use.

(XII) The ALC must provide the member with the right to have visitors of his or her choosing at any time. Overnight visitation is allowed~~, but may be limited by the ALC to the extent to which a visitor may stay overnight.~~ as permissible by the Landlord/Tenant Agreement.

(XIII) The ALC must be physically accessible to members.

(ii) **Sanitation.**

(I) The ALC must maintain the facility, including its individual rental units~~ that are~~ in a clean, safe, and sanitary manner~~, that are~~ and be insect and rodent free, odorless, and in good repair at all times.

(II) The ALC must maintain buildings and grounds in a good state of repair, in a safe and sanitary condition, and in compliance with the requirements of applicable regulations, bylaws, and codes.

(III) The ALC stores clean laundry in a manner that prevents contamination and changes linens at time intervals necessary to avoid health issues.

(IV) The ALC must provide housekeeping in member rental units to maintain a safe, clean, and sanitary environment.

(V) The ALC must have policies and procedures for members' pets.

(iii) **Health and Safety.**

(I) The ALC must provide building security that protects members from intruders with security measures appropriate to building design, environmental risk factors, and the resident population.

(II) The ALC must respond immediately and appropriately to missing members, accidents, medical emergencies, or deaths.

(III) The ALC must have a plan in place to prevent, contain, and report any diseases considered to be infectious or are listed as diseases that must be reported to the ~~Oklahoma State Department of Health (OSDH).~~OSDH.

(IV) The ALC must adopt policies for the prevention of abuse, neglect, and exploitation that include screening, training, prevention, investigation, protection during investigation, and reporting.

(V) The ALC must provide services and facilities that accommodate the needs of members to safely evacuate in the event of fires or other emergencies.

(VI) The ALC must ensure staff is trained to respond appropriately to emergencies.

(VII) The ALC must ensure that fire safety requirements are met.

(VIII) The ALC must offer meals that provide balanced and adequate nutrition for members.

(IX) The ALC must adopt safe practices for the preparation and delivery of meals.

(X) The ALC must provide a ~~24-hour~~twenty-four (24) hour response to personal emergencies~~ that is~~ appropriate to the needs of the resident population.

(XI) The ALC must provide safe transportation to and from ALC sponsored social or recreational outings.

(iv) **Staff to resident ratios.**

(I) The ALC must ensure a sufficient number of trained staff are on duty, awake, and present at all times, ~~24 hours~~twenty-four (24) hours a day, and seven (7) days a week, to meet the needs of residents and to carry out all of the processes listed in the ALC's written emergency and disaster preparedness plan for fires and other disasters.

(II) The ALC must ensure staffing is sufficient to meet ~~the~~ADvantage Program members' needs ~~of the ADvantage Program members~~ in accordance with each member's ADvantage person-centered service plan.

(III) The ALC must have plans in place to address situations where there is a disruption to the ALC's regular work force.

(v) **Staff training and qualifications.**

(I) The ALC must ensure staff has qualifications consistent with their job responsibilities.

(II) All staff assisting in, or responsible for, food service must have attended a food service training program offered or approved by OSDH.

(III) The ALC must provide staff orientation and ongoing training to develop and maintain staff knowledge and skills. All direct care and activity staff receive at least eight (8) hours of orientation and initial training within the first month of employment and at least four (4) hours annually thereafter. Staff providing direct care on a dementia unit must receive four (4) additional hours of dementia specific training. Annual first aid and cardiopulmonary resuscitation (CPR) certification do not count toward the four (4) hours of annual training.

(vi) **Staff supervision.**

(I) The ALC must ensure delegation of tasks to non-licensed staff is consistent and in compliance with all applicable state regulations including, but not limited to, the Oklahoma Nurse Practice Act and OSDH Nurse Aide Certification rules.

(II) The ALC must ensure that, where the monitoring of food intake or therapeutic diets is provided at the prescribed services level, a registered dietitian monitors member health and nutritional status.

(vii) **Resident rights.**

(I) The ALC must provide to each member and each member's representative, at the time of admission, a copy of the resident statutory rights listed in Section 1-1918 of Title 63 of the Oklahoma Statutes ~~(O.S. 63-1-1918)~~ amended to include additional rights and the clarification of rights as listed in the ADvantage Member Assurances. A copy of resident rights must be posted in an easily accessible, conspicuous place in the facility. The facility must ensure that staff is familiar with and observes, the resident rights.

(II) The ALC must conspicuously post for display in an area accessible to residents, employees, and visitors, the ~~assisted living center's~~ALC's complaint procedures and the name, address, and ~~telephone~~phone number of a person authorized to receive complaints. A copy of the complaint procedure must also be given to each member, the member's representative, or the legal guardian. The ALC must ensure all employees comply with the ALC's complaint procedure.

(III) The ALC must provide to each member and member's representative, at the time of admission, information about Medicaid grievance and appeal rights, including a description of the process for submitting a grievance or appeal of any decision that decreases Medicaid services to the member.

(viii) **Incident reporting.**

(I) The ALC must maintain a record of incidents that occur and report incidents to the member's ADvantage case manager and to the AA, utilizing the AA Critical Incident Reporting form. Incident reports are also made to Adult Protective Services (APS) and to the OSDH, as appropriate, per ALC licensure rules, utilizing the specific reporting forms required.

(II) Incidents requiring report by licensed ALC are those defined by OSDH, per OAC 310:663-19-1 and listed on the AA Critical Incident Reporting ~~Form.~~form.

(III) Reports of incidents must be made to the member's ADvantage case manager and to the AA via electronic submission within one (1)

business day of the reportable incident's discovery utilizing the AA Critical Incident Reporting form. When required, a follow-up report of the incident must be submitted via electronic submission to the member's ADvantage case manager and to the AA. The follow-up report must be submitted within ~~5 business days~~five-business (5-business) days of the incident. The final report must be filed with the member's ADvantage case manager and the AA when the investigation is complete, not to exceed ~~10 business days~~ten-business (10-business) days after the incident.

(IV) Each ALC having reasonable cause to believe that a member is suffering from abuse, neglect, exploitation, or misappropriation of member property must make a report to APS as soon as the person is aware of the situation per O.S. 43A § 10-104.A. Reports are also made to OSDH, as appropriate, per ALC licensure rules.

(V) The preliminary incident report must at the minimum, include who, what, when, where, and the measures taken to protect the member and resident(s) during the investigation. The follow-up report must at the minimum, include preliminary information, the extent of the injury or damage, when any, and preliminary investigation findings. The final report at a minimum includes preliminary and follow-up information, a summary of investigative actions representing a thorough investigation, investigative findings and conclusions based on findings, and corrective measures to prevent future occurrences. When it is necessary to omit items, the final report must include why such items were omitted and when they will be provided.

(ix) Provision of or arrangement for necessary health services. The ALC must:

(I) arrange or coordinate transportation for members to and from medical appointments~~.~~; and

(II) provide or coordinate with the member and the member's ADvantage case manager for delivery of necessary health services. The ADvantage case manager is responsible for monitoring all health-related services required by the member as identified through assessment and documented on the person-centered service plan, are provided in an appropriate and timely manner. The member has the freedom to choose any available provider qualified by licensure or certification to provide necessary health services in the ALC.

(E) ALS are billed per diem of service for days covered by the ADvantage member's person-centered service plan and during which the ALS provider is responsible for providing ALS for the member. The per diem rate for ADvantage assisted living services for a member is one (1) of three (3) per diem rate levels based on a member's need for type of, intensity of, and frequency of service to address member ADLs, ~~IADLs,~~instrumental activities of the daily living(IADLs), and health care needs. The rate level is based on the ~~Universal~~Uniform Comprehensive Assessment Tool (UCAT) assessment by the member's ADvantage case manager employed by a case management agency independent of the ALS provider. The determination of the appropriate per diem rate is made by the AA clinical review staff.

(F) The ALC must notify AA ~~90 calendar days~~ninety-calendar (90-calendar) days before terminating or not renewing the ALC's ADvantage contract.

(i) The ALC must give notice in writing to the member, the member's representative(s), the AA, and the member's ADvantage ~~Case Manager 90 calendar days~~case manager ninety-calendar (90-calendar) days before:

(I) voluntary cessation of the ALC's ADvantage contract; or

(II) closure of all or part of the ALC.

(ii) The notice of closure must ~~state:~~include:

(I) the proposed ADvantage contract termination date;

(II) the termination reason;

(III) an offer to assist the member secure an alternative placement; and

(IV) ~~advise the member or member's representative, and the member's ADvantage case manager on~~ available housing alternatives~~;~~.

~~(V) the facility must comply with all applicable laws and regulations until the closing date, including those related to resident transfer or discharge.~~

~~(iii) Following the last move of the last ADvantage member, the ALC must provide in writing to the AA:~~

~~(I) the effective date of closure based on the discharge date of the last resident;~~

~~(II) a list of members transferred or discharged and where they relocated,; and~~

~~(III) the plan for storage of resident records per OAC 310:663-19-3(g), relating to preservation of resident records and the name, address, and phone numbers of the person responsible for the records.~~

(iii) The facility must comply with all applicable laws and regulations until the closing date, including those related to resident transfer or discharge.

(iv) Following the last move to the last ADvantage member, the ALC must provide in writing to the AA:

(I) the effective date of closure based on the discharge date of the last resident;

(II) a list of members transferred or discharged and where they relocated,; and
(III) the plan for storage of resident records per OAC 310:663-19-3(g), relating to preservation of resident records and the name, address, and phone numbers of the person responsible for the records.

[OAR Docket #19-459; filed 5-30-19]

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

[OAR Docket #19-466]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 105. Residential Behavioral Management Services in Group Settings ~~and Non-Secure Diagnostic and Evaluation Centers~~
317:30-5-1041 [AMENDED]
317:30-5-1042 [AMENDED]
317:30-5-1043 [AMENDED]
317:30-5-1044 [AMENDED]
317:30-5-1046 [AMENDED]
(Reference APA WF # 18-26)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 Code of Federal Regulations, Sec. 483.102
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 19, 2018
COMMENT PERIOD:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed revisions streamline group home coverage and reimbursement policy language and develop consistency with current practice. The proposed revisions will outline and clarify provider requirements and remove references to any services provided in wilderness camps and Diagnostic and Evaluation (D&E) centers. Finally, revisions will involve limited rewriting aimed at updating outdated terminology.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 105. RESIDENTIAL BEHAVIORAL MANAGEMENT SERVICES IN GROUP SETTINGS ~~AND NON-SECURE DIAGNOSTIC AND EVALUATION CENTERS~~

317:30-5-1041. Eligible providers

Payment is made for Residential Behavior Management Services (RBMS) in group settings ~~and non-secure Diagnostic and Evaluation (D&E) Centers~~ to any ~~OHCDS who~~Organized Heath Care Delivery System (OHCDS) that is a child placing agency~~ who~~, that has a statutory authority for the care of children in the custody of the State of Oklahoma and which enters into a contract with the State Medicaid program. The OHCDS must certify to the ~~OHCA~~Oklahoma Health Care Authority (OHCA) that all direct providers of services (whether furnished through its own employees or under contract) meet the minimum program qualifications. ~~Residential Behavior Management Services and Diagnostic and Evaluation services~~ RBMS are covered only for those beds contracted by the OHCDS.

317:30-5-1042. Memorandum of agreement

A Memorandum of Agreement between the Oklahoma Health Care Authority (OHCA) and the Organized Heath Care Delivery System (OHCDS) must be in effect before reimbursement can be made for compensable services. The agreement outlines the contractual and subcontractual requirements for reimbursement. This agreement provides that the OHCDS is responsible for the Medicaid ~~State~~state share required for federal financial participation for all ~~RBMS~~Residential Behavior Management Services (RBMS) provided to custody children in residential ~~group home and diagnostic and evaluation settings.~~group homes.

317:30-5-1043. Coverage by category

(a) **Adults.** Residential Behavioral Management Services (RBMS) in ~~Group Settings and Non Secure Diagnostic and Evaluation Center Services~~ group settings are not covered for adults.

(b) **Children.** ~~Residential Behavioral Management Services (RBMS) in Group Settings and Non Secure Diagnostic and Evaluation Centers~~ RBMS in group settings are covered for children as set forth in this subsection.

(1) **Description.** ~~Residential Behavior Management Services~~RBMS are provided by Organized Health Care Delivery Systems (OHCDS) for children in the care and

custody of the State who have special psychological, behavioral, emotional and social needs that require more intensive care than can be provided in a family or foster home setting. The behavior management services are provided in the least restrictive environment and within a therapeutic milieu. The group setting is restorative in nature, allowing children with emotional and psychological problems to develop the necessary control to function in a less restrictive setting. ~~Residential Behavior Management Services are reimbursed in accordance with the intensity of supervision and treatment required for the group setting in which the child is placed. Members residing in a Level E and Intensive Treatment Services (ITS) Group Homes receive maximum supervision and treatment. In addition, ITS group homes provide crisis and stabilization intervention and treatment. Members residing in a Level D+ Group Home receive highly intensive supervision and treatment. Members residing in a Level D Group home or in a wilderness camp receive close supervision and moderate treatment. Members residing in a Level C Group Home receive minimum supervision and treatment. Members residing in Residential Diagnostic and Evaluation Centers receive intensive supervision and a 20 day comprehensive assessment. Members residing in a Sanctions Home receive highly intensive supervision and treatment. Members residing in an Independent Living Group Home receive intensive supervision and treatment.~~RBMS are reimbursed in accordance with established rate methodology as described in the Oklahoma Medicaid State Plan. It is expected that RBMS in group settings are an all-inclusive array of treatment services provided in one (1) day. In the case of a child who needs additional specialized services, under the Rehabilitation Option or by a psychologist, prior authorization by the OHCA or designated agent is required. Only specialized rehabilitation or psychological treatment services to address unique, unusual or severe symptoms or disorders will be authorized. If additional services are approved, the OHCDS collaborates with the provider of such services as directed by the OHCA or its agent. Any additional specialized behavioral health services provided to children in state custody are funded in the normal manner. The OHCDS must provide concurrent documentation that these services are not duplicative. The OHCDS determines the need for RBMS.

(2) **Medical necessity criteria.** The following medical necessity criteria must be met for ~~residential behavior Management Services~~RBMS.

(A) Any ~~DSM~~Diagnostic and Statistical Manual of Mental Disorders (DSM) primary diagnosis, with the exception of V codes, with a detailed description of the symptoms supporting the diagnosis. A detailed description of the child's emotional, behavioral and psychological condition must be on file. ~~A diagnosis is not required for behavior management services provided in Diagnostic and Evaluation centers.~~

(B) The child is medically stable and not actively suicidal or homicidal and not in need of substance abuse detoxification services.

(C) It has been determined by the OHCDS that the current disabling symptoms could not have been or have not been manageable in a less intensive treatment program.

(D) Documentation that the child's presenting emotional and/or behavioral problems prevent the child from living in a traditional family home. The child requires the availability of ~~24~~twenty-four (24) hour crisis response/behavior management and intensive clinical interventions from professional staff.

(E) The ~~Agency~~agency which has permanent or temporary custody of the child agrees to active participation in the child's treatment needs and planning.

(F) All of the medical necessity criteria must also be met for continued stay in residential group settings.

(3) **Treatment components.**

(A) **Individual plan of care development.** A comprehensive individualized plan of care for each resident shall be formulated by the provider agency staff within ~~30~~thirty (30) days of admission, for ~~ITS~~intensive treatment services (ITS) level within ~~72~~seventy-two (72) hours, with documented input from the agency which has permanent or temporary custody of the child and when possible, the parent. This plan must be revised and updated at least every three (3) months, every seven (7) days for ITS, with documented involvement of the agency which has permanent or temporary custody of the child. Documented involvement can be written approval of the individual plan of care by the agency which has permanent or temporary custody of the child and indicated by the signature of the agency case worker or liaison on the individual plan of care. It is acceptable in circumstances where it is necessary to fax a service plan to someone for review and then have ~~them~~him/her fax back ~~their~~his/her signature; however, the provider obtains the original signature for the clinical file within ~~30~~thirty (30) days. No stamped or Xeroxed signatures are allowed. An individual plan of care is considered inherent in the provision of therapy and is not covered as a separate item of behavior management services. The individual plan of care is individualized taking into account the child's age, history, diagnosis, functional levels, and culture. It includes appropriate goals and time limited and measurable objectives. Each member's individual plan of care must also address the provider agency's plans with regard to the provision of services in each of the following areas:

(i) ~~group~~Group therapy;

(ii) ~~individual~~Individual therapy;

(iii) ~~family~~Family therapy;

(iv) ~~alcohol~~Alcohol and other drug counseling;

(v) ~~basic~~Basic living skills redevelopment;

(vi) ~~social~~Social skills redevelopment;

(vii) ~~behavior~~Behavior redirection; and

(viii) ~~the~~The provider agency's plan to access appropriate educational placement services. (Any educational costs are excluded from calculation of the daily rate for behavior management services.)

(B) **Individual therapy.** The provider agency must provide individual therapy on a weekly basis with a minimum of one (1) or more sessions totaling one (1) hour or more of treatment per week to children and youth receiving RBMS in~~ Wilderness Camps, Level D, Level D+ homes, Level E Homes, Independent Living Homes, and Sanctions Homes. ITS Level residents will receive a minimum of five or more sessions totaling a minimum of five or more hours of individual therapy per week. Members residing in Diagnostic and Evaluation Centers and Level C Group Homes receive Individual Therapy on an as needed basis.~~ group homes. Individual therapy must be age appropriate and the techniques and modalities employed relevant to the goals and objectives of the individual's plan of care. Individual counseling is a ~~face-to-face, one-to-one~~face-to-face, one-to-one service, and must be provided in a confidential setting.

(C) **Group therapy.** The provider agency must provide group therapy to children and youth receiving ~~residential behavioral management services~~RBMS. Group therapy must be a ~~face to face~~face-to-face interaction, age appropriate and the techniques and modalities employed relevant to the goals and objectives of the individual's plan of care. The minimum expected occurrence would be one (1) hour per week in~~ Level D, Level C, Wilderness Camps and Independent Living. Two hours per week are required in Levels D+ and E. Ten hours per week are required in Sanctions Homes, Intensive Treatment Service Level. Group therapy is not required for Diagnostic and Evaluation Centers.~~ group homes. Group size should not exceed six (6) members and group therapy sessions must be provided in a confidential setting. One half hour (30 min) of individual therapy may be substituted for one (1) hour of group therapy.

(D) **Family therapy.** Family therapy is a ~~face to face~~face-to-face interaction between the therapist/counselor and family, to facilitate emotional, psychological or behavioral changes and promote successful communication and understanding. The provider agency must provide family therapy as indicated by the resident's individual plan of care. The agency must work with the caretaker to whom the resident will be discharged, as identified by the OHCDS custody worker. The agency must seek to support and enhance the child's relationships with family members (nuclear and appropriate extended), if the custody plan for the child indicates family reunification. The RBMS provider must also seek to involve the child's parents in treatment team meetings, plans and decisions and to keep them informed of the child's progress in the program. Any service provided to the family must have the child as the focus.

(E) **Alcohol and other drug abuse treatment education, prevention, therapy.** The provider agency must provide alcohol and other drug abuse treatment for residents who have emotional or behavioral problems related to substance abuse/chemical dependency, to begin, maintain and enhance recovery from alcoholism, problem drinking, drug abuse, drug dependency addiction or nicotine use and addiction. This service is considered ancillary to any other formal treatment program in which the child participates for treatment and rehabilitation. For residents who have no identifiable alcohol or other drug use, abuse, or dependency, age appropriate education and prevention activities are appropriate. These may include self-esteem enhancement, violence alternatives, communication skills or other skill development curriculums.

(F) **Basic living skills redevelopment.** The provider agency must provide ~~goal directed~~goal-directed activities designed for each resident to restore, retain, and improve those basic skills necessary to independently function in a family or community. Basic living skills redevelopment is age appropriate and relevant to the goals and objectives of the individual plan of care. This ~~many~~may include, but is not limited to food planning and preparation, maintenance of personal hygiene and living environment, household management, personal and household shopping, community awareness and familiarization with community resources, mobility skills, job application and retention skills.

(G) **Social skills redevelopment.** The provider agency must provide ~~goal directed~~goal-directed activities designed for each resident to restore, retain and improve the ~~self help~~self-help, communication, socialization, and adaptive skills necessary to reside successfully in home and community based settings. These are age appropriate, culturally sensitive and relevant to the goals of the individual plan of care. For ITS level of care, the minimum skill redevelopment per day is three (3) hours. Any combination of basic living skills and social skills redevelopment that is appropriate to the need and developmental abilities of the child is acceptable.

(H) **Behavior redirection.** The provider agency must be able to provide behavior redirection management by agency staff as needed ~~24 hours a day, 7 days per week~~twenty-four (24) hours a day, seven (7) days per week. The agency must ensure staff availability to respond in a crisis to stabilize residents' behavior and prevent placement disruption. In addition, ITS group homes will be required to provide crisis stabilization interaction and treatment for new residents ~~24 hours a day, seven days a week~~twenty-four (24) hours a day, seven (7) days a week.

~~(4) **Providers.** For eligible RBMS agencies to bill the Oklahoma Health Care Authority for services of their providers, the providers of individual, group and family therapies must:~~

~~(A) be a licensed psychologist, social worker (clinical specialty only), professional counselor, marriage and family therapist, or behavioral practitioner, or under Board Supervision to be licensed in one of the above stated areas; or~~

~~(B) have one year of experience in a behavioral health treatment program and a master's degree in a mental health treatment field licensable in Oklahoma by one of the following licensing boards:~~

~~(i) Psychology,~~

~~(ii) Social work (clinical specialty only),~~

~~(iii) Licensed professional counselor,~~

~~(iv) Licensed marriage and family therapist, or~~

~~(v) Licensed behavioral practitioner; or~~

~~(C) have a baccalaureate degree in a mental health field in one of the stated areas listed in (B) of this paragraph AND three or more years post baccalaureate experience in providing direct patient care in a behavioral health treatment setting and be provided a minimum of weekly supervision by a staff member licensed as listed in (A) of this paragraph; or~~

~~(D) be a registered psychiatric nurse; AND~~

~~(E) demonstrate a general professional or educational background in the following areas:~~

~~(i) case management, assessment and treatment planning;~~

~~(ii) treatment of victims of physical, emotional, and sexual abuse;~~

~~(iii) treatment of children with attachment disorders;~~

~~(iv) treatment of children with hyperactivity or attention deficit disorders;~~

~~(v) treatment methodologies for emotional disturbed children and youth;~~

~~(vi) normal childhood development and the effect of abuse and/or neglect on childhood development;~~

~~(vii) treatment of children and families with substance abuse and chemical dependency disorders;~~

~~(viii) anger management; and~~

~~(ix) crisis intervention.~~

(~~5~~4) **Providers.** For eligible RBMS agencies to bill the ~~Oklahoma Health Care Authority~~OHCA for services provided by their staff for behavior management therapies ~~(Individual, Group, Family)~~(individual, group, family) as of July 1, 2007, providers must have the following qualifications:

(A) ~~be~~Be licensed in the state in which the services are delivered as a licensed psychologist, social worker (clinical specialty only), professional counselor, marriage and family therapist, or behavioral practitioner, alcohol and drug counselor or under Board approved Supervision to be licensed in one of the above stated areas; or

(B) ~~be~~Be licensed as an ~~Advanced Practice Nurse~~advanced practice registered nurse (APRN) certified in a psychiatric mental health specialty, licensed as a registered nurse (RN) with a current certification of recognition from the Board of Nursing in the state in which services are provided, AND

(C) ~~demonstrate~~Demonstrate a general professional or educational background in the following areas:

(i) ~~case~~Case management, assessment and treatment planning;

(ii) ~~treatment~~Treatment of victims of physical, emotional, and sexual abuse;

(iii) ~~treatment~~Treatment of children with attachment disorders;

(iv) ~~treatment~~Treatment of children with hyperactivity or attention deficit disorders;

(v) ~~treatment~~Treatment methodologies for emotionally disturbed children and youth;

(vi) ~~normal~~Normal childhood development and the effect of abuse and/or neglect on childhood development;

(vii) ~~treatment~~Treatment of children and families with substance abuse and chemical dependency disorders;

(viii) ~~anger~~Anger management; and

(ix) ~~crisis~~Crisis intervention.

(D) Staff providing basic living skills redevelopment, social skills redevelopment, and alcohol and other substance abuse treatment, must meet one (1) of the following areas:

(i) Bachelor's or ~~Master's~~master's degree in a behavioral health related field including but not limited to, psychology, sociology, criminal justice, school guidance and counseling, social work, occupational therapy, family studies, alcohol and drug; or

(ii) ~~a~~A current license as ~~a registered nurse~~an RN in Oklahoma; or

(iii) ~~certification~~Certification as an ~~Alcohol and Drug Counselor~~alcohol and drug counselor to provide substance abuse rehabilitative treatment to those with alcohol and/or other drug dependencies or addictions as a primary or secondary DSM diagnosis; or

(iv) ~~current~~Current certification as a ~~Behavioral Health Case Manager~~behavioral health case manager from ~~DMHSAS~~the Oklahoma Department of Mental Health and Substance Abuse (ODMHSAS) and meets OHCA requirements to perform case management services, as described in ~~OAC~~Oklahoma Administrative Code (OAC) 317:30-5-240 through 317:30-5-249.

(E) Staff providing behavior redirection services must have current certification and required updates in nationally recognized behavior management

techniques, such as Controlling Aggressive Patient Environment (CAPE) or MANDT. Additionally, staff providing these services must receive initial and ongoing training in at least one (1) of the following areas:

(i) ~~trauma informed~~Trauma-informed methodology~~,~~;

(ii) ~~anger~~Anger management~~,~~;

(iii) ~~crisis~~Crisis intervention~~,~~;

(iv) ~~normal~~Normal child and adolescent development and the effect of abuse~~,~~;

(v) ~~neglect~~Neglect and/or violence on such development~~,~~;

(vi) ~~grief~~Grief and loss issues for children in out of home placement~~,~~;

(vii) ~~interventions~~Interventions with victims of physical, emotional and sexual abuse~~,~~;

(viii) ~~care~~Care and treatment of children with attachment disorders~~,~~;

(ix) ~~care~~Care and treatment of children with hyperactive, or attention deficit, or conduct disorders~~,~~;

(x) ~~care~~Care and treatment of children, youth and families with substance abuse and chemical dependency disorders~~,~~;

(xi) ~~passive~~Passive physical restraint procedures~~,~~; or

(xii) ~~procedures~~Procedures for working with delinquents or the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

(F) In addition, ~~Behavioral Management~~behavior management staff must have access to consultation with an appropriately licensed mental health professional.

317:30-5-1044. Payment rates

A per diem rate is established for each residential level of care in which behavior management services are provided. ~~The payment rate is based upon a sample analysis of the average annual allowable cost of providing the program components of behavior management services using facility time study and cost reports of the OHCDS and the facilities under contract to them.~~ The payment is an ~~all inclusive~~all-inclusive daily rate for all behavior management services provided under the auspices of the ~~OHCDS~~Organized Health Care Delivery System (OHCDS). Room and ~~Board~~board costs, educational costs and related administrative costs are not reimbursable and are excluded from the calculation of the daily rate. ~~RBMS services~~Residential Behavioral Management Services (RBMS) are limited to a maximum of one (1) service per day per eligible recipient.

317:30-5-1046. Documentation of records and records review

(a) The ~~OHCDS~~Organized Health Care Delivery System (OHCDS) and the facilities with whom it contracts must maintain appropriate records system. Current individual plans of care, case files, and progress notes are maintained in the facilities' files during the time the child or youth is receiving services. All services rendered must be reflected by documentation in the case records.

(b) ~~OHCA~~The Oklahoma Health Care Authority (OHCA) and the Centers for Medicare and Medicaid Services (CMS) may evaluate through inspection or other means, the quality, appropriateness and timeliness of services provided by the OHCDS or facilities with whom it contracts.

(c) All ~~residential behavioral management services~~Residential Behavioral Management Services (RBMS) in group settings~~ and non-secure diagnostic and evaluation centers~~ must be reflected by documentation in the patients' records. Individual, group, family, and alcohol and other drug counseling and social and basic living skills development services must include all of the following:

(1) ~~date~~Date;

(2) ~~start~~Start and stop time for each session;

(3) ~~signature~~Signature of the therapist/staff providing service;

(4) ~~credentials~~Credentials of therapist/staff providing service;

(5) ~~specific~~Specific problem(s) addressed (problem must be identified on individualized plan of care);

(6) ~~methods~~Methods used to address problem(s);

(7) ~~progress~~Progress made toward goals;

(8) ~~patient~~Patient response to the session or intervention; and

(9) ~~any~~Any new problem(s) identified during the session.

[OAR Docket #19-466; filed 5-30-19]

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

[OAR Docket #19-469]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 75. Federally Qualified Health Centers
317:30-5-664.3 [AMENDED]
317:30-5-664.4 [NEW]
(Reference APA WF # 18-30)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 CFR 491.1
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GIST/ANALYSIS:
The proposed revisions reinstate administrative rules to allow and better define multiple encounters at Federally Qualified Health Centers (FQHCs). Additional revisions will establish guidelines for these multiple encounters. Finally, revisions will update/remove outdated language in order to reflect current business practices and to provide consistency throughout policy.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 75. FEDERALLY QUALIFIED HEALTH CENTERS

317:30-5-664.3. ~~Health Center encounters~~Federally Qualified Health Center (FQHC) encounters

(a) ~~Health Center~~FQHC encounters that are billed to the ~~OHCA~~Oklahoma Health Care Authority (OHCA) must meet the definition in this Section and are limited to services covered by OHCA. Only encounters provided by the authorized health care professional on the approved FQHC state plan pages within the scope of their licensure trigger a ~~PPS~~prospective payment system encounter rate. (b) An encounter is defined as a face-to-face contact between a health care professional and a member for the provision of defined services through a ~~Health Center~~FQHC within a 24-hour period ending at midnight, as documented in the member's medical record.

(c) ~~A Health Center~~An FQHC may bill for one medically necessary encounter per 24 hour period~~.~~ when the appropriate modifier is applied. Medical review will be required for additional visits for children. For information about multiple encounters, refer to Oklahoma Administrative Code (OAC) 317:30-5-664.4. Payment is limited to four (4) visits per member per month for adults.

(d) Services considered reimbursable encounters (including any related medical supplies provided during the course of the encounter) include:

(1) medical;
(2) diagnostic;
(3) dental, medical and behavioral health screenings;
(4) vision;
(5) physical therapy;
(6) occupational therapy;
(7) podiatry;
(8) behavioral health;
(9) speech;
(10) hearing;
(11) medically necessary ~~Health Center~~FQHC encounters with a ~~RN~~registered nurse or ~~LPN~~licensed practical nurse and related medical supplies (other than drugs and biologicals) furnished on a part-time or intermittent basis to home-bound members (refer to OAC 317:30-5-661.3); and
(12) any other medically necessary health services (i.e. optometry and podiatry) are also reimbursable as permitted within the ~~Health Center's~~FQHCs scope of services when medically reasonable and necessary for the diagnosis or treatment of illness or injury, and must meet all applicable coverage requirements.

(e) Services and supplies incident to a physician's professional service are reimbursable within the encounter if the service or supply is:

(1) of a type commonly furnished in physicians' offices;
(2) of a type commonly rendered either without a charge or included in the health clinic's bill;
(3) furnished as an incidental, although integral, part of a physician's professional services;
(4) furnished under the direct, personal supervision of a physician; and
(5) in the case of a service, furnished by a member of the clinic's health care staff who is an employee of the clinic.

(f) Only drugs and biologicals which cannot be self-administered are included within the scope of this benefit.

317:30-5-664.4. Multiple encounters at Federally Qualified Health Centers (FQHC)

An FQHC may bill for more than one (1) medically necessary encounter per 24-hour period under certain conditions when the appropriate modifier is applied.

(1) It is intended that multiple medically necessary encounters will occur on an infrequent basis.
(2) An FQHC may not develop FQHC procedures that routinely involve multiple encounters for a single date of service, unless medical necessity warrants multiple encounters.
(3) Each service must have distinctly different diagnoses in order to meet the criteria for multiple encounters. For example, a medical visit and a dental visit on the same day are considered different services with distinctly different diagnoses.
(4) Similar services, even when provided by two (2) different health care practitioners, are not considered multiple encounters.

(5) Encounters with more than one (1) FQHC practitioner on the same day, regardless of the length or complexity of the visit, would constitute a single visit. An exception is when the patient has either or both of these:

(A) An illness or injury requiring additional diagnosis or treatment subsequent to the first encounter; and/or

(B) A qualified medical visit, a qualified mental health and/or dental visit on the same day.

[OAR Docket #19-469; filed 5-30-19]

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

[OAR Docket #19-444]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Services
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317:30-5-95.34 [AMENDED]
(Reference APA WF # 18-06)
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The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 Code of Federal Regulations, Sec. 441.154
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GIST/ANALYSIS:
The proposed revisions clarify a prior authorization requirement for inpatient psychiatric services for adults. The proposed revisions will also align the time requirement of the first individual treatment by the physician to be within the sixty (60) hour requirement of completion of the psychiatric evaluation for Acute and Psychiatric Residential Treatment Facilities (PRTFs) settings. Other revisions will involve limited rewriting aimed at clarifying text.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 6. INPATIENT PSYCHIATRIC SERVICES

317:30-5-95.1. Medical necessity criteria and coverage for adults aged twenty-one (21) to sixty-four (64)

(a) **Coverage for adults.** Coverage for adults aged twenty-one (21) to sixty-four (64) is limited to services in a psychiatric unit of a general hospital (see ~~OAC~~ Oklahoma Administrative Code (OAC) 317:30-5-95). Inpatient psychiatric services must be prior authorized in accordance with OAC 317:30-5-41.1. OHCA rules that apply to inpatient psychiatric coverage for adults aged twenty-one (21) to sixty-four (64) are found in Sections OAC 317:30-5-95.1 through 317:30-5-95.10.

(b) **Medical necessity criteria for admission of adults aged twenty-one (21) to sixty-four (64) for psychiatric disorders.** An inpatient admission of an adult aged twenty-one (21) to sixty-four (64) that is attributable to a psychiatric disorder must meet the terms or conditions contained in (1), (2), (3), (4), one of (5)(A) to (5)(D), and one of (6)(A) to (6)(C) of this subsection.

(1) A primary diagnosis from the most recent edition of ~~"The Diagnostic and Statistical Manual of Mental Disorders"~~the Diagnostic and Statistical Manual of Mental Disorders (DSM) with the exception of V-codes, adjustment disorders, and substance related disorders, accompanied by a detailed description of the symptoms supporting the diagnosis.

(2) Conditions are directly attributable to a psychiatric disorder as the primary need for professional attention (this does not include placement issues, criminal behavior, and/or status offenses). Adjustment or substance related disorder may be a secondary diagnosis.

(3) It has been determined by the OHCA designated agent that the current disabling symptoms could not have been managed or have not been manageable in a less intensive treatment program.

(4) Adult must be medically stable.

(5) Within the past forty-eight (48) hours, the behaviors present an imminent life-threatening emergency such as evidenced by:

(A) Specifically described suicide attempts, suicidal intent, or serious threat by the patient.

(B) Specifically described patterns of escalating incidents of self-mutilating behaviors.

(C) Specifically described episodes of unprovoked significant physical aggression and patterns of escalating physical aggression in intensity and duration.

(D) Specifically described episodes of incapacitating depression or psychosis that result in an inability to function or care for basic needs.

(6) Requires secure twenty-four (24) hour nursing/medical supervision as evidenced by:

(A) Stabilization of acute psychiatric symptoms.

(B) Needs extensive treatment under physician direction.

(C) Physiological evidence or expectation of withdrawal symptoms which require twenty-four (24) hour medical supervision.

(c) **Medical necessity criteria for admission of adults aged twenty-one (21) to sixty-four (64) for inpatient chemical dependency detoxification.** An inpatient admission of an adult aged twenty-one (21) to sixty-four (64) for chemical dependency/ substance use/ detoxification must meet the terms and conditions contained in (1), (2), (3), and one of (4)(A) through (D) of this subsection.

(1) Any psychoactive substance dependency disorder described in the most recent edition of ~~"The Diagnostic and Statistical Manual of Mental Disorders"~~the Diagnostic and Statistical Manual of Mental Disorders (DSM) with detailed symptoms supporting the diagnosis and need for medical detoxification, except for cannabis, nicotine, or caffeine dependencies.

(2) Conditions are directly attributable to a substance dependency disorder as the primary need for professional attention (this does not include placement issues, criminal behavior, and/or status offenses).

(3) It has been determined by the OHCA designated agent that the current disabling symptoms could not be managed or have not been manageable in a less intensive treatment program.

(4) Requires secure twenty-four (24) hour nursing/medical supervision as evidenced by:

(A) Need for active and aggressive pharmacological interventions.

(B) Need for stabilization of acute psychiatric symptoms.

(C) Need extensive treatment under physician direction.

(D) Physiological evidence or expectation of withdrawal symptoms which require twenty-four (24) hour medical supervision.

317:30-5-95.34. Active treatment for children

(a) The following words and terms, when used in this ~~section~~Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Discharge/~~Transition Planning~~transition planning"** means a patient-centered, interdisciplinary process that begins with an initial assessment of the patient's potential needs at the time of admission and continues throughout the patient's stay. Active collaboration with the patient, family and all involved outpatient practitioners and agencies should be ongoing throughout treatment so that effective connections remain intact. Needed services may consist of the wraparound process through Systems of Care, counseling, case management and other supports in their community. The linkages with these supports should be made prior to discharge to allow for a smooth transition.

(2) **"Expressive group therapy"** means art, music, dance, movement, poetry, drama, psychodrama, structured therapeutic physical activities, experiential ~~(ROPES)~~(e.g. ropes course), recreational, or occupational therapies that encourage the member to express themselves emotionally and psychologically.

(3) **"Family therapy"** means interaction between ~~an LBHP~~a licensed behavioral health providers (LBHP) or licensure candidate, member and family member(s) to facilitate emotional, psychological or behavioral changes and promote successful communication and understanding.

(4) **"Group rehabilitative treatment"** means behavioral health remedial services, as specified in the individual care plan, which are necessary for the treatment of the existing primary behavioral health disorders and/or any secondary alcohol and other drug (AOD) disorders in order to increase the skills necessary to perform activities of daily living (ADL).

(5) **"Individual rehabilitative treatment"** means a ~~face to face, one on one~~face-to-face, one-on-one interaction which is performed to assist members who are experiencing significant functional impairment due to the existing primary behavioral health disorder and/or any secondary AOD disorder in order to increase the skills necessary to perform ~~activities of daily living~~ ADL.

(6) **"Individual therapy"** means a method of treating existing primary behavioral health disorders and/or any secondary AOD disorders using ~~face to face, one on one~~face-to-face, one-on-one interaction between an LBHP or licensure candidate and a member to promote emotional or psychological change to alleviate disorders.

(7) **"Process group therapy"** means a method of treating existing primary behavioral health disorders and/or secondary AOD disorders using the interaction between an LBHP or licensure candidate as defined in OAC 317:30-5-240.3, and two (2) or more members to promote positive emotional and/or behavioral change.

(b) Inpatient psychiatric programs must provide ~~"Active Treatment"~~"active treatment." Active ~~Treatment~~treatment involves the member and their family or guardian from the time of an admission throughout the treatment and discharge process. Families and/or guardians must be notified of the dates and times of treatment team meetings and be welcomed to attend. Family members must attend family therapy weekly for continued SoonerCare reimbursement. Reasons for exceptions to this requirement must be well documented in the member's treatment plan. For individuals in the age range of ~~18 up to 21~~eighteen (18) up to twenty-one (21), it is understood that family members and guardians will not always be involved in the member's treatment. Active ~~Treatment~~treatment also includes an ongoing program of assessment, diagnosis, intervention, evaluation of care and treatment, and planning for discharge and aftercare under the direction of a physician.

~~Evidence based~~Evidence-based practices such as trauma informed methodology should be utilized to minimize the use of ~~seclusion and restraint~~restraint and seclusion.

(c) For individuals age ~~18 up to 21~~eighteen (18) up to twenty-one (21), the ~~Active Treatment~~active treatment program must be appropriate to the needs of the member and be directed toward restoring and maintaining optimal levels of physical and psychiatric-social functioning. The services and individual plan of care must be recovery focused, trauma informed, specific to culture, age and gender, and provided ~~face-to-face~~face to face. Services, including type and frequency, will be specified in the ~~Individual Plan of Care~~individual plan of care.

(d) For individuals under age ~~18~~eighteen (18), the components of ~~Active Treatment~~active treatment consist of face-to-face integrated therapies that are provided on a regular basis and will remain consistent with the member's ongoing need for care. The services and individual plan of care must be recovery focused, trauma informed, and specific to culture, age, and gender. Individuals in acute care must receive seventeen (17) hours of documented active treatment services each week, with seven (7) of those hours being dedicated to core services as described in (1) below. Individuals in PRTFs must receive fourteen (14) hours of documented active treatment services each week, with four and a half (4.5) of those hours being dedicated to core services as described in (1) below. Individuals in Community Based Transitional (CBT) treatment must receive ten (10) hours of documented active treatment services each week, with four and a half (4.5) of those hours being dedicated to core services as described in (1) below. The remainder of the active treatment services may include any or all of the elective services listed in (2) below or additional hours of any of the core services. Sixty (60) minutes is the expectation to equal one (1) hour of treatment. When appropriate to meet the needs of the child, the ~~60~~sixty (60) minute timeframe may be split into sessions of no less than ~~15~~fifteen (15) minutes each on the condition that the ~~Active Treatment~~active treatment requirements are fully met by the end of the treatment week. The following components meet the minimum standards required for ~~Active Treatment~~active treatment, although an individual child's needs for treatment may exceed this minimum standard:

(1) **Core Services.**

(A) **Individual treatment provided by the physician.** Individual treatment provided by the physician is required three (3) times per week for acute care and one (1) time a week in ~~Residential Treatment Facilities~~PRTFs. Individual treatment provided by the physician will never exceed ten (10) calendar days between sessions in PRTFs, never exceed seven (7) calendar days in a specialty PRTF and never exceed ~~30~~thirty (30) calendar days in CBTs. Individual treatment provided by the physician may consist of therapy or medication management intervention for acute and residential programs.

(B) **Individual therapy.** LBHPs or licensure candidates performing this service must use and document an approach to treatment such as cognitive behavioral treatment, narrative therapy, solution focused brief therapy or another widely accepted theoretical framework for treatment. Ongoing assessment of the member's status and response to treatment as well as psycho-educational intervention are appropriate components of individual therapy. Individual therapy must be provided in a confidential setting. The therapy must be goal directed utilizing techniques appropriate to the individual member's plan of care and the member's developmental and cognitive abilities. Individual therapy must be provided two (2) hours per week in acute care and one (1) hour per week in residential treatment by an LBHP or licensure candidate as described in OAC 317:30-5-240.3. One (1) hour of family therapy may be substituted for one (1) hour of individual therapy at the treatment team's discretion.

(C) **Family therapy.** The focus of family therapy must be directly related to the goals and objectives on the individual member's plan of care. Family therapy must be provided one (1) hour per week for acute care and residential. One (1) hour of individual therapy addressing relevant family issues may be substituted for a family session in an instance in which the family is unable to attend a scheduled session by an LBHP or licensure candidate as described in OAC 317:30-5-240.3.

(D) **Process group therapy.** The focus of process group therapy must be directly related to goals and objectives on the individual member's plan of care. The individual member's behavior and the focus of the group must be included in each member's medical record. This service does not include social skills development or daily living skills activities and must take place in an appropriate confidential setting, limited to the therapist, appropriate hospital staff, and group members. Group therapy must be provided three (3) hours per week in acute care and two (2) hours per week in residential treatment by an LBHP or licensure candidate as defined in OAC 317:30-5-240.3. In lieu of one (1) hour of process group therapy, one (1) hour of expressive group therapy provided by an LBHP, licensure candidate, or ~~Licensed Therapeutic Recreation Specialist~~licensed therapeutic recreation specialist may be substituted.

(E) **Transition/~~Discharge Planning~~discharge planning.** Transition/discharge planning must be provided one (1) hour per week in acute care and thirty (30) minutes per week in residential and CBT. Transition/~~Discharge~~discharge planning can be provided by any level of inpatient staff.

(2) **Elective services.**

(A) **Expressive group therapy.** Through active expression, inner-strengths are discovered that can help the member deal with past experiences and cope with present life situations in more beneficial ways. The focus of the group must be directly related

to goals and objectives on the individual member's plan of care. Documentation must include how the member is processing emotions/feelings. Expressive therapy must be a planned therapeutic activity, facilitated by staff with a relevant ~~Bachelor's~~bachelor's degree and/or staff with relevant training, experience, or certification to facilitate the therapy.

(B) **Group rehabilitative treatment.** Examples of educational and supportive services, which may be covered under the definition of group rehabilitative treatment services, are basic living skills, social skills (re)development, interdependent living, self-care, lifestyle changes and recovery principles. Each service provided under group rehabilitative treatment services must have goals and objectives, directly related to the individual plan of care.

(C) **Individual rehabilitative treatment.** Services will be for the reduction of psychiatric and behavioral impairment and the restoration of functioning consistent with the requirements of independent living and enhanced self-sufficiency. This service includes educational and supportive services regarding independent living, self-care, social skills (re)development, lifestyle changes and recovery principles and practices. Each individual rehabilitative treatment service provided must have goals and objectives directly related to the individualized plan of care and the member's diagnosis.

(D) **Recreation therapy.** Services will be provided to reduce psychiatric and behavioral impairment as well as to restore, remediate and rehabilitate an individual's level of functioning and independence in life activities. Services will also be provided in such a way as to promote health and wellness as well as reduce or eliminate the activity limitations and restrictions to participation in life situations caused by an illness or disabling condition. Recreational therapy can be provided in an individual or group setting. If the only activities prescribed for the individual are primarily diversional in nature, (i.e. to provide some social or recreational outlet for the individual), it will not be regarded as active treatment. If provided, recreational therapy must be a planned therapeutic activity, facilitated by a ~~Licensed Therapeutic Recreation Specialist~~licensed therapeutic recreation specialist.

(E) **Occupational therapy.** Services will be provided to address developmental and/or functional needs related to the performance of self-help skills, adaptive behavioral, and/or sensory, motor and postural development. Services include therapeutic goal-directing activities and/or exercises used to improve mobility and ~~activities of daily living (ADL)~~ADL functions when such functions have been impaired due to illness or injury. Services must be provided by an occupational therapist appropriately licensed in the state in which they practice.

(F) **Wellness resource skills development.** Services include providing direction and coordinating support activities that promote good physical health. The focus of these activities should include areas such as nutrition, exercise, support with averting or managing physical health concerns like heart disease, diabetes, and cholesterol, and support regarding the effects of medications have on physical health. Services can include support groups, exercise groups, and individual physical wellness plan development, implementation assistance and support.

(3) **Modifications to active treatment.** When a member is too physically ill or their acuity level precludes them from active behavioral health treatment, documentation must demonstrate that alternative clinically appropriate services were provided.

(e) The expectation is that active treatment will occur regularly throughout the treatment week. A treatment week in ~~Acute~~acute is based on the number of days of acute service, beginning the day of admission (day 1). Required active treatment components will be based upon the length of stay as described below. A treatment week in ~~RTC~~a residential treatment center (RTC), PRTF and CBT is considered to be a calendar week (i.e. Sunday through Saturday). When a child is admitted to RTC, PRTF or CBT level of care on a day other than Sunday, or discharges on a day other than Saturday, the week will be considered a partial week and services will be required as described below. Active treatment components may include assessments/evaluations to serve as the initial individual or family session if completed by an LBHP or licensure candidate. Start and stop time must be documented. Active treatment begins the day of admission. Days noted are calendar days.

(1) **Individual treatment provided by the physician.**

(A) In acute, by day two (2), ~~1~~one (1) visit is required. By day ~~4, 2~~four (4), two (2) visits are required. By day ~~7, 3~~seven (7), three (3) visits are required.

(B) In RTC, PRTF or CBT, one (1) visit during admission week is required. In RTCs, ~~1~~one (1) visit during the admission week is required, then once a week thereafter. In PRTFs, one (1) visit during the admission week is required, then once a week thereafter. In CBT, ~~1~~one (1) visit is required within ~~7~~seven (7) days of admission. Individual treatment provided by the physician will never exceed ~~10~~ten (10) days between sessions in PRTFs, never exceed ~~7~~seven (7) days in a specialty PRTF and never exceed ~~30~~thirty (30) days in CBTs. The completion of a psychiatric evaluation or a combined psychiatric evaluation and a ~~History and Physical~~history and physical (H&P) evaluation may count as the first visit by the physician if the evaluation was personally rendered by the psychiatrist. If the member is admitted on the last day of the admission week, then the member must be seen by a physician within ~~24~~sixty (60) hours of admission time.

(2) **Individual therapy.**

(A) In acute, by day ~~3, 30~~three (3), thirty (30) minutes of treatment are required. By day ~~5, 1~~five (5), one (1) hour of treatment is required. Beginning on day ~~7, 2~~seven (7), two (2) hours of treatment are required each week. This does not include admission assessments/evaluations or ~~Psychosocial Evaluations~~psychosocial evaluations unless personally (face to face) rendered by the LBHP or licensure candidate.

(B) In residential treatment (including PRTF and CBT), by day ~~6, 30~~six (6), thirty (30) minutes of treatment must be documented. Beginning on day ~~7, 1~~seven (7), one (1) hour of treatment is required each week. The treatment week is defined as Sunday through Saturday. Individual therapy may not exceed a total of ~~10~~ten (10) days between sessions. This does not include admission assessment/~~-~~evaluation or ~~Psychosocial Evaluations~~psychosocial evaluations unless personally (face to face) rendered by the LBHP or licensure candidate.

(3) **Family therapy.**

(A) In acute, by day ~~6, 30~~six (6), thirty (30) minutes of treatment must be documented. Beginning on day ~~7, 1~~seven (7), one (1) hour of treatment is required each week. This does not include admission assessments/evaluation or ~~Psychosocial Evaluations~~psychosocial evaluations unless personally (face to face) rendered by the LBHP or licensure candidate and the assessments/evaluation or ~~Psychosocial Evaluation~~psychosocial evaluation has not been used to substitute the initial individual therapy requirement.

(B) In residential treatment (including PRTF and CBT), by day ~~6, 30~~six (6), thirty (30) minutes of treatment must be documented. Beginning on day ~~7, 1~~seven (7), one (1) hour of treatment is required each week. This does not include admissions assessment/evaluation or ~~Psychosocial Evaluations~~psychosocial evaluation unless personally (face to face) rendered by the LBHP or licensure candidate and the assessment/evaluation or ~~Psychosocial Evaluation~~psychosocial evaluation has not been used to substitute the initial individual therapy requirement. Family therapy provided by the LBHP or licensure candidate should not exceed ~~10~~ten (10) days in between sessions.

(4) **Process group therapy.**

(A) In acute, by day ~~3, 1~~three (3), one (1) hour of treatment is required. By day ~~5, 2~~five (5), two (2) hours of treatment are required. Beginning on day ~~7, 3~~seven (7), three (3) hours of treatment are required each week.

(B) In residential treatment (including PRTF and CBT), by day ~~5, 1~~five (5), one (1) hour of treatment is required. Beginning on day ~~7, 2~~seven (7), two (2) hours of treatment are required each week.

(f) When an individual is determined to be too ill to participate in treatment, as determined by medical/nursing staff ~~(RN/LPN)~~ (registered nurse (RN)/licensed practical nurse (LPN)), documentation must be in the record clearly indicating the reason, limitations, and timeframe for those services to be excused without penalty.

[OAR Docket #19-444; filed 5-30-19]

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

[OAR Docket #19-468]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 6. Inpatient Psychiatric Services
317:30-5-95.33 [AMENDED]
(Reference APA WF # 18-28)
AUTHORITY:
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SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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GIST/ANALYSIS:
The proposed revisions comply with federal regulations by assuring that members under twenty-one (21) years of age, who are residing in qualified inpatient psychiatric settings, have access to a full range of medically necessary Early and Periodic Screening, Diagnostic and Treatment (EPSDT) services. Revisions will also emphasize that EPSDT services are accessible, regardless of whether such services are listed on the member's individual plan of care.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 6. INPATIENT PSYCHIATRIC SERVICES

317:30-5-95.33. Individual plan of care for members under the age of twenty-one (21)

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

(1) **"Licensed ~~Behavioral Health Professional~~behavioral health professional (LBHP)"** means licensed psychologists, licensed clinical social workers (LCSW), licensed marital and family therapists (LMFT), licensed professional counselors (LPC), licensed behavioral practitioners (LBP), licensed alcohol and drug counselors (LADC), and ~~Advanced Practice Registered Nurses~~advanced practice registered nurses (APRN).

(2) **"Licensure ~~Candidate~~candidate"** means practitioners actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards:

(A) Psychology,
(B) Social Work (clinical specialty only),
(C) Professional Counselor,
(D) Marriage and Family Therapist,
(E) Behavioral Practitioner, or
(F) Alcohol and Drug Counselor.

(3) **"Individual ~~Plan of Care~~plan of care (IPC)"** means a written plan developed for each member within four (4) calendar days of admission to an acute psychiatric facility or a PRTF that directs the care and treatment of that member. The IPC must be recovery focused, trauma informed, and specific to culture, age, and gender and include:

(A) A primary diagnosis from the most recent edition of ~~"The Diagnostic and Statistical Manual of Mental Disorders"~~the Diagnostic and Statistical Manual of Mental Disorders (DSM) with the exception of V-Codes, adjustment disorders, and substance abuse related disorders, accompanied by a detailed description of the symptoms supporting the diagnosis. Members eighteen (18) to twenty (20) years of age may have a diagnosis of any personality disorder. Adjustment or substance related disorders may be a secondary diagnosis;

(B) ~~the~~The current functional level of the individual;

(C) ~~treatment~~Treatment goals and measurable, time-limited objectives;

(D) ~~any~~Any orders for psychotropic medications, treatments, restorative and rehabilitative services, activities, therapies, social services, diet, and special procedures recommended for the health and safety of the member;

(E) ~~plans~~Plans for continuing care, including review and modification to the IPC; and

(F) ~~plan~~Plan for discharge, all of which is developed to improve the member's condition to the extent that the inpatient care is no longer necessary.

(b) The IPC:

(1) ~~must~~Must be based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the individual member and reflects the need for inpatient psychiatric care;

(2) ~~must~~Must be developed by a team of professionals in consultation with the member, his or her parents or legal guardians [for members under the age of eighteen (18)], or others in whose care he or she will be released after discharge. This team must consist of professionals as specified below:

(A) ~~for~~For a member admitted to a psychiatric hospital or PRTF, by the "interdisciplinary team" as defined by ~~OAC~~Oklahoma Administrative Code (OAC) 317:30-5-95.35(b)(2), per 42 C.F.R. §§ 441.155 and 483.354; or

(B) ~~for~~For a member admitted to a psychiatric unit of a general hospital, by a team comprised of at least:

(i) ~~an Allopathic or Osteopathic Physician~~An allopathic or osteopathic physician with a current license and a board certification/eligible in psychiatry, or a current resident in psychiatry practicing as described in OAC 317:30-5-2(a)(1)(U); and

(ii) ~~a Registered Nurse~~A registered nurse (RN) with a minimum of two (2) years of experience in a mental health treatment setting; and

(iii) ~~an~~An LBHP.

(3) ~~must~~Must establish treatment goals that are general outcome statements and reflective of informed choices of the member served. Additionally, the treatment goals must be appropriate to the member's age, culture, strengths, needs, abilities, preferences, and limitations;

(4) ~~must~~Must establish measurable and time-limited treatment objectives that reflect the expectations of the member served and parents/legal guardians (when applicable), as well as being age, developmentally, and culturally appropriate. When modifications are being made to accommodate age, developmental level, or a cultural issue, the documentation must be reflected on the IPC. The treatment objectives must be achievable and understandable to the member and the parents/legal guardians (when applicable). The treatment objectives also must be appropriate to the treatment setting and list the frequency of the service;

(5) ~~must~~Must prescribe an integrated program of therapies, activities, and experiences designed to meet the objectives;

(6) ~~must~~Must include specific discharge and after care plans that are appropriate to the member's needs and effective on the day of discharge. At the time of discharge, after care plans will include referral to medication management, outpatient behavioral health counseling, and case management, to include the specific appointment date(s), names, and addresses of service provider(s) and

related community services to ensure continuity of care and reintegration for the member into his or her family, school, and community;

(7) ~~must~~Must be reviewed, at a minimum, every five (5) to nine (9) calendar days for members admitted to an acute care setting; every fourteen (14) calendar days for members admitted to a regular PRTF; every twenty-one (21) calendar days for members admitted to an OHCA-approved longer-term treatment program or specialty PRTF; and every thirty (30) calendar days for members admitted to a Community Based Transitional PRTF. Review must be undertaken by the appropriate team specified in OAC 317:30-5-95.33(b)(2), above, to determine that services being provided are or were required on an inpatient basis, and to recommend changes in the IPC as indicated by the member's overall adjustment, progress, symptoms, behavior, and response to treatment;

(8) ~~development~~Development and review must satisfy the utilization control requirements for recertification [42 C.F.R.§§ 456.60(b), 456.160(b), and 456.360(b)], and establishment and periodic review of the IPC (42 C.F.R.§§ 456.80, 456.180, and 456.380); and,

(9) ~~each~~Each IPC and IPC review must be clearly identified as such and be signed and dated individually by the member, parents/legal guardians [for members under the age of eighteen (18)], and required team members. All IPCs and IPC reviews must be signed by the member upon completion, except when a member is too physically ill or the member's acuity level precludes him or her from signing. If the member is too physically ill or the member's acuity level precludes him or her from signing the IPC and/or the IPC review at the time of completion, the member must sign the plan when his or her condition improves, but before discharge. The documentation should indicate the reason the member was unable to sign and when the next review will occur to obtain the signature. IPCs and IPC reviews are not valid until completed and appropriately signed and dated. All requirements for the IPCs and IPC reviews must be met; otherwise, a partial per diem recoupment will be merited. If the member's parent/legal guardian is unable to sign the IPC or IPC review on the date it is completed, then within seventy-two (72) hours the provider must in good faith and with due diligence attempt to telephonically notify the parent/legal guardian of the document's completion and review it with them. Documentation of reasonable efforts to make contact with the member's parent/legal guardian must be included in the clinical file. In those instances where it is necessary to mail or fax an IPC or IPC review to a parent/legal guardian or Oklahoma Department of Human Services/Oklahoma Office of Juvenile Affairs (DHS/OJA) worker for review, the parent/legal guardian and/or DHS/OJA worker may fax back his or her signature. The provider must obtain the original signature for the clinical file within thirty (30) days. Stamped or photocopied signatures are not allowed for any parent/legal guardian or member of the treatment team.

(10) Medically necessary Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services shall be provided to members, under the age of twenty-one (21), who are residing in an inpatient psychiatric facility, regardless of whether such services are listed on the IPC. Reimbursement for the provision of medically necessary EPSDT services to individuals under age twenty-one (21), while the member is residing in an inpatient psychiatric facility, will be provided in accordance with the Oklahoma Medicaid State Plan.

[OAR Docket #19-468; filed 5-30-19]

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

[OAR Docket #19-467]

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GIST/ANALYSIS:
The proposed revisions streamline crossover payments of Medicare/Medicaid dual eligible individuals for Part A and B services. Further revisions will also involve limited rewriting aimed at clarifying text, eliminating redundancies, and updating outdated terminology.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,

SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 6. INPATIENT PSYCHIATRIC SERVICES

317:30-5-96.6. Payment for Medicare/Medicaid dual ~~eligibles~~eligible individuals

~~Payment is made to hospitals for services to Medicare eligible individuals as set forth in this section. Payment is not made to freestanding psychiatric hospitals for inpatient coinsurance and/or deductible for individuals between 21 and 65 years of age.~~

~~(1) **Individuals eligible for Part A and Part B.**~~

~~(A) Payment is made utilizing the Medicaid allowable for comparable Part B services.~~

~~(B) Payment is made for the inpatient deductible for Part A services for categorically needy individuals under the age of 21 and age 65 and over.~~

~~(2) **Individuals who are not eligible for Part A services.** For individuals who have exhausted Medicare Part A benefits, claims must be accompanied by a statement from the Medicare Part A intermediary showing the date benefits were exhausted.~~

(a) **For dual eligible members.** Payment is made for Medicare-related deductibles and/or coinsurance.

(b) **For individuals who are not eligible for Part A services.** For individuals who have exhausted Medicare Part A benefits, claims must be accompanied by a statement from the Medicare Part A Regional Administrative Contractor showing the date benefits were exhausted.

[OAR Docket #19-467; filed 5-30-19]

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

[OAR Docket #19-449]

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PERMANENT final adoption
RULES:
Subchapter 5. Eligibility and Countable Income
Part 1. Determination of Qualifying Categorical Relationships
317:35-5-4 [AMENDED]
317:35-5-4.1 [AMENDED]
Part 5. Countable Income and Resources
317:35-5-49 [AMENDED]
Subchapter 7. Medical Services
Part 7. Certification, Redetermination and Notification
317:35-7-61.1 [AMENDED]
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The Oklahoma Health Care Authority Act, Section; 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 - (P.L. 97-248); Section 1919 of the Social Security Act (42 U.S.C. 1396r); 42 CFR 440.150; 42 CFR 435.1009; 42 CFR 483.440
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GIST/ANALYSIS:
The proposed revisions remove references to "OKDHS worker" and "local county office" within the Tax Equity and Fiscal Responsibility Act (TEFRA) policy and the policy entitled "Determining categorical relationship to the disabled". The references to said titles will be replaced with "the Oklahoma Health Care Authority (OHCA)" in those instances when the policy is referencing the TEFRA program or the Level of Care Evaluation Unit (LOCEU) at OHCA. Currently, TEFRA applications are processed entirely by the OHCA. Additionally, revisions add new language, to reflect current business practices, which states the family is required to declare their household income to determine if the child is eligible for TEFRA or SoonerCare. Finally, the revisions will remove a section entitled "Specialist's examination" because the policy is obsolete.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 1. DETERMINATION OF QUALIFYING CATEGORICAL RELATIONSHIPS

317:35-5-4. Determining categorical relationship to the disabled

An individual is related to disability if he/she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted (or can be expected to last) for a continuous period of not less than ~~12~~twelve (12) months.

(1) **Determination of categorical relationship to the disabled by ~~SSA~~Social Security Administration**

(SSA). The procedures outlined in (A) through (G) of this paragraph are applicable when determining categorical relationship based on a SSA disability decision:

(A) **Already determined eligible for Social Security disability benefits.** If the applicant states he/she is already receiving Social Security benefits on the basis of disability, the information is verified by seeing the applicant's notice of award or the Social Security benefit check. If the applicant states an award letter approving Social Security disability benefits has been received but a check has not been received, this information is verified by seeing the award letter. Such award letter or check establishes categorical relationship. The details of the verification used are recorded in the case record.

(B) **Already determined eligible for ~~SSI~~Supplemental Security Income (SSI) on disability.** If the applicant, under age ~~65~~sixty-five (65), states he/she is already receiving SSI on the basis of his/her disability (or that a written notice of SSI eligibility on disability has been received but has not yet received a check) this information is verified by seeing the written notice or check. If neither are available, the county clears on the terminal system for the Supplemental Data Exchange (SDX) record. The SDX record shows, on the terminal, whether the individual has been approved or denied for SSI. If the individual has been approved for such benefits, the county uses this terminal clearance to establish disability for categorical relationship. The details of the verification used are recorded in the case record.

(C) **Pending SSI/SSA application or has never applied for SSI.** If the applicant says he/she has a pending SSI/SSA application, an SDX record may not appear on the terminal. Therefore, it is requested that the applicant bring the notice regarding the action taken on his/her SSI/SSA application to the county office as soon as it is received. The other conditions of eligibility are established while awaiting the SSI/SSA decision. When the SSI/SSA notice is presented, the details of the verification are recorded in the case record and the indicated action is taken on the Title XIX application. If the applicant says he/she has never applied for SSI/SSA but appears potentially eligible from the standpoint of unearned income and has an alleged disability which would normally be expected to last for a period of ~~12~~twelve (12) months, he/she is referred to the SSA office to make SSI/SSA application immediately following the filing of the Title XIX application.

(D) **Already determined ineligible for SSI.** If the applicant says he/she has been determined ineligible for SSI, the written notice of ineligibility from SSA is requested to determine if the denial was based on failure to meet the disability definition. If the SSI notice shows ineligibility was due to not meeting the disability definition, and the applicant says the medical condition has not worsened since the SSI denial, the Title XIX application is denied for the same reason. If written notice is not available, the SDX record on the terminal system is used. This record shows whether the individual has been determined eligible or ineligible for SSI. If he/she has been determined ineligible, the payment status code for ineligibility is shown. The definition of this code is found on OKDHS Appendix Q in order to determine the reason for SSI ineligibility. If the reason for SSI ineligibility was based on failure to meet the disability definition, the Title XIX application is denied for the same reason and the details of the verification are recorded in the case record. If the reason for SSI ineligibility was based on some reason other than failure to meet the disability definition (and therefore, a determination of disability was not made), the Level of Care Evaluation Unit (LOCEU) must determine categorical relationship. In any instance in which an applicant who was denied SSI on "disability" states the medical condition has worsened since the SSI denial, he/she is referred to the SSA office to reapply for SSI immediately following the filing of the Title XIX application.

(E) **Already determined ineligible for Social Security disability benefits.** If the applicant says he/she has been determined ineligible for Social Security disability benefits, he/she is requested to provide written notice of ineligibility to determine if the denial was based on failure to meet the disability definition. If the SSA notice shows ineligibility was due to not meeting the disability definition, and the applicant says the medical condition has not worsened since the denial, the Title XIX application is denied for the same reason. The details of the verification used are recorded in the case record. If the written notice is not available, ~~TPQY~~third party query procedure (TPQY) is used to verify the denial and the reason for ineligibility. If the reason for ineligibility was based on failure to meet the disability definition, the Title XIX application is denied for the same reason and the details of the verification are recorded in the case record. If the reason for ineligibility was based on some reason other than failure to meet the disability definition (and a determination of disability was, thus, not made), the LOCEU must determine categorical relationship. In any instance in which an applicant who was denied Social Security benefits on disability states the medical condition has worsened since the denial, he/she is referred to the SSA office to reapply immediately following the filing of the Title XIX application.

(F) **Determined retroactively eligible for SSA/SSI due to appeal.** If an individual becomes retroactively eligible for SSA/SSI due to a decision on an appeal, categorical relationship is established as of the effective date of the retroactive disability decision. Payment will be made for medical services only if the claim is received within ~~12~~twelve (12)

months from the date of medical services. If the effective date of the retroactive disability decision does not cover the period of the medical service because the SSA/SSI application was made subsequent to the service, a medical social summary with pertinent medical information is sent to the LOCEU for a categorical relationship decision for the time period of the medical service.

(G) **SSA/SSI appeal with benefits continued.** A Title XIX recipient who has filed an appeal due to SSA's determination that he/she is no longer disabled may continue to receive SSA benefits. The recipient has the option to have Title XIX benefits continued until the appeal decision has been reached. After the decision has been reached, the appropriate case action is taken. If SSA's decision is upheld, an overpayment referral is submitted for any Title XIX benefits the recipient received beginning with the month that SSA/SSI determined the recipient did not meet disability requirements.

(H) **Applicant deceased.** Categorical relationship to the disabled is automatically established if an individual dies while receiving a medical service or dies as a result of an illness for which he/she was hospitalized if death occurs within two (2) months after hospital release. The details of the verification used are recorded in the case record.

(2) **Determination of categorical relationship to the disabled by the LOCEU.**

(A) A disability decision from the LOCEU to determine categorical relationship to the disabled is required only when SSA makes a disability decision effective after medical services were received or when the SSA will not make a disability decision. The LOCEU is advised of the basis for the referral. SSA does not make disability decisions on individuals who:

(i) have been determined ineligible by SSA on some condition of eligibility other than disability,

(ii) have unearned income in excess of the SSI standard and, therefore, are not referred to SSA, or

(iii) do not have a disability which would normally be expected to last ~~12~~twelve (12) months but the applicant disagrees.

(B) A disability decision from the LOCEU is not required if the disability obviously will not last ~~12~~twelve (12) months and the individual agrees with the short term duration. The case record is documented to show the individual agrees with the short term duration.

(C) The local ~~OKDHS~~DHS office is responsible for submitting a medical social summary on ~~OKDHS~~DHS form ABCDM-80-D 08MA022E with pertinent medical information substantiating or explaining the individual's physical and mental condition. The medical social summary should include relevant social information such as the worker's personal observations, details of the individual's situation including date of onset of the disability, and the reason for the medical decision request. The worker indicates the beginning date for the categorical relationship to disability. Medical information submitted might include physical exam results, psychiatric, lab, and x-ray reports, hospital admission and discharge summaries, and/or doctors' notes and statements. Copies of medical and hospital bill and ~~OKDHS~~DHS Form 08MA005E are not normally considered pertinent medical information by themselves. Current (less than ~~90~~ninety (90) days old) medical information is required for the LOCEU to make a decision on the client's current disability status. If existing medical information cannot be obtained without cost to the client, the county administrator authorizes either payment for existing medical information or one general physical examination by a medical or osteopathic physician of the client's choice. The physician cannot be in an intern, residency or fellowship program of a medical facility, or in the full-time employment of Veterans Administration, Public Health Service or other Agency. Such examination is authorized by use of ~~OKDHS~~DHS form 08MA016E, Authorization for Examination and Billing. The ~~OKDHS~~DHS worker sends the 08MA016E and ~~OKDHS~~DHS form 08MA080E, Report of Physician's Examination, to the physician who will be completing the exam.

(3~~i~~) **Responsibility of Medical Review Team in the LOCEU.** The responsibilities of the Medical Review Team in the LOCEU include:

(A~~I~~) The decision as to whether the applicant is related to Aid to the Disabled.

(B~~II~~) The effective date (month and year) of eligibility from the standpoint of disability. (This date may be retroactive for any medical service provided on or after the first day of the third month prior to the month in which the application was made.)

(C~~III~~) A request for additional medical and/or social information when additional information is necessary for a decision.

~~(IV) Authorizing specialists' examinations as needed.~~

~~(V) Setting a date for re-examination, if needed.~~

~~(ii) **Specialist's examination.** If, on receipt of the medical information from the county office, the LOCEU needs additional medical information, the LOCEU may, at their discretion, make an appointment for a specialist's examination by a physician selected by the medical member of the team and authorize it on Form M-S-32, Request to Physician for Examination and Authorization for Billing, routing the original of the form to the examining physician and a copy to the county office. As soon as the county receives a copy of Form M-S-32, the worker immediately notifies the individual of the appointment and explains that failure to keep the appointment with the specialist without good cause will result in denial~~

~~of the application (or closure of the case in instances of determination of continuing disability). The worker assists the individual in keeping the appointment, if necessary.~~

~~(I) If the specialist requires additional laboratory work or X-rays, he/she should call the LOCEU for authorization. The LOCEU is responsible for making the decision regarding the request. If additional medical services are authorized, another Form M-S-32 will be completed.~~

~~(II) If the individual notifies the worker at least 24twenty-four (24) hours prior to the date of the examination that he/she cannot keep the appointment, this constitutes good cause. In such an instance, the worker cancels the appointment, makes a new appointment, and submits information regarding the cancellation and the date of a new appointment to the LOCEU.~~

~~(III) When the individual fails to keep the appointment without advance notice, good cause must be determined. The worker determines the reasons and submits a memorandum to the LOCEU for a decision on good cause.~~

~~(IV) If the appointment was missed due to illness, the illness must be supported by a written statement from a physician. If missed for some reason other than illness, the reason must be supported by an affidavit signed by someone other than the individual or his/her representative and sworn to before a notary public or other person authorized to administer oaths. If, in the opinion of the LOCEU, good cause is established, the LOCEU and the county follow the same procedures as outlined in (2)(C)(ii) of this Section for any other specialist's examination. If, in the opinion of the LOCEU, good cause is not established, the LOCEU notifies the local office. The local office is responsible for denying the application or closing the case with notification to individual in accordance with OHCA and Department policy.~~

(D) When the LOCEU has made a determination of categorical relationship to disability and SSA later renders a different decision, the ~~county~~Oklahoma Health Care Authority (OHCA) uses the effective date of the SSA approval or denial as their date of disability approval or denial. No overpayment will occur based solely on the SSA denial superseding the LOCEU approval.

(E) Public Law 97-248, the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982, provides coverage to certain disabled children living in the home if they would qualify for Medicaid as residents of nursing facilities, ICF/IIDs, or inpatient acute care hospital stays expected to last not less than ~~60~~sixty (60) days. In addition to disability, LOCEU determines the appropriate level of care and cost effectiveness.

(~~3~~4) **Determination of categorical relationship to the disabled based on ~~TB~~Tuberculosis (TB) infection.** Categorical relationship to disability is established for individuals with a diagnosis of ~~tuberculosis (TB)~~TB. An individual is related to disability for TB related services if he/she has verification of an active TB infection established by a medical practitioner.

(~~4~~5) **Determination of categorical relationship to the disabled for TEFRA.** Section 134 of TEFRA allows states, at their option, to make Medicaid benefits available to children, under ~~19~~nineteen (19) years of age, living at home who are disabled as defined by the ~~Social Security Administration~~SSA, even though these children would not ordinarily be eligible for SSI benefits because of the deeming of parental income or resources. Under TEFRA, a child living at home who requires the level of care provided in an acute care hospital (for a minimum of ~~60~~sixty (60) days), nursing facility or intermediate care facility for individuals with intellectual disabilities, is determined eligible using only his/her income and resources as though he/she were institutionalized.

317:35-5-4.1. Special level of care and cost effectiveness application procedures for ~~TEFRA~~Tax Equity and Fiscal Responsibility Act (TEFRA)

(a) In order for a child to be eligible for TEFRA, he/she must require a level of care provided in an acute care hospital for a minimum of ~~60~~sixty (60) days, or a nursing facility (NF) or intermediate care facility for individuals with intellectual disabilities (ICF/IID) for a minimum of ~~30~~thirty (30) days. It must also be appropriate to provide care to the child at home. The level of care determination is made by LOCEU. The level of care certification period may be for any number of months that the LOCEU determines appropriate. At the time of application, an assessment form is provided to the applicant for completion by the child's physician. Once completed by the physician and returned to the ~~OKDHS worker~~Oklahoma Health Care Authority, the assessment form is forwarded to the LOCEU along with the request for a disability determination (if needed).

(b) The estimated cost of caring for the child at home must not exceed the estimated cost of treating the child within an institution at the appropriate level of care, i.e., hospital, NF, or ICF/IID. The initial cost analysis is established by LOCEU based on the information provided by the TEFRA-1 Assessment form~~, OKDHS worker,~~ and medical information used in the relationship to disability determination.

(c) The level of care determination and cost effectiveness analysis are reported by LOCEU annually.

PART 5. COUNTABLE INCOME AND RESOURCES

317:35-5-49. Determination of income and resources for categorical relationship to ~~TEFRA~~Tax Equity and Fiscal Responsibility Act (TEFRA)

Countable income and resources for a child categorically related to disability for TEFRA are determined in accordance with rules for individuals determined aged, blind, or disabled (see ~~OAC~~Oklahoma Administrative Code 317:35-5-41 through 317:35-5-41.11, 317:35-5-42, and 317:35-7-36). ~~Income and resources may not exceed the maximum standards as shown on OKDHS Appendix C-1, Schedules VIII. B. and D~~The family is required to declare their household income so that the Oklahoma Health Care Authority may determine if the child qualifies for the TEFRA program or is otherwise SoonerCare eligible.

SUBCHAPTER 7. MEDICAL SERVICES

PART 7. CERTIFICATION, REDETERMINATION AND NOTIFICATION

317:35-7-61.1. Special redetermination procedures for ~~TEFRA~~Tax Equity and Fiscal Responsibility Act (TEFRA)

In addition to redetermining the level of care annually, the OHCA also conducts an annual cost effectiveness review for all active TEFRA children. ~~The local county office is notified of the results of the review for any necessary case action.~~ If OHCA determines the child does not meet any level of care, is no longer disabled, or the estimated cost of care in the home is greater than the estimated cost of care in an institution, at the appropriate level of care, the case is closed.

[OAR Docket #19-449; filed 5-30-19]

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

[OAR Docket #19-451]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-41 [AMENDED]
317:35-5-41.1 [AMENDED]
317:35-5-41.2 [AMENDED]
317:35-5-41.3 [AMENDED]
317:35-5-41.8 [AMENDED]
317:35-5-41.9 [AMENDED]
317:35-5-41.12 [NEW]
(Reference APA WF # 18-14)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 20 CFR Section 416.1210; 20 CFR Section 416.1236; 20 CFR Section 416.1235; 20 CFR Section 416.1245
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERGENCY ACTIONS:
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n/a
GIST/ANALYSIS:
The proposed revisions update policy on resources that are disregarded by federal law due to Oklahoma transitioning from a 209(b) state to a Supplemental Security Income (SSI) criteria state for determination of eligibility for SSI related eligibility groups such as the Aged, Blind, and Disabled (ABD).
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 5. COUNTABLE INCOME AND RESOURCES

317:35-5-41. Determination of capital resources for individuals categorically related to aged, blind and disabled

(a) **General.** The term capital resources is a general term representing any form of real and/or personal property which has an available money value. All available capital resources, except those required to be disregarded by law or by policies of the ~~OHCA~~Oklahoma Health Care Authority (OHCA) or ~~OKDHS~~Oklahoma Department of Human Services (DHS) are considered in determining need. DHS Appendix C-1, Schedule VIII establishes the allowable limit for nonexcludable resources. Available resources are those resources which are in hand or under the control of the individual.

(1) In defining need, OHCA and ~~OKDHS~~DHS recognize the importance of a member retaining a small amount of resources for emergencies or special need and

has established a maximum resource standard a member or family may hold and be considered in need.

(2) Capital resources are evaluated on a monthly basis in determining eligibility for an applicant for medical services. An applicant is determined ineligible for any month resources exceed the resource standard at any time during that month. When a member has resources which exceed the resource standard, case closure action is taken for the next possible effective date.

(3) State law is specific on the mutual responsibility of spouses for each other. Therefore, if husband and wife are living together, a capital resource and/or income available to one spouse constitutes a resource and/or income to the other. When there is a break in the family relationship and the husband and wife are separated, but not divorced or legally separated, they constitute a possible resource to each other and this possible resource is explored to determine what, if any, resource can be made available. When a spouse is in a nursing facility, see ~~Subchapter~~Subchapters 9 and 19 of this Chapter.

(4) Only the resources of the child determined eligible for ~~TEFRA~~Tax Equity Fiscal Responsibility Act (TEFRA) are considered in determining eligibility.

(5) ~~Household equipment used for daily living is not considered a resource.~~Household goods and personal effects are not considered capital resources. Household goods and personal effects are defined as follows:

(A) Household goods are:

(i) Items of personal property, found in or near the home, that are used on a regular basis; and/or

(ii) Items needed by the householder for maintenance, use, and occupancy of the premises as a home.

(B) Personal effects are:

(i) Items of personal property ordinarily worn or carried by the individual; and/or

(ii) Articles otherwise having an intimate relation to the individual.

(C) Personal effects do not include items that were acquired or are held for their value or as an investment. Such items can include but are not limited to gems, jewelry that is not worn or held for family significance, or collectibles.

(6) Each time that need is determined, gross income and the equity of each capital resource are established. Equity equals current market value minus indebtedness. The member may change the form of capital resources from time to time without affecting eligibility so long as the equity is not decreased in doing so or increased in excess of the allowable maximum resource standard. In the event the equity is decreased as the result of a sale or transfer, the reduction in the equity is evaluated in relation to policy applicable to resources disposed of while receiving assistance.

(b) **Eligibility.** In determining eligibility based on resources, only those resources available for current use or those which the member can convert for current use (no legal impediment involved) are considered as countable resources. Examples of legal impediments include, but are not limited to, clearing an estate, probate, petition to sell, or appointment of legal guardian.

(1) Generally, a resource is considered unavailable if there is a legal impediment to overcome. However, the member must agree to pursue all reasonable steps to initiate legal action within ~~30~~thirty (30) days. While the legal action is in process, the resource is considered unavailable.

(2) If a determination is made and documented that the cost of making a resource available exceeds the gain, the member will not be required to pursue action to make it available.

(3) Determination of available and unavailable resources must be well documented in the case record.

(4) The major types of capital resources are listed in Sections ~~OAC 317:35-5-41.1 through 317:35-5-41.7~~Oklahoma Administrative Code (OAC) 317:35-5-41.1 through 317:35-5-41.7, as well as OAC 317:35-5-41.12. The list is not intended to be all inclusive and consideration must be given to all resources.

317:35-5-41.1. Home/real property

(a) Home property is excluded from resources regardless of value unless the individual is applying for long-term care services~~.~~ [See Oklahoma Administrative Code (OAC) 317:35-5-41.8(a) (relating to eligibility for long-term care services)].For purposes of the home property resource exclusion, a home is defined as any shelter in which the individual has an ownership interest and which is used by the individual as his/her principal place of residence. The home may be either real or personal property, fixed or mobile.

(1) Home property includes all property which is adjacent to the home. Land is considered adjacent even if separated by a boundary line, street, alley, highway, or waterway.

(2) Property has a value regardless of whether there is an actual offer to purchase. Verification of home/real property value is established by collateral contacts with specialized individuals knowledgeable in the type and location of property being considered. Mineral rights and wind rights associated with the home property are not valued separate from the surface.

(3) The home may be retained without affecting eligibility during periods when it is necessary to be absent for illness or other necessity. When it is determined that the member does not have a feasible plan for and cannot be expected to return to his/her home, the market value of the property is considered in relation to the resource. The member is responsible for taking all steps necessary to convert the resource for use in meeting current needs. If the member is making an effort to make the resource available, a reasonable period of time is given [not to exceed ninety (90) days] to convert the resource. He/she is advised in writing that the ninety-day (90-day) period begins with the determination that the property be considered in relation to the resource. The ninety-day (90-day) period is given only if efforts are in progress to make the resource available. Any extension beyond the initial

ninety-day (90-day) period is justified only after interviewing the member, determining that a good faith effort to sell is still being made and failure to sell is due to circumstances beyond the control of the member. A written notification is also provided to the member at any time an extension is allowed. Detailed documentation in the case record is required.

(4) If the member fails or is unwilling to take steps necessary to convert the resource for use in meeting current needs, continuing eligibility cannot be established and the member is advised as to the effective date of closure and of the right to receive assistance when the resources are within the maximum allowable resources provided other conditions of eligibility continue to be met.

(5) When a member sells his/her home with the intention of purchasing another home or when an insurance payment for damage to the home is received, a reasonable period of time is given to reinvest the money in another home. A reasonable period of time is considered to not exceed a ninety-day (90-day) period. Extensions beyond the ninety (90) days may be justified only after interviewing the member; and determining that a good faith effort is still being made; and that completion of the transaction is beyond his/her control. This must be documented in the case record.

(6) At the point a member decides not to reinvest the proceeds from the sale of his/her home in another home, the member's plan for use of the proceeds is evaluated in relation to rules on resources disposed of while receiving assistance.

(7) A home traded for another home of equal value does not affect the member's eligibility status. If the home is traded for a home of lesser value, the difference may be invested in improvement of the new home.

(8) Absences from home for up to ninety (90) days for trips or visits or six (6) months for medical care (other than nursing facilities) do not affect receipt of assistance or the home exclusion as long as the individual intends to return home. Such absences, if they extend beyond those limits, may indicate the home no longer serves as the principal place of residence.

(9) Mineral rights, associated with the home property, are considered along with the surface rights and are excluded as a resource.

~~(b) For purposes of the home property resource exclusion, a home is defined as any shelter in which the individual has an ownership interest and which is used by the individual as his/her principal place of residence. The home may be either real or personal property, fixed or mobile. Home property includes all property which is adjacent to the home. Property has a value regardless of whether there is an actual offer to purchase. Verification of home/real property value is established by collateral contacts with specialized individuals knowledgeable in the type and location of property being considered.~~

~~(1) The home may be retained without affecting eligibility during periods when it is necessary to be absent for illness or other necessity. When it is determined that the member does not have a feasible plan for and cannot be expected to return to his/her home, the market value of the property is considered in relation to the resource. The member is responsible for taking all steps necessary to convert the resource for use in meeting current needs. If the member is making an effort to make the resource available, a reasonable period of time is given (not to exceed 90 days) to convert the resource. He/she is advised in writing that the 90-day period begins with the determination that the property be considered in relation to the resource. The 90-day period is given only if efforts are in progress to make the resource available. Any extension beyond the initial 90-day period is justified only after interviewing the member, determining that a good faith effort to sell is still being made and failure to sell is due to circumstances beyond the control of the member. A written notification is also provided to the member at any time an extension is allowed. Detailed documentation in the case record is required.~~

~~(2) If the member fails or is unwilling to take steps necessary to convert the resource for use in meeting current needs, continuing eligibility cannot be established and the member is advised as to the effective date of closure and of the right to receive assistance when the resources are within the maximum allowable resources provided other conditions of eligibility continue to be met.~~

~~(3) When a member sells his/her home with the intention of purchasing another home or when an insurance payment for damage to the home is received, a reasonable period of time is given to reinvest the money in another home. A reasonable period of time is considered to be not in excess of a 90-day period. Extensions beyond the 90 days may be justified only after interviewing the member, determining that a good faith effort is still being made and that completion of the transaction is beyond his/her control. This must be documented in the case record.~~

~~(4) At the point a member decides not to reinvest the proceeds from the sale of his/her home in another home, the member's plan for use of the proceeds is evaluated in relation to rules on resources disposed of while receiving assistance.~~

~~(5) A home traded for another home of equal value does not affect the member's eligibility status. If the home is traded for a home of lesser value, the difference may be invested in improvement of the new home.~~

~~(6) Absences from home for up to 90 days for trips or visits or six months for medical care (other than nursing facilities) do not affect receipt of assistance or the home exclusion as long as the individual intends to return home. Such absences, if they extend beyond those limits, may indicate the home no longer serves as the principal place of residence.~~

~~(7) Mineral rights associated with the home property are considered along with the surface rights and are excluded as a resource. However, mineral rights which are not associated with the home property are considered as a resource. Since evaluation and scalability of mineral rights fluctuate, the establishment of the value of mineral rights are established based on the opinion of collateral~~

~~sources. Actual offers of purchase are used when established as a legitimate offer through a collateral source. Mineral rights not associated with home property which are income producing are considered in the same way as income producing property. Refer to (11)(B) of this subsection for treatment of mineral rights as non-trade or non-business property.~~

~~(8) The market value of real estate other than home property owned by the member or legal dependent and encumbrances against such property are ascertained in determining the equity (including the cost to the member of a merchantable title to be determined when the resource approaches the maximum). The market value of real estate other than the home owned by the applicant is established on the basis of oral or written information which the applicant has on hand and counsel with persons who have specialized knowledge about this kind of resource. Refer to (11) of this subsection for exclusion of real estate that produces income.~~

~~(9) Land which is held by an enrolled member of an Indian tribe is excluded from resources as it cannot be sold or transferred without the permission of other individuals, the tribe, or a federal agency. If permission is needed, the land is excluded as a resource.~~

~~(10) A life estate conveys upon an individual or individuals for his/her lifetime, certain rights in property. Its duration is measured by the lifetime of the tenant or of another person; or by the occurrence of some specific event, such as remarriage of the tenant. The owner of a life estate has the right of possession, the right to use the property, the right to obtain profits from the property and the right to sell his/her life estate interest. However, the contract establishing the life estate may restrain one or more rights of the individual. The individual does not have title to all interest in the property and does not have the right to sell the property other than the interest owned during his/her lifetime. He/she may not usually pass it on to heirs in the form of an inheritance.~~

~~(A) When a life estate in property is not used as the member's home, it is necessary to establish the value. A computer procedure is available to compute the value of a life estate by input of the current market value of the property and the age of the life estate owner.~~

~~(B) The value of a life estate on mortgaged property is based on equity rather than market value and the age of the individual.~~

~~(C) In the event the member does not accept as valid the value of the life estate as established through this method, the member must secure written appraisal by two persons who are familiar with current values. If there is substantial unexplained divergence between these appraisals, the worker and the member will jointly arrange for the market value to be established by an appraisal made by a third person who is familiar with current market values and who is acceptable to both the member and the worker.~~

~~(11) Real and/or personal property which produces income is excluded if it meets the following conditions.~~

~~(A) **Trade or business property.** The existence of a trade or business may be established through business tax returns that would be used to compute self-employment earnings. If the current business tax return is unavailable, the existence of the business may be determined through other business forms, records, partnership, a detailed description of the business and its activities, etc. Once it is established that a trade or business exists, any property (real or personal) connected to it and in current use is excluded. This exclusion includes liquid assets, such as a bank account(s) necessary for the business operation. All property used by a trade or business and all property used by an employee in connection with employment is excluded as property essential to self support. The income from the trade or business is determined as any other self-employment income.~~

~~(B) **Non-trade or non-business property.** Property which produces income but is not used in a trade or business is excluded if the total equity value does not exceed $6000, and the net return equals at least 6% of the equity annually. An equity value in excess of $6000 is a countable resource. If the equity exceeds $6000 and 6% return is received on the total equity, only the amount in excess of $6000 is a countable resource. An annual return of less than 6% is acceptable if it is beyond the individual's control, and there is a reasonable expectation of a future 6% return. Liquid resources cannot be excluded as income producing property or meeting the $6000/6% rule (mortgages, including contract for deed, and notes which are income producing are considered as liquid resources). The $6000/6% rule applies to all resources in total, and not separately. Examples of non-business income producing property are rental property, timber rights, mineral rights, etc.~~

(b) Real property other than home property shall be treated as follows:

(1) Mineral rights which are not associated with the home property are considered as a resource. Since evaluation and scalability of mineral rights fluctuate, the establishment of the value of mineral rights are established based on the opinion of collateral sources. Actual offers of purchase are used when established as a legitimate offer through a collateral source. Mineral rights not associated with home property which are income producing are considered in the same way as income producing property. Refer to OAC 317:35-5-41.12(c)(3) for treatment of mineral rights as non-trade or non-business property.

(2) The market value of real estate other than home property owned by the member or legal dependent and encumbrances against such property are ascertained in determining the equity (including the cost to the member of a merchantable title to be determined when the resource approaches the maximum). The market value of real estate other than the home owned by the applicant is established

on the basis of oral or written information which the applicant has on hand and counsel with persons who have specialized knowledge about this kind of resource. Refer to OAC 317:35-5-41.12(c) for exclusion of real estate that produces income.

(3) For any individual (and spouse, if any) who is of Indian descent from a federally recognized Indian tribe, any interest in land which is held in trust by the United States for an individual Indian or tribe, or which is held by an individual Indian or tribe and which can only be sold, transferred, or otherwise disposed of with the approval of other individuals, his or her tribe, or an agency of the federal government, shall be excluded from resource determinations, in accordance with 20 Code of Federal Regulations (C.F.R.) § 416.1234.

(4) A life estate conveys upon an individual or individuals for his/her lifetime, certain rights in property. Its duration is measured by the lifetime of the tenant or of another person; or by the occurrence of some specific event, such as remarriage of the tenant. The owner of a life estate has the right of possession, the right to use the property, the right to obtain profits from the property and the right to sell his/her life estate interest. However, the contract establishing the life estate may restrain one or more rights of the individual. The individual does not have title to all interest in the property and does not have the right to sell the property other than the interest owned during his/her lifetime. He/she may not usually pass it on to heirs in the form of an inheritance.

(A) When a life estate in property is not used as the member's home, it is necessary to establish the value. A computer procedure is available to compute the value of a life estate by input of the current market value of the property and the age of the life estate owner.

(B) The value of a life estate on mortgaged property is based on equity rather than market value and the age of the individual.

(C) In the event the member does not accept as valid the value of the life estate as established through this method, the member must secure written appraisal by two (2) persons who are familiar with current values. If there is substantial unexplained divergence between these appraisals, the worker and the member will jointly arrange for the market value to be established by an appraisal made by a third (3rd) person who is familiar with current market values and who is acceptable to both the member and the worker.

(5) Real and/or personal property which produces income is excluded if it meets the following conditions established in OAC 317:35-5-41.12.

317:35-5-41.2. Miscellaneous Personal property

~~(a) **Property used to produce goods and services.** Personal property necessary to perform daily activities or to produce goods for home consumption is excluded if the equity value does not exceed $6,000. An equity value in excess of $6,000 is a countable resource. The property does not have to produce a 6% annual return. The $6,000 equity maximum includes all such resources in total and does not pertain to each item separately. Examples of property used to produce goods and services are tractors, wildcatting tools, mechanized equipment for gardening, livestock grown for home consumption, etc.~~

(~~b~~a) **Cash savings and bank accounts.** ~~Money on hand or in a savings account is considered as a countable resource~~Pursuant to Section 416.1208 of Title 20 of the Code of Federal Regulations (C.F.R.), funds held in a financial institution account (including savings, checking, and time deposits, also known as certificates of deposit) are an individual's resource if the individual has an ownership interest in the account and can use the funds for his or her support and maintenance. Verification of the member's countable income or resources held in bank accounts or at other financial institutions can be established through an Asset Verification System (AVS). ~~Title 56, O.S., Section 1671~~Section 1671 of Title 56 of the Oklahoma Statutes provides that financial records obtained for the purpose of establishing eligibility for assistance or services must be furnished without cost to the member or the Agency. If an individual is designated as sole owner by the account title, and can withdraw funds and use them for his or her support and maintenance, all of the funds, regardless of their source, are that individual's resource. For as long as these conditions are met, it is presumed that the individual owns one-hundred percent (100%) of the funds in the account. This presumption is non-rebuttable.

(1) ~~Checking accounts may or may not represent savings. Current bank statements are evaluated with the member to establish what, if any, portion of the account represents savings. Any income which has been deposited during the current month is not considered unless it exceeds what is considered as ordinary maintenance expense for the month.~~If there is only one applicant or recipient account holder on a jointly held account, it is presumed that all of the funds in the account belong to that individual. If there is more than one (1) applicant or recipient account holder, it is presumed that all the funds in the account belong to those individuals in equal shares.

(2) ~~Accounts which are owned jointly by the member and a person not receiving SoonerCare are considered available to the member in their entirety unless it can be established what part of the account actually belongs to each of the owners and the money is actually separated and the joint account dissolved. When the member is in a nursing facility and the spouse is in the home or if both are institutionalized, a joint bank account may be maintained with one-half of the account considered available to each.~~If none of the account holders is an applicant or recipient, it is presumed that all of the funds in a jointly-held account belong to the deemor(s), in equal shares if there is more than one (1) deemor. A deemor is a person whose income and resources are required to be considered when determining eligibility and computing the SoonerCare benefit for an eligible individual.

(3) The presumption of ownership, as is established in Oklahoma Administrative Code (OAC)

317:35-5-41.2(a)(1) and (a)(2), above, may be rebutted, as follows, in accordance with 20 C.F.R. § 416.1208. Successful rebuttal may be retroactive as well as prospective.

(A) The individual must submit his/her statement, along with corroborating statements from other account holders, regarding who owns the funds in the joint account, why there is a joint account, who has made deposits to and withdrawals from the account, and how withdrawals have been spent;

(B) The individual must submit account records showing deposits, withdrawals, and interest (if any) in the months for which ownership of funds is at issue; and

(C) The individual must correct the account title to show that the individual is no longer a co-owner if the individual owns none of the funds; or, if the individual owns only a portion of the funds, separate the funds owned by the other account holder(s) from his/her own funds and correct the account title on the individual's own funds to show they are solely-owned by the individual.

(~~c~~b) **Life insurance policies.** ~~If the total face value of all life insurance policies owned by an individual is $1,500 or less, the policies (both face value and cash surrender value) are excluded as resources. Verification of the member's countable income or resources held in bank accounts or at other financial institutions can be established through an AVS.~~Life insurance owned by an individual (and spouse, if any) will be considered a resource to the extent of its cash surrender value. The cash surrender value is the amount which the insurer will pay upon cancellation of the policy before death of the insured or before maturity of the policy.

(1) ~~If the total face value of all policies owned by an individual exceeds $1,500, the net cash surrender value of such policies must be counted as resources. Life insurance policies which do not provide a cash surrender value (e.g., term insurance) are not used in determining whether the total face value of all policies is over $1,500~~If the total face value of all life insurance policies on any person does not exceed $1,500, no part of the cash surrender value of such life insurance will be taken into account in determining the resources of the individual (and spouse, if any).

(2) ~~The face value of a life insurance policy which has been assigned to fund a prepaid burial contract must be evaluated and counted according to the policy on burial funds or, if applicable, the policy on the irrevocable burial contract~~In determining the face value of life insurance on the individual (and spouse, if any), term insurance and burial insurance, as defined in 20 C.F.R. § 416.1230, will not be taken into account.

~~(3) The net cash surrender value of insurance (i.e., cash surrender value less any loans or unpaid interest thereon) usually can be verified by inspection of the insurance policies and documents in the member's possession or by use of the OKDHS Form 08MP061E, Request to Insurance Company.~~

~~(4) Dividends which accrue and which remain with the insurance company increase the amount of resource. Dividends which are paid to the member are considered as income if the life insurance policy is not an excluded resource.~~

~~(5) If an individual has a life insurance policy which allows death benefits to be received while living, and the individual meets the insurance company's requirements for receiving such proceeds, the individual is not required to file for such proceeds. However, if the individual does file for and receive the benefits, the payment will be considered as income in the month it is received and countable as a resource in the following months to the extent it is available. The payment of such benefits is not considered a conversion of a resource because the cash surrender value of the insurance policy is still available to the individual. The individual is in effect, receiving the death benefits and not the cash surrender value.~~

(~~d~~c) **Burial spaces.** The value of burial spaces for an individual, the individual's spouse or any member of the individual's immediate family will be excluded from resources. ~~"Burial spaces" means conventional grave sites, crypts, mausoleums, urns, and other repositories which are customarily and traditionally used for the remains of deceased persons. "Immediate family" means the individual's minor and adult children, including adopted children and step-children; and the individual's brothers, sisters, parents, adoptive parents, and the spouse of these individuals. Neither dependency nor living in the same household will be a factor in determining whether a person is an immediate family member. Verification of the member's countable income or resources held in bank accounts or at other financial institutions can be established through an AVS.~~

(1) "Burial spaces" means burial plots, gravesites, crypts, mausoleums, urns, niches and other repositories which are customarily and traditionally used for the remains of deceased persons. Additionally, the term includes necessary and reasonable improvements or additions to or upon such burial spaces, including, but not limited to, vaults, headstones, markers, plaques, or burial containers and arrangements for opening and closing the gravesite for burial of the deceased.

(2) "Immediate family" means the individual's minor and adult children, including adopted children and step-children; and the individual's brothers, sisters, parents, adoptive parents, and the spouse of these individuals. Neither dependency nor living in the same household will be a factor in determining whether a person is an immediate family member.

(~~e~~d) **Burial funds.** ~~Revocable burial funds not in excess of $1,500 are excluded as a resource if the funds are specifically set aside for the burial arrangements of the individual or the individual's spouse. Any amount in excess of $1,500 is considered as a resource. Burial policies which require premium payments and do not accumulate cash value are not considered to be prepaid burial policies. Verification of the member's countable income or resources held in bank accounts or at other financial institutions can be established through the~~

~~AVS~~In accordance with 20 C.F.R. § 416.1231, up to $1,500 each of funds specifically set aside for the burial expenses of the individual or the individual's spouse is excluded from resources. This exclusion applies only if the funds set aside for burial expenses are kept separate from all other resources not intended for burial of the individual (or spouse) and are clearly designated as set aside for the individual's (or spouses) burial expenses. This exclusion is in addition to the burial space exclusion. Each person's $1,500 exclusion shall be reduced by:

(1) The face value of insurance policies on the life of an individual owned by the individual or spouse (if any), if the cash surrender value of those policies has been excluded from resources; and

(2) Amounts in an irrevocable trust (or other irrevocable arrangement) available to meet the burial expenses.

~~(1) "Burial funds" means a prepaid funeral contract or burial trust with a funeral home or burial association which is for the individual's or spouse's burial expenses.~~

~~(2) The face value of a life insurance policy, when properly assigned by the owner to a funeral home or burial association, may be used for purchasing "burial funds" as described in (1) of this subsection. The $1,500 burial fund exclusion must also be reduced by the face value of a life insurance policy for which a funeral provider has been made the irrevocable beneficiary, if the life insurance policy owner has irrevocably waived his or her right to, and cannot obtain, any cash surrender value the life insurance policy may generate.~~

~~(3) The burial fund exclusion must be reduced by the face value of life insurance policies owned by the individual or spouse; and amounts in an irrevocable trust or other irrevocable arrangement.~~

~~(4) Interest earned or appreciation on the value of any excluded burial funds is excluded if left to accumulate and become a part of the burial fund.~~

~~(5) If the member did not purchase his/her own prepaid burial, even if his/her money was used for the purchase, the member is not the "owner" and the prepaid burial funds cannot be considered a resource to him/her. However, if the member's money was used by another to purchase the prepaid burial, the rules on transfer of property must be applied since the purchaser (owner) could withdraw the funds any time.~~

(~~f~~e) **Irrevocable burial contract.** Oklahoma law provides that a purchaser (buyer) of a prepaid funeral contract may elect to make the contract irrevocable. ~~The irrevocability cannot become effective until 30 days after purchase. For an irrevocable contract to be valid, the election to make it irrevocable must be made by the purchaser (owner) or the purchaser's guardian or an individual with power of attorney for the purchaser (owner). In instances where the OKDHS Form 08MA084E, Management of Recipient's Funds, is on file in the nursing facility, the form serves as a power of attorney for the administrator to purchase and/or elect to make irrevocable the burial funds for the member. Verification of the member's countable income or resources held in bank accounts or at other financial institutions can be established through an AVS.~~

~~(1) The irrevocable contract shall not be considered a countable resource.~~

~~(2) Effective October 1, 2015, the cash value of any life insurance policies and/or designated accounts shall be excluded as a resource up to a maximum of $1,500. This exclusion shall be reduced dollar for dollar by the face value amount of any irrevocable prepaid burial contract.~~

(1) The irrevocability cannot become effective until thirty (30) days after purchase.

(2) For an irrevocable contract to be valid, the election to make it irrevocable must be made by the purchaser (owner) or the purchaser's guardian or an individual with power of attorney for the purchaser (owner). In instances where the DHS Form 08MA084E, Management of Recipient's Funds, is on file in the nursing facility, the form serves as a power of attorney for the administrator to purchase and/or elect to make irrevocable the burial funds for the member.

(3) The assignment of an insurance policy used to fund an irrevocable contract must also be made irrevocable.

(4) The irrevocable contract shall not be considered a countable resource.

(~~g~~f) **Medical insurance.** If a member is covered by insurance other than SoonerCare, then SoonerCare is the payer of last resort and should not be billed until all other payers have paid. If payment is made directly to the member, the member must reimburse OHCA up to the amount paid by SoonerCare. Any amount remaining after payment to OHCA is considered as an available resource.

317:35-5-41.3. Automobiles, pickups, and trucks

~~Automobiles, pickups, and trucks are considered in the eligibility determination for SoonerCare benefits. Verification of the member's countable resources held in bank accounts or at other financial institutions can be established through an AVS~~In accordance with Section 416.1218 of Title 20 of the Code of Federal Regulations (C.F.R.), "automobile" includes cars, pickups, trucks, and other vehicles used to provide necessary transportation.

(1) **Exempt automobiles.** One automobile is totally excluded from counting as a resource, regardless of its value, if it is used for transportation of the individual or a member of the individual's household.

(2) **Other automobiles.** Any other automobiles are considered to be nonliquid resources. The equity in other automobiles~~,pickups, and trucks~~ is considered as a countable resource. The current market value, less encumbrances on the vehicle, is the equity, per 20 C.F.R. § 416.1201(c). Only encumbrances that can be verified are considered in computing equity.

(A) The market value of each year's make and model is established on the basis of the "Avg. Trade In" value as shown in the current publication of the National Automobile Dealers Association (NADA) on "Cars, Trucks, and Imports".

(B) If a vehicle's listing has been discontinued in the NADA book, the household's estimate of the value

of the vehicle is accepted unless the worker has reason to believe the estimate is incorrect.

(C) The market value of a vehicle that is no longer operable is ~~the~~its verified salvage value.

(D) In the event the member and worker cannot agree on the value of the vehicle, the member secures written appraisal by two (2) persons who are familiar with current values. If there is substantial unexplained divergence between these appraisals or between the book value and one (1) or more of these appraisals, the worker and the member jointly arrange for the market value to be established by an appraisal made by a third (3rd) person who is familiar with current values and who is acceptable to both the member and the worker.

317:35-5-41.8. Eligibility regarding long-term care services

(a) **Home Property.** In determining eligibility for long-term care services for applications filed on or after January 1, 2006, home property is excluded from resources unless the individual's equity interest in his or her home exceeds ~~$500,000 (increased by the annual percentage increase in the urban component of the consumer price index beginning in 2011, rounded to the nearest $1,000)~~the amount at Oklahoma Department of Human Services (DHS) Appendix C-1, Schedule VIII(D)(2).

(1) Long-term care services include nursing facility (NF) services and other long-term care services. For purposes of this Section, other long-term care services include:

(A) A level of care in any institution equivalent to nursing facility services; and

(B) Home and community-based services furnished under a waiver.

(2) An individual whose equity interest exceeds ~~$500,000 (increased by the annual percentage increase in the urban component of the consumer price index beginning in 2011, rounded to the nearest $1,000)~~the amount at DHS Appendix C-1, Schedule VIII(D)(2) is not eligible for long-term care services unless one of the following circumstances applies:

(A) The individual has a spouse who is lawfully residing in the individual's home;

(B) The individual has a child under the age of twenty-one (21) who is lawfully residing in the individual's home;

(C) The individual has a child of any age who is blind or permanently and totally disabled who is lawfully residing in the individual's home; or

(D) The denial would result in undue hardship. Undue hardship exists when denial of SoonerCare long-term care services based on an individual's home equity exceeding ~~$500,000~~the amount at DHS Appendix C-1, Schedule VIII(D)(2) would deprive the individual of medical care such that the individual's health or life would be endangered; or of food, clothing, shelter, or other necessities of life.

(E) An individual may reduce their total equity interest in the home through the use of a reverse mortgage or home equity loan.

(3) Absence from home due to ~~nursing facility~~NF care does not affect the home exclusion as long as the individual intends to return home within ~~12~~twelve (12) months from the time he/she entered the facility. The ~~OKDHS~~DHS Form 08MA010E, Acknowledgment of Temporary Absence/Home Property Policy, is completed at the time of application for ~~nursing facility~~NF care when the applicant has home property. After an explanation of temporary absence, the member, guardian, or responsible person indicates whether there is or is not intent to return to the home and signs the form.

(A) If at the time of application the applicant states he/she does not have plans to return to the home, the home property is considered a countable resource. For members in nursing facilities, a lien may be filed in accordance with ~~OAC~~Oklahoma Administrative Code (OAC) 317:35-9-15 and OAC 317:35-19-4 on any real property owned by the member when it has been determined, after notice and opportunity for a hearing, that the member cannot reasonably be expected to be discharged and return home. However, a lien is not filed on the home property of the member while any of the persons described in OAC 317:35-9-15(b)(1) and OAC 317:35-19-4(b)(1) are lawfully residing in the home:

(B) If the individual intends to return home, he/she is advised that:

(i) the ~~12~~twelve (12) months of home exemption begins effective with the date of entry into the ~~nursing home~~NF regardless of when application is made for SoonerCare benefits, and

(ii) after ~~12~~twelve (12) months of nursing care, it is assumed there is no reasonable expectation the member will be discharged from the facility and return home and a lien may be filed against real property owned by the member for the cost of medical services received.

(C) "Intent" in regard to absence from the home is defined as a clear statement of plans in addition to other evidence and/or corroborative statements of others.

(D) At the end of the ~~12-month~~twelve-month (12-month) period the home property becomes a countable resource unless medical evidence is provided to support the feasibility of the member to return to the home within a reasonable period of time (~~90~~ninety (90) days). This ~~90-day~~ninety-day (90-day) period is allowed only if sufficient medical evidence is presented with an actual date for return to the home.

(E) A member who leaves the ~~nursing facility~~NF must remain in the home at least three (3) months for the home exemption to apply if he/she has to re-enter the facility.

(F) However, if the spouse, minor child under ~~21~~twenty-one (21), or child who is blind or permanently disabled resides in the home during the individual's absence, the home continues to be exempt as a resource so long as the spouse, minor child, or child who is blind or permanently disabled lives there (regardless of whether the absence is temporary).

(G) Once a lien has been filed against the property of an NF resident, the property is no longer considered as a countable resource.

(b) **Promissory notes, loans, or mortgages.** The rules regarding the treatment of funds used to purchase a promissory note, loan, or mortgage on or after February 8, 2006, are found in (1) through (2) of this subsection.

(1) Funds used to purchase a promissory note, loan, or mortgage on or after February 8, 2006, are treated as assets transferred, and the value of such note, loan, or mortgage shall be the amount of the outstanding balance due on the note, loan, or mortgage as of the date of the individual's application for medical assistance unless the note, loan, or mortgage meets all of the conditions in paragraphs (A) through (C) of this paragraph.

(A) The note, loan, or mortgage has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the United States Social Security Administration).

(B) The note, loan, or mortgage provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made.

(C) The note, loan, or mortgage prohibits the cancellation of the balance upon the death of the lender.

(2) Funds used to purchase a promissory note, loan, or mortgage for less than its fair market value are treated as assets transferred for less than fair market value regardless of whether:

(A) The note, loan, or mortgage was purchased before February 8, 2006; or

(B) The note, loan, or mortgage was purchased on or after February 8, 2006, and the conditions described in paragraph (1) of this subsection were met.

(c) **Annuities.** Treatment of annuities purchased on or after February 8, 2006.

(1) The purchase of an annuity shall be treated as the disposal of an asset for less than fair market value unless the Oklahoma Health Care Authority is named as the remainder beneficiary:~~-~~

(A) ~~in~~In the first position for at least the total amount of medical assistance paid on behalf of the institutionalized individual; or

(B) ~~in~~In the second position after the community spouse, child under ~~21~~twenty-one (21) years of age, or disabled child and is named in the first position if the spouse or a representative of the child disposes of any such remainder for less than fair market value.

(2) For purposes of determining financial eligibility for long-term care services under this chapter, the term "assets" shall include an annuity purchased by or on behalf of an annuitant who has applied for SoonerCare ~~nursing facility~~NF services or other long-term care services unless the annuity meets one (1) of the following conditions.

(A) The annuity is an annuity described in subsection (b) or (q) of Section 408 of the United States Internal Revenue Code of 1986; or

(B) The annuity is purchased with proceeds from:

(i) An account or trust described in subsection (a), (c), or (p) of Section 408 of the United States Internal Revenue Code of 1986;

(ii) A simplified employee pension as defined in Section 408(k) of the United States Internal Revenue Service Code of 1986; and/or

(iii) A Roth IRA described in Section 408A of the United States Internal Revenue Service Code of 1986; or

(C) The annuity:

(i) is irrevocable and nonassignable;

(ii) is actuarially sound as determined in accordance with actuarial publications of the Office of the Chief Actuary of the United States Social Security Administration; and

(iii) provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

(d) **Life Estates.** This subsection pertains to the purchase of a life estate in another individual's home.

(1) The entire amount used to purchase a life estate in another individual's home on or after February 8, 2006, is treated as assets transferred for less than fair market value, unless the purchaser resides in the home for at least one (1) year after the date of the purchase.

(2) Funds used to purchase a life estate in another individual's home for less than its fair market value are treated as assets transferred for less than fair market value regardless of whether:

(A) The life estate was purchased before February 8, 2006; or

(B) The life estate was purchased on or after February, 8, 2006, and the purchaser resided in the home for one (1) year after the date of purchase.

(e) **Oklahoma Long-Term Care Partnership (LTCP) Program.** This subsection pertains to individuals with Oklahoma Long-Term Care Partnership policies. The Oklahoma Insurance Department approves long-term care insurance policies as Long-term Care Partnership Program policies. The face page of the policy document will indicate if the insurance qualifies as a Long-Term Care Partnership Program policy.

(1) Benefits from the LTCP policy must be exhausted before the individual can be eligible for long-term care under the SoonerCare program.

(2) Assets in an amount equal to the amount paid out under the LTCP policy can be protected for the insured individual once the LTCP policy benefits are exhausted. Protected assets are disregarded when determining eligibility for the SoonerCare program per ~~317:35-5-41.9(26)~~OAC 317:35-5-41.9(b)(26). A record

of the amount paid on behalf of the policy holder is available through the ~~OHCA~~Oklahoma Health Care Authority or insurance company holding the LTCP policy.

(A) At the time of application for SoonerCare the individual must determine the asset(s) to be protected. The protected asset(s) cannot be changed. If the value of the protected asset(s) decreases, the individual does not have the option to select additional assets to bring the total up to the protected amount.

(B) If the protected asset(s) are income-producing, the income earned while on SoonerCare is counted in accordance with 317:35-5-42.

(C) The individual can choose to transfer the protected asset without incurring a transfer of assets penalty.

(D) When determining resource eligibility for a couple when one of them enters the nursing home or applies for a HCBS waiver, the LTCP protected asset(s) are disregarded in determining the total amount of the couple's resources.

317:35-5-41.9. ~~Resource disregards~~Exclusions from resources

~~In determining need, the following are not considered as resources:~~

~~(1) The coupon allotment under the Food Stamp Act of 1977;~~

~~(2) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;~~

~~(3) Education grants (excluding Work Study) scholarships, etc., that are contingent upon the student regularly attending school. The student's classification (graduate or undergraduate) is not a factor;~~

~~(4) Loans (regardless of use) if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes:~~

~~(A) An acknowledgment of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. If the loan agreement is not written, an OKDHS Loan Verification form is completed by the borrower attesting that the loan is bona fide and signed by the lender verifying the date and amount of loan. When copies of written agreements or OKDHS Loan Verification form are not available, detailed case documentation must include information that the loan is bona fide and how the debt amount and date of receipt was verified;~~

~~(B) If the loan was from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay (with or without interest) and the lender's verification of the loan are required to indicate that the loan is bona fide;~~

~~(C) Proceeds of a loan secured by an exempt asset are not an asset;~~

~~(5) Indian payments or items purchased from Indian payments (including judgment funds or funds held in trust) distributed by the Secretary of the Interior (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior. Also, any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest or investment income accrued on such funds. Any income from mineral leases, from tribal business investments, etc. However, any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income. Funds and property held in Individual Indian Money (IIM) Accounts are treated as a converted resource and disregarded for purposes of eligibility. Disbursements of funds from IIM accounts are to be disregarded as a resource in the month in which the disbursement was made. However, any retained disbursed funds are counted as a resource for purposes of eligibility on the first of the month following the month of disbursement;~~

~~(6) Special allowance for school expenses made available upon petitions (in writing) from funds held in trust for the student;~~

~~(7) Benefits from State and Community Programs on Aging (Title III) are disregarded. Income from the Older American Community Service Employment Act (Title V), including AARP and Green Thumb organizations as well as employment positions allocated at the discretion of the Governor of Oklahoma, is counted as earned income. Both Title III and Title V are under the Older Americans Act of 1965 amended by PL 100-175 to become the Older Americans Act amendments of 1987;~~

~~(8) Payments for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Services Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);~~

~~(9) Payment to volunteers under the Domestic Volunteer Services Act of 1973 (VISTA), unless the gross amount of VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;~~

~~(10) The value of supplemental food assistance received under the Child Nutrition Act or the special food services program for children under the National School Lunch Act;~~

~~(11) Any portion of payments made under the Alaska Native Claims Settlement Act to an Alaska Native which are exempt from taxation under the Settlement Act;~~

~~(12) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;~~

~~(13) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);~~

~~(14) Payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries~~

~~or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;~~

~~(15) Federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by States, local governments and disaster assistance organizations;~~

~~(16) Interests of individual Indians in trust or restricted lands;~~

~~(17) Resources set aside under an approved Plan for Achieving Self Support for Blind or Disabled People (PASS). The Social Security Administration approves the plan, the amount of resources excluded and the period of time approved. A plan can be approved for an initial period of 18 months. The plan may be extended for an additional 18 months if needed, and an additional 12 months (total 48 months) when the objective involves a lengthy educational or training program;~~

~~(18) Payments made to individuals because of their status as victims of Nazi persecution (PL 103-286);~~

~~(19) A migratory farm worker's out-of-state homestead is disregarded if the farm worker's intent is to return to the homestead after the temporary absence;~~

~~(20) Payments received under the Civil Liberties Act of 1988. These payments are to be made to individuals of Japanese ancestry who were detained in internment camps during World War II;~~

~~(21) Dedicated bank accounts established by representative payees to receive and maintain retroactive SSI benefits for disabled/blind children up to the legal age of 18. The dedicated bank account must be in a financial institution, the sole purpose of which is to receive and maintain SSI underpayments which are required or allowed to be deposited into such an account. The account must be set up and verification provided to SSA before the underpayment can be released;~~

~~(22) Payments received as a result of participation in a class action lawsuit entitled "Factor VIII or IX Concentrate Blood Products Litigation". These payments are made to hemophilia patients who are infected with HIV. Payments are not considered as income or resources. A penalty cannot be assessed against the individual if he/she disposes of part or all of the payment. The rules at OAC 317:35-5-41.6 regarding the availability of a trust do not apply if an individual establishes a trust using the settlement payment;~~

~~(23) Payments made to certain Vietnam veterans' children with spina bifida (PL 104-204);~~

~~(24) Payments made to certain Korea service veterans' children with spina bifida (PL 108-183);~~

~~(25) Payments made to the children of women Vietnam veterans who suffer from certain birth defects (PL 106-419);~~

~~(26) For individuals with an Oklahoma Long-Term Care Partnership Program approved policy, resources equal to the amount of benefits paid on the insured's behalf by the long-term care insurer are disregarded at the time of application for long-term care services provided by SoonerCare. The Oklahoma Insurance Department approves policies as Long-term Care Partnership Program policies;~~

~~(27) Workers' Compensation Medicare Set Aside Arrangements (WCMSAs), which allocate a portion of the workers' compensation settlement for future medical expenses; and~~

~~(28) Additional payments of regular unemployment compensation in the amount of $25 per week ending June 30, 2010 and any amount of emergency unemployment compensation paid through May 31, 2010, as authorized under the American Recovery and Reinvestment Tax Act of 2009.~~

(a) The following are excluded resources. In order for payments and benefits listed in paragraph (b) and (c) to be excluded from resources, such funds must be segregated and not commingled with other countable resources so that the excludable funds are identifiable.

(b) Resources excluded by the Social Security Act, in accordance with Section 416.1210 of Title 20 of the Code of Federal Regulations (C.F.R.), unless otherwise noted:

(1) The home that is the principal place of residence, as described at Oklahoma Administrative Code (OAC) 317:35-5-41.1;

(2) Household goods and personal effects, as described at OAC 317:35-5-41(a)(5);

(3) One automobile, as described at OAC 317:35-5-41.3;

(4) Property essential to self-support:

(A) Property of a trade or business which is essential to the means of self-support, as described at OAC 317:35-5-41.12(c);

(B) Nonbusiness property used to produce goods or services essential to self-support, as described at OAC 317:35-5-41.12(c);

(C) Nonbusiness income producing property, as described at OAC 317:35-5-41.12(c);

(5) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support;

(6) Stock in regional or village corporations held by natives of Alaska during the twenty-year (20-year) period in which the stock is inalienable pursuant to the Alaska Native Claims Settlement Act;

(7) Life insurance policies, as described at OAC 317:35-5-41.2(b);

(8) Restricted allotted Indian lands;

(9) Disaster relief assistance provided under Federal law or by state or local government;

(10) Burial spaces, as described at OAC 317:35-5-41.2(c);

(11) Burial funds, as described at OAC 317:35-5-41.2(d);

(12) Irrevocable burial contracts as described at OAC 317:35-5-41.2(e);

(13) Supplemental Security Income (SSI) and Social Security retroactive payments for nine (9) months following the month of receipt;
(14) Housing assistance paid pursuant to:
(A) The United States Housing Act of 1937;
(B) The National Housing Act;
(C) Section 101 of the Housing and Urban Development Act of 1965;
(D) Title V of the Housing Act of 1949;
(E) Section 202(h) of the Housing Act of 1959;
(15) Refunds of Federal income taxes and advances made by an employer relating to an earned income tax credit for nine (9) months following the month of receipt;
(16) Payments received as compensation for expenses incurred or losses suffered as a result of a crime;
(17) Relocation assistance for nine (9) months beginning with the month following the month of receipt. The assistance must be provided by a State or local government that is comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 that is subject to the treatment required by Section 216 of that Act;
(18) Money in a dedicated account for SSI-eligible individuals under age eighteen (18) that is required by 20 C.F.R. § 416.640(e);
(19) Gifts to children under age eighteen (18) with life-threatening conditions from an organization described at 26 United States Code (U.S.C.) § 501(c)(3) that is exempt from taxation under 26 U.S.C. § 501(a);
(20) Restitution of Social Security, SSI, or a Special Benefit for World War II Veterans made because of misuse by a representative payee, for nine (9) months following the month of receipt;
(21) Any portion of a grant, scholarship, fellowship, or gift used or set aside for paying tuition, fees, or other necessary educational expenses, for nine (9) months beginning the month after the month of receipt;
(22) Payment of a refundable child tax credit for nine (9) months following the month of receipt;
(23) Any annuity paid by a State to a person (or his or her spouse) based on the State's determination that the person is:
(A) A veteran (as defined in 38 U.S.C. § 101); and
(B) Blind, disabled, or aged;
(24) The principal and income of trusts complying with OAC 317:35-5-41.6(6). See also 42 U.S.C. § 1396p(d)(4);
(25) Workers' Compensation Medicare Set Aside Arrangements (WCMSAs) which allocate a portion of the workers' compensation settlement for future medical expenses; and/or
(26) For individuals with an Oklahoma Long-Term Care Partnership Program approved policy, resources equal to the amount of benefits paid on the insured's behalf by the long-term care insurer. Said disregard is made at the time of application for long-term care services provided by SoonerCare. The Oklahoma Insurance Department approves policies as Long-term Care Partnership Program policies.

(c) Resources excluded by federal laws other than the Social Security Act, in accordance with 20 C.F.R. § 416.1236, unless otherwise noted:
(1) Funds and interest held in an Achieving a Better Life Experience (ABLE) account, pursuant to 26 U.S.C. § 529A:
(A) A contribution to an ABLE account by another individual is neither income nor a resource to the individual with the ABLE account, unless such contribution exceeds the annual federal gift tax exclusion established by 26 U.S.C. § 2503(b), in which case, any contribution in excess of the annual federal gift tax exclusion is a countable resource and income in the month deposited.
(B) A distribution from an ABLE account that is retained after the month of receipt is neither income nor a resource to the individual in any month when spent on a qualified disability expense (QDE).
(C) A QDE is any expense related to the blindness or disability of the individual and made for the benefit of the individual. QDE's include but are not limited to:
(i) Education;
(ii) Housing;
(iii) Transportation;
(iv) Employment training and support;
(v) Assistive technology;
(vi) Health;
(vii) Prevention and wellness;
(viii) Financial management and administrative services;
(ix) Legal fees;
(x) Expenses for ABLE account oversight and monitoring;
(xi) Funeral and burial; and
(xii) Basic living expenses.
(D) A distribution, or portion of a distribution, from an ABLE account that is retained after the month of receipt, and used for a non-QDE in the next or subsequent month, is a countable resource to the individual in the month in which the funds were spent. Any unspent portion of the distribution the individual continues to retain is not a countable resource.
(E) A distribution, or portion of a distribution, from an ABLE account that is received and used for a non-QDE in the same month, is considered unearned income to the individual in the month of receipt. Any unspent portion of the distribution the individual retains after the month of receipt is not a countable resource;
(2) Payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1902, 42 U.S.C. § 4636);
(3) Payments made to Native Americans as listed in paragraphs (b) and (c) of section IV of the Appendix to Subpart K of Part 416 of C.F.R. Title 20;
(4) Indian judgment funds held in trust by the Secretary of the Interior or distributed per capita pursuant to a plan

prepared by the Secretary of the Interior and not disapproved by a joint resolution of the Congress under Public Law 93-134, as amended by Public Law (Pub.L.) 97-458 (25 U.S.C. § 1407). Indian judgment funds include interest and investment income accrued while the funds are so held in trust. This exclusion extends to initial purchases made with Indian judgment funds, but will not apply to proceeds from sales or conversions of initial purchases or to subsequent purchases;

(5) Supplemental Nutrition Assistance Program benefits;

(6) The value of assistance to children under the National School Lunch Act (60 Stat. 230, 42 U.S.C. §§ 1751 et seq.) as amended by Pub.L. 90-302 [82 Stat. 117, 42 U.S.C. § 1761 (h)(3)];

(7) The value of assistance to children under the Child Nutrition Act of 1966 [80 Stat. 889, 42 U.S.C. § 1780(b)];

(8) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education as provided by section 507 of the Higher Education Amendments of 1968, Pub.L. 90-575 (82 Stat. 1063);

(9) Incentive allowances received under Title I of the Comprehensive Employment and Training Act of 1973 [87 Stat. 849, 29 U.S.C. § 821(a)];

(10) Compensation provided to volunteers by the Corporation for National and Community Service (CNCS), unless determined by the CNCS to constitute the minimum wage in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. §§ 201 et seq.) or applicable State law, pursuant to 42 U.S.C. § 5044(f)(1). Programs include:

(A) AmeriCorps;

(B) Special and demonstration volunteer programs;

(C) University year for ACTION;

(D) Retired senior volunteer program;

(E) Foster grandparents program; and

(F) Senior companion program;

(11) Distributions received by an individual Alaska Native or descendant of an Alaska Native from an Alaska Native Regional and Village Corporation pursuant to the Alaska Native Claims Settlement Act, as follows: cash, including cash dividends on stock received from a Native Corporation, is disregarded to the extent that it does not, in the aggregate, exceed two-thousand ($2,000) per individual each year [the $2,000 limit is applied separately each year, and cash distributions up to $2,000 which an individual received in a prior year and retained into subsequent years will not be counted as resources in those years]; stock, including stock issued or distributed by a Native Corporation as a dividend or distribution on stock; a partnership interest; land or an interest in land, including land or an interest in land received from a Native Corporation as a dividend or distribution on stock; and an interest in a settlement trust. This exclusion is pursuant to the exclusion under section 15 of the Alaska Native Claims Settlement Act Amendments of 1987, Pub.L. 100-241 [43 U.S.C. § 1626(c)], effective February 3, 1988;

(12) Value of Federally donated foods distributed pursuant to section 32 of Pub.L. 74-320 or section 416 of the Agriculture Act of 1949 [7 C.F.R. § 250.6(e)(9) as authorized by 5 U.S.C. § 301];

(13) All funds held in trust by the Secretary of the Interior for an Indian tribe and distributed per capita to a member of that tribe under Pub.L. 98-64;

(14) Home energy assistance payments or allowances under the Low-Income Home Energy Assistance Act of 1981, as added by Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Pub.L. 97-35 [42 U.S.C. § 8624(f)];

(15) Student financial assistance for attendance costs received from a program funded in whole or in part under Title IV of the Higher Education Act of 1965, as amended, or under Bureau of Indian Affairs (BIA) Student assistance programs if it is made available for tuition and fees normally assessed a student carrying the same academic workload, as determined by the institution, including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution, under section 14(27) of Pub.L. 100-50, the Higher Education Technical Amendments Act of 1987 (20 U.S.C. § 1087uu) or under BIA student assistance programs. This includes, but is not limited to:

(A) Pell grants;

(B) Student services incentives;

(C) Academic achievement incentive scholarships;

(D) Byrd scholars;

(E) Federal supplemental education opportunity grants;

(F) Federal educational loans (federal PLUS loans, Perkins loans, Stafford loans, Ford loans, etc.);

(G) Upward Bound;

(H) GEAR UP (Gaining Early Awareness and Readiness for Undergraduate Programs);

(I) State educational assistance programs funded by the leveraging educational assistance programs; and

(J) Work-study programs;

(16) Amounts paid as restitution to certain individuals of Japanese ancestry and Aleuts under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act, sections 105(f) and 206(d) of Pub.L. 100-383 (50 U.S.C. app. 1989 b and c);

(17) Payments made on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.) under Pub.L. 101-201 (103 Stat. 1795) and section 10405 of Pub.L. 101-239 (103 Stat. 2489);

(18) Payments made under section 6 of the Radiation Exposure Compensation Act, Pub.L. 101-426 (104 Stat. 925, 42 U.S.C. § 2210);

(19) Payments made to individuals because of their status as victims of Nazi persecution excluded pursuant to section 1(a) of the Victims of Nazi Persecution Act of 1994, Pub.L. 103-286 (108 Stat. 1450);
(20) Any matching funds and interest earned on matching funds from a demonstration project authorized by Pub.L. 105-285 that are retained in an Individual Development Account, pursuant to section 415 of Pub.L. 105-285 (112 Stat. 2771);
(21) Any earnings, Temporary Assistance for Needy Families matching funds, and accrued interest retained in an Individual Development Account, pursuant to section 103 of Pub.L. 104-193 [42 U.S.C. § 604(h)(4)];
(22) Payments made to individuals who were captured and interned by the Democratic Republic of Vietnam as a result of participation in certain military operations, pursuant to section 606 of Pub.L. 105-78 and section 657 of Pub.L. 104-201 (110 Stat. 2584);
(23) Payments made to certain Vietnam veteran's children with spina bifida, pursuant to section 421 of Pub.L. 104-204 [38 U.S.C. § 1805(d)];
(24) Payments made to the children of women Vietnam veterans who suffer from certain birth defects, pursuant to section 401 of Pub.L. 106-419, [38 U.S.C. § 1833(c)];
(25) Assistance provided for flood mitigation activities under section 1324 of the National Flood Insurance Act of 1968, pursuant to section 1 of Public Law 109-64 (119 Stat. 1997, 42 U.S.C. § 4031); and/or
(26) Payments made to individuals under the Energy Employees Occupational Illness Compensation Program Act of 2000, pursuant to section 1, app. [Div. C. Title XXXVI section 3646] of Public Law 106-398 (114 Stat. 1654A-510, 42 U.S.C. § 7385e).

317:35-5-41.12. Real or personal property essential to self-support

(a) This rule describes exclusions when real or personal property is essential to an individual's means of self-support.
(b) Categories of property essential to self-support.
(1) Property used in a trade or business; property used by an individual as an employee for work; or government permits that represent authority granted by a government agency to engage in an income-producing activity.
(A) Are excluded as a resource regardless of value or rate of return.
(B) Government permits includes any permit, license, or similar instrument issued by a federal, state, or local government agency.
(C) Personal property used by an employee for work includes farm machinery, tools, safety equipment, uniforms, etc.
(2) Nonbusiness real or personal property used to produce goods or services essential to basic daily living needs:
(A) Up to six-thousand dollars ($6,000) of the equity value is excluded, regardless of rate of return.
(B) Any portion of the property's equity value in excess of six-thousand dollars ($6,000) is a countable resource.
(C) Nonbusiness property used to produce goods or services includes, but is not limited to:
(i) Growing produce or livestock solely for personal consumption in the individual's household or performing activities essential to the production of food solely for home consumption.
(ii) Timber lots, wood splitters, and other tools used to produce firewood solely for use in the applicant's or recipient's home.
(3) Nonbusiness income-producing property.
(A) Up to six-thousand dollars ($6,000) of the equity value is excluded as a resource if the property produces a net annual return equal to at least six percent (6%) of the excluded equity.
(B) Any portion of the property's equity value in excess of six-thousand dollars ($6,000) is a countable resource.
(C) If the property produces less than a six percent (6%) return, the exclusion can only apply if the lower return is for reasons beyond the individual's control and there is a reasonable expectation that the property will again produce a six percent (6%) return. Otherwise, none of the equity value is excluded under this section.
(D) If the earnings decline was for reasons beyond the individual's control, up to twenty-four (24) months can be allowed for the property to resume producing a six percent (6%) return. The twenty-four (24) month period begins with the first day of the tax year following the one in which the return dropped to below six percent (6%).
(E) If the tax return shows that the activity has operated at a loss for the two (2) most recent years or longer, the property cannot be excluded unless the individual submits current receipts and records to show that it currently is producing a six percent (6%) return.
(F) If an individual owns more than one (1) piece of income-producing property, the six percent (6%) return requirement applies individually to each property and the six-thousand dollar ($6,000) equity value limit applies to the total equity value of all the properties meeting the six percent (6%) return requirement.
(G) If all properties meet the six percent (6%) test but the total equity value exceeds six-thousand dollars ($6,000), that portion of the total equity value in excess of six-thousand dollars ($6,000) is a countable resource.
(c) For any of the exclusions to apply, the property must be in current use in the type of activity that qualifies it as essential.
(d) Property not in current use. If the property is not in current use, it must be for reasons beyond the individual's control and there must be a reasonable expectation that the use will resume within twelve (12) months of last use.

(1) Property not in current use can be excluded for twelve (12) months as essential for self-support if it has been in use and there is reasonable expectation that the use will resume. The individual must provide a signed statement of last date of use, reason the property is not in use, and when the individual expects to resume the self-support activity.

(2) If an individual alleges that self-support property is not in current use because of a disabling condition of the individual, the individual must provide a signed statement of the nature of the condition, the date the individual ceased the self-support activity, and when the individual intends to resume activity to receive up to an additional twelve (12) months.

(3) If the individual does not intend to resume the self-support activity, the property is a countable resource in the month after the month of last use.

(4) If, after property has been excluded because an individual intends to resume self-support activity, the individual decides not to resume such activity, the exclusion ceases to apply as of the date of the change of intent. The property is a resource in the following month.

(e) Individual responsibilities. The individual shall:

(1) Provide a copy of the tax return for the tax year prior to application or renewal to be used to determine the net income earned for the individual from the income-producing property.

(2) Provide pertinent documents and a signed statement if the individual alleges owning a government license, permit, or other property that represents government authority to engage in an income-producing activity, and has value as a resource. The statement shall include:

(A) The type of license, permit, or other property;

(B) The name of the issuing agency, if appropriate;

(C) Whether the law requires such license, permit, or property for engaging in the income-producing activity at issue; and

(D) How the license, permit, or other property is being used; or

(E) Why it is not being used.

(3) Provide a signed statement if the individual alleges owning items used in his or her work as an employee. The statement shall include:

(A) The name, address, and telephone number of the employer;

(B) A general description of the items;

(C) A general description of the individual's duties; and

(D) Whether the items are currently being used.

[OAR Docket #19-451; filed 5-30-19]

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

[OAR Docket #19-443]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-42 [AMENDED]
(Reference APA WF # 18-05)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section; 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 20 CFR §416.1233
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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February 15, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
September 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed revisions align policy with federal law. Federal law excludes, for nine months, following the month of receipt, the unspent portion of any Social Security Retirement, Survivors, and Disability Insurance (RSDI) or Supplemental Security Income (SSI) retroactive payment when determining the resources of an eligible individual and spouse. According to the regulations, a retroactive payment is one that is paid after the month in which it was due.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 5. ELIGIBILITY AND COUNTABLE INCOME

PART 5. COUNTABLE INCOME AND RESOURCES

317:35-5-42. Determination of countable income for individuals categorically related to aged, blind and disabled

(a) **General.** The term income is defined as that gross gain or gross recurrent benefit which is derived from labor, business, property, retirement and other benefits, and many other forms which can be counted on as currently available for use on a regular basis. When an individual's income is reduced due to recoupment of an overpayment or garnishment, the gross amount before the recoupment or garnishment is counted as income. Verification of the member's countable income or resources held in bank accounts or at other financial institutions can be established through an Asset Verification System (AVS).

(1) If it appears the applicant or SoonerCare member is eligible for any type of income (excluding ~~SSI~~Supplemental Security Income (SSI)) or resources, he/she must be notified in writing by the Agency of his/her potential eligibility. The notice must contain the information that failure to file for and take all appropriate steps to obtain such benefit within ~~30~~thirty (30) days from the date of the notice will result in a determination of ineligibility.

(2) If a husband and wife are living in their own home, the couple's total income and/or resource is divided equally between the two cases. If they both enter a nursing facility, their income and resources are considered separately.

(3) If only one spouse in a couple is eligible and the couple ceases to live together, only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse beginning with the month after the month which they ceased to live together are considered.

(4) In calculating monthly income, cents are included in the computation until the monthly amount of each individual's source of income has been established. When the monthly amount of each income source has been established, cents are rounded to the nearest dollar (1 - 49 cents is rounded down, and 50 - 99 cents is rounded up). For example, an individual's weekly earnings of $99.90 are multiplied by 4.3 and the cents rounded to the nearest dollar ($99.90 x 4.3 = $429.57 rounds to $430). See rounding procedures in OAC 340:65-3-4 when using BENDEX to verify ~~OASDI~~Retirement, Survivors, and Disability Insurance (RSDI) benefits.

(b) **Income disregards.** In determining need, the following are not considered as income:

(1) The value of Supplemental Nutrition Assistance Program (food stamps) received;

(2) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) Educational grants (excluding work study), scholarships, etc., that are contingent upon the student regularly attending school. The student's classification (graduate or undergraduate) is not a factor;

(4) Loans (regardless of use) if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes:

(A) An acknowledgment of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. If the loan agreement is not written, an OKDHS Form 08AD103E, Loan Verification, should be completed by the borrower attesting that the loan is bona fide and signed by the lender verifying the date and amount of loan. When copies of written agreements or OKDHS Form 08AD103E are not available, detailed case documentation must include information that the loan is bona fide and how the debt amount and date of receipt was verified.

(B) If the loan was from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay (with or without interest) and the lender's verification of the loan are required to indicate that the loan is bona fide.

(C) Proceeds of a loan secured by an exempt asset are not an asset;

(5) One-third of child support payments received on behalf of the disabled minor child;

(6) Indian payments (including judgment funds or funds held in trust) distributed by the Secretary of the Interior ~~(BIA)~~(Bureau of Indian Affairs) or distributed by the tribe subject to approval by the Secretary of the Interior. Also, any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest or investment income accrued on such funds. Any income from mineral leases, from tribal business investments, etc. However, any interest or income derived from the principal or produced by purchases made with funds after distribution is considered as any other income;

(7) Special allowance for school expenses made available upon petition (in writing) for funds held in trust for the student;

(8) Title III benefits from State and Community Programs on Aging;

(9) Payment for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(10) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (VISTA), unless the gross amount of VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(11) The value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(12) Any portion of payments made under the Alaska Native Claims Settlement Act to an Alaska Native which are exempt from taxation under the Settlement Act;

(13) Reimbursements from an employer for out-of-pocket expenditures and allowances for travel or training to the extent the funds are used for expenses directly related to such travel or training and uniform allowance if the uniform is uniquely identified with company names or logo;

(14) Assistance or services from the Vocational Rehabilitation program such as transportation expenses to a rehabilitation center, extra clothing, lunches, grooming needed for a training program and any other such complementary payments;

(15) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(16) Payments made by a public or private non-profit child care agency for a child placed in foster care or subsidized adoption;

(17) Governmental rental or housing subsidies by governmental agencies, e.g., HUD (received in-kind or in cash) for rent, mortgage payments, or utilities;

(18) ~~LIHEAP~~Low Income Home Energy Assistance Program (LIHEAP) payments for energy assistance and payments for emergency situations under Emergency Assistance to Needy Families with Children;

(19) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(20) Payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(21) Federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations;

(22) Income of a sponsor to the sponsored eligible alien;

(23) Income that is set aside under an approved Plan for Achieving Self-Support for Blind or Disabled People (PASS). The Social Security Administration (SSA) approves the plan, the amount of income excluded and the period of time approved. A plan can be approved for an initial period of ~~18~~eighteen (18) months. The plan may be extended for an additional ~~18~~eighteen (18) months if needed, and an additional ~~12~~twelve (12) months (total ~~48~~forty-eight (48) months) when the objective involves a lengthy educational or training program;

(24) Payments made to individuals because of their status as victims of Nazi persecution (PL 103-286);

(25) Payments received under the Civil Liberties Act of 1988. These payments are to be made to individuals of Japanese ancestry who were detained in internment camps during World War II;

(26) Payments received as a result of participation in a class action lawsuit entitled "Factor VIII or IX Concentrate Blood Products Litigation". These payments are made to hemophilia patients who are infected with HIV. However, if the payments are placed in an interest-bearing account, or some other investment medium that produces income, the income generated by the account may be countable as income to the individual;

(27) Payments made to certain Vietnam veterans' children with spina bifida (PL 104-204);

(28) Payments made to certain Korea service veterans' children with spina bifida (PL 108-183);

(29) Payments made to the children of women Vietnam veterans who suffer from certain birth defects (PL 106-419);

(30) Additional payments of regular unemployment compensation in the amount of $25 per week ending June 30, 2010, and any amount of emergency unemployment compensation paid through May 31, 2010, as authorized under the American Recovery and Reinvestment Tax Act of 2009;

(31) Wages paid by the Census Bureau for temporary employment related to Census activities;

(32) Income tax refunds;

(33) Home energy assistance;

(34) Food or shelter based on need provided by nonprofit agencies;

(35) Money someone else spends to pay your expenses for items other than food or shelter (e.g., someone pays for your telephone or medical bills);

(36) Earned income for working students younger than ~~22~~twenty-two (22) years of age when they regularly attend a school, college, university or a course of vocational or technical training. Refer to Appendix C-1, Schedule VIII.E; Maximum Income, Resource and Payment Standards for the maximum monthly and yearly exclusion amounts;

(37) The cost of impairment-related work expenses for items or services that a disabled person needs in order to work; and

(38) The first $2,000 of compensation received per calendar year for participating in certain clinical trials.

(c) **Determination of income.** The member is responsible for reporting information regarding all sources of available income. This information is verified and used by the worker in determining eligibility.

(1) Gross income is listed for purposes of determining eligibility. It may be derived from many sources, and some items may be automatically disregarded by the computer when so provided by state or federal law.

(2) If a member is determined to be categorically needy and is also an SSI recipient, any change in countable income (see OAC 317:35-5-42(d)(3) to determine countable income) will not affect receipt of SoonerCare and amount of State Supplemental Payment (SSP) as long as the amount does not cause SSI ineligibility. Income which will be considered by SSI in the retrospective cycle is documented in the case with computer update at the time that SSI makes the change (in order not to penalize the member twice). If the SSI change is not timely, the worker updates the computer using the appropriate date as if it had been timely. If the receipt of the income causes

SSI ineligibility, the income is considered immediately with proper action taken to reduce or close the SoonerCare benefit and SSP case. Any SSI overpayment caused by SSA not making timely changes will result in recovery by SSI in the future. When the worker becomes aware of income changes which will affect SSI eligibility or payment amount, the information is to be shared with the SSA office.

(3) Some of the more common income sources to be considered in determining eligibility are as follows:

(A) **Retirement and disability benefits.** These include but are not limited to OASDI, VA, Railroad Retirement, SSI, and unemployment benefits. Federal and State benefits are considered for the month they are intended when determining eligibility.

(i) Verifying and documenting the receipt of the benefit and the current benefit amount are achieved by:

(I) seeing the member's award letter or warrant;

(II) obtaining a signed statement from the individual who cashed the warrant; or

(III) by using BENDEX and SDX.

(ii) Determination of OASDI benefits to be considered (disregarding COLA's) for former State Supplemental recipients who are reapplying for medical benefits under the Pickle Amendment must be computed according to OKDHS Form 08AX011E.

(iii) The Veterans Administration allows their recipients the opportunity to request a reimbursement for medical expenses not covered by SoonerCare. If a recipient is eligible for the readjustment payment, it is paid in a lump sum for the entire past year. This reimbursement is disregarded as income and a resource in the month it is received; however, any amount retained in the month following receipt is considered a resource.

(iv) Government financial assistance in the form of VA Aid and Attendance or Champus payments is considered as follows:

(I) **Nursing facility care.** VA Aid and Attendance or Champus payment whether paid directly to the member or to the facility, are considered as third party resources and do not affect the income eligibility or the vendor payment of the member.

(II) **Own home care.** The actual amount of VA Aid and Attendance payment paid for an attendant in the home is disregarded as income. In all instances, the amount of VA Aid and Attendance is shown on the computer form.

(v) Veterans or their surviving spouse who receive a VA pension may have their pension reduced to $90 by the VA if the veteran does not have dependents, is SoonerCare eligible, and is residing in a nursing facility that is approved under SoonerCare. Section 8003 of Public Law 101-508 allows these veterans' pensions to be reduced to $90 per month. None of the $90 may be used in computing any vendor payment or spenddown. In these instances, the nursing home resident is entitled to the $90 reduced VA pension as well as the regular nursing facility maintenance standard. Any vendor payment or spenddown will be computed by using other income minus the monthly nursing facility maintenance standard minus any applicable medical deduction(s). Veterans or their surviving spouse who meet these conditions will have their VA benefits reduced the month following the month of admission to a SoonerCare approved nursing facility.

(B) **SSI benefits.** SSI benefits may be continued up to three months for a recipient who enters a public medical or psychiatric institution, a SoonerCare approved hospital, extended care facility, intermediate care facility for ~~the mentally retarded~~individuals with an intellectual disability or nursing facility. To be eligible for the continuation of benefits, the SSI recipient must have a physician's certification that the institutionalization is not expected to exceed three (3) months and there must be a need to maintain and provide expenses for the home. These continued payments are intended for the use of the recipient and do not affect the vendor payment.

(C) **Lump sum payments.**

(i) Any income received in a lump sum (with the exception of SSI and Retirement, Survivors, and Disability Insurance (RSDI) lump sum) covering a period of more than one (1) month, whether received on a recurring or nonrecurring basis, is considered as income in the month it is received. Any amount from any lump sum source, ~~including~~excluding RSDI and SSI (with the exception of dedicated bank accounts for disabled/blind children under age ~~18~~eighteen (18)), retained on the first day of the next month is considered as a resource. Such lump sum payments may include, but are not limited to, accumulation of wages, ~~retroactive OASDI,~~ VA benefits, Workers' Compensation, bonus lease payments and annual rentals from land and/or minerals.

(ii) OASDI and SSI retroactive payments do not count as income in the month of receipt. Any unspent portion of retroactive SSI and RSDI benefits is excluded from resources for nine (9) calendar months following the month of receipt. However, unspent money from a retroactive payment must be identifiable from other resources for this exclusion to apply. The money may be commingled with other funds, but if this is done in such a fashion that the retroactive amount can no longer be separately identified, that amount will count toward the resource limit. Refer to 20 Code of Federal Regulations (CFR) § 416.1233.

(~~ii~~iii) Lump sum payments used to establish dedicated bank accounts by representative payees in order to receive and maintain retroactive SSI benefits for disabled/blind children under age ~~18~~eighteen (18) are excluded as income. The interest income generated from dedicated bank accounts is also excluded. The dedicated bank account consisting of the retroactive SSI lump sum payment and accumulated interest is excluded as a resource in both the month received and any subsequent months.

(~~iii~~iv) A life insurance death benefit received by an individual while living is considered as income in the month received and as a resource in the following months to the extent it is available.

(~~iv~~v) Changing a resource from one form to another, such as converting personal property to cash, is not considered a lump sum payment.

(D) **Income from capital resources and rental property.** Income from capital resources can be derived from rental of a house, rental from land (cash or crop rent), leasing of minerals, life estate, homestead rights or interest.

(i) If royalty income is received monthly but in irregular amounts, an average based on the previous six (6) months' royalty income is computed and used to determine income eligibility. When the difference between the gross and net income represents a production or severance tax (e.g., most oil royalties are reduced by this tax), the OHCA only uses the net figure when determining income eligibility. The production or severance tax is the cost of producing the income, and, therefore, is deducted from the gross income. Exception: At any time that the county becomes aware of and can establish a trend showing a dramatic increase or decrease in royalty income, the previous two (2) months' royalty income is averaged to compute countable monthly income.

(ii) Rental income may be treated as earned income when the individual participates in the management of a trade or business or invests his/her own labor in producing the income. The individual's federal income tax return will verify whether or not the income is from self-employment. Otherwise, income received from rental property is treated as unearned income.

(iii) When rental property is handled by a leasing agent who collects the rent and deducts a management fee, only the rent actually received by the member is considered as income.

(E) **Earned income/self-employment.** The term "earned income" includes income in cash earned by an individual through the receipt of wages, salary, commission, or profit from activities in which he/she is engaged as a self-employed individual or as an employee. See subparagraph (G) of this paragraph for earnings received in fluctuating amounts. "Earned Income" is also defined to include in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages. Such benefits received in-kind are considered as earned income only when the employee/employer relationship has been established. The cash value of the in-kind benefits must be verified by the employer. Income from self-employment also includes in-kind benefits for a work activity or service for which the self-employed person ordinarily receives payment in his/her business enterprise. An exchange of labor or services, e.g., barter, is considered as an in-kind benefit. Medical insurance secured through the employer, whether purchased or as a benefit, is not considered in-kind but is recorded on the case computer input document for coordination with SoonerCare benefits.

(i) Work study received by an individual who is attending school is considered as earned income with appropriate earned income disregards applied.

(ii) Money from the sale of whole blood or blood plasma is considered as self-employment income subject to necessary business expenses and appropriate earned income disregards.

(iii) Self-employment income is determined as follows:

(I) Generally, the federal or state income tax form for the most recent year is used for calculating the self-employment income to project income on a monthly basis for the certification period. The gross income amount, as well as the allowable deductions, are the same as can be claimed under the Internal Revenue code for tax purposes.

(II) Self-employment income which represents a household's annual support is prorated over a 12- month period, even if the income is received in a short period of time. For example, self-employment income received by crop farmers is averaged over a 12-month period if the income represents the farmer's annual support.

(III) If the household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise is averaged over the period of time the business has been in operation to establish the monthly income amount.

(IV) If a tax return is not available because one has not been filed due to recent establishment of the self-employment enterprise, a profit and loss statement must be seen to establish the monthly income amount.

(V) The purchase price and/or payment(s) on the principal of loans for capital assets, equipment, machinery, and other durable goods is not considered as a cost of producing self-employed income. Also not considered are net

losses from previous periods, depreciation of capital assets, equipment, machinery, and other durable goods; and federal, state and local income taxes, FICA, money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation (these expenses are accounted for by the work related expense deduction given in OAC 340:10-3-33(1)).

(iv) Countable self-employment income is determined by deducting allowable business expenses to determine the adjusted gross income. The earned income deductions are then applied to establish countable earned income.

(F) **Infrequent or irregular income.**

(i) Income is considered to be infrequent if the individual receives it only once during a calendar quarter from a single source and the individual did not receive that type of income in the month preceding or following the month the income was received.

(ii) Income is considered to be irregular if the individual cannot reasonably expect to receive it.

(iii) OHCA excludes the following amount of infrequent or irregular income:

(I) the first $30 per calendar quarter of earned income; and

(II) the first $60 per calendar quarter of unearned income.

(iv) Infrequent or irregular income, whether earned or unearned, that exceeds these amounts is considered countable income in the month it is received.

(G) **Monthly income received in fluctuating amounts.** Income which is received monthly but in irregular amounts is averaged using two (2) months' income, if possible, to determine income eligibility. Less than two (2) months' income may be used when circumstances (e.g., new employment, unpaid sick leave, etc.) would indicate that previous income amounts would not be appropriate to use in determining future income amounts. Income received more often than monthly is converted to monthly amounts as follows:

(i) **Daily.** Income received on a daily basis is converted to a weekly amount then multiplied by 4.3.

(ii) **Weekly.** Income received weekly is multiplied by 4.3.

(iii) **Twice a month.** Income received twice a month is multiplied by ~~2~~two (2).

(iv) **Biweekly.** Income received every two (2) weeks is multiplied by 2.15.

(H) **Non-negotiable notes and mortgages.** Installment payments received on a note, mortgage, etc., are considered as monthly income.

(I) **Income from the Job Training and Partnership Act (JTPA).** Unearned income received by an adult, such as a needs based payment, cash assistance, compensation in lieu of wages, allowances, etc., from a program funded by JTPA is considered as any other unearned income. JTPA earned income received as wages is considered as any other earned income.

(J) **Other income.** Any other monies or payments which are available for current living expenses must be considered.

(d) **Computation of income.**

(1) **Earned income or unearned income.** The general income exclusion of $20 per month is allowed for earned or unearned income, unless the unearned income is SSP, on the combined income of the eligible individual and eligible or ineligible spouse. See paragraph (5) of this subsection if there are ineligible minor children. After the $20 exclusion, deduct $65 and one-half of the remaining combined earned income. The total gross amount of unearned income of the eligible individual and eligible or ineligible spouse is considered.

(2) **Countable income.** The countable income is the sum of the earned income and the total gross unearned income after exclusions.

(3) **Deeming computation for disabled or blind minor child(ren).** An automated calculation is available for computing the income amount to be deemed from parent(s) and the spouse of the parent to eligible disabled or blind minor child(ren) by use of transaction CID. The ineligible minor child in the computation regarding allocation for ineligible child(ren) is defined as: a dependent child under age ~~18~~eighteen (18).

(A) An intellectually disabled child living in the home who is ineligible for SSP due to the deeming process may be approved for SoonerCare under the Home and Community Based Services Waiver (HCBS) Program as outlined in OAC 317:35-9-5.

(B) For TEFRA, the income of child's parent(s) is not deemed to him/her.

(4) **Premature infants.** Premature infants (i.e., ~~37~~thirty-seven (37) weeks or less) whose birth weight is less than ~~1200~~twelve hundred (1200) grams (approximately ~~2~~two (2) pounds ~~10~~ten (10) ounces) will be considered disabled by SSA even if no other medical impairment(s) exist. In this event, the parents' income is not deemed to the child until the month following the month in which the child leaves the hospital and begins living with his/her parents.

(5) **Procedures for deducting ineligible minor child allocation.** When an eligible individual has an ineligible spouse and ineligible minor children (not receiving TANF), the computation is as follows:

(A) Each ineligible child's allocation (OKDHS Form 08AX001E, Schedule VII. C.) minus each child's gross countable income is deducted from the ineligible spouse's income. Deeming of income is not done from child to parent.

(B) The deduction in subparagraph (A) of this paragraph is prior to deduction of the general income exclusion and work expense.

(C) After computations in subparagraphs (A) and (B) of this paragraph, the remaining amount is the ineligible spouse's countable income considered available to the eligible spouse.

(6) **Special exclusions for blind individuals.** Any blind individual who is employed may deduct the general income exclusion and the work exclusion from the gross amount of earned income. After the application of these exclusions, one-half of the remaining income is excluded. The actual work expense is then deducted from the remaining half to arrive at the amount of countable income. If this blind individual has a spouse who is also eligible due to blindness and both are working, the amount of ordinary and necessary expenses attributable to the earning of income for each of the blind individuals may be deducted. Expenses are deductible as paid but may not exceed the amount of earned income. To be deductible, an expense need not relate directly to the blindness of the individual, it need only be an ordinary and necessary work expense of the blind individual. Such expenses fall into three (3) broad categories:

(A) transportation to and from work;

(B) job performance; and

(C) job improvement.

[OAR Docket #19-443; filed 5-30-19]

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

[OAR Docket #19-460]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 15. Personal Care Services
317:35-15-4 [AMENDED]
317:35-15-10 [AMENDED]
Subchapter 17. Advantage Waiver Services
317:35-17-14 [AMENDED]
317:35-17-22 [AMENDED]
Subchapter 19. Nursing Facility Services
317:35-19-2 [AMENDED]
(Reference APA WF # 18-21B)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Section 162 of Title 56 of the Oklahoma Statutes and Sections 430 and 431 of Title 42 of the Code of Federal Regulations
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2018
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LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
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September 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed revisions remove outdated language regarding the Uniform Comprehensive Assessment Tool (UCAT) Part III submission and align it with the ADvantage eligibility policy. Additional revisions will add guidelines for the Oklahoma Department of Human Services (DHS) nurse when establishing/assigning a medical certification period with annual reviews for persons younger than eighteen (18) years of age. Further revisions will address personal care services medical eligibility extensions when medical redetermination is not made by the current medical certification end date; what constitutes reasons that personal care services may be terminated in a member's home and documentation that must be provided to justify termination. Other revisions will provide clarification on service provider's and service recipient's duties and responsibilities; reflect new federal regulations that affect the Electronic Visit Verification (EVV) process and implementation; and process changes for case management services. Finally, rules will add language to clarify existing policy procedure and practice in administering Consumer-Directed Personal Assistance Services and Supports (CD-PASS) service options.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 15. PERSONAL CARE SERVICES

317:35-15-4. Determination of medical eligibility for Personal Care

(a) **Eligibility.** The Oklahoma Department of Human Services (DHS) area nurse determines medical eligibility for personal care services based on the Uniform Comprehensive Assessment Tool (UCAT) Part III and the determination that the member has unmet care needs that require personal care services. Personal care services are initiated to support the ~~informal~~regular care provided in the member's home. Personal care services are not intended to take the place of regular care and general maintenance tasks or meal preparation shared or done for one another by natural supports, such as spouses or other adults who live in the same household. Additionally, personal care services are not furnished when they principally benefit the family unit. To be eligible for personal care services, the individual must:

(1) have adequate informal supports consisting of adult supervision that is present or available to contribute to care, or decision-making ability as documented on the UCAT~~,~~ Part III, to remain in his or her home without risk to his or her health, safety, and well-being, the individual:

(A) must have the decision-making ability to respond appropriately to situations that jeopardize his

or her health and safety or available supports that compensate for his or her lack of ability as documented on the UCAT~~;~~ Part III; or

(B) who has his or her decision-making ability, but lacks the physical capacity to respond appropriately to situations that jeopardize health and safety and was informed by the DHS nurse of potential risks and consequences, may be eligible~~;~~.

(2) require a plan of care involving the planning and administration of services delivered under the supervision of professional personnel;

(3) have a physical impairment or combination of physical and mental impairments as documented on the UCAT~~.~~ Part III. An individual who poses a threat to self or others as supported by professional documentation or other credible documentation may not be approved for Personal Care services. An individual who is actively psychotic or believed to be in danger of potential harm to self or others may not be approved for personal care services;

(4) not have members of the household or persons who routinely visit the household who, as supported by professional documentation or other credible documentation, pose a threat of harm or injury to the individual or other household visitors;

(5) lack the ability to meet personal care needs without additional supervision or assistance, or to communicate needs to others; and

(6) require assistance, not of a technical nature, to prevent or minimize physical health regression and deterioration.

(b) **Definitions.** The following words and terms, when used in this subsection, shall have the following meaning, unless the context clearly indicates otherwise:

(1) ~~**"ADL"** means the activities of daily living. Activities~~**"Activities of Daily Living" (ADL)** means activities of daily living are activities that reflect the member's ability to perform self-care tasks essential for sustaining health and safety, such as:

(A) bathing;

(B) eating;

(C) dressing;

(D) grooming;

(E) transferring~~,~~ includes activities~~,~~ such as getting in and out of a tub~~,~~ or bed to chair;

(F) mobility;

(G) toileting; and

(H) bowel/bladder control.

(2) **"ADLs score of three or greater"** means the member cannot do at least one ADL at all or needs some help with two or more ADLs.

(3) **"Consumer support very low need"** means the member's UCAT Part III Consumer Support score is zero (0)~~that~~ which indicates, in the UCAT Part III assessor's clinical judgment, the formal and informal sources are sufficient for present level of member need in most functional areas.

(4) **"Consumer support low need"** means the member's UCAT Part III Consumer Support score is five (5)~~that~~ which indicates, in the UCAT Part III assessor's clinical judgment, the support from formal and informal sources are nearly sufficient for present level of member need in most functional areas. The member, family, or informal supports are meeting most needs typically expected of family or household members to share or do for one another, such as general household maintenance. There is little risk of institutional placement with loss of current supports.

(5) **"Consumer support moderate need"** means the UCAT Part III Consumer score is ~~15~~fifteen (15)~~that~~ which indicates, in the UCAT Part III assessor's clinical judgment, the formal and informal support is available, but overall, it is inadequate, changing, fragile, or otherwise problematic. The member requires additional assistance that usually includes personal care assistance with one or more ADLs not available through Medicare, the Veterans Administration, or other federal entitlement programs. Support provided by informal caregivers is of questionable reliability due to one (1) or more of the following:

(A) care or support is required continuously with no relief or backup available;

(B) informal support lacks continuity due to conflicting responsibilities~~,~~ such as work or child care;

(C) care or support is provided by persons with advanced age or disability; or

(D) institutional placement can reasonably be expected with any loss of existing support.

(6) **"Consumer support high need"** means the member's UCAT Part III Consumer score is ~~25~~twenty-five (25)~~that~~ which indicates, in the UCAT Part III assessor's clinical judgment, the formal and informal supports are not sufficient as there is very little or no support available to meet a high degree of member need.

(7) **"Community services worker"** means any non-licensed health professional employed by or under contract with a community services provider who provides, for compensation or as a volunteer, health-related services, training, or supportive assistance to frail elderly, disabled person(s), or person(s) with developmental disabilities.

(8) **"Community Services Worker Registry"** means a registry established by the DHS, per Section (§) 1025.1 ~~et seq.~~ of Title 56 of the Oklahoma Statutes~~,~~ (O.S.) to list community services workers against whom a final investigative finding of abuse, neglect, or exploitation, per ~~Section 10-103 of Title 43A of the Oklahoma Statutes,~~43A O.S. § 10-103, involving a frail elderly, disabled person(s), or person(s) with developmental disabilities was made by DHS or an administrative law judge~~.~~; and amended in 2002, to include the listing of SoonerCare (Medicaid) personal care assistants (PCAs) providing personal care services.

(9) **"Instrumental activities of daily living (IADL)"** means those activities that reflect the member's ability to perform household chores and tasks within the community essential for sustaining health and safety, such as:

(A) shopping;

(B) cooking;

(C) cleaning;
(D) managing money;
(E) using a ~~telephone;~~phone;
(F) doing laundry;
(G) taking medication; and
(H) accessing transportation.

(10) **"IADLs score is at least six" (6)"** means the member needs some help with at least three (3) IADLs or cannot do two (2) IADLs at all.

(11) **"IADLs score of eight (8) or greater"** means the member needs some help with at least four (4) IADLs or the member cannot do two (2) IADLs at all and needs some help with one (1) or more other IADLs.

(12) **"MSQ"** means the mental status questionnaire.

(13) **"MSQ moderate risk range"** means a total weighted-score of seven (7) to ~~11~~eleven (11) that indicates an orientation-memory-concentration impairment or memory impairment.

(14) **"Nutrition moderate risk"** means the total weighted UCAT Part III Nutrition score is eight (8) or more that indicates poor appetite or weight loss combined with special diet requirements, medications, or difficulties in eating.

(15) **"Social resources score is eight (8) or more"** means the member lives alone or has no informal support when he or she is sick, needs assistance, or has little or no contact with others.

(c) **Medical eligibility minimum criteria for personal care.** The medical eligibility minimum criteria for personal care are the minimum UCAT Part III score criteria that a member must meet for medical eligibility for personal care and are:

(1) ADLs score is five (5) or greater; or IADLs score of eight (8) or greater; or Nutrition score is eight (8) or greater; or the MSQ score is seven (7) or greater; or the ADLs score is three (3) and IADLs score is at least six~~;~~ (6); and

(2) Consumer Support is ~~15~~fifteen (15) or more; or Consumer Support score is five (5) and the Social Resources score is eight or more.

(d) **Medical eligibility determination.** Medical eligibility for personal care is determined by the DHS. The medical decision for personal care is made by the DHS area nurse utilizing the UCAT~~.~~ Part III.

(1) Categorical relationship must be established for determination of eligibility for personal care. When categorical relationship to Aid to the Disabled was not established but there is an extremely emergent need for personal care, and current medical information is not available, the local office authorizes a medical examination. When authorization is necessary, the county director issues Form 08MA016E, Authorization for Examination, and Form 08MA02E, Report of Physician's Examination, to a licensed medical or osteopathic health care professional, refer to Oklahoma Administrative Code (OAC) 317:30-5-1. The licensed health care professional cannot be in a medical facility internship, residency, or fellowship program or in the full time employment of the Veterans Administration, United States Public Health Service, or other agency. The DHS county worker submits the information to the Level of Care Evaluation Unit (LOCEU) to request a determination of eligibility for categorical relationship. LOCEU renders a decision on the categorical relationship using the Social Security Administration (SSA) definition. A follow-up is required by the DHS county worker with (SSA) to ensure the SSA disability decision is also the LOCEU decision.

(2) Approved contract agencies or the ADvantage Administration (AA) may complete UCAT Part I for intake and screening and forward the form to the county office.

(3) Upon receipt of the referral, DHS county staff may initiate the UCAT, Part I.

(4) The DHS nurse is responsible for completing the UCAT Part III assessment visit within ~~10 business~~ten-business (10-business) days of the personal care referral for the applicant who is SoonerCare eligible at the time of the request. The DHS nurse completes the assessment visit within ~~20 business~~twenty-business (20-business) days of the referral for the applicant not determined SoonerCare eligible at the time of the request. When the UCAT Part I indicates the request is from an individual who resides at home and an immediate response is required to ensure the health and safety of the person, emergency situation, or to avoid institutional placement, the UCAT Part III assessment visit has top-scheduling priority.

(5) During the assessment visit, the DHS nurse completes the UCAT Part III and reviews rights to privacy, fair hearing, provider choice, and the pre-service acknowledgement agreement with the member. The DHS nurse informs the applicant of medical eligibility criteria and provides information about DHS long-term care service options. The DHS nurse documents if the member wants to be considered for nursing facility level of care services or if the member is applying for a specific service program on UCAT Part III. When, based on the information obtained during the assessment, the DHS nurse determines if the member may be at risk for health and safety, an immediate referral is made to Adult Protective Services (APS) or Child Protective Services, as applicable. The referral is documented on the UCAT~~.~~ Part III.

(A) When the applicant's needs cannot be met by personal care services alone, the DHS nurse informs the applicant of the other community long-term care service options. The DHS nurse assists the applicant in ~~access~~accessing service options selected by the applicant in addition to, or in place of, Personal Care services.

(B) When multiple household members are applying for SoonerCare ~~Personal Care~~personal care services, the UCAT Part III assessment is done for all the household members at the same time.

(C) The DHS nurse informs the applicant of the qualified agencies in his or her local area that provide services and obtains the applicant's primary and secondary choice of agencies. When the applicant or family declines to choose a primary personal care

service agency, the DHS nurse selects an agency from a list of all available agencies, using a round-robin system. The DHS nurse documents the name of the selected personal care provider agency.

(6) The DHS nurse completes the UCAT ~~within three business days of the assessment visit~~Part III and sends it to the DHS area nurse for medical eligibility determination. Personal care service eligibility is established on the date medical eligibility is approved and financial eligibility is established. This date serves as the certification date for services to be initiated.

(A) When the length of time from the initial assessment to the date of service eligibility determination exceeds ~~90 calendar~~ninety-calendar (90-calendar) days, a new UCAT Part III and assessment visit is required.

(B) The DHS area nurse assigns a medical certification period of not more than ~~36 months.~~thirty-six (36) months for persons eighteen (18) years of age and older or not more than twelve (12) months for persons younger than eighteen (18) years of age. The service plan period under the Service Authorization Model (SAM) is for a period of ~~12~~twelve (12) months and is provided by the DHS nurse.

(7) The DHS area nurse notifies the DHS county worker via ~~ELDERS~~Electronic Data Entry and Retrieval System (ELDERS) of the personal care certification. The authorization line is open via automation from ELDERS.

(8) Upon establishment of personal care certification, the DHS nurse contacts the member's preferred provider agency, or when necessary, the secondary provider agency or the provider agency selected by the round robin system. Within ~~one business~~one-business (1-business) day of provider agency acceptance, the DHS nurse forwards the referral information to the provider agency for SAM plan development. Refer to OAC 317:35-15-8(a).

(9) Following the SAM packet development by the provider agency, and within ~~three business~~three-business (3-business) days of receipt of the packet from the provider agency, the DHS nurse reviews the documentation to ensure agreement with the plan. Once agreement is established, the packet is authorized by the designee or submitted to the area nurse for review.

(10) Within ~~10 business~~ten-business (10-business) days of receipt of the SAM case from the DHS nurse, the DHS area nurse authorizes or denies the SAM units. If the SAM case fails to meet standards for authorization, the case is returned to the DHS nurse for further justification.

(11) Within ~~one business~~one-business (1-business) day of knowledge of the authorization, the DHS nurse forwards the service plan authorization to the provider agency.

317:35-15-10. Redetermination of medical eligibility for personal care services

(a) **Medical eligibility redetermination.** The Oklahoma Department of Human Services (DHS) area nurse must complete a redetermination of medical eligibility before the end of the long-term care medical certification period.

(b) **Recertification.** The DHS nurse re-assesses the personal care services member, eighteen (18) years of age and older, for medical re-certification based on the member's needs and level of caregiver support required, using the Uniform Comprehensive Assessment Tool (UCAT) Part III at least every ~~36~~thirty-six (36) months. Those members, who are younger than eighteen (18) years of age, are re-evaluated by the DHS nurse using the UCAT Part III on a twelve (12) month basis or sooner when needed. During this re-certification assessment, the DHS nurse informs the member of the state's other SoonerCare (Medicaid) long-term care options. The DHS nurse submits the re-assessment to the DHS area nurse for recertification. Documentation is sent to the DHS area nurse no later than the ~~10th calendar~~tenth-calendar (10th-calendar) day of the month in which the certification expires. When the DHS area nurse determines medical eligibility for personal care services, a recertification review date is entered on the system.

(c) **Change in amount of units or tasks.** When the personal care provider agency determines a need for a change in the amount of units or tasks within the personal care service, a new Service Authorization Model (SAM) packet is completed and submitted to DHS within five ~~calendar~~ (5) business days of identifying the assessed need. The change is approved or denied by the DHS area nurse or designee, prior to implementation.

(d) **Voluntary closure of ~~Personal Care~~personal care services.** When a member decides personal care services are no longer needed to meet his or her needs, a medical decision is not needed. The member and the DHS nurse or DHS county Social Services Specialist completes and signs DHS Form 02AG038E, State Plan Personal Care/ADvantage Program Voluntary Withdrawal Request. The DHS nurse submits closure notification to the provider agency.

(e) **Resuming ~~Personal Care~~personal care services.** When a member approved for ~~Personal Care~~personal care services is without ~~Personal Care~~personal care services for less than ~~90 calendar days~~ ninety-calendar (90-calendar) days but has current medical and SoonerCare (Medicaid) financial eligibility approval, ~~Personal Care~~personal care services may be resumed using the member's previously approved SAM packet. The personal care provider agency nurse contacts the member to determine when changes in health or service needs occurred. When changes are identified, the provider agency nurse makes a home visit and submits a ~~Personal Care~~personal care services skilled nursing re-assessment of need within ~~10 business~~ten-business (10-business) days of the resumed plan start date, using the State Plan Personal Care Progress Notes, DHS Form 02AG044E. When the member's needs dictate, the ~~Personal Care~~personal care provider agency may submit a request for a change in authorized ~~Personal Care~~personal care services units with a SAM packet to DHS. When no changes occur, the

agency nurse documents the contact on State Plan Personal Provider Communication Form 02AG032E and forwards it to the DHS nurse within ~~10-business~~ten-business (10-business) days of the resumed plan start date.

(f) **Financial ineligibility.** When the DHS determines a ~~Personal Care~~personal care services member does not meet SoonerCare financial eligibility criteria, the DHS office notifies the DHS area nurse to initiate the closure process due to financial ineligibility. Individuals determined financially ineligible for ~~Personal Care~~personal care services are notified by DHS in writing of the determination and of their right to appeal the decision. The DHS nurse submits closure notification to the provider agency.

(g) **Closure due to medical ineligibility.** Individuals determined medically ineligible for ~~Personal Care~~personal care services are notified by DHS in writing of the determination and of their right to appeal the decision. When medical eligibility redetermination is not made prior to current medical eligibility expiration, the existing medical eligibility certification is automatically extended until level of care redetermination is established. For members:

(1) who are not hospitalized or in an extended medical care facility, the existing medical eligibility certification is extended for a maximum sixty-calendar (60-calendar)days from the date of the previous medical eligibility expiration date;

(2) who are hospitalized or in an extended medical care facility, the existing medical eligibility certification is extended for thirty-calendar (30-calendar) days from the date of discharge from the facility or for sixty-calendar (60-calendar) days from the date of previous medical eligibility expiration date, whichever is longer;

(3) whose medical eligibility redetermination is not made by applicable extended deadline, the member is determined to be no longer medically eligible; or

(4) who no longer meet medical eligibility or cannot be located to complete the redetermination assessment, the area nurse or nurse designee, updates the system's medical eligibility end date and notifies the DHS State Plan Care Unit (SPCU) nurse of effective end date. The DHS SPCU nurse submits closure notification to the provider agency.

(h) **Termination of State Plan ~~Personal Care Services.~~personal care services.**

(1) Personal ~~Care~~care services may be discontinued when:

(A) the member poses a threat to self or others as supported by professional documentation;

(B) other members of the household or persons who routinely visit the household who, as supported by professional documentation or other credible documentation, pose a threat to the member or other household visitors;

(C) the member or the other household members use~~:~~ threatening, intimidating, degrading, or sexually inappropriate language and/or innuendo or behavior towards service providers, either in the home or through other contact or communications; and efforts to correct such behavior were unsuccessful as supported by professional documentation or other credible documentation.

~~(i) angry, insulting, threatening, intimidating, degrading, or sexually inappropriate language; or~~

~~(ii) innuendos or behavior towards service provider, whether in the home or through other contact or communications; or~~

~~(iii) as supported by professional documentation or other credible documentation.~~

(D) the member or family member fails to cooperate with Personal Care service delivery or to comply with Oklahoma Health Care Authority (OHCA) or DHS rules as supported by professional documentation;

(E) the member's health or safety is at risk as supported by professional documentation;

(F) additional services, either "formal" such as, paid by Sooner Care (Medicaid) or some other funding source or "informal" such as, unpaid are provided in the home eliminating the need for SoonerCare ~~Personal Care~~personal care services;

(G) the individual's living environment poses a physical threat to self or others as supported by professional documentation where applicable, and measures to correct hazardous conditions or assist the person to move are unsuccessful or are not feasible; or

(H) the member refuses to select and/or accept the services of a provider agency or ~~PCA~~personal care assistant (PCA) for ~~90-consecutive~~ninety-consecutive (90-consecutive) days as supported by professional documentation.

(2) For persons receiving personal care services, the personal care provider agency submits documentation with the recommendation to discontinue services to DHS. The DHS nurse reviews the documentation and submits it to the DHS area nurse for determination. The DHS nurse notifies the personal care provider agency or PCA~~,~~ and the local DHS county worker of the decision to terminate services. The member is sent an official closure notice informing him or her of appropriate member rights to appeal the decision to discontinue services.

SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES

317:35-17-14. Case management services

(a) Case management services involve ongoing assessment, service planning and implementation, service monitoring and evaluation, member advocacy, and discharge planning.

(1) Within ~~one-business~~one-business (1-business) day of receipt of an ADvantage referral from the ADvantage Administration (AA), the case management supervisor assigns a case manager to the member. The case manager makes a home visit to review the ADvantage program; its purpose, philosophy, and the roles and responsibilities of the member, service provider, case manager, and the Oklahoma Department of Human Services (DHS). The

case manager will review~~;~~ and/or update~~ and complete~~ the Uniform Comprehensive Assessment Tool (UCAT)~~;~~ Part III and discuss service needs and ADvantage service providers. The ~~Case Manager~~case manager notifies the member's primary physician, identified in the UCAT ~~identified primary physician~~Part I, in writing that the member was determined eligible to receive ADvantage services. The notification is a preprint form that contains the member's signed permission to release this health information and requests physician's office verification of primary and secondary diagnoses and diagnoses code obtained from the UCAT~~.~~ Part III.

(2) Within ~~14 calendar~~fourteen-calendar (14-calendar) days of the receipt of an ADvantage referral, the case manager completes and submits~~ to the AA~~ a person-centered service plan ~~and service plan~~ for the member, signed by the member and the case ~~management supervisor.~~manager, to the case manager supervisor for approval and submission to the AA. The case manager completes and submits~~ to the AA~~ the annual reassessment person-centered service plan documents no sooner than ~~60 calendar~~sixty -calendar (60-calendar) days before the existing service plan ~~end date~~end-date but sufficiently in advance of the ~~end date~~end-date to be received by the AA at least ~~30 calendar~~thirty (30) days before the ~~end date~~end-date of the existing person-centered service plan. The case manager submits revisions for denied services to be resubmitted~~ to the AA~~ for approval within ~~5 business~~five-business (5-business) days~~.~~ to the AA. Within ~~14 calendar~~fourteen-calendar (14-calendar) days of receipt of a Service Plan Review~~ Request~~ (SPR) for short-term authorizations from the AA, the case manager ~~provides~~submits corrected person-centered service plan documentation. Within ~~five business~~five-business (5-business) days of assessed need, the case manager completes and submits a service plan addendum to the AA to amend current services on the person-centered service plan. The person-centered~~ and~~ service plan is based on the member's service needs identified by the UCAT Part III, and includes only those ADvantage services required to sustain and/or promote the health and safety of the member. The case manager uses an interdisciplinary team (IDT) planning approach for person-centered service plan development. Except for extraordinary circumstances, the IDT meetings are held in the member's home.~~ Variances from this policy must be presented to and approved by the AA in advance of the meeting.~~ When ~~in home~~home care is the primary service, the IDT includes, at a minimum, the member, a nurse from the ADvantage ~~in home~~home care ~~provider~~or assisted living provider chosen by the member, and the case manager. Otherwise, the member and case manager constitute a minimum IDT.

(3) The case manager identifies long-term goals, strengths and challenges ~~to~~for meeting goals, and service goals including plan objectives, actions steps and expected outcomes. The ADvantage case manager documents on the person-centered service plan~~,~~ the presence of two (2) or more ADvantage members residing in the same household and/or when the member and personal care provider reside together. The case manager documents on the Electronic Visit Verification (EVV) system in the member record any instance in which a member's health or safety would be at risk when even one (1) personal care visit is missed. The case manager identifies services, service provider, funding source units and frequency of service and service cost, cost by funding source and total cost for ADvantage services. The member signs and indicates review/agreement with the person-centered service plan by indicating acceptance or non-acceptance of the plans. The member, the member's legal guardian~~,~~ or legally authorized representative signs the person-centered service plan in the presence of the case manager. The signatures of two (2) witnesses are required when the member signs with a mark. When the member refuses to cooperate in development of the person-centered service ~~planor~~plan or when the member refuses to sign the person-centered service plan, the case management agency refers the case to the AA for resolution. ~~In addition based~~Based on the UCAT Part III and/or case progress notes that document chronic uncooperative or disruptive behaviors, the DHS nurse or AA may identify members that require AA intervention through referral to the AA's Escalated Issues unit.

(A) For members that are uncooperative or disruptive, the case manager ~~develops~~supports the member to develop an individualized person-centered service ~~individualized~~ plan to overcome challenges to receiving services.~~focusing~~ This plan focuses on behaviors, both favorable and those that jeopardize the member's well-being and includes a design approach of incremental plans and~~ an~~ addenda that allows the member to achieve stepwise successes in behavior modification.

(B) The AA may implement a person-centered service plan without the member's signature when the presence of a document that requires their signature may itself trigger a conflict. In these circumstances, mental health/behavioral issues may prevent the member from controlling his or her behavior to act in his or her own interest. ~~The person~~When the member, by virtue of level of care and the IDT assessment, needs ADvantage services to ensure his or her health and safety, the AA may authorize the person-centered service plan when the case manager demonstrates effort to work with and obtain the member's agreement. Should negotiations not result in agreement with the person-centered service plan, the member may withdraw his or her request for services or request a fair hearing.

(4) Consumer-Directed Personal Assistance Services and Supports (CD-PASS) planning and supports coordination.

(A) ~~The ADvantage case management provider assigns the CD-PASS member a case manager that successfully completed training on CD-PASS, Independent Living Philosophy, Person-Centered Planning and the individual budgeting process and~~

~~process guidelines. Case managers, who complete specialized CD-PASS training are referred to as Consumer-Directed Agent/Case Managers (CDA/CM) with respect to his or her CD-PASS service planning and support role in working with CD-PASS members. The CDA/CM educates the member about his or her rights and responsibilities as well as community resources, service choices, and options available to the member to meet CD-PASS service goals and objectives.~~CD-PASS offers ADvantage members personal choice and control over the delivery of their in-home support service, including who provides the services and how services are provided. Members or their legal representatives have singular "employer authority" in decision-making and are responsible to recruit, hire, train, supervise and when necessary, terminate the individuals who furnish their services. They also have "budget authority" to determine how expenditures of their expense accounts are managed.

(B) ~~The member may designate a family member or friend as an authorized representative to assist in the service planning process and in executing member employer responsibilities. When the member chooses to designate an authorized representative the designation and agreement identifying the willing adult to assume this role and responsibility is documented with dated signatures of the member, the designee, and the member's case manager, or AA staff.~~Members who elect the CD-PASS service option receive support from Consumer-Directed Agent/Case Manager (CDA/CM) in directing their services. The CDA/CM liaison between the member and the program assists members, identifying potential requirements and supports as they direct their services and supports. ADvantage case management providers deliver required support and assign the CD-PASS members a case manager trained on the ADvantage CD-PASS service option, independent living philosophy, person centered service planning, the role of the member as employer of record, the individual budgeting process and service plan development guidelines. A case manager, who has completed specialized CD-PASS training, is referred to as a CDA/CM with respect to the service planning and support role when working with CD-PASS members. The CDA/CM educates the member about his or her rights and responsibilities as well as community resources, service choices and options available to the member to meet CD-PASS service goals and objectives.

~~(i) A person having guardianship or power of attorney or other court sanctioned authorization to make decisions on behalf of the member has legal standing to be the member's designated authorized representative.~~

~~(ii) An individual hired to provide CD-PASS services to a member may not be designated the authorized representative for the member.~~

~~(iii) The case manager reviews the designation of authorized representative, power of attorney, and legal guardian status on an annual basis and includes this in the reassessment packet to AA.~~

(C) The ADvantage case management provider is responsible for ensuring that case managers serving members who elect to receive or are receiving the CD-PASS service option have successfully completed CD-PASS certification training in its entirety and have a valid CDA/CM certification issued by the AA.

(D) Consumer-directed, SoonerCare (Medicaid)-funded programs are regulated by federal laws and regulations setting forth various legal requirements with which states must comply. The ADvantage case management provider is responsible for ensuring that CDA/CMs in their employment provide services to CD-PASS members consistent with certification guidelines so as to be in keeping with federal, state, and Waiver requirements. Non-adherence may result in remediation for the case management provider, the case manager, or both, up to and including decertification.

(E) Members may designate a family member or friend as an authorized representative to assist in the service planning process and in executing member employer responsibilities. When the member chooses to designate an authorized representative, the designation and agreement, identifying the willing adult to assume this role and responsibility, is documented with dated signatures of the member, the designee, and the member's case manager, or AA staff.

(i) A person having guardianship or power of attorney or other court-sanctioned authorization to make decisions on behalf of the member has legal standing to be the member's designated authorized representative.

(ii) An individual hired to provide CD-PASS services to a member may not be designated the authorized representative for the member.

(iii) The case manager reviews the designation of authorized representative, power of attorney, and legal guardian status on an annual basis and includes this in the reassessment packet to AA.

(~~C~~F) The CDA/CM provides support to the member in the ~~Person Centered~~person-centered CD-PASS ~~Planning~~planning process. Principles of ~~Person Centered Planning~~person-centered planning are listed in (i) through (v) of the subparagraph.

(i) The person is the center of all planning activities.

(ii) The member and his or her representative, or support team are given the requisite information to assume a controlling role in the development, implementation, and management of the member's services.

(iii) The individual and those who know and care about him or her are the fundamental sources of information and decision-making.

(iv) The individual directs and manages a planning process that identifies his or her strengths, capacities, preferences, desires, goals, and support needs.

(v) ~~Person-Centered Planning~~Person-centered planning results in personally-defined outcomes.

(~~D~~G) The CDA/CM encourages and supports the member, or as applicable his or her designated authorized representative, to lead, to the extent feasible, the CD-PASS service planning process for ~~Personal Services Assistance.~~personal services assistance. The CDA/CM helps the member define support needs, service goals, and service preferences including access to and use of generic community resources. Consistent with member-direction and preferences, the CDA/CM provides information and helps the member locate and access community resources. Operating within the constraints of the Individual Budget Allocation (IBA) units, the CDA/CM assists the member translate the assessment of member needs and preferences into an individually tailored, person-centered service plan.

(~~E~~H) To the extent the member prefers, the CDA/CM develops assistance to meet member needs using a combination of traditional ~~Personal Care~~personal care and CD-PASS PSA services. However, the CD-PASS IBA and the PSA unit authorization is reduced proportional to agency ~~Personal Care~~personal care service utilization.

(~~F~~I) The member determines with the PSA to be hired, a start date for PSA services. The member coordinates with the CDA/CM to finalize the person-centered service plan. The start date must be after:

(i) authorization of services;

(ii) completion and approval of the background checks; and

(iii) completion of the member employee packets.

(~~G~~J) Based on outcomes of the planning process, the CDA/CM prepares an ADvantage person-centered service plan or plan amendment to authorize CD-PASS ~~Personal Service Assistance~~personal service assistance units consistent with this individual plan and notifies existing duplicative ~~Personal Care~~personal care service providers of the ~~end date~~end-date for those services.

(~~H~~K) When the plan requires an Advanced Personal Service Assistant (APSA) to provide assistance with health maintenance activities, the CDA/CM works with the member and, as appropriate, arranges for training by a skilled nurse for the member or member's family and the APSA to ensure that the APSA performs the specific health maintenance tasks safely and competently~~;~~, when the:

(i) ~~when the~~ member's APSA was providing Advanced Supportive Restorative Assistance to the member for the same tasks in the period immediately prior to being hired as the APSA, additional documentation of competence is not required; and

(ii) ~~when the~~ member and APSA attest that the APSA was performing the specific health maintenance tasks to the member's satisfaction on an informal basis as a friend or family member for a minimum of two (2) months in the period immediately prior to being hired as the PSA, and no evidence contra-indicates the attestation of safe and competent performance by the APSA, additional documentation is not required.

(~~I~~L) The CDA/CM monitors the member's well-being and the quality of supports and services and assists the member in revising the PSA services plan as needed. When the member's need for services changes due to a change in health/disability status and/or a change in the level of support available from other sources to meet needs, the CDA/CM, based upon an updated assessment, amends the person-centered service plan to modify CD-PASS service units appropriate to meet the additional ~~member's~~ need and ~~forwards~~submits the plan amendment to the AA for authorization and update of the member's IBA.

(~~J~~M) In the event of a disagreement between the member and CD-PASS provider the following process is followed:

(i) either party may contact via a toll free number the Member/Provider Relations Resource Center to obtain assistance with issue resolution;

(ii) when the issue cannot be resolved with assistance from the Member/Provider Relations Resource Center or from CD-PASS Program Management, the CD-PASS Program Management submits the dispute to the ADvantage Escalated Issues Unit for resolution. The Escalated Issues Unit works with the member and provider to reach a mutually-agreed upon resolution;

(iii) when the dispute cannot be resolved by the ADvantage Escalated Issues Unit it is heard by the Ethics of Care Committee. The Ethics of Care Committee makes a final determination with regard to settlement of the dispute; or

(iv) at any step of this dispute resolution process the member may request a fair hearing to appeal the dispute resolution decision.

(~~K~~N) The CDA/CM and the member prepare an emergency backup response capability for CD-PASS PSA/APSA services in the event a PSA/APSA services provider essential to the individual's health and welfare fails to deliver services. As part of the backup planning process, the CDA/CM and member define what failure of service or neglect of service tasks constitutes a risk to health and welfare to trigger implementation of the emergency backup (i) or (ii) may be used. Identification of:

(i) ~~Identification of~~ a qualified substitute provider of PSA/APSA services and preparation for their quick response to provide backup emergency services, including execution of all qualifying background checks, training, and employment processes; and/or

(ii) ~~Identification of~~ one (1) or more qualified substitute ADvantage agency service providers, adult day health, personal care, or nursing facility (NF) respite provider, and preparation for quick response to provide backup emergency services.

(~~L~~O) To obtain authorizations for providers other than PSA and APSA identified as emergency backups, requests the AA authorize and facilitate member access to adult day health, agency personal care, or ~~Nursing Facility~~NF respite services.

(5) The case manager submits the person-centered service plan to the case management supervisor for review. The case management supervisor ~~documents~~conducts the review/approval of the plans within two-business (2-business) days of receipt from the case manager or returns the plans to the case manager with notations of errors, problems, and concerns to be addressed. The case manager re-submits the corrected person-centered service plan to the case management supervisor within ~~two-business~~two-business (2-business) days. The case management supervisor returns the approved person-centered service plan to the case manager. Within ~~one-business~~one-business (1-business) day of receiving supervisory approval, the case manager~~ forwards,~~ submits, ~~by United States mail, a legible copy of~~ the person-centered service plan to the AA.~~ Case managers are responsible for retaining all original documents for the member's file at the agency.~~ Only priority service needs and supporting documentation may be ~~faxed~~submitted to the AA ~~with the word, "PRIORITY" clearly indicated and the~~as a "Priority" case with justification attached. "Priority" service needs are defined as services needing immediate authorization to protect the health and welfare of the member and/or avoid premature admission to the NF. Corrections to service conditions set by the AA are not considered a priority unless the health and welfare of the member would otherwise be immediately jeopardized and/or the member would otherwise require premature admission to a NF.

(6) Within ~~one-business~~one-business (1-business) day of notification of care plan and person-centered service plan authorization, the case manager communicates with the service plan providers and member to facilitate service plan implementation. Within ~~five-business~~five-business (5-business) days of notification of an initial person-centered service plan or a new reassessment service plan authorization, the case manager visits the member, gives the member a copy of the person-centered service plan ~~or computer-generated copy of the person-centered service plan,~~ and evaluates the service plan implementation progress. The case manager evaluates service plan implementation on the following minimum schedule:

(A) within ~~30-calendar~~thirty-calendar (30-calendar) days of the authorized effective date of the person-centered service plan or service plan addendum amendment; and

(B) monthly after the initial ~~30-calendar~~thirty-calendar (30-calendar) follow-up evaluation date.

(b) **Authorization of service plans and amendments to service plans.** The AA authorizes the individual person-centered service plan and all service plan amendments for each ADvantage member. When the AA verifies member ADvantage eligibility, service plan cost ~~effectivenessfor~~effectiveness for service providers that are ADvantage authorized and SoonerCare contracted, and that the delivery of ADvantage services are consistent with the member's level of care need, the service plan is authorized.

(1) Except as provided by the process per ~~OAC~~Oklahoma Administrative Code (OAC) 317:30-5-761(6), family members may not receive payment for providing ADvantage waiver services. A family member is defined as an individual who is legally responsible for the member, such as the spouse or parent of a minor child.

(2) ~~The~~ DHS AS may, per OAC 317:35-15-13, authorize personal care service provision by an Individual PCA, an individual contracted directly with OHCA. Legally responsible family members are not eligible to serve as Individual PCAs.

(3) When ~~the~~a complete service plan authorization or amendment request ~~packet~~is received ~~from case management is complete~~ and the service plan is within cost-effectiveness guidelines, the AA authorizes or denies authorization within five-business (5-business) days of receipt of the request. When the service plan is not within cost-effectiveness guidelines, the plan is referred for administrative review to develop an alternative cost-effective plan or assist the member to access services in an alternate setting or program. When the request packet is ~~not complete,~~incomplete, the AA notifies the case manager immediately and puts a hold on authorization until the ~~required additional documents~~requirements are received from case management.

(4) The AA authorizes the service plan by entering the authorization date~~ and assigning a control number that internally identifies the DHS staff completing the authorization~~. Notice of authorization~~ and a computer-generated copy of the authorized plan or a computer-generated copy~~ of the ~~authorized~~service plan ~~are provided to case management.~~is available through the appropriate designated software or web-based solution. AA authorization determinations are provided to case management within one-business (1-business) day of the authorization date. A person-centered service plan may be authorized and implemented with specific services temporarily denied. The AA communicates to case management the conditions for approval of temporarily denied services. The case manager submits revisions for denied services to AA for approval within ~~5-business~~five-business (5-business) days.

(5) For audit purposes including Program Integrity reviews, the ~~computer-generated copy of the~~ authorized service plan is documentation of service authorization for ADvantage waiver and State Plan Personal Care services. Federal or State quality review and audit officials may obtain a copy of specific person-centered service plans with original signatures by submitting a request to the member's case manager.

(c) **Change in service plan.** The process for initiating a change in the person-centered service plan is described in this subsection.

(1) The service provider initiates the process for an increase or decrease in service to the member's person-centered service plan. The requested changes and justification are documented by the service provider and, when initiated by a direct care provider, are submitted to the member's case manager. When in agreement, the case manager ~~requests~~submits the service changes ~~on a service plan amendment submitted to the AA~~ within five-business (5-business) days of the assessed need. The AA authorizes or denies the person-centered service plan changes, per ~~Oklahoma Administrative Code (OAC)~~OAC 317:35-17-14.

(2) The member initiates the process for replacing ~~Personal Care~~personal care services with ~~Consumer-Directed Personal Services and Supports (CD-PASS)~~CD-PASS in geographic areas where CD-PASS services are available. The member may contact the AA or call the toll-free number to process requests for CD-PASS services.

(3) A significant change in the member's physical condition or caregiver support, one that requires additional goals, deletion of goals or goal changes, or requires a four-hour (4-hour) or more adjustment in services per week, requires an updated UCAT Part III reassessment by the case manager. The case manager develops an amended or new person-centered service plan, as appropriate, and submits the new amended person-centered service plan for authorization.

(4) One (1) or more of the following changes or service requests require an Interdisciplinary Team review and service plan goals amendment:

(A) the presence of two (2) or more ADvantage members residing in the same household;

(B) the member and personal care provider residing together; (C) a request for a family member to be a paid ADvantage service provider; or~~;~~

(D) a request for an individual PCA service provider.

(5) Based on the reassessment and consultation with the AA as needed, the member may, as appropriate, be authorized for a new person-centered service plan or be eligible for a different service program. When the member is significantly improved from the previous assessment and does not require ADvantage services, the case manager obtains the member's dated signature indicating voluntary withdrawal for ADvantage program services. When unable to obtain the member's consent for voluntary closure, the case manager requests ~~(AA)~~AA assistance. The AA requests that the DHS area nurse initiate a reconsideration of level of care.

(6) Providers of Home and Community Based Services (HCBS) for the member, or those who have an interest in or are employed by a provider of HCBS for the member, must not provide case management or develop the person-centered service plan, except when the State demonstrates the only willing and qualified entity to provide case management and develop person-centered service plans in a geographic area also provides HCBS.

317:35-17-22. Billing procedures for ADvantage services

(a) Billing procedures for long-term care medical services are contained in the Oklahoma Medicaid Management Information Systems (OKMMIS) Billing and Procedure Manual. Questions regarding billing procedures that cannot be resolved through a study of the manual are referred to the Oklahoma Health Care Authority (OHCA).

(b) The Oklahoma Department of Human Services (DHS) Aging Services (AS) approved ADvantage service plan is the basis for the Medicaid Management Information Systems (MMIS)service prior authorization, specifying~~:~~ the:

(1) service;

(2) service provider;

(3) units authorized; and

(4) begin- and ~~end-dates~~end-dates of service authorization.

(c) As part of ADvantage quality assurance, provider audits are used to evaluate if paid claims are consistent with service plan authorizations and documentation of service provision. Evidence of paid claims not supported by service plan authorization and/or documentation of service provision are turned over to the OHCA ~~Provider Audit~~Clinical Provider Audits Unit for follow-up investigation.

(d) All contracted providers for ADvantage Waiver services must submit billing to the State Medicaid agency, Soonercare using the appropriate designated software, or web-based solution to submit all claims transactions. When the designated system is unavailable, contracted providers submit billing directly to OHCA.

(~~d~~e) Service time of personal care, case management, case management for transitioning, nursing, advanced supportive/restorative assistance, in-home respite, consumer-directed personal assistance services and supports (CD-PASS), personal services assistance, and advanced personal services assistance is documented solely through the Electronic Visit Verification System (EVV)~~ also known as Interactive Voice Response Authentication (IVRA) system,~~ when provided in the home. Providers are required to use the EVV system. The EVV system provides alternate backup solutions when the automated system is unavailable. In the event of EVV system failure, the provider documents time in accordance with internal policy and procedures. This documentation suffices to account for in-home and office services delivered. Provider agency backup procedures are only permitted when the EVV system is unavailable.

(~~e~~f) The provider must document the amount of time spent for each service, per Oklahoma Administrative Code (OAC) 317:30-5-763. For service codes that specify a time segment in their description, such as ~~15~~fifteen (15) minutes, each timed segment equals one (1) unit. Only time spent fulfilling the service for which the provider is authorized, per OAC 317:30-5-763 is authorized for time-based services. Providers do not bill for a unit of time when not more than one-half of a timed unit is performed~~. For example~~, such as, when a unit is defined as ~~15~~fifteen (15) minutes, providers do not bill for services performed for less than eight (8) minutes. The rounding rules utilized by the EVV and web-based billing system to calculate the billable unit-amount of ~~are,~~care, services provided for duration of:

(1) less than ~~8 minutes~~eight-minutes (8-minutes) cannot be rounded up and do not constitute a billable ~~15 minute~~fifteen-minute (15-minute) unit; and

(2) ~~8 to 15~~eight (8) to fifteen (15) minutes are rounded up and do constitute a billable ~~15 minute~~fifteen-minute (15-minute) unit.

(g) Providers required to use EVV must do so in compliance with OAC 317:30-3-4.1, Uniform Electronic Transaction Act (UETA). Providers must ensure:

(1) an established process is in place to deactivate an employee's access to EVV or designated system records upon termination of employment of the designated employee;

(2) safeguards are put in place to ensure improper access or use of EVV or designated system is prohibited and sanctions will be applied for improper use or access by staff;

(3) that staff providing or delivering in-home personal care services must use the EVV system for checking-in and checking out when providing services;

(4) staff delivering personal-care services is trained in the use of the EVV system;

(5) a record of services delivered is maintained;

(6) that staff confirms in writing that they will use the system as they are trained or directed;

(7) that staff will access the system using their assigned personal identification number (PIN) for in-home service delivery;

(8) staff accessing EVV or other designated systems for billing, properly use the authentication features of the system to properly document work and confirm work that is submitted for billing for services that were rendered;

(9) procedures as outlined in the UETA pertaining to electronic signatures, will be applied at such time when use of the electronic signatures is approved and applicable for necessary transaction;

(10) the EVV or other designated system is responsible for retention of all records that are associated with and generated for the purpose of claims and billing submitted for payment of services rendered;

(11) that they produce and enforce a security policy that outlines who has access to their data and what transactions employees are permitted to complete as outlined; and

(12) when using EVV or other designated system for billing and claims submissions, each new invoice or claim, must include the following information in (i) through (vi). The:

(A) type of service performed;

(B) individual receiving the services;

(C) date of the service;

(D) location of service delivery;

(E) individual providing the service; and

(F) time the service begins and ends.

SUBCHAPTER 19. NURSING FACILITY SERVICES

317:35-19-2. Nursing Facility (NF) program medical eligibility determination

The ~~DHS~~Oklahoma Department of Human Services (DHS) area nurse or nurse designee, determines medical eligibility for ~~nursing facility (NF)~~NF services based on the ~~long term care (LTC)~~DHS nurse's Uniform Comprehensive Assessment Tool ~~(UCAT III)~~(UCAT) Part III assessment of the client's needed level of care, the outcome of the Level II Preadmission Screening and Resident Review (PASRR), when completed, and his or her professional judgment. The Oklahoma ~~Healthcare~~Health Care Authority (OHCA) Level of Care Evaluation Unit (LOCEU) makes some determinations when the ~~(PASRR)~~PASRR is involved. Refer to Oklahoma Administrative Code (OAC) 317:35-19-7.1(3) for ~~nursing facility~~NF level of care medical eligibility requirements.

(1) When NF care services are requested prior to admission, the same rules related to medical eligibility determination identified in OAC 317:35-17-5 for ADvantage services are followed.

(2) The ~~LTC~~DHS nurse reviews the PASRR Level I in the ~~Oklahoma Health Care Authority~~OHCA system; completes the UCAT III; and enters the date OHCA received the PASRR Level I (LTC-300R) from the NF and admission date to the NF; ~~financial~~medical eligibility effective date and notes any Level II PASRR results if available in the UCAT Part III. This information is submitted to the DHS ~~Area Nurse~~area nurse for medical eligibility determination.

(3) PASRR requirements are identified in OAC 317:35-19-8 and 317:35-19-9.

(4) When it is not possible for the UCAT Part III assessment to be completed prior to admission, the NF is responsible for notifying the DHS of the admission. Notification is mailed or faxed on DHS Form 08MA083E, Notification ~~regarding~~Regarding Patient In A Nursing Facility, Intermediate Care Facility for the ~~Mentally Retarded~~Intellectually Disabled or Hospice, and Management Recipient Funds to the local DHS county office. Upon receipt, the DHS county office processes ~~Forms 08MA084E and 08MA084EForms~~ Forms 08MA083E and 08MA084E and completes and forwards the Form 08MA038E, Notice Regarding Financial Eligibility to the NF. Identified sections of the UCAT Part III reflecting

the domains for meeting medical criteria are completed for applicants residing in the NF at the time of assessment. The area nurse or nurse designee, confirms the date of medical eligibility and records it in the system. The facility is responsible for performing the PASRR Level I screen and consulting with OHCA staff to determine when a need exists for a Level II screen. The ~~LTC~~DHS nurse ~~conducts~~completes the assessment~~ visit~~ within ~~15 business~~fifteen-business (15-business) days of PASRR clearance when the individual's needs are included in an active DHS coded case. When the individual's needs are not included in an active case, the assessment is ~~conducted~~completed within ~~20 business~~twenty-business (20-business) days of PASRR clearance.

(5) The area nurse or nurse designee, evaluates the PASRR Level I screen and the UCAT Part III in consultation with the DHS nurse when the completed LTC-300R and/or facility documentation shows a need exists for a possible Level II screen. The area nurse or nurse designee consults with OHCA staff as necessary.

(6) The area nurse or nurse designee, evaluates the UCAT Parts I and III, to determine if the applicant meets the medical eligibility criteria for NF level of care. Individuals may be medically-certified for NF level of care for various lengths of time depending on the client's needs. The area nurse or nurse designee, enters the medical eligibility decision and, when required, the medical certification review date into Aging Services Division Electronic Data Entry and Retrieval System (ELDERS) within ~~10 business~~ten-business (10-business) days. A medical eligibility redetermination is not required when a client is discharged from the NF for a period not to exceed ~~90 calendar~~ninety-calendar (90-calendar) days and the original certification is current.

(7) When the ~~LTC~~DHS nurse recommends NF level of care and the client is determined by the area nurse or nurse designee, not to be medically eligible for NF level of care, the ~~LTC~~DHS nurse can submit additional information to the area nurse or nurse designee. When necessary, a visit by the ~~LTC~~DHS nurse to obtain additional information is initiated at the recommendation of the area nurse or nurse designee.

(8) Categorical relationship must be established for determination of eligibility for NF services. When categorical relationship to disability has not been established, the worker submits the same information, per OAC 317:35-5-4(2) to the LOCEU to request a determination of eligibility for categorical relationship. LOCEU renders a decision on categorical relationship to the disabled applicant using the Social Security Administration (SSA) definition. A follow-up with the SSA by the DHS worker is required to ensure the SSA disability decision agrees with the LOCEU decision.

[OAR Docket #19-460; filed 5-30-19]

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

[OAR Docket #19-458]

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PERMANENT final adoption
RULES:
Subchapter 18. Programs of All-Inclusive Care for the Elderly
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The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 CFR, Part 460
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The proposed revisions reflect current business practices pertaining specifically to where the Oklahoma Department of Human Services nurse or Programs of All-Inclusive Care for the Elderly (PACE) nurse are to perform the Uniform Comprehensive Assessment Tool, Part III visit. Additionally, revisions will include cleanup and updating of obsolete acronyms.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 18. PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY

317:35-18-5. Eligibility criteria

(a) To be eligible for participation in ~~PACE,~~Programs of All-Inclusive Care for the Elderly (PACE), the applicant must:

(1) be age ~~55~~fifty-five (55) years or older;

(2) live in a PACE service area;

(3) be determined by the state to meet nursing facility level of care; and

(4) be determined by the PACE ~~Interdisciplinary~~interdisciplinary team (IDT) as able to be safely served in the community at the time of enrollment. If the PACE provider denies enrollment because the IDT determines that the applicant cannot be served safely in the community, the PACE provider must:

(A) notify the applicant in writing of the reason for the denial;

(B) refer the applicant to alternative services as appropriate;

(C) maintain supporting documentation for the denial and notify ~~CMS~~the Centers for Medicare and Medicaid Services and ~~OHCA~~the Oklahoma Health Care Authority (OHCA) of the denial and make the supporting documentation available for review; and

(D) advise the applicant orally and in writing of the grievance and appeals process.

(b) To be eligible for SoonerCare capitated payments, the individual must:

(1) meet categorical relationship ~~to disability (reference OAC 317:35-5-4).~~for the aged, blind, or disabled [refer to Oklahoma Administrative Code (OAC) 317:35-5-4];

(2) be eligible for Title XIX services if institutionalized as determined by the Oklahoma Department of Human Services~~;~~ (DHS);

(3) be eligible for SoonerCare State Plan services;

(4) meet the same financial eligibility criteria as set forth for the SoonerCare ~~Advantage~~ADvantage program per OAC 317:35-17-10 and 317:30-17-11;~~and~~ and

(5) meet appropriate medical eligibility criteria.

(c) The nurse designee makes the medical determination utilizing professional judgment, the Uniform Comprehensive Assessment Tool (UCAT) Part I, Part III, and other available medical information.

(1) When PACE services are requested:

(A) The PACE nurse or ~~OKDHS~~DHS nurse is responsible for completing the UCAT assessment.

(B) The PACE intake staff is responsible for aiding the PACE enrollee in contacting ~~OKDHS~~DHS to initiate the financial eligibility application process.

(2) The nurse completes the UCAT, Part III visit with the PACE enrollee, in the participant's home, within ~~10~~ten (10) days of receipt of the referral for PACE services.

(3) The nurse sends the UCAT, Part III to the designated OHCA nurse staff member for review and level of care determination.

(4) A new medical level of care determination may be required when a member requests any of the following changes in service programs:

(A) ~~From~~from PACE to ~~Advantage.~~ADvantage;

(B) ~~From~~from PACE to State Plan Personal Care Services~~.~~;

(C) ~~From~~from Nursing Facility to PACE~~.~~;

(D) ~~From Advantage~~from ADvantage to PACE if previous UCAT was completed more than ~~6~~six (6) months prior to member requesting PACE enrollment~~.~~; or

(E) ~~From~~from PACE site to PACE site.

(d) To obtain and maintain eligibility, the individual must agree to accept the PACE providers and its contractors as the individual's only service provider. The individual may be held financially liable for services received without prior authorization except for emergency medical care.

[OAR Docket #19-458; filed 5-30-19]

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

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The proposed revisions incorporate new language to clarify that the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) will be used for diagnostic purposes of a mental illness and/or intellectual disability for admission to a Medicaid certified nursing facility. Additional revisions will involve limited rewriting aimed at clarifying text, eliminating redundancies, and updating outdated terminology.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 19. NURSING FACILITY SERVICES

317:35-19-8. ~~Pre-admission~~Preadmission screening and resident review

(a) Federal regulations govern the State's responsibility for Preadmission Screening and Resident Review (PASRR) of individuals with mental illness and intellectual disabilities. ~~PASRR applies to the screening or reviewing of all individuals for mental illness, an intellectual disability, or related conditions who apply to or reside in Medicaid-certified nursing facilities regardless of the source of payment for the nursing facility (NF) services and regardless of the individual's or resident's known diagnoses.~~ PASRR applies to the screening or reviewing of all individuals for mental illness, intellectual disability, or related conditions who apply to or reside in a Title XIX certified nursing facility (NF), regardless of the source of payment for the NF services and/or the individual's or resident's known diagnoses. Individuals referred for admission to a NF must be screened for a major mental disorder, diagnosable under the most current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM). The NF must independently evaluate the Level I PASRR ~~Screen~~screen regardless of who completes the form and determine whether or not to admit an individual to the facility. If an individual is admitted inappropriately, the NF is subject to recoupment of Medicaid funds and penalties imposed by ~~CMS~~the Centers for Medicare and Medicaid Services (CMS). Federal financial participation (FFP) may not be paid until results of any needed PASRR Level II evaluations are received. PASRR is a requirement for nursing facilities with dually certified (both Medicare and Medicaid) beds. There are no PASRR requirements for Medicare skilled beds that are not dually certified, nor is PASRR required for individuals seeking residency in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(b) For Medicaid applicants, medical and financial eligibility determinations are also required.

[OAR Docket #19-446; filed 5-30-19]

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

[OAR Docket #19-454]

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GIST/ANALYSIS:
The proposed revisions change all of the agency's appeals rules to extend the length of time that appeals can be submitted from twenty (20) days to thirty (30) days of the date of an adverse agency action.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 19. NURSING FACILITY SERVICES

317:35-19-16. PASRR appeals process

(a) Any individual who has been adversely affected by any ~~PASRR~~Preadmission Screening and Resident Review (PASRR) determination made by the State in the context of either a preadmission screening or an annual resident review may appeal that determination by requesting a fair hearing. If the individual does not consider the PASRR decision a proper one, the individual or their authorized representative must contact the local county ~~OKDHS~~Oklahoma Department of Human Services (DHS) office to discuss a hearing. Forms for requesting a fair hearing (~~OKDHS~~DHS Form 13MP001E, Request for a Fair Hearing), as well as assistance in completing the forms, can be obtained at the local county ~~OKDHS~~DHS office. Any request for a hearing must be made no later than ~~20~~thirty (30) days following the date of written notice. Appeals of these decisions are available under ~~OAC 317:2-1-2~~Oklahoma Administrative Code (OAC) 317:2-1-2. There is no distinction between the SoonerCare and non-SoonerCare patient; therefore, all individuals seeking an appeal have the same rights, regardless of source of payment. Level I determinations are not subject to appeal.

(b) When the individual is found to experience ~~MI~~Mental Illness (MI), ~~MR~~Intellectual Disability (ID), or related condition through the Level II screen, the PASRR determination made by the ~~MR/MI~~ID/MI authorities cannot be countermanded by the Oklahoma Health Care Authority, either in the claims process or through other utilization control/review processes, or by the Oklahoma State Department of Health. Only appeals determinations made through the fair hearing process may overturn a PASRR determination made by the ~~MR/MI~~ID/MI authorities.

[OAR Docket #19-454; filed 5-30-19]

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

[OAR Docket #19-457]

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RULES:
Subchapter 21. Oklahoma Cares Breast and Cervical Cancer Treatment Program
317:35-21-1 [AMENDED]
317:35-21-3 [AMENDED]
317:35-21-4 [AMENDED]
317:35-21-5 [AMENDED]
317:35-21-6 [AMENDED]
317:35-21-9 [AMENDED]
317:35-21-11 [AMENDED]
317:35-21-12 [AMENDED]
317:35-21-14 [AMENDED]
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The proposed revisions add reference, within the Breast and Cervical Cancer (BCC) policy, to the American Society for Colposcopy and Cervical Pathology Consensus, and National Comprehensive Cancer Network, which provides guidelines for "in need of treatment" determinations. Additional revisions will clarify that creditable coverage is verified by the Oklahoma Health Care Authority eligibility coordinator and no longer the Centers for Disease Control screener. Further revisions will replace the term "OKDHS worker" with the term "eligibility coordinator", and "SoonerCare Medical Director" will be replaced with "Chief Medical Officer". Finally, revisions will update/remove outdated language in order to reflect current business practices and to provide consistency throughout policy.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 21. OKLAHOMA CARES BREAST AND CERVICAL CANCER TREATMENT PROGRAM

317:35-21-1. Oklahoma Cares Breast and Cervical Cancer Treatment (BCC) program

(a) The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (BCCPTA) allows states to provide Medicaid to uninsured women under age ~~65~~sixty-five (65) who are in need of treatment for breast and/or cervical cancer. A medical eligibility evaluation is performed through the Centers for Disease Control (CDC) and Prevention's ~~(CDC)~~ National Breast and Cervical Cancer Early Detection Program (NBCCEDP). If the evaluation determines the woman is in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage, recurrent or metastatic cancer the case is forwarded to ~~OHCA~~Oklahoma Health Care Authority (OHCA) for final medical eligibility determination.

(b) To receive Breast and Cervical Cancer (BCC) Treatment services, the woman must meet all of the following conditions.

(1) The woman must have been screened for BCC under the CDC Breast and Cervical Cancer Early Detection Program ~~(see OAC Code (OAC) 317:35-21-3)~~[see Oklahoma Administrative Code (OAC) 317:35-21-3] established under Title XV of the Public Health Service ~~(PHS)~~ Act, and upon screening examination found to be in need of treatment, including an abnormal finding that is potentially indicative of a cancerous or precancerous condition or found to have an early stage, recurrent or metastatic cancer of the breast or cervix. (see OAC 317:35-21-5).

(2) The woman must:

(A) not have creditable insurance coverage that covers the treatment of breast or cervical cancer (see OAC 317:35-21-4),

(B) not be eligible for any other categorically needy SoonerCare eligibility group,

(C) be under ~~65~~sixty-five (65) years of age,

(D) be a US citizen or qualified alien (see OAC 317:35-5-25 for citizenship/alien status and identity verification requirements),

(E) be a resident of Oklahoma,

(F) declare her Social Security number,

(G) assign her rights to Third Party Liability if she has insurance that is not creditable, and

(H) declare her household income for the purpose of determining eligibility for services under the SoonerCare program.

317:35-21-3. CDC screening

(a) To be eligible for the ~~Oklahoma Cares Breast and Cervical Cancer Treatment~~BCC program, a woman must be screened under the CDC Breast and Cervical Cancer Early Detection Program. A woman is considered screened under the CDC program if her screening was provided all or in part by CDC Title XV funds, or the service was rendered by a provider funded at least in part by CDC Title XV funds, and/or if she is screened by another provider whose screening activities are pursuant to CDC Title XV of the Public Health Service ~~(PHS)~~ Act.

(b) Prior to certification of the BCC application an OHCA Care Management nurse must review the application and clinical data to verify the BCC applicant meets medical eligibility criteria for the BCC program.

(c) Upon verification by OHCA Care Management, the application is forwarded to the ~~OKDHS worker~~eligibility coordinator to verify ~~that~~ the BCC applicant was screened by a CDC provider and meets criteria for the program as outlined in OAC 317:35-21-1.

317:35-21-4. Creditable coverage

(a) Creditable coverage when used in this subchapter means any insurance that pays for medical bills incurred for the diagnosis and/or treatment of breast or cervical cancer. A woman having any one of the following types of coverage is considered to have creditable coverage and would normally be ineligible for the ~~Breast and Cervical Cancer Treatment~~BCC program:

(1) Coverage under a group health plan;

(2) Health insurance coverage, i.e., benefits consisting of medical care under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer;

(3) Medicare Part A and/or B;

(4) SoonerCare;

(5) Armed Forces insurance; and/or

(6) A state health risk pool.

(b) If a woman has limited coverage, such as limited drug coverage or limits on the number of outpatient visits, or high deductibles, she is still considered to have creditable coverage. However, if she has a policy with limited scope coverage such as those that only cover dental, vision, or long term care, or a policy that covers only a specific disease or illness, she is not considered to have creditable coverage, unless the policy provides coverage for breast or cervical cancer.

(c) There may be some circumstances when a woman has creditable coverage but that coverage does not actually cover treatment of breast or cervical cancer. In instances such as pre-existing condition exclusions, or when the annual or lifetime limit on benefits has been exhausted, a woman is not considered to have creditable coverage for this treatment. In these types of circumstances the woman may be eligible for ~~Breast and Cervical Cancer~~BCC services if she meets all other eligibility criteria.

(d) There is no requirement that a woman be uninsured for any specific length of time before she is found eligible for SoonerCare under this program. If a woman loses creditable coverage for any reason and satisfies all other eligibility requirements for the BCC program, it is possible for her to become immediately eligible for coverage in this program.

(e) ~~The CDC screener evaluates whether or not the woman has creditable coverage. All health insurance, creditable or not, is listed on the OKDHS computer system in order for OHCA Third Party Liability Unit to verify insurance coverage. Questionable insurance coverage is noted in the application by the CDC screener. Applications with questionable insurance coverage are forwarded to the OHCA Third Party Liability Unit for further verification.~~ The existence of creditable coverage will be verified by the OHCA eligibility coordinator.

317:35-21-5. In need of treatment

In need of treatment, when used in this subchapter, means an abnormal screen determined as a result of a screening for BCC under the CDC BCC Early Detection Program established under Title XV of the Public Health Service Act, indicating pre-cancerous conditions and early stage, recurrent or metastatic cancer. Services include diagnostic services for an abnormal finding that may be necessary to determine the extent and proper course of treatment, as well as definitive cancer treatment itself. Women who are determined to require only routine monitoring services for precancerous breast or cervical condition (e.g., breast examinations, mammograms, pelvic exams and pap smears) are not considered to be "in need of treatment". The American Society for Colposcopy and Cervical Pathology Consensus and National Comprehensive Cancer Network guidelines are used to make the "in need of treatment" determination.

317:35-21-6. Age requirements

To be eligible for the ~~Oklahoma Cares Breast and Cervical Cancer Treatment~~BCC program, a woman must be under ~~65~~sixty-five (65) years of age. If a woman turns ~~65~~sixty-five (65) during the certification period, eligibility ends effective the last day of her birth month. The ~~OKDHS worker~~eligibility coordinator assists the woman in determining if eligibility may continue in another SoonerCare category.

317:35-21-9. Income

(a) There is no income limit imposed by ~~state or federal law~~State or Federal law for the ~~Breast and Cervical Cancer Treatment~~BCC program. However, the CDC Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service ~~(PHS)~~ Act does allow CDC program grantees to set maximum income limits.

(b) Income limits are established for women receiving ~~Breast and Cervical Cancer Treatment~~BCC program services through SoonerCare. The woman is required to declare her

household income so that the ~~OKDHS worker~~eligibility coordinator may determine if she qualifies for the program or is otherwise SoonerCare eligible.

317:35-21-11. Certification for BCC

(a) In order for a woman to receive BCC treatment services, she must first be screened for BCC~~ cancer~~ under the CDC Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act and found to be in need of treatment. Once determined to be in need of treatment, the CDC screener determines that the woman:

(1) does not have creditable health insurance coverage,

(2) is under age ~~65,~~sixty-five (65),

(3) is a US citizen or qualified alien (see OAC 317:35-5-25),

(4) is a ~~self-declared~~self-declared Oklahoma resident,

(5) has provided her social security number,

(6) is willing to assign medical rights to ~~TPL,~~Third Party Liability, and

(7) has declared all household income.

(b) If all of the conditions in subchapter (a) are met, the CDC screener assists the woman in completing the BCC application (OHCA BCC-1). The completed BCC-1 along with the documentation of clinical findings, (i.e., history and physical findings, pathology reports, radiology reports and other pertinent data) is forwarded to the OHCA Care Management Unit.

(c) ~~The~~An OHCA Care Management nurse verifies that the member meets the medical eligibility criteria described in OAC 317:35-21-1 (a) and meets the "in need of treatment" criteria set forth in OAC 317:35-21-1(b)1 and 317:35-21-5. If this criteria is not met or the appropriate clinical documentation is not included, the application will be denied and the OHCA will send a notice of ineligibility to the applicant. Abnormal findings do not include women who are at high risk or who could appropriately receive risk reduction therapy, but have no evidence of cancer or a precancerous condition. If it is determined that the woman does not have cancer or a precancerous condition, a future application for the BCC program must be based on a different finding of abnormality than the previous application data.

(d) If all medical eligibility criteria are met, the application will be forwarded to ~~OKDHS~~the eligibility coordinator for further determination of eligibility.

(e) The ~~OKDHS worker~~eligibility coordinator verifies that the screener is a CDC screener. The ~~worker~~eligibility coordinator also establishes whether or not the woman is otherwise eligible for SoonerCare. If the woman is not otherwise eligible for SoonerCare, she is certified for the BCC program. If the woman is eligible under another SoonerCare category, the application is certified in the other Medicaid category.

(f) If a woman does not cooperate in determining her eligibility for other SoonerCare programs, her BCC application is denied and the appropriate notice is computer generated. For example, if a woman otherwise eligible for SoonerCare, related to the low income families with children category, refuses to cooperate with child support enforcement without good cause would not be eligible for the BCC program.

(g) If a woman in treatment for breast or cervical cancer contacts the ~~OKDHS office~~OHCA and has not been through the CDC screening process, she is referred to the Oklahoma Cares toll free number (866-550-5585) for assistance.

(h) An individual determined eligible for the ~~Oklahoma Cares Breast and Cervical Cancer Treatment~~BCC program may be certified the first day of the month of application. If the individual had a medical service prior to the application date, certification will occur the first day of the first, second or third month prior to the month of application, in accordance with the date of the medical service, provided the date of certification is not prior to the CDC Screen.

317:35-21-12. Changes after certification/continued need for treatment

(a) A woman found to be in need of treatment as the result of an abnormal BCC screen has ~~60~~sixty (60) days from the date of the application to complete the initial appointment for a diagnostic procedure and an additional ~~60~~sixty (60) days to complete any additional diagnostic testing required or to initiate compensable treatment for a cancerous or pre-cancerous condition. The exception to the time limit is evidence of a lack of appointment availability. Upon completion of the diagnostic testing, OHCA is provided a medical report of the findings.

(1) If the woman is found not to have breast or cervical cancer including pre-cancerous conditions and early stage, recurrent or metastatic cancer for which she is in need of treatment or fails to have diagnostic testing or begin treatment within the time frames described in OAC 317:35-21-12(a), the case is closed by ~~OKDHS~~OHCA and appropriate notification is computer generated.

(2) If a medical report necessary to determine continued treatment is not received from a provider within ten (10) working days after a request is made by OHCA, the report is considered negative and the case is closed by ~~OKDHS~~OHCA and appropriate notification is computer generated.

(b) If the woman in need of treatment refuses SoonerCare compensable treatment or diagnostic services and does not plan to pursue the care in the time frames described in OAC 317:35-21-12(a), the case is closed by ~~OKDHS~~OHCA and appropriate notification is computer generated.

(c) In the event a woman is unable to initiate or complete diagnostic services due to a catastrophic illness or injury occurring after certification, SoonerCare will remain open with the approval of a ~~SoonerCare Medical Director~~Chief Medical Officer or his/her designee.

(d) If it is determined at any time during the certification period by either the woman's treating physician or by a ~~SoonerCare Medical Director~~Chief Medical Officer or his or her designee that the woman is no longer in need of treatment for breast or cervical cancer or a precancerous condition, ~~OHCA will notify OKDHS and the OKDHS worker~~the eligibility coordinator closes the case and appropriate notification is computer generated.

(e) If it is determined at any time during the certification period that the woman has creditable health insurance coverage,

the ~~OKDHS worker~~eligibility coordinator closes the case and appropriate notification is computer generated.
(f) If the ~~OKDHS worker~~eligibility coordinator later determines that the woman is otherwise eligible for SoonerCare, the worker takes necessary actions to certify her for the appropriate category of SoonerCare coverage.

317:35-21-14. Appeals and reconsiderations
(a) Applicants who wish to appeal a denial decision made by the OHCA~~ or OKDHS~~ may submit form LD-1 to the OHCA within ~~20~~thirty (30) days of receipt of the decision notification. If the form is not received at the OHCA within the required time frame, the appeal will not be heard. More information on the appeals process is provided at OAC 317:2-1-2(a).
(b) Reconsiderations to the OHCA may be requested by a CDC screener if missing documentation, ~~that~~which could potentially result in a determination of eligibility, has been obtained. The missing documentation must be presented within ~~30~~thirty (30) days of the date of the notice of denial.

[OAR Docket #19-457; filed 5-30-19]

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

[OAR Docket #19-455]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 22. Pregnancy Related Benefits Covered Under Title XXI
317:35-22-2.1 [AMENDED]
(Reference APA WF # 18-16)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F) (1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Title 42 of the Code of Federal Regulations (CFR), Sections 440.240 and 440.250; 42 CFR Section 431.53; and 42 CFR Section 440.170
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 19, 2018
COMMENT PERIOD:
January 16, 2019 through February 15, 2019
PUBLIC HEARING:
February 20, 2019
ADOPTION:
April 1, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
April 1, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
September 1, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed revisions provide non-emergency transportation (NET) to pregnant women covered under the Title XXI State Plan (Soon-to-be-Sooners and Soon-to-be-Sooners Maintenance of Effort populations). Under federal parity law requirements, children covered by the Children's Health Insurance Program (CHIP), including those in the unborn child category, must have the same access to secretary-approved coverage of all Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefits including health care, diagnostic services, treatment, and other measures to correct or ameliorate defects and physical and mental illness and conditions as per the approved State Plan.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 22. PREGNANCY RELATED BENEFITS COVERED UNDER TITLE XXI

317:35-22-2.1. Non-covered services
(a) Services and benefits provided to evaluate and/or treat maternal conditions that are not related to or impact the pregnancy outcome.
~~(a) Non-emergency transportation.~~
(~~c~~b) Dental.

[OAR Docket #19-455; filed 5-30-19]

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

[OAR Docket #19-462]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Employment Services Through Home and Community-Based Services Waivers
317:40-7-5 [AMENDED]
317:40-7-6 [AMENDED]
317:40-7-15 [AMENDED]
317:40-7-21 [AMENDED]
(Reference APA WF # 18-22B)
AUTHORITY:
The Oklahoma Health Care Authority Act, Section 5007 (F)(1) and (3) of Title 63 of Oklahoma Statutes; Section 5003 through 5016 of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; Director of Human Services; Sections 441.301 et. seq. of Title 42 of the Code of Federal Regulations
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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GIST/ANALYSIS:
The proposed revisions add new language to provide general clarification that when a home-based business is established through the Oklahoma Department of Rehabilitation (OKDRS) services, Developmental Disabilities Services (DDS) stabilization services are utilized when the OKDRS end. In addition, new language will provide guidelines for the Personal Support Team to follow when the required thirty (30) hours of employment services through Home and Community-Based Service (HCBS) waivers is not met. Examples of these services include community-based services, center-based services, employment training specialist intensive training services, and job coaching services. Finally revisions will include removal of outdated language relating to the exception process for employment services through the HCBS waiver and will update obsolete acronyms.
CONTACT PERSON:
Sandra Puebla, Director of Federal and State Authorities, 405-522-7270, Sandra.Puebla@okhca.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2019:

SUBCHAPTER 7. EMPLOYMENT SERVICES THROUGH HOME AND COMMUNITY-BASED SERVICES WAIVERS

317:40-7-5. ~~Community Based Services~~Community-based services

~~Community Based Services~~Community-based services are provided in sites and at times typically used by others in the community and promote independence, ~~inclusion within the~~ community~~,~~ inclusion, and the creation of natural supports. Community-based services must reflect the member's choice and values in typical age and cultural situations ~~that are typical for age and culture~~.

(1) Approved ~~Community Based Services~~community-based services are individualized work-related supports targeting inclusion into integrated experiences~~. Community Based Services~~ and are pre-planned, documented activities supported by a schedule relating to the member's identified employment outcomes. Approved community-based services activities include:

(A) active participation in formalized volunteer activities;

(B) active participation in paid or unpaid work experience sites in community settings;

(C) training through generic entities such as trade schools, ~~Vo-Techs,~~technology centers,~~junior~~ community colleges, or other community groups. The provider is paid for the time ~~during which~~when direct supports are necessary and provided;

(D) stamina-enhancing programs ~~that occur~~ in integrated settings;

(E) transportation to and from employment or community-based activities;

(F) meals and breaks ~~which must occur~~ during ~~the conduct of~~ the member's employment activities~~;~~ that occur in the community at a location used for the same purpose, with others without disabilities;

(G) job tours or job shadowing scheduled with and provided by a ~~community business~~community-business entity;

(H) using Workforce OK services; and

(I) attending job fairs.

(2) Any other work-related, community-based activities must be approved through the exception process,~~described in OAC~~ per Oklahoma Administrative Code (OAC) 317:40-7-21.

(3) ~~Community Based Services~~Community-based services continue ~~if~~when the member ~~has to go~~goes to a center-based facility for support, such as repositioning or personal care, as long as the member returns immediately to a planned community-based activity. The amount of time for the repositioning and personal care are based upon a Team-approved health care positioning plan ~~approved by the Team~~.

(4) ~~Community Based Services~~Community-based services are available for individual and group placements.

(A) Individual placement means the member is provided supports that enable him or her to participate in ~~approved~~individual community-based activities described in this Section ~~individually~~ and not as part of a group placement.

(B) Group ~~Placement~~placement means ~~two to five~~two-to-five members are provided supports that enable ~~him or her to participate~~participation in the approved community-based activities described in this Section.

317:40-7-6. Center-based services

(a) Center-based services are ~~any~~ employment ~~services~~services provided where ~~a~~the majority of the people at the site ~~are persons with a disability.~~have disabilities. These settings facilitate opportunities to seek employment in competitive settings and support access to the greater community.

(b) Center-based services are pre-planned, documented activities that relate to the member's identified employment outcomes.

(c) Examples of ~~Center-based~~center-based services are active participation in:

(1) learning and work experiences where the individual can develop general, non-job-task specific strengths and skills that contribute to employability in paid employment in integrated community settings;

(2) team-prescribed therapy programs, such as speech, physical therapy, or a switch activation program implemented by employment provider staff in the workshop or other center-based setting; ~~and~~

(3) computer classes, General Education Development preparation, job club, interviewing skills, or other classes ~~whose~~where all participants ~~all~~ have disabilities, even when the location is in the community~~.~~; and

(4) mealtimes where the majority of people with disabilities are employed.

(d) Paid contract work is usually subcontracted, and the ~~persons~~member receiving services ~~earn~~earns commensurate wage according to Department of Labor regulations.

(e) Participation in ~~Center-based~~center-based services is limited to ~~15~~fifteen (15) hours per week for ~~persons~~members receiving services through the Homeward Bound Waiver, unless approved through the exception process,~~explained in (OAC)~~ per Oklahoma Administrative Code (OAC) 317:40-7-21.

(f) The provider agency must meet physical plant expectations,~~of (OAC)~~ per OAC 340:100-17-13.

(g) During periods in which no paid work is available ~~for members,~~ despite the provider's documented good faith efforts to secure work, the employment-provider agency ensures each member participates in training activities that are age appropriate, work related, and consistent with the Individual Plan. Such activities may include, but are not limited to:

(1) resume development and application writing;

(2) work attire selection;

(3) job interview training and practice;

(4) job safety and evacuation training;

(5) personal or social skills training; and

(6) stamina and wellness classes.

317:40-7-15. Service requirements for employment services through Home and Community-Based Services(HCBS) Waivers

(a) The Oklahoma Department of Human Services (DHS) Developmental Disabilities Services (DDS) case manager, the member, ~~a~~the member's family or, when applicable, the member's legal guardian, and the member's provider develop a preliminary plan of services including the:

(1) site and amount of the services ~~to be~~ offered;

(2) types of services to be delivered; and

(3) expected outcomes.

(b) To promote community integration and inclusion, employment services are ~~only~~ delivered in non-residential sites.

(1) Employment services through ~~Home and Community Based Services (HCBS) Waivers~~HCBS waivers cannot be reimbursed when those services occur in the residence or property of the member or provider-paid staff, including garages and sheds, whether the garage or shed is attached to the home or not.

(2) No exceptions to Oklahoma Administrative Code (OAC) 317:40-7-15(b) are authorized~~.~~ except when a home-based business is established and supported through the Oklahoma Department of Rehabilitation Services (OKDRS). Once OKDRS stabilization services end, DDS stabilization services are then utilized.

(c) The service provider is required to notify the DDS case manager in writing when the member:

(1) is placed in a new job;

(2) loses his or her job. A ~~Personal Support Team~~personal support team (Team) meeting must be held when the member loses the job;

(3) experiences significant changes in the community-based or employment schedule; or

(4) ~~experiences other circumstances,~~is involved in critical and non-critical incidents per OAC 340:100-3-34.

(d) The provider submits a DHS Provider Progress Report, per OAC 340:100-5-52, for each member receiving services.

(e) The cost of a member's employment services, excluding transportation and state-funded services per OAC 340:100-17-30, cannot exceed $27,000 per Plan of Care year.

(f) Each member receiving ~~residential supports per OAC 340:100-5-22.1, or group home services is employed for 30 hours per week or receives a minimum of 30 hours of employment services, each week, excluding transportation to and from the member's residence.~~HCBS is supported in opportunities to seek employment and work in competitive integrated settings. When the member is not employed in a competitive integrated job, the Team identifies outcomes and/or action steps to create opportunities that move the member toward competitive integrated employment.

(g) Each member receiving residential supports, per OAC 340:100-5-22.1, or group-home services is employed for thirty (30) hours per week or receives a minimum of thirty (30) hours of employment services each week, excluding transportation to and from his or her residence.

(1) ~~Thirty hours~~Thirty (30) hours of employment service each week may be a combination of community-based services, center-based services, employment training specialist (ETS) intensive training services, stabilization services, ~~and~~or job coaching services. Center-based services cannot exceed ~~15~~fifteen (15) hours per week for members receiving services through the Homeward Bound Waiver.

(2) ~~Less than 30 hours of employment activities per week requires approval per OAC 317:40-7-21.~~When the member does not participate in thirty (30) hours per week of employment services, the Team:

(A) documents the outcomes and/or action steps to create a pathway that moves toward employment activities;

(B) describes a plan to provide a meaningful day in the community; or

(C) increases the member's employment activities to thirty (30) hours per week.

317:40-7-21. Exception process for employment services through Home and Community-Based Services Waivers

(a) All exceptions to rules in ~~OAC~~Oklahoma Administrative Code (OAC) 317:40-7 are:

(1) approved, per OAC 317:40-7-21 prior to service implementation;

(2) intended to result in the ~~Personal Support Team~~personal support team (Team) development of an employment plan tailored to meet the member's needs;

(3) identified in the Individual Plan (Plan) process, per OAC 340:100-5-50 through 340:100-5-58; and

(4) documented and recorded in the Individual Plan by the Developmental Disabilities Services Division ~~(DDSD)~~(DDS) case manager after Team approval.

(b) ~~A request for an exception to the minimum of 30 hours per week of employment services, per OAC 317:40-7-15, includes documentation of the Team's:~~

~~(1) discussion of:~~

~~(A) current specific situation that requires an exception;~~

~~(B) all employment efforts, successful and unsuccessful, made by the member and Team in the past year; and~~

~~(C) progress toward previous exception strategies or plans;~~

~~(2) plan with specific steps and target dates to address the situation throughout the Plan of Care year so the exception may be lessened or no longer necessary at the end of the Plan of Care year; and~~

~~(3) specific residential schedule to provide integrated activities outside the home while the plan to increase to 30 hours is implemented.~~

~~(c)~~ A request for an exception to the maximum limit of ~~15~~fifteen (15) hours per week for center-based services, per OAC 317:40-7-6, or continuous supplemental supports, per OAC 317:40-7-13, for a member receiving services through the Homeward Bound Waiver includes documentation of the Team's:

(1) discussion of:

(A) a current, specific situation that requires an exception;

(B) all employment efforts, successful and unsuccessful, made by the member and Team in the past year; and

(C) progress toward previous exception strategies or plans; and

(2) plan, with specific steps and target dates to address the situation throughout the Plan of Care year, so the exception may be lessened or no longer necessary at the end of the Plan of Care year.

(~~d~~c) A request for an alternative to required community-based activities per OAC 317:40-7-5 includes documentation of the Team's:

(1) discussion of:

(A) current specific situation that requires an exception;

(B) all employment efforts, successful and unsuccessful, made by the member and Team in the past year; and

(C) progress toward previous exception strategies or plans; and

(2) plan, with specific steps and target dates to address the situation throughout the Plan of Care year, so the exception may be lessened or no longer necessary at the end of the Plan of Care year.

(~~e~~d) Exception requests, per OAC 340:40-7-21~~(f)~~(e), are documented by the ~~DDSD~~DDS case manager after Team consensus, and submitted to the ~~DDSD area manager~~DDS field administrator or designee within ~~ten working~~ten-business (10-business) days after the annual IP or interim Team meeting. The ~~area manager~~field administrator approves or denies the request~~ with a copy to the DDSD area office claims staff and case manager~~ based on the thoroughness of the Team's discussion of possible alternatives and reasons for rejection of the other possible alternatives. A copy of the field administrator's decision is provided to the assigned case manager. A request for any other exception to rules in OAC 317:40-7-21 requires documentation of the Team's discussion of:

(1) a current, specific situation that requires an exception;

(2) all employment efforts, successful and unsuccessful, made by the member and Team in the past year; and

(3) progress toward previous exception strategies or plans.

~~(1) State dollar reimbursement for absences of a member receiving services through the Community Waiver in excess of 10% of authorized units up to 150 units is approved for medical reasons only. The request includes:~~

~~(A) Team's discussion of current specific situation that requires an exception;~~

~~(B) specific medical issues necessitating the exception request; and~~

~~(C) a projection of units needed to complete the State fiscal year.~~

~~(2) A request for any other exception to rules in OAC 317:40-7-21 requires documentation of the Team's discussion of:~~

~~(A) current specific situation that requires an exception;~~

~~(B) all employment efforts, successful and unsuccessful, made by the member and Team in the past year; and~~

~~(C) progress toward previous exception strategies or plans.~~

(~~f~~e) The ~~DDSD~~DDS director or designee may review exceptions granted per OAC 317:40-7-21, directing the Team to provide additional information, ~~if~~when necessary, to comply with OAC 340:100-3-33.1 and other applicable rules.

[OAR Docket #19-462; filed 5-30-19]

TITLE 380. DEPARTMENT OF LABOR
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #19-414]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 9. Licensing Procedures
380:1-9-5 [NEW]
AUTHORITY:
Department of Labor; 40 O.S. § 1; 59 O.S. § 4003
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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INCORPORATIONS BY REFERENCE:
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GIST/ANALYSIS:
The adopted new rule provides guidelines for low-income applicants for licensure who are seeking a waiver of licensure or certification fees pursuant to 59 O.S. § 4300, which became effective November 1, 2018. The new rule incorporates guidance provided by the Oklahoma Attorney General's Office in Attorney General Opinion 2018-13.
CONTACT PERSON:
Daniel A. Mares, Assistant General Counsel, (405) 521-6186 or daniel.mares@labor.ok.gov or James Buck, Deputy Commissioner of Labor, (405) 521-6111 or james.buck@labor.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2019:

SUBCHAPTER 9. LICENSING PROCEDURES

380:1-9-5. Fee waivers for license or certification for low-income individuals

(a) Any applicant seeking a one-time one-year waiver of any license or certification fees pursuant to 59 O.S. § 4003 shall submit to the Department of Labor, at the time of application for licensure or certification, satisfactory evidence that the applicant qualifies as a low-income individual as defined in 59 O.S. § 4003. Request for a one-time one-year waiver of any license or certification fees may be made by new applicants for licensure, applicants for renewal of existing licenses, and applicants for reinstatement of existing or inactive licenses or certificates.

(b) Qualifying low-income individuals may apply for a one-time one-year waiver of license or certification fees for any license issued by the Oklahoma Department of Labor and may apply for a one-time one-year waiver of license or certification fees for multiple distinct licenses.

(c) Where applicable, a qualifying low-income individual may apply for a waiver of any license or certification fees for a temporary and/or trainee license as well as a non-temporary license in the same category of licensure in the same calendar year, which commences on the date of initial issuance of the temporary and/or trainee license.

(d) Any applicant seeking a one-time one-year waiver of any license or certification fees associated with a license with a multi-year term shall, upon approval by the Department, receive a waiver of fees prorated to one year.

(e) The Commissioner of Labor or his or her designee shall, consistent with 59 O.S. § 4003, determine whether an applicant has submitted satisfactory evidence that the applicant qualifies as a low-income individual.

[OAR Docket #19-414; filed 5-30-19]

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

[OAR Docket #19-415]

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PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
380:25-1-3 [AMENDED]
AUTHORITY:
Department of Labor; 40 O.S. §§ 141.3 and 141.16, Boiler and Pressure Vessel Safety Act
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GIST/ANALYSIS:
The adopted rule amendments add an "up to" provision to all fees collected by the Oklahoma Department of Labor under the Boiler and Pressure Vessel Safety Act.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,

SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

380:25-1-3. Fees

(a) Upon the effective date of this rule, the following schedule of administrative fees shall apply to the registration, inspection, and operation of boilers, pressure vessels, and steam lines. The following schedule of administrative fees are derived from statute and shall supersede the fees provided for in 40 O.S. § 141.16.

(b) Annual certificate of operation fee shall be as follows:

(1) with manway state inspector up to $75.00

(2) without manway state inspector up to $50.00

(3) any size special - or owner/user inspector up to $50.00

(4) each public hot water supply heater (biennially) up to $25.00

(5) each public boiler inspection/certification up to $25.00

(6) Only one certificate of operation fee per year may be charged; except an additional fee equal to the certificate of operation fee may be charged for witnessing a hydrostatic test required after repairs, provided a fee equal to the total fees identified in paragraph 1 or 2 of subsection b of this section, whichever is appropriate, and paragraph 5 of subsection c of this subsection may be charged when the pressure-retaining item is not prepared and ready pursuant to rules promulgated by the Commissioner of Labor at the time of the inspection.

(c) Labor Fees

(1) hydrostatic test of steam pipeline per day up to $150.00

(2) hydrostatic test of steam pipeline for each additional half-day or part thereof up to $75.00

(3) shop review fees up to $3,000.00

(4) boiler or pressure vessel inspection fee for certificate inspections by state inspectors up to $160.00

(5) authorized inspector services for weld repairs or alterations, per eight-hour day or part thereof up to $300.00

(6) public hot water supply heater inspection fee up to $75.00

(d) Other fees

(1) licensing fees

(A) repair, service, install (annually) up to $100.00

(B) boiler operator (biennially) up to $100.00

(C) owner/user operator fee up to $50.00

(2) certificate of competency fee up to $15.00

(3) examination fee up to $50.00

(4) issuance of duplicate licenses and certificates up to $25.00

(5) installer permit fee up to $10.00

(e) All institutions owned or operated by the State of Oklahoma or its agencies or by any county, municipality, or school district, and such institutions or agencies, and all owners or users of boilers or pressure vessels of historical significance as specified in subsection D of Section 141.5 of Title 40 of the Oklahoma Statutes are exempt from the payment of only those fees provided for in subparagraphs (c)(1) through (c)(5) and paragraph (d) of this section.

(f) All fees shall be paid directly to the Department of Labor.

[OAR Docket #19-415; filed 5-30-19]

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

[OAR Docket #19-416]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
380:75-1-2 [AMENDED]
Subchapter 3. License Requirements
380:75-3-3 [AMENDED]
380:75-3-7 [AMENDED]
380:75-3-8 [AMENDED]
380:75-3-9 [AMENDED]
380:75-3-10 [AMENDED]

AUTHORITY:
Department of Labor; 59 O.S. § 1800.17, Alarm, Locksmith and Fire Sprinkler Industry Act

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GIST/ANALYSIS:
The adopted rule amendments remove the examination requirement for applicants for a salesperson license in the burglar alarm, locksmith, access control, CCTV, and nurse call industries. The amendments also remove the examination requirement for applicants for a CCTV technician license for installation of residential stand-alone CCTV systems designed exclusively for self-monitoring by the end users.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

380:75-1-2. Definitions

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

"Burglar alarm company" means a business that provides burglar alarm systems to others by any means, including, but not limited to, the sale, lease, rent, design, planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing, modification, improvement, alteration, inspection, or servicing of a burglar alarm system; holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

"Burglar alarm company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such alarm company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Burglar alarm salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of a burglar alarm company by any means, including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door, or any other type of personal interaction, and/or a person who participates in design, plan, specification and/or lay out of a burglar alarm system on behalf of a burglar alarm company but shall not include individuals who participate in marketing only.

"Burglar alarm technician" means an individual who is employed by an Oklahoma licensed burglar alarm company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, inspect, or service burglar alarm equipment.

"Burglar alarm trainee" means an individual who is employed by an Oklahoma licensed burglar alarm company to assist burglar alarm technicians or managers and learn to properly install, service, and sell burglar alarm equipment.

"CABO" means The Council of American Building Officials.

"Certificate of course completion" means a document acceptable to the Committee which signifies satisfactory completion of course work.

"Certification of a system" shall mean testing per applicable code of any burglar alarm, fire alarm, electronic access control, closed circuit television, nurse call, locksmithing equipment, or fire sprinkler alarm system by a properly licensed individual working for a properly licensed company to verify that the system complies with all of the requirements of the applicable code or standard.

"Closed circuit television or (CCTV)" means a system that provides video surveillance of an area or a client-prescribed area primarily by means of transmitting and/or recording of visual signals through cameras, receivers, monitors, and/or other visual imaging equipment.

"Closed circuit television company" means a business that provides closed circuit television systems to others by any means, including but not limited to, the sale, lease, rent, design, planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing, modification, improvement, alteration, inspection, and/or servicing of a CCTV system; holding one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

"Closed circuit television manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Closed circuit television technician" means an individual who is employed by an Oklahoma licensed closed circuit television company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, inspect, or service closed circuit television equipment.

"Closed circuit television trainee" means an individual who is employed by an Oklahoma licensed closed circuit television company to learn to properly install and service closed circuit television equipment.

"Closed circuit television salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of a closed circuit television company by any means, including but not limited to, telephone or electronic device, public notice or advertisement, door-to-door, or any other type of personal interaction, and/or a person who participates in the sale, design, plan, and/or lay out of a closed circuit television system on behalf of a closed circuit company, but shall not include individuals who participate in marketing only.

"Commercial building" means a building or structure used for any purpose or occupancy that is not defined in this section as a Residential Building.

"Commercial fire alarm license" means the category of license which authorizes a fire alarm company, manager, technician, trainee or salesperson to engage in the fire alarm industry activities in compliance with this Chapter for any work performed in residential or commercial application.

"Commercial fire sprinkler license" means the category of license which authorizes a fire sprinkler company, manager, trainee, and/or technician to engage in the fire sprinkler alarm industry activities in compliance with this Chapter for any residential or commercial application.

"Commissioner" means the Commissioner of Labor or the Commissioner's designee.

"Committee" means the Alarm and Locksmith Industry Committee.

"Department" means the Oklahoma Department of Labor.

"Electronic access control" means the use of qualifying devices or identification methods at various points to control the movement of people within pre-defined perimeters through the use of electronic card readers, keypads, biometrics devices,

or a combination of technologies that receives its primary power from an external source.

"Electronic access control company" means a business that offers to, or engages in, the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of electronic access control systems.

"Electronic access control company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Electronic access control technician" means an individual who is employed by an Oklahoma licensed electronic access control company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, inspect, and/or service electronic access control equipment.

"Electronic access control trainee" means an individual who is employed by an Oklahoma licensed electronic access control company to learn to properly install and service electronic access control equipment.

"Electronic access control salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of an electronic access control company by any means, including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door or any other type of personal interaction, and/or a person who participates in design, plan, and/or lay out of an electronic access control system on behalf of an electronic access control company, but shall not include individuals who participate in marketing only.

"Fire alarm company" means a business that provides fire alarm systems to others by any means including but not limited to, the sale, lease, rent, design, planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing, modification, improvement, alteration, inspection, and/or servicing of fire alarm system; holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly. The company shall be licensed as a residential or commercial fire alarm company as defined by this Chapter.

"Fire alarm company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such alarm company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Fire alarm salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of a fire alarm company by any means including but not limited to, telephone or electronic device, public notice or advertisement, door-to-door or any other type of personal interaction, and or a person who participates in design, plan and/or lay out of an fire alarm system on behalf of a fire alarm company, but shall not include individuals who participate in marketing only. The salesperson shall be licensed as a residential or commercial fire alarm salesperson as defined by this Chapter.

"Fire alarm technician" means an individual who is employed by an Oklahoma licensed fire alarm company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, certify, inspect, or service fire alarm equipment. The fire alarm technician shall be licensed as a residential or commercial fire alarm technician as defined by this Chapter

"Fire alarm trainee" means an individual who is employed by an Oklahoma licensed fire alarm company to assist fire alarm technicians or managers and learn to properly install, service and sell fire alarm equipment.

"Fire sprinkler company" means a business that provides fire sprinkler systems to others by any means, including but not limited to, the sale, lease, rent, design, planning with the intent to install, maintenance, repair, testing, modification, improvement, alteration, inspection, or servicing of a fire sprinkler system; holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation either directly or indirectly. The company shall be licensed as a residential or commercial company as defined by this Chapter.

"Fire sprinkler company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Fire sprinkler inspector" means an individual who is employed by an Oklahoma licensed alarm company to inspect and test a fire alarm sprinkler system to determine if it has been installed and is operating according to the appropriate code or standard.

"Fire sprinkler technician" means an individual who is employed by an Oklahoma licensed fire sprinkler company to install, service and sell, maintain, repair, and/or test fire sprinkler equipment. The fire sprinkler technician shall be licensed as a residential or commercial fire sprinkler technician as defined by this Chapter.

"Fire sprinkler technician trainee" means an individual who is employed by an Oklahoma licensed fire sprinkler company to assist fire sprinkler technicians or managers and learn to properly install and service fire sprinkler systems.

"IBC" means the International Building Code.

"ICC" means the International Code Council, Inc.

"Inspection" shall mean the visual observation or system test of any burglar alarm system, fire alarm system, electronic access control system, closed circuit television system, nurse call system, lock system, or fire sprinkler system to determine if the system has been installed and is operating according to the applicable code or standard.

"Locksmith company" means a business that provides locksmithing to others by any means, including but not limited to, design, install, service, repair, re-key, re-pin, sell, inspect, rebuild, record, adjust, unlock mechanical or electronic locks or advertisement of locksmith services; holding oneself or

one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

"Locksmith company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Locksmith salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of a locksmith company by any means, including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door, or any other type of personal interaction, or a person who participates in design, plan, and/or lay out of locksmithing equipment on behalf of a locksmith company, but shall not include individuals who participate in marketing only.

"Locksmith technician" means an individual who is employed by an Oklahoma licensed locksmith company to design, install, service, inspect, repair, re-key, re-pin, sell, rebuild, record, adjust, or unlock mechanical or electronic locks on behalf of a locksmith company.

"Locksmith trainee" means an individual who is employed by an Oklahoma licensed locksmith company to learn to properly install, service, repair, rebuild, re-key, re-pin, sell, or unlock mechanical or electronic locks on behalf of a locksmith company.

"Locksmith tool" means any tool designed specifically to aid in removal, disassembly, re-assembly, installation, or maintenance of, or to be used to defeat or by-pass any electric or mechanical lock or system.

"Manufactured housing" means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet (2438 body mm) or more in width or 40 body feet (12 192 body mm) or more in length, or, when erected on site, is 320 square feet (30 m2)or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. For the purpose of these rules, a mobile home shall be considered a manufactured home, and each shall be regarded as manufactured housing.

"Marketing" means the distribution or collecting of general or basic information about products or services by any means including but not limited to telephone, electronic device, public notice, advertisement, or any other type of direct or indirect personal interaction.

"Monitoring company" means a business that offers to, or does monitor burglar alarms, electronic access control systems, closed circuit television, nurse call systems, and/or fire alarms located in Oklahoma.

"Monitoring company manager" means an individual who is employed by an Oklahoma licensed monitoring company and has control of the monitoring of systems located in Oklahoma.

"Multiple activity office" means a location where more than one regulated activity is performed or conducted.

"Multipurpose fire sprinkler system" means a single piping system within residential building and manufactured housing where the same piping system simultaneously serves both domestic and fire protection needs and are not independent systems in any manner as described by the Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings (NFPA 13D).

"NFPA" means the National Fire Protection Association.

"NICET" means the National Institute of Certification in Engineering Technologies, a certification program sponsored by the National Society of Professional Engineers.

"Nurse call system" means a device or a series or assembly of interconnected devices which, when activated by automatic or manual means, produces an audible, visual, or electronic signal intended to detect or annunciate a need to summon response by a local medical staff or local medical personnel.

"Nurse call company" means a business that provides nurse call systems to others by any means, including but not limited to, the sale, lease, rent, design, planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing, modification, improvement, alteration, inspection, or servicing of nurse call systems; holding oneself or one's company out for hire to perform any such tasks; or otherwise offering to perform any such tasks for compensation, either directly or indirectly.

"Nurse call company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Nurse call technician" means an individual who is employed by an Oklahoma licensed nurse call system company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, inspect, or service nurse call system equipment.

"Nurse call trainee" means an individual who is employed by an Oklahoma licensed nurse call system company to learn to properly install and service nurse call system equipment.

"Nurse call system salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of an nurse call company by any means, including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door or any other type of personal interaction, and/or a person who participates in design, plan and/or lay out of an nurse call system on behalf of a nurse call company, but shall not include individuals who participate in marketing only.

"OUBCC" means the Oklahoma Uniform Building Code Commission.

"Ownership" means the dominion, title, or proprietary right in a company subject to the Alarm and Locksmith Industry Act and this Chapter.

"Qualifying devices" means a device or combination of devices such as retina readers, finger print pads, bio-metric readers, card swipes, etc. that are used to identify persons who have authorized entry through electronic access control systems.

"Residential building" shall mean buildings arranged for the use of one (1)- or two (2)-family dwelling units, including not more than five (5) lodgers or boarders per family and multiple single-family dwellings where each unit has an independent means of egress and is separated by a two (2)-hour fire separation assembly and all detached one (1)- or two (2)-family dwellings not more than three (3) stories in height, and the accessory structures as indicated in the ICC One and Two Family Dwelling Code.

"Residential fire alarm license" means the category of license which authorizes a fire alarm company, manager, technician, trainee or salesperson to engage in the fire alarm industry activities in compliance with this Chapter for fire alarm systems used in residential building and manufactured housing.

"Residential fire sprinkler license" means the category of license which authorizes a fire sprinkler company, manager, or technician or trainee to engage in the fire sprinkler industry activities in compliance with this Chapter for fire sprinkler systems used in residential building and manufactured housing.

"Residential stand-alone CCTV systems designed for the purpose of self-monitoring by the end user" means a camera or cameras installed in a residence that are not monitored or accessible by any person other than the residential end user and are not integrated with any alarm system, integrated security system, lock, or mechanical or electronic security device(s) as defined in 59 O.S. § 1800.2.

"Rough-in cabling or wiring" means the act of installing the cabling or wiring required for the activities regulated by this Chapter. This will include the preparation of the site for cabling or wiring, but shall not include the installation or connection of any electronic devices or parts thereof.

"Security verification" means information submitted to the appropriate authority on each applicant to verify any criminal records.

"Supervision" means on-site supervision by a licensed manager, technician or salesperson.

"System" means a burglar alarm system, fire alarm system, fire sprinkler system, closed circuit television system, electronic access control system, locksmithing system, or a nurse call system, all as defined in these rules, or a portion or combination of such alarms or systems. However, the term "system" shall not include the following: (i) an alarm system installed in a motor vehicle; (ii) a burglar alarm system or household fire warning system sold at retail to an individual end user for self-installation; (iii) a single station fire alarm device sold at retail to an individual end user for self-installation or installed by a fire department, the State Fire Marshal, a public agency, a volunteer fire association, or their designated representatives.

"Trainee" means an individual who is employed by an Oklahoma licensed company to learn to properly engage in the activities regulated by this Chapter that can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

SUBCHAPTER 3. LICENSE REQUIREMENTS

380:75-3-3. Burglar alarm license requirements

Licensing requirements for the burglar alarm industry are as follows:

(1) **Company.**

(A) Each burglar alarm company shall employ an Oklahoma licensed burglar alarm manager who is responsible for the operations of the company's office. A burglar alarm company shall notify the Department within fourteen (14) days in event of the death of the burglar alarm company manager or the manager's separation from the company for any other reason, and the company shall designate another licensed burglar alarm manager within (30) thirty days from separation.

(B) A licensed burglar alarm technician or manager shall be on site for any work being performed.

(C) A burglar alarm company may operate multiple activity offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-3(1)(A). The company will notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(D) Each alarm company engaged in alarm business that sells a burglar alarm system to a consumer upon request from the consumer shall within forty-eight (48) hours return the lockout, installer, or programming code of the system to the factory default setting when the consumer cancels the contract on customer-owned equipment. If a system is installed without a written contract with the consumer, the system shall have the lockout code, installer or programming code set at default.

(E) A company shall maintain and provide the customer with the following information prior to any agreement for service becoming effective. Any early termination clause applicable to military personnel, or the lack of such a clause, shall be fully disclosed in writing and shall be separately acknowledged by the customer. All monitoring and/or lease contracts shall include, as a minimum, the following information: the initial term of the agreement, the renewal term of the agreement, the terms for notification of cancellation of the agreement as well as the costs involved of all the terms of the agreement, the company name and the state issued license number, the sales representative's name and state issued license number, and the address where service will be provided. The minimum contract information described above shall be disclosed in one of the following ways:

(i) Printed on the front or face of the written contract in not less than twelve (12) point bold type and at least two (2) points larger than the rest of type size of the remaining text in the written contract;

(ii) On a separate disclosure form appended to the written contract and dated, and signed by the customer and the licensed alarm company representative who made the sale; or

(iii) Electronically in a format and language that is understandable to the average consumer using bold type which is at least two (2) points larger than the type size of the remaining text in the contract.

(2) **Manager.**

(A) Each application for licensure as a manager shall include verification of four (4) years of experience in the burglar alarm business. The experience shall include two (2) years verified/or licensed experience as a burglar alarm technician or other related experience approved by the Committee.

(B) Each burglar alarm manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed burglar alarm company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed burglar alarm company manager shall have a security background verification.

(E) Each licensed burglar alarm company manager shall also be licensed as a residential fire alarm manager.

(3) **Technician.**

(A) Each technician shall work for a licensed burglar alarm company and under the supervision of a burglar alarm company manager.

(B) Each burglar alarm technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) Each licensed burglar alarm technician shall also be licensed as a residential fire alarm technician.

(E) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician/Salesperson Trainee.**

(A) A technician/salesperson trainee shall be employed by a licensed Oklahoma burglar alarm company.

(B) A technician/salesperson trainee shall work under the direct supervision of a licensed burglar alarm company manager, burglar alarm technician or a burglar alarm salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per burglar alarm company manager, burglar alarm technician or burglar alarm salesperson per job site or project.

(D) Each technician/salesperson trainee shall have security background verification.

(E) Each licensed burglar alarm trainee shall also be licensed as a residential fire alarm trainee.

(F) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(G) An individual who holds a trainee license can engage in the rough-in cabling or wiring under the direct supervision of a licensed company holding the appropriate license category.

(H) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a burglar alarm company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed burglar alarm company and under the supervision of a burglar alarm company manager.

(B) ~~Each burglar alarm salesperson applicant must pass an examination prescribed by the Commissioner.~~

~~(C)~~ Each salesperson shall have a security background verification.

(~~D~~C) Each licensed burglar alarm salesperson shall also be licensed as a residential fire alarm salesperson.

380:75-3-7. Locksmith license requirements

Licensing requirements for the locksmith industry are as follows:

(1) **Company.**

(A) Each locksmith company shall employ an Oklahoma licensed locksmith manager who is responsible for the operations of the company's office. In the event of the death of the locksmith company manager or his/her separation from the company for any other reason, a locksmith company shall notify the Department within fourteen (14) days and name another licensed locksmith manager within thirty (30) days from separation.

(B) A licensed locksmith technician or manager shall be on site for any work being performed.

(C) A locksmith company may operate multiple offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-7(1)(A). The company shall notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(D) The initial retail sales and pinning of locks and lock system shall not require a locksmith license. However, the repinning of locks subsequent to the initial sales shall require a locksmith license.

(E) Tow truck companies/operators licensed by the Department of Public Safety are exempted from the requirements of licensure and this Chapter when performing automotive locksmith services at their

business location, and when performing automotive locksmith roadside services in a vehicle appropriately licensed and identified in accordance with the Department of Public Safety requirements for tow truck companies/operators (OAC 595:25) existing at the time of the adoption of this rule or as may subsequently enumerated or adopted.

(F) An individual, company, corporation, institution, industry, business or religious organization, or employee thereof, is exempt from the requirements of this Chapter when performing locksmith category activities on the property of the same, provided the locksmith category services are not performed as a normal business practice on the property of another.

(2) **Manager.**

(A) Each application for licensure as a manager shall include verification of experience in the locksmith business. The experience shall include verified/or licensed experience as a locksmith technician.

(B) Each locksmith manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed locksmith company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed locksmith company manager shall have a security background verification.

(3) **Technician.**

(A) Each technician shall work for a licensed Oklahoma locksmith company and under the supervision of a locksmith company manager.

(B) Each locksmith technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician Trainee.**

(A) A technician trainee shall be employed by a licensed Oklahoma locksmith company.

(B) A technician trainee shall work under the direct supervision of a licensed locksmith company manager or a locksmith technician.

(C) There shall be no more than three (3) technician trainees per locksmith company manager or locksmith technician per job site.

(D) Each technician trainee shall have security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(F) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a locksmith company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed Oklahoma locksmith company and under the supervision of a locksmith company manager.

(B) ~~Each locksmith salesperson applicant must pass an examination prescribed by the Commissioner.~~

~~(C)~~ Each salesperson shall have a security background verification.

380:75-3-8. Electronic Access Control license requirements

Licensing requirements for the electronic access control are as follows:

(1) **Company.**

(A) Each electronic access control company shall employ an Oklahoma licensed electronic access control manager who is responsible for the operations of the company's office. In the event of the death of the electronic access control company manager or his/her separation from the company for any other reason, an electronic access control company shall notify the Department within fourteen (14) days and name another licensed electronic access control manager within thirty (30) days from separation.

(B) A licensed electronic access control technician or manager shall be on site for any work being performed.

(C) An electronic access control company may operate multiple offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-8(1)(A). The company shall notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(2) **Manager.**

(A) Each application for licensure as a manager shall include verification of experience in the electronic access control business. The experience shall include verified and/or-licensed experience as an electronic access control technician.

(B) Each electronic access control manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed electronic access control company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed electronic access control company manager shall have a security background verification.

(3) **Technician.**

(A) Each technician shall work for a licensed Oklahoma electronic access control company and under the supervision of an electronic access control company manager.

(B) Each electronic access control technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician/ Salesperson Trainee.**

(A) A technician/salesperson trainee shall be employed by a licensed Oklahoma electronic access control company.

(B) A technician/salesperson trainee shall work under the direct supervision of a licensed electronic access control company manager, electronic access control technician or an electronic access control salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per electronic access control company manager, electronic access control technician or electronic access control salesperson per job site.

(D) Each technician/salesperson trainee shall have a security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(F) An individual who holds a trainee license can engage in the rough-in cabling or wiring under the direct supervision of a licensed company holding the appropriate license category.

(G) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by an electronic access control company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed Oklahoma electronic access control company and under the supervision of an electronic access control company manager.

(B) ~~Each electronic access control salesperson applicant must pass an examination prescribed by the Commissioner.~~

~~(C)~~ Each salesperson shall have a security background verification.

380:75-3-9. Closed circuit television license requirements (CCTV)

Licensing requirements for the CCTV industry are as follows:

(1) **Company.**

(A) Each CCTV company shall employ an Oklahoma licensed CCTV manager who is responsible for the operations of the company's office. In the event of the death of the CCTV company manager or his/her separation from the company for any other reason, a CCTV company shall notify the Department within fourteen (14) days and name another licensed CCTV manager within thirty (30) days from separation.

(B) A licensed CCTV technician or manager shall be on site for any work being performed.

(C) A CCTV company may operate multiple offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-9(1)(A). The company will notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(2) **Manager.**

(A) Each application for licensure as a CCTV manager shall include verification of experience in the CCTV business. The experience shall include verified and/or licensed experience as a CCTV technician.

(B) Each closed circuit television manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed CCTV company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed CCTV company manager shall have a security background verification.

(3) **Technician.**

(A) Each technician shall work for a licensed Oklahoma CCTV company and under the supervision of a CCTV company manager.

(B) Each closed circuit television technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician - residential stand-alone CCTV systems designed for the purpose of self-monitoring by the end user.**

(A) Each technician who shall only install residential stand-alone CCTV systems designed for the purpose of self-monitoring by the end user shall work for a licensed CCTV company and under the supervision of a CCTV company manager.

(B) Each technician who shall only install residential stand-alone CCTV systems designed for the purpose of self-monitoring by the end user shall have a security background verification.

(5) **Technician/salesperson trainee.**

(A) A technician/salesperson trainee shall be employed by a licensed Oklahoma CCTV company.

(B) A technician/salesperson trainee shall work under the direct supervision of a licensed CCTV company manager, CCTV technician or a CCTV salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per CCTV company

manager, CCTV technician or CCTV salesperson per job site.

(D) Each technician/salesperson trainee shall have a security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(F) An individual who holds a trainee license can engage in the rough-in cabling or wiring under the direct supervision of a licensed company holding the appropriate license category.

(G) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a CCTV company.

(~~5~~6) **Salesperson.**

(A) Each salesperson shall work for a licensed Oklahoma CCTV company and under the supervision of a CCTV company manager.

(B) ~~Each closed-circuit television salesperson applicant must pass an examination prescribed by the Commissioner.~~

~~(C)~~ Each salesperson shall have a security background verification.

380:75-3-10. Nurse call system license requirements

Licensing requirements for the nurse call industry are as follows:

(1) **Company.**

(A) Each nurse call company shall employ an Oklahoma licensed nurse call manager who is responsible for the operations of the company's office. In the event of the death of the nurse call company manager or his/her separation from the company for any other reason, a nurse call company shall notify the Department within fourteen (14) days and name another licensed nurse call manager within thirty (30) days from separation.

(B) A licensed nurse call technician or manager shall be on site for any work being performed.

(C) A nurse call company may operate multiple offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-10(1)(A). The company shall notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(2) **Manager.**

(A) Each application for licensure as a manager shall include verification of experience in the nurse call business. The experience shall include verified and/or licensed experience as a nurse call technician.

(B) Each nurse call manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed nurse call company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed nurse call company manager shall have a security background verification.

(3) **Technician.**

(A) Each technician shall work for a licensed Oklahoma nurse call company and under the supervision of a nurse call company manager.

(B) Each nurse call technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician/salesperson trainee.**

(A) A technician/salesperson trainee shall be employed by a licensed Oklahoma nurse call company.

(B) A technician/salesperson trainee shall work under the direct supervision of a licensed nurse call company manager, nurse call technician or a nurse call salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per nurse call company manager, nurse call technician or nurse call salesperson per job site.

(D) Each technician/salesperson trainee shall have a security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(F) An individual who holds a trainee license can engage in the rough-in cabling or wiring under the direct supervision of a licensed company holding the appropriate license category.

(G) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a nurse call company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed Oklahoma nurse call company and under the supervision of a nurse call company manager.

(B) ~~Each nurse call salesperson applicant must pass an examination prescribed by the Commissioner.~~

~~(C)~~ Each salesperson shall have a security background verification.

[OAR Docket #19-416; filed 5-30-19]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 80. ALTERNATIVE FUELS PROGRAM

[OAR Docket #19-417]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Testing, Certification, and Recertification
380:80-7-10 [AMENDED]
AUTHORITY:
Department of Labor; 40 O.S. § 142.1, Alternative Fuels Technician Certification Act
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The adopted rule amendment increases the amount of time between lapse of a license and the imposition of a late fee and re-testing requirement, from thirty days to one hundred twenty days.
CONTACT PERSON:
Daniel A. Mares, Assistant General Counsel, (405) 521-6186 or daniel.mares@labor.ok.gov or James Buck, Deputy Commissioner of Labor, (405) 521-6111 or james.buck@labor.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2019:

SUBCHAPTER 7. TESTING, CERTIFICATION, AND RECERTIFICATION

380:80-7-10. Guidelines for certificate renewal

(a) Each licensee's certificate(s) issued under the agency shall expire on the last day of the licensee's birth month each year.

(b) A late fee of Ten Dollars ($10.00) will be charged ~~thirty (30)~~one hundred twenty (120) days after the last day of the licensee's birth month. At such time re-testing will be required in order to be certified.

(c) The certification(s) of a licensee renewing his or her certification(s) after September 1, 2015 shall expire on the last day of the licensee's next birth month. The certification fee(s) shall be prorated such that the licensee will pay 1/12 of the annual certification fee(s) for each month from September 2015 up to and including the month of the licensee's birth. The licensee's certification(s) will thereafter expire annually on the last day of the licensee's birth month.

(d) At the time of recertification of a company, partnership, or corporation, proof of insurance coverage will be required as part of the process.

(e) All applications for examination for the renewal of certification shall be made in writing to the agency on forms provided, if necessary, by the agency.

(f) All applications shall be accompanied by the appropriate fee as set forth in section 380:80-7-4.

[OAR Docket #19-417; filed 5-30-19]

TITLE 405. OKLAHOMA DEPARTMENT OF LIBRARIES CHAPTER 3. ADMINISTRATIVE RULES OF THE BOARD

[OAR Docket #19-482]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
405:3-1-14 [NEW]
AUTHORITY:
Oklahoma Department of Libraries Board; 65 O.S. § 2-106(m)
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n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The new section provides communities who have been determined to be ineligible to qualify for state aid according to OAC 405:25-1-3 by agency administration to have the ability to request appeal and review of the decision by the Oklahoma Department of Libraries Board.
CONTACT PERSON:
Jan Davis, Administrative Archivist, Oklahoma Department of Libraries, 200 NE 18th Street, Oklahoma City, OK 73105, 405-522-3191, jan.davis@libraries.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,

SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

405:3-1-14. Appeals on agency decisions on eligibility for state aid

Communities which have been notified by the agency administration that are ineligible for state aid to public libraries may contact the Oklahoma Department of Libraries Board to hear an appeal. The community has seven days from receipt of notification by the agency administration to file an appeal with the Oklahoma Department of Libraries Board.

[OAR Docket #19-482; filed 5-31-19]

TITLE 405. OKLAHOMA DEPARTMENT OF LIBRARIES
CHAPTER 20. THE OKLAHOMA PUBLICATIONS CLEARINGHOUSE

[OAR Docket #19-483]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
405:20-1-2. Organization [AMENDED]
405:20-1-3. Functions [AMENDED]
405:20-1-4. Advisory Council [REVOKED]
405:20-1-5. Location and hours of operation; service [AMENDED]
405:20-1-6. Requests for promulgation, amendment, or repeal of a rule [AMENDED]
405:20-1-7. Petition for declaratory ruling [AMENDED]
Subchapter 5. Communications
405:20-5-3. Transmittal form [REVOKED]
Subchapter 7. Publication Identity, Cost, and Deposit
405:20-7-2. Publication cost statement; declaration of deposit [AMENDED]
Subchapter 9. Depository Requirements
405:20-9-1. Publications required to be deposited [AMENDED]
405:20-9-2. Number of copies to be deposited [AMENDED]
405:20-9-3. Legal publications [REVOKED]
405:20-9-5. Noncompliance by agency [AMENDED]
Subchapter 11. Oklahoma State Depository Library System
405:20-11-1. Statutory depositories [AMENDED]
405:20-11-4. Method of distribution [REVOKED]
405:20-11-6. Depository guidelines [AMENDED]
Subchapter 13. Legal Exchange Program [REVOKED]
405:20-13-1. Participating libraries in legal publications exchange [REVOKED]
405:20-13-2. Distribution of legal publications [REVOKED]
405:20-13-3. Written agreement for legal publications exchange [REVOKED]
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n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The amendments clarify requirements of the rules and bring the rules into alignment with changes to the Oklahoma Statutes since the rules were last amended.
CONTACT PERSON:
Jan Davis, Administrative Archivist, Oklahoma Department of Libraries, 200 NE 18th Street, Oklahoma City, OK 73105, 405-522-3191, jan.davis@libraries.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

405:20-1-2. Organization

The Oklahoma Publications Clearinghouse was created as a unit of the Oklahoma Department of Libraries under the direction of the Director of the Department, who appoints a professionally trained librarian to head the program. ~~The Oklahoma Publications Clearinghouse is a component of the Office of Government Information which brings together all Oklahoma government materials and resources of the Department, including the State Archives Division, Records Management Division, the Web Development Office, the Oklahoma Publications Clearinghouse, and U. S. Government Information Division.~~

405:20-1-3. Functions

The Publications Clearinghouse has been designed to systematically collect, preserve and distribute state government publications and to promote their use by the citizens of Oklahoma and the United States. The collection of state-generated publications is accomplished through the Oklahoma State Publications Depository Program. Distribution is achieved through the Oklahoma State Depository Library System~~and the Legal Exchange Program~~.

405:20-1-4. Advisory Council [REVOKED]

~~In pursuing its mission to provide citizens of the state access to Oklahoma state government publications, the Publications Clearinghouse seeks the advice of an Advisory Council. Members are appointed by the Director of the Department and include representatives of state agencies, depository libraries, and other interested persons. The functions of the Council are to advise on the selection, organization, distribution and bibliographic control of publications, to recommend policies and~~

~~procedures for the effective and efficient operation of the Publications Clearinghouse, and to provide a forum for the exchange of information and ideas.~~

405:20-1-5. Location and hours of operation; service

(a) State agencies or others seeking information about these rules and regulations or wishing to make submissions or requests should contact the Publications Clearinghouse at the following address: Oklahoma Publications Clearinghouse, Oklahoma Department of Libraries, 200 N.E. 18th Street, Oklahoma City, OK 73105-3298, (405) ~~522-3188~~521-2502 or 1-800-522-8116.

(b) Copies of publications deposited with the Publications Clearinghouse may be examined at the above address from 8:00 a.m. to 5:00 p.m., Monday through Friday excluding legal holidays. Publications are loaned directly to state employees and to citizens through interlibrary loan when sufficient copies are available. Reference assistance is provided to all patrons working with the collection on the premises.

405:20-1-6. Requests for promulgation, amendment, or repeal of a rule

(a) Requests for promulgation, amendment, or repeal of a rule shall be made in writing to the Director of the Oklahoma Department of Libraries. Requests shall give the text of a proposed new rule or amendment, cite such rules as are requested to be repealed or amended, and shall explain the reasons or justification for each request.

~~(b) Requests outlined in (a) of this Section shall be placed on the agenda for an Advisory Council meeting or an early date, and the interested party shall be given reasonable notice of the date, time, and place of such meeting, and shall be informed promptly in writing of the Council's advice and Director's decision in the matter~~.

(~~c~~b) Any resulting action to adopt a new rule or amendment or to repeal an existing rule shall be ~~taken at an early date at an open hearing~~ conducted in accordance with the notice and other requirements of the Administrative Procedures Act.

405:20-1-7. Petition for declaratory ruling

(a) Persons requesting the Director to make a declaratory ruling as to the applicability or interpretation of any rule or order pursuant to the rules of this Chapter shall address their written request to the Director.

(b) The Director shall act on the petition for declaratory ruling within ten working days, and shall inform the petitioner in writing of his/her ruling in the matter.

SUBCHAPTER 5. COMMUNICATIONS

405:20-5-3. Transmittal form [REVOKED]

~~Agencies shall send publications to the Publications Clearinghouse as they become available for general distribution. Each new publication should include a transmittal form, identifying the agency's name and address, Publications Officer's name, title of publication, and other bibliographic information [74 O.S., § 3106.1 (c)].~~

SUBCHAPTER 7. PUBLICATION IDENTITY, COST, AND DEPOSIT

405:20-7-2. Publication cost statement; declaration of deposit

Pursuant to 74 O.S., §3105, agencies are required to give a cost statement and declaration of deposit for each publication issued by them. This information shall be set forth in a separate paragraph in a prominent place near the beginning of each publication and shall conform as nearly as practical to the following format: 1. If the publication is printed: "*This publication, printed by (name of printing firm) is issued by (here list the agency, department, board, commission, or institution) as authorized by~~(cite the statute specifically authorizing the publication, and if not specifically authorized by statute, provide the name of the person or persons so authorizing)~~_____. ~~(Number)~~ _____ copies have been prepared and distributed at a cost of $_____. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.*"; or 2. If the publication is located online: "*This publication is issued by (list the agency, department, board, commission or institution) as authorized by _____ and is located at the following website(s): _____. This publication has been submitted in compliance with Section 3-114 of Title 65 of the Oklahoma Statutes.*" [74 O.S., §3105(B)]

SUBCHAPTER 9. DEPOSITORY REQUIREMENTS

405:20-9-1. Publications required to be deposited

(a) State publications as defined by 65 O.S., §3.113.2, are any informational materials, regardless of format, method of reproduction or source, which originate in or are produced with the imprint, by the authority or at the total or partial expense of an agency supported wholly or in part by state funds and which are distributed to persons outside of the creating agency or are required by law. The definition incorporates those publications that may or may not be financed by state funds but are released by private entities pursuant to a contract with or subject to the supervision of any agency. Examples of materials which are not state publications as defined, and materials which meet this definition but which are exempt from depository requirements are listed in the latest edition of the Publications Clearinghouse "Manual for Publications Officers."

(b) It is the intent of the Legislature that state agencies issue publications in an electronic format whenever possible, unless such issuance would interfere with the availability to the public of such publications and the information contained therein. It is the further intent of the Legislature that the Publications Clearinghouse and the Oklahoma Department of Libraries disseminate links to or other means by which to access publications to the same recipients required by law to receive copies

or who have traditionally received copies of publications not published in an electronic format. A directory of the links to the publications shall be prominently featured on the ok.gov portal. [65 O.S., §3-113.1(B)]

405:20-9-2. Number of copies to be deposited

The Publications Clearinghouse shall have the following duties:~~require state agencies to deposit~~ for publications not published in an electronic format, to determine the quantity of each publication of an agency to a maximum of twenty-five (25) copies ~~of their publications~~required to meet the needs of the state publications depository library system and to notify each agency of the required quantity. Further explanation of the number of copies required for deposit is given in the latest edition of the Publications Clearinghouse "Manual for Publications Officers." [74 O. S., § 3106.1(c) and 65 O.S., § 3-113.3~~(6)~~(7)]

405:20-9-3. Legal publications [REVOKED]

~~Title 65 O.S., §§3-113.3, requires the Publications Clearinghouse to receive for use and for exchange purposes a maximum of fifty (50) copies of court decisions, Attorney General opinions, codes, rules and regulations, and bar journals, and one hundred ten (110) copies of statutes, statute supplements and session laws.~~

405:20-9-5. Noncompliance by agency

Title 65 O.S., §3-114(B), provides the following procedural steps to be taken in the event of noncompliance by an agency:

(1) Written notice of noncompliance shall be sent from the Director of the Department of Libraries to the chief administrator of the agency. Such notice shall state:

(A) the alleged noncompliance;

(B) ~~a specific date on which~~ a reasonable time not to exceed thirty (30) days such noncompliance must be remedied;

(C) that further noncompliance will result in a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the State Attorney General; and

(D) that the statute requires immediate initiation of mandamus proceedings by the Attorney General upon receipt of such notice to the Attorney General to seek agency compliance.

(2) Further failure to comply shall be reported as required.

SUBCHAPTER 11. OKLAHOMA STATE DEPOSITORY LIBRARY SYSTEM

405:20-11-1. Statutory depositories

Title 65 O.S., §3-113.3, expressly provides that the following libraries shall receive ~~all copies of~~ state publications not published in an electronic format as follows:~~deposited with the Publications Clearinghouse:~~

(1) United States Library of Congress (Washington, D. C.), 1 copy

(2) Oklahoma Department of Libraries, 2 copies

(3) Selected copies to each depository library

405:20-11-4. Method of distribution [REVOKED]

~~The Publications Clearinghouse shall mail publications to libraries participating in the Depository Library System in a uniform and consistent manner with postage prepaid.~~

405:20-11-6. Depository guidelines

The Publications Clearinghouse shall issue and enforce standards for the proper maintenance, housing, and servicing of Oklahoma state publications by libraries contracting as participants in the Depository Library System. These standards delineate the respective functions and responsibilities of the Publications Clearinghouse and participating libraries, and are used to evaluate fulfillment of contractual obligations. ~~The guidelines are developed with advice and assistance of the Advisory Council.~~

SUBCHAPTER 13. LEGAL EXCHANGE PROGRAM [REVOKED]

405:20-13-1. Participating libraries in legal publications exchange [REVOKED]

~~Legal publications (as described in OAC 405:20-9-3) are deposited with the Publications Clearinghouse for purposes of exchange and use therein, but are not otherwise distributed by the Publications Clearinghouse except to libraries participating in the State Depository Library System, national research centers, and designated law libraries in other states, territories and possessions of the United States.~~

405:20-13-2. Distribution of legal publications [REVOKED]

~~In exchange for Oklahoma governmental legal publications, an official library shall legal publications in kind for that state (or other jurisdiction) to the Department of Libraries. Until changed by written notice, the address to which copies of such legal publications of other states and jurisdictions are to be sent is: Acquisitions Section, Oklahoma Department of Libraries, 200 N.E. 18th Street, Oklahoma City, Ok 73105-3298.~~

405:20-13-3. Written agreement for legal publications exchange [REVOKED]

~~Written agreements will be made with a library, or libraries in each of the other states or jurisdictions as required for exchange of Oklahoma government legal publications. All~~

~~changes in those agreements should be sent to the address in OAC 405:20-13-2.~~

[OAR Docket #19-483; filed 5-31-19]

TITLE 405. OKLAHOMA DEPARTMENT OF LIBRARIES
CHAPTER 25. STATE AID GRANTS TO PUBLIC LIBRARIES

[OAR Docket #19-484]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
405:25-1-5 [AMENDED]
AUTHORITY:
Oklahoma Department of Libraries Board; 65 O.S. § 2-106(m)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCOPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The purpose of the amendments is to provide an appeal to the Oklahoma Department of Libraries Board by communities that have been determined to be ineligible by agency administration. The amendment includes a specific period of time in which the appeal must be filed by the community with the Board.
CONTACT PERSON:
Jan Davis, Administrative Archivist, Oklahoma Department of Libraries, 200 NE 18th Street, Oklahoma City, OK 73105, 405-522-3191, jan.davis@libraries.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

405:25-1-5. Ineligibility notification

(a) When libraries are found to be ineligible for State Aid, ODL will notify the librarian and the City Manager, and shall state the reasons for ineligibility. The librarian will then have a period of two weeks from receipt of notification in which to submit additional evidence of eligibility. Such appeals shall be reviewed by the ODL administration and a final decision made.

(b) The Oklahoma Department of Libraries Board shall serve as an appeal board in the agency's execution of the State Aid Grants to Public Libraries. After the Oklahoma Department of Libraries administration denies a community's eligibility for state aid, a community may appeal the ineligibility for state aid by agency administration to the Oklahoma Department of Libraries Board at a special board meeting. The community must file the appeal to the Oklahoma Department of Libraries Board within seven days of receipt of the denial by the agency administration. The Board shall affirm the administration's determination unless it finds such determination is contrary to applicable rules.

[OAR Docket #19-484; filed 5-31-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #19-428]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
475:1-1-1. Purpose [AMENDED]
Subchapter 5. Administrative Actions
475:1-5-7. Official transcript; index; corrections [AMENDED]
475:1-5-10. Final Order [AMENDED]
475:1-5-11. Surrender of Registration in Lieu of Administrative Action [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 28, 2019
COMMENT PERIOD:
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n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed rule amendments update the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control's (OBNDD) statutory enforcement authority and remove outdated language. The amendments allow a party to an administrative hearing to make written request for a copy of testimony/exhibits and require that any reportable action taken as a result of a Final Order from an administrative hearing or an Agreed Order be reported to the National Practitioner Data Bank as required by federal law. The proposed rule amendments allow registrants who surrendered an OBNDD registration to

reapply within six (6) months from the date of surrender as opposed to one (1) year and clarify that any registrant who surrenders an OBNDD registration in lieu of further administrative action shall be reported to the National Practitioner Data Bank as required by federal law.

CONTACT PERSON:

Sunne Riedel Day, Deputy General Counsel, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, sday@obn.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

475:1-1-1. Purpose

The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN) is ~~mandated with enforcement of~~authorized by Title 63 of the Oklahoma Statutes to enforce the Uniform Controlled Dangerous Substances Act (UCDSA) of the State of Oklahoma. The OBN also has the authority to investigate criminal offenses related to human trafficking and money laundering. ~~OBN Headquarters in Oklahoma City houses the administrative offices of the Bureau as well as the Registration, Education and Training Sections, Records and Communications Divisions. Agents of the Criminal Enforcement Section of OBN operate out of the regional offices as well as Oklahoma City to provide assistance to local law enforcement and enforce criminal violations involving the cultivation and distribution of illicit drugs. The Diversion Division focuses on OBN registrants' adherence to law and the diversion of legally manufactured controlled dangerous substances.~~

SUBCHAPTER 5. ADMINISTRATIVE ACTIONS

475:1-5-7. Official transcript; index; corrections

Testimony given at a hearing shall be recorded. The Director will make provision for a record of the testimony and for such copies of the transcript thereof as he/she requires for his/her own purposes. Any ~~person~~party desiring a copy of the testimony and exhibits taken at the hearing or of any part thereof shall be entitled to the same upon ~~application~~written request to the ~~Registration Officer~~Office of General Counsel of the OBN~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~ and upon payment of the costs thereof. ~~Persons~~Any party desiring a stenographic record of the testimony, at their own ~~payment and cost~~expense, may provide the services of a licensed or certified shorthand reporter to obtain an official record of a hearing.

475:1-5-10. Final order

As soon as practicable after the hearing officer has certified the record to the Director, as required in 475:1-5-9, the Director shall issue his/her order in the proceeding, which shall set forth the final rule or decision and the findings of fact and conclusions of law upon which the rule or decision is based. This order shall specify the date on which it shall take effect, which shall not be less than thirty (30) days from the date of the order unless the Director finds that emergency conditions exist necessitating an earlier effective date, in which event the Director shall specify in the order his/her findings as to such conditions. Any reportable action taken as the result of a Final Order from a hearing or an Agreed Order shall be reported to the National Practitioner Data Bank pursuant to *45 CFR §60.1 et seq.*

475:1-5-11. Surrender of Registration in Lieu of Administrative Action

(a) Any registered person of the OBN~~Oklahoma Bureau of Narcotics~~ may surrender ~~his~~the registration in lieu of administrative action at any time before such action is taken. In such a case, the registered entity will waive the right to reapply for an OBN registration for a period of ~~one (1) year~~six (6) months from the effective date of the surrender. In such case, the OBN Director may approve or deny any application from the registrant following this ~~one year~~six (6) month period based on the impact issuing the requested registration may have on the general public safety. A surrender of an OBN registration made in lieu of further administrative action shall be reported to the National Practitioner Data Bank pursuant to *45 CFR §60.1 et seq.*

(b) In the event an individual practitioner's registration is revoked, suspended, or surrendered, either voluntarily or following administrative action, he or she may not, at any time, utilize the registration of another individual and/or institution. Any effort to utilize the registration of another may be considered an unlawful dispensation, ~~delivery or administering~~administration, distribution, and/or prescription of a controlled dangerous substance as set forth under Title 63 of the Oklahoma Statutes.

[OAR Docket #19-428; filed 5-30-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 10. REQUIREMENTS FOR REGISTRATION

[OAR Docket #19-429]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

475:10-1-3. Exemption from registration or payment of fees [AMENDED]
475:10-1-4. Separate registration [AMENDED]
475:10-1-5. Exemptions of agents and employees [AMENDED]
475:10-1-9. Application for registration pursuant to Title 63 Okl.St.Ann § 2-302 [AMENDED]
475:10-1-10. Application notices for registration and re-registration [AMENDED]
475:10-1-11. Operational protocols [AMENDED]

475:10-1-12. Filing of application [AMENDED]
475:10-1-18. Certificate of ~~registration~~Registration ~~form~~ [AMENDED]
475:10-1-20. Modification of registration [AMENDED]
475:10-1-22. Termination of registration [AMENDED]

AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:
475:10-1-4. Separate registration [AMENDED]
475:10-1-18. Certificate of registration form [AMENDED]

Gubernatorial approval:
January 4, 2019

Register publication:
36 Ok Reg 303

Docket number:
19-33

INCORPORATIONS BY REFERENCE:
n/a

GIST/ANALYSIS:
The proposed rule amendments require a fee exemption be requested at the time of application submission. The proposed rules give persons/entities registered with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBNDD) to manufacture any controlled dangerous substances (CDS) listed in Schedules I through V the ability to conduct chemical analysis and preclinical research with the CDS listed in those schedules in which they are authorized to manufacture. The proposed rules require limited practitioners to report any new or additional locations of employment to OBNDD. The proposed rules clarify the inclusion of entities, and allow a thirty (30) day grace period before an expired registration is inactivated. The proposed rules specify where a registrant may obtain an application, what to include in the application, how notification will be provided prior to expiration, and when directions to a business location must be included. The proposed rules remove operational protocol requirements for canine handlers, update federal and state entities involved in scientific research, analytical laboratory activities, or institutional instructional activities. The rule changes also specify the Certificate of Registration shall contain any limitation or condition placed on the registration. The proposed rules reduce the documentation required for a modification of registration. The proposed rules require any registrant who no longer holds a valid Oklahoma license of the profession or occupation to notify the OBNDD Director within fourteen (14) days of such fact.

CONTACT PERSON:
Sunne Riedel Day, Deputy General Counsel, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, sday@obn.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

475:10-1-3. Exemption from registration or payment of fees

(a) The Director may exempt from payment of a fee for registration or re-registration any agency of the United States, the State of Oklahoma, or any political subdivision or agency thereof, which is authorized to purchase controlled dangerous substances, to obtain such substances from official stocks, to dispense or administer such substances, to conduct scientific research, institutional instructional activities, or ~~chemical analysis~~analytical laboratory activities with such substances or any combination thereof, in the course of official duties (e.g., city, county, state, or governmental institutions duly licensed by appropriate state agencies). A fee exemption must be requested at the time of application submission. If a fee exemption is not requested at the time of application submission, and payment is submitted with the application, no refund shall be given.

(b) The Director may exempt from registration the following persons:

(1) Any official, employee, or officer of any agency of the United States, State of Oklahoma, or political subdivision or agency thereof, who is authorized to purchase controlled dangerous substances, to obtain such substances from official stocks, to dispense or administer such substances, to conduct scientific research, institutional instructional activities, or ~~chemical analysis~~analytical laboratory activities with such substances, to possess such substances or any combination thereof, in the course of his/her official duties or employment.

(2) Such persons shall be deemed agents of their respective agencies, provided that their professional handling of controlled dangerous substances are confined to the agency of their specific place of official duties or employment [e.g., practitioners limited to practice with such official agency, pharmacies, or drug departments limited to dispensing of controlled dangerous substances to inpatients only of their respective institutions, registered nurses, and others as defined in 63 Okl.St.Ann.§ 2-302].

475:10-1-4. Separate registration

(a) Every person or entity who engages in, or who proposes to engage in, more than one group of independent activities shall obtain a separate registration for each group of activities, except as provided by this subsection. Any person or entity, when registered to engage in the group of activities described in each paragraph of this subsection, shall be authorized to engage in the coincident activities described in that subparagraph without obtaining a registration to engage in such coincident activities; provided that, unless specifically exempted, ~~he/she~~the registrant complies with all requirements and duties prescribed by law for persons or entities registered to engage in such coincident activities.

(1) A person or entity registered to manufacture any controlled dangerous substance or basic class of controlled dangerous substances shall be authorized to distribute that substance or class, but is not authorized to distribute any substance or class which ~~he/she~~the registrant is not registered to manufacture.

(2) A person or entity registered to manufacture any controlled dangerous substance listed in Schedules ~~II~~I through V shall be authorized to conduct chemical analysis and preclinical research (including quality control analysis) with narcotic and non-narcotic controlled dangerous substances listed in those schedules which ~~he/she~~the registrant is authorized to manufacture.

~~(3) A person registered to conduct scientific research with a basic class of controlled dangerous substances listed in Schedule I shall be authorized to manufacture such substances if and to the extent that such manufacture is set forth in the research protocol and to distribute such substances to other persons registered or authorized to conduct scientific research with such substances or registered or authorized to conduct chemical analysis for scientific purposes with controlled dangerous substances provided such distribution is made in conformance with state law.~~

(~~4~~3) A ~~person registered or~~registrant authorized to conduct ~~analysis for scientific purposes~~analytical laboratory activities with controlled dangerous substances shall be authorized to manufacture such substances for analytical or instructional purposes, to distribute such substances to other ~~persons registered or~~registrants authorized to conduct ~~scientific analysis for scientific purposes~~analytical laboratory activities,~~or~~institutional instructional activities, or scientific research with such substances and to persons or entities exempted from registration provided such distribution is made in conformance with state law.

(~~5~~4) A person registered or authorized to conduct scientific research with controlled dangerous substances listed in Schedules ~~II~~I through V shall be authorized to conduct ~~chemical analysis for scientific purposes~~analytical laboratory activities with controlled dangerous substances listed in those schedules in which he/she is authorized to conduct scientific research, to manufacture such substances if and to the extent that such ~~manufacture~~manufacturing is set forth in the protocol filed with the application for registration, to distribute such substances to other persons or entities registered or authorized to conduct ~~chemical analysis for scientific purposes~~analytical laboratory activities, institutional instructional activities, or scientific research with such substances, and to persons or entities exempted from registration provided such distribution is made in conformance with state law, and to conduct instructional activities with controlled dangerous substances.

(~~6~~5) Physicians, dentists, podiatrists, veterinarians, optometrists and other qualified persons who are authorized to carry on their respective activities under the laws of the State of Oklahoma and who are registered with the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN to dispense, prescribe, and/or administer controlled dangerous substances shall be authorized to conduct instructional activities with those substances.

(~~7~~6) Trainers or handlers of a canine controlled dangerous substance detector who, in the ordinary course of their profession, desire to possess any controlled dangerous substance for training said canine.

(~~8~~7) A single registration to engage in any group of independent activities may include one or more controlled dangerous substances listed in the schedules authorized in that group of independent activities. A person registered to conduct scientific research with controlled dangerous substances listed in Schedule I may conduct scientific research with any substance listed in Schedule I for which ~~he/she~~the registrant has filed and had approved a scientific research protocol.

(b) The following locations shall not be deemed to be principal places where controlled dangerous substances are manufactured, distributed, dispensed, and/or prescribed:

(1) A warehouse where controlled dangerous substances are stored by or on behalf of a registered person, unless such substances are distributed directly from such warehouse to registered locations, other than the registered location from which the substances were delivered, or to persons ~~not required to register~~.

(2) An office used by agents of a registrant where sales of controlled dangerous substances are solicited, made, or supervised but which neither contain such substances (other than substances for display purposes or lawful distribution as samples only) nor serves as a distribution point for filling sales orders.

(3) An office used by a practitioner (who is registered at another location) where controlled dangerous substances are prescribed but neither administered nor otherwise dispensed as a regular part of the professional practice of the practitioner at such office, and where no supplies of controlled dangerous substances are maintained.

475:10-1-5. Exemptions of agents and employees

The following persons shall not be required to register and may lawfully possess controlled dangerous substances in the performance of their official duties under the provisions of the Act:

(1) An agent, or employee thereof, of any registered manufacturer, distributor, dispenser and/or user for scientific purposes of any controlled dangerous substances if such agent is acting in the usual course of his/her business or employment.

(2) An individual physician who is a resident or staff physician ~~or~~of a ~~registered~~licensed or otherwise-authorized hospital shall not be required to register in order to administer, prescribe, or dispense controlled dangerous substances in the usual course of his/her professional practice, while acting within the scope of his/her employment in the hospital, provided that:

(A) Such resident or staff physician is authorized to carry on the respective activities under the laws of the State of Oklahoma by their appropriate State of Oklahoma licensing board.

(B) The hospital by whom he/she is employed has verified that the individual physician is so licensed by the appropriate State of Oklahoma licensing board.

(C) Such administering, prescribing, and/or dispensing is confined solely to inpatients or outpatients

of the hospital by which the individual physician is employed.

(D) All prescriptions and records relating to controlled dangerous substances administered, dispensed, or prescribed to inpatients or outpatients shall reflect the designated specific internal hospital code number given to each resident or staff physician so authorized by the hospital pursuant to 475:25-1-18 and Title 21 Code of Federal Regulations, § 1301.22(C)(5) and (6).

(3) Interns of teaching hospitals shall not be required to register and may administer, dispense, and/or prescribe controlled dangerous substances in accordance with paragraph (2) of this Section, provided that:

(A) All prescriptions issued by such interns for outpatients shall be countersigned by a physician licensed by the physician's appropriate State of Oklahoma licensing board and shall bear such physician's personal designated hospital code number.

(B) Such intern is so authorized by the hospital and is acting only within the scope of his/her employment within the teaching hospital.

(4) An individual physician, dentist, podiatrist, or veterinarian, as defined in 63 Okl.St.Ann. § 2-101, who is a resident or foreign-trained, ~~who~~whose practice is, for any reason, limited solely to federal, state, or local government institutions, shall dispense, administer~~,~~ and/or prescribe controlled dangerous substances under the authority of the ~~registration~~license of the institutional hospital by whom he/she is employed in lieu of being registered himself/herself, provided that:

(A) Such dispensing, administering, and/or prescribing is done in the usual course of his/her professional practice.

(B) Such individual practitioner is authorized to carry on the respective activities under the laws of the State of Oklahoma by the appropriate State of Oklahoma licensing board.

(C) The hospital or other institution by which he/she is employed has verified that the individual practitioner is so permitted to dispense, administer,and/or prescribe drugs within the jurisdiction.

(D) Such individual practitioner is acting only within the scope of his/her employment in the hospital or institution.

(E) Records relating to controlled dangerous substances that are prescribed by such residents, foreign-trained physicians, or physicians limited to federal, state, or local government institutions, shall be kept pursuant to Title 21 Code of Federal Regulations §1304.04 and 475:25-1-18.

(5) An individual practitioner, as defined in (4) of this Section, who is limited solely to federal, state, or local government institutional practice, may obtain individual fee-exempt registration in the event that such institution by which he/she is employed does not maintain a hospital as defined by the appropriate State of Oklahoma licensing ~~agency~~authority and the institution is not so registered with the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN.

(A) Such limited practitioners shall be required to maintain records of all controlled dangerous substances administered, dispensed, and ~~distributed~~prescribed by such practitioner.

(B) Such limited practitioners shall be authorized to dispense, administer, and/or prescribe controlled dangerous substances in the course of their professional practice only within such institution as designated by their appropriate State of Oklahoma ~~state professional~~ licensing boards.

(C) Prior to being authorized to dispense, administer, and/or prescribe controlled dangerous substances at any new or additional location, ~~Such~~such limited practitioners shall be required to report to the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN each change of location or addition of institutional employment.

(D) Such limited practitioners shall be held individually responsible for safeguards, record keeping, inventories, transferring, and disposing of controlled dangerous substances in accordance with this Chapter.

475:10-1-9. Application for registration pursuant to Title 63 Okl. St.Ann § 2-302

(a) Any person or entity who is required to be registered and who is not so registered may apply for registration at any time unless otherwise provided in this Title. No person or entity required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued by the Director to such person or entity.

(b) After any person or entity is first registered,~~he/she~~ the person or entity shall thereafter be required to be registered no later than the first day of November of each year.

(c) Any person or entity who fails to register shall be in violation of the Uniform Controlled Dangerous Substances Act and subject to penalties as provided therein.

(d) Applications for registration of new principal places of business and new personal registration requests received after July 1st of each year will, if accepted for registration, be registered for the forthcoming registration ~~year~~period and, therefore, will not be required to pay the registration fee for the remaining four (4) months of the registration ~~year~~period in which the application is made.

(e) A thirty (30) day grace period from the registration expiration date may be given before a registration is inactivated.

475:10-1-10. Application notices for registration and re-registration

(a) Any person or entity required to be registered under Title 63 may ~~obtain the appropriate registration application notice by~~register by contacting the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN to obtain the registration application, downloading the registration application

on the official OBN website, or applying on the official OBN website.

(b) Any person or entity desiring to professionally handle controlled dangerous substances for the purpose of canine drug detector handling and-/or training, manufacturing, distributing, conducting scientific research, or performing analytical laboratory ~~services by scientific analysis~~ activities of controlled dangerous substances listed in the Uniform Controlled Dangerous Substances Act, Schedules I through V, shall apply for registration as follows:

(1) ~~Application for registration as a~~A canine drug detector handler~~ and or~~/trainer~~,~~ or scientific researcher ~~or analytical laboratory~~ shall be registered with the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN as an individual.

(2) Applicants for scientific research, analytical laboratory activities, or institutional instructional activities shall attach ~~Two (2)~~one (1) ~~copies~~copy of the proposed operational protocol ~~shall be attached~~ to the application~~ notice~~.

(3) A detailed description, diagram, and/or photographs of all security measures proposed for the safe storage of all controlled dangerous substances shall be attached to the application~~ notice~~.

(c) Any ~~place or~~ person or entity licensed by ~~their~~the appropriate State of Oklahoma licensing ~~board~~authority who desires to ~~professional~~professionally handle controlled dangerous substances in their practice of medicine, retail pharmacy, hospital, teaching institution, or institutional drug department shall apply for registration.

(d) ~~Renewal notices~~ Registrants will be ~~mailed~~notified by renewal notice~~as applicable to each registered person~~ approximately ninety (90) days before the expiration date of October 31 of each year; if any ~~registered person~~registrant does not receive such notice within thirty (30) days prior to the expiration date of ~~his/her~~the registration, ~~he/she~~the registrant must give notice of such omission and request such notice either by personal contact with, or in writing to, the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN. It shall be the registrant's responsibility to maintain a valid registration.

(e) Each application shall include all information called for in the ~~notice~~application, unless the item is not applicable, in which case this fact shall be indicated, and the application ~~notice~~ with comments shall be required to be returned to the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN. The address of the registrant shall ~~include~~be the ~~mailing~~business address~~ and physical directions to the registrant's location [if different from the mailing address]~~. A post office box will not be considered a sufficient ~~mailing~~business address. If the business address contains no physical street address, then a PO Box or route number may be listed, however, directions to the registrant's business location must be included with the application.

(f) Each application, attachment, or other document filed as a part of any application shall be signed by the applicant or by an officer or official of the applicant. Those applications with questions left unanswered or without proper signature will not be accepted.

475:10-1-11. Operational protocols

(a) An operational protocol to conduct scientific research, ~~scientific analysis~~analytical laboratory activities, or institutional instructional activities~~, or drug canine training~~ with controlled dangerous substances listed in Schedules I through V shall be in the following form and contain the following information where applicable:

(1) Scientific research, analytical laboratory activities, or institutional instructional activities~~, or drug canine handlers~~.

(A) Name, business address, and if any, the Federal Drug Enforcement Administration (DEA) registration number.

(B) Institutional affiliation, if any.

(C) Qualifications, including an academic vita and an appropriate bibliography (listing publications).

(i) Applicants shall be required affirmatively to establish (by documentation or suitable references or other appropriate means) their good moral character and high ethical professional standing.

(ii) Applicants for scientific research shall possess at least an earned bachelor's degree in natural science, medicine, or other appropriate field from institution(s) accredited by bodies recognized by the designated authority of the ~~OU~~University of Oklahoma Health Sciences Center.

(iii) Applicants for scientific research proposing studies involving human subjects should minimally possess an earned doctorate in medicine or natural sciences or other appropriate field from accredited institution(s).

(iv) Applicants for ~~scientific analysis (Analytical Laboratory Activities)~~analytical laboratory activities who propose studies involving chemical analysis or other chemical, physical, or biological scientific activities with Schedule I-V substances shall be required to have satisfactorily completed a minimum of thirty-two (32) semester hours, or ~~their~~the equivalent, of acceptable courses in chemistry, with one (1) or more accredited courses in analytical chemistry.

(v) Institutional instructional activities or institutions of higher learning requesting registration of an agent of such institution shall be an institution accredited by the Oklahoma State Regents for Higher Education, or such agent of an institution shall be required to have satisfactorily completed a minimum of thirty-two (32) semester hours, or their equivalent, of acceptable courses in chemistry from an institution(s) accredited by bodies recognized by the United States ~~Office~~Department of Education or the United States Department of Health~~, Education~~ and ~~Welfare~~Human Services.

(vi) ~~Except for drug canine handlers, all~~All said applicants shall further be required to document at least one (1) year of recent suitable, professional experience for the activities to be undertaken for a Schedule I registration. This may consist of formal participation in established and recognized analytical laboratory analysis of controlled dangerous substances, research programs, institutional instructional activities, or other evidence of appropriate background approved by the Director (post-doctoral training, applicable laboratory experience, etc.).

(2) Research project.

(A) Title of project.

(B) Statement of purpose.

(C) Name of controlled dangerous substance or substances involved and the amount of each substance for use.

(D) Description of the research to be conducted, including the number and species of research subjects, the dosage to be administered, the route and method of administration, and the duration of the project.

(E) Location where the research will be conducted.

(F) Statement of the security provisions for storing the controlled dangerous substances and for dispensing the controlled dangerous substances in order to prevent diversion.

(G) If the researcher or investigator desires to manufacture any controlled dangerous substances listed in this part, a statement of the quantity to be manufactured and the sources of the chemicals to be used.

(3) Authority.

(A) Institutional approval.

(B) Approval of ~~Human Research Committee for human studies~~Institutional Review Board.

(C) Indication of an approval for new ~~Federal Drug Enforcement Administration~~DEA registration number if additional registration is required by ~~the D.E.A~~DEA.

(D) Indication of an approved funded grant (number), if any.

(4) Adequate environment and facilities. All said applicants shall be required to establish that they have access to and beneficial use of an institutional (or other) environment appropriate to the type of activities contemplated, and that they possess the necessary facilities (inclusive of proper laboratory facilities and equipment, etc.). This requirement shall be interpreted as requiring that overall environment, facilities, and equipment meet generally recognized standards for the activities proposed.

(5) Confidentiality of research subjects.

(A) Any ~~person registered~~registrant under the Uniform Controlled Dangerous Substances Act who intends to maintain the confidentiality of those persons who are the subjects of such research shall, pursuant to Title 63 Okl.St.Ann. § 2-106~~(G)~~, upon registration or within a reasonable time thereafter, submit to the Director a separate request for each research project involving controlled dangerous substances, which shall contain the following:

(i) The researcher's registration number with the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN and/or ~~Federal Drug Enforcement Administration~~DEA registration number(s) for that project.

(ii) The location of the research project.

(iii) A general description of the research or a copy of the research protocol as required in this Chapter.

(iv) A specific request to withhold the names and/or any identifying characteristics of the research subjects.

(v) The reasons supporting the request.

(B) Within thirty (30) days from the receipt of the request, the Director shall issue a letter, either granting confidentiality, requesting additional information, or denying confidentiality, in which case the reasons for the denial shall be included. A grant of confidentiality shall be limited solely to the specific research project indicated in the request.

(b) Within thirty (30) days after the date of completion of the research project, the researcher shall so notify the Director.

475:10-1-12. Filing of application

(a) All applications for registration shall be submitted for filing with the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN and shall be accompanied by the appropriate registration fee and any required attachments.

(b) Any person or entity required to obtain more than one registration may submit all applications in one (1) package. Each application must be complete and should not refer to any accompanying application for required information.

475:10-1-18. Certificate of ~~registration~~Registration ~~form~~

The Certificate of Registration shall contain the name, business address, and registration number of the registrant, the schedules of controlled dangerous substances which the registrant is authorized to handle, any limitation or condition placed on the registration, and the expiration date of the registration. The registrant shall maintain the Certificate of Registration at the registered location and shall permit inspection of the Certificate by a peace officer or agency official in the enforcement of laws relating to controlled dangerous substances.

475:10-1-20. Modification of registration

Any registrant may apply to modify ~~his/her~~the registration to authorize the handling of additional controlled dangerous substances by submitting a letter of request to the Registration Division of the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN. The letter shall contain the registrant's name, address, state and federal registration numbers as printed on the registrant's State of Oklahoma and Federal Certificates of Registration, ~~and~~ the substances and/or schedules to be added to ~~his/her~~the registration, and shall be

signed by the registrant. If the registrant is seeking to handle additional controlled dangerous substances listed in Schedule I of the Uniform Controlled Dangerous Substances Act for the purpose of ~~chemical analysis for scientific purposes~~analytical laboratory activities, scientific research, or institutional instructional activities, ~~he/she~~the registrant shall attach ~~two (2) copies~~one (1) copy of ~~his/her~~the protocol describing each anticipated activity involved with the additional substances or, in the event of institutional instructional activities, a statement describing the nature, extent, and duration ~~or~~of such institutional instructional activity, as appropriate. No fee shall be required to be paid for the modification.

475:10-1-22. Termination of registration

The registration of any person or entity shall terminate if and when such ~~person~~registrant dies, ceases legal existence, or discontinues business or professional practice including, but not limited to, full retirement. Any registrant who discontinues business or professional practice and/or no longer holds a valid Oklahoma license of the profession or occupation shall notify the Director within fourteen (14) calendar days of such fact.

[OAR Docket #19-429; filed 5-30-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 15. IMMINENT DANGER SUSPENSION

[OAR Docket #19-430]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
475:15-1-1. Purpose [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed rule amendment provides for language that is consistent with rules and statute by renaming a "narcotics" registration to a "controlled dangerous substances" registration. This rule amendment makes clear that an immediate suspension of an Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBNDD) registration is not just for narcotics, but for all controlled dangerous substances.
CONTACT PERSON:
Sunne Riedel Day, Deputy General Counsel, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, sday@obn.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

475:15-1-1. Purpose

The rules of this Chapter govern the immediate suspension of ~~narcotics~~a controlled dangerous substances registration pending the final outcome of an administrative proceeding.

[OAR Docket #19-430; filed 5-30-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 20. SECURITY REQUIREMENTS

[OAR Docket #19-431]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
475:20-1-3. Physical security controls for nonpractitioners; storage areas [AMENDED]
475:20-1-4. Physical security controls for nonpractitioners; manufacturing areas [AMENDED]
475:20-1-5. Other security controls for nonpractitioner registrants [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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475:20-1-3. Physical security controls for nonpractitioners; storage areas [AMENDED]
475:20-1-4. Physical security controls for nonpractitioners; manufacturing areas [AMENDED]
475:20-1-5. Other security controls for nonpractitioner registrants [AMENDED]

Gubernatorial approval:
January 4, 2019
Register publication:
36 Ok Reg 304
Docket number:
19-34
INCORPORATIONS BY REFERENCE:
Incorporated standards:
Code of Federal Regulations, Title 21, Sections 1301.72 and 13.1.73
Incorporating rules:
475:20-1-3. Physical security controls for nonpractitioners; storage areas [AMENDED]
475:20-1-4. Physical security controls for nonpractitioners; manufacturing areas [AMENDED]
Availability:
8:30 a.m. to 5:00 p.m., Monday through Friday at the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, 419 NE 38th Terrace, Oklahoma City, OK 73105, (405) 521-2885
GIST/ANALYSIS:
The proposed rule amendments exempt Schedule I medical marijuana registrants from the Code of Federal Regulations security controls. The proposed rules provide the required physical security controls for Schedule I medical marijuana retail storage areas, growers, processors, packagers, and manufacturers. The proposed rule amendments clarify that before distributing a controlled dangerous substance (CDS), all registrants must make a good-faith inquiry with the appropriate licensing entity to determine if a person is registered to possess CDS. The amendments also provide that transportation of Schedule I medical marijuana shall be in conformity with the rules set forth by the Oklahoma State Department of Health. The proposed rule amendments exempt Schedule I medical marijuana registrants, employees, and agents from the criminal history limitations set forth in 63 Okl.St.Ann. §2-101 et seq., and instead subject Schedule I medical marijuana registrants, employees, and agents to 63 Okl.St.Ann. §420A et seq. Other nonsubstantive changes to correct unclear language or formatting errors are included.
CONTACT PERSON:
Sunne Riedel Day, Deputy General Counsel, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, sday@obn.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

475:20-1-3. Physical security controls for nonpractitioners; storage areas

Physical security controls for nonpractitioners and storage areas shall comply with Title 21 Code of Federal Regulations §1301.72~~.~~, except physical security controls for medical marijuana retailers shall, at a minimum, meet the following requirements for each retail storage area:

(1) Each registered premise shall have a security alarm system which upon unauthorized entry shall transmit a signal directly to a central station protection agency or a local or state police agency, each having a legal duty to respond, or to a 24-hour control station operated by the registrant, or to such other source of protection as the Director may approve.

(2) All retail storage areas shall be equipped with self-closing, self-locking doors constructed of substantial material commensurate with the type of building construction, provided, however, a door which is kept closed and locked at all times when not in use and when in use is kept under direct observation of a responsible employee or agent of the registrant is permitted in lieu of a self-closing, self-locking door. Doors may be sliding or hinged. If door hinges are mounted on the outside, such hinges shall be sealed, welded or otherwise constructed to inhibit removal. Locking devices for such doors shall be either of the multiple-position combination, keyless entry, or key lock type and;

(A) In the case of key locks, shall require key control which limits access to a limited number of employees, or;

(B) In the case of multiple-position combination or keyless entry systems, the system shall be limited to a minimum number of employees and can be changed upon termination of employment of an employee having knowledge of the combination.

(3) The retail storage areas shall be accessible only to an absolute minimum number of authorized employees. When it is necessary for employee maintenance personnel, nonemployee maintenance personnel, business guests, or visitors to be present in or pass through a controlled dangerous substance storage area, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

475:20-1-4. Physical security controls for nonpractitioners; manufacturing areas

Physical security controls for nonpractitioners and manufacturing areas shall be in compliance with Title 21 Code of Federal Regulations §1301.73~~.~~, except physical security controls for medical marijuana commercial growers, processors, packagers, and manufacturers shall, at a minimum, meet the following requirements:

(1) All in-process medical marijuana shall be returned to the storage area at the termination of the process. If the process is not terminated at the end of a workday (except where a continuous process or other normal manufacturing operation should not be interrupted), the processing area or tanks, vessels, bins or bulk containers containing medical marijuana shall be securely locked, with adequate security for the area or building.

(2) Each building shall require a security alarm system, that upon unauthorized entry, shall transmit a signal directly to a central station protection company, or local or state police agency that has a legal duty to respond, or a 24-hour control station operated by the registrant, or to such other source of protection as the Director may approve.

(3) Each building shall be equipped with self-closing, self-locking doors constructed of substantial material commensurate with the type of building construction, provided, however, a door which is kept closed and locked at all times when not in use and when in use is kept under direct observation of a responsible employee or agent of the registrant is permitted in lieu of a self-closing, self-locking door. Doors may be sliding or hinged. If doors hinges are mounted on the outside, such hinges shall be sealed, welded or otherwise constructed to inhibit removal. Locking devices for such doors shall be either

of the multiple-position combination, keyless entry, or key lock type and;

(A) In the case of key locks, shall require key control which limits access to a limited number of employees, or;

(B) In the case of multiple-position combination or keyless entry systems, the system shall be limited to a minimum number of employees and can be changed upon termination of employment of an employee having knowledge of the combination.

(4) Any outdoor or greenhouse facilities shall provide adequate security measures for the area or building including the following:

(A) The entire outdoor or greenhouse facility shall be surrounded by a fence and entry gates. Acceptable fencing shall be a metal chain link fence with a wire diameter at least nine (9) gauge or larger, or another similarly secure material or wood. The fence shall measure at least eight (8) feet from the ground to the top of the fence. The fence may be at least six (6) feet of acceptable fencing with a top guard of fencing wire with sharp edges or points, such as barbed wire, to enhance the overall height of the fence to the minimum of eight (8) feet. All support posts shall be steel and securely anchored.

(B) All entry gates shall measure at least eight (8) feet from the ground to the top of the entry gate and shall be constructed of acceptable fencing. The entry gate may be at least six (6) feet of acceptable fencing with a top guard of fencing wire with sharp edges or points, such as barbed wire, to enhance the overall height of the entry gate to the minimum of eight (8) feet.

(C) The fence and entry gates shall be in good repair and obscure the outdoor or greenhouse facility so that it is not easily viewed from outside the fence or entry gates.

(5) The medical marijuana commercial growing, processing, packaging, and manufacturing areas shall be accessible only to an absolute minimum number of authorized employees. When it is necessary for employee maintenance personnel, nonemployee maintenance personnel, business guests, or visitors to be present in or pass through areas where controlled dangerous substances are present, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

(6) A registrant may, in writing, request that the OBN waive one or more of the security requirements described in subsection (4) of this rule, by submitting on a form provided by the OBN a security waiver request for OBN approval. The OBN may in its discretion and on a case-by-case basis, approve the security waiver if it finds that the alternative safeguard proposed by the registrant meets the goals of the above security requirements. Approved security waivers expire at the same time as the underlying registration. The registrants request for a waiver shall include:

(A) The specific portion(s) of subsection (4) that is requested to be waived;

(B) The reason for the waiver; and,

(C) A description of an alternative safeguard the registrant will implement in lieu of the requirement that is the subject of the waiver.

475:20-1-5. Other security controls for nonpractitioner registrants

(a) Before distributing a controlled dangerous substance to any person whom the registrant does not know to be registered to possess the controlled dangerous substance, the registrant shall make a good-faith inquiry either with the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN or with the Federal Drug Enforcement Administration, or when applicable, the Oklahoma Medical Marijuana Authority, to determine that the person is registered to possess the controlled dangerous substance.

(b) The registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled dangerous substances. The registrant shall inform the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency.

(c) All registrants shall notify the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN of any theft or significant loss of any controlled dangerous substances upon discovery of such theft or loss. Notification shall be made in writing and shall contain a list of the substances stolen or diverted by their trade name, quantities, descriptions, amount lost or stolen, and any cost code marks utilized. Thefts must be reported whether or not the controlled dangerous substances are subsequently recovered and/or the responsible parties are identified and action taken against them.

(d) No person acting as an agent of a registered controlled dangerous substances manufacturer or distributor (i.e., detailman, salesman, etc.) shall distribute samples of controlled dangerous substances to a practitioner without first having been registered (no fee required) with the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN.

(1) To register with the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN to distribute samples of controlled dangerous substances a form must be ~~filled out~~completed and submitted to the Registration ~~Department~~Division. Such forms may be obtained through the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN website or by calling the Registration ~~Department~~Division.

(2) A new form shall be completed and submitted to the ~~registration~~Registration ~~department~~Division each time the list of items to be distributed changes.

(3) A copy of the form submitted to the ~~Oklahoma State Bureau of Narcotics~~OBN shall be retained by the distributor.

(4) The practitioner receiving the samples shall keep a record each time he/she receives or distributes samples of controlled dangerous substances.

(e) When shipping controlled dangerous substances, a registrant is responsible for selecting common or contract carriers which provide adequate security to guard against in-transit losses. When storing controlled dangerous substances in a public warehouse, a registrant is responsible for selecting a warehouseman ~~which~~who will provide adequate security to guard against storage losses; wherever possible, the registrant shall store controlled dangerous substances in a public warehouse which complies with the requirements set forth in this Chapter. In addition, the registrant shall employ precautions (e.g., assuring that shipping containers do not indicate that contents are controlled dangerous substances except in the case of medical marijuana) to guard against storage or in-transit losses and comply with all current Federal regulations, except medical marijuana transit shall comply with rules set forth in OAC 310:681-3. Reporting the loss of in-transit shipments is the responsibility of the registrant shipping the controlled dangerous substances.

(f) When distributing controlled dangerous substances through agents (e.g., detailmen), a registrant is responsible for providing and requiring adequate security to guard against theft and diversion while the controlled dangerous substances are being stored or handled by the agent(s).

(g) No registrant shall knowingly employ, as an agent or employee, any person who will have access to controlled dangerous substances if such person has been convicted, pled guilty, or nolo contendere, or otherwise ordered to complete a period of probation or supervision for a misdemeanor or felony relating to any controlled dangerous substances as defined by the Uniform Controlled Dangerous Substances Act in this state, any other state, or the United States, or any person convicted, pled guilty, or nolo contendere, or otherwise ordered to complete a period of probation or supervision for any felony of this state, any other state, or the United States, unless, after full review of the circumstances, the Director waives this requirement in writing with respect to each person on a case-by-case basis. Except Schedule I medical marijuana registrants, employees, and agents shall be subject to the criminal history requirements pursuant to Title 63 Okl.St.Ann. §420A et seq., unless, after full review of the circumstances, the Director waives this requirement in writing with respect to each person on a case-by-case basis.

(h) The registrant shall immediately notify OBN and seek authorization to employ any individual as specified above.

[OAR Docket #19-431; filed 5-30-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 25. RECORDS AND REPORTS OF REGISTRANTS

[OAR Docket #19-432]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
475:25-1-2. General Information [AMENDED]
475:25-1-3. Persons required to keep records and file reports [AMENDED]
475:25-1-4. Maintenance of records and inventories [AMENDED]
475:25-1-9. Inventories of manufacturers [AMENDED]
475:25-1-10. Inventories of distributors [AMENDED]
475:25-1-14. Records for manufacturers [AMENDED]
475:25-1-15. Records for distributors [AMENDED]
475:25-1-16. Records of scientific researchers [AMENDED]
475:25-1-17. Records of ~~scientific analyst~~analytical laboratory activities [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-307, 2-309H
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475:25-1-2. General Information [AMENDED]
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475:25-1-9. Inventories of manufacturers [AMENDED]
475:25-1-10. Inventories of distributors [AMENDED]
475:25-1-14. Records for manufacturers [AMENDED]
475:25-1-15. Records for distributors [AMENDED]
475:25-1-16. Records of scientific researchers [AMENDED]
475:25-1-17. Records of ~~scientific analyst~~analytical laboratory activities [AMENDED]
Gubernatorial approval:
January 4, 2019
Register publication:
36 Ok Reg 307
Docket number:
19-35
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed rule amendments establish the same requirements set forth in the rules of the Oklahoma State Department of Health for maintenance of records, reports, and inventory tracking. The proposed rules require records to be readily retrievable. The proposed rules clarify the information required to be maintained in patient records. This includes the patient's chief complaint, and diagnostic and medical procedure reports. The proposed rule amendments also allow quantitative and qualitative analysis to be conducted on controlled dangerous substance (CDS) samples. Samples no longer have to be anonymous.

CONTACT PERSON:
Sunne Riedel Day, Deputy General Counsel, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, sday@obn.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

475:25-1-2. General information

Registrants shall be required to maintain records, reports, and inventory in accordance with this Chapter and pursuant to Title 21 Code of Federal Regulations, and Title 63 Okl.St.Ann. §2-307~~.~~, except Schedule I medical marijuana registrants shall be required to maintain readily-retrievable inventory tracking, records, and reports in the format set forth in OAC 310:681-5-6.

475:25-1-3. Persons required to keep records and file reports

(a) Each registrant shall maintain the readily-retrievable records and inventories and shall file the reports required by this Chapter, except as exempted by this Section. Any registrant who is authorized to conduct other activities without being registered to conduct those activities pursuant to 475:10-1-7 shall maintain the records and inventories and shall file the reports required for persons registered to conduct such activities. This latter requirement should not be construed as requiring stocks of controlled dangerous substances being used in various activities under one registration to be stored separately, nor that separate records are required for each activity. The intent of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN) is to permit the registrant to keep one set of records which are adapted by the registrant to account for controlled dangerous substances used in any activity. Also, the Director does not wish to require separate stocks of the same substance to be purchased and stored for separate activities. Otherwise, there is no advantage gained by permitting several activities under one registration. Thus, when a researcher manufactures a controlled ~~item~~dangerous substance, he/she must keep a record of the quantity manufactured; when he/she distributes a quantity of the item, he/she must use and keep invoices or order forms as required by Title 21 Code of Federal Regulations, to document the transfer. When substances are used in chemical analysis, he/she need not keep a record of this because such record would not be required of him/her under a registration to do chemical analysis. All of these records may be maintained in one consolidated record system. Similarly, the researcher may store all of his/her controlled ~~items~~dangerous substances in one place and every two (2) years take inventory of all items on hand, regardless of whether the substances were manufactured by him/her, purchased domestically by him/her, or whether the substances will be administered to subjects, distributed to other researchers, or destroyed during chemical analysis. This may be accomplished by keeping a log for administering similar to that kept for dispensing.

(b) A registered individual practitioner is required to keep readily-retrievable records with respect to all controlled dangerous substances listed in Schedules II through V which he/she prescribes, administers, or dispenses in the lawful course of his/her professional practice. Practitioners shall keep a suitable book, file, or record in which information pertaining to controlled dangerous substances dispensed by the practitioner shall be preserved for a period of at least two (2) years and be available to designated law enforcement officers for their inspection and copying. These records will be maintained separate and apart from all other records.

(c) A registered individual practitioner is required to maintain patient records for any individual receiving controlled dangerous substances whether by prescribing, administering, or dispensing. Such record will contain as a minimum the patient's full legal name, date of birth, residence address, last physician seen and when, chief complaint, and notations of date, amount, and type of controlled dangerous substance for each occasion the patient receives a controlled dangerous substance, and diagnostic and medical procedure reports. Such records should contain additional identifying information when possible, including, but not limited to, social security number or driver's license number, telephone number, next-of-kin, and general physical description of the patient. This includes authorization of refills and the number of refills authorized on the original prescription.

(d) A registered person using any controlled dangerous substance in preclinical research or in teaching at a registered establishment which maintains records with respect to such substances is not required to keep records, unless so ordered by the Director for cause, if he/she notifies the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN of the name, address, and registration number of the establishment maintaining such records.

475:25-1-4. Maintenance of records and inventories

(a) Every inventory and other record required to be kept by the Uniform Controlled Dangerous Substances Act and this Chapter shall be kept by the registrant ~~and be available~~ for at least two (2) years from the date of such inventory or record~~,~~. Schedule I medical marijuana inventory and records shall be kept for at least seven (7) years from the date of such inventory or record. Every inventory and other record required to be kept shall be available for inspecting and copying by authorized peace officers or officers of agencies specifically directed to enforce the State of Oklahoma or the United States controlled dangerous substances laws, pursuant to and in the manner prescribed by Title 63 Okl.St.Ann. § 2-502, and if applicable, Title 21 Code of Federal Regulations § 1304.04, and this Chapter.

(b) Each registered manufacturer and distributor shall maintain inventories and records of controlled substances as follows:

(1) Inventories and records of controlled dangerous substances listed in Schedules I and II shall be maintained separately from all other records of the registrant.

(2) Inventories and records of controlled dangerous substances listed in Schedules III, IV, and V shall be maintained separately from all other records of the registrant as of November 1, 1990.

(c) Each registered individual practitioner required to keep records and institutional practitioners required to keep records shall maintain inventories and records of controlled dangerous substances in the manner prescribed in (b) of this Section.

(d) Each registered pharmacy shall maintain the inventories and records of controlled dangerous substances as follows:

(1) Inventories, records, invoices, and purchase records of all controlled dangerous substances listed in Schedules I and II shall be maintained separately from all other records of the pharmacy, and prescriptions for such substances shall be maintained in a separate prescription file and be readily retrievable.

(2) Inventories, records, invoices, and purchase records of controlled dangerous substances listed in Schedules III, IV, and V shall be maintained separately from all other records of the pharmacy and be readily retrievable. Prescriptions for such substances shall be maintained in separate prescription files for controlled dangerous substances listed in Schedules III, IV, and V and shall be readily retrievable from the other prescription records of the pharmacy.

475:25-1-9. Inventories of manufacturers

Except for Schedule I medical marijuana registrants, ~~Inventories~~inventories of manufacturers of controlled dangerous substances shall conform to Title 21 Code of Federal Regulations, §1304.11.

475:25-1-10. Inventories of distributors

Except for Schedule I medical marijuana registrants, ~~Each~~each person registered or otherwise authorized to distribute controlled dangerous substances shall include in his/her inventory the same information required of a manufacturer pursuant to Title 21 Code of Federal Regulations, §1304.11.

475:25-1-14. Records for manufacturers

Except for Schedule I medical marijuana registrants, ~~Records~~records for manufacturers of controlled dangerous substances shall conform to Title 21 Code of Federal Regulations, §1304.22.

475:25-1-15. Records for distributors

Each person registered or otherwise authorized to distribute controlled dangerous substances, except for Schedule I medical marijuana registrants, shall maintain records with the following information for each controlled dangerous substance:

(1) The name of the substance.

(2) Each finished form (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter) and the number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial).

(3) The number of commercial containers of each such finished form received from other persons, including the date and number of containers in each receipt and the name, address and Federal Drug Enforcement Administration registration number of the person from whom the containers were received.

(4) The number of commercial containers of each such finished form imported directly by the person, including the date of, the number of commercial containers in, and the import permit or declaration number for each importation.

(5) The number of commercial containers of each such finished form distributed to other persons, including the date and number of containers in each distribution and the name, address, and Federal Drug Enforcement Administration registration number of the person to whom the containers were distributed.

(6) The number of commercial containers of each such finished form exported directly by the person, including the date of, the number of commercial containers in, and the export permit or declaration number for each exportation.

(7) The number of units or volume of finished forms and/or commercial containers distributed or disposed of in any other manner by the person (e.g., by distribution as complimentary samples or by destruction), including the date and manner of distribution or disposal, the name, address, ~~and the~~ Federal Drug Enforcement Administration registration number of the person to whom distributed, and the quantity of the substance in finished form distributed or disposed.

475:25-1-16. Records of scientific researchers

Each person registered or otherwise authorized to conduct scientific research with controlled dangerous substances and required to keep records shall maintain records with the following information for each controlled dangerous substance:

(1) The name of the substance.

(2) Each finished form (e.g., 10-milligram tablet or 10-milligram concentration per fluid ounce or milliliter) and the number of units or volume of finished form in each commercial container (e.g., 100-tablet bottle or 3-milliliter vial).

(3) The number of commercial containers of each such finished form received from other persons, including the date of and number of containers in each receipt and the name, address, and, if applicable, Federal Drug Enforcement Administration registration number of the person from whom the containers were received.

(4) The number of units or volume of such finished forms and/or commercial containers disposed of in any other manner by the registrant, including the date and manner of disposal and the quantity of the substance in the finished form disposed.

475:25-1-17. Records of ~~scientific analyst~~analytical laboratory activities

(a) Each person registered or otherwise authorized to conduct ~~scientific analysis~~analytical laboratory activites with controlled dangerous substances shall maintain records with the following information to the extent known and reasonably ascertainable by him/her for each controlled dangerous substance:

(1) The name of the substance.

(2) The form or forms in which the substance is received, imported, or manufactured by the registrant (e.g., powder, granulation, tablet, capsule, or solution) and the concentration of the substance in such form (e.g., C.P., U.S.P., N.D., 10-milligram tablet or 10-milligram concentration per milli-liter).

(3) The total number of the forms received, imported, or manufactured (e.g., 100 tablets, 30 1-milliliter vials, or 10 grams of powder), including the date and quantity of each receipt, importation or manufacture, and the name, address, and Federal Drug Enforcement Administration registration number, if any, of the person from whom the substance was received.

(4) The quantity distributed or destroyed in any manner by the registrant (except quantities used in chemical analysis or other laboratory work), including the date and manner of distribution or destruction and the name, address, and Federal Drug Enforcement Administration registration number, if any, of each person to whom the substance was distributed.

~~(b) Records of controlled dangerous substances used in chemical analysis or other laboratory work are not required.~~

(~~c~~b) Records relating to known or suspected controlled dangerous substances received as evidentiary material for analysis are not required under (a) of this Section.

(~~d~~c) Each person registered ~~as a scientific analyst~~ to ~~conducting~~conduct ~~scientific analysis~~ analytical laboratory activities of ~~anonymous~~ samples of suspected controlled dangerous substances shall maintain records containing the following information (to the extent known and reasonably ascertainable by him/her):

(1) Laboratory identification number.

(2) Date the sample was received.

(3) Purported contents and actual identification.

(4) Quantity received.

(5) Form of sample (i.e., powder, liquid, tablets, etc.).

(6) Description of sample.

(7) Quantity utilized in analysis.

(8) Disposition of sample.

(9) Street price, if known.

(10) Method shipment is received.

(11) Each laboratory shall submit to the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN a quarterly report containing at least the following information:

(A) Actual content of drug analyzed.

(B) Alleged content of drug analyzed.

(C) Description of sample.

(D) Origin of sample.

(E) Street price, if known.

(~~e~~d) Qualitative and ~~Quantitative~~quantitative analysis may be conducted of ~~anonymous~~ samples. ~~However, to prevent the possibility of illegal drug traffickers utilizing these laboratories as quality control, only qualitative results may be given to the donor. Analysis should be sufficient to determine if the strength is so great that use would be harmful to the user. In these cases, the submitter can only be told what the drug was and that use would be dangerous.~~

(1) Security of standards and samples, including Schedule I medical marijuana, shall be in accordance with 475:20-1-6 and 475:20-1-7, with the exception that all standards and samples must be treated as Schedules I and II.

(2) Any unused portion of a submitted ~~anonymous~~ sample shall be disposed of in accordance with 475:35-1-4.

(3) All controlled dangerous substances distributed to drug canine handler registrants and scientific research registrants shall be analyzed quantitatively, and a record of such analysis shall be maintained prior to distribution. Oklahoma State Bureau of Investigation has discretion to refuse to distribute any controlled dangerous substances. Each such registrant shall receive a copy of the quantitative analysis.

[OAR Docket #19-432; filed 5-30-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 30. LABELING REQUIREMENTS

[OAR Docket #19-433]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
475:30-1-1. Purpose [AMENDED]
475:30-1-4. Manner of issuance of prescriptions [AMENDED]
475:30-1-5. Dispensing of narcotic drugs during scientific research [AMENDED]
475:30-1-7. Partial filling of Schedule II prescriptions [AMENDED]
475:30-1-11. Refilling of prescriptions; issuance of multiple prescriptions [AMENDED]
475:30-1-12. Partial filling of Schedules III, IV, and V prescriptions [AMENDED]

AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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18-693
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The proposed rule amendments provide that labeling for Schedule I medical marijuana shall be in accordance with rules promulgated by the Oklahoma State Department of Health. The proposed rules allow the issuance of a second opioid prescription no less than seven (7) days after the initial prescription. The second opioid prescription shall not exceed seven (7) days. This rule allows practitioners who perform a major surgical procedure, and those practitioners who have patients who are "confined to home" as defined in 42 U.S.C. §1395n(a), to issue the second prescription on the same day as the first prescription. The second prescription shall have written instructions indicating the earliest date on which the prescription may be filled (i.e. "do not fill until" date). The proposed rules update the entity that approves the scientific protocol in conjunction with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. The proposed rules mirror federal law to allow for the partial fill of Schedule II controlled dangerous substance prescriptions (CDS) if requested by the patient or practitioner except as otherwise prohibited by law or rule. The proposed rules mirror federal law to allow for the issuance of multiple prescriptions of Schedule II CDS except as otherwise prohibited by law or rule.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

475:30-1-1. Purpose

The rules of this Chapter describe the procedures to be followed for issuance of a valid prescription, and the information required to be placed on labels for controlled dangerous substances. Labeling for Schedule I medical marijuana shall be in accordance with OAC 310:681-7-1.

475:30-1-4. Manner of issuance of prescriptions

(a) The practitioner shall sign a written prescription in the same manner ~~as~~ he/she would sign a check or legal document and shall also type, stamp, or print the practitioner's name on the face of each prescription. Where an oral order is not permitted, prescriptions shall be written with ink. All written prescriptions shall be manually signed by the practitioner. The prescriptions may be prepared by an agent for the signature of a practitioner, but the prescribing practitioner is responsible in the event the prescription does not conform in all essential respects to the Uniform Controlled Dangerous Substances Act and this Chapter.

(b) A resident or staff practitioner, an intern of a teaching hospital, or a limited institutional practitioner of a federal, state, or local government hospital or institution, exempted from registration or registered in fee-exempt status with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN), shall include on all prescriptions issued by him/her the hospital or institutional Federal Drug Enforcement Administration (DEA) registration number with the special internal code number assigned by the hospital or other institution; or include on all prescriptions he/she issues his/her personal ~~Federal Drug Enforcement Administration~~DEA registration number. Such prescriptions issued by interns of a teaching hospital, if for outpatients, must be countersigned by a practitioner licensed by the practitioner's appropriate State of Oklahoma licensing board.

(c) A practitioner must state on a written prescription for any controlled dangerous substance the name, address, and ~~Federal Drug Enforcement Administration~~DEA registration number of the practitioner; the date of delivery of the prescription; the name, dosage, and strength per dosage unit of the controlled dangerous substance; the name and address of the patient, or if it is a veterinary prescription, the species of the animal and the name and address of the owner; the directions for use and any cautionary statements required; and if allowable, the number of times to be refilled.

(1) The face of a prescription must not be materially altered; if an error is made in filling out the prescription, a new prescription must be written by the prescribing practitioner.

(A) A pharmacist may add to the prescription the patient's address or age, the prescribing practitioner's ~~federal~~ DEA registration number, or the generic drug name if used.

(B) After confirming with the prescribing practitioner, the pharmacist may add information indicating the strength, whether tablet or capsule form, and whether it is compounded if such additions would not materially alter the prescription.

(C) If omitted, the directions (Sig) or the quantity, may be added by the pharmacist after confirming with the prescribing practitioner.

(D) Documentation of contacting the prescribing practitioner will be noted on the back of the prescription regarding (B) and (C) above.

(2) A written prescription for a controlled dangerous substance in Schedule II becomes invalid thirty (30) days after the date of issuance, with day one (1) of the thirty (30) day period being the first day after the date of issuance. After issuing an initial prescription pursuant to Section 2-309I of Title 63, an individual practitioner may issue one (1) subsequent prescription for an immediate-release opioid drug in Schedule II in a quantity not to exceed seven (7) days if:

(A) The subsequent prescription is due to a major surgical procedure and/or "confined to home" status as defined in 42 U.S.C. 1395n(a);

(B) The practitioner provides the subsequent prescription on the same day as the initial prescription;

(C) The practitioner provides written instruction on the subsequent prescription indicating the earliest date on which the prescription may be filled (i.e. "do not fill until" date); and,

(D) The subsequent prescription is dispensed no more than five (5) days after the "do not fill until" date indicated on the prescription.

(3) Each scheduled drug shall be written on a single prescription form, and no other prescriptions (controlled or non-controlled) shall be written on the same prescription form.

(d) Upon receiving an oral prescription, the pharmacist must reduce the oral prescription to the form specified in (c) of this Section, including the typewritten name of the prescribing practitioner. The pharmacist filling any prescription for any controlled dangerous substance must enter the date of filling and handwrite the initials of the pharmacist on the prescription. If the practitioner is not known to the pharmacist, he/she must make a reasonable effort to determine that the oral authorization came from a registered practitioner.

(e) Upon receiving an oral prescription, the pharmacist may use a computer printout label if the label meets all requirements for a prescription as set out by the Uniform Controlled Dangerous Substances Act and this Chapter. On computer labeling for oral prescriptions, it is not necessary that the ~~Drug Enforcement Administration~~DEA registration number be on the label used as an oral prescription, but it must be recorded on the document prepared by the pharmacist.

(f) Written prescriptions may be transmitted by a practitioner to a dispensing pharmacy by facsimile. In such cases, the prescribing practitioner shall print "FAXED" on the face of the prescription, and the facsimile received must be on non-fading standard paper. Thermographic paper is not acceptable for any prescriptions for drugs in any Schedule.

(1) For drugs in Schedules III, IV, and V, a facsimile of a written, signed prescription transmitted directly by the prescribing practitioner to the pharmacy can serve as an original prescription.

(2) For drugs in Schedule II, the original written prescription must still be presented and verified against the facsimile at the time the substance is actually dispensed and the original document must be properly annotated and retained for filing subject to the exceptions listed in (3) below.

(3) Exception to (2): A facsimile copy of a prescription for a Schedule II drug when sent by facsimile by the prescribing practitioner:

(A) To a Home Infusion Pharmacy.

(B) When the prescription is for a patient in a Long Term Care Facility (LTCF).

(C) When the prescription is for a patient in a Hospice program certified by Medicare under Title XVIII or licensed by the state.

(D) If the facsimile is sent from a LTCF or hospice instead of the prescribing practitioner's office, the original must be presented at the time any ~~CDS~~controlled dangerous substance is dispensed.

(g) The pharmacist still bears the responsibility for ensuring that prescriptions for controlled dangerous substances have been issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his/her professional practice. This responsibility applies equally to an order transmitted by facsimile. Measures to be considered in authenticating prescriptions sent by facsimile equipment would include maintenance of a practitioner's facsimile number reference file, verification of the telephone number of the originating facsimile equipment, and/or telephone verification with the practitioner's office that the prescription was both written by the practitioner and transmitted by the practitioner or the practitioner's agent.

(h) Electronic prescriptions are permitted as provided by 21 CFR §§ 1311 et. seq.

475:30-1-5. Dispensing of narcotic drugs during scientific research

(a) The administering or dispensing directly (but not prescribing) of narcotic drugs in any schedule to a narcotic drug dependent person for the purpose of continuing his/her dependence upon such drugs in the course of conducting an authorized clinical scientific research in the development of a narcotic addict rehabilitation program shall be deemed to be within the meaning of the term "in the course of his/her professional practice or research"; PROVIDED that approval is obtained prior to the initiation of such a program by submission of a protocol submitted to the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN and the State of Oklahoma ~~Drug Treatment Rehabilitation Authority~~Department of Mental Health and Substance Abuse Services. It will be reviewed by the State of Oklahoma ~~Drug Treatment Rehabilitation Authority and the~~Department of Mental Health ~~Department~~and Substance Abuse Services for scientific merit and qualifications and by the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN for controlled dangerous ~~substances~~substance requirements as provided by the Uniform Controlled Dangerous Substances Act and this Chapter.

(b) Nothing in this Title shall prohibit a physician who is not specifically registered to conduct a narcotic treatment program from administering (but not prescribing) narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms, when necessary, while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days and may not be renewed or extended.

475:30-1-7. Partial filling of Schedule II prescriptions

(a) The partial filling of a prescription for a controlled dangerous substance listed in Schedule II is permissible if the pharmacy is unable to supply the full quantity called for

in a written or emergency oral prescription, or where the partial fill is requested by the patient or the practitioner that wrote the prescription. A notation of the quantity supplied on the face of the written prescription (or written record of the emergency oral prescription) is required. ~~The~~Except as otherwise prohibited by law or rule, if the remaining portion of the prescription ~~may~~is going to be filled, it shall be filled ~~within seventy-two (72) hours of the first partial filling if the initial partial filling occurred within~~not later than thirty (30) days ~~of~~after the issuance of the prescription; however, in the case of emergency oral prescriptions, the remaining portion of a partially filled prescription shall be filled not later than seventy-two (72) hours after the prescription is issued. ~~If the remaining portion is not or cannot be filled within the 72-hour period, the pharmacy shall so notify the prescribing registered individual practitioner. No further quantity may be supplied beyond the seventy-two (72) hours without the issuance of a new prescription.~~

(b) ~~A prescription for a Schedule II controlled substance written for a patient in a Long Term Care Facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist must contact the practitioner prior to partially filling the prescription. Both the pharmacist and the practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record on the prescription whether the patient is "terminally ill" or an "LTCF patient". A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" shall be deemed to have been filled in violation of the Uniform Controlled Dangerous Substances Act.~~ For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Prior to any subsequent partial filling, the pharmacist is to determine that the additional partial filling is necessary. The total quantity of Schedule II controlled dangerous substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions for patients in a LTCF or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of medication.

475:30-1-11. Refilling of prescriptions; issuance of multiple prescriptions

(a) The refilling of a prescription for a controlled dangerous substance listed in Schedule II is prohibited.

(b) Except as prohibited by law or rule, an individual practitioner may issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled dangerous substance provided the following conditions are met:

(1) Each separate prescription is issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice;

(2) The individual practitioner provides written instructions on each prescription (other than the first prescription, if the prescribing practitioner intends for that prescription to be filled immediately) indicating the earliest date on which a pharmacy may fill each prescription;

(3) The individual practitioner concludes that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse; and,

(4) The individual practitioner complies fully with all other applicable requirements.

(c) No prescription for a controlled dangerous substance in Schedules III or IV shall be filled or refilled more than six (6) months after the date such prescription was issued, and no such prescription authorized to be refilled may be refilled more than five (5) times. Each refilling of a prescription shall be maintained by the pharmacy, which indicated by the number of the prescription the following information: the name and dosage form of the controlled dangerous substance; the date of each refilling; the quantity dispensed; the identity or initials of the dispensing pharmacist in each refilling; and the total number of refills for that prescription. If the pharmacist merely initials and dates the back of the prescription, he/she shall be deemed to have dispensed a refill for the full face amount of the prescription. Additional quantities of controlled dangerous substances listed in Schedule III or IV may only be authorized by a prescribing practitioner through issuance of a new and separate prescription. Refills shall not be obtained at the same time as the initial filling of the prescription and only one (1) refill shall be obtained at any one time. A new prescription for a specific ~~CDS~~controlled dangerous substance voids any existing refills or other prescriptions for the same drug.

(~~b~~d) A pharmacy registrant may elect to use an automated data processing system to maintain prescription files; however, if such a system is used, there must also be written files kept which meet the requirements of Title 59 Okl.St.Ann. § 353.20, OAC 535:15-3-21 and 21 CFR § 1306.22.

~~(c) Prescriptions for hydrocodone containing products may not be refilled.~~

475:30-1-12. Partial filling of Schedules III, IV, and V prescriptions

The partial filling of a prescription for a controlled dangerous substance listed in Schedules III, IV, or V is permissible; PROVIDED that:

(1) Each partial filling is recorded in the same manner as a refilling.

(2) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed.

(3) No dispensing occurs ~~after~~ six (6) months after the date on which the prescription was issued.

~~(4) Prescriptions for hydrocodone containing products are partially filled pursuant to 475:30-1-7.~~

[OAR Docket #19-433; filed 5-30-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 35. TRANSFER AND DISPOSAL OF CONTROLLED DANGEROUS DRUGS

[OAR Docket #19-434]

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475:35-1-3. Distribution upon discontinuance or transfer of business [AMENDED]
475:35-1-4. Procedure for disposing of controlled dangerous substances [AMENDED]
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The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
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475:35-1-3. Distribution upon discontinuance or transfer of business [AMENDED]
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Gubernatorial approval:
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Register publication:
36 Ok Reg 310
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19-37
INCORPORATIONS BY REFERENCE:
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The proposed rule amendments provide that disposal for Schedule I medical marijuana shall be in accordance with the Uniform Controlled Dangerous Substances Act and the rules of the Oklahoma Department of Environmental Quality. The proposed rules require registrants who discontinue or transfer business and registrants who receive controlled dangerous substances due to a discontinuance or transfer of business to file a copy of the inventory with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. Transfers of Schedule I medical marijuana will not require the use of forms in accordance with the Code of Federal Regulations.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

475:35-1-3. Distribution upon discontinuance or transfer of business

(a) Any registrant desiring to discontinue business activities altogether or with respect to controlled dangerous substances (without transferring such business activities to another person) shall return for cancellation of his/her Certificate of Registration. Any controlled dangerous substances in his/her possession ~~may~~shall be disposed of in accordance with Title 21 Code of Federal Regulations, part 1317. Schedule I medical marijuana shall be disposed pursuant to standards set forth in the Uniform Controlled Dangerous Substances Act, 63 Okla.St.Ann. §2-101 et seq., and OAC 252.

(b) Any registrant desiring to discontinue business activities altogether or with respect to controlled dangerous substances (by transferring such business activities to another person) shall submit in person or by registered or certified mail, return receipt requested, to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBN) at least fourteen (14) days in advance of the date of the proposed transfer (unless the Director waives this time limitation in individual instances), the following information:

(1) The name, address, registration number, and authorized business activity of the registrant discontinuing the business (registrant-transferor).

(2) The name, address, registration number, and authorized business activity of the person acquiring the business (registrant-transferee).

(3) Whether the business activities will be continued at the location registered by the person discontinuing the business or moved to another location (if the latter, the address of the new location should be listed).

(4) Whether the registrant-transferor has a quota to manufacture or procure any controlled dangerous substance listed in Schedule I or II (if so, the basic class or classes of the substance should be indicated).

(5) The date on which the transfer of controlled dangerous substances will occur.

(c) Unless the registrant-transferor is informed by the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN, before the date on which the transfer was stated to occur, that the transfer may not occur, the registrant-transferor may distribute (without being registered to distribute) controlled dangerous substances in his/her possession to the registrant-transferee in accordance with the following:

(1) On the date of transfer of the controlled dangerous substances, a complete inventory of all controlled dangerous substances being transferred shall be taken in accordance with 475:25-1-5 through 475:25-1-12. This inventory shall serve as the final inventory of the registrant-transferor and the initial inventory of the registrant-transferee, and a copy of the inventory shall be

included in the records of each person. It shall ~~not~~ be necessary to file a copy of the inventory with the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control~~OBN unless ~~requested~~waived by the Director. Except for Schedule I medical marijuana, ~~Transfers~~transfers of any substances listed in Schedule I or II require~~requires~~ the use of order forms in accordance with Title 21 Code of Federal Regulations, § 1305.

(2) On the date of transfer of the controlled dangerous substances, all records required to be kept by the registrant-transferor with reference to the controlled dangerous substances being transferred, pursuant to this Chapter and Title 21 Code of Federal Regulations, § 1304, or OAC 310:681-5-6, shall be transferred to the registrant-transferee. Responsibility for the accuracy of records prior to the date of transfer remains with the transferor, but responsibility for custody and maintenance shall be upon the transferee.

475:35-1-4. Procedure for disposing of controlled dangerous substances

Any registrant in possession of any controlled dangerous substances and desiring or required to dispose of such substances ~~may~~shall do so according to the provisions of Title 63 Okl.St.Ann. §2-315 and Title 21 of the Code of Federal Regulations, part 1317~~.~~, except Schedule I medical marijuana shall be disposed pursuant to standards set forth in the Uniform Controlled Dangerous Substances Act, 63 Okla.St.Ann. §2-101 et seq., and OAC 252.

[OAR Docket #19-434; filed 5-30-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 40. ENFORCEMENT AND ADMINISTRATIVE INSPECTIONS

[OAR Docket #19-435]

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n/a
GIST/ANALYSIS:
The proposed rule amendment provides that Schedule I medical marijuana registrants are subject to administrative inspections that shall include, but not be limited to, inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept pursuant to the Oklahoma State Department of Health and other applicable state statutes and rules. The proposed rule also elucidates that practitioner patient records are included in administrative inspections.
CONTACT PERSON:
Sunne Riedel Day, Deputy General Counsel, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, sday@obn.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

475:40-1-2. Authority to make inspections

Administrative inspections of OBN registrants shall include, but not be limited to, the following:

(1) Inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made, including, but not limited to, inventory, patient records, and other records required to be kept pursuant to the Uniform Controlled Dangerous Substances Act, this Title, ~~and~~ the Code of Federal Regulations governing controlled dangerous substances, or OAC 310:681-5-6; order form records required to be kept pursuant to Title 63 Okl.St.Ann. § 2-308 and other applicable state statutes and rules; prescriptions and distribution records required to be kept pursuant to Title 63 Okl.St.Ann. § 2-307 and other applicable state statutes and rules; shipping records identifying the name of each carrier used; and the date and quantity of each storage.

(2) Inspecting within reasonable limits and in a reasonable manner all pertinent equipment, finished and unfinished controlled dangerous substances, and other substances or materials, containers, and labeling found at the controlled premises relating to the Uniform Controlled Dangerous Substances Act and this Title.

(3) Making a physical inventory of all controlled dangerous substances on hand at the premises.

(4) Collecting samples of controlled dangerous substances or precursors (in the event any samples are collected during an inspection, the peace officer or officer

so authorized shall issue a receipt for such samples to the owner, operator or agent in charge of the premises).

[OAR Docket #19-435; filed 5-30-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 45. OKLAHOMA CONTROL REPORTING REQUIREMENTS

[OAR Docket #19-436]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
475:45-1-4. Waiver of electronic submissions [AMENDED]
475:45-1-6. Failure to report [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 28, 2019
COMMENT PERIOD:
February 15, 2019 through March 18, 2019
PUBLIC HEARING:
March 25, 2019
ADOPTION:
March 26, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 27, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed rule amendments remedy an oversight relating to the ability of pharmacies to submit Schedule IV controlled dangerous substance prescription data in paper format with an approved waiver from the Director. The proposed rules clarify that pharmacies or dispensing practitioners must correct inaccuracies within information reported to the central repository or be subjected to administrative action.
CONTACT PERSON:
Sunne Riedel Day, Deputy General Counsel, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, sday@obn.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

475:45-1-4. Waiver of electronic submissions

(a) The Director of the ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (~~OBN~~)~~ may waive the requirement to submit prescription data in an electronic format, and allow a pharmacy filling a prescription of a Schedule II, III, IV, or V controlled dangerous substance to submit prescription data in a paper format if the dispenser has an appropriate hardship.

(b) A formal request for this waiver must be made in writing to the ~~Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (~~OBN~~)~~ and must clearly state (1) the nature and extent of the hardship; and, (2) a proposed time-line for the waiver.

(c) Any such hardship granted by the Director of OBN will be reviewed every thirty (30) days following the granting of a waiver to determine whether or not the hardship will be extended.

475:45-1-6. Failure to report

Failure to accurately report the required information, or correct inaccuracies within reported information, according to the rules set forth in this Chapter may result in administrative action against the registration of the pharmacy or dispensing practitioner, including, but not limited to, fines not to exceed Two Thousand Dollars ($2000) per violation.

[OAR Docket #19-436; filed 5-30-19]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 50. ANIMAL CONTROL OFFICERS

[OAR Docket #19-437]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
475:50-1-2. Qualification for Registration/Required Training [AMENDED]
AUTHORITY:
The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. §§ 2-301, 2-309H
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
January 28, 2019
COMMENT PERIOD:
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SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 27, 2019
LEGISLATIVE APPROVAL:
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May 28, 2019
EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed rule amendment adjusts the training requirement for animal control officers as to allow them to complete a certification course meeting the

standards set by the state association or equivalent curriculum approved by the Oklahoma State Bureau of Narcotics and Dangerous Drug Control Director.

CONTACT PERSON:

Sunne Riedel Day, Deputy General Counsel, OBNDD, 419 NE 38th Terrace, Oklahoma City, OK, 73105, (405) 521-2885, sday@obn.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

475:50-1-2. Qualifications for Registration/ Required Training

Only animal control officers who are employed by a government entity (i.e., city, county, state, or federal) may apply for OBNDDC registration. Furthermore, as a necessary condition for registration, officers will have completed a ~~16 hour~~ certification course, meeting the curriculum established by the Oklahoma Animal Control Association, or equivalent curriculum that is approved by the OBNDDC Director ~~and taught by instructors meeting the standards that are acceptable to OBNDDC~~. This training will include, among other things, the following:

(1) Rules and regulations covering animal control officers pertaining to controlled ~~drugs~~dangerous substances;

(2) Guarding against the diversion of controlled dangerous substances;

(3) The Uniform Controlled Dangerous Substances Act (Title 63 Oklahoma Statutes); and,

(4) Rules for storing and transporting controlled dangerous substances~~;~~.

~~(5) The pharmacology of, safe and humane administration of, and proper storage of controlled dangerous substances for animal sedation, tranquilization, and humane euthanasia;~~

~~(6) The proper disposal of euthanized animals;~~

~~(7) Other topics as required by OBNDDC or DEA.~~

[OAR Docket #19-437; filed 5-30-19]

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

[OAR Docket #19-495]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Minimum Standards for Approved Nursing Education Programs
485:10-5-5.2. [AMENDED]
485:10-5-12. [AMENDED]
Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse
485:10-7-1. [AMENDED]
485:10-7-2. [AMENDED]
Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse
485:10-9-1. [AMENDED]
485:10-9-2. [AMENDED]
485:10-9-4. [AMENDED]
Subchapter 11.Disciplinary Action
485:10-11-1. [AMENDED]
Subchapter 15. Requirements for Practice as an Advanced Practice Registered Nurse
485:10-15-4. [AMENDED]
485:10-15-5. [AMENDED]
Subchapter 16. Requirements for Prescriptive Authority for Advanced Practice Registered Nurses
485:10-16-6. [AMENDED]

AUTHORITY:

Oklahoma Board of Nursing; 59 O.S. §§ 567.2(A); 567.4(F); 567.5(B)(5)(D); 567.5a(B)(6) (C) (D)(6)(7); 567.6(B)(5)(D); 567.7(B); 567.8; 567.12(A)(B); 567.12a(B)

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 19, 2018

COMMENT PERIOD:

December 17, 2018 to January 28, 2019

PUBLIC HEARING:

February 5, 2019

ADOPTION:

February 5, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

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LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

July 25, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed rule changes include expanding options in meeting qualifications for practice; and, clarification of the terms, "deceit or material misrepresentation" as referenced in disciplinary action. New language for required opioid education for prescribers is added in response to the recommendation included in *The Oklahoma Commission on Opioid Abuse - Final Report*, issued on January 23, 2018.

Nursing education faculty educational requirements reflect inclusion of current educational bridge programs by adding "or higher" to baccalaureate degree, expanding the pool of faculty applicants. Adding additional options for meeting continuing qualifications for practice for endorsement applicants aligns with other application requirements and further decreases barriers to licensure. Expanding the period of time allowed for demonstrating evidence of continued qualifications from two years to five years aligns with the Board-approved timeline. Clarification of the terms of "deceit" and "misrepresentation" aid in review of such actions. Adding the new language in consideration of the recommendations included in *The Oklahoma Commission on Opioid Abuse - Final Report*, as developed by the nine-member commission and issued on January 23, 2018, by Attorney General Mike Hunter, Chairman of the Commission, for appropriate medical Boards to pursue requiring at least one hour of continuing education every reporting period on proper prescribing, the risk of opioids and recognizing addiction and diversion for all prescribers further supports the state efforts in addressing the opioid crisis.

The agency carefully considered each of the proposed rules to ensure there were no less costly, non-regulatory, or less intrusive methods to implement the statutory requirements and meet the agency's mission of protection of the public. It was determined that each of the rules revisions provides the most effective and fiscally-responsible method for achieving the purpose.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 5. MINIMUM STANDARDS FOR APPROVED NURSING EDUCATION PROGRAMS

485:10-5-5.2. Faculty for nursing education programs

(a) There shall be sufficient number of qualified full-time faculty to meet the purpose and student learning outcomes of the nursing program.

(b) Qualifications, rights, and responsibilities of faculty members shall be available in writing.

(c) Faculty policies shall be available in writing, shall include those used in evaluating performance, specify the teaching load for the faculty and Nurse Administrator, and be in keeping with accepted educational standards.

(d) Sufficient time shall be provided for faculty to accomplish those activities related to the teaching-learning process.

(e) All nurse faculty shall:

(1) hold a valid unencumbered license to practice as a Registered Nurse in the State of Oklahoma;

(2) present evidence of a minimum of two (2) years full-time equivalent practice as a Registered Nurse in a clinical setting preceding the first date of first employment as a nursing faculty member, PROVIDED: any person employed in the faculty position on September 1, 2016, is deemed to meet this requirement;

(3) submit a Faculty Qualification Record to the Board office on a form provided by the Board and in accordance to OAC 485:10-3-5(1); and

(4) engage in teaching, scholarship, service and/or practice in keeping with the mission, goals, and expected faculty outcomes.

(f) All programs leading to licensure as a Registered Nurse in this state shall establish comparable educational qualifications for the nursing faculty as required for other teaching faculty in the governing organization. The minimum requirements shall be as follows:

(1) a master's or higher degree in nursing; or

(2) a baccalaureate degree in nursing plus evidence of continued progress toward a master's or higher degree in nursing with completion of a minimum of six (6) semester hours per calendar year; and

(3) at least one-half of the full-time faculty having a master's or higher degree in nursing; and

(4) part-time clinical instructors, regardless of title used, having a minimum of a baccalaureate degree in nursing.

(g) All programs leading to licensure as a Practical Nurse in this state shall establish requirements for nursing faculty as follows:

(1) minimum of an associate degree or diploma in nursing in this state, and effective January 1, 2017, has evidence of continued progress toward a baccalaureate or higher degree in nursing with completion of a minimum of six (6) semester hours per calendar year, PROVIDED: any person employed in the position of faculty of a practical nursing education program on December 31, 2016, is deemed to meet this requirement; and

(2) teacher certification, as established by the State Department of Education, when employed in schools conducted by public comprehensive high school systems.

(h) There shall be a faculty organization with written policies and procedures to guide its activities and shall:

(1) hold regular meetings for all members to participate in planning, developing, implementing, and evaluating the nursing program;

(2) establish committees as necessary to carry out the functions of the program;

(3) provide for student participation; and

(4) maintain minutes of all meetings documenting actions and decisions of the faculty.

485:10-5-12. Out-of-State nursing education programs conducting clinical experiences in Oklahoma

(a) Nursing education programs leading to initial licensure that wish to conduct clinical experiences in Oklahoma must obtain prior permission from the Board.

(b) To apply for permission from the Board, the program must submit a letter of request to the Board and provide evidence that the following standards will be met:

(1) The program must be on full approval status with the board of nursing in another member board jurisdiction;

(2) The program will provide for supervision of students while in the clinical area by a nursing faculty member with an unencumbered Oklahoma nursing license;

(3) A written clinical affiliation agreement with the clinical facility will be in place; and

(4) If precepted clinical experiences are requested, the program will ensure they are conducted in accordance with the Board's policy.

(c) Registered Nurses enrolled in out-of-state advanced practice registered nursing education programs may participate in clinical experiences and clinical preceptorship in Oklahoma as part of the advanced practice registered nursing education program, under the following conditions:

(1) The advanced practice registered nurse student has an unencumbered Oklahoma license to practice registered nursing,

(2) The faculty responsible for oversight of the clinical component of the nursing education program has an Oklahoma unencumbered license to practice nursing at the level of the education being taught or higher, and

(3) The advanced practice registered nursing education program meets the requirements established by the Oklahoma Board of Nursing for education preparation of Advanced Practice Registered Nurses.

SUBCHAPTER 7. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A REGISTERED NURSE

485:10-7-1. Licensure by examination

(a) **Qualifications.** An applicant for licensure by examination as a Registered Nurse must meet the following qualifications:

(1) Submits an application containing such information as the Board may prescribe;

(2) Be a minimum of eighteen (18) years of age on or before the date the license is issued;

(3) Cause submission of an official transcript showing completion of the basic professional curricula of a state Board-approved registered nursing education program conducted in a member board jurisdiction that meets the requirements of ~~485:10-5-6 (d)(1), (2), and (3)~~485:10-5-6(d), and showing the diploma or degree and the date conferred. The transcript must be obtained from an entity approved and recognized by the U.S. Department of Education as a primary source for providing education transcripts.

(b) **Applications.** Applications for licensure by examination must be completed and filed with the Board prior to the examination. If the application is not completed within one (1) year, a new application and new fee will be required.

(c) **Admission to the examination.** The candidate must register with the authorized testing service and submit the required fee. An authorization to test will be issued by the testing service allowing the candidate to schedule the examination.

(d) **Fee for examination.**

(1) The fee for writing the licensing examination adopted by the Board for Registered Nurse licensure shall be established by the Board in accordance with statutory guidelines and shall accompany the application.

(2) The fee for rewriting the licensing examination adopted by the Board for Registered Nurse licensure shall be the same as the fee established for the first-time writing.

(3) The fee for the examination is not refundable.

(e) **Policies for the examination.**

(1) Applicants must pass the National Council Licensure Examination for Registered Nurses (NCLEX-RN).

(2) Applicants who fail the NCLEX-RN may be eligible to repeat the examination upon filing an application and fee, and upon meeting Board requirements.

(3) To be eligible to write or rewrite the NCLEX-RN, the applicant must submit a completed application, transcript, and fee to the Board and a completed registration form and fee to the authorized testing service within two years of completion of the nursing education program. If more than two years has elapsed, the applicant must complete additional education as follows:

(A) Successfully complete a Board-approved refresher course in accordance with the Board's policy; or

(B) Successfully complete nursing didactic coursework and faculty-supervised clinical experience in a board-approved nursing education program at the appropriate educational level, to include at least 80 hours in classroom and skills laboratory review and at least 80 hours participating in patient care activities in the clinical setting.

(4) After completion of the required additional education, the applicant will have two years from the completion date of the additional education to take and pass the NCLEX-RN.

(5) If more than two (2) years has elapsed since the applicant successfully passed the NCLEX-RN and did not obtain licensure as a Registered Nurse, the applicant must complete additional education as follows:

(A) Successfully complete a Board-approved refresher course in accordance with the Board's policy; or

(B) Successfully complete nursing didactic coursework and faculty-supervised clinical experience in a Board-approved nursing education program at the appropriate educational level, to include at least 80 hours in classroom and skills laboratory review and at least 80 hours participating in patient care activities in the clinical setting.

485:10-7-2. Licensure by endorsement

(a) **Qualifications.**

(1) The applicant must submit an application containing such information as the Board may prescribe;

(2) Be a minimum of eighteen (18) years of age on or before the date the license is issued;

(3) An applicant for licensure by endorsement as a Registered Nurse must meet the requirements of the Oklahoma Nursing Practice Act. An evaluation of educational requirements may be completed to ensure the applicant meets educational standards.

(4) An applicant licensed in another state or U.S. territory since January 1, 1952 must have written the licensing examination adopted by the Board with a passing score as established by the Board. A license to practice nursing in Oklahoma will not be issued until this requirement is met.

(5) An applicant must submit evidence of either:

(A) successful completion of the National Council Licensure Examination for Registered Nurses since July 1, 1982; or

(B) passing the State Board Test Pool Examination for Registered Nurse licensure prior to July 1, 1982.

(6) In addition to meeting other requirements for endorsement established by the Board in these Rules, each applicant for endorsement must demonstrate evidence of continued qualifications for practice through completion of one or more of the following requirements within the last five (5) years prior to receipt of the completed application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;

(B) Successfully pass the National Council Licensure Examination for Registered Nurses;

(C) Cause submission of an official transcript, provided by an entity approved and recognized by the U.S. Department of Education as a primary source for providing education transcripts, verifying successful completion of at least six (6) academic semester credit hours of nursing courses which include classroom and clinical instruction; ~~and/or~~

(D) Present evidence of licensure as a registered nurse in another state, territory or country with employment in a position that requires nursing licensure with verification of at least 520 work hours during the past five (5) years~~.~~;

(E) Submit evidence of completing at least twenty-four (24) contact hours of continuing education applicable to nursing practice;

(F) Submit current certification in a nursing specialty area.

(7) Applicants for endorsement who took the National Council Licensure Examination for Registered Nurses for initial licensure within the last two years must:

(A) Provide evidence of completion of the nursing education program within two years of initial application for licensure by examination; or

(B) Provide evidence of at least six months work experience as a registered nurse in the state, U.S. territory, or country of licensure; or

(C) Successfully complete a Board-approved refresher course in accordance with the Board's policy; or

(D) Successfully complete nursing didactic coursework and faculty-supervised clinical experience in a board-approved nursing education program at the appropriate educational level, to include at least 80 hours in classroom and skills laboratory review and at least 80 hours participating in patient care activities in the clinical setting.

(b) **Applications.**

(1) Applications must be completed and filed with the Board.

(2) Endorsement may be accepted from the original state or U.S. territory of licensure by examination.

(3) If the applicant has written the licensing examination adopted by the Board in a state other than the state or U.S. territory of original licensure, an endorsement will be requested from that state, also.

(4) If the application is not completed within one (1) year after receipt of fee, the application must be refiled.

(c) **Fee for licensure by endorsement.**

(1) The fee shall accompany the application.

(2) The fee is not refundable.

(3) If the application is not completed within one (1) year, a new application and new fee will be required for licensure.

(d) **Qualifications for applicants educated in foreign countries or in a U.S. territory.** An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma. An applicant educated in a U.S. territory not recognized as a full member of National Council of State Boards of Nursing (NCSBN) must meet the requirements for applicants educated in foreign countries. An applicant educated in a U.S. territory that is a full member of NCSBN but in a nursing education program not included on the NCSBN state-approved programs of nursing list at the time of the applicant's graduation from the program must meet the requirements for applicants educated in foreign countries.

(1) The applicant must present evidence of:

(A) graduation from a government-approved post-secondary nursing education program, as verified from the Commission of Graduates of Foreign Nursing Schools (CGFNS);

(B) completion of formal courses including theory and clinical experience in nursing care of the adult, nursing care of children, maternal-infant nursing, psychiatric-mental health nursing as evidenced by:

(i) a translated transcript with certified proof of translation received directly from the nursing education program in the original country of licensure, or

(ii) a certified copy of original transcript obtained directly from the Commission of Graduates of Foreign Nursing Schools (CGFNS)

(C) licensure or registration as required in country of graduation as evidenced by official verification received directly from the Commission of Graduates of Foreign Nursing Schools;

(D) competence in oral and written English as evidenced by receipt of scores directly from the approved testing service or from CGFNS verifying successful completion of:

(i) Test of English for International Communication (TOEIC), to include the Listening and Reading Test, and the Speaking and Writing Test of the Educational Testing Service, or

(ii) International English Language Testing System (IELTS), or

(iii) Test of English as a Foreign Language Internet-based test (TOEFL iBT) of the Educational Testing Service, or

(iv) Michigan English Language Assessment Battery (MELAB).

(E) An evaluation of educational credentials as evidenced by:

(i) CGFNS Certificate Status or Visa Screen Certificate; or

(ii) CGFNS Credentials Evaluation Service Professional Report;

(iii) Reports received from CGFNS must have been completed within the five (5) years immediately preceding the date of application for licensure by endorsement. The five-year requirement is waived if the applicant holds a license in another state.

(F) Evidence of either:

(i) successful completion of the National Council Licensure Examination for Registered Nurses since July 1, 1982; or

(ii) passing the State Board Test Pool Examination for Registered Nurse licensure prior to July 1, 1982;

(2) The requirement for verification by CGFNS is waived for applicants currently licensed in another state when the state validates that the credential review report was prepared by an independent credentials review agency.

(3) The requirements for competence in spoken and written English are waived for applicants who are:

(A) Graduates of nursing education programs taught in English in Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, Trinidad, Tobago, Jamaica, Barbados, South Africa, and the United States.

(B) Licensed in another US State or Territory and have successfully completed the licensure examination approved by the Board.

(4) Applicants must submit a completed application and the required fee.

(e) **Temporary license for endorsement applicants.**

(1) A temporary license may be issued to the applicant on proof of:

(A) Current unrestricted licensure in another state, territory or country with no history of arrest or disciplinary action requiring further review;

(B) Evidence of having successfully passed the licensure examination adopted by the Oklahoma Board of Nursing;

(C) Evidence of meeting educational qualifications through completion of a state board-approved nursing education program meeting the educational standards established by the Board, or an evaluation of educational credentials and nursing licensure or registration as required in country of origin for the foreign-educated nurse as evidenced by:

(i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Credentials Evaluation Service Professional Report with verification of equivalent educational credentials and unrestricted licensure in country of origin, or

(ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status or Visa Screen Certificate, accompanied by a verification of graduation from a government approved nursing education program, the translated transcript, and verification of unrestricted nursing licensure or registration as required in country of graduation;

(D) Payment of the fee for licensure by endorsement and temporary license;

(E) Foreign-educated applicants must provide evidence of competence in oral and written English by meeting the requirements of 485:10-7-2(d)(1)(D) unless 485:10-7-2(d)~~(2)~~(3) applies;

(F) Demonstrating evidence of continued qualifications for practice through meeting the requirements of 485:10-7-2(a)(6) ~~and~~or (7); and

(G) Submission of fingerprint images with the fee established by the Oklahoma State Bureau of Investigation and/or vendor for the purpose of permitting a state and national criminal history records search to be completed.

(2) The temporary license may not be issued for a period longer than ninety (90) days.

(3) The temporary license may be extended, but such period shall be no longer than one (1) year for any applicant.

SUBCHAPTER 9. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A LICENSED PRACTICAL NURSE

485:10-9-1. Licensure by examination

(a) **Qualifications.** An applicant for licensure by examination as a Licensed Practical Nurse must meet the following qualifications:

(1) Be a minimum of eighteen (18) years of age on or before the date the license is issued;

(2) Submits an application containing such information as the Board may prescribe;

(3) Cause submission of an official transcript from an entity approved and recognized by the U.S. Department of Education as a primary source for providing education transcripts, showing completion of the basic curricula of a state Board-approved practical nursing education program conducted in a member board jurisdiction that meets the requirements of ~~485:10-5-6(e)(1) and (2)~~485:10-5-6(d), and showing the diploma or degree and the date conferred; or

(4) Has completed equivalent courses through one of the following methods:

(A) in a state approved program of nursing with a minimum overall grade point average of 2.0, and a grade of a "C" or higher in all nursing courses. Evidence must be provided by an entity approved and recognized by the U.S. Department of Education as a primary source for providing education transcripts, verifying successful completion of a minimum of one academic year of instruction in a registered nursing education program, including classroom instruction and clinical practice in nursing care of the adult, nursing care of children, and maternal-infant nursing. Course content in anatomy and physiology, growth and development, mental health, pharmacology and nutrition also must have been successfully completed. Courses in external degree programs or completed by challenge examination are not acceptable for PN equivalency; or

(B) has completed a registered nursing education program in a foreign country and meets the requirements of 485:10-7-2(d).

(5) Board-approved role transition learning packet related to legal and ethical aspects of practical nursing must be successfully completed by all PN equivalency

applicants prior to approval to write the examination for licensure.

(b) **Applications.** Applications for licensure by examination must be completed and filed with the Board prior to the examination. If the application is not completed within one (1) year, a new application and new fee will be required.

(c) **Admission to the examination.** The candidate must register with the authorized testing service and submit required fee. An authorization to test will be electronically mailed to the candidate by the testing service allowing them to schedule the exam.

(d) **Fee for examination.**

(1) The fee for writing the licensing examination adopted by the Board for practical nurse licensure shall be established by the Board in accordance with statutory guidelines and shall accompany the application.

(2) The fee for rewriting the licensing examination adopted by the Board for practical nurse licensure shall be the same as the fee established for the first-time writing.

(3) The fee for the examination (first time and rewrite) is not refundable.

(e) **Policies for the examination.**

(1) Applicants must pass the National Council Licensure Examination for Practical Nurses (NCLEX-PN).

(2) Applicants who fail the NCLEX-PN may be eligible to repeat the examination upon filing an application and fee meeting Board requirements.

(3) To be eligible to write or rewrite the NCLEX-PN, the applicant must submit a completed application, transcript, and fee to the Board and a completed registration form and fee to the authorized testing service within two years of completion of the nursing education program or the equivalent coursework and/or related experience. If more than two years has elapsed, the applicant must complete additional education as follows:

(A) Successfully complete a Board-approved refresher course in accordance with the Board's policy; or

(B) Successfully complete nursing didactic coursework and faculty-supervised clinical experience in a board-approved nursing education program at the appropriate educational level, to include at least 80 hours in classroom and skills laboratory review and at least 80 hours participating in patient care activities in the clinical setting.

(4) After completion of the required additional education, the applicant will have two years from the completion of the additional education to take and pass the NCLEX-PN.

(5) If more than two (2) years has elapsed since the applicant successfully passed the NCLEX-PN and did not obtain licensure as a Licensed Practical Nurse, the applicant must complete additional education as follows:

(A) Successfully complete a Board-approved refresher course in accordance with the Board's policy; or

(B) Successfully complete nursing didactic coursework and faculty-supervised clinical experience in a Board-approved nursing education program at the appropriate educational level, to include at least 80 hours in classroom and skills laboratory review and at least 80 hours participating in patient care activities in the clinical setting.

485:10-9-2. Licensure by endorsement

(a) **Qualifications.**

(1) The applicant must submit an application containing such information as the Board may prescribe;

(2) Be a minimum of eighteen (18) years of age on or before the date the license is issued;

(3) An applicant for licensure by endorsement as a Licensed Practical Nurse shall meet the requirements of the Oklahoma Nursing Practice Act. An evaluation of educational requirements may be completed to ensure the applicant meets educational standards.

(4) An applicant licensed in another state or U.S. territory since June 30, 1954, must have passed the licensing examination adopted by the Board. A license to practice practical nursing in Oklahoma will not be issued until this requirement is met.

(5) In addition to meeting other requirements for endorsement established by the Board in these rules, each applicant for endorsement must demonstrate evidence of continued qualifications for practice through completion of one or more of the following requirements within the last five (5) years prior to receipt of the completed application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;

(B) Successfully pass the National Council Licensure Examination for Practical Nurses;

(C) Cause submission of an official transcript, provided by an entity approved and recognized by the U.S. Department of Education as a primary source for providing education transcripts, verifying successful completion of at least six (6) academic semester credit hours or 105 contact hours of nursing courses in a state-approved practical or registered nursing education program, which includes classroom and clinical instruction;~~ and/or~~

(D) Present evidence of licensure as a practical nurse in another state, territory or country with employment in a position that requires practical nursing licensure with verification of at least 520 work hours during the past ~~two (2)~~five (5) years~~.~~;

(E) Submit evidence of completing at least twenty-four (24) contact hours of continuing education applicable to nursing practice;

(F) Submit current certification in a nursing specialty area.

(6) Applicants for endorsement who took the National Council Licensure Examination for Practical Nurses for initial licensure within the last two years must:

(A) Provide evidence of completion of the nursing education program within two years of initial application for licensure by examination; or

(B) Provide evidence of at least six months work experience as a Licensed Practical Nurse in the state, U.S. territory, or country of licensure~~.~~; or

(C) Successfully complete a Board-approved refresher course in accordance with the Board's policy; or

(D) Successfully complete nursing didactic coursework and faculty-supervised clinical experience in a board-approved nursing education program at the appropriate educational level, to include at least 80 hours in classroom and skills laboratory review and at least 80 hours participating in patient care activities in the clinical setting.

(b) **Applications.**

(1) Applications must be completed and filed with the Board.

(2) Endorsement may be accepted from the original state of licensure by examination.

(3) If the applicant has written the licensing examination adopted by the Board in a state other than the state or U.S. territory of original licensure, an endorsement will be requested from that state, also.

(4) If the application is not completed within one (1) year after receipt of fee, the application must be refiled.

(c) **Fee for licensure by endorsement.**

(1) The fee shall accompany the application.

(2) The fee is not refundable.

(3) If the application is not completed within one (1) year, a new application and new fee will be required for licensure.

(d) **Qualifications for applicants educated in foreign countries or in a U.S. territory.** An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma. An applicant educated in a U.S. territory not recognized as a full member of National Council of State Boards of Nursing (NCSBN) must meet the requirements for applicants educated in foreign countries. An applicant educated in a U.S. territory that is a full member of NCSBN but in a nursing education program not included on the NCSBN state-approved programs of nursing list at the time of the applicant's graduation from the program must meet the requirements for applicants educated in foreign countries.

(1) The applicant must present evidence of:

(A) competence in oral and written English as evidenced by receipt of scores directly from the testing service or from CGFNS verifying successful completion of:

(i) Test of English for International Communication (TOEIC), to include the Listening and Reading Test, and the Speaking and Writing Test of the Educational Testing Service; or

(ii) International English Language Testing System (IELTS); or

(iii) Test of English as a Foreign Language Internet-based test (TOEFL iBT) of the Educational Testing Service; or

(iv) Michigan English Language Assessment Battery (MELAB).

(B) graduation from a government approved post-secondary practical nursing education program or equivalent courses in a government approved post-secondary nursing education program, as verified from the Commission of Graduates of Foreign Nursing Schools (CGFNS);

(C) licensure or registration as required in country of graduation as evidenced by official verification completed within the last twelve (12) months immediately preceding the date of application for licensure by endorsement received directly from the Commission of Graduates of Foreign Nursing Schools,

(D) completion of formal courses including theory and clinical experience in nursing care of the adult, nursing care of children, and maternal-infant nursing in a government-approved school of nursing as evidenced by:

(i) a translated transcript received directly from the nursing education program in the original country of licensure with certified proof of translation; or

(ii) a certified copy of the transcript received directly from the Commission on Graduates of Foreign Nursing Schools (CGFNS).

(E) An evaluation of educational credentials as evidenced by:

(i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Credentials Evaluation Service Professional Report, or

(ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate or Visa Screen Certificate status;

(iii) Reports received from CGFNS must have been completed within the five (5) years immediately preceding the date of application for licensure by endorsement. The five-year requirement is waived if the applicant holds a license in another state.

(2) The requirement for verification by CGFNS is waived for applicants currently licensed in another state when the state validates that the credential review report was prepared by an independent credentials review agency.

(3) The applicant must successfully complete the licensing examination adopted by the Oklahoma Board of Nursing.

(4) The requirements for competence in spoken and written English are waived for applicants who are:

(A) Graduates of nursing education programs taught in English in Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, Trinidad, Tobago, Jamaica, Barbados, South Africa, and the United States, or

(B) Licensed in another US State or Territory and have successfully completed the licensure examination approved by the Board.

(5) Applicants must submit a completed application with the required application and evaluation fees.

(e) **Temporary license for endorsement applicants.**

(1) A temporary license may be issued to the applicant on proof of

(A) Current unrestricted licensure in another state, territory or country with no history of arrest or disciplinary action requiring further review;

(B) Evidence of having successfully passed the licensure examination adopted by the Oklahoma Board of Nursing;

(C) Evidence of meeting educational qualifications through completion of a state board-approved nursing education program meeting the educational standards established by the Board, or an evaluation of educational credentials and nursing licensure or registration as required in country of origin for the foreign-educated nurse as evidenced by:

(i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Credentials Evaluation Service Professional Report with verification of equivalent educational credentials and unrestricted licensure in country of origin, or

(ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status or Visa Screen Certificate, accompanied by a verification of graduation from a government approved nursing education program, the translated transcript, and verification of unrestricted nursing licensure or registration as required in country of graduation;

(D) Payment of the fee for licensure by endorsement and temporary license;

(E) Foreign-educated applicants must provide evidence of competence in oral and written English by meeting the requirements of 485:10-9-2(d)(1)(A) unless 485:10-9-2(d)~~(3)~~(4) applies; and

(F) Demonstrating evidence of continued qualifications for practice through meeting the requirements of 485:10-9-2(a)(5) ~~and~~or (6); and

(G) Submission of fingerprint images with the fee established by the Oklahoma State Bureau of Investigation and/or vendor for the purpose of permitting a state and national criminal history records search to be completed.

(2) The temporary license may not be issued for a period longer than ninety (90) days.

(3) The temporary license may be extended, but such period shall be no longer than one (1) year.

485:10-9-4. Reinstatement of license

(a) The Licensed Practical Nurse license is lapsed if not renewed by expiration date thereof.

(b) The applicant must submit an application containing such information as the Board may prescribe.

(c) A completed application for reinstatement must be submitted to the Board office with the required fee. If the application is not completed within one (1) year, a new application and new fee will be required.

(d) The fee for reinstatement of license shall be established by the Board.

(e) An application for reinstatement for a license that has been suspended or surrendered must be in compliance with all terms and conditions of any Order entered with regard to the suspension or surrender and shall be considered by the Board.

(f) An application for reinstatement of a license that has been revoked by the Board shall be considered by the Board.

(g) An application for reinstatement for a license not previously revoked, suspended or surrendered may be granted on such terms and conditions as the Board may require.

(h) In addition to meeting other reinstatement requirements established by the Board in these Rules, if the Oklahoma nursing license has not been in an active status less than five years, each applicant shall demonstrate evidence of continuing qualifications for practice through completion of one or more of the following requirements within the last ~~two (2)~~five (5) years prior to receipt of the completed application in the Board office:

(1) Verify employment in a position that requires a practical nurse license with verification of at least 520 work hours; or

(2) Verify the completion of at least twenty-four (24) contact hours of continuing education applicable to nursing practice; or

(3) Verify current certification in a nursing specialty area; or

(4) Verify completion of a Board-approved refresher course; or

(5) Verify completion of at least six (6) academic semester credit hours of nursing coursework at the licensee's current level of licensure or higher.

(i) In addition to meeting other reinstatement requirements established by the Board in these Rules, if the Oklahoma practical nursing license has not been in an active licensure status for a period of five (5) years or more, the applicant for reinstatement must demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last five (5) years prior to receipt of the completed application in the Board office:

(1) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;

(2) Successfully pass the National Council Licensure Examination for Practical nurses;

(3) Submission of an official transcript verifying successful completion of at least six (6) academic semester credit hours or 105 contact hours of nursing courses in a state-approved practical or registered nursing education program, which includes classroom and clinical instruction; and/or

(4) Present evidence of licensure as a practical nurse in another state, territory or country with employment in a position that requires practical nursing licensure with

verification of at least 520 work hours during the past five (5) years preceding receipt of the application for reinstatement in the Board office.

SUBCHAPTER 11. DISCIPLINARY ACTION

485:10-11-1. Denial, revocation or suspension of license or certificate

(a) **Causes.** Causes for denial, revocation or suspension of license or certificate as a Registered Nurse, Licensed Practical Nurse, Advanced Practice Registered Nurse and/or Authorization for Prescriptive Authority or Authority to Order, Select, Obtain, and Administer Drugs, or as an Advanced Unlicensed Assistant are as defined in 59 O.S. Section 567.8.

(b) **Definitions.** The following definitions relate to the causes for disciplinary action as specified in the statutes.

(1) The terms "deceit or material misrepresentation" in procuring or attempting to procure a license, certificate, prescriptive authority recognition, and/or authorization to order, select, obtain and administer drugs shall include but not be limited to the following:

(A) false representation of facts in connection with an application for licensure, certification, prescriptive authority recognition, and/or authorization to order, select, obtain and administer drugs and/or renewal of any of the above;~~or certificate, or renewal of license; or application for recognition as an advanced practitioner; or~~

(B) ~~false representation by having another person appear in her/his place for the licensing examination.~~engaging in conduct that violates the security of the licensure/certification examination or the integrity of the examination results, including, but not limited to the following:

(i) Copying, disseminating or receiving any portion of an examination;

(ii) Having unauthorized possession of any portion of a future, current or previously administered examination;

(iii) Violating the standards and/or rules of test administration;

(iv) Permitting an impersonator to take the examination on one's behalf;

(v) Impersonating an examinee;

(vi) Possessing unauthorized items and/or materials during the examination;

(vii) Any other conduct that violates the security or integrity of the examination.

(2) Sufficient knowledge or reasonable skill means adherence to minimal standards of acceptable practical nurse practice, registered nurse practice, advanced registered nurse practice, or advanced unlicensed assistant's practice generally prevailing in the State of Oklahoma.

(3) Unprofessional conduct is behavior (acts, knowledge, and practices) which fails to conform to the accepted standards of the nursing profession, or advanced unlicensed assistant's activities generally prevailing in the State of Oklahoma and which could jeopardize the health and welfare of the people which shall include but not be limited to the following:

(A) inaccurate recording, falsifying, altering or inappropriate destruction of patient records; or

(B) verbally or physically abusing patients; or

(C) falsely manipulating drug supplies, narcotics or patient records; or

(D) appropriating. without. authority medications, supplies or personal items of
the patient or agency; or

(E) falsifying documents submitted to the Board of Nursing; or

(F) leaving a nursing assignment or patient care assignment without properly advising appropriate personnel; or

(G) violating the confidentiality of information or knowledge concerning the patient by any means; or

(H) conduct detrimental to the public interest; or

(I) discriminating in the rendering of nursing services or patient care assignment; or

(J) aiding and abetting the practice of practical nursing, registered nursing, advanced practice registered nursing, or advanced unlicensed assistive persons by any person not licensed as a Licensed Practical Nurse or a Registered Nurse or an Advanced Practice Registered Nurse or not certified as an Advanced Unlicensed Assistant; or

(K) impersonating any applicant or acting as proxy for the applicant in any examination required for the issuance of a license or certificate; or

(L) impersonating another licensed or certified practitioner, or permitting another person to use her/his license, certificate, or certificate of recognition for any purpose; or

(M) aiding, abetting or assisting any other person to violate or circumvent any law or rule or regulation intended to guide the conduct of a Registered Nurse, Licensed Practical Nurse, Advanced Practice Registered Nurse, or Advanced Unlicensed Assistant; or

(N) forging a prescription for medication, drugs, or supplies or equipment; or

(O) presenting a forged prescription; or

(P) selling or attempting to sell drugs or controlled substances or otherwise making such drugs available without authority to self, friends, or family members; or

(Q) engaging in conduct with a patient or key party, inside or outside the health care setting that is sexual or may reasonably be interpreted as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient or key party, or engaging in sexual exploitation of a patient or key party. Patient or key party consent to, or initiation of, a relationship is not a defense; or

(R) obtaining money, property or services from a patient, other than reasonable fees for service

provided to the patient, through the use of undue influence, harassment, duress, deception or fraud; or

(S) engaging in fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state medical assistance laws; or

(T) failure to maintain proper custody and control of controlled dangerous substances of the patient or agency; or

(U) diversion or attempts to divert drugs or controlled substances; or

(V) failure to cooperate with a lawful investigation by Board of Nursing staff.

(4) Conduct which jeopardizes a patient's life, health or safety shall include but not be limited to the following:

(A) Failure of a Licensed Practical Nurse, a Registered Nurse, or Advanced Practice Registered Nurse to supervise adequately the performance of acts by any person working at the nurse's direction; or

(B) Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care; or

(C) Unauthorized alterations of medications; or

(D) Failure to utilize appropriate judgment in administering safe nursing practice or patient care assignment based upon the level of nursing for which the individual is licensed or recognized; or

(E) Failure to exercise technical competence in carrying out nursing care or patient care assignment; or

(F) Performing new nursing techniques, procedures or patient care activities without proper education and preparation; or

(G) Failure to report through the proper channels the unsafe or illegal practice of any person who is providing nursing care or patient care.

(5) Conduct that violates professional boundaries is behavior that jeopardizes or could impair the relationship of trust that should exist between nurse and patient. Nurses must be able to recognize the appropriate interpersonal boundaries in all places and at all times for the duration of any therapeutic relationship. It is immaterial whether the boundary violation is instituted by the nurse or the patient; the nurse is the professional in the nurse-patient relationship.

SUBCHAPTER 15. REQUIREMENTS FOR PRACTICE AS AN ADVANCED PRACTICE REGISTERED NURSE

485:10-15-4. Application

(a) **An applicant for licensure as an Advanced Practice Registered Nurse must:**

(1) Hold a current license to practice as a Registered Nurse in Oklahoma;

(2) Cause submission of an official transcript verifying completion of an advanced practice registered nursing education program in one of the four advanced practice registered nurse roles (CNP, CNM, CNS, and CRNA) and a specialty area recognized by the Board. The transcript must be obtained from an entity approved and recognized by the U.S. Department of Education as a primary source for providing education transcripts. Effective January 1, 2016, the applicant shall have completed an accredited graduate level advanced practice registered nursing education program in at least one of the following population foci: family/individual across the lifespan, adult-gerontology (acute and/or primary), neonatal, pediatrics (acute and/or primary), women's health/gender related, or psychiatric/mental health;

(3) submit evidence of current national certification consistent with educational preparation and by a national certifying body recognized by the Board; and

(4) submit a completed application for licensure containing such information as the Board may prescribe and the required fee. If the application is not completed within one (1) year, a new application and new fee will be required.

(b) **Changing and adding certifications.**

(1) An Advanced Practice Registered Nurse who wishes to add an area of specialty and national certification must meet initial requirements for advanced practice licensure, as identified in 485:10-15-4(a).

(2) An Advanced Practice Registered Nurse who changes national certification and certifying body within the same specialty area must notify the Board in writing within thirty (30) days of the change and submit a copy of a current national certification recognized by the Board within the same specialty area.

(3) An Advanced Practice Registered Nurse holding more than one certification who does not renew or maintain one of the national certifications must notify the Board in writing within thirty (30) days of the change. The license for which the national certification has expired will be placed on inactive status. The Advanced Practice Registered Nurse shall not work in the specialty area upon expiration of national certification.

(c) **Endorsement.**

(1) An applicant who is licensed or recognized as an APRN in another U.S. state or territory may be issued an APRN license by endorsement if current Board requirements for licensure as an APRN are met. A Board-recognized APRN holding recognition may continue to be licensed as an APRN with his or her current certification, even if such certification is no longer included on the list of recognized APRN certifications and certifying bodies approved by the Board, PROVIDED the APRN license remains in an active status and current certification is maintained. The applicant must have met all requirements of the advanced practice certifying body to maintain full certification, including requirements for maintaining continuing competence. An applicant for APRN licensure by endorsement who holds certification on provisional or conditional status may be considered for licensure by the Board.

(2) In addition to meeting other requirements for endorsement established by the Board in these rules, the applicant for endorsement of the APRN license must demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of a completed application in the Board office:

(A) Cause submission of an official transcript, from an entity approved and recognized by the U.S. Department of Education as a primary source for providing education transcripts, or certificate of completion verifying completion of an APRN nursing refresher course meeting the requirements established by the Board in policy;

(B) Cause submission of an official transcript, from an entity approved and recognized by the U.S. Department of Education as a primary source for providing education transcripts, verifying successful completion of at least six (6) academic semester credit hours of APRN nursing courses in the same role and population focus as was previously held by the APRN in a graduate-level APRN program, which includes classroom and clinical instruction; ~~and/or;~~

(C) Present evidence of current licensure or recognition as an APRN in another state or territory with employment in a position that requires APRN licensure or recognition with verification of at least 520 work hours during the past two (2) years preceding receipt of the application for endorsement in the Board office~~.~~;

(D) Submission of evidence of current national certification consistent with educational preparation and by a national certifying body recognized by the Board.

(d) **Temporary license for endorsement applicants.** Temporary licensure may be granted under the following conditions:

(1) Current unrestricted licensure as an RN in Oklahoma;

(2) Current unrestricted APRN licensure or recognition in another state or territory in the same role with no history of arrest or disciplinary action requiring further review;

(3) Demonstrates evidence of meeting continuing qualifications for practice through meeting the requirements of 485:10-15-4(c)(2);

(4) Evidence of completing an advanced practice registered nursing education program in one of the four roles and a specialty area recognized by the Board;

(5) Evidence of current national certification consistent with educational preparation and by a national certifying body recognized by the Board;

(6) Completed application for endorsement and temporary recognition and the required fees; and

(7) Submission of fingerprints with the fee established by the Oklahoma State Bureau of Investigation and/or vendor for the purpose of permitting a state and national criminal history records search to be completed.

(8) The temporary license may not be issued for a period longer than ninety (90) days.

(9) The temporary license may be extended, but such period shall be no longer than one (1) year for any applicant.

(e) **Certification program.** The Board shall identify and keep on file the current list of recognized APRN certifications and certifying bodies approved by the Board. A Board-recognized APRN holding recognition prior to July 1, 2012, may continue to be licensed as an APRN with his or her current certification, even if such certification is no longer included on the list of recognized APRN certifications and certifying bodies approved by the Board, PROVIDED the APRN license remains in an active status and current certification is maintained. A licensee may request that a certification program be considered by the Board for inclusion on the list. Effective July 1, 2012, the certification program shall provide documentation of compliance with the following standards:

(1) The certification program is national in the scope of its credentialing;

(2) Conditions for taking the certification examination are consistent with standards of the testing community;

(3) Educational requirements are consistent with the requirements of the advanced practice role and specialty;

(4) The standard's methodologies used are acceptable to the testing community such as incumbent job analysis studies and logical job analysis studies;

(5) Certification programs are accredited by a national accreditation body as acceptable by the Board;

(6) The examination represents entry-level practice in the APRN role and specialty;

(7) The examination represents the knowledge, skills and abilities essential for the delivery of safe and effective advanced nursing care to patients;

(8) Examination items shall be reviewed for content validity and correct scoring using an established mechanism, both before use and at least every five years. When possible, items will be reviewed for cultural bias;

(9) The passing standard is established using acceptable psychometric methods and is re-evaluated at least every five years;

(10) Certification is issued based upon meeting all certification requirements and passing the examination;

(11) A re-take policy is in place;

(12) Certification maintenance program, which includes review of qualifications and continued competence, is in place;

(13) Mechanisms are in place for communication to boards of nursing for timely verification of an individual's certification status, changes in the certification status, and changes in the certification program, including qualifications, test plan and scope of practice; and

(14) An evaluation process is in place to provide quality assurance in the certification program.

485:10-15-5. Renewal, reinstatement and inactive status of licensure

(a) **Renewal.**

(1) Renewal shall be concurrent with the two-year licensure renewal for Registered Nurse.

(2) The renewal form shall include a statement that the nurse's national certification is current and that certification will be maintained during the period of licensure renewal.

(3) Each Advanced Practice Registered Nurse shall submit a copy of a current national certification document to the Board with the renewal form, if requested.

(4) The applicant must submit an application containing such information as the Board may prescribe.

(b) **Reinstatement.**

(1) If an Advanced Practice Registered Nurse fails to renew licensure prior to the expiration date of that license, the advanced practice license shall lapse.

(2) The applicant may request reinstatement of advanced practice licensure by submitting a completed application and the required fee. If the application is not completed within one (1) year, a new application and new fee will be required. If the reinstatement is not approved within two (2) years of the expiration date of licensure, the applicant must meet current requirements for initial advanced practice licensure.

(3) The applicant must submit an application containing such information as the Board may prescribe.

(4) In addition to meeting other requirements for reinstatement established by the Board in these Rules, if the Oklahoma APRN license has not been in an active licensure status for a period of two (2) years or more, the applicant for reinstatement of the APRN license must demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of a completed application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of an APRN nursing refresher course meeting the requirements established by the Board in policy;

(B) Submission of an official transcript verifying successful completion of at least six (6) academic semester credit hours of APRN nursing courses in the same role and population focus as was previously held by the APRN in a graduate-level APRN program, which includes classroom and clinical instruction; and/or

(C) Present evidence of licensure or recognition as an APRN in another state with employment in a position that requires APRN licensure or recognition with verification of at least 520 work hours during the past two (2) years preceding receipt of the application for reinstatement in the Board office.

(D) Submission of evidence of current national certification consistent with educational preparation and by a national certifying body recognized by the Board.

(c) **Inactive Status.**

(1) An Advanced Practice Registered Nurse may submit a written request to place advanced practice licensure on inactive status.

(2) The date of inactive status will be the date of approval by the Board.

(3) The Board may delegate approval to place advanced practice licensure on inactive status to Board staff.

(4) The applicant may request return-to-active status of advanced practice licensure by submitting a completed application containing such information as the Board may prescribe and the required fee. If the application is not completed within one (1) year, a new application and new fee will be required. If the advanced practice license has been on inactive status for two or more years, the applicant must meet current requirements for initial advanced practice licensure.

(5) In addition to meeting other requirements for return to active status established by the Board in these Rules, if the Oklahoma APRN license has not been in an active licensure status for a period of two (2) years or more, the applicant for return to active status of the APRN license must demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of a completed application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of an APRN nursing refresher course meeting the requirements established by the Board in policy;

(B) Submission of an official transcript verifying successful completion of at least six (6) academic semester credit hours of APRN nursing courses in the same role and population focus as was previously held by the APRN in a graduate-level APRN program, which includes classroom and clinical instruction; ~~and/or~~

(C) Present evidence of licensure or recognition as an APRN in another state with employment in a position that requires APRN licensure or recognition with verification of at least 520 work hours during the past two (2) years preceding receipt of the application for return to active status in the Board office~~.~~;

(D) Submission of evidence of current national certification consistent with educational preparation and by a national certifying body recognized by the Board.

SUBCHAPTER 16. REQUIREMENTS FOR PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES

485:10-16-6. Renewal

The application for renewal of prescriptive authority shall:

(1) be concurrent with the two-year RN licensure renewal and renewal of advanced practice registered nurse licensure;

(2) include:

(A) a completed application containing such information as the Board may prescribe and required fee;

(B) documentation approved by the Board verifying a minimum of fifteen (15) contact hours, or one academic credit hour of education, or the equivalent, in pharmacotherapeutics, clinical application and use

of pharmacological agents in the prevention of illness, and in the restoration and maintenance of health~~,~~. At least one hour of the fifteen (15) required hours shall be specific to proper prescribing of opioids, risks of opioids, and/or recognizing addiction and diversion. All of the required hours shall be obtained in a program beyond basic registered nurse preparation, approved by the Board, within the two-year period immediately preceding the effective date of application for renewal of prescriptive authority, which is applicable to the scope of practice and specialty certification. This documentation requirement does not apply to individuals renewing within twenty-four (24) months of initial prescriptive authority approval.

(i) The following categories identify how this requirement may be met. No more than the identified percentage for each category may apply towards the contact hour/academic hour or the equivalent requirements for renewal of prescriptive authority;

(ii) Maximum number of units acceptable in continuing education categories:

(I) Category A: up to 100% of requirement (1 credit hour)

(II) Category B: up to 100% of requirement (15 contact hours)

(III) Category C: up to 100% of requirement (15 contact hours)

(IV) Category D: up to 20% of requirement (3 contact hours)

(V) Category E: up to 20% of requirement (3 contact hours)

(C) A written statement signed by the physician supervising prescriptive authority that includes a method of assuring availability of the supervising physician through direct contact, telecommunications or other appropriate electronic means for consultation, assistance with medical emergencies, or patient referral. Applicants for renewal who have submitted a written statement signed by the physician supervising prescriptive authority prior to renewal but within ninety (90) days of the expiration date are not required to submit another written statement for renewal.

[OAR Docket #19-495; filed 5-31-19]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #19-470]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card
Part 2. Application for Initial Driver License
595:10-1-2. General information [AMENDED]
595:10-1-3. Procedures for obtaining an initial driver license [AMENDED]
595:10-1-5. Graduated driver license; persons under eighteen (18) years of age [AMENDED]
Part 3. Driver License Renewal
595:10-1-10. Procedure for obtaining a renewal driver license [AMENDED]
595:10-1-12. Oklahoma licensee temporarily residing out of the state [AMENDED]
Part 5. Driver License Replacement
595:10-1-18. Procedure for obtaining a replacement driver license [AMENDED]
595:10-1-19. Oklahoma licensee temporarily residing out of the state [AMENDED]
Part 7. Identification Cards
595:10-1-25. Procedure for obtaining an identification card [AMENDED]
595:10-1-26. Procedure for obtaining a renewal identification card [AMENDED]
595:10-1-27. Procedure for obtaining a replacement identification card [AMENDED]
Part 13. Motor License Agents
595:10-1-50. Identification required [AMENDED]
595:10-1-56. Renewal of driver license or identification cards [AMENDED]
595:10-1-57. Replacement of driver license or identification card [AMENDED]
Part 19. Driver License and Identification Card Content
595:10-1-92. Driving restriction codes [AMENDED]
Part 21. Identity Verification Unit
595:10-1-101. Identity fraud or theft [AMENDED]
Subchapter 5. Medical Aspects
Part 1. Medical conditions
595:10-5-4. Applicability [AMENDED]
595:10-5-7. Vision standards and problems [AMENDED]
Subchapter 11. Certified Schools and Designated Class D Examiners
595:10-11-3. Definitions [AMENDED]
595:10-11-5. Requirements for certification as a designated examiner; display of certificate; certification renewal [AMENDED]
595:10-11-7. Examination requirements and standards [AMENDED]
595:10-11-12. Prescribed forms [AMENDED]

AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101 et seq.

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The changes in 595:10-1-2 update the phone number for the DPS Driver License Services Division. The reason for this change is for accuracy of information. The changes in 595:10-1-3 update the procedures for obtaining an initial driver license to meet the requirements for REAL ID implementation. The reason for this change is for compliance with federal regulations. The changes in 595:10-1-5 change the word "affidavit" to "application" and clean up other language. The reason for this change is for accuracy of information.

The changes in 595:10-1-10 update the procedures for renewing a driver license to meet the requirements for REAL ID implementation. The reason for this change is for compliance with federal regulations. The changes in 595-1-12 update the procedures for renewing a driver license by mail to meet the requirements for REAL ID implementation. The reason for this change is for compliance with federal regulations. The changes in 595:10-1-18 update the procedures for replacing a driver license to meet the requirements for REAL ID implementation. The reason for this change is for compliance with federal regulations. The changes in 595:10-1-19 update the procedures for replacing a driver license by mail to meet the requirements for REAL ID implementation. The reason for this change is for compliance with federal regulations. The changes in 595:10-1-25 update the procedures for obtaining an initial identification card to meet the requirements for REAL ID implementation. The reason for this change is for compliance with federal regulations. The changes in 595:10-1-26 update the procedures for renewing an identification card to meet the requirements for REAL ID implementation. The reason for this change is for compliance with federal regulations. The changes in 595:10-1-27 update the procedures for replacing an identification card to meet the requirements for REAL ID implementation. The reason for this change is for compliance with federal regulations. The changes in 595:10-1-50 update identification required when applying for a renewal or replacement driver license or ID card to meet the requirements for REAL ID implementation. The reason for this change is for compliance with federal regulations. The changes in 595:10-1-56 allow motor license agents to invalidate certain cards by cutting the lower right corner of the card being replaced and allow a REAL ID-certified motor license agent to verify legal presence for a non-commercial license holder who is expired for more than one year. The reason for this change is for compliance with federal regulations. The changes in 595:10-1-57 modify the motor license agent procedures to allow the invalidating of certain driver license cards by cutting the lower right corner of the card being replaced or punch a hole through the driver license number. The reason for this change is to update our procedure. The changes in 595:10-1-92 change existing driver license restriction codes to conform to American Association of Motor Vehicle Administrators (AAMVA) standards. The reason for this change is to conform to AAMVA standards. The changes in 595:10-1-101 update our procedure regarding identity theft and fraud restriction codes. The reason for this change is to match our modernization process. The changes in 595:10-5-4 allow a validly licensed CDL driver, who has a medical deficiency, to continue to operate a CDL vehicle via medical waiver issued by DPS following the review of the driver's experience and motor vehicle record. The reason for this change is to eliminate the grandfathering date of June 12, 1989 referenced in the rule prior to this amendment. The changes in 595:10-5-7 change the method in which physicians will measure each eye of an individual for visual acuity and peripheral vision to reflect the finding in each eye, rather than the measurement when both eys are measured together. The reason for this change is to ensure that all licensed drivers meet the proper visual standards. The changes in 595:10-11-3 add "parent-taught driver education course" to the definition of Driver Education. The reason for this change is for accuracy of information. The changes in 595:10-11-5 change requirements to allow former state driver license examiners to qualify for certification as a designated examiner without having to be a commercial driver education instructor. The reason for this change is to allow former state driver license examiners to become designated examiners. The changes in 595:10-11-7 adds rules concerning the examination of applicants by a designated examiner. The reason for this change is to ensure that the Department has all necessary information regarding the examination of applicants by designated examiners. The changes in 595:10-11-12 updates where designated examiners can obtain DPS forms. The reason for this change is for accuracy of information. The changes in 595:10-13-5 change the word "affidavit" to "application" and clean up other language. The reason for this change is for accuracy of information.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §§ 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. PRODCEDURE FOR OBTAINING AND MATINTAINING A DRIVER LICENSE OR IDENTIFICATION CARD

PART 2. APPLICATION FOR INITIAL DRIVER LICENSE

595:10-1-2. General information

(a) **Prerequisite.** A driver license shall not be issued to any person whose driving privilege is under suspension, revocation, disqualification, cancellation, or denial in this state or any other state or country until such privilege has been reinstated by the state or country withdrawing such privilege [47 O.S. §6-103(A)(3)].

(b) **Application for and issuance of driver licenses.** Information regarding the application for and issuance of driver licenses and identification cards may be obtained by:

(1) Telephone: (405) 425-~~2026~~2300

(2) Mail: Department of Public Safety, Driver License Services Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415

(3) In person: Department of Public Safety, Driver License Services Division, 3600 North M. L. King Avenue, Oklahoma City, Oklahoma.

(4) Internet: www.ok.gov/dps

(c) **Driver license examinations.** Information regarding driver license examination and examination locations may be obtained:

(1) Telephone: (405) 425-~~2020~~2300

(2) Mail: Department of Public Safety, Driver License Services Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415.

(3) Internet: www.ok.gov/dps

595:10-1-3. Procedures for obtaining an initial driver license

(a) **Application.** Every applicant for an initial Oklahoma driver license shall appear before a Driver License Examiner [47 O.S. §6-110]. An application for a driver license must be completed either by the applicant at the Driver License Examination Station or online, when an electronic process is made available by the Department of Public Safety, prior to the commencement of the required examination. Each applicant must sign a declaration under penalty of perjury that the information presented on the application is true and correct, and the State must retain this declaration. An applicant must sign a new declaration when presenting new source documents to the Department of Public Safety or certified motor license agent on subsequent visits. An emergency contact name, address and phone number may be included on the application, which emergency contact may be changed or removed at any time by the licensee or by the emergency contact. The emergency contact information shall be for use by the Department and law enforcement officers only. Upon submitting a completed and approved application, providing proof of identity as provided for in (b) of this Section and proof that the applicant is a United States citizen, foreign national or a legal permanent resident

alien [21 O.S., § 1550.42(B)], or having valid documentary evidence of lawful presence in the United States, and meeting all statutory requirements and successfully completing every required examination [Subchapter 3. Examination of this Chapter], the applicant may, if paying with an accepted credit card, be issued a temporary driver license by the Driver License Services Division after paying the required fees ~~then~~or proceed to a certified motor license agent ~~or the Department of Public Safety Headquarters, Driver License Examining Division,~~ and present the DL-10 form issued by the Driver License Examiner along with the same ~~primary and secondary~~ identification presented to the examiner, and paying the required fees, the applicant will be issued ~~an Oklahoma~~ a temporary driver license. The actual license will be mailed to the customer. The State must subject each person applying for a REAL ID compliant and non-compliant driver license or identification card to a mandatory facial image, finger image capture, and shall maintain photographs and finger image of individuals even if no card is issued. A person who has been declared to be a disabled veteran receiving compensation at the 100% rate for a permanent disability shall receive an original, renewal, or replacement driver license or identification card at no charge, upon presentation of one of the following documents:

(1) proof of 100% status from the U.S. Department of Veterans Affairs, or

(2) a tax exempt card from the Oklahoma Tax Commission showing exemption from state tax based upon 100% status.

(b) **Required documents for a REAL ID Compliant Driver License.**

(1) **Proof of Identity.** To establish identity, the applicant must present at least one of the following source documents:

(A) Valid, unexpired U.S. passport.

(B) Original or certified copy of a birth certificate filed with a State Office of Vital Statistics or equivalent agency in the individual's State of birth.

(C) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State, Form FS-240, DS-1350 or FS-545.

(D) Valid, unexpired Permanent Resident Card (Form I-551) issued by the United States Department of Homeland Security (DHS) or United States Citizenship and Immigration Services (USCIS)

(E) Unexpired employment authorization document (EAD) issued by DHS, Form I-766 or Form I-688B.

(F) Unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States.

(G) Certificate of Naturalization issued by DHS, Form N-550 or Form N-570.

(H) Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS.

(I) REAL ID driver's license or identification card issued in compliance with the standards established by this part.

(J) Such other documents as DHS may designate by notice published in the Federal Register.

(2) **Name Change.** If a customer wishes to establish a name other than the name that appears on a source document (for example, through marriage, adoption, court order, or other mechanism permitted by State law or regulation), the customer must provide evidence of the name change through the presentation of documents issued by a court, governmental body or other entity as determined by the Department. The Department shall maintain copies of the documentation presented and maintain a record of both the recorded name and the name on the source documents as determined by the Department. If immigration documents are presented, the customer must provide proof of the updated name change with USCIS or SAVE.

(3) **Proof of Date of Birth.** To establish date of birth, an individual must present at least one document included in paragraph (1) of this section.

(4) **Proof of Social Security Number (SSN).** An applicant for a REAL ID driver license must present his or her Social Security Administration account number card; or, if a Social Security Administration account card is not available, the person may present any of the following documents bearing the applicant's SSN:

(A) A W-2 form,

(B) A SSA-1099 form,

(C) A non-SSA-1099 form, or

(D) A pay stub with the applicant's name and SSN on it. The State DMV must verify the SSN with the Social Security Administration (SSA). In the event of a non-match with SSA, the Department shall not issue a REAL ID driver license until the information verifies with SSA.

(5) **Documents demonstrating address of principal residence.** To document the address of principal residence, a person must present at least two documents of the State's choice that include the individual's name and principal residence. Acceptable documents to prove address of principal residence are:

(A) Copy of previous year's federal or Oklahoma income tax return filing

(B) Current and valid life insurance, or automobile liability policy or card with address.

(C) Installment loan contract from a bank or other financial institution. (Payday loan companies are not acceptable).

(D) Current Deed, mortgage, monthly mortgage statement or a residential lease.

(E) Current homeowners' or renters' insurance policy or statement.

(F) Professional license issued by an Oklahoma governmental agency

(G) Property tax bill or receipt dated within the last 12 months

(H) Sales tax or business license

(I) Social Security Administration document with Oklahoma street address dated within the last 12 months

(J) Transportation Security Administration (TSA) letter or TWIC card

(K) Utility bill (from an electric, telephone (home or cell), water, sewer, cable, satellite, heating oil, or propane provider).

(L) Valid concealed weapons permit.

(M) Certified copy of court order

(N) Oklahoma Boat Title or Registration

(O) Current documents issued by the US Military

(P) Oklahoma Motor Vehicle Title or Registration

(Q) Pilot's license

(R) Public assistance benefit card and correspondence dated within the last 12 months.

(S) W-2 wage or 1099 tax form from the previous year

(T) Oklahoma Voter registration card

(U) Tribal Vehicle Titles or Registration

(V) Oklahoma High School, College, University transcript or Technology Center transcript for current school year or semester

(W) Oklahoma Agriculture exemption permit card (farm tax permit)

(X) Correspondence from an Oklahoma State Agency with current address dated within the last year. (cannot be forwarded mail)

(6) **Evidence of lawful status in the United States.** The Department may issue a REAL ID driver license only to a person who has presented satisfactory evidence of lawful status.

(A) If the applicant presents one of the documents listed under paragraph (b)(1)(A) through (b)(1)(H) the verification of the applicant's identity will also provide satisfactory evidence of lawful status.

(B) If the applicant presents one of the identity documents listed under paragraphs (b)(1)(I) through (b)(1)(J) of this section, the issuing State's verification of the identity document(s) does not provide satisfactory evidence of lawful status. The applicant must also present a second document from documentation issued by DHS or other Federal agencies demonstrating lawful status as determined by USCIS. All documents shall be verified by the Systematic Alien Verification for Entitlements (SAVE).

(~~b~~c) **Required identification for REAL ID Non-Compliant Driver License.** Every applicant must furnish both primary documentary proof of identity [47 O.S. § 6-106(A)(3)], to include whether the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S. § 1550.42(B)], and secondary documentary proof of identity [47 O.S. § 6-106(A)(3)] and proof of full legal name and birth date beyond any reasonable doubt when applying for an initial Oklahoma driver license [47 O.S. § 6-101(L)]. Any document furnished must be either an original document or a certified copy of an original document issued by the proper authority; notarized documents will not be accepted. Any document presented shall be unexpired unless otherwise noted in this Section. Any document whose authenticity cannot be verified, or that has been or appears to have been duplicated, traced over, mutilated, defaced, tampered with, or altered in any manner or that cannot be read by the Driver License Examiner shall not be accepted or used for identification purposes. All identification documents must be approved by the Examiner before acceptance. The Examiner may, at his or her discretion, request additional identification documentation of the applicant.

(1) **Primary proof of identification for original issuance to a United States citizen.** The following shall be presented by the applicant as primary proof of identification for a citizen of the United States:

(A) A certified birth certificate, as issued by the appropriate state agency from the state of birth. A certified birth certificate issued by a city or county may be accepted if it is issued on secure document paper and if the certificate either is from a state which the Department has verified authorizes the issuance of birth certificates certified by a city or county or contains a statement indicating the record is a copy of the facts on file with the state agency responsible for maintaining and certifying vital records. The birth certificate shall include the person's name, date of birth, and sex, shall be signed and sealed, and shall include the certificate number. The following documents are not acceptable:

(i) a hospital birth certificate or record,

(ii) a birth registration, or

(iii) an abstract of birth, unless the abstract is issued on secure document paper and contains the following statement " I hereby certify that this abstract of birth facts has been provided to this office by the Department of Health, Bureau of Vital Statistics, from a document officially in its custody"

(B) A United States passport,

(C) For a United States citizen who is born in another country, a certification issued by the United States Department of State,

(D) For a naturalized citizen of the United States, a Certificate of Naturalization issued by the United States Citizenship and Immigration Service. The name on the document must be the same as the name used by the applicant on the driver license or identification card, and for every person born in another country and adopted as a minor child by a United States citizen parent, a Certificate of Citizenship issued by the United States Citizenship and Immigration Service,

(E) An Oklahoma driver license issued by the Department of Public Safety when legal presence has been noted in record on or after November 1, 2007,

(F) A State of Oklahoma identification card issued by the Department of Public Safety when legal presence has been noted in record on or after November 1, 2007, or

(G) If none of the forms of identification listed in this paragraph are available, any other documentation as approved by the Driver License Examiner Supervisor, Administrative Officer or Director. The Driver

License Examiner shall list the approved documentation on the DL-10 form.

(2) **Primary proof of identification for renewal or replacement issuance to a United States citizen.** The following shall be presented by the applicant as primary proof of identification for a citizen of the United States:

(A) Finger image comparison, if a Department-generated finger image algorithm is already on file with the Department, or

(B) Any primary proof of identification listed in (1) of this subsection.

(3) **Primary proof of identification for original, renewal, or replacement issuance to a foreign national or legal permanent resident alien.** As primary proof of identification and proof of lawful presence in the United States for a foreign national or legal permanent resident alien, an applicant shall present, in person, valid documentary evidence of one of the following:

(A) A passport issued by a country other than the United States and I-94 card, when applicable. The name on the passport shall be the same as the name used by the applicant on the driver license or identification card. An I-94 card, which shall be accompanied by the applicant's passport when applicable, shall not be considered a separate identification document. The following documents or passport classifications shall be accepted for the purpose of issuing a driver license or identification card:

(i) I-766 Employment Authorization Card,
(ii) I-551 Resident Alien/Permanent Resident Card [see (B)],
(iii) Temporary I-551,
(iv) A-1,
(v) A-2,
(vi) A-3,
(vii) DA,
(viii) E-1,
(ix) E-2,
(x) F-1, with Form I-20,
(xi) F-2, with Form I-20,
(xii) G-1,
(xiii) G-2,
(xiv) G-3,
(xv) G-4,
(xvi) G-5,
(xvii) H-1A,
(xviii) H-2A,
(xix) H-1B,
(xx) H-2B,
(xxi) H-3,
(xxii) H-4,
(xxiii) I,
(xxiv) J-1, with IAP-66 or DS-2019,
(xxv) J-2 (dependent of J-1 holder, must be accompanied by J-1 holder),
(xxvi) K-3,
(xxvii) K-4,
(xxviii) L-1(a/b),
(xxix) L-2,
(xxx) M-1, with I-20,
(xxxi) M-2 (dependent of M-1 holder, must be accompanied by M-1 holder),
(xxxii) NATO-1,
(xxxiii) NATO-2,
(xxxiv) NATO-3,
(xxxv) NATO-4,
(xxxvi) NATO-5,
(xxxvii) NATO-6,
(xxxviii) NATO-7,
(xxxix) O-1
(xl) O-2
(xli) O-3
(xlii) P-1
(xliii) P-2
(xliv) P-3
(xlv) P-4
(xlvi) Q-1
(xlvii) R-1
(xlviii) R-2
(xlix) T-1
(l) T-2
(li) T-3
(lii) T-4
(liii) TC, with I-94 or letter form I-797,
(liv) TN-1,
(lv) TN-2,
(lvi) TD,
(lvii) V-1,
(lviii) V-2,
(lix) V-3; or

(B) A permanent resident alien registration card issued by the United States Citizenship and Immigration Service (USCIS) which shall include the full, legal name, sex, and date of birth of the person identified on the card. The full, legal name, sex, and date of birth on the card shall be the full, legal name, sex, and date of birth used by the applicant on the driver license or identification card. A permanent resident alien registration card holder shall be allowed to renew his or her driver license or identification card at a motor license agency, provided, no changes are made to the full, legal name, sex, or date of birth. If, pursuant to 8 C.F.R., Section 264.5, a permanent resident alien registration card holder requests a name, sex, or date of birth change to his or her driver license or identification card, the changes shall be made at a driver license exam site with the applicant showing approved documentation provided by USCIS verifying the changes; or

(C) If none of the forms of identification listed in this paragraph are available, any other documentation as approved by the Driver License Examiner Supervisor, Administrative Officer or Director. The Driver License Examiner shall list the approved documentation on the DL-10 form.

(D) A pending application for any of the above documents shall not satisfy the requirements of this rule and shall not be acceptable for issuance of an original, renewal, or replacement identification card or driver license. Provided, this provision shall not apply to the following:

(i) A pending or approved application for asylum in the United States; or

(ii) A pending or approved application for temporary protected status (TPS) in the United States; or

(iii) A pending application for adjustment of status to legal permanent residence status or conditional resident status.

(4) **Secondary proof of identification.** The following shall be presented by the applicant as secondary proof of identification and shall contain the name of the applicant:

(A) Any primary proof of identification listed in (1), (2), or (3), as applicable, of this subsection which is not used as the primary identification document of the applicant,

(B) For any person under the age of 18, an affidavit provided by the Department and signed by the parent or legal guardian,

(C) Photo identification card that is issued by an Oklahoma:

(i) public, private, or parochial secondary school,

(ii) institution of higher education,

(iii) technology center school, or

(iv) employer,

(D) Oklahoma gun permit,

(E) Pilot license,

(F) Oklahoma lifetime hunting or fishing license,

(G) Oklahoma voter identification card,

(H) Social Security card,

(I) Health insurance card,

(J) Motor vehicle registration or title,

(K) Marriage certificate,

(L) Separation or divorce judgment,

(M) High school, technology center school, college, or university diploma

(N) Professional degree, certificate, or license,

(O) Deed or title to property in Oklahoma, including a burial plot deed,

(P) Health, life, or home insurance policy issued to the applicant,

(Q) Automobile insurance policy or security verification form issued to the applicant,

(R) A valid U.S.D.O.T. health card, as required by 49 C.F.R. Part 391,

(S) Digital photograph comparison, if a Department-generated digital photograph is already on file with the Department,

(T) Identification documents issued by the United States Armed Services:

(i) Military discharge (DD-214), unless specified not to be used for identification,

(ii) Military identification card, or

(iii) Military dependent identification card,

(U) United States Bureau of Indian Affairs identification card or a Oklahoma tribal photo identification card, approved by the Department of Public Safety (the Department shall maintain on its website a list of tribes which comply with this provision), which identifies the person and includes the following information:

(i) color photograph of the person,

(ii) full legal name of the person,

(iii) birth date of the person,

(iv) signature of the person,

(v) signature of person who verifies records, and

(vi) tribal seal,

(V) Expired Oklahoma Driver License,

(W) Expired Oklahoma Identification Card,

(X) Oklahoma Tax Commission Agricultural Exemption Permit (tax exempt card),

(Y) Department of Corrections cards including:

(i) Department of Consolidated Record Card

(ii) Department of Corrections Inmate Identification Card,

(Z) Transportation Worker Identification Credential (TWIC card)

(AA) Out-of-State driver license, or

(BB) If none of the forms of identification listed in this paragraph are available, any other documentation as approved by the Driver License Examiner Supervisor, Administrative Officer or Director. The Driver License Examiner shall list the approved documentation on the DL-10 form.

(5) **Additional identification requirements.** The Department may require additional identification documents:

(A) when the Department is unable to determine the reliability or validity of the identification document(s) presented, or

(B) as provided in OAC 595:10-1-35.

(C) All persons acting as an interpreter must be eighteen (18) years of age or older and must supply proof of legal presence in the United States and a driver license or identification card issued by any state and must sign an affidavit provided by and filled out by Department personnel.

(~~c~~d) **Driver license numbers.**

(1) Driver license numbers shall be assigned by computer. Use of the applicant's Social Security number as the driver license number is prohibited [47 O.S. § 6-106(B)]; provided, every applicant shall provide the Department with the Social Security number of the applicant [47 O.S. § 6-106(B),12], which shall be verified before a driver license shall be issued to the applicant. Verification shall be accomplished using the Social Security On-line Verification (SSOLV) system. The Department shall refer any applicant to the Social Security Administration whenever the Social Security number cannot be verified for the applicant.

(2) Any licensee may request to change his or her driver license number to any nine-digit number which is not in use or has not been previously used by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement driver license from a motor license agent, and the licensee shall pay the required fee for the replacement license [OAC 595:10-1-18]

595:10-1-5. Graduated driver license; persons under eighteen (18) years of age

(a) **Purpose.** The purpose of this Section is to establish the procedures for a person under the age of eighteen (18) years to apply for and be issued a Class D driver license and whose parent has not filed an objection with the Department prohibiting the licensing of the person [47 O.S. § 6-103.1].

(b) **Exclusions.** This Section does not apply to motorcycles and other motor-driven cycles.

(c) **Learner Permit.** A person at least 15 1/2 but less than 16, who is currently receiving instruction in or has successfully completed a driver education course, or a person at least 16, with or without driver education, may make application to the Department for a Learner Permit. The Department will issue a Learner Permit under this subsection if the Department approves the application and if the person successfully passes all required examinations and is otherwise eligible for the driver license [47 O.S. §§ 6-103, 6-105].

(1) **Application requirements.** The ~~applicant~~ customer shall meet the following requirements before the Department grants driving privileges to operate a Class D motor vehicle and issues a learner permit to the person.

(A) The ~~applicant~~customer shall provide proof of identity and other required documentation [see (B)], submit all application information, sign the application, and successfully pass the vision and written tests. The ~~applicant~~customer shall have his or her driver license application signed by a legal custodial parent or legal guardian of the ~~applicant~~ customer either in person before a person authorized to administer oaths, if electronically ~~if~~ completing an online application or submit a notarized affidavit approved by the Department of Public Safety that is signed by a custodial legal parent or legal guardian [47 O.S. § 6-107(A)].

(B) Documentation shall be submitted proving:

(i) compliance with the school attendance requirements prescribed in 47 O.S. § 6-107.3,

(ii) successful passage of the eighth grade reading test as prescribed in 47 O.S. § 6-107.3(A)(2) and 70 O.S. § 1210.515, and

(iii) for ~~an applicant~~ a customer at least 15 1/2 years of age but less than 16 years of age, documentation of attendance or successful completion of a driver education course as defined in 47 O.S. § 6-105(C)(1) shall be submitted. If the ~~applicant~~customer is 16 years of age or older and has successfully completed a driver education course, documentation may be submitted. Documentation of attendance shall be the certificate of enrollment issued to the person from the driver education instructor, a signed contract or an attendance card issued for the person by the commercial driver education school, or an ~~affidavit~~ approved application for parent-taught driver education from the Department of Public Safety and a receipt of purchase from a parent- taught driver education provider. Documentation of completion shall be the completion certificate issued to the person from the driver education instructor, a completion certificate issued to the person by the commercial driver education school, or a completion certificate from a parent-taught driver education provider. Any ~~applicant~~customer who has completed driver education at a public high school in a state other than Oklahoma shall be required to obtain a completion certificate issued by the Oklahoma high school in which he or she is currently enrolled. Proof of driver education from an out-of-state commercial driver education program may be accepted. ~~acceptable, if the commercial school is approved through their state of record and verified by the Department of Public Safety.~~

(2) **Driving restrictions.** The permittee is authorized to operate a Class D motor vehicle between the hours of 5:00 a.m. and 10:00 p.m. and only *while accompanied by a licensed driver who is at least twenty-one (21) years of age and who is actually occupying a seat beside the permittee* [47 O.S. § 6-105(C)(2)]; provided, the license of the accompanying driver shall be current and valid.

(3) **Other information.** During the period the permittee is issued and possesses a Learner permit, the custodial legal parent or legal guardian shall ensure that the permittee *has received a minimum of fifty (50) hours of actual behind-the-wheel training, of which at least (10) hours of such training was at night, from a licensed driver who was at least twenty-one (21) years of age and who was properly licensed to operate a Class D motor vehicle for a minimum of two (2) years* [47 O.S. §6-105(D)(1)(c)]; provided, the license of the driver providing behind-the-wheel training shall be current and valid.

(d) **Intermediate License.** When a permittee *has applied for, been issued, and has possessed a Learner Permit for a minimum of six (6) months* [47 O.S. § 6-105(D)(1)(a)], the permittee may apply to the Department for an Intermediate License.

(1) **Application requirements.** The permittee shall meet the following requirements before the Department grants driving privileges to operate a Class D motor vehicle and issues an Intermediate License to the permittee.

(A) The permittee shall provide proof of identity and successfully pass the driving skills tests,

(B) The person must not have been, within the previous 6 months, convicted of, pled guilty to, or pled no contest to any moving vehicle violation [47 O.S. § 6-105(D)(1)(b)],

(C) the permittee's parent or legal guardian shall certify to the Department by sworn affidavit that the permittee has received a minimum of fifty (50) hours of actual behind-the-wheel training, of which at least (10) hours of such training was at night, from a licensed driver who was at least twenty-one (21) years of age and who was properly licensed to operate a Class D motor vehicle for a minimum of two (2) years [47 O.S. §6-105(D)(1)(c)]; provided, the license of the driver providing behind-the-wheel training shall be current and valid, and

(D) for a person who was issued a learner permit and who was less than 16 years of age at the time of issuance pursuant to (c)(1)(B)(iii), documentation of successful completion of a driver education course as defined in 47 O.S. § 6-105(C)(1) shall be submitted. Documentation of completion shall be the completion certificate issued to the person from the driver education instructor or a completion certificate issued to the person by the commercial driver education school. If such documentation is not presented, the person shall not be eligible for issuance of an intermediate license until the person is at least 16 1/2 years of age.

(2) **Driving restrictions.** The intermediate licensee shall be:

(A) restricted to driving:

(i) *only between the hours of 5:00 a.m. and 10:00 p.m., except for driving to and from work, school, school activities, and church activities, or*

(ii) *at any time, if a licensed driver who is at least twenty-one (21) years of age is actually occupying a seat beside the intermediate Class D licensee*; provided the license of the accompanying driver shall be current and valid, *and*

(B) *shall not operate a motor vehicle with more than one passenger unless*~~:~~

~~(i)~~ *all passengers live in the same household as the custodial legal parent or legal guardian, or a licensed driver at least twenty-one (21) years of age is actually occupying a seat beside the intermediate Class D licensee*; provided the license of the accompanying driver shall be current and valid. [47 O.S. § 6-105(D)(2)].

(e) **Class D driver license.** An intermediate licensee may apply to the Department for a Class D driver license if the licensee has applied for, been issued and possessed an Intermediate License for a minimum of:

(1) *one (1) year, or*

(2) *six (6) months, if the person has completed both the driver education and the parent-certified behind-the-wheel training provisions of subparagraph c of paragraph 1 of subsection D of this section* [47 O.S. § 61-05(E)(1)].

(A) **Application requirements.** The licensee shall meet the following requirements before the Department grants driving privileges to operate a Class D motor vehicle and issues a Class D driver license to the licensee.

(i) The licensee shall provide proof of identity and successfully pass the driving skills tests;

(ii) The licensee must not have been convicted of, pled guilty to, or pled no contest to any moving vehicle violation [47 O.S. § 6-105(D)(1)(b)]; and

(iii) for a person who has completed both driver education and the parent-certified behind-the-wheel training, documentation shall be submitted. Documentation of completion of a driver education course as defined in 47 O.S. § 6-105(C)(1) shall be the completion certificate issued to the person from the driver education instructor or a completion certificate issued to the person by the commercial driver education school. Documentation of completion of parent-certified behind-the- wheel training shall be by affidavit signed by the parent and approved by the Department of Public Safety.

(B) **Driving restrictions.** The Department may restrict the driving privileges of any person as provided by law [47 O.S. § 6-113].

(f) **Persons licensed by another jurisdiction.** A person who, at the time of application, is licensed by another jurisdiction, or whose license is not expired not more than 6 months past the expiration date listed on the license, may apply for driving privileges under this Section. As used in this subsection, " another jurisdiction" means one of the fifty (50) states, the District of Columbia, or a Canadian province.

(1) **Learner Permit.** If the person is operating under a learner permit, or equivalent, issued by another jurisdiction, the person may apply for:

(A) A Learner Permit, as provided in subsection (c); provided, a person who is less than fifteen and one half (15 1/2) years of age shall not be issued a Learner Permit; or

(B) An Intermediate License, as provided in subsection (d), if driving privileges granted by another jurisdiction have been in effect for a minimum of six (6) months; provided, a person who is less than sixteen (16) years of age shall not be issued an Intermediate License.

(2) **Intermediate License.** If the person is operating under an intermediate license, or equivalent, issued by another jurisdiction, the person may apply for:

(A) A Learner Permit, as provided in subsection (c); provided, a person who is less than fifteen and one half (15 1/2) years of age shall not be issued a Learner Permit;

(B) An Intermediate License, as provided in subsection (d); provided, a person who is less than sixteen (16) years of age shall not be issued an Intermediate License; or

(C) A Class D Driver License, as provided in subsection (e), if driving privileges granted by another jurisdiction have been in effect for a minimum of twelve (12) months; provided, a person who is less than sixteen and one half (16 1/2) years of age shall not be issued a Class D Driver License; or

(3) **Class D Driver License.** If the person is operating under a Class D Driver License, or equivalent, issued by another jurisdiction, the person may apply for:

(A) A Learner Permit, as provided in subsection (c); provided, a person who is less than fifteen and one half (15 1/2) years of age shall not be issued a Learner Permit;

(B) An Intermediate License, as provided in subsection (d); provided, a person who is less than sixteen (16) years of age shall not be issued an Intermediate License; or

(C) A Class D Driver License, as provided in subsection (e), if driving privileges granted by another jurisdiction have been in effect for a minimum of twelve (12) months; provided, a person who is less than sixteen and one half (16 1/2) years of age shall not be issued a Class D Driver License.

(4) **Considerations.**

(A) Credit shall be given for the time driving privileges have been granted and in effect, as evidenced by another jurisdiction. Evidence of driving privileges shall be confirmed by the issuance date on the permit or license from another jurisdiction, by the issuance date provided by the other jurisdiction, or both; provided, the earliest date shall be the date used to calculate credit.

(B) Examinations may be waived as provided in OAC 595:10-3-9(h).

PART 3. DRIVER LICENSE RENEWAL

595:10-1-10. Procedure for obtaining a renewal driver license.

(a) **General requirements.** During the month of expiration or as provided in (d) of this Section, each licensee shall present proper identification and pay the required fee to a Motor License Agent or to the Driver License Services Division of the Department of Public Safety for renewal of the driver license of the licensee. Failure to renew a driver license by the end of the month of expiration shall not relieve the person of the obligation to renew his or her driver license under the provisions required by law and this Section if the person wishes to keep his or her driver license in force.

(b) **Required identification.**

(1) **Renewal with valid and unexpired Real ID Non-Compliant driver license.** The valid and unexpired Class D license provided as the primary identification, as prescribed in OAC 595:10-1-3(c)(3), may be retained by the licensee, after the motor license agent has first punched a hole through the identification number of the license or cut off the bottom right corner of the card. The person shall also provide secondary identification as prescribed in OAC 595:10-1-3(~~b~~c)(4).

(2) **Renewal with an Real ID Non-Compliant expired driver license.** The expired Class D driver license provided as the primary identification may be retained by the licensee, after the motor license agent has first punched a hole through the identification number of the license or cut off the bottom right corner of the card. The person shall provide primary identification as prescribed in OAC 595:10-1-3~~(b)(2)~~(c)(3), as appropriate. Any ~~applicant~~customer with a license expired more than one (1) year past the expiration date and the original issue date was before 11/01/2007 must show proof of legal presence in this country. If the motor license agent's operator is not Birth Certificate certified or REAL ID certified the ~~applicant~~ customer must go to an agent who is certified or they must see a Driver License Examiner.

(3) **Renewal without driver license.** Any person who does not have the valid and unexpired driver license shall provide ~~both primary and secondary~~ identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant or 595:10-1-3(c) for a Real ID Non-Compliant.

(4) **Renewal of a Real ID Compliant Driver License.** The customer must surrender the Real ID Compliant driver license if available [Title 47 §6-101(T)] and provide identification as required in OAC 595:10-1-3(b).

(c) **Vision examination.** Persons holding a commercial driver license shall, upon renewal, meet the vision standards established in OAC 595:10-5-7 and 49 C.F.R. § 391.41.

(d) **Limitations to issuance of a renewal driver license.**

(1) A renewal driver license will be issued only to an individual whose driving privilege is not under suspension, revocation, disqualification, cancellation or denial and who complies with this Section.

(2) Any ~~applicant~~customer who requests a renewal of his or her driver license when the license has been expired in excess of three (3) years is required to appear before a Driver License Examiner, pursuant to OAC 595:10-1-2.

(e) **Early renewal of a driver license.** Any licensee may renew his or her driver license no more than one (1) year prior to the expiration date. A renewal which occurs more than one (1) year prior to the expiration date shall be treated as a replacement under the provisions of OAC 595:10-1-18.

(f) **Change of driver license number.**

(1) Use of the licensee's Social Security number as the driver license number is prohibited. At the time of renewal, any licensee whose driver license number is his or her Social Security number shall inform the Department or the motor license agent of that fact. If the numbers are the same, a new driver license number will be assigned for the licensee by computer [47 O.S. § 6-106(B)].

(2) Any licensee may request to change his or her driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement driver license from a motor license agent, and the licensee shall pay the required fee for the replacement license [see OAC 595:10-1-18 regarding replacement driver licenses].

(g) **Persons who may appear before a motor license agent.** An individual, who has previously held an Oklahoma Class D driver license that has been surrendered to another state in exchange for the other state's license, may apply directly to a motor license agent for reactivation of the previous Oklahoma Class D license, upon establishing Oklahoma residence and

following the applicable procedure for renewal. The agent shall call the Driver License Services Division and request clearance to issue the license. Any ~~applicant~~customer with a license expired more than one (1) year past the expiration date and the original issue date was before 11/01/2007 must show proof of legal presence in this country. If the motor license agent's operator is not Birth Certificate certified or Real ID Certified the ~~applicant~~customer must go to an agent who is certified or they must see a Driver License Examiner. If the clearance is given by the Department, the person shall surrender the out of state license to the agent, and the agent shall issue the Oklahoma license. In no case shall the out of state driver license be retained by the person when an Oklahoma license has been issued to the person. The agent shall retain the license and submit it to the Department with the agent's report. If clearance is not given, the person shall be informed to contact the state whose action is causing the clearance to be withheld.

(h) **Persons unable to appear due to medical situation.** An individual, who is an Oklahoma resident and who is located within the state, may declare in writing to the Department that, because of a medical reason or condition, he or she is unable to appear in person to renew his or her driver license, in which case the Department shall issue by mail an identification card to the person and shall not issue a driver license. The driver license shall be surrendered by the individual to the Department prior to issuance of the identification card. The individual shall provide ~~both primary and secondary~~ identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant or 595:10-1-3(c) for a Real ID Non-Compliant credential. A non-compliant driver license cannot be surrendered for a REAL ID compliant identification card. A REAL ID compliant card shall not be issued if there is any material change in any personally identifiable information since prior issuance and the Department of Public Safety shall take an updated photograph of the customer, no less frequently than every sixteen years.

(i) **Renewing driver license - not in person.** The Department may create an alternative method where any Oklahoma Class D driver license holder may apply to the Department of Public Safety to renew his or her Class D driver license without appearing in person as provided in this Section.

(1) The Class D driver license holder shall make application online or in writing to the Department and shall submit to the Department:

(A) copies of documentary evidence of the ~~applicant's~~customer's name and date of birth as required by OAC 595:10-1-10 (documents sent for verification will not be returned; therefore, original documents should not be sent). If a material change is requested for a Real ID Non-Compliant license, the original or certified copies of the required documents must be submitted. A material change means any change to the personally identifiable information of an individual, such as their name or driver license number. If the customer wants these documents returned they are to enclose a self-addressed, stamped envelope. A material change does not include a change of address;

(B) A Real ID Compliant license requiring a material change must be done in person; ~~And~~

(~~B~~C) the ~~applicant's~~ customer's Class D driver license number; ~~, and~~

(~~C~~D) both the Oklahoma residence address and Oklahoma mailing address. If the address is different than the address on record at the Department, the customer must submit a change address request to the Department online at https://www.dps.state.ok.us/addresschange/card; ~~application for replacement with the specification as to which address is to be displayed on the license (display of both the residence address and mailing address, or any combination thereof, is prohibited; provided, this subsection shall not be construed to prohibit display of a residence address if it is also the mailing address); provided, if the address is different than the address on record at the Department, the application for renewal without appearing in person shall be denied by the Department, and~~

(~~D~~E) the number of a nationally-recognized credit card and authorization for the required fee for the renewal Class D driver license to be paid by the ~~applicant~~ customer to the Department using the credit card; and

(~~E~~F) the ~~applicant's~~customer's signature.

(2) Submission of the items required in (1) shall be made in one of the following manners:

(A) online application: ~~www.dps.state.ok.us/dlrenewal/~~https://ok.gov/dps/dlrenewal/, or

(B) by first class mail: Department of Public Safety, PO Box 11415, Oklahoma City, OK 73136

(3) Method of payment:

(A) online: if you are submitting your application online you may only pay by credit card.

(B) by mail: if the ~~applicant~~customer is submitting their application by mail they must include a cashier's check or money order along with the required documents. No personal checks or other forms of payment will be accepted.

(4) If the Department approves the renewal Class D driver license without appearing in person, pursuant to the requirements of this chapter, and: if the digital photograph and digital signature of the ~~applicant~~customer are available from the files of the Department, the Department shall create the renewal Class D driver license using that photo and signature.

(5) The Department may mail the renewal Class D driver license only to ~~an applicant~~a customer who is temporarily residing out of state to the out of state address provided by the licensee. The licensee shall provide a pre-paid self -addressed stamped envelope.

(6) If the Department denies the renewal Class D driver license to the ~~applicant~~customer pursuant to this Section, the Department shall notify the ~~applicant~~ customer in writing of the denial, the reason for the denial, return any payment submitted by the customer ~~applicant~~, and the

~~applicant~~ customer shall be required to appear in person for the renewal of the Class D driver license.

(7) A renewal Class D driver license without appearing in person shall be approved for no more than three (3) consecutive renewals or replacements of such license. A fourth consecutive renewal or replacement must be done in person. ~~only when the immediately previous renewal was in person. Provided, any person or the spouse or dependent of a person:~~

~~(A) who is on active duty with the Armed Forces of the United States; or~~

~~(B) who is currently employed as a civilian contractor with the Armed Forces of the United States, outside of Oklahoma and having a valid Class D driver license issued by the State of Oklahoma, requiring no material change, may apply for no more than three (3) consecutive renewals or replacements of such license by mail or online. A fourth consecutive renewal or replacement must be done in person.~~

595:10-1-12. Oklahoma licensee temporarily residing out of the state

(a) Any Oklahoma licensee who is temporarily residing out of the state may request the Department of Public Safety to renew his or her license by mail. The Oklahoma licensee shall mail;

(1) copies of documentary evidence of his or her name and date of birth as required by OAC 595:10-1-10 (documents sent for verification will not be returned, therefore, original documents should not be sent) If a material change is requested, the original or certified copies of the required documents must be submitted. A material change means any change to the personally identifiable information of an individual, such as; their name or driver license number. A material change does not include a change of address. A Real ID compliant license cannot be processed by mail if there is a material change.

(2) his or her driver license number,

(3) both Oklahoma residence address and Oklahoma mailing address.~~with~~ With the specification as to which address is to be displayed on the license, if the address is different than the address on record at the Department, the customer must submit a change address request to the Department online at https://www.dps.state.ok.us/addresschange/card.

(4) the required fee for a driver license renewal, along with his or her out-of-state address to Department of Public Safety, Driver License Examining Division, P. O. Box 11415, Oklahoma City, Oklahoma 73136-0415.

(b) If the Department approves the renewal by mail, in accordance with Title 47 §6-122, the Department shall create the renewal license using the most recent digital photograph and digital signature of the licensee available from the files of the Department. The Department shall not issue a renewal license by mail unless the immediately preceding issuance was done in person by the applicant provided the person, spouse or dependent is on active duty with the Armed Forces of the United States; or is currently employed as a civilian contractor with the Armed Forces of the United States. These persons may renew or replace A renewal or replacement may be requested up to three consecutive times .

(c) The Department shall mail the renewal temporary license to the out-of-state address provided by the licensee. The permanent license will also be mailed to the out-of-state address provided by the licensee.

(d) If the Department denies the renewal by mail, the Department shall notify the licensee in writing of the denial and the reason for the denial.

PART 5. DRIVER LICENSE REPLACEMENT

595:10-1-18. Procedure for obtaining a replacement driver license

(a) **General requirements.** Any person requiring a replacement Class D driver license because the license was lost, stolen, or mutilated or because information on the license needs to be changed may request a motor license agent to issue a replacement, upon presentation of proper identification and payment of the required fee. A CDL license holder must see a Driver License Examiner.

(b) **Required identification to replace lost, stolen, or mutilated license.** Any person shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant license or OAC 595:10-1-3(c) for a Real ID Non Compliant license.

(c) **Required identification to change information and replace a license.**

(1) **Name change.** Any person who requests a replacement driver license in order to make a name change shall comply with the primary and secondary identification requirements prescribed in OAC 595:10-1-3(b) for a Real ID Compliant license or OAC 595:10-1-3(c) for a Real ID Non Compliant license in order to identify the person by his or her former name and with OAC 595:10-1-35 in order to identify the person by his or her new name. The former name shall be entered into the " Alias" field in the driver license database to provide historical information to the Department. The person requesting the name change for a Real ID Non-compliant license may retain the old license, if it is available and is a Class D driver license, after the motor license agent has first punched a hole through the identification number of the license or has cut off the lower right corner of the license.

(2) **Address change.** Any person who requests a replacement driver license in order to make an address change shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant license or OAC 595:10-1-3(c) for a Real ID Non Compliant license. The person requesting the address change may retain the old Real ID Non-Compliant license, if it is available, after the motor license agent has first punched a hole through the identification number of the license or has cut off the lower right corner of the license. An address change shall be made only to an Oklahoma address. Proof of residency approved by the

Department of Public Safety must be provided for a Real ID Compliant license.

(3) **Endorsement or restriction change.** Any person who requests a replacement driver license in order to change endorsement or restriction information on the license shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant license or OAC 595:10-1-3(c) for a Real ID Non Compliant license. The person requesting the information change may retain the old Real ID Non-compliant license, if it is available, after the motor license agent has first punched a hole through the identification number of the license or has cut off the lower right corner of the license.

(4) **Sex change.** The licensee shall show an original or certified court order for name change, if applicable, and a notarized statement on letterhead from the physician who performed the sex change operation indicating the ~~applicant~~customer or licensee has undergone a complete physical sex change. The letter shall state the sex change is " irreversible and permanent" . The licensee shall also show proof of former legal name. The former name shall be entered into the " Alias" field in the driver license database to provide historical information to the Department. The person requesting the information change may retain the old Real ID Non-compliant license, if it is available, after the motor license agent has first punched a hole through the identification number of the license or cut off the lower right corner of the license.

(5) **Physical Sex change.** The cardholder shall show an original or certified court order for name change, if applicable, and a notarized statement on letterhead from the physician who performed the sex change operation indicating the customer or licensee has undergone a complete physical sex change. The letter shall state the sex change is "irreversible and permanent". The cardholder shall also show proof of former legal name. The former name shall be entered into the "Alias" field in the identification card database to provide historical information to the Department. The person requesting the information change for a Real ID Non-compliant card may retain the old card, if it is available, after the motor license agent has first punched a hole through the identification number of the card or has cut the lower right corner of the card.

(6) **Psychological Sex Change Due to Gender Dysphoria** - The cardholder shall show an original or certified court order or birth certificate for gender change and also for a name change, if applicable and a notarized statement on letterhead from a mental health professional who has diagnosed this condition. The cardholder shall also show proof of former legal name. The former name shall be entered into the "Alias" field in the identification card database to provide historical information to the Department. The person requesting the information change for a Real ID Non-compliant card may retain the old card, if it is available, after the motor license agent has first punched a hole through the identification number of the card or has cut the lower right corner of the card.

(d) **Limitations to issuance of a replacement driver license.** A replacement driver license will be issued only to an individual whose driving privilege is not under suspension, revocation, disqualification, cancellation, or denial and who complies with this Section. In addition, a person may not apply for, and the Department shall not issue, a renewal or replacement driver license while the parson's license, permit or other evidence of driving privileges is in the custody of a law enforcement officer or the Department. [47 O.S. § 6-303)G)].

(e) **Change of driver license number.**

(1) Use of the licensee's Social Security number as the driver license number is prohibited. At the time of replacement, any licensee whose driver license number is his or her social security number shall inform the Department or the motor license agent of that fact. If the numbers are the same, a new driver license number will be assigned for the licensee by computer [47 O.S. § 6-106(B)].

(2) Any licensee may request to change his or her driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement driver license from a motor license agent, and the licensee shall pay the required fee for the replacement.

(f) **Persons unable to appear due to medical situation.** An individual, who is an Oklahoma resident and who is located within the state, may declare in writing to the Department that, because of a medical reason or condition, he or she is unable to appear in person to replace his or her driver license, in which case the Department shall issue by mail an identification card to the person and shall not issue a driver license. The driver license shall be surrendered, if available, by the individual to the Department prior to issuance of the identification card. The individual shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant license or OAC 595:10-1-3(c) for a Real ID Non Compliant license. A REAL ID non-compliant driver license cannot be surrendered for a REAL ID compliant identification card. A REAL ID compliant card shall not be issued if there is any material change in any personally identifiable information since prior issuance and the Department of Public Safety shall take an updated photograph of the customer, no less frequently than every sixteen years.

(g) **Replacing driver license - not in person.** The Department may create an alternative method where any Oklahoma Class D driver license holder may apply to the Department of Public Safety to replace his or her Class D driver license without appearing in person as provided in this Section.

(1) The Class D driver license holder shall make application online or in writing to the Department and shall submit to the Department:

(A) copies of documentary evidence of the ~~applicant~~customer's name and date of birth, and

(B) the ~~applicant~~customer's Class D driver license number, and

(C) both the Oklahoma residence address and Oklahoma mailing address. ~~with~~ With the specification as to which address is to be displayed on the license (display of both the residence address and mailing

address, or any combination thereof, is prohibited; provided, this subsection shall not be construed to prohibit display of a residence address if it is also the mailing address); provided, if the address is different than the address on record at the Department, the customer must submit a change address request to the Department online at https://www.dps.state.ok.us/addresschange/card. ~~the~~ The application for replacement without appearing in person shall be denied by the Department, and

(D) the number of a nationally-recognized credit card and authorization for the required fee for the replacement Class D driver license to be paid by the ~~applicant~~ customer to the Department using the credit card; and

(E) the ~~applicant's~~customer's signature.

(2) Submission of the items required in (1) shall be made in one of the following manners:

(A) online application: www.ok.gov/dps,

(B) by first class mail: Department of Public Safety, PO Box 11415, Oklahoma City, OK 73136

(3) Method of payment:

(A) online: if you are submitting your application online you may only pay by credit card.

(B) by mail: if the applicant is submitting their application by mail they must include a cashier's check or money order along with the required documents. No personal checks or other forms of payment will be accepted.

(4) If the Department approves the replacement Class D driver license without appearing in person, pursuant to the requirements of this chapter, and: if the digital photograph and digital signature of the ~~applicant~~customer are available from the files of the Department, the Department shall create the replacement Class D driver license using that photo and signature.

(5) The Department may mail the renewal Class D driver license only to an applicant who is temporarily residing out of state to the out of state address provided by the licensee. The licensee shall provide a pre-paid self-addressed stamped envelope

(6) If the Department denies the replacement Class D driver license to the ~~applicant~~ customer pursuant to this Section, the Department shall notify the ~~applicant~~customer in writing of the denial, the reason for the denial, return any payment submitted by the ~~applicant~~customer, and the ~~applicant~~customer shall be required to appear in person for the replacement Class D driver license.

(7) A replacement Class D driver license without appearing in person may apply for no more than three (3) consecutive renewals or replacements of such license by mail or online. A fourth consecutive renewal or replacement must be done in person.

(A) If a material change is requested for a Real ID Non-compliant license, the original or certified copies of the required documents must be submitted. A material change means any change to the personally identifiable information of an individual, such as their name or driver license number. A material change does not include a change of address. If the customer wants these documents returned they are to enclose a self-addressed, stamped envelope.

(B) A Real ID Compliant license requiring a material change must be done in person.

(C) shall be approved only when the immediately previous renewal was in person. Provided, any person or the spouse or dependent of a person:

(~~A~~i) who is on active duty with the Armed Forces of the United States; or

(~~B~~ ii) who is currently employed as a civilian contractor with the Armed Forces of the United States, living outside of Oklahoma and having a valid Class D driver license issued by the State of Oklahoma, requiring no material change, may apply for no more than three (3) consecutive renewals or replacements of such license by mail or online. A fourth consecutive renewal or replacement must be done in person.

595:10-1-19. Oklahoma licensee temporarily residing out of the state

(a) Any Oklahoma licensee who is temporarily residing out of the state may request the Department of Public Safety to replace his or her license by mail. The Oklahoma licensee shall mail:

(1) copies of documentary evidence of his or her name and date of birth as required by OAC 595:10-1-10 (documents sent for verification will not be returned; therefore, original documents should not be sent). If a material change is requested, the original or certified copies of the required documents must be submitted. A material change means any change to the personally identifiable information of an individual, such as their name or driver license number. A Real ID Compliant card may not be issued by mail if there is a material change. A material change does not include a change of address~~.~~,

(2) his or her driver license number,

(3) both Oklahoma residence address and Oklahoma mailing address.~~with the specification as to which address is to be displayed on the license.~~ If the address is different than the address on record at the Department, the customer must submit a change address request to the Department online at https://www.dps.state.ok.us/addresschange/card,

(4) the required fee for a driver license replacement, along with his or her out-of-state address to Department of Public Safety, Driver License Examining Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415.

(b) If the Department approves the replacement by mail, in accordance with Title 47 §6-122, the Department shall create the replacement license using the most recent digital photograph and digital signature of the licensee available from the files of the Department. ~~The Department shall not issue a replacement license by mail unless the immediately preceding issuance was done in person by the applicant provided the~~

~~person, spouse or dependent is on active duty with the Armed Forces of the United States; or is currently employed as a civilian contractor with the Armed Forces of the United States. These persons may renew or replace~~A renewal or replacement may be requested up to three consecutive times.

(c) The Department shall mail the replacement temporary license to the out-of-state address provided by the licensee. The permanent license will also be mailed to the out-of-state address provided by the licensee.

(d) If the Department denies the replacement by mail, the Department shall notify the licensee in writing of the denial and the reason for the denial.

PART 7. IDENTIFICATION CARDS

595:10-1-25. Procedure for obtaining an identification card

(a) A person wishing to obtain an identification card shall appear before a Driver License Examiner or, if the applicant has been issued a computerized format (digital) driver license for at least thirty (30) days, may appear before a motor license agent. When applying for a Real ID Compliant Identification card ~~The~~the applicant shall be required to furnish the same acceptable means of identification and other documents as when applying for a driver license as prescribed in OAC 595:10-1-3(b). A Real ID Compliant Identification card cannot be issued if the applicant has a Real Id Compliant Driver license. When applying for a Real ID Non-compliant identification card the applicant must provide the same acceptable means of identification as required when applying for a Real ID Non-compliant driver license as prescribed in OAC 595:10-1-3(c). Unless~~unless~~ the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of obtaining an Real ID Non-compliant Oklahoma identification card [47 O.S. § 6-106(G)] and complete the application form unless the applicant has been previously issued an original Oklahoma driver license on or after November 1, 2007.

(b) If appearing before a Driver License Examiner, the Examiner will complete and, if appropriate, will approve the identification card application. A DL-10 form will be processed for the applicant. The applicant shall take the DL-10 form, along with the identification presented to the Driver License Examiner at application time, to a motor license agent or the Department and pay the required fee. If applicant is under age eighteen (18) and has not been issued a computerized format (digital) driver license for at least thirty (30) days, may submit a notarized affidavit signed by a custodial legal parent or legal guardian in lieu of custodial legal parent or legal guardian appearing in person and signing application [47 O.S. § 6-105.3(A)].

(c) When appearing before a motor license agent, the agent shall process the application for the applicant, collect the required fee from the applicant, and issue the temporary identification card to the applicant.

(d) An identification card may be issued as prescribed in OAC 595:10-1-10(h) and 10-1-18(g).

(e) Identification card numbers will be assigned by computer. Use of the applicant's Social Security number is prohibited [47 O.S. §§ 6-105(H) and 6-106(B)].

(f) An individual, who is an Oklahoma resident and who is located within the state, may declare in writing to the Department that, because of a medical reason or condition, he or she is unable to appear in person to renew his or her identification card, in which case the Department shall issue by mail an Real ID Non-compliant identification card to the person. The individual shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3~~(b)~~(c) unless the cardholder provides a valid and unexpired Oklahoma driver license which shall serve as both primary and secondary identification for the purposes of renewing the Oklahoma identification card [47 O.S. § 6-106(G)].

595:10-1-26. Procedure for obtaining a renewal identification card

(a) **General requirements.** During the month of expiration or as provided in (c) of this Section, any identification card holder, who wishes to keep his or her identification card in force, may present proper identification to a motor license agency and pay the required fee to a Motor License Agent or to the Driver License Services Division of the Department of Public Safety. Identification cards issued to individuals who have attained the age of 65 or older are issued for an indefinite period of time and are not subject to this Section. Failure to renew an identification card during the month of expiration shall not relieve the person of the obligation to renew the identification card under the provisions required by law and this Section if the person wishes to keep the identification card in force.

(b) **Required identification.**

(1) **Renewal with expiring or expired identification card.** The expiring or expired Real ID Non-compliant identification card provided as the primary identification may be retained by the cardholder, after the motor license agent has first punched a hole through the identification number of the card or has cut off the lower right corner of the car. The person shall provide secondary identification for a Real ID Non- Compliant card as prescribed in OAC 595:10-1-3~~(b)~~(c)~~(2)~~(4).

(2) **Renewal without identification card.** Any person who does not have the expiring or expired identification card shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant card or OAC 595:10-1-3(c) for a Real ID Non-Compliant card.

(c) **Early renewal of an identification card.** Any identification card holder may renew his or her identification card not more than one (1) year prior to the expiration date. A renewal which occurs more than one (1) year prior to the expiration date shall be treated as a replacement under the provisions of OAC 595:10-1-27.

(d) **Change of identification card number.** Use of the cardholder's Social Security number as the identification card number is prohibited.

(e) **Persons who may appear before a motor license agent.** An individual who has previously held an Oklahoma identification card may apply directly to a motor license agent for renewal of the previous Oklahoma identification card, upon establishing Oklahoma residence and following the applicable procedure for renewal.

(f) **Renewing identification card - not in person.** The Department may create an alternative method where any Oklahoma Identification card holder may apply to the Department of Public Safety to renew his or her Identification card without appearing in person as provided in this Section.

(1) The Identification card holder shall make application online or in writing to the Department and shall submit to the Department:

(A) copies of documentary evidence of the ~~applicant's~~customer's name and date of birth, and

(B) the ~~applicant's~~customer's Identification card number, and

(C) both the Oklahoma residence address and Oklahoma mailing address with the specification as to which address is to be displayed on the identification card (display of both the residence address and mailing address, or any combination thereof, is prohibited; provided, this subsection shall not be construed to prohibit display of a residence address if it is also the mailing address); provided, if the address is different than the address on record at the Department, the customer must submit a change address request to the Department online at https://www.dps.state.ok.us/addresschange/card

(D) the application for renewal without appearing in person shall be denied by the Department, and

(~~D~~E) the number of a nationally-recognized credit card and authorization for the required fee for the renewal Identification card to be paid by the applicant to the Department using the credit card; and

(~~E~~F) the ~~applicant's~~customer's signature.

(2) Submission of the items required in (1) shall be made in one of the following manners:

(A) online application: www.ok.gov/dps, or

(B) by first class mail: Department of Public Safety, PO Box 11415, Oklahoma City, OK 73136

(3) Method of payment:

(A) online: if you are submitting your application online you may only pay by credit card.

(B) by mail: if the applicant is submitting their application by mail they must include a cashier's check or money order along with the required documents. No personal checks or other forms of payment will be accepted.

(4) If the Department approves the renewal Identification card without appearing in person, pursuant to the requirements of this chapter, and: if the digital photograph and digital signature of the applicant are available from the files of the Department, the Department shall create the renewal Identification card using that photo and signature. A renewal of a REAL ID compliant identification can only be renewed by mail if there are no material changes requested.

(5) The Department may mail the renewal Class D driver license identification card only to ~~an applicant~~a customer who is temporarily residing out of state to the out of state address provided by the licensee. The licensee shall provide a pre-paid self -addressed stamped envelope.

(6) If the Department denies the renewal identification card to the applicant pursuant to this Section, the Department shall notify the applicant in writing of the denial, the reason for the denial, return any payment submitted by the ~~applicant~~ customer, and the ~~applicant~~ customer shall be required to appear in person for the renewal Identification card.

(7) A renewal Identification card without appearing in person shall be approved only when the immediately previous renewal was in person. A renewal or replacement may be requested up to three consecutive times.

595:10-1-27. Procedure for obtaining a replacement identification card

(a) **General requirements.** Any person requiring a replacement identification card because the card was lost, stolen, or mutilated or because information on the card needs to be changed may request a motor license agent or the Department to issue a replacement, upon presentation of proper identification and payment of the required fee.

(b) **Required identification to replace lost, stolen, or mutilated identification card.** Any person shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant and OAC 595:10-1-3(C) for a Real ID Non-compliant.

(c) **Required identification to change information and replace an identification card.**

(1) **Name change.** Any person who requests a replacement identification card in order to make a name change must comply with the primary and secondary identification requirements prescribed in OAC 595:10-1-3(b) for a Real ID Compliant and OAC 595:10-1-3(C) for a Real ID Non-compliant in order to identify the person by his or her former name and with OAC 595:10-1-35 in order to identify the person by his or her new name. The former name shall be entered into the " Alias" field in the identification card database to provide historical information to the Department. The person requesting the name change for a Real ID Non-compliant card may retain the old card, if it is available, after the motor license agent has first punched a hole through the identification number of the card or has cut the lower right corner of the card.

(2) **Address change.** Any person who requests a replacement identification card in order to make an address change shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant and OAC 595:10-1-3(C) for a Real ID Non-compliant. The person requesting the address change for a Real ID Non-compliant card may retain the old card, if it is available, after the motor license agent has first punched a hole through the identification number of

the card or has cut the lower right corner of the card. An address change shall be made only to an Oklahoma address. The customer must provide Department of Public Safety approved documentation for proof of residency for a Real ID Compliant card.

(3) **Physical Sex change.** The cardholder shall show an original or certified court order for name change, if applicable, and a notarized statement on letterhead from the physician who performed the sex change operation indicating the ~~applicant~~customer or licensee has undergone a complete physical sex change. The letter shall state the sex change is "irreversible and permanent". The cardholder shall also show proof of former legal name. The former name shall be entered into the "Alias" field in the identification card database to provide historical information to the Department. The person requesting the information change for a Real ID Non-compliant card may retain the old card, if it is available, after the motor license agent has first punched a hole through the identification number of the card or has cut the lower right corner of the card.

(4) **Psychological Sex Change Due to Gender Dysphoria.** The cardholder shall show an original or certified court order or birth certificate for gender change and also for a name change, if applicable, and a notarized statement on letterhead from a mental health professional who has diagnosed this condition. The cardholder shall also show proof of former legal name. The former name shall be entered into the "Alias" field in the identification card database to provide historical information to the Department. The person requesting the information change for a Real ID Non-compliant card may retain the old card, if it is available, after the motor license agent has first punched a hole through the identification number of the card or has cut the lower right corner of the card.

(d) **Change of identification card number.** Use of the cardholder's Social Security number as the identification card number is prohibited.

(e) **Persons who may appear before a motor license agent.** An individual who has previously held an Oklahoma identification card may apply directly to a motor license agent for replacement of the previous Oklahoma identification card, upon establishing Oklahoma residence and following the applicable procedure for replacement.

(f) **Replacing identification card - not in person.** The Department may create an alternative method where any Oklahoma Identification card holder may apply to the Department of Public Safety to replace his or her Identification card without appearing in person as provided in this Section.

(1) The Identification card holder shall make application online or in writing to the Department and shall submit to the Department:

(A) copies of documentary evidence of the ~~applicant's~~customer's name and date of birth, as required by OAC 595:10-1-10 (documents sent for verification will not be returned; therefore, original documents should not be sent). If a material change is requested, the original or certified copies of the required documents must be submitted. A material change means any change to the personally identifiable information of an individual, such as their name or driver license number. A Real ID Compliant card may not be issued by mail if there is a material change. A material change does not include a change of address, and

(B) the ~~applicant's~~customer's Identification card number, and

(C) both the Oklahoma residence address and Oklahoma mailing address. with the specification as to which address is to be displayed on the identification card (display of both the residence address and mailing address, or any combination thereof, is prohibited; provided, this subsection shall not be construed to prohibit display of a residence address if it is also the mailing address); provided, if the address is different than the address on record at the Department, the application for replacement without appearing in person shall be denied by the Department, if the address is different than the address on record at the Department, the customer must submit a change address request to the Department online at https://www.dps.state.ok.us/addresschange/card and

(D) the number of a nationally-recognized credit card and authorization for the required fee for the replacement Identification card to be paid by the ~~applicant~~ customer to the Department using the credit card; and

(E) the ~~applicant's~~customer's signature.

(2) Submission of the items required in (1) shall be made in one of the following manners:

(A) online application: www.ok.gov/dps, or

(B) by first class mail: Department of Public Safety, PO Box 11415, Oklahoma City, OK 73136

(3) Method of payment:

(A) online: if you are submitting your application online you may only pay by credit card.

(B) by mail: if the ~~applicant~~customer is submitting their application by mail they must include a cashier's check or money order along with the required documents. No personal checks or other forms of payment will be accepted.

(4) If the Department approves replacement Identification card without appearing in person, pursuant to the requirements of this chapter, and: if the digital photograph and digital signature of the ~~applicant~~customer are available from the files of the Department, the Department shall create the replacement Identification card using that photo and signature,

(5) The Department may mail the temporary renewal Class D driver license only to ~~an applicant~~a customer who is temporarily residing out of state to the out of state address provided by the licensee. The licensee shall provide a pre-paid self -addressed stamped envelope. The permanent card will be mailed to the out-of-state address provided.

(6) If the Department denies the replacement Identification card to the ~~applicant~~ customer pursuant to this Section, the Department shall notify the ~~applicant~~customer in writing of the denial, the reason for the denial, return any payment submitted by the ~~applicant~~customer, and the ~~applicant~~customer shall be required to appear in person for the replacement Identification card.

(7) A replacement Identification card without appearing in person shall be approved only when the immediately previous renewal was in person. A renewal or replacement may be requested up to three consecutive times.

(~~e~~g) **Person who may appear before a motor license agent.** An individual who has previously held an Oklahoma identification card may apply directly to a motor license agent for replacement of the previous Oklahoma identification card, upon establishing Oklahoma residence and following the applicable procedure for replacement.

PART 13. MOTOR LICENSE AGENTS

595:10-1-50. Identification required

(a) **General requirements.** Anyone applying for a renewal or replacement driver license or identification card must furnish documentary proof of identity, name, and birth date [47 O.S. §§ 6-114 and 6-115].

(b) **Required identification to renew driver licenses and identification cards.**

(1) **Renewal with expiring or expired driver license or identification card.** The expiring or expired driver license or identification card shall be surrendered as the primary identification. The person must provide secondary identification for a Real ID Non-Compliant license as prescribed in OAC 595:10-1-3~~(b)~~(c)~~(2)~~(4).

(2) **Renewal without driver license or identification card.** Any person who does not have the expiring or expired driver license or identification card shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3~~(b)~~(c)for a Real ID Non-Compliant card or primary identification as prescribed in OAC 595:10-1-3(b) for a Real ID Compliant card.

(c) **Required identification to replace lost, stolen, or mutilated driver licenses and identification cards.** Any person shall provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b).

(d) **Required identification to change information and replace driver licenses and identification cards.**

(1) **Name change.** Any person who requests a replacement driver license or identification card in order to make a name change must comply with the primary and secondary identification requirements prescribed in OAC 595:10-1-3(b), and with OAC 595:10-1-35. The person requesting the name change may retain the old license or card as provided in OAC 595:10-1-57 (e). The motor license agents shall be authorized to change the last name only.

(2) **Address change.** Any person who requests a replacement driver license or identification card in order to make an address change must provide both primary and secondary identification as prescribed in OAC 595:10-1-3(b). Both the Oklahoma mailing address and the Oklahoma residence address shall be collected by the motor license agent, and the licensee or card holder shall choose which address to be displayed on the license or card. The person requesting the address change may retain the old license or card as provided in OAC 595:10-1-57 (e). An address change shall be made only to an Oklahoma address.

(3) **Endorsement or restriction change.** Any person who requests a replacement driver license in order to change endorsement or restriction information on the license shall provide a DL-10 form issued by the Department, except for the removal of Restriction G. The person requesting the information change may retain the old license as provided in OAC 595:10-1-57 (e).

(4) **Emergency contact information.** An emergency contact name, address and phone number may be included on the application, which emergency contact may be changed or removed at any time by the licensee or by the emergency contact. The emergency contact information shall be for use by the Department and law enforcement officers only.

(e) **Permissible documents.** Any document accepted shall be either the original or a certified copy of the primary and secondary identification as prescribed in OAC 595:10-1-3(b).

(f) **Unacceptable documents.** Any document which has been or appears to have been duplicated, traced over, mutilated, defaced, tampered with or altered in any manner or that can not be read shall not be accepted or used for identification purposes.

595:10-1-56. Renewal of driver license or identification cards

(a) **Normal renewal procedure.** If an applicant presents proper identification [see OAC 595:10-1-51 regarding identification documents required], the agent may accept the required remittance for the class of driver license or the identification card being issued, make any changes necessary that have been authorized and issue the driver license or identification card. If the licensee presents an Oklahoma driver license or the card holder presents an Oklahoma identification card as a form of identification, the agent shall:

(1) for a Class D Real ID Non-Compliant licensee or identification card holder, return the expired license or card, if requested by the licensee or holder and after first punching a hole through the identification number on the license or card or cut off the lower right corner of the card, or if the licensee or holder does not wish to retain the expired license or card, return it with the agent's regular reports to the Driver License Services Division of the Department, or

(2) for a Class A, B, or C commercial licensee or any Real ID Compliant licensee, the license shall be surrendered by the licensee to the motor license agent, and the

agent shall retain the license and return it with the agent's regular reports to the Driver License Services Division of the Department.

(b) **Early renewal.** An individual may make application for the renewal of his or her license or card not more than one (1) year prior to the expiration date of the license or card. If the application for renewal occurs more than one (1) year prior to the expiration date, the agent shall notify the individual that the transaction must be treated as a replacement under the provisions of OAC 595:10-1-57. The agent shall;

(1) for a Class D Real ID Non-compliant licensee or identification card holder, return the expired license or card, if requested by the licensee or holder and after first punching a hole through the identification number on the license or card or cutting off the lower right corner of the card, or if the licensee or holder does not wish to retain the expired license or card, return it with the agent's regular reports to the Driver License Services Division of the Department, or

(2) for a Class A, B, or C commercial licensee or Real ID Compliant licensee, the license shall be surrendered by the licensee to the motor license agent, and the agent shall retain the license and return it with the agent's regular reports to the Driver License Services Division of the Department.

(c) **Late renewal.** An individual who makes application for renewal but whose license or card has been expired in excess of three (3) years shall be referred by the agent to a Driver License Examiner.

(d) **Renewal of expired license.** The holder of an Oklahoma Real ID Non-Compliant driver license that is expired more than one (1) year of the expiration date printed on the driver license shall be required to show proof of lawful presence in the United States to the motor license agency in order to renew the license or card. Any motor license agent who has been certified by the Department to identify state certified birth certificates or who has been Real ID certified may renew an expired license or card by entering the certificate lawful presence document information in the computer. If the agent has not been certified by the Department, the agent shall refer the applicant to a Driver License Examiner to show proof of lawful presence in the United States.

(e) **Persons temporarily out of state.** The holder of an unexpired Oklahoma driver license or identification card who is temporarily out of the state of Oklahoma and who wishes to renew or replace the license or card by mail shall be referred to the Driver License Services Division of the Department of Public Safety or the Department of Public Safety website.

(f) **Previous Oklahoma licensees and card holders.** An individual who has previously held an Oklahoma Class D driver license which has been surrendered to another state in exchange for the other state's license or who has previously held an Oklahoma identification card which has expired, may apply directly to a motor license agent for reactivation of the previous Oklahoma license or identification card, upon establishing Oklahoma residence and following the applicable procedures for renewal. Before attempting to issue a driver license under this subsection, the agent shall call the Driver License Services Division and request clearance to issue the license. If clearance is not given, the person shall be informed to contact the state whose action is causing the clearance to be withheld. If the clearance is given by the Department, the person shall surrender the out of state license to the agent, and the agent shall issue the Oklahoma license or card. If the out of state license has been lost or destroyed, the person shall provide to the motor license agent a notarized affidavit of that fact. The agent shall retain the license or affidavit, as applicable, and submit it to the Department with the agent's report. This procedure applies to a Class D driver license or identification card only.

(g) **Commercial driver license renewal.** The holder of a Class A, B, or C commercial driver license shall appear before a Driver License Examiner for renewal.

595:10-1-57. Replacement of driver license or identification card

(a) When an individual requests replacement of his or her driver license or identification card, the agent shall verify the identity of the applicant and the eligibility of the individual by contacting the Department. All replacement requests require proper identification, as required by OAC 595:10-1-18 for a driver license or OAC 595:10-1-27 for an identification card, and payment of the required fee.

(b) A replacement driver license may be issued to any individual whose driving privilege is not under suspension, revocation, disqualification, cancellation or denial.

(c) The agent shall offer the person the choice of a renewal or replacement license or card when the application is made within one (1) year of the expiration date of the license or card.

(d) A replacement driver license or identification card may be issued to any individual who requests a last name change, upon compliance with the primary and secondary identification requirements prescribed in OAC 595:10-1-3(b) and with OAC 595:10-1-35, or address change provided he or she pays the required fee.

(e) The agent shall:

(1) for a Class D Real ID Non-compliant licensee or identification card holder, return the old license or card, if it is available, to the licensee or holder~~, if requested by the licensee or holder and~~ after first punching a hole through the identification number on the license or card~~,~~ or cutting the lower right corner;~~or if the licensee or holder does not wish to retain the expired license or card, return it with the agent's next report to the Driver License Services Division of the Department,~~ or

(2) for a Class A, B, or C commercial licensee or any Real ID Compliant licensee, the license shall be surrendered, if it is available, by the licensee to the motor license agent. The agent shall retain the license and return it with the agent's regular reports to the Driver License Examining Division of the Department.

(f) All class A, B, and C replacement licenses require a clearance from the Driver License Examiner.

PART 19. DRIVER LICENSE AND IDENTIFICATION CARD CONTENT

595:10-1-92. Driving restriction codes

(a) A restriction or restrictions may be placed upon a person's driving privilege as deemed necessary by the Department [47 O.S. §6-113]. The restriction(s) will appear as a code on the person's driver license. Following are the various driving restriction codes and their meanings:

(1) 1. Corrective lenses
(2) 2. Left outside rearview mirror
(3) 3. Restriction 1 or 2
(4) 4. Automatic transmission
(5) 5. Turn indicators, power steering, or steering knob
(6) 6. Food, fruit, or candy within reach of driver
(7) 7. Adequate artificial limbs
(8) 8. Detailed restriction - Inquire Oklahoma driver license file (This restriction code is used when other restrictions are not applicable. A narrative explaining the restriction will appear on the person's driver license file.)
(9) 9. Accompanied by licensed driver age 21 or older in front seat
(10) 0. Motorcycle only - if under age 16, restricted to 300cc motorcycle or motor scooter between the hours of 4:30 a.m. and 9:00 p.m.
(11) A. Regardless of age, when operating a motorcycle must be in view of a person who is licensed to operate a motorcycle or motor-driven cycle and who is at least 21 years old
(12) E. When operating a commercial motor vehicle, restricted to automatic transmission
(13) G. Inquire of Oklahoma driver license file until age 17 or older
(14) K. CDL intrastate only
(15) L. When operating a commercial motor vehicle, restricted to a vehicle without air brakes
(16) M. When operating a passenger bus, restricted to Class B or C commercial motor vehicle
(17) N. When operating a passenger bus, restricted to a Class C commercial motor vehicle
(18) O. Restricted from operating tractor trailer vehicles
(19) P. No Passengers in a Passenger Vehicle
(20) R. Ignition interlock device
(~~20~~21) V. Medical variance
(~~21~~22) X. No cargo in CMV tank vehicle
(23) W. No Passengers (P or S) or Empty/Purged Tank Vehicle (N); provided, this restriction shall be used only on a commercial learner.
(~~22~~24) Z. When operating a commercial motor vehicle with air brakes, restricted to air over hydraulic

(b) The following are the restriction codes to be used and displayed on a Driver License designed in the Driver 360 program for modernization of the issuance system and the implementation of Real ID. The following are the restriction codes for the new designed license to be implemented in conjunction with REAL ID.

(1) 0. Motorcycle only - if under age 16, restricted to 300cc motorcycle or motor scooter between the hours of 4:30 a.m. and 9:00 p.m.
(2) 2. Exempt from Interlock Device in company vehicle with employer letter.
(3) 3. Either corrective lenses or left outside mirror.
(4) 4. Automatic Transmission
(5) 5. Turn Indicators, Power Steering, Steering Knob, (individuals who do not have the adequate use of both hands).
(6) 6. Food Fruit or Candy within Reach of the Driver.
(7) 7. Automatic Transmission or Artificial Limb.
(8) 8. Detailed restriction - Inquire Oklahoma driver license file (This restriction code is used when other restrictions are not applicable. A narrative explaining the restriction will appear on the person's driver license file.)
(9) 9. Non Commercial Learners Permit - Accompanied by licensed driver age 21 or older in front seat.
(10) A. Regardless of age, when operating a motorcycle must be in view of a person who is licensed to operate a motorcycle or motor-driven cycle and who is at least 21 years old
(11) B. Corrective Lenses.
(12) C. Custom Equipment
(13) D. Prosthetic Aid.
(14) E. Automatic transmission - CMV only.
(15) F. Left Outside Mirror
(16) G. Daylight Driving Only.
(17) H. Scope of employment only.
(18) K. Intrastate Driving Only - CMV
(19) L. No air Brake equipped CMV
(20) M. No Class A passenger vehicle.
(21) N. No Class A or B passenger vehicle.
(22) O. No Tractor Trailer - CMV
(23) P. No Passengers in CMV Bus.
(24) R. Ignition Interlock Device.
(25) S. Exempt from Seatbelt
(26) T. Intermediate.
(27) U. Speed not to exceed 45 MPH, No Interstate Driving.
(28) V. Medical Waiver
(29) X. No cargo in CMV tank vehicle.
(30) Y. Bioptic Lenses.
(31) Z. No full airbrake equipped CMV.

PART 21. IDETITY VERFICATION UNIT

595:10-1-101. Identity fraud or theft

(a) In the event it is ~~determined~~ proven by the Identity Verification Unit, any law enforcement agency or officer and/or any court that identity fraud or theft has occurred in connection with an Oklahoma driver license or identification card, the victim may request the Identity Verification Unit to place a detailed restriction code 8 on the driving record. The victim shall be required by the ~~Identify~~ Identity Verification Unit of the Department to provide a police report from their local law enforcement agency, that shows a determination of identity

fraud or identity theft of their personal identifiers in relation to their Oklahoma Driver License and/or Oklahoma Identification Card. ~~unless~~ If the investigating agency is the Oklahoma Highway Patrol then a report will not be required from the victim's local law enforcement agency. ~~He or she~~ The victim will also be ~~required~~ given the opportunity to sign an affidavit stating he or she believes their identity has been compromised or they are the victim of identity fraud or theft and by signing the affidavit they give giving the Identity Verification Unit the authority to place a detailed restriction code 8 on their driving record. The Identity Verification Unit shall then cancel the originally issued driver license or identification card and assign to the victim another driver license or identification card with a new number.

(b) ~~A~~Only the detailed restriction code 8 shall be added by the Identity Verification Unit to the master file record of the original, cancelled driver license or identification card. All driving history shall remain on the file for a cancelled driver license. The detailed restriction shall state " Fraudulent document. Seize and mail to IVU PO Box 11415 Oklahoma City, OK 73136." The detailed restriction code 8 ~~may also include detailed information regarding each specific case.~~ listed below will be used by the Department of Public Safety in regard to Oklahoma Driver License and/or Oklahoma Identification Card Fraud or Identity Theft. Identity Verification Unit Staff will retain the ability to adjust the detailed restriction code 8 for a specific victim if necessary. Identity Verification Unit Staff will determine the proper detailed restriction code 8 from the following three codes:

(1) Cardholder is the victim of identity theft. Leo confirm identity prior to issuance of a citation or arrest. Questions contact the OHP Identity Verification Unit @ 405-425-2402 or after hours, holidays and weekends contact the Oklahoma Highway Patrol Communications Center at commcenter@dps.ok.gov or 405-425-2323 for a photo to help confirm identity.

(2) The information shown on this document is not the true identity of the document holder. The identity shown on this document is that of an identity theft victim. The photo shown on this document is of the suspect. The suspect's identity is unknown. Take appropriate enforcement action and/or seize this document and return to the OHP Identity Verification Unit at PO Box 11415 Oklahoma City, OK 73136. Questions contact the OHP Identity Verification Unit @ 405-425-2402 or after hours, holidays and weekends contact the Oklahoma Highway Patrol Communications Center at commcenter@dps.ok.gov or 405-425-2323 for a photo to help confirm identity.

(3) The information shown on this document is not the true identity of the document holder. The identity shown on this document is that of an identity theft victim. The photo shown on this document is of the suspect. What is believed to be the suspect's true identity is shown on the NLETS return associated with this document. Take appropriate enforcement action and/or seize this document and return to the OHP Identity Verification Unit at PO Box 11415 Oklahoma City, OK 73136. Questions contact the OHP Identity Verification Unit @ 405-425-2402 or after hours, holidays and weekends contact the Oklahoma Highway Patrol Communications Center at commcenter@dps.ok.gov or 405-425-2323 for a photo to help confirm identity.

(c) The Identity Verification Unit shall issue to the identity fraud or theft victim a new driver license or identification card with the new number and with a detailed restriction code 8. The detailed restriction code 8 shall include detailed information regarding each specific case. Only the driving history proven to belong to the identification fraud or theft victim shall be added to the new driver license driving history.

(d) If the identity of the identity fraud or theft suspect can be determined, the Identity Verification Unit shall place an identity fraud or theft administrative revocation (W80) on the driving privilege of the suspect. A stop shall be placed on the identification card privilege of the suspect. Placing stops on the driver license and/or identification card privilege will prevent original issuance, renewal or duplication until the identity theft or fraud administrative revocation (W80) has been lifted. When requirements by the suspect are met, Identity Verification ~~unit~~Unit Staff shall give administrative revocation (W80) release documentation to the suspect and/or to the Driver Compliance Division of the Department.

SUBCHAPTER 5. MEDICAL ASPECTS

PART 1. MEDICAL CONDITIONS

595:10-5-4. Applicability

(a) General. The medical aspects of driver licensing pertain only to:

(1) Class D driver license applicants or licensees,

(2) Persons operating as commercial drivers with the proper type of driver license prior to June 12, 1989, who have been continuously operating in that capacity since and wish to apply for an intrastate commercial driver license waiver, and with a medical deficiency that have been licensed with a valid commercial driver license for more than three (3) years and have been actively employed as a commercial motor vehicle operator for more than three (3) years may apply for an intrastate commercial driver license waiver. Both the commercial driver license and employment requirements shall be for the three (3) years immediately preceding the application for the intrastate commercial driver license waiver. The applicant's driving record (driving index history) for the previous three (3) years will be reviewed during the consideration of the application and the application will only be approved if the driving record:

(A) Contains no driver license suspension, revocation, cancellation, denial or disqualification for the operation pertaining to any motor vehicle;

(B) Contains no involvement in a motor vehicle accident in which the applicant contributed or received a citation for any moving traffic violation;

(C) Contains no convictions for any disqualifying offense as defined in 47 O.S. §6-205.2, and

(3) Operators of Class A, B, or C commercial vehicles who are exempt from meeting the medical requirements as prescribed in 49 CFR §390.3(f).

(b) Other Class A, B, or C commercial vehicle operators. All Class A, B, or C commercial vehicle operators, other than those provided for in (a) of this Section, must meet the federal requirements set forth in 49 CFR §391 et seq.

595:10-5-7. Vision standards and problems

(a) **Acuity.**

(1) A person may be considered for a Class D driver license if the visual acuity is:

(A) Twenty/sixty (20/60) or better in both eyes, with or without corrective lenses.

(B) Twenty/fifty (20/50) or better in one eye, with or without corrective lenses.

(C) Any person not meeting the requirements in (A) or (B) of this paragraph may apply for a restricted driver license with such restrictions as speed limit, locale, and time, if the visual acuity is no worse than twenty/one hundred (20/100) ~~in one eye or both eyes~~, when each eye is measured independently with or without corrective lenses.

(2) A person may be considered for a Class A, B, or C intrastate commercial driver license if the visual acuity in one eye alone or with both eyes is twenty/forty (20/40) or better, with or without corrective lenses.

(b) **Field of vision.**

(1) A person may be considered for a Class D driver license if the field of vision is at least seventy (70) degrees in the horizontal meridian when each eye is measured independently ~~in one eye alone or with both eyes~~. Any person not meeting the requirement in this paragraph may apply for a restricted driver license with such restrictions as speed limit, locale, and time, if the field of vision is not narrower than sixty (60) degrees in the horizontal ~~Meridian~~ meridian in one eye ~~alone~~when each eye is measured independently.

(2) A person may be considered for a Class A, B, or C intrastate commercial driver license if the field of vision is at least seventy (70) degrees in the horizontal meridian in one eye ~~alone~~when each eye is measured independently.

(c) **Eye diseases.** A person with progressive eye disease such as cataract, glaucoma, nystagmus, iritis, iridocyclitis, retinitis pigmentosa, choroiditis, retinal detachments, macular degeneration, inflammatory vascular, eye ground diseases, optic atrophy, or other disease affecting vision or visual fields shall not be licensed unless they meet the visual standards set forth in (a) and (b) of this Section. If licensed, future periodic vision reports may be required to be submitted to the Department by an ophthalmologist or optometrist.

(d) **Use of Bioptic Telescopic Device.**

(1) A person using a bioptic telescopic device shall be eligible for a restricted Class D driver license under section if the person meets the following:

(A) Demonstrates a visual acuity of at least twenty/sixty (20/60) in one eye alone or with both eyes measured separately with the corrective carrier lenses and a field of vision of seventy (70) degrees in the horizontal meridian with or without corrective carrier lenses, or if the person has vision in one eye only, the person demonstrates a visual acuity of twenty/fifty (20/50) as measured with monocular vision with the corrective carrier lenses, with a field of vision at least seventy-five (75) degrees in the horizontal meridian~~with or without the corrective carrier lenses~~.

(B) Any person not meeting the requirements in (A) of this paragraph may apply for a restricted driver license with such restrictions as speed limit, locale, and time, if the visual acuity is no worse than twenty/one hundred (20/100) ~~in one eye or both eyes~~ when each eye is measured independently, with corrective lenses and without the use of field expanders. A bioptic telescopic device fitted and in use by the person cannot exceed a four times (4x) magnification. A visual acuity of at least twenty/sixty (20/60) or better in each eye alone or with both eyes with the use of the bioptic telescopic device is required for qualification for a restricted Class D driver license. If the best corrected visual acuity with the use of corrective carrier lenses is twenty/one hundred (20/100), the Department will require specific restrictions to be placed on the restricted Class D driver license limiting the maximum speed of operation to 45 miles per hour and daylight driving only on a permanent basis.

(C) The applicant will provide a vision screening report of examination by an ophthalmologist or optometrist on a form prescribed by the Department to document that the visual acuity and field of vision standards have been met. The vision screening report of examination, completed by the ophthalmologist or optometrist, must provide a favorable recommendation that the condition of the applicant is stable and the applicant fitted with the bioptic telescopic device is capable of safely operating a motor vehicle. Following the review of the visual screening report of examination by the Department, additional testing and training of the applicant using a bioptic telescopic device may be required prior to licensing, if such a recommendation is made by the Department.

(2) If the applicant using a bioptic telescopic device is an original applicant for a driver license, the applicant may be eligible for a limited learner permit or restricted Class D driver license. The learner permit or restricted Class D driver license shall have a detailed restriction 8 thereon requiring the use of the bioptic telescopic device to drive. Driving with the restriction 8 shall also limit driving to during daylight hours only, preclude operation of a motor vehicle upon the interstate highways, and limit the speed of the vehicle driven to a maximum of 45 miles per hour.

(3) The use of a bioptic telescopic device shall only be used as a reference while driving by persons issued a limited learner permit or a restricted Class D driver license. The following additional restrictions on the license will be applied to person using a bioptic telescopic device while driving:

(A) The licensee or permit holder shall not be eligible for any endorsements;

(B) The licensee or permit holder shall only be permitted driving during daylight hours;

(C) The licensee or permit holder shall not be allowed to operate a motor vehicle on the interstate highways; and

(D) The licensee or permit holder shall be restricted to the maximum speed of operation to 45 miles per hour or by a lower limit of speed according to the recommendation of the Department.

(4) Persons issued a restricted Class D driver license, after using a bioptic telescopic device for a period of thirty-six (36) months or more while driving, may apply for the removal of one or more of the restrictions listed in (d)(3) above, if he or she:

(A) Has not been involved in any motor vehicle accident for a period of the preceding thirty-six months;

(B) Has provided to the Department a favorable recommendation from the ophthalmologist or optometrist that is most familiar with the visual correction and placement of the bioptic telescopic device; and

(C) Has not been cited for any moving traffic violations or a violation of the licensing restrictions.

(e) **Operation of a Commercial Motor Vehicle.** No person shall be considered for the operation of a commercial motor vehicle driver license (CDL) with the use of a bioptic telescopic device.

(f) **Required Notification of Department.** If any organic issues develop that decrease the abilities of the licensee to manage the safe operation of a motor vehicle, the licensee is responsible of notifying the Department of that development immediately.

(g) **Required equipment.** Any person with visual acuity of twenty/one hundred (20/100)in the left eye shall be required to have a left outside rearview mirror (Restriction code2) [see 595:10-1-92 regarding driving restriction codes] on any vehicle the person operates.

SUBCHAPTER 11. CERTIFIED SCHOOLS AND DESIGNATED CLASS D EXAMINERS

595:10-11-3. Definitions

In addition to terms defined in 47 O.S. §1-101 et seq., the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise. Use of the singular term includes the plural, and use of the plural term includes the singular.

"Certified driver education instructor" means an instructor, as defined by 47 O.S. § 801(B) or 70 O.S. § 19-113 et seq., who is currently certified to instruct in a school students who are seeking a Class D driver license in a school, but shall not include an instructor who instructs for the operation of motorcycles only.

"Department" means the Department of Public Safety.

"Designated examiner" means a certified driver education instructor who has been approved and certified by the Department of Public Safety or State Department of Education to administer driving skills examinations, on routes approved by the Department and who is employed by or operating a school.

"Division" means the Driver License Services Division of the Department.

"Driver education" or **"driver education course"** means

(A) a public secondary school driver education course [70 O.S. §19-113 et seq.],

(B) a parochial, private, or nonpublic secondary school driver education course, certified by the Department of Public Safety, or

(C) a commercial driver training course [47 O.S. §801 et seq.].

(D) a parent-taught driver education course, certified by the Department of Public Safety. [47 O.S. § 6-105(C)(1)(d)]

"Examination" means the driving skills examinations for an Oklahoma Class D driver license.

"School" means a:

(A) public school which is a secondary school, as defined in 70 O.S. §1-106, within a school district, as defined in 70 O.S. §1-108, which offers a prescribed secondary school driver education course, as defined by 70 O.S. §19-113,

(B) private school which is a secondary school, including parochial and other nonpublic schools, which offers a driver education course certified by the Department of Public Safety, or

(C) commercial driver training school, as defined in 47 O.S. §801(A).

595:10-11-5. Requirements for certification as a designated examiner; display of certificate; certification renewal

(a) **Requirements and application for certification.** A certified driver education instructor or a former employee of the Department of Public Safety who was employed as a Driver License Examiner with a minimum of five (5) years experience and left the agency in good standing may apply for certification as a designated examiner. The applicant must meet the following requirements:

(1) Complete an application provided by the Department [see 595:10-11-12],

~~(2) Be employed by a school,~~

(~~3~~2) Possess a portable computer which shall meet current specifications, as provided by the Department, to enable it to be loaded with software necessary to train the applicant and, upon certification as a designated examiner, to conduct examinations and report examination results

electronically to the Department, and the applicant shall sign a user agreement with the Department regarding the installation, maintenance, and use of the software,

(~~4~~3) Certified driver education instructors must ~~Maintain~~maintain throughout the time period to be covered by the certification all other certification requirements to be a certified driver education instructor, and

(~~5~~4) Successfully complete a course of instruction prescribed by the Department [see 595:10-11-6].

(b) **Certification.** Upon acceptance and approval by the Department of the application for certification from a driver education instructor, or upon acceptance and approval by the Department of the application for renewal of certification from a designated examiner, and upon completion to the satisfaction of the Department by the instructor or designated examiner of all other requirements for certification, the Department shall provide the designated examiner with:

(1) a certificate evidencing approval by the Department as a designated examiner, which shall be presented for inspection to each driver license applicant, and to the parent or legal guardian of any applicant under eighteen (18) years of age, before the applicant enters the vehicle in which the examination is to be administered. The certificate shall be carried in the vehicle in which any examination is being administered. The certificate shall be valid for the calendar in which it is issued, and

(2) an official seal to be used by the designated examiner as provided in 595:10-11-13.

(3) If the Certification of the ~~Designated~~ designated examiner becomes invalid, the certification badge and stamp are to be remanded to the Department of Public Safety.

~~(c) **Ineligibility.** Any person shall be deemed ineligible for certification as a designated examiner if the person is not a certified driver education instructor unless.~~

(~~d~~c) **Renewal of certification.**

(1) A certified designated examiner shall be eligible for renewal of certification if the examiner:

(A) submits an application for certification renewal upon a form provided by the Department no later than December 1 of each year [see 595:10-11-12],

~~(B) is currently employed by a school,~~

(~~C~~B) currently meets the requirements and standards of the Department as prescribed by this subchapter,

(~~D~~C) administered twenty (20) or more examinations within the twelve (12) months immediately preceding the application for renewal of certification. IF the applicant fails to complete 20 drives during the previous 12 month period, the applicant must attend remedial training and pay all fees.

(2) Any driver education instructor who was previously certified as a designated examiner and whose previous certification has been expired for not more than one (1) year may make application for renewal of certification as provided in paragraph (1) of this section.

(3) Any ~~third party~~designated examiner who does not qualify for renewal of certification may apply, after a period of at least one (1) year from the date the examiner was notified he or she was not qualified for renewal of certification, for certification as a ~~third party~~designated examiner and shall meet all requirements as for an initial application for certification as a ~~third party~~ designated examiner.

(4) Upon renewal the previous certification badge will be turned in to the Department of Public Safety and a new certificate badge will be issued.

(d) **Vehicle Insurance for a self -employed Designated Examiner.**

(1) Self-employed Designated Examiner's vehicle must be insured by a company licensed to do business in this state with a commercial liability insurance policy for each vehicle used to conduct skills examinations. The minimum amount of insurance shall consist, for any one collision, of at least Fifty Thousand Dollars ($50,000.00) for bodily injury to or death of one person; One Hundred Thousand Dollars ($100,000) for bodily injury to or death of two or more persons; and Fifty Thousand Dollars ($50,000) for damage to property. The above coverage shall be carried on all vehicles used by the Designated Examiner for purposes of administering the skills examination.

(2) In the event the insurance coverage is canceled, a copy of the written notice of cancellation must be furnished forthwith to the Department by registered or certified mail. Use of this vehicle for use of examinations will be immediately suspended until proper verification of insurance is provided to the Department of Public Safety.

(3) Each self-employed Designated Examiner shall send a copy of the Declaration of Insurance coverage when applying for a Designated Examiner original or renewal license. If insurance coverage expires between renewal certification periods, the examiner shall send a current copy of the Declaration of Insurance coverage to the Department.

(e) **Vehicle Insurance for Designated Examiner Employed by a Commercial Driving School.** Vehicles owned by a Commercial Driving School must meet all requirements of OAC 595:40-1-11 and 595:40-1-12

595:10-11-7. Examination requirements and standards

(a) **Application.** Before an examination may be given to a driver license applicant by a designated examiner, the applicant shall provide a valid Oklahoma learner permit for inspection by the designated examiner and completely fill out and submit to the examiner an Oklahoma skills examination application (DPS Form DL-18-DE) which shall be provided to the applicant by the examiner [see 595:10-11-12]. The examiner shall, by electronic means, verify with the Department on the day of the examination that the applicant is eligible to be administered the examination. If the applicant is not eligible, the examiner shall refer the applicant to a Driver License Examiner.

(b) **Standards.** Current minimum standards for the skills examination of applicants for an Oklahoma Class D intermediate license or driver license, as set forth in state statutes and

Department rules shall be provided to all designated examiners by the Department.

(c) **Examinations.**

(1) The driving skills examination for an Oklahoma Class D intermediate license or driver license administered by a designated examiner shall:

(A) include all specified maneuvers as required by the Department, and

(B) meet or exceed all requirements of the Department for the Class D driver license.

(2) If an applicant fails a skills examination administered by the designated examiner, the examiner shall immediately notify the Division by electronic means of the failure. The notification shall include, at a minimum, the applicant's:

(A) name and date of birth,

(B) driver license number, if applicable;

(C) score on the failed examination, along with any details of the failure which the examiner deems pertinent to the Department's records.

(D) the designated examiner's name and badge number.

(d) **Location of examination.** All skills examination shall be administered on the route approved for the designated examiner which shall be a different route than any route used for training the applicant being examined.

(e) **Vehicle used for driving skills examination.** The applicant or parent or legal guardian of the applicant may specify the vehicle in which the driving skills examination is administered. The vehicle shall meet the same requirements as any vehicle which is used for Class D driving skills tests administered by the Department of Public Safety.

(f) **Auditing.** An employee of the Department of Public Safety or the State Board of Education may, at any time and without prior notice, accompany a designated examiner and a driver license applicant while a skills examination is being administered for the purpose of auditing the performance and effectiveness of the designated examiner.

(g) **Collision During Skills Test.** The designated examiner must furnish the Department with a copy of an official collision report on any applicant which is involved in a collision during the testing period. This is in addition to the collision report required by law.

595:10-11-12. Prescribed forms

(a) **Designated examiner application.** A driver education instructor may request an application form from the Department to apply for certification as a designated examiner. A designated examiner shall request an application form from the Department to apply for renewal of certification as a designated examiner. The application shall require the applicant to provide the following personal information:

(1) Date of application.

(2) Whether the application is an original or renewal application.

(3) Full name.

(4) Complete home address and mailing address

(5) Telephone numbers (residence and business).

(6) Name of the employing school.

(7) Name and number of the school district in which the employing school is located (when applicable).

(8) Date of birth.

(9) Social security number.

(10) Oklahoma driver license number.

(11) Any other information the Department deems necessary to process the application.

(12) Signature of applicant.

(b) **Designated examiner certificate.** The certificate for a designated examiner shall include, but not limited to, the following information:

(1) Official name and seal of the Department

(2) Full name of the designated examiner.

(3) Name, school district name and number (when applicable), city (when applicable), county, and certification number of each school employing the designated examiner.

(4) Type of certification.

(5) Date of certification.

(6) Expiration date of certification.

(7) A unique certification number.

(8) Name and signature of the Commissioner of Public Safety.

(c) **Oklahoma driver license application.** Oklahoma skills examination applications (DPS Form DL-18-DE) shall be provided by the Department to each designated examiner. Each portion of the application shall be completed by the applicant or designated examiner, as indicated on the application. The applicant shall complete the applicant's portion of the application and submit the application to the designated examiner. The designated examiner shall document on the application the results of the skills examination administered to the applicant, verifying all the information on the application, and certifying the examination administered and successfully passed by the applicant. If the applicant fails to pass the examination, the designated examiner shall indicate and certify the failure on the application and immediately notify the Department, as provided in OAC 595:10-11-7(c). Upon certification, the designated examiner shall affix the examiner's seal and certification number to the application. If the applicant passes the examination, the examiner shall refer the applicant to a motor license agent, if the applicant is otherwise eligible.

(d) **Where to obtain forms.** All forms are provided by the Department and the designated examiner application can be obtained by a designated examiner from the Department's web site.

[OAR Docket #19-470; filed 5-30-19]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 11. COMMERCIAL DRIVER LICENSES

[OAR Docket #19-471]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Commercial Driver Licensing
Part 2. Application for Initial Driver License
595:11-1-11. General information [AMENDED]
595:11-1-12. Procedures for obtaining an initial commercial driver license [AMENDED]
595:11-1-14. Adoption by reference [AMENDED]
Subchapter 3. Examination
595:11-3-8. Skills examination [AMENDED]
Subchapter 5. Commercial Driver License Third-Party Examiners
595:11-5-7. Skills examination requirements and standards [AMENDED]
595:11-5-9. Failed examinations and reexamination [AMENDED]
595:11-5-14. Official seal, Map and CDL Examiners Manual [AMENDED]
Subchapter 7. Truck Driver Training
595:11-7-3. School licenses and instructor permits [AMENDED]
595:11-7-4. Qualifications for instructors [AMENDED]
595:11-7-9. Prescribed course of study [AMENDED]
AUTHORITY:
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The changes in 595:11-1-11 update contact information for the purpose of accuracy of information. The change in 595:11-1-12 removes the need for prior approval for additional driver license number changes as it has been decided that this is no longer necessary. The change in 595:11-1-14 corrects the phone number for the Oklahoma Trucking Association for the purpose of accuracy of information. The changes in 595:11-3-8 updates firefighter testing rules in order to be in compliance with FMCSA regulations. The change in 595:11-5-7 updates the time period from 24 hours to 2 business days for a retest in order to be in compliance with FMCSA regulations. The changes in 595:11-5-9 update language to match federal regulations for third-party examiner retesting in order to be in compliance with FMCSA. The changes in 595:11-5-14 assure that third-party examiners keep their score sheets secure for the purpose of confidentiality. The changes in 595:11-7-3 adds equipment leases to our file. The purpose of this change is to ensure that the leases are being insured. The changes in 595:11-7-4 add DOT medical cards to the required qualifications in order to be in compliance with the DOT medical card rule. The changes to 595:11-7-9 add Truckers Against Trafficking to the curriculum in order to be in compliance with state statute.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. COMMERCIAL DRIVER LICENSING

PART 2. APPLICATION FOR INITIAL DRIVER LICENSE

595:11-1-11. General information

(a) **Prerequisite.** A commercial driver license shall not be issued to any person whose driving privilege is under suspension, revocation, disqualification, cancellation, or denial in this state or any other state or country until such privilege has been reinstated by the state or country withdrawing such privilege [47 O.S. §6-103]. Eligibility shall be determined by a driver examiner using the, at a minimum, the following resources:

(1) driver records of the Department of Public Safety;

(2) the Commercial Driver License Information System (CDLIS);

(3) the National Driver Registry (NDR); and

(4) the National Law Enforcement Telecommunication System (NLETS).

(b) **Information.** Information regarding the application for and issuance of commercial driver licenses may be obtained by:

(1) Telephone: (405) 425-~~2020~~2300.

(2) Mail: Department of Public Safety, Driver License Examining Division, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415

(3) In person: Department of Public Safety, Driver License Examining Division, 3600 North M. L. King Avenue, Oklahoma City, Oklahoma.

(4) Internet: ~~http://www.dps.state.ok.us/dls/~~ www.ok.gov/dps.

(c) **Commercial driver license standards.** Information regarding commercial driver license standards and federal commercial driver license regulations may be obtained:

(1) Telephone: (405) 425-~~2015~~-2300

(2) Mail: Department of Public Safety, ~~Commercial Driver License Program Administration~~ Driver License Services, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415.

(3) Internet:
~~http://www.dps.state.ok.us/dls/dlexam.htm~~
www.ok.gov/dps.

595:11-1-12. Procedures for obtaining an initial commercial driver license

(a) **Application.** An applicant for an initial Oklahoma commercial driver license shall first appear before a driver license examiner [47 O.S. § 6-110]. An application for a commercial driver license shall be completed by the applicant at the driver license examination station and approved by a driver examiner prior to the commencement of the required examination. Upon submitting a completed and approved application, providing proof of identity [OAC 595:10-1-3(b)] and proof that the applicant is a United States citizen, foreign national or a legal permanent resident alien [21 O.S. § 1550.42(B)], meeting all statutory requirements, and successfully completing every required examination [see Subchapter 3 of this Chapter relating to examinations], the applicant may then proceed to a motor license agent or the Department of Public Safety, 3600 N. M.L. King, Oklahoma City, and present to the agent or the Department a DL-10 form issued by the driver license examiner, along with the same primary and secondary identification presented to the examiner, pay the required fees, and be issued a driver license. Upon approval of the application by the Department, the applicant shall surrender to the Department any driver license, whether issued by Oklahoma or by another jurisdiction, currently issued to the applicant.

(b) **Required identification.** At the time of application for an initial Oklahoma driver license, every applicant shall provide to the driver examiner:

(1) primary proof of identification [47 O.S. § 6-106(A)(3); OAC 595:10-1-3(b)],

(2) secondary proof of identification [47 O.S. § 6-106(A)(3); OAC 595:10-1-3(b)]

(3) documentation showing whether the applicant is a United States citizen, foreign national or legal permanent resident alien [21 O.S. § 1550.42]. Proof of citizenship or lawful permanent residency shall be met only when the applicant provides [49 C.F.R. § 383.71]:

(A) a United States citizen:

(i) Valid, unexpired U.S. Passport;

(ii) Certified copy of a birth certification filed with a State Office of Vital Statistics or equivalent agency in the individual's State of birth, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(iii) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State;

(iv) Certificate of Naturalization issued by the U.S. Department of Homeland security (DHS); or

(v) Certificate of Citizenship issued by DHS.

(B) a lawful permanent resident: valid, unexpired Permanent Resident Card , issued by USCIS or INS.

(4) proof of full legal name,

(5) date of birth,

(6) and proof of Oklahoma residency: utility bill or Government form bearing the name and address of the applicant. Proof of current residence must be shown for initial issuance, transfer, renewal, or upgrade, made after July 8, 2011. [47 O.S. § 6-106(B)].

(c) **Documentation requirements.** Any document furnished must be either a certified or original copy and issued by the proper authority; notarized documents will not be accepted. Any document presented shall be unexpired unless otherwise noted in OAC 595:10-1-3. Any document that has been or appears to have been duplicated, traced over, mutilated, defaced, tampered with, or altered in any manner or that cannot be read by the Driver License Examiner shall not be accepted or used for identification purposes. All identification documents must be approved by the Examiner before acceptance. The Examiner may, at his or her discretion, request additional identification documentation of the applicant.

(d) **Commercial driver license numbers.**

(1) Commercial driver license numbers shall be assigned by computer. Use of the applicant's Social Security number as the commercial driver license number is prohibited [47 O.S. § 6-106(B)].

(2) Any licensee may request to change the numeric characters of his or her commercial driver license number to any nine-digit number by making a written request to the Department. Upon approval by the Department, the licensee shall obtain a replacement commercial driver license from a motor license agent or the Department, and the licensee shall pay the required fee for the replacement license [OAC 595:11-1-31 or OAC 595:11-1-41]. ~~The commercial driver license number may be changed no more than two (2) times in any four-year period without prior approval of the Identification Verification Unit of the Department.~~

595:11-1-14. Adoption by reference

The Department of Public Safety hereby adopts by reference the United States Department of Transportation regulations pertaining to licensing of commercial motor vehicle operators, as contained in Title 49 of the Code of Federal Regulations (49 C.F.R.) [47 O.S. §6-101(L)]. Information relative to this adoption is available through various sources, such as the Labelmaster publication, "Federal Motor Carrier Safety Regulations." Copies of this publication are available by contacting the Oklahoma Trucking Association at (405) ~~843-9488~~525-9488. Specific regulations pertaining to licensing of commercial motor vehicle operators adopted by reference under this Section are:

(1) Part 380, Special Driver Training Requirements;

(2) Part 383, Commercial Driver's License Standards; Requirements and Penalties;

(3) Part 384, State Compliance with Commercial Driver's License Program;

(4) Part 390, Federal Motor Carrier Safety Regulations: General;

(5) Part 391, Qualifications of Drivers; and

(6) Part 393, Parts and Accessories Necessary for Safe Operation.

SUBCHAPTER 3. EXAMINATION

595:11-3-8. Skills examination

(a) **In general.** The skills examination shall be administered only after the applicant has successfully passed the written examination, or had it waived if eligible under OAC 595:11-1-13(a), and the vision screening. Whenever a skills examination is required, the following general conditions shall apply:

(1) The skills examination shall start at a designated location and shall include an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a commercial motor vehicle. You must take the skills test in the type of vehicle for which you wish to be licensed. It is the responsibility of the applicant to furnish for the skills examination a commercial motor vehicle in good working order which meets all state laws and federal requirements regarding operability and equipment. A vehicle not equipped with air brakes shall be required to have driving restriction code "L" (Vehicle Without Air Brakes) placed on the license of the applicant, upon approval of the issuance of the license.

(2) The skills examination shall not be administered in a commercial motor vehicle which:

(A) is transporting hazardous materials or which is required to be placarded for hazardous materials,

(B) requires an oversize permit under the laws of this state or the rules of the Department of Public Safety,

(C) was not designed and constructed by the manufacturer with a seating capacity for one or more persons in addition to the driver,

(D) is not insured as required by 47 O.S. §7-600 et seq.,

(E) does not have a current license plate,

(F) is saddle mounted,

(G) is a wrecker vehicle towing another vehicle, or

(H) is not equipped with seatbelts, if the vehicle was originally manufactured and equipped with seatbelts.

(I) any vehicle that has components marked or labeled cannot be used for the CDL skills test, or

(J) any vehicle hauling livestock.

(3) The applicant has been issued and held a commercial learner permit for a minimum of fourteen (14) days.

(b) **Scoring of examination.** The scoring procedure will be on a cumulative deduction system based on poor or improper driving practices. The Commissioner or the Commissioner's representative shall determine a point value for each act of poor or improper driving. The applicant will be allowed ten (10) minutes per Basic Control Skills (BCS) maneuver to complete the maneuver. In the event the applicant is not able to complete the maneuver in the time allowed, the skills examination will be deemed an automatic failure.

(c) **Content of examination for commercial driver license.** The skills examination shall be conducted in conformance with 49 C.F.R., ~~Section~~§383.

(d) **Retesting.**

(1) An applicant who fails the skills examination for a commercial driver license may be granted the opportunity to retest the following business day.

(2) The Department shall conduct the skills examination not more than three (3) times, each time at least one (1) business day apart or as instructed by the examiner, beginning no sooner than fourteen (14) days from the date of issuance of the commercial learner permit. Should the licensee fail the third examination, the licensee shall wait at least thirty (30) days before being given another skills examination by the Department. The fourth and subsequent examinations shall be given at the request of the licensee but not more than one (1) examination shall be given every thirty (30) days.

(3) In computing any time period prescribed by this subsection, the day of the failed examination from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is not a working day, in which event the period runs until the end of the next working day.

(e) **Substitute for skills examination.** A skills examination may be waived by the Department for an applicant when one of the following requirements is met:

(1) The applicant is the holder of a valid commercial driver license from one of the fifty (50) states, the District of Columbia, or a Canadian province

(2) The applicant is ~~a fireman or~~ an active member of any branch of the military, Military Reserves or National Guard on active duty, including personnel on full-time or part-time National Guard training, National Guard Military Technicians (civilians who are required to wear a military uniform), and active duty personnel of the U.S. Coast Guard; provided, the person for the two (2) years immediately preceding application for a commercial driver license [49 C.F.R. ~~Parts~~§§383,~~and~~ 391];

(A) ~~can~~Can show, with proper documentation, that he or she has operated a representative class commercial motor vehicle,

(B) certifies that he or she has not been licensed by more than one jurisdiction at the same time,

(C) certifies that he or she has not had any suspension, revocation, cancellation, denial, or disqualification of driving privileges in the two (2) years immediately preceding the application,

(D) has not been convicted of any major disqualifying offense, as defined in 47 O.S., §6-205.2,

(E) has not been convicted more than once of a serious traffic offense, as defined in 47 O.S. §6-205.2, regardless of the type or class of vehicle the offense occurred in, and

(F) certifies that he or she has not been involved in any collision in which he or she was recorded as being at fault.

SUBCHAPTER 5. COMMERCIAL DRIVER LICENSE THIRD-PARTY EXAMINERS

595:11-5-7. Skills examination requirements and standards

(a) **Eligibility.** To be eligible for a skills examination, a commercial driver license applicant shall successfully complete, prior to the examination, a formal course of instruction, as submitted to and approved by the Department, by the institution where the examination will be administered.

(b) **Application.** Before an examination may be given to an applicant by a third-party examiner, the applicant must completely fill out and submit to the examiner an Oklahoma commercial driver license application (DPS Form DL-18-CT) [OAC 595:11-5-13(e)].

(c) **Physical Qualifications.** Prior to any examination, an applicant shall be provided with a copy of the physical qualifications for commercial motor vehicle drivers from the Federal Motor Carrier Safety Regulations [49 C.F.R.§ 391.41].

(d) **Standards.** Current minimum standards for the examination of an applicant for a commercial driver license, as set forth in state statutes, Department rules, and federal regulations, shall be provided by the Department to all certified schools and third-party examiners.

(e) **School bus skills examination requirements.** The school bus skills examination for a commercial driver license administered by a third-party examiner shall:

(1) include all specified school bus maneuvers as required by the Department, and

(2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. §391] for the class or classes of vehicle for which the applicant desires to be licensed.

(f) **Truck skills examination requirements.** The truck skills examination for a commercial driver license administered by a third-party examiner shall:

(1) include all specified maneuvers as required by the Department [OAC 595:11-3-9] and the Federal Motor Carrier Safety Act [49 C.F.R. § 383].

(2) meet or exceed all requirements of the Department and of the Federal Motor Carrier Safety Act [49 C.F.R. § 383].

(g) **Notice of Examination.** A notice of the examination schedule shall be submitted electronically through CSTIMS to the CDL Coordinator or his or her designee no later than three (3) business days prior to the initial examination and ~~twenty-four (24) hours~~ no later than two business days prior to a retest that will be administered by a third-party examiner. A third-party examiner shall not administer the skills test to any applicant he or she has instructed in the classroom and/or in behind the wheel training.

(h) **Location of examination.** All examinations shall be administered on the route approved for the certified school employing the third-party examiner.

(i) **Limitation on number of examinations.** Not more than six (6) examinations per day shall be administered by a third-party examiner without prior written consent of the CDL Program Administration.

(j) **Examination reports.** Reports of examination activity by third-party examiners shall be submitted electronically through CSTIMS immediately upon the completion of each examination to the CDL Coordinator or his or her designee.

595:11-5-9. Failed examinations and reexamination

(a) If the commercial driver license applicant fails an examination administered by a third-party examiner, the third-party examiner may administer the examination to the applicant up to two (2) additional times. The third-party examiner shall wait the required amount of time before reexamining the applicant. If the applicant fails any section of the examination three (3) times, the third-party examiner shall refer the applicant to the Department for any further examination.

(b) The third-party examiner shall:

(1) record each failed examination on application form DL-18-CT [OAC 595:11-5-13(e)];

(2) within the same day of the examination, each failed exam must be reported to the Department:

(A) during normal business hours:

(i) by emailing the CDL Coordinator or his or her designee, and

(ii) electronically through CSTIMS immediately upon completion of each exam.

(B) after normal business hours:

(i) by emailing the CDL Coordinator or his or her designee, and

(ii) electronically through CSTIMS immediately upon completion of each exam.

(3) not administer a re-examination or another examination to the same student that has failed any part of the examination until ~~the next~~two business ~~day~~ days after the failed test, unless the student has failed the examination three (3) times. The Third-party examiner will refer the student to the Department of Public Safety for the fourth examination.

595:11-5-14. Official seal, Map and CDL Examiners Manual

(a) The Department will provide its official seal to each third-party examiner. The certified school shall provide its official seal to each third-party examiner it employs. The seals shall be imprinted upon each approved Oklahoma Commercial Driver License Application (DPS Form DL-18-CT) signed by the third-party examiner as a part of the examiner's verification of each skills examination administered to the applicant whose name appears on the application form.

(b) If the third-party examiner does not renew certification as a third-party examiner, or leaves the employment of or is terminated from employment by the certified school, the official seal of the Department, map and CDL Examiners Manual shall be surrendered by the examiner to the school. The school shall ensure the official seal of the Department is surrendered to it by the third-party examiner. The school shall immediately notify the Department by telephone of the status of the third-party examiner along with written notification of the status of the examiner.

(c) All documentation required by the Department, including the official seal, score sheets, map and examiners manual, shall be locked up in a secure area on the school premises.

SUBCHAPTER 7. TRUCK DRIVER TRAINING

595:11-7-3. School licenses and instructor permits

~~(a)~~ **In general.** A school license shall be required for schools who offer instruction to entry-level truck driver trainees who do not possess a valid commercial driver license. An instructor permit shall be required for instructors who teach truck driver training.

(1) **Schools - original application.**

(A) All applications for an original school license shall be made on a form provided by the Department. The term of each original school license shall be for a period of one (1) year.

(B) Each application for an original school license shall be accompanied by:

(i) a fee of Twenty-five Dollars ($25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,

(ii) a schedule of fees and charges,

(iii) a certificate of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage,

(iv) the make, model and vehicle identification number of each commercial motor vehicle used for training purposes, and

(v) a sample copy of each type of contract or agreement which the school may enter into with students.

(C) No license fee shall be refunded in the event the license is rejected, suspended or revoked by the Commissioner of Public Safety.

(D) All applications shall be approved by the Department before a school shall be permitted to open for business.

(E) Every operator of a school shall be required to have an instructor permit.

(F) Application for a school license may be obtained:

(i) upon request by mail from the Department of Public Safety, ~~CDL Program Administration~~Driver License Services, P.O. Box 11415, Oklahoma City, Oklahoma 73136-0415, or

(ii) on the Department's website at www.ok.gov/dps.

(G) All schools shall meet the requirements of OAC 595:11-7-13.

(2) **Schools - renewal application.**

(A) All applications for a renewal school license shall be made on a form provided by the Department of Public Safety. The term of each renewal school license shall be for a period of one (1) year.

(B) Each application for a renewal school license shall be accompanied by:

(i) a fee of Twenty-five Dollars ($25.00), which shall be paid to the Department by money order, cashier's check, or business/personal check,

(ii) a schedule of fees and charges, if any changes have been made since the last license issuance,

(iii) a certificate of insurance from a company licensed to conduct business in this State certifying proper commercial insurance coverage (must include appendix of listed vehicles insured for training),

(iv) the make, model and vehicle identification number of each commercial motor vehicle used for training purposes, ~~and~~

(v) a sample copy of each type of contract or agreement which the school may enter into with students, and

(vi) a copy of lease agreements for vehicles used in training, if applicable.

(C) All application forms for renewal school licenses shall be mailed by the Department to each school no later than October 1 every year. Each school desiring to renew shall submit an application to the Department no later than November 15 of each year. If application for renewal is not received by the required date and the Department is unable to process and approve the application by December 31, the commercial school shall cease operation on January 1 of the following year and shall not resume operation until the application for renewal is processed and approved by the Department.

(3) **Instructors - original applications.**

(A) All applications for an original instructor permit shall be made on a form provided by the Department. The term of an original instructor permit shall be for a period of no more than one (1) year. An instructor shall make application for each school location where he or she will be instructing. An instructor permit for a particular school shall become invalid upon termination of employment with that school. If an instructor accepts employment with another school or schools, an instructor permit shall not be transferable, and the instructor shall apply for an original license for each school where he or she is employed.

(B) Each application for an original instructor permit shall be accompanied by:

(i) documentation required by OAC 595:11-7-4, and

(ii) a fee of Five Dollars ($5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check. If the instructor is licensed at multiple schools with the same owner, only one (1) fee of Five Dollars ($5.00) shall be paid. If the instructor is licensed at multiple schools with different owners, a fee of Five Dollars ($5.00) shall be paid for each school with a different owner.

(4) **Instructors - renewal applications.**

(A) All applications for a renewal instructor permit shall be made on a form provided by the Department. The term of each renewal instructor permit shall be for a period of one (1) year. An instructor shall make application for each school location where he or she will be instructing. An instructor permit for a particular school shall become invalid upon termination of employment with that school. If an instructor accepts employment with another school or schools, an instructor permit shall not be transferable, and the instructor shall apply for an original license for each school where he or she is a new employee.

(B) Each application for a renewal instructor permit shall be accompanied by:

(i) documentation required by OAC 595:11-7-4, and

(ii) a fee of Five Dollars ($5.00), which shall be paid to the Department by money order, cashier's check, or business/personal check. If the instructor is licensed at multiple schools with the same owner, only one fee of Five Dollars ($5.00) shall be paid. If the instructor is licensed at multiple schools with different owners, a fee of Five Dollars ($5.00) shall be paid for each school with a different owner.

(C) Any instructor who allows his or her instructor permit to lapse or expire without renewal shall reapply as if for an original instructor permit.

595:11-7-4. Qualifications for instructors

An instructor employed by a school shall submit to the Department of Public Safety, upon application, proof of the following:

(1) current employment by a school which offers a prescribed course of study;

(2) possessing a valid Oklahoma commercial driver license, with proper class and endorsements commensurate with type or types of vehicles and endorsements which are the subject of instruction;

(3) being at least twenty-one (21) years of age;

(4) having never been convicted of a felony as evidenced by a nationwide criminal background check certified within the immediately preceding thirty (30) days;

(5) if applicable, having driving privileges reinstated for at least twelve (12) months, if driving privileges were suspended, canceled, revoked, denied, or disqualified for a driving-related conviction or for Department action related to driving under the influence or driving while impaired. If driving privileges are suspended, canceled, revoked, denied, or disqualified only for a non-driving-related conviction or reason, the applicant shall be eligible immediately upon reinstatement of driving privileges;

(6) having not been convicted of misdemeanor possession or use of alcohol or drugs within the past twelve (12) months;

(7) having not more than five (5) point violations on the driving record;

(8) having no administrative action pending at the Department pursuant to 47 O.S. §§753, 754, or 754.1;

(9) having a high school diploma or general education diploma; ~~and~~

(10) having three (3) years verifiable driving experience in the type of vehicle or vehicles used by the school for instructional purposes. The verifiable driving experience must be within 10 years of the application date~~.~~; and

(11) current medical examiner's certificate.

595:11-7-9. Prescribed course of study

(a) A prescribed course of study commercial truck driver training shall be designed to develop knowledge of those provisions of the Title 47 of the Oklahoma Statutes, other laws of this state, and federal laws and regulations relating to the operation of commercial motor vehicles; acceptance of personal responsibility in traffic; appreciation of the causes, seriousness, and consequences of traffic collisions; and to develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles. In addition, each course of study shall meet the minimum training requirements, as found in 49 CFR, ~~Part~~ §380:

(1) Commercial truck driver curriculum for entry-level instruction for novice truck drivers, including but not limited to:

(A) Section 1 - Basic Operations

(i) Unit 1.1 - Orientation

(ii) Unit 1.2 - Control systems

(iii) Unit 1.3 - Vehicle inspection

(iv) Unit 1.4 - Basic control

(v) Unit 1.5 - Shifting

(vi) Unit 1.6 - Backing

(vii) Unit 1.7 - Coupling and uncoupling

(viii) Unit 1.8 - Proficiency development

(B) Section 2 - Safe Operating Practices

(i) Unit 2.1 - Visual search

(ii) Unit 2.2 - Communication

(iii) Unit 2.3- Speed management

(iv) Unit 2.4- Space management

(v) Unit 2.5- Night operations

(vi) Unit 2.6- Extreme driving conditions

(vii) Unit 2.7- Proficiency development

(C) Section 3 - Advanced Operating Procedures

(i) Unit 3.1-Hazard perception

(ii) Unit 3.2-Emergency maneuvers

(iii) Unit 3.3-Skid control and recovery

(iv) Unit 3.4-Special situations

(D) Section 4 - Vehicle Maintenance

(i) Unit 4.1 - Vehicle systems

(ii) Unit 4.2 - Preventative maintenance and servicing

(iii) Unit 4.3 - Diagnosing malfunctions

(E) Section 5 - Non-Driving Activities

(i) Unit 5.1 - Handling cargo

(ii) Unit 5.2 - Hours of service

(iii) Unit 5.3 - Crash procedures

(iv) Unit 5.4 - Trip planning
(v) Unit 5.5 - Miscellaneous topics to include Truckers Against Trafficking

(2) Commercial truck driver curriculum for refresher and recertification classroom instruction for experienced truck drivers, including but not limited to:
(A) Introduction
(B) Defensive driving tactics
(C) Uniform Vehicle Code (Title 47 of the Oklahoma Statutes)
(D) Federal Motor Carrier Safety Regulations as prescribed by the United States Department of Transportation Federal Highway Administration, 49 C.F.R., Parts 383 and 390 through 399
(E) Techniques of first aid (Instructor must have valid First Aid Instructor's Card)
(F) Driver attitude
(G) Fire prevention and fire fighting
(H) Map reading and routing
(I) Credentials, including:
(i) Cab cards
(ii) Port of entry
(iii) Size and weights permits
(iv) Elective of cargo handling
(v) Truckers Against Trafficking
(J) Training in preparation for written examination, pre-trip inspection and examination, and air brake examination.

[OAR Docket #19-471; filed 5-30-19]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #19-472]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
595:25-1-2. Definitions [AMENDED]
Subchapter 3. Wrecker License
595:25-3-1. General requirements [AMENDED]
Subchapter 5. All Wrecker Operators
595:25-5-1. Physical requirements for storage facility [AMENDED]
595:25-5-2. Equipment requirements for all classes of wrecker vehicles [AMENDED]
595:25-5-3. Operation [AMENDED]
AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The changes in 595:25-1-2 define the required capabilities for class AA wreckers for the purpose of clarification. The changes in 595:25-3-1 more clearly define the training and continuing education requirements to be licensed for the purpose of clarification. The changes in 595:25-5-1 define the requirements for types of storage facilities for the purpose of clarification. The changes in 595:25-5-2 update equipment requirements for wreckers, clean up language, and remove an outdated rule for the purpose of clarification and accuracy of information. The purpose of these changes is to inform new operators of what kind of equipment that is needed. The changes in 595:25-5-3 add language to clarify how to secure personal property in a stored vehicle. The purpose of this change is for clarification. Language was also added to prohibit taking or sharing crash scene photos that would include certain identifiers. The purpose of this change is to protect private and sensitive information.
CONTACT PERSON:
Kimberly Dammen, Legislative Analyst, Department of Public Safety, P.O. Box 11415, Oklahoma City, OK 73136, 405-425-2241, kimberly.dammen@dps.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

595:25-1-2. Definitions

Any reference to "this Act" means 47 O.S. § 951 et seq. unless otherwise specified. The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Call" means each request for service of an operator resulting in an operator being able to receive compensation for these services.

"Commissioners Designee" The authorized individual such as a director or administrative officer of the division.

"Class AA wrecker operator" or **"AA truck wrecker operator"** means any wrecker operator who also meets all the requirements of 47 O.S. § 952(D) for towing for law enforcement agencies. Class AA may also be used for private property towing and consent towing. Class AA must have the ability to tow, recover and haul.

"Class AA Wrecker Support Vehicle" or **"Support Vehicle"** means a general class wrecker capable of assisting and supporting the towing and recovery at the scene of an incident.

"Commission" means the Oklahoma Corporation Commission.

"Commissioner" means the Commissioner of Public Safety, as defined by 47 O.S. § 1-109 and as described in 47 O.S. § 2-102.

"Department" means the Department of Public Safety.

"DPS number" means a permanent number assigned to a wrecker operator, by the Department which is personal and unique to the wrecker service.

"GVWR" means gross vehicle weight rating.

"Inspection Officer" Individual that has been trained and certified by the Department to inspect wrecker vehicles and wrecker facilities.

"Junk vehicle" means a vehicle which is ten (10) years old or older and worth less than three hundred dollars ($300.00) [42 O.S. §91].

"Law enforcement tow" means a tow of a vehicle made by an operator when a law enforcement officer compels a vehicle be towed or makes a request for a tow using a law enforcement rotation log and to which the rates and fees as prescribed by the Corporation Commission shall apply.

"Nonconsensual tow" means *the transportation of a vehicle without the consent or knowledge of the vehicle's owner, possessor, agent, insurer, lien holder, or any other person in possession of or in charge of any vehicle and includes the transportation or towing of the vehicle under lawful circumstances or necessity for the public interest including removing from the roadway for public safety or public convenience, or accidents, by any law enforcement officer or property agent or removal from public or private property as a result of abandonment or unauthorized parking by the property owner, agent, possessor, or other legal entity for the property owner.* [47 O.S. § 951(10)]

"Officer" means any peace officer.

"Operator" means any person or legal entity owning or operating a licensed wrecker vehicle or a licensed wrecker or towing service and any employee thereof.

"Owner request tow" means a tow of a vehicle made by an operator at the request of the owner, or authorized agent of the owner and which is not compelled or required by a law enforcement officer.

"Place of business" or **"Business location"** means a permanent structure, not mounted on wheels, occupied by the wrecker operator at the physical address of the wrecker service, as shown on the wrecker license, with phone service and functioning utilities including but not limited to electricity and water, where normal business is transacted and all wrecker records are maintained. Effective January 1, 2005, the place of business shall be located in Oklahoma.

"Private Property Tow" means a tow of a vehicle which is made from private property by an operator at the request of the owner, legal possessor, or authorized agent in control of the real property, which shall be towed under the provisions of 47 O.S. § 954A and to which the rates and fees as prescribed by the Corporation Commissioner shall apply.

"Rotation log" means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators, meeting the qualifications of Class AA truck wrecker services, whose place of business are within the geographical boundaries of the Troop and who have requested and been approved by the Department to be on the list. This list governs the alternation among approved Class AA-TL truck wrecker operators only.

"Tow/Towing" *means the use of a wrecker vehicle to lift, pull, move, haul or otherwise transport any other vehicle by means of: (a) attaching the vehicle to and pulling the vehicle with the wrecker vehicle, or (b) loading the vehicle onto and transporting the vehicle upon the wrecker vehicle".* [47 O.S. § 951(3)]

"Traffic tie-up" means any situation in which any officer deems it necessary to control the orderly flow of traffic.

"Truck wreckers" means every motor vehicle properly designed and equipped according to Department of Public Safety specifications with wrecker body and winch or lifting apparatus suitably designed to safely move, pull or tow wrecked, damaged or disabled trucks, truck-tractors, road tractors, trailers, semi-trailers, buses and/or other vehicles and conveyances that use the highways of the state of Oklahoma. The designation as a truck wrecker shall be used for Class AA-TL wrecker vehicles only.

"Truck wrecker rotation log" means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators, meeting the qualifications of Class AA truck wrecker services, whose places of business are with in the geographical boundaries of the Troop and who have requested and been approved by the Department to be on the list. This list governs the alternation among approved Class AA-TL truck wrecker operators only.

"Wrecker dolly" means a wheeled device which is used to support one end of a motor vehicle for towing.

"Wrecker license" means the wrecker license as provided by 47 O.S. § 951, et seq.

"Wrecker operator" means any operator who is licensed under this chapter and the laws of this state and who meets all requirements of the rules of this Chapter, pertaining to wrecker vehicles as defined in this Chapter.

"Wrecker or towing service", "wrecker service", or **"towing service"** *means engaging in the business of or performing the act of towing or offering to tow any vehicle, except: (a) where the operator owns the towed vehicle and displays on both sides of the wrecker vehicle in plainly visible letters not less than two (2) inches in height the words "NOT FOR HIRE", (b) where the service is performed by a transporter as defined in [47 O.S.] section 1-181 of this title, (c) where service is performed in conjunction with the transportation of household goods and property, (d) where the wrecker vehicle is owned or operated by the United States government, the State of Oklahoma, or any department or political subdivision thereof, or (e) where the service is performed by an out-of-state wrecker service at the request of the vehicle owner or operator, and the vehicle is being towed: (1) in either direction across the border between Oklahoma and a neighboring state, or (2) through Oklahoma in transit to another state; provided, the out-of-state wrecker service shall comply with all other requirements regarding interstate commerce as set forth in law.* [47 O.S. § 951(6)]

"Wrecker" or **"wrecker vehicle"**, as defined by 47 OS. § 951, et. seq., means any vehicle, other than a transport as

defined in 47 O.S. §1-181, equipped with a winch, cable or other device designed to lift, pull or move a disabled vehicle incapable of self-propulsion. (Does not include a vehicle with a push bumper only.)

(A) Class AA - Any wrecker vehicle not less than nine thousand pounds (9,000 lbs.) GVWR and meeting minimum requirements as established for Class AA wreckers in this Chapter.

(B) Class AA-TM - Any wrecker vehicle not less than twenty-four thousand pounds (24,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-TM Wreckers in this Chapter.

(C) Class AA-TL - Any wrecker vehicle not less than forty-four thousand pounds (44,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-TL Wreckers in this Chapter.

(D) Class General - All other wrecker vehicles as defined by 47 O.S. § 951, et. seq., provided a Class General wrecker shall also be considered a wrecker support vehicle for the purposes of 47 O.S. § 12-218.1.

SUBCHAPTER 3. WRECKER LICENSE

595:25-3-1. General requirements

The following are the requirements for obtaining ~~a~~ an original or renewal of a wrecker license:

(1) **License required.** No operator as defined by law, regardless of storage location, shall operate a wrecker vehicle upon any public street, road or highway of this state for the offering to tow vehicles or the actual towing of vehicles without first obtaining from the Department a license as provided in this Chapter. Any wrecker vehicle being operated on any public street, road, highway or turnpike in violation of Oklahoma law or these rules may be removed from service by Oklahoma law enforcement officers.

(2) **Display and use.** An operator's wrecker service license shall be personal to the holder thereof and a wrecker vehicle license shall be unique to the vehicle. Each license shall be issued only to a person, a corporation or some definite legal entity. The licenses are non-transferable and any change in ownership, whether of a wrecker service or wrecker vehicle, shall cancel the applicable license. The wrecker service license shall be conspicuously displayed at the primary place of business. The license shall be valid only at the place of business as shown on the license. Additional or satellite places of business shall not be permitted or approved on the same license but shall require a separate application and license.

(3) **Reason for application.** No showing of public convenience or necessity need to be made in support of an application for a wrecker or towing license.

(4) **Issuance.** No license for operation of a wrecker or towing service shall be issued until:

(A) The wrecker operator has a minimum of one towing/wrecker vehicle,

(B) Certificates of insurance as prescribed by the Department are on file with the Department,

(C) Each wrecker vehicle has been inspected by an officer of the Department to verify that equipment requirements of this Chapter have been met, and

(D) Each ~~new~~ wrecker ~~owner~~operator and driver of a wrecker/towing vehicle has successfully completed a minimum of 16 hours of Department approved course of training or have a minimum of 2 years of experience on the following:

(i) Traffic incident management

(ii) Wrecker vehicle recovery controls

(iii) Connecting or loading vehicle onto wrecker

(iv) Tie down and secure vehicle to wrecker

(v) Wrecker operation safety

(vi) Annually complete ~~8~~ 4 hours of continuing education approved by the department

(5) **Carry license.** A copy of the wrecker vehicle license issued by the Department shall be carried at all times in the wrecker vehicle for which the license was issued.

(6) **Return license to Department.** Any wrecker operator that disposes of or deletes any wrecker vehicle from operation shall return the license and window decal issued for that particular vehicle and window decal to the Department of Public Safety. When an unlicensed wrecker vehicle is observed with decals identifying it as a licensed wrecker vehicle, law enforcement personal may remove the decals and seize the cab card license and return both to the Department. Any operator that cancels its last remaining wrecker vehicle from operation will have thirty (30) days to have another wrecker vehicle inspected, approved, and licensed or the wrecker license issued to that operator will be cancelled.

(7) **Additional wreckers.** Any wrecker operator that adds a wrecker vehicle shall:

(A) Register the wrecker vehicle with the Oklahoma Tax Commission, in the name of the operator or the name of the wrecker service, and properly display a current license plate. A leased wrecker vehicle shall show the owner information and the name of the lessee on the vehicle registration.

(B) Notify the Department of the make, model, GVW and serial number of the vehicle.

(C) Send notification to the Department from the insurance carrier of the wrecker operator that the vehicle has been added to present insurance coverage.

(D) Have the vehicle inspected and approved by an employee of the Department.

(E) A wrecker license plate, or a proportional license plate, must be purchased and affixed to the wrecker vehicle after the vehicle has been inspected and approved and before the vehicle can be used by the operator to tow vehicles.

~~(8) **Sticker required on each vehicle.** Each wrecker vehicle which is used by an operator in pulling or towing a vehicle shall display in the lower right hand corner of~~

~~the windshield a valid sticker furnished by the Department indicating the classification of wrecker service.~~

(~~9~~8) **License number and business name.**

(A) The DPS number issued to the operator by the Department for the operation of a wrecker or towing service, along with the name of the wrecker service, shall be clearly visible at all times and shall be conspicuously displayed and vertically centered on each side of every tow vehicle used by the operator in the wrecker or towing service. All wrecker services will display AA or G designation at the end of the DPS number. Example: DPS 12345W AA or DPS 12345WG.

(B) On wrecker vehicles in use the DPS number and business name shall be at least three inches (3") in height. The font shall not be a font which is highly decorative or difficult to read. The lettering shall be in a color that will contrast with the color of the tow vehicle in order to be readily noticed and legible.

(C) The signage required by this paragraph shall be permanent in nature and shall not contain any misleading or false information. The wrecker vehicle shall not have more than one wrecker service name on the vehicle.

(D) Magnetic signs are not approved; provided, if requested of and approved by the Commissioner 's designee, a magnetic sign may be used for a period of thirty (30) days in an emergency situation.

(~~10~~9) **Service of notice.** Any notice required by law or by the rules of the Department served upon any holder of a wrecker or towing license shall be served personally or mailed to the last known address of such a person as reflected by the records on file with the Department. It is the duty of every holder of a certificate or license to notify the Department of Public Safety, Wrecker Services Division, in writing as to any change in the address of such person or of the place of business.

(~~11~~10) **License prohibited.**

(A) No person under eighteen (18) years of age shall be licensed or employed as a wrecker operator.

(B) No person shall be licensed as a wrecker/towing service operator or employee who has been convicted of:

(i) a felony, larceny, theft or untruthfulness; or

(ii) any provision of Title 21 O.S. §1029 while providing wrecker services; or

(C) No person shall be licensed as a wrecker/towing service or be employed by a wrecker/towing service until five (5) years after completion of the sentence for the conviction, including probation or supervised release. In cases of deferred judgment and sentence, the prohibition shall extend to five (5) years after the end of the deferred judgment and sentence.

(D) Any person who is required to register as a sex offender, as required by 57 O.S. § 582, shall be prohibited from owning or working for a wrecker service for the period of time the person is or is required to be registered.

(~~12~~11) **One Class AA license per place of business.** Wrecker operators shall be issued no more than one Class AA wrecker license for any one place of business.

(~~13~~12) **One Class AA wrecker service on Oklahoma Highway Patrol 's rotation log in same rotation area.** An operator shall be permitted to rotate no more than one Class AA wrecker service in the same Highway Patrol rotation area on the Highway Patrol 's rotation log. For purposes of this paragraph, "Class A wrecker service" shall include those services with a Class AA-TL wrecker vehicle.

(~~14~~13) **Business telephone number.** Each wrecker service shall have a telephone number published that is accessible to the public twenty-four hours a day. The operator shall provide in writing to the Department notice of any permanent business telephone number change prior to the new telephone number being placed in service.

(~~15~~14) **Business sign.** Each AA Wrecker Service and each G Wrecker Service with storage shall have a business sign at the business location. The sign shall be at least 2 feet by 4 feet with letters at least 3 inches in height with contrasting background and shall display, at a minimum, the name of the wrecker service as shown on the license and a telephone number accessible to the public twenty-four (24) hours a day.

(~~16~~15) **Wrecker drivers.** Wrecker services shall notify the Wrecker Services Division within ten (10) days of hiring or termination of employment of any wrecker driver.

SUBCHAPTER 5. ALL WRECKER OPERATORS

595:25-5-1. Physical requirements for storage facility

(a) **General Requirements.** All wrecker operators, who, in conjunction with or as part of a licensed wrecker operation, store, park or maintain possession of a towed vehicle, shall store such vehicle in a storage facility which shall meet the minimum physical requirements prescribed in this Section. No vehicle shall be stored in any facility or area which has not been inspected and approved by the Department except in case of exceptional circumstances such as natural disasters or at the direction of law enforcement officers at the scene of an incident.

(1) An operator shall not store vehicles:

(A) At their home,

(B) In another operator's storage lot; or

(C) Any other location unknown to the Department.

(2) The entrance to the storage facility shall be separate from any other business entity.

(3) A vehicle accepted for storage may not be altered without consent of the vehicle owner or their authorized representative.

(4) No stored vehicle may be used for personal or business use without the prior written consent of the vehicle's owner.

(b) **Outdoor Storage Facilities.**

(1) Every primary outdoor storage facility:

(A) Shall be designed to be minimum of 5000 square feet for small truck and minimum of 15000 square feet for large truck in size~~.~~. A previously licensed proprietor, partnership or corporation business will be allowed to renew the DPS license for their location unless they are changing locations of business.

(B) Shall be surrounded completely by a fence. Construction material for fences shall be of wood, metal~~or~~, chain link or masonry and be at least six feet (6') in height built solid, firmly and securely to provide the best protection for restricted access. Livestock paneling (welded wire) shall not be used unless the wire diameter is equal to or larger than 8 gauge (0.160 diameter) with horizontal panels no larger than 4" x 4". T-post construction shall not be approved. Outdoor storage facilities, effective July 1, 2014, shall meet new standards or if facilities previous of date, upon a failed inspection, if found the fence did not meet previous standards, new standards will be imposed.

(C) Shall have at least one (1) gate of the same quality of material and height of the fence and must be locked if not attended.

(D) The storage lot area:

(i) Shall be maintained, including but not limited to removal of tall weeds, overgrown vegetation and debris;

(ii) The lot surface shall be an all-weather surface such as concrete, asphalt, blacktop, gravel, or any materials equivalent;

(iii) And cover the complete area of the storage lot that enables the safe and effective movement of stored vehicles upon all portions of the storage lot.

(2) If the construction requirements in paragraph (1) of this subsection are in violation of municipal zoning ordinances or other laws, regulations, or ordinances, the operator may file with the Department a petition for exemption and a proposed security plan in lieu of the requirements, which the Department may approve. The operator shall attach a copy of such zoning ordinance or other laws, regulations, or ordinances with the petition.

(c) **Facility Location and Number.**

(1) A minimum of one (1) primary storage facility shall be located within a two (2) mile radius of the place of business address as reflected on the wrecker license and, effective January 1, 2005, shall be located within Oklahoma. Secondary storage facilities may be located outside the two (2) mile radius.

(2) Each vehicle stored must be initially stored and held at the primary storage facility. After thirty (30) days from date of initial storage, vehicles may be moved to a secondary storage facility. The provisions of this paragraph shall not apply to junk vehicles.

(d) **Alternate Primary Storage Facility.** In lieu of or in addition to the primary storage facility described in this Section, a wrecker operator that tows a vehicle pursuant to a contract with a municipality or county may store such vehicle in a facility meeting the requirements set forth in such contract; provided, that:

(1) A copy of the proposed contract is furnished to the Department, along with documentation that requirements specified in this Section will be or have been met.

(2) Only vehicles towed at the request of the municipality shall be stored in such facilities unless such facility meets all the requirements of this Section.

(3) The wrecker operator shall have assumed reasonable responsibility with respect to the owner of such towed vehicle for any damages or loss of contents occurring during such time as the towed vehicle is stored in the facility.

(4) If the storage facility is not owned by the operator, the owner of such storage facility shall also assume joint responsibility for damages or loss of contents to the vehicle secured during such time as the vehicle is stored at such facility.

(5) Such storage facility must meet or exceed the requirements of this Section.

(6) If such storage facility is not operated by the operator, the operator shall have made arrangements with the owner of such storage facility to enable the owner of the vehicle to make full payment for towing and storage costs at the storage facility location and thereby obtain full release of the vehicle.

(7) A wrecker operator may not store any vehicle in a facility which has not been inspected and approved by the Department.

(e) **Indoor storage facility.** An operator may also provide an indoor storage facility as either a primary or secondary storage facility. Due to a special situation such as, but not limited to, a pending fatal collision, asset forfeiture or criminal investigation, law enforcement may select without regard to rotation, an operator nearest to the incident with appropriate indoor storage. The facility must meet the requirements of the Oklahoma Highway Patrol and the operator must comply with any special instructions. An indoor storage facility shall be a permanent structure that meets the following minimum physical requirements.

(1) A solid roof,

(2) A solid hard-surface floor,

(3) Solid walls which fully enclose all sides, i.e. reach from corner to corner on each side and from the floor to the roof on all sides. The walls may be penetrated by windows and doors which must be fully operable so as to make the facility fully enclosed when the windows and doors are closed, and

(4) Must be a minimum of 500 square feet in size.

(f) **Each Wrecker Service is a Separate Entity.** Each wrecker service shall be licensed as a separate legal entity. Any wrecker service with storage shall maintain a primary storage facility that is physically separated from any other entity's storage facility as determined by the Department, so that the responsibility and accountability of the operator relating to compliance with these rules is maintained.

(g) **Shared Storage Prohibited.** Shared use of any outdoor or indoor storage facility by two (2) or more wrecker services

is not permitted, except as may be determined by the Commissioner.

(h) **Leased or rented building, office or storage.** Wrecker operators intending to lease or rent any building, office or storage facilities shall file such plan of lease or rent with the Department for approval. Such plan shall be signed and approved by the owner of the property or representative of the owner and be of at least one year in duration and include specific terms therein delineating the responsibility of the operator relating to compliance with the rules of this Chapter and assurance that accountability is maintained.

595:25-5-2. Equipment requirements for all classes of wrecker vehicles

(a) **All Wrecker Vehicles.** Each wrecker which is used by an operator in the performance of a wrecker or towing service shall be equipped with the following:

(1) **Fire Extinguisher.** One (1) or more dry chemical, B.C. rating, fire extinguisher having a minimum of ten pounds (10 lbs.) total capacity, which shall be mounted and readily accessible.

(2) **Flashing light.** At least one (1) amber rotating or flashing light, mounted and centered above the cab of the vehicle, visible from 360 degrees or on a light bar, and approved by an officer of the Department. The amber rotating light is for use only at the scene of an emergency or where a traffic hazard exists and there is the necessity to warn approaching vehicles, such as at a routine vehicle pickup [47 O.S. 12-218.1]. ~~Wreckers presently approved will not be required to have lights of another color replaced with an amber light until such time as the present lights become defective to the point of needing replacement, at which time it shall be replaced with an amber light. Any wrecker service approved after April 27, 1990, shall be required to have the amber light. Any wrecker vehicle approved after July 15, 2004, shall be required to have the amber rotating or flashing light or light bar permanently mounted on each wrecker.~~ In addition to the required amber rotating light, the wrecker may be equipped with a red or blue flashing light, or a combination of red and blue flashing lights, for use only at the scene of an emergency [47 O.S. 12-218.1]; provided, on any wrecker vehicle approved after July 15, 2005, the red or blue light, or the combination of red and blue flashing lights, shall be on a separate switch from the amber light. Under no circumstances are any of the rotating or flashing red or blue lights intended for use when traveling on the streets or highways [47 O.S. 12-218.1]. White rotating lights are not authorized under Oklahoma statutes.

(3) **Chains.** Two (2) chains of sufficient grade to assist in securing the towed vehicle.

(4) **Broom.** One (1) push-type broom, suitable for clearing debris from the road.

(5) **Shovel.** One (1) shovel, suitable for clearing debris from the road.

(6) **Tire Chains.** One (1) set of tire chains, mud and snow tires or other device to assist wrecker to maintain traction in mud, snow or ice.

(7) **Warning Devices.** Warning devices, applicable to trucks as required in 47 O.S. § 12-407, capable of protecting the scene of a collision by day or night.

(8) **Lighting for Towed Vehicle.** Wreckers must be equipped to operate a towed vehicle's stop, turn and clearance lights (if applicable), or be equipped with a light bar or other lighting equipment to provide the highway lighting requirements for vehicles. When used, the light bar or tow lights shall be affixed securely to the towed vehicle to assure a minimum of movement while traveling on the highway and to prevent any damage to the towed vehicle.

(9) **Safety Chains or Straps.** Two (2) safety chains or wheel straps of sufficient capacity to keep the towed vehicle attached to the wrecker in the event of disengagement.

(10) **Additional Equipment.** Each operator of a roll back wrecker shall secure towed vehicles with four-point tie downs. Operator of other wrecker vehicle types shall secure towed vehicles in accordance with wrecker vehicle chassis recommendations.

(11) **Approved dolly use.** When a wrecker dolly is used as the lift or towing device, both the wrecker dolly and the wrecker shall first be approved and licensed as a unit by the Department. In addition to the requirements in (a) of this Section for all wreckers, a wrecker dolly towing vehicle shall also be equipped at a minimum with the following:

(A) A ball or pintle hook of sufficient size and capacity to safely control the wrecker dolly, securely fastened to the appropriate frame member of the wrecker.

(B) Two safety chains of sufficient capacity to keep the wrecker dolly attached to the wrecker in the event of hitch failure.

(12) **Safety Apparel.** A minimum of (1) one high-visibility safety apparel (vest, jacket or shirt), per wrecker vehicle, in compliance with ~~23 C.F.R., section 634~~2009 MUTCD section 6D.03.

(13) **Safety Apparel while in right-of-way.** Each wrecker operator or driver shall wear high visibility safety apparel, in compliance with ~~23 C.F.R., section 634~~2009 MUTCD section 6D.03, when working in any highway right-of-way.

(b) **Class AA Wrecker Vehicles.** Each Class AA wrecker vehicle, in addition to the equipment required by subsection (a), shall be equipped with the following:

(1) **Scotch Blocks.** Two (2) scotch blocks, or similar devices, capable of adding stability to the wrecker during winching. Scotch blocks shall be constructed of steel plate with a chain or cable of sufficient grade and quality to attach to the frame or body of the wrecker. Hydraulic stabilizing equipment shall be approved. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)

(2) **Dollies.** Dollies for the purpose of providing a method of towing a disabled vehicle which is otherwise incapable of being towed safely on either axle. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)

(3) **Axe.** One (1) axe.

(4) **Pry-bar.** One (1) pry-bar or wrecking bar capable of prying open doors.

(5) **Sling and Stay-bar.** One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.

(6) **Dual Rear Wheels.** At least one (1) set of dual rear wheels for stability in towing another vehicle.

(7) **Winch.** A winch or winches permanently mounted at the rear of the vehicle with a minimum factory rated capacity of eight thousand pounds (8,000 lbs.) and equipped with a cable to be compatible with manufacturer's specifications and be of sufficient length based on the design of the wrecker vehicle.

(8) **Absorbent.** An adequate supply of an absorbent capable of absorbing liquid spills from vehicles (not including cargo spills); provided, the wrecker service or wrecker operator shall not be required to pick up or dispose of the used absorbent. The Department recommends keeping at least four (4) gallons of absorbent on each wrecker vehicle.

(9) **Hydraulic Jack.** One (1) hydraulic bottleneck jack or floor jack with a minimum two and a half ton rating.

(10) **Basic equipment list:**

(A) First Aid kit

(B) Trash bags (33 gal. min.) or 5 gallon buckets (2)

(C) Flashlight

(D) ~~Cable Cutter pliers (8")~~Wire/Cable cutter pliers (8")

(E) Jumper cables or Jumper Box

(F) Safety glasses (1pr)

(G) Traffic cones (3) MUTCD compliant

(H) Adjustable pliers

(I) Rubber gloves and or work gloves (PPE gear)

(c) **Class AA-TM Wrecker Vehicles.** Each Class AA-TM wrecker (medium truck wrecker), in addition to the equipment required by subsection (a and b), shall be equipped with the following:

(1) **Minimum Vehicle Requirements.**

(A) **Air Brakes.** Factory or certified installed full air brakes with a full tractor package (hand control, in line foot valve, air hoses and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the towing vehicle.

(B) **Parking Brake.** Air-activated spring parking brake.

(C) **GVWR Compatibility.** Wrecker body and equipment shall be compatible with the chassis GVWR in size and shall be suitable by design to operate under emergency conditions.

(i) Vehicle body must be capable of safely anchoring scotch blocks.

(ii) Vehicle must be designed to adequately anchor snatch blocks.

(2) **Equipment Requirements.**

(A) **Winch.** A winch or winches permanently mounted at the rear of the vehicle with a minimum factory rated capacity of thirty thousand pounds (30,000 lbs.) and be equipped with a cable to be compatible with manufacturer's specifications and be of sufficient length based on the design of the wrecker vehicle.

(B) **Boom.** A boom or booms constructed so as to be compatible with winch rating.

(C) **Snatch Blocks.** A minimum of two (2) snatch blocks compatible with winch cable size and cable rating.

(D) **Sling and Stay-bar.** One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.

(d) **Class AA-TL Wrecker Vehicles.**

(1) **Minimum Vehicle Requirements.**

(A) **Air Brakes.** Factory-installed or certified installed full air brakes with a full tractor package (hand control, in-line foot valve, air hoses, and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the wrecker.

(B) **Parking Brake.** Air-activated spring parking brake.

(C) **Axle and Suspension.**

(i) Minimum front axle and suspension of twelve thousand pounds (12,000 lbs.). (Note: GVWR rating are altered or affected by tires, springs and axles.)

(ii) Minimum rear axle and suspension combination of thirty-two thousand pounds (32,000 lbs.).

(iii) Be equipped with full-driven tandem axle (NOTE: A drag axle or pusher axle is not acceptable).

(D) **Wheel Base:** Chassis must have a minimum Wheel base of 280 (two hundred and eighty) inches. 200 inches will be allowed on vehicles previously licensed if they have a hydraulic wheel lift, spades and an additional ~~helper~~ operator.

(E) **GVWR Compatibility.** Wrecker body and equipment shall be compatible with chassis GVWR and size and shall be suitable by design to operate under emergency conditions.

(i) Body must be capable of safely anchoring scotch blocks.

(ii) Must be designed to adequately anchor snatch blocks.

(2) **Equipment Requirements.**

(A) Winches must be maintained with at least 75% capacity of the manufactures recommended length of wire or synthetic rope. Must have at least 2 (two) winches with a minimum combined capacity of 40,000 (forty thousand) lbs.

(B) Boom(s): Wrecker unit must have a factory built or certified 25 (twenty-five) minimum ton boom

rating that is an elevating and telescoping recovery boom.

(C) Wrecker unit must have a factory built or certified hydraulic telescoping wheel lift.

(D) Large truck requirements:

(i) 2 or more air hoses 3/8", with combined~~inch 50' min.~~ minimum length of 100' (feet)

(ii) Cage Bolts (8)

(iii) Two Air outlets on the wrecker for emergency and service line activation

(iv) Metric and Standard end wrench sets with minimum 3/8" 1/4" to 1" and 8mm to 19mm

(v) Metric and Standard $\frac{1}{2}$" drive socket set and ratchet with minimum 1/4" to 1" and 8mm to 19mm

(vi) Hydraulic or ~~Floor Jack~~pneumatic jack with 10-ton min. rating

(vii) 10 gallons of absorbent material

(viii) 2.5 lb. Sledge/shop hammer

(ix) 2 pr. locking pliers

(x) 4 axle covers

(xi) 5 traffic cones (MUTCD compliant)

(xii) Saddle Tank fluid mitigation compound (Plug and Dyke or other similar product).

(xiii) Minimum of 4 (four) snatch blocks that are recommended for the size of rope contained on the winches.

(xiv) Minimum of sixty feet (60') of one half inch ($\frac{1}{2}$") Grade 80 Recovery Chain with ~~grab~~ hooks.

~~(xv) Minimum of eighty feet (80') of three eighths (3/8") Grade 80 Recovery Chain with grab hooks.~~

(~~xvi~~xv) 2 (two) - one inch (1") screw pin clevises.

(~~xvii~~xvi) 2 (two) - one half inch (1/2") screw pin clevises

595:25-5-3. Operation

All operators using the public roads and highways within the State of Oklahoma shall comply with the following:

(1) All operators shall require each driver of a wrecker vehicle be proficient in the operation thereof, and be properly licensed for the type vehicle operated.

(2) No operator shall knowingly permit any operator of a wrecker vehicle to consume beer, wine, intoxicating beverages, drugs or other stimulants or depressants while subject to call nor knowingly permit any operator to come on duty after having inhaled or consumed any such beverage, drug or other stimulants or depressants.

(3) No operator shall proceed to the scene of a collision or traffic tie-up without being requested to do so by a law enforcement agency or the owner or driver of a vehicle involved.

(4) Any operator traveling on the roads and highways of the State of Oklahoma during the normal course of his business may, upon arriving at the scene of a collision or traffic tie-up, stop and assist in rendering emergency aid. However, the operator shall not solicit business directly or indirectly from the owner or drivers at the scene.

(5) An operator at the scene of a collision or traffic tie-up is subject to the same traffic-control directions issued by an officer to the motoring public.

(6) An operator shall not use the rotating or flashing light while traveling on the roadway en route to any location. The use of the flashing or rotating light is authorized only in the vicinity of hook-up or at the scene of an incident to protect the scene and the vehicle involved. Only amber flashing lights may be used when leaving the scene of a wrecker service call for the purpose of warning the operators of other vehicles to exercise care in approaching, overtaking or passing. [47 O.S. §12-218.1]

(7) Each operator must be a person of good moral character and reputation in his community, as determined by the Commissioner of Public Safety, and conduct the operation of the storage facilities and towing service in a responsible manner so as not to endanger the public safety of persons or property of others in the custody of the operator.

(8) No operator shall tow a vehicle when the combined weight of the wrecker vehicle and the wrecker supported weight of the towed vehicle exceeds the factory gross vehicle weight rating of the wrecker vehicle, regardless of the weight for which the wrecker vehicle is licensed.

(9) No wrecker service shall suspend or abandon said service without prior written notice to this Department of such intent and returning of all wrecker licenses issued.

(10) Wrecker services and operators shall be responsible for the removal ofany glass or other injurious substances dropped upon the highway or highway right-of-way at the location of an accident as required by title 47 O.S. §11-1110(C).

(11) Upon payment of the reasonable cost of removal, and storage of a stored vehicle, whether stored at the request of law enforcement or a private property owner and recorded by the wrecker service as provided in OAC 595:25-5-5(b), the vehicle shall be released to:

(A) the owner, upon presentation of one (1) of each of the following; proof of ownership, identification and insurance (if required by law): Evidence of ownership may be:

(i) A valid certificate of title, to show proof of purchase and ownership to include tribal and other state titles;

(ii) Registration Receipt (Digital or Electronic verification shall be accepted) or;

(iii) Title properly assigned by the seller, dated, notarized (if required on title) and the owner 's name filled out on the title or;

(iv) Written verification from a local law enforcement agency as to the identity of the owner or;

(v) Other appropriate documentation sufficient to establish ownership. Proof of identification may be :

(vi) Oklahoma driver license or;

(vi) Oklahoma identification card or;
(vii) Other state driver license or;
(viii) Other state or federally issued photo identification or;
(ix) Other documentation sufficient to establish identity. Proof of Insurance may be: (Insurance may not be in owner's name, as required in Title 47 955A.)
(x) Valid insurance verification form, not expired with VIN of vehicle listed or
(xi) Valid insurance policy not expired with VIN of vehicle listed or
(xii) Valid affidavit of non-use and vehicle cannot be driven from facility (Digital or Electronic verification shall be accepted).

(B) a person representing the owner, upon presentation of, a notarized letter from the owner permitting said person to act in behalf of the owner, with year, make, model and vehicle identification number of the vehicle and proof as listed in paragraph A.

(C) a lien holder or a duly authorized agent of a lien holder, upon presentation to the wrecker operator proof of being a lien holder [47-904.1], hold harmless letter and a notarized letter from the lien holder permitting said person to act on behalf of the lien holder that includes year, make, model and vehicle identification number; or

(D) the insurer of or the representative of the insurer accepting liability for or purchasing a motor vehicle as provided in 47 O.S., Section 904, 953.1, or 953.2, must provide a hold harmless letter and a letter from the insurer permitting said person to act on behalf of the insurer that includes year, make, model and vehicle identification number.

(12) Personal property, which shall include everything in a stored vehicle except the vehicle and its attached or installed equipment, vehicle keys, or devices to start and unlock the vehicle, and the spare tire and tools to change the tire, shall be released, upon request, to the owner or owner's representative, upon showing of proof as described in (11) of this section. Wrecker operators shall allow the vehicle owner or owner's representative to have access to the vehicle for the sole purpose of retrieving ownership documentation, such as title or registration. [47 O.S. §955 E] Personal property shall not be removed from the vehicle unless the operator has a written company policy or procedure for the intended safekeeping of any personal property removed from a vehicle. Personal property may not be removed from vehicles with law enforcement investigative holds for evidence or vehicles with biohazards. Personal property stored at the operator's business office must be secured under lock and key or with an attendant on duty 24 hours per day. Any personal property removed from the vehicle shall be released , to the owner or owner's representative, upon showing of proof as described in (11) of this section.

~~(13) Wrecker operators shall not call hazardous materials remediation companies unless at the direction of the vehicle owner or a governmental agency~~.

(~~14~~13) Each operator shall require each wrecker driver to maintain the appropriate driver license for the type vehicle being operated.

(~~15~~14) Each operator shall prohibit any known thief or felon from loitering, visiting, or otherwise being on the premises of the place of business or any storage facility of the wrecker service.

(~~16~~15) Each operator shall secure vehicles on roll back wreckers with four (4) point tie down. Other wrecker vehicles shall secure vehicles in accordance with wrecker vehicle chassis recommendations.

(~~17~~16) A wrecker operator or driver responding to the scene of a motor vehicle collision in the capacity of a first responder, fireman, or volunteer fireman shall not respond to the scene in a wrecker vehicle.

(17) Operator shall not take photos of a crash scene that would include bodies, personal information of anyone or any personal identifiers, including but not limited to, license plates or names on vehicles. Any photo of a crash scene that includes bodies, personal information, or any identifiers of any person must not be posted on any form of social media.

[OAR Docket #19-472; filed 5-30-19]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 30. SIZE AND WEIGHTS PERMITS

[OAR Docket #19-473]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Size and Weight Permit Load
595:30-3-2. A permit is a legal document; permit types [AMENDED]
595:30-3-5. Method of placing permit in suspension where conditions exist beyond the control of the permittee [AMENDED]
595:30-3-8. Provisional permit book [REVOKED]
595:30-3-9. Suspension of permits obtained by provisional method [REVOKED]
595:30-3-13. Governmental agencies [AMENDED]
595:30-3-17. Requirements for escort vehicles and escort vehicle operators [AMENDED]
595:30-3-19. Manufactured homes and industrialized housing [AMENDED]
595:30-3-21. Industrialized housing, houses, and buildings [AMENDED]
595:30-3-22. Agriculture permits [AMENDED]
Subchapter 5. Special Combination Vehicles
595:30-5-7. Weight [AMENDED]
Subchapter 9. National and Regional Permits
595:30-9-1. Regional Permits [AMENDED]
AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101 et seq.
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The changes in 595:30-3-2 clean up language for the purpose of accuracy of information and removing redundancies. The changes in 595:30-3-5 update information regarding requesting reinstatement of a permit. The reason for this change is for accuracy of information. 595:30-3-8 and 595:30-3-9 are revoked because SB982 abolished the provisional permitting system. The changes in 595:30-3-13 clean up language and update telephone numbers for the purpose of clarity and accuracy of information. The changes in 595:30-3-17 update and clean up language for the purpose of clarity and accuracy of information. There is also a change requiring escort vehicle operators to carry their driver license and escort certification on their person and present them for inspection at the request of any law enforcement officer. This change is for ease of enforcement. The change in 595:30-3-19 changes wording from "overlength" to "overwidth" permit. This change is for the purpose of clarity and accuracy of information. The change in 595:30-3-21 specifies dimensions. This change is for clarity. The changes in 595:30-3-22 add and clean up language for the purpose of clarity and accuracy of information. The change in 595:30-5-7 updates the relevant statute for the purpose of accuracy of information. The change in 595:30-9-1 updates the telephone number for the purpose of accuracy of information.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 3. SIZE AND WEIGHT PERMIT LOAD

595:30-3-2. A permit is a legal document; permit types

(a) **Permit defined.** A permit is a legal document authorizing the permittee to move a vehicle or load, which is oversize, overweight, or both, upon the roads and highways of this state when the route constitutes the safest practical routing. The document shall be carried in paper form and in the drivers possession (Electronic copies will not be acceptable) and consist of:

(1) the information furnished by the applicant contained in the permit,

(2) the conditions and restrictions stated in the permit, and

(3) the applicable provisions of this Chapter, OAC 730:30-9, Oklahoma law, or any combination of provisions.

(b) **Annual permits.** Annual permits, as authorized by 47 O.S. §14-101 et seq. and by OAC 730:30-9, shall be on a form and in a manner prescribed by the Commissioner of Public Safety. Annual permits shall comport to 23 U.S.C. §127 for interstate applications, to other state statutes relating to size and weight of vehicles and combinations of vehicles, and to OAC 730:30-9 for all roads and highways of this state. Annual permits shall be for a duration of one calendar year from the date of issuance. Annual permits for the movement of vehicles, loads, or both which exceed the size or weight provisions, or both, of 47 O.S. §14-101 et seq., but do not exceed the provisions of OAC 730:30-9 or state statutes relating to maximum allowable permit limits, shall be applied for and issued, using the procedures established in this Chapter, through the Size and Weight Permit Division of the Department of Public Safety. Annual permits shall not be restricted to nondivisible vehicles or loads and shall be specific to the towing vehicle of any vehicle operating as a combination of vehicles.

(1) Fees for annual permits shall be in accordance with the fee schedule contained in 47 O.S. §14-101 et seq.

(2) Annual permits shall be subject to suspension, revocation or cancellation by the Commissioner of Public Safety or an authorized representative upon due process, as outlined in this Subchapter.

(c) **Single trip permits.** Single trip permits, as authorized in OAC 730:30-9-6(2), shall be on a form and in a manner prescribed by the Commissioner of Public Safety. Single trip permits shall be applied for and issued, using the procedures established in this Chapter, through the Size and Weight Permit Division of the Department of Public Safety. All single trip permits shall comport to OAC 730:30-9 and related state statutes and shall be for a duration of up to, but not to exceed, five (5) consecutive ~~business~~calendar days. Single trip permits shall be issued for nondivisible vehicles or loads, as defined in 23 C.F.R. ~~Part~~§ 658, which exceed the provision of state statutes but do not exceed the provisions of OAC 730:30-9 or state statutes relating to maximum allowable permit limits. ~~Single trip~~ All or any permits may be revoked by any duly qualified law enforcement officer of the Department of Public Safety after having observed any violation of any of the provisions of the permit. The revocation shall be final and no further movement of the vehicle or load shall be authorized until the vehicle or load is authorized by a proper permit.

~~(d) **Provisional permits.** Provisional permits, as authorized in 47 O.S. §14-116, shall be made available to all authorized carriers who have established monthly billing accounts with the Department of Public Safety and appear on the monthly billing system [see 595:30-3-7 regarding monthly billing accounts]. Provisional permits shall be for a single trip, nondivisible load for the safest practical route and in accordance with all other applicable rules, federal regulations, and state statutes pertaining to permitted movements of vehicles or loads which are oversize, overweight, or both. The provisional permit shall be on a form prescribed by the Commissioner of Public Safety~~

~~containing a numerical Department of Public Safety control number.~~

(~~e~~d) **Multi-trip oversize permits.** A multi-trip oversize permit may be issued for a specific motor vehicle, which can be identified by a vehicle identification number or serial number, for movement as set forth in 730:30-9-9(a)(1) and (j).

(~~f~~e) **Annual envelope vehicle permit.** An annual envelope vehicle permit shall be issued by the Department in conformity with 730:30-9-16. In addition to the requirements of 730:30-9-16:

(1) An annual envelope permit shall not be used in conjunction with any other permit.

(2) An annual envelope permit shall be void if used for the movement of houses or modular or manufactured homes.

(3) An annual envelope permit shall be void if laminated.

(4) Reasonable access to and from terminals for fuel, food, repairs and rest shall not exceed five (5) statute miles from the roadways authorized by the Oklahoma Department of Transportation.

(5) A vehicle being moved under an envelope permit shall not be moved on turnpikes except on non-interstate turnpikes. Non-interstate turnpikes are:

(A) Indian Nation
(B) Cimarron
(C) Cherokee
(D) Chickasaw
(E) Creek
(F) Muskogee
(G) Kilpatrick

(6) The operator of a vehicle in excess of 9 feet and 6inches in width which is moving under an envelope permit shall use a valid PikePass to travel on any turnpike listed in paragraph (5) and shall travel only in a PikePass lane when in the area of any tollbooth or turnpike entrance or exit.

(~~g~~f) **Prima facie evidence.** Undertaking the movement of the vehicles and loads specified in the permit is deemed prima facie evidence of an unequivocal allegation that the permit is accepted by the permittee. Acceptance of the permit by the permittee will be deemed prima facie evidence of an unequivocal allegation by the permittee that:

(1) Permittee is in compliance with all operational requirements;

(2) All dimension and weight limitations specified in the permit will not be exceeded;

(3) All operation, registration, and license requirements have been met;

(4) All financial responsibility obligations and other legal requirements have been met. The permittee assumes all responsibility for injury to any person or for damage to public or private property, including the permittee's own, or to the load being transported, caused directly or indirectly by the transportation of vehicles and loads authorized under the permit.

(~~h~~g) **Multiple trailer or semitrailer permits.** To obtain a permit for multiple trailers or semitrailors pursuant to 47 O.S. 14-116 (F) an affidavit must:

(1) be submitted to the Department of Public Safety Size and Weight Permits Division containing:

(A) license plate number of each trailer or semitrailer;

(B) vehicle identification number of each trailer or semitrailer;

(C) US DOT Number of power unit pulling a ~~of each~~ trailer or semitrailer;

(D) Make and Model of trailer or semitrailer; and

~~(E) Width, length and axle spacing of each trailer or semitrailer.~~

~~(2) be submitted to the Department by email to sizeandweightpermits@dps.state.ok.us in an Excel spreadsheet (Version 2003 or later).~~

~~(3) be submitted a minimum of thirty (30) days prior to any permit for any trailer or semitrailer on the submitted list becoming valid.~~

~~(i) Any revisions to the original affidavit and list must be submitted to the Department in the same format as the original affidavit and list and must be done a minimum of thirty (30) days prior to any permit for any trailer or semitrailer on the revised list becoming valid.~~

~~(j) Annual verification of each list must be completed by 31 of May. No changes can be made from June 1-30 for validation purpose. Failure to do so will result in all vehicles being removed from the Department of Public Safety Size and Weight Permits list of permissible vehicles under the specified permit~~.

(~~k~~h) Any violation of any part of this section shall result in the permit being voided.

595:30-3-5. Method of placing permit in suspension where conditions exist beyond the control of the permittee

(a) A permit may be placed in suspension by the permit holder for a maximum of two (2) weeks for inclement weather, road conditions due to weather and equipment breakdown. To place a permit in suspension the permit holder shall:

(1) Contact the permit office within the trip dates. If the permit expires when the permit office is closed, contact the permit office the next working day;

(2) Provide the permit number and trip dates;

(3) ~~State the reasons for wanting to suspend the permit and shall~~Before the permit may be reinstated due to equipment breakdown ~~provide~~ proper documentation must be sent to the Oklahoma City Permit Office by faxing it to (405) 522-9006.

(b) If the permit office is not contacted by the permit holder to remove the suspension of the permit within two (2) weeks of placing the permit in suspension, the permit shall become void, and the permit shall be required to apply for a new permit. Only one (1) suspension shall be granted by the Department per permit.

595:30-3-8. Provisional permit book [REVOKED]

~~(a) **Ordering a provisional permit book.** Once a monthly billing account has been established, a provisional permit book may be ordered from the Size and Weight Permit Division, as authorized by 47 O.S. §14-116(C)(3). When ordering a provisional permit book, include:~~

~~(1) the monthly billing account number;~~

~~(2) a self-addressed, stamped 12-inch by 15-inch envelope; and~~

~~(3) a list of the permit numbers of permits remaining in any previously issued provisional permit books. Orders will not be filled if there are ample unused permits.~~

~~(b) **Using provisional permits.**~~

~~(1) Provisional permits must be used only by the company or individual who established the monthly billing account.~~

~~(2) Provisional permits must not be destroyed or discarded.~~

~~(3) The Oklahoma City office of the Size and Weight Permit Division must receive a copy of every provisional permit removed from the book.~~

~~(4) The provisional permit holder shall not use the provisional permit to obtain a permit for another company or individual.~~

~~(5) Permits obtained by the provisional permit method are for single trips only.~~

~~(6) Before calling a permit office for a provisional permit, have all information necessary for completing the provisional permit. Do not fill out the provisional permit before calling a permit office.~~

~~(7) Give the information to the permit clerk and, at the same time, fill out the provisional permit exactly the way the information is given to the permit clerk. The permit clerk will provide the authorization number to be written on the line provided. The permit clerk will also advise of any other information which must be on the permit. All special instructions which are given by the permit clerk to add to the permit must be written on the provisional permit.~~

~~(8) Write the account number on the same line immediately following the company name.~~

~~(9) Mail the pink copy to the Size and Weight Permit Division in Oklahoma City on the day the provisional permit is ordered. If the pink copy is not received within three (3) days, further provisional permits will not be validated.~~

~~(10) The pink copy will be checked for the following items against the authorization:~~

~~(A) Accuracy;~~

~~(B) Completeness (all appropriate blanks filled in);~~

~~(C) All restrictions and escort requirements, if any, written on the permit;~~

~~(D) Current vehicle registration information.~~

~~(11) A provisional permit may be voided, at the discretion of the permit office, by calling (405) 522-9067. Both copies (yellow and pink) of the voided provisional permit must be sent to the Oklahoma City office the same day it is voided.~~

~~(12) Authorized motor carriers using provisional permits during weekends, holidays, and other approved times, must have the certification statement attached to the provisional permit when in use and when faxed to the Oklahoma City main office or e-mailed to swprovis@dps.state.ok.us. Prior to permitted movement, a duplicate of the prepared permit and certification statement shall be faxed to the Size and Weight Permit Division at (405) 522-9006 or e-mailed to swprovis@dps.state.ok.us. The certification statement shall be in lieu of the permit number and certifies that all provisions for permitted movements have been met including, but not limited to, the required route study adherence as determined by the Oklahoma Department of Transportation. Certification statements shall be on a form prescribed by the Commissioner of Public Safety and shall be valid when signed by the motor carrier or an authorized agent of the carrier and filed with the Department of Public Safety.~~

~~(13) The provisions of 730:30-9-6, 730:30-9-7, and 730:30-9-9 relating to single trip movements shall apply to provisional permits, as provided by this Section, and shall be in accordance with the applicable provisions of this Section relating to single trip permits.~~

~~(c) **Information.** Information concerning provisional permits may be obtained by calling the Size and Weight Permit Division (405) 522-9067 Monday through Friday from 7:00 a.m. to 5:30 p.m., excluding state holidays. The provisional permit book remains the property of the Oklahoma Department of Public Safety. The Department may suspend or terminate the privilege to use the book at any time with cause. The book must be returned to the Size and Weight Permit Division upon request.~~

595:30-3-9. Suspension of permits obtained by provisional method [REVOKED]

~~The following shall apply to suspension of size and weight permits obtained by the provisional method:~~

~~(1) **Review.** Provisional permit files are maintained in the Oklahoma City office of the Size and Weight Permit Division. If upon review, the Size and Weight Permit Division determines the permits are not being completed according to the rules of this Subchapter, then the use of the provisional permits may be suspended or terminated.~~

~~(2) **Violations.** When the Department of Public Safety determines that violations exist which may be readily rectified by the applicant, holder or driver, the Department may notify the party by mail or telephone of the violation, with a request for compliance within a specified period of time. If the party fails to rectify the violations, the Department may proceed according to the provisions of the following:~~

~~(A) The Size and Weight Permit Division will notify the individual, company or corporation, in writing, which specific violations exist, and allow ten (10) days from the receipt of the notice to rectify the situation.~~

~~(B) If the problem is not alleviated and due cause is not given within the specified time, a notice of suspension of provisional permit privilege will be sent to the appropriate party. The period of suspension will be determined by the extent of the problem and the history of permit violations.~~

~~(3) **Termination.** If violations continue to occur, the privilege of using the provisional permit system will terminate.~~

~~(4) **Examples of violations.** The following are examples of violations:~~

~~(A) The applicant makes a false statement on the permit.~~

~~(B) The applicant fails to provide required, valid, or applicable information on the provisional permit, or the applicant alters or changes any information in any manner on the permit.~~

~~(C) The applicant fails to submit the applicable permit fee as required.~~

~~(D) The applicant fails to mail the pink copy in a timely manner [see 595:30-3-8(b)(9) regarding mailing of pink copies].~~

~~(E) The applicant fails to get proper approval from ODOT or ODOT Independent Consultant for loads that do not meet OL-1 qualifications and/or if the roadway traveled is restricted due to weight~~.

595:30-3-13. Governmental agencies

(a) **Military moves.**

(1) **Special permission.** All movements by the Armed Forces and the National Guard must be in compliance with the size and weight limits contained in 47 O.S. §§ 14-103 and 14-10, unless an authorization has been issued by the Size and Weight Permit Division, or an emergency has been officially declared by the President or the Governor. In the event an official emergency is declared, telephone contact should be made with the Oklahoma City Size and Weight Permit Office by calling toll free ~~(877) 425-2390 (select option 4)~~ 405-425-7012 during regular office hours or the Oklahoma Highway Patrol Communications Center by calling (405)~~424-2335~~ 405-425-2323 at other times.

(2) **No-cost authorization.** If it is necessary to move a vehicle or load which cannot be reasonably dismantled or disassembled and transported within the legal size and weight limits, an application for authorization to make the movement must be submitted to the Oklahoma City Permit Office. Application may be on Department of Defense standard forms, by letter, or by electronic communications. If the Oklahoma City Permit Office determines the move can be made in safety without damaging the highway system, a no-cost authorization will be issued.

(3) **~~Blanket~~ No-Cost authorization.** The Oklahoma City Permit Office will review requests for routine military convoy movements, which are submitted on standard military forms, and issue a ~~blanket~~Military No-Cost Authorization for all approved oversize and overweight vehicles and loads which are included. These authorizations do not relieve the Armed Forces or National Guard from overall responsibility for the convoy movement.

(b) **City, county, state and federal agencies.**

(1) **Compliance.** City, county, state and federal agencies must comply with the provisions of 595:30-3-13(a)(1).

(2) **No-cost authorization.** If it is necessary to move a vehicle or load which cannot be reasonably dismantled or disassembled and transported within the legal size and weight limits, an application for authorization to make the movement must be submitted to the Oklahoma City Permit Office. ~~Application may be by letter, or by electronic communication~~. If the Oklahoma City Permit Office determines the move can be made safely without damaging the highway system, a no-cost authorization will be issued.

(3) **ODOT and OTA No-Cost Authorization.** The Oklahoma Department of Transportation and the Oklahoma Turnpike Authority may obtain an annual no cost oversize overweight fleet permit for vehicles moving to, from and engaged in highway maintenance and construction activities.

595:30-3-17. Requirements for escort vehicles and escort vehicle operators

(a) **General requirements for escort vehicles.** Any vehicle to be used as an escort vehicle must be either a pickup truck of not less than one-quarter (1/4) ton rated load capacity or an automobile of not less than 2,000 pounds. The escort vehicle must be properly licensed under the statutes of the State of Oklahoma [47 O.S. § 1101 et seq.] or properly licensed in another state If commercially licensed, an escort for an intrastate move must obtain a temporary registration from the Oklahoma Tax Commission Motor Vehicle Registration Division.

(b) **Identification of escort vehicles.** The owner of an escort vehicle must have displayed on each side of the escort vehicle the name, city and state of the escort vehicle company or operator, or the owner of the escort vehicle, or both. Such identifying markings must be:

(1) Plainly legible and visible to the motoring public.

(2) Readily legible during daylight hours from a distance of fifty (50) feet while the vehicle is stationary.

(3) Kept and maintained in a manner to preserve legibility.

(4) In a color or colors which sharply contrast with the background on which they are placed.

(c) **Equipment of escort vehicles.** An escort vehicle must carry the following items of equipment at all times when escorting an oversize/overweight vehicle or load:

(1) **Flags.** Red flags shall be at least twelve (12) inches square and shall be attached to standards angled upward to the left and right at forty-five (45) degrees and mounted on the top of the cab. No flags shall be displayed unless the escort vehicle is actually engaged in escorting.

(2) **Mirrors.** The vehicle shall be equipped with an outside rear-view mirror on each side of the vehicle.

(3) **Radio.** Escort and towing vehicles shall be equipped with a two-way radio which is capable of transmitting and receiving voice messages over a minimum distance of ~~one-half (1/2)~~ one (1) mile and which is compatible with radios in the escorted vehicle and any other escort vehicle(s).

(4) **Fire extinguisher.** One (1) ten-pound or two (2) five-pound ABC fire extinguishers. Extinguishers shall be checked annually to ensure they are operational.

(5) **Flares or reflectors.** ~~Four (4) fifteen minute flares~~Four (4) LED type flares, three (3) traffic cones or three (3) portable triangle reflector units.

(6) **Sign.** The regulation "Oversize Load" sign, as provided in 595:30-3-16(a), except that sign shall be at least ten (10) inches high, shall be mounted either on the front or the roof of front escort vehicles and on the rear or on the roof of the rear escort vehicle while escorting an oversize vehicle or load. The sign shall be clearly visible without an obstruction. No signs shall be displayed unless the escort vehicle is actually engaged in escorting.

(7) **Warning lights.** One AAMVA-approved rotating or flashing amber beacon or a flashing amber light bar system shall be mounted on top of the escort vehicle and shall be of sufficient intensity when illuminated to be visible from five hundred (500) feet in normal sunlight, and shall rotate, oscillate or flash through 360 degrees. Blue lights are strictly prohibited and, red, or white rotating lights are not authorized under Oklahoma statutes. In addition:

(A) Headlights of escort vehicles shall be lighted at all times during movement.

(B) Warning lights in conformance with 47 O.S. § 12-220(D) and § 12-227(C) may be used in conjunction with the headlights.

(C) No warning lights shall be displayed unless the escort vehicle is actually engaged in escorting.

(8) **Measuring pole.** A current height measuring pole made of non-conductive, flexible, non-fragile material when escorting a load or vehicle which is fifteen (15) feet and nine (9) inches or more in height.

(9) **Traffic control sign.** Two (2) "STOP" and "SLOW" paddle signs at least 18" inches in diameter with letters at least 6" high with a reflective surface which meets standards set by the Manual on Uniform Traffic Control Devices.

(10) **Safety clothing.** A hard hat and a jacket or vest, both of which meet standards set by the Manual on Uniform Traffic Control Devices, for each person who may be assigned to traffic control, setting reflectors or any other duties conducted on or near a roadway.

(11) **Flashlight.** A flashlight equipped with and powered by at least two (2) D cell batteries.

(12) **Spare tire.** A full-size spare tire for the escort vehicle, tire jack and lug wrench.

(d) **Prohibitions when operating escort vehicles.** The escort vehicle shall not:

(1) Carry any item, equipment or load in or upon the vehicle which:

(A) Exceeds the height, length or width of the vehicle, overhangs the escort vehicle; or otherwise impairs its immediate recognition as an escort vehicle by the motoring public.

(B) Impairs the view of the operator of the escort vehicle or the escorted vehicle.

(C) Obstructs the view of signs or flags used by the escort vehicle or causes safety risks to the motoring public.

(D) Impairs the performance of the escort vehicle.

(2) Tow any trailer or other vehicle, except that an escort vehicle operator not required to be certified by the Department *may tow a trailer when escorting a manufactured home. Such trailer shall not exceed eight and one-half (8 1/2) feet in width and twenty (20) feet in length with siding not to exceed four (4) feet in height measured from the bed of the trailer. The trailer may only be used to transport supplies and equipment necessary to carry out the mission of escort vehicle operators* [47 O.S. § 14-120.1(C)] and shall not be used to carry other supplies, equipment, or cargo.

(3) ~~The operator of the escort vehicle shall not perform as a tillerman while performing escort operations. A passenger in the escort vehicle may act as a tillerman. For purposes of this paragraph, "tillerman" means a person who has a valid commercial driver license and who operates by remote control any axle of the escorted vehicle~~The operator of the escort vehicle shall not perform as a tillerman or steerman while performing escort operations. A passenger in the escort vehicle may act as a steerman. For purposes of this paragraph, "tillerman" means a person who is physically located on the CMV, has a valid commercial driver license and who operates by remote control or other means any axle of the CMV; "steerman" means a person who is not physically located on the CMV, not required to have a valid commercial driver license, and who operates by remote control or other means any axle of the CMV.

(e) **Duties of escort vehicle operators.**

(1) **Traffic control.** In the performance of duties as the operator of an escort vehicle, the operator is authorized to direct traffic to stop, slow down or proceed in situations where such direction is necessary to allow traffic or the escorted vehicle or load to continue moving safely. Pilot/Escort operators must be trained and certified to perform the above duties according to MUTCD (Section 6E.01 Qualifications for Flaggers.

(A) The operator of the escort vehicle shall require the escorted vehicle or load to stop, and the escorted vehicle shall move as far off of the roadway as practicable and stop to allow other traffic to pass, under the following conditions:

(i) When the escorted vehicle or load becomes disabled.

(ii) When the movement of the escorted vehicle or load on a particular section of roadway presents a safety risk or unreasonable risk to or unreasonably interferes with the efficient movement of other traffic, based upon such factors as

the widths of the escorted vehicle or load, roadway, volume of traffic, limited visibility or mountainous terrain.

(iii) When driving conditions for the escorted vehicle or load are hazardous for any reason including weather.

(B) When the escorted vehicle or load stops, the escort vehicle operator ~~may~~ shall direct other traffic past the escorted vehicle or load as necessary until such time as the escorted vehicle or load can reenter the roadway and continue moving without presenting a safety risk or unreasonably interfering with efficient movement of other traffic.

(C) Escort vehicle operators when performing escort duties shall have their drivers license and escort certification on their person and present them for inspection at the request of any law enforcement officer.

(2) **Escort vehicle operation.**

(A) The operator of an escort vehicle must comply with all applicable traffic laws of this state and with the requirements of this Chapter when escorting a vehicle on all routes of the state highway system, including but not limited to the Dwight D. Eisenhower National System for Interstate and Defense Highways, all turnpikes, and such other roads, streets, or public ways that the Commissioner of Public Safety and the Oklahoma Department of Transportation shall deem appropriate.

(B) On two-lane highways, the first escort vehicle will travel far enough to the front and the second escort vehicle, if required, will travel far enough to the rear of the escorted vehicle or load to timely warn approaching motorists. On multi-lane highways, the first escort vehicle will travel far enough to the rear of the escorted vehicle or load to timely warn motorists approaching from the rear.

(C) The operator of an escort shall not:

(i) possess, use, or be under the influence of alcohol, or have any measureable alcohol concentration within four (4) hours before or at any time while operating or in actual physical control of any escort vehicle.

(~~i~~ii) use alcohol or be under the influence of alcohol within 4 hours before going on duty or while operating or having actual physical control of an escort vehicle; or

(~~ii~~iii) use alcohol, be under the influence of alcohol, or have any measured alcohol concentration or detected presence of alcohol, while on duty, or operating, or in physical control of an escort vehicle.

(~~iii~~iv) Operate an escort vehicle and be in possession of wine, beer, or distilled spirits.

(~~iv~~v) be on duty and possess, be under the influence of, or use, any of the following drugs or other substances:

(I) Any Title 63 O.S. §2-204 Schedule I substance;

(II) An amphetamine or any formulation thereof;

(III) A narcotic drug or any derivative thereof; or

(IV) Any other substance, to a degree which renders the driver incapable of safely operating a motor vehicle.

(f) **Insurance.**

~~(1)~~ Each certified escort vehicle operator who operates in interstate commerce, and on and after August 1, 2012, each certified escort vehicle operator, shall maintain a valid insurance policy issued by an insurance company currently authorized to issue policies of insurance covering risks in the State of Oklahoma, and proof of insurance shall be carried in the escort vehicle at all times. The insurance policy shall protect the public against loss of life, bodily injury to persons, and damage to property, as evidenced by a current certificate of insurance, including any applicable endorsement, which indicates that the operator, or the operator's employer, has in full force and effect insurance coverage for bodily injury or property damage, or both, as a result of the operation of the escort vehicle or of the actions of escort vehicle operator, or of both, causing the bodily injury or property damage, or both, arising out of an act or omission by the escort vehicle operator relating to the escort duties required by this chapter. The insurance shall be no less than $1,000,000 combined single limit or $1,000,000 per occurrence, or both, of commercial liability coverage, as applicable, and must be maintained at all times during the term of the certification.

~~(2) Until July 31, 2012, paragraph (1) of this subsection shall not apply to any operator who operates only in intrastate commerce or in interstate commerce into or through states which do not have escort vehicle certification requirements for the type of vehicle and/or load being escorted and who applies for and is granted restricted certification as provided for in OAC 595:30-3-17.1(c)(3); provided, the operator shall meet all minimum requirements for compulsory liability insurance in this state, and proof of insurance shall be carried in the escort vehicle at all times.~~

~~(3) On and after August 1, 2012, paragraph (1) of this subsection shall apply to all certified escort vehicles. operators.~~

595:30-3-19. Manufactured homes and industrialized housing

(a) **General provisions for manufactured homes.** Permits for movement of manufactured homes and industrialized housing shall require the "Oversize Load" sign and flagging in accordance with 595:30-3-16, and the travel. Other requirements are:

(1) Oversize movement is subject to the provisions of 47 O.S. §14-101 and 595:30-3-4(1).

(2) The towing vehicle must be at least fourteen (14) feet from bumper to bumper, or have a wheel base of at least one hundred eighteen (118) inches to tow a manufactured home or industrialized housing at least twelve (12)

feet but not more than sixteen (16) feet in width. All towing vehicles must have dual wheels on the drive axles. If the manufactured home is less than twelve (12) feet wide, the towing vehicle must be a truck of at least three-quarter (3/4) ton capacity. If the manufactured home is twelve (12) feet wide or more, the towing vehicle must be of at least two (2) ton capacity.

(3) Red flags and the "Oversize Load" sign are required as provided in 595:30-3-16.

(b) **Manufactured homes not more than ten (10) feet wide.** Manufactured homes not more than ten (10) feet wide and with an overall length which exceeds seventy (70) feet are required to have an ~~overlength~~overwidth permit. The towing vehicle must a truck with a rated capacity of three-quarter (3/4) ton or more. The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16. An "Oversize Load" sign shall be placed on the front of the towing vehicle and the rear of the manufactured home.

(c) **Manufactured homes at least twelve (12) feet wide but not more than fourteen (14) feet wide.** For manufactured homes at least twelve (12) feet wide but not more than fourteen (14) feet wide, the towing vehicle must be a truck of at least two (2) ton rated capacity, with dual rear wheels. A front escort is required on all two-lane and super two-lane roads and highways. A rear escort is required on all multi-lane highways. The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16. An "Oversize Load" sign shall be placed on the front of the towing unit and the rear of the manufactured home. The towing vehicle must maintain a minimum speed of 40 mph on all multi-lane highways, if conditions are favorable. The load must not extend more than one foot on each side at the eaves.

(d) **Manufactured homes more than fourteen (14) feet wide but not more than sixteen (16) feet wide.** Manufactures homes more than fourteen (14) feet wide but not more than sixteen (16) feet wide will be issued permits in accordance with 47 O.S. §14-103A. The towing vehicle must be a truck of at least two (2) ton rated capacity, with dual rear wheels. Both front and rear escorts are required on all two-lane and super-two lane roads and highways. A rear escort is required on all multi-lane highways. The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16. An "Oversize Load" sign shall be placed on the front of the towing unit and the rear of the manufactured home. Manufactured homes of this width will not be permitted to travel on any turnpike but will be permitted on the Dwight D. Eisenhower System of Interstate and Defense Highways. The towing vehicle must maintain a minimum speed of 40 mph on all multi-lane highways, if conditions are favorable. The load must not extend more than one foot on each side at the eaves.

(e) **Manufactured homes more than sixteen (16) feet wide.** Manufactured homes more than sixteen (16) feet will be issued permits in accordance with 47 O.S. § 14-103A. Manufactured homes more than sixteen (16) feet shall not be permitted for movements on the Dwight D. Eisenhower System of interstate and defense highways. The towing vehicle must be a tandem-axle truck of not less than two hundred twenty (220) horsepower. Both front and rear escorts are required on all two-lane and super two-lane roads and highways. A rear escort is required on all multi-lane highways. The regulation "Oversize Load" sign and flagging are required on the front of the towing unit and the rear of the manufactured home. Manufactured homes of this width will not be permitted to travel on any turnpike. The towing vehicle must maintain a minimum speed of 40 mph on all multi-lane highways, if conditions are favorable. The load must not extend more than one foot on each side at the eaves.

595:30-3-21. Industrialized housing, houses, and buildings

Permits for house or building movement will be issued in accordance with 47 O.S. §14-103C.

(1) The maximum width will not exceed thirty-two (32) feet at the base and thirty-four (34) feet at the top. The height shall not exceed twenty-one (21) feet on any state or federal highway.

(2) Travel shall be on highways and at times and dates determined by the Department and consistent with public convenience and safety, as specified on the permit. Permits will be issued in accordance with 47 O.S. §14-101 et seq.; provided, the structures shall not be moved on Saturday or Sunday.

(3) Loads which are fourteen (14) feet or more in width, or in excess of eighty (80) feet in overall length must have two escorts with a flag person.

(4) House movers will be required to notify any railroad company across whose railroad a house or building is to be moved of the date, time of the anticipated crossing and obtain the train schedule. In all cases when overhead lines are present and the load is fifteen (15) feet and nine (9) inches or more in height, the house mover will be required to notify any affected utility or railroad company in advance of the anticipated move, so overall safety measures can be taken and flag person(s) can be provided.

(5) Any structure in excess of ~~of~~ sixteen (16) feet in width, the towing unit shall be a tandem-axle truck of no less than two hundred twenty (220) horsepower.

595:30-3-22. Agriculture permits

Agriculture permits shall be governed by 47 O.S. §14-118(e).

(1) Transporting of raw forest products shall not be permitted on the National System of Interstate and Defense Highways and shall require:

(A) An annual permit with a fee of Twenty-five Dollars ($25.00)

(B) Truck and trailer information shall be given to the Size and Weight Permit Division of the Department of Public Safety.

(C) The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16.

(2) Transporting of round baled hay requires:

(A) An annual permit with a fee of Twenty-five Dollars ($25.00).

(B) Truck and trailer information shall be given to the Size and Weight Permit Division of the Department of Public Safety.

(C) The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16.

(3) Transporting of soil conservation equipment requires:

(A) An annual permit with a fee of Twenty-five Dollars ($25.00).

(B) Truck and trailer information shall be given to the Size and Weight Permit Division of the Department of Public Safety.

(~~B~~C) Travel on the National System of Interstate and Defense Highways shall not be permitted.

(~~C~~D) The regulation "Oversize Load" sign and flagging are required, as provided in 595:30-3-16.

SUBCHAPTER 5. SPECIAL COMINATION VEHICLES

595:30-5-7. Weight

The total weight on any single axle shall not exceed 20,000 pounds. The total axle weight on any tandem axle shall not exceed 34,000 pounds. The total weight on any group of two or more consecutive axles shall not exceed the amounts shown in ~~47 O.S. § 14-109~~ 23 U.S.C Section 27. All Special Combination Vehicles must be properly registered.

SUBCHAPTER 9. NATIONAL AND REGIONAL PERMITS

595:30-9-1. Regional Permits

(a) The Department of Public Safety adopts by reference the agreement entered into between the Department of Transportation and the Western Association of State and Highway Transportation Officials (WASHTO), as well as the Guide for Uniform Laws and Regulations Governing Truck Size and Weight Among the WASHTO States, for the future issuance of multi-state permits for single-trip non-divisible loads in accordance with said agreement. A summary of procedures and restrictions within the current WASHTO agreement is available at the Department of Public Safety Size and Weight Permit Division, 2401 Northwest 23rd Street, Suite 45, Oklahoma , Oklahoma City, Oklahoma, or by calling ~~toll free (877) 425-2390 (select option 4)~~405-425-7012.

(b) The Department of Public Safety adopts by reference the agreement entered into between the Department of Transportation and SASHTO, as well as the Agreement on Multi-State Permitting of Oversize and Overweight Vehicles to consider a single, routine, uniform mechanism for processing multi-state single trip permits for oversize and/or overweight vehicle combinations which are within the standards and specifications of the agreement. A summary of procedures and restrictions within the current SASHTO agreement is available at the Department of Public Safety Size and Weight Permit Division, 2401 Northwest 23rd Street, Suite 45, Oklahoma City, Oklahoma, or by calling ~~toll free (877) 425-2390 (select option 4)~~405-425- 7012.

(c) Regional permits may be obtained only at the Oklahoma City Office described in OAC 595:30-3-3.

[OAR Docket #19-473; filed 5-30-19]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 35. ENFORCEMENT OF OKLAHOMA MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS TRANSPORTATION ACT

[OAR Docket #19-474]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
595:35-1-10. Administrative penalty assessment guidelines [AMENDED]
595:35-1-12. Department of Public Safety port of entry officers [AMENDED]
AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101 et seq.
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n/a
GIST/ANALYSIS:
The changes in Section 35-1-10 remove errors and correct amounts. The purpose of these changes is to clean up the errors and to be congruent with current state statute. The changes in Section 35-1-12 correct errors regarding statute citations. The purpose of these changes is to clean up the errors.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

595:35-1-10. Administrative penalty assessment guidelines

(a) **General.** The Act does not recommend or suggest specific penalties for violation of the Act or any rules adopted to carry out the Act. Instead, the Act lists certain elements which the Commissioner or the Commissioner's representative may take into account in assessing penalties and establishes the maximum penalty for categories of violations. These guidelines serve to ensure the public and the respondent that assessment decisions will be made rationally and objectively on the merits of each case. [47 O.S. §§ 230.6 and 230.9]

(1) These guidelines are not meant to be used to determine when enforcement action will be taken, nor are they meant to be a rigid requirement. Instead, they are meant to assist the Commissioner or the representative in assessing each administrative penalty based on the seriousness of the underlying offense. For example, the fine for violations such as stop light violations or horn or other similar equipment failure violations would not exceed that authorized by statue if adjudged in a court of competent jurisdiction. However, repeated violations of this nature would evidence a pattern of safety violations which would fall within one of the categories set forth in (b) of this Section.

(2) If a hearing is necessary, the hearing officer may eventually assess an administrative penalty which is different than the original administrative penalty imposed in the Notice of Claim.

(3) Because of the volume of violations, the examples in this section are not all inclusive; they are only intended to serve as a guide for the types of violation categories. The Code of Federal Regulations incorporated by reference contains the complete listing of all violations covered by this Act.

(b) **Categories of violations.** The Act separates the types of violations into the following four categories:

(1) **Record keeping violations.** [47 O.S. § 230.9(B)(1)] These are violations of the administrative requirements of the Act, including failure to make, require, or keep records, or the falsification of entries in the records required by the Department of Transportation regulations pertaining to motor carrier safety as adopted and contained in Title 49 of the Code of Federal Regulations (CFR).

(A) The Act provides for a penalty not to exceed one hundred dollars ($100.00) for each record keeping offense.

(B) The Act further provides that each day of a violation shall constitute a separate offense against any respondent, provided that the total penalties for all offenses relating to any single violation shall not exceed five hundred dollars ($500.00).

(C) Some examples of record keeping violations include:

(i) Failure to properly maintain complete driver qualification files on each driver employed [49 CFR § 391.51].

(ii) Record of duty status violations [49 CFR § 395.8].

(iii) Failure to keep maintenance and inspection records [49 CFR § 396.3].

(iv) Failure to prepare or retain driver's vehicle inspection reports. [49 CFR § 396.11].

(2) **Serious pattern of safety violations.** [47 O.S. § 230.9(B)(2)] The Act provides for a fine of Two Hundred Dollars ($200.00) for each offense not to exceed One Thousand Dollars ($1,000.00) for each serious pattern of safety violation. The Commissioner or the representative may find a serious pattern of safety violations exists if the respondent has repeatedly violated equipment and operational requirements of the Act, and such violations are of a nature which indicates they are not the result of isolated human error but are of a tolerated pattern which the respondent could have detected and corrected if he or she wanted to meet his or her full safety responsibility to the public. Although any single violation may not by itself have a high probability of causing an accident, the violations taken as a whole may collectively demonstrate the respondent's unwillingness to exercise proper safety supervision or control which will eventually lead to accidents. Examples of some violations which may be included in a serious pattern of safety violations are:

(A) Scheduling a run which would necessitate the vehicle being operated at speeds in excess of those prescribed [49 CFR § 392.6].

(B) Light violations [49 CFR § 393.11].

(C) Failure to cover a battery [49 CFR § 393.30].

(D) Failure to protect or support electrical wiring [49 CFR § 393.28].

(E) Making detachable wiring connections by twisting together wires [49 CFR § 393.32].

(F) Failure to maintain a motor vehicle windshield free of prohibited damage, or using prohibited vision reducing matter upon windshield or windows [49 CFR § 393.60].

(G) Failure to mark push out or escape windows [49 CFR § 393.63].

(H) Sleeper berth violations [49 CFR § 393.76].

(I) Heater violations [49 CFR § 393.77].

(J) Failure to maintain a motor vehicle with:

(i) a defroster [49 CFR § 393.79],

(ii) two rear vision mirrors [49 CFR § 393.80].

(iii) an operative horn [49 CFR § 393.81], or

(iv) an operable speedometer [49 CFR § 393.82].

(K) Failure to mark bus emergency exits [49 CFR § 393.92].

(L) Violations of the driver's requirements including:

(i) hours of service violations [49 CFR § 395.3], or

(ii) failure to maintain a log book [49 CFR § 395.8].

(M) Inspection violations as per 49 CFR 396.3(A)(2), § 396.9~~8~~.

(3) **Substantial health or safety violations.** [47 O.S. § 230.9(B)(3)] The Act provides for a penalty not to exceed One Thousand Dollars ($1,000.00) per violation. This category includes any violation which, if allowed to continue, would result in accidents, deaths, injuries, and public property damage. Acts which are substantial health or safety violations are of a nature so blatant that no carriers or drivers could have operated vehicles on the public highway without knowing the defects existed, and therefore chose to disregard public safety. Substantial health or safety violations are listed in the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria and include but are not limited to the following:

(A) Using a driver lacking training or experience to determine if the cargo or baggage has been properly located or secured [49 CFR § 391.11(b)(4) or (5)], or a physically unqualified or disqualified driver [49 CFR § 391.11(b)(6) and (9)].

(B) Brake violations:

(i) failure to maintain motor vehicle with adequate parking brake [49 CFR § 393.41],

(ii) brake hose or tubing violation [49 CFR § 393.45; § 393.46],

(iii) failure to maintain motor vehicle with operative brakes [49 CFR § 393.48],

(iv) failure to maintain motor vehicle with adequate brake linings [49 CFR § 393.47], or

(v) failure to securely attach air or vacuum reservoir to motor vehicle [49 CFR § 393.50].

(C) Fuel tank violations: Failure to securely attach fuel tank to motor vehicle [49 CFR § 393.65].

(D) Violations and defects of lower and upper fifth wheels and certain safety devices [49 CFR § 393.70].

(E) Violations of coupling devices and tow away methods [49 CFR § 393.71].

(F) Tire violations [49 CFR § 393.75].

(G) Exhaust system violations [49 CFR § 393.83].

(H) Failure to load or equip vehicle so as to prevent shifting or falling of cargo [49 CFR § 393.100].

(I) Failure to maintain vehicle with a header board or similar structure to prevent load shifting [49 CFR § 393.106].

(J) Failure to obey any hazardous material regulation [49 CFR § 397.2].

(K) Violations which would normally fall within the "serious pattern" category but which may be of such a severe nature that they constitute a substantial health or safety violation.

(4) **Gross negligence or reckless disregard.** [47 O.S. § 230.9(D)] The Act provides that, except for record keeping violations, an employee shall not be liable for a violation of the Act unless the Commissioner determines that such actions of the employee constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for an administrative penalty not to exceed One Thousand Dollars ($1,000.00). Gross negligence exists where the employee acts in such a way which indicates complete disregard or indifference to the safety of other people's property or welfare.

(5) **Certain misuses of vehicles or containers.** [47 O.S. § 230.6] The Act provides for a civil penalty assessed to an employee of not less ~~that~~than ~~One~~Two Thousand Five Hundred Dollars ~~($1,000.00)~~($2,500.00) nor more than ~~Two~~Five Thousand ~~Five Hundred~~ Dollars ~~($2,000.00)~~($5,000.00). The Act also provides for a civil penalty assessed to an employer of not less ~~that~~than Two Thousand ~~Five~~Seven Hundred and Fifty Dollars ~~($2,500.00)~~($2,750.00) nor more than ~~Ten~~Twenty-Five Thousand Dollars ~~($10,000.00)~~($25,000.00). Some examples of certain misuses of vehicles or containers are:

(A) Operating, or requiring or permitting the operation of, a motor vehicle or container declared out of service before all required corrections are made [49 CFR § 396.9 (c)(2)].

(B) For a driver who is declared out of service, operating, or requiring or permitting the driver to operate, a motor vehicle before prescribed off duty or sleeper berth time has been accumulated [49 CFR § 395.13(c)].

(c) **Factors.** The Act requires that the Commissioner or the representative take into account the following factors [47 O.S. § 230.9(E)]:

(1) **Nature of the violation.** A consideration of the appropriate category of the violation.

(2) **Circumstances of the violation.** A broad consideration which includes both aggravating as well as mitigating factors known to the Commissioner or the representative at the time of the assessment.

(3) **Extent of the violation.** Requires the Commissioner or the representative to consider the magnitude, scope, frequency, and range of a violation. This is a major factor where there are numerous violations involving a large number of vehicles or employees of the respondent. It indicates that the respondent has a greater magnitude, frequency, and range of violations.

(4) **Gravity of the violation.** An evaluation of the seriousness of the violation. The seriousness is to be measured by the likelihood of the occurrence of the event, and the severity of the event if it occurred or were to occur. The gravity is not to be measured abstractly, but on a case-by-case basis taking into account all relevant factors.

(5) **Culpability.** The quality of the respondent's awareness of his or her actions, and the degree to which he or she was responsible for averting such violations. In determining the culpability of a respondent, ignorance is no excuse. Instead, culpability will be determined on the basis of whether the respondent knew or should have known of the violation, and to what extent the respondent had control of the violation.

(6) **History of prior offenses.** The Commissioner or representative will consider the respondent's performance record in terms of prior Notices of Claim, prior warnings, citations, and prior compliance efforts of the respondent. Both similar violations and different types of violations in

the past should be taken into account, but the similar past violations should be given more weight.

(7) **Ability to pay and ability to do business.** The Commissioner or the representative may consider the respondent's inability to pay or whether the payment of such a penalty would affect the respondent's ability to do business.

(8) **Such other matters as justice and public safety may require.** These are other matters, not specifically covered by one of the other factors, which can be either aggravating or mitigating factors and should be taken into account by the Commissioner or the representative in setting the penalty if, in the interests of justice and public safety, a reduction or an increase in the amount of the assessment is required in order to achieve the purposes of the Act. Other matters might be either positive or negative, such as: cooperation or lack of cooperation; general attitude towards compliance; equities; institution or revision of a safety director or safety consultant; comprehensiveness of corrective action, such as whether the action is focused narrowly to the specific violation or broadly to the general area of concern; compliance or noncompliance by the date set in the notice of claim; speed of compliance; and other matters. These matters, both negative and positive, are to be considered together, and they may cancel out one another.

595:35-1-12. Department of Public Safety port of entry officers

(a) The legislature amended 47 O.S. §14-116 in 2016 to provide funding for Department of Public Safety port of entry officers (DPS POE officers) and directing the Department to promulgate rules specifying the powers and duties of DPS POE officers. DPS POE officers are DPS commissioned inspectors or DPS civilian inspectors assigned to Troop S to work only at and around port of entry locations.

(b) In accordance with 47 O.S. §2-117 any officer designated and commissioned by the Commissioner is declared to be a peace officer of the State of Oklahoma and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of the state.

(c) The Commissioner shall designate and commission DPS POE officers. The Commissioner may also appoint civilian DPS POE officers. All DPS POE officers shall only be assigned to and supervised by Troop S.

(d) The Commissioner has the authority to authorize any officer, employee, or agent of the Department to conduct the activities necessary to administer the Oklahoma Motor Carrier Safety and Hazardous Material transportation Act through 47 O.S. §~~203.4~~230.4.

(e) Commissioned DPS POE officers shall have the powers and authority now and hereafter vested by law in other peace officers, including the right and power of search and seizure, except the serving or execution of civil process, and the right and power to investigate and prevent crime and to enforce the criminal laws of this state. However, the duties of the DPS POE officers and civilian DPS POE officers shall be limited to:

(1) Enforce all or any portions of the federal motor carrier safety regulations and the hazardous materials regulations of the United States Department of Transportation, as now or hereafter amended, as adopted by reference;

(2) Conduct investigations; make reports; require the production of relevant documents, records and property; demonstration and training activities;

(3) Enter upon, inspect and examine at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties relate to motor carrier safety or the transportation or shipment of hazardous materials in commerce, and to inspect and copy records and papers of carriers and other persons to carry out the purposes of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act;

(4) Stop and inspect any driver or commercial motor vehicle for any violation of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act or rules and regulations issued pursuant thereto;

(5) Declare and mark any transport vehicle or container as out of service if its condition, filling, equipment or protective devices would be hazardous to life or property during transportation, or if records thereof reflect such hazard, or if required records are incomplete;

(6) Prohibit any commercial driver from transporting hazardous materials if such driver is unqualified or disqualified under any federal or department regulation;

(7) Administer and enforce the provisions of the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act and any rules and regulations issued pursuant thereto and;

(8) All power and authority vested by law in other peace officers regarding law violations committed in the presence of the commissioned DPS POE officer at and around port of entry locations.

(f) All commissioned DPS POE officers shall be CLEET certified peace officers. To become qualified for designation as peace officers, DPS POE officers shall meet the training and screening requirements conducted by the Department and certified by the Council on Law Enforcement Education and Training within six (6) months of employment.

(g) Only CLEET certified peace officers shall carry a weapon.

(h) DPS POE officers are not and shall not be considered Oklahoma Highway Patrol Troopers.

(i) The powers and duties conferred upon said commissioned DPS POE officers shall in no way limit the powers and duties of sheriffs or other peace officers of the state, or any political subdivision thereof.

(j) No state official, other than members of the Department, shall have any power, right, or authority to command, order, or direct any DPS POE officer to perform any duty or service. DPS POE officers shall not be commanded, ordered, or directed to perform any duty or service outside the limitations of ~~(d)~~(e).

[OAR Docket #19-474; filed 5-30-19]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT

[OAR Docket #19-475]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Driver Education Instruction
595:40-1-4. Qualifications for instructors [AMENDED]
595:40-1-6. Review of license and school [AMENDED]
595:40-1-16. Prohibited acts; conduct [AMENDED]
AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 6-101 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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LEGISLATIVE APPROVAL:
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INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The changes in 595:40-1-4 add a qualification to the list for commercial school driver education instructors. Five years of law enforcement experience plus an Instructor Development course certification is now one of the options. The changes in 595:40-1-6 require driver education schools to respond to Department of Public Safety requests for review. The changes in 595:40-1-16 add rules of conduct for driver education schools.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. DRIVER EDUCATION INTRUCTION

595:40-1-4. Qualifications for instructors

(a) **All driver education instructors.** Instructors of public, private, commercial driver education schools and other non-public schools shall submit to the Department of Public Safety, upon application, proof of the following:

(1) current employment by a school which offers a prescribed course of study;

(2) a valid and unexpired Oklahoma driver license that is not suspended, revoked, denied or cancelled at the time of original or renewal application;

(3) at least twenty-one (21) years of age;

(4) never been convicted of a felony, have any pending court action that could result in a felony conviction, or any conviction, whether within Oklahoma or in another state, that would result in the applicant having to register according to the Sex Offenders Registration Act, as evidenced by a~~an~~ full finger print based Oklahoma Bureau of Investigation criminal history background investigation conducted within the immediately preceding thirty (30) days.

(A) Once the Department has received the state criminal history background investigation, showing no adverse action, pending or otherwise, the Department will issue a ninety (90) day temporary driver education instructor license to the applicant and the applicant shall be directed to have a national criminal history background investigation conducted by the Federal Bureau of Investigations.

(B) The commercial school shall submit the necessary national criminal history background investigation request within ten (10) business days of the issuance of the temporary driver education instructor license and submit proof of the request to the Driver License Examining Division within five (5) business days thereafter. If the national criminal history background investigation is not completed within ninety (90) days of the request for the national criminal history background investigation, the temporary driver education instructor license may be revoked.

(C) If either the state or national criminal history background investigation is returned with:

(i) no adverse action, the Department will issue the temporary or permanent driver education instructor license; or

(ii) adverse action is found on the applicant's criminal history background investigation, the Department will revoke the temporary driver education instructor permit and will not issue another temporary or permanent driver license instructor license to the applicant as long as the adverse action remains on the applicants criminal history; or

(iii) if the applicant has pending court proceedings that could result in a felony conviction, the temporary or permanent driver education instructor license shall not be issued until the pending action has been dispensed.

(5) if applicable, have driving privileges reinstated for at least twelve (12) months, if driving privileges were suspended, canceled, revoked, denied, or disqualified for a driving-related conviction or for Department action related to driving under the influence or driving while impaired. If driving privileges are suspended, canceled, revoked, denied, or disqualified only for a non-driving-related conviction or reason, the applicant shall be eligible immediately upon reinstatement of driving privileges;

(6) not been convicted of misdemeanor possession or use of alcohol or drugs within the past twelve (12) months;

(7) not more than five (5) point violations on the driving record;

(8) no administrative action pending pursuant to 47 O.S. §§ 753, 754, or 754.1;

(9) a high school diploma or general education diploma; and

(10) a motorcycle instructor shall have a valid Motorcycle Safety Foundation instructor's certificate.

(b) **All commercial school and non-public school driver education instructors.** At the time of original application, all commercial school and non-public school driver education instructors shall take the vision, skills, and written examinations given by the Department for the purposes of driver licensing and, for licensing as a commercial school or non-public school driver education instructor. Commercial motorcycle driver training instructors will not be required to take the basic Class D written exam and skills test but instead will take the motorcycle written exam and skills test. The skills test will be performed on a motorcycle. All driver education instructors shall be required:

(1) to receive a score of at least eighty percent (80%) on driver license written examination. Should the applicant fail to achieve the required score after three (3) attempts, the applicant shall be denied certification and may reapply after one (1) year;

(2) to pass the standard Class D driver license or motorcycle road test with a passing score of at least eighty percent (80%). Should the applicant fail to achieve the required passing score after (three) attempts, the applicant shall be denied certification and may reapply after one (1) year.

(c) **Public school driver education instructors only.** Qualifications for public driver education instructors are set out in the rules for Oklahoma High School Driver and Traffic Safety Education by the Oklahoma State Board of Education.

(d) **Non-public school driver education instructors.** Instructors of driver education for non-public schools, except commercial driver education schools, shall submit to the Department of Public Safety proof of the following:

(1) a valid Oklahoma secondary, elementary-secondary, library media specialist, speech-language pathology or technology center school license/certificate,

(2) credentials in Driver and Traffic Safety Education or five (5) years consecutive experience in driver safety training, and

(3) a valid and unexpired Oklahoma driver license.

(e) **Commercial school driver education instructors other than motorcycle training instructors.** Commercial driver education school instructors, other than motorcycle training instructors, shall submit to the Department of Public Safety proof of the following:

(1) a minimum of six (6) semester hours of Driver Education I and Driver Education II, and a minimum of three (3) semester hours of General Safety Education from an accredited college or university; or

(2) a course equivalent to that described in paragraph (1) offered by a nationally recognized commercial driver instructor course approved by the Department of Public Safety; or

(3) certification by the State Department of Education as a driver education instructor, which certification shall be for at least five (5) years immediately preceding application in conjunction with having taught driver education for at least five (5) years in public, private, or parochial school; or

(4) a minimum of five (5) years of experience as a certified law enforcement officer and possess a certification from an Instructor Development course.

(f) **Commercial motorcycle training school instructor qualifications.** Commercial motorcycle training school instructors shall submit to the Department of Public Safety proof of the following:

(1) a high school diploma, or equivalent, and

(2) an instructor's certificate issued by the Motorcycle Safety Foundation.

(g) **MSF Basic Rider Coach training.** A participant in the MSF Basic Rider Coach training will be exempt from the Oklahoma certification requirement while acting as an instructor under the supervision of a MSF certified Rider Coach Trainer during the Basic Rider Coach training. MSF certification must be signed by the MSF and Oklahoma Certified Rider Coach Trainer.

595:40-1-6. Review of license and school

(a) Periodic review of all driver education schools and Driver Education Instructor Licenses will be conducted by the Department of Public Safety to determine whether both the driver education instructor and the school remain in compliance with the rules of this Chapter. Failure to respond to a Department of Public Safety communication requesting such a review may result in cancellation of the school's certificate. Failure to remain in compliance may result in cancellation, suspension or revocation of their license.

(b) When a driver education instructor's driving record reflects four (4) points, he or she may be issued a warning letter and instructed that additional entries may result in cancellation of his or her driver education instructor's license.

595:40-1-16. Prohibited acts; conduct

(a) No school owner, agent, instructor or employee shall:

(1) solicit any individual for the purpose of enrolling the person in any driver education program within fifteen hundred (1,500) feet of any premises owned, leased, rented, or used by the Department of Public Safety;

(2) instruct on or near the driver testing route used by the Department of Public Safety or an approved route by the Department for use by designated examiners;

(3) distribute or use, for any purpose, any test or examination designed or used by the Department;

(4) use, or permit to be used, any form of alcoholic beverage or drugs in or about the premises of the school or a motor vehicle being used for driver education;

(5) engage in any conduct involving moral turpitude;

(6) commit or omit any act which constitutes a violation of any of the rules of this subchapter or the laws of this state governing school, instructor or designated examiner certification; ~~or~~

(7) charge a fee to conduct driver education unless they are a certified driver education instructor~~.~~;

(8) prevent instructors or designated examiners from communicating with Department auditors; or

(9) seek to influence designated examiner scoring of the State skills test.

(b) Instructors shall at all times be cognizant of their primary obligation to render impartial, efficient, and effective service to the public in the discharge of their duties and to always regard their position as a public trust.

[OAR Docket #19-475; filed 5-30-19]

TITLE 690. BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 10. LICENSURE AND FEES

[OAR Docket #19-418]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Licensure of Speech-Language Pathologists and Audiologists
690:10-3-6. Clinical fellowship requirement [AMENDED]
Subchapter 5. Licensure of Speech-Language Pathology Clinical Fellows Completing Post-Graduate Clinical Fellowship
690:10-5-4. Application form for clinical fellows [AMENDED]
Subchapter 7. Licensure of Speech-Language Pathology Assistants and Audiology Assistants
690:10-7-3. Supervision required [AMENDED]
690:10-7-5. Application for speech-language pathology assistant license or Audiology assistant authorization [AMENDED]
AUTHORITY:
59 O.S., 2011 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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EFFECTIVE:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed amendments to Chapter 10 changes nine (9) months to thirty-six (36) weeks in 10-3-6.

Rules 10-5-4 and 10-7-5 are amended to remove the requirement that applications for clinical fellows and speech-language pathology assistants be notarized.

New language is added to Rule 10-7-3 to authorize the supervisor of a speech-language pathology assistant who practices twenty hours or less to obtain Board approval to calculate the required hours of supervision based on the assistants total number of hours of practice each month rather than weekly.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 3. LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

690:10-3-6. Clinical fellowship requirement

(a) **Clinical fellowship form.**

(1) Each speech-language pathology applicant shall submit evidence (Clinical Fellowship Form) of no less than ~~nine (9) months~~thirty-six (36) weeks of successful, full time, paid, clinical fellowship obtained under the supervision of one or more practitioners who meet the requirements for supervision of clinical fellows set forth in subchapter five of this chapter. This supervision must entail the personal and direct involvement of the supervisor in any and all ways that will permit the supervisor to evaluate the applicant's performance in professional clinical employment and must include direct observation. The applicant and the supervisor must list and describe the methods of supervision employed. Specific information should be given regarding the professional activity supervised, the number of supervisory contacts per month, and the length of each supervisory contact. The supervisor shall base the total evaluation on no less than thirty-six (36) supervisory visits. This fellowship must follow completion of the requirements of 690:10-3-3 and 690:10-3-6. "Full-time" is defined as at least thirty (30) hours per week; the ~~nine (9) months~~thirty-six (36) weeks of full time paid fellowship must be obtained within a period of twenty-four consecutive months. This requirement may also be fulfilled by eighteen (18) months of half time paid fellowship of at least fifteen (15) hours per week, which must be completed within a period of thirty-six (36) consecutive months.

(2) With the exception of audiology applicants with a post-masters distance education professional degree (Au.D.) or applicants with a Ph.D. with a major emphasis in audiology, each audiology applicant will be required to present to the Board a copy of an Au.D. degree diploma, or its equivalent, from an accredited academic institution in order to demonstrate completion of the clinical rotation or externship requirement.

(b) **Waiver of clinical fellowship requirement.** The Board shall waive the clinical fellowship requirement and grant a license to any applicant who holds the Certificate of Clinical Competence of the American Speech-Language-Hearing Association or its current equivalent in the area for which he is applying for licensure, provided that the current requirements for such certification are equivalent to or greater than those for licensure under the Speech-Language-Pathology and Audiology Licensing Act, 59 O.S. 1601 et. Seq., as amended. The current requirements for the Certificate of Clinical Competence of the American Speech-Language-Hearing Association are deemed the equivalent of those for licensure under the Act. Evidence of such certification shall be received by the Board directly from the American Speech-Language-Hearing Association. All fees associated with obtaining such evidence shall be borne by the applicant.

SUBCHAPTER 5. LICENSURE OF SPEECH-LANGUAGE PATHOLOGY CLINICAL FELLOWS COMPLETING POST-GRADUATE CLINICAL FELLOWSHIP

690:10-5-4. Application form for clinical fellows

Application for authorization to practice as a clinical fellow under supervision shall be made in the same manner and on the same forms that are used to apply for licensure as a speech-language pathologist. A ~~notarized~~ letter of agreement shall be provided with each application. The letter of agreement must be signed by both the applicant and the proposed supervisor, and must be submitted with the application. Said ~~notarized~~ letter of agreement shall explicitly indicate that the supervisor agrees to supervise the clinical fellow's practice of speech-language pathology and that the supervisor accepts complete and full responsibility for the clinical fellow's activities and services.

SUBCHAPTER 7. LICENSURE OF SPEECH-LANGUAGE PATHOLOGY ASSISTANTS AND AUDIOLOGY ASSISTANTS

690:10-7-3. Supervision required

(a) The speech-language pathology assistant must be supervised by a speech-language pathologist who has been licensed for two years. Each supervisor shall accept no more than two assistants. Licensure as a clinical fellow does not count toward the two-year license requirement. Each practitioner licensed in both speech-language pathology and audiology is likewise restricted to two assistants in aggregate. Further, the total number of licensees supervised by a single supervisor shall not exceed two.

(b) Beginning January 2017, the supervising speech-language pathologist must have successfully completed at least six hours of Board approved training in clinical supervision. Three hours must include instruction in the knowledge and skills areas necessary for speech-language pathology assistant's supervisors as identified by the American Speech-Language Hearing Association (ASHA), other organization or entity the Board deems acceptable. A speech-language pathologist who has completed six hours of training is eligible to supervise both clinical fellows and speech-language pathology assistants, provided that the six hour training includes three hours specific to supervision of clinical fellows and three hours specific to supervision of assistants.

(c) For the first 90 workdays following licensure,~~A~~ a speech-language pathology assistant shall practice under a minimum of 30% supervision weekly, of which 20% is direct and 10% is indirect ~~for the first 90 workdays~~. After successful completion of the first 90 workdays, a minimum of 10% of direct supervision is required with 20% indirect supervision. The Supervisor for a speech-language pathology assistant who regularly practices twenty hours or less per week may request that the number of hours of supervision be calculated based on the assistant's total number of hours of practice in each month, rather than each week. The supervising speech-language pathologist must be available by electronic means at all times when the speech-language pathology assistant is performing clinical activities. The supervision must be documented on a supervision log signed by the supervisor and the assistant. Direct supervision must also be documented on the client/patient session note. Records of supervision are subject to inspection by the Board.

(1) Direct supervision: in-view observation and guidance by a speech-language pathologist while the speech-language pathology assistant is providing an assigned clinical service to a patient. While directly supervising, the speech-language pathologist may not perform any clinical services unrelated to the client/patient receiving services from the speech-language pathology assistant.

(2) Indirect supervision means the supervising speech-language pathologist is engaged in supervisory activities other than direct supervision, observation and guidance of the assistant while the assistant is providing an assigned clinical service to a patient. Indirect supervision activities performed by the supervising speech-language pathologist may include but are not limited to demonstration, record review, review and evaluation of audio or videotaped sessions, and interactive television and supervising conferences that may be conducted by telephone, email or live webcam.

(d) The supervising speech-language pathologist is responsible for exercising his or her professional judgment to determine the appropriate level of supervision at or above the required minimum necessary to ensure that each client/patient receives competent services. The supervising speech-language pathologist should consider:

(1) the individual speech-language pathology assistant's knowledge, experience and competence;

(2) the treatment setting;

(3) the client/patient's diagnosis/prognosis; and

(4) the nature of the assigned clinical service.

(e) For audiology assistants, direct supervision is required when the assistant is performing activities involving direct

patient care. Direct supervision requires the supervising audiologist to be present on-site for supervision and guidance of the assistant. Indirect supervision of the audiology assistant is permissible when the audiology assistant is performing duties or activities that do not involve direct patient care. Indirect supervision requires the supervising audiologist to be available for instruction or guidance but does not require the supervising audiologist to be present on-site. The audiology assistant must be supervised by an audiologist who has been licensed for two years. Each supervisor shall accept no more than two assistants.

690:10-7-5. Application for speech-language pathology assistant license or Audiology assistant authorization

Application for licensure as a speech-language pathology assistant or authorization as an audiology assistant shall be made by submitting to the Board an application approved by the Board, signed by both the applicant and proposed supervisor~~, and notarized~~. The application must indicate that the supervisor agrees to supervise the assistant's practice and that the supervisor accepts full and complete responsibility for that practice.

[OAR Docket #19-418; filed 5-30-19]

TITLE 730. DEPARTMENT OF TRANSPORTATION
CHAPTER 25. HIGHWAY CONTRACTORS

[OAR Docket #19-441]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Contractor Prequalification and Proposals
730:25-3-1 [AMENDED]
AUTHORITY:
Oklahoma Transportation Commission; 25 O.S., §1313; 61 O.S., §§ 1, and §§101 et seq.; 69 O.S., §§ 101, 301, 303, 304, 312, 622, 1101, and 4006; 75 O.S., §§ 302, and 309 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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n/a
INCORPORATION BY REFERENCE:
n/a
GIST/ANALYSIS:
Updating and simplifying the Department's contractor prequalification process. These updates bring Oklahoma qualifying standards equal to the majority of other states.
CONTACT PERSON:
Tara Moore, Coordinator of Executive Administration, Office of the Director, ODOT, 200 N.E. 21st Street, Oklahoma City, OK 73105, 405-522-8151, tlmoore@odot.org

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 3. CONTRACTOR PREQUALIFICATION AND PROPOSALS

730:25-3-1. Prequalification

(a) The purpose of contractor qualification is to make an initial determination if a contractor has adequate financial resources, integrity, experience, and proven performance to maintain progress on Oklahoma Department of Transportation projects and to make timely payments to sub-contractors and material suppliers. Prequalification is the method of qualification which has been adopted by the Oklahoma Transportation Commission and the Department pursuant to the Public Competitive Bidding Act at Title 61 OS § 118. Prequalification provides a method by which the Department may review a contractor's financial resources and technical expertise before a contractor is allowed to bid on projects which have not been exempted from the prequalification requirement. Prequalification is not a license, but is rather a procedure used by the Department to evaluate prospective bidders' ability to perform. Prospective bidders must ensure that their prequalification application is accurate and complete in all aspects, and fully discloses all information requested in the application form. Prospective bidders will be allowed to submit one application in a twelve month period. The Department may request additional information for clarification of a prospective bidder's application. The owners and officers who comprise a company will be the determinative factor as to the existence of prior prequalification applications not an alteration or change of an organization name. The prequalification application and all financial information submitted to the Department by a contractor for the purpose of prequalification shall be held in confidence by the Department and shall not be an open record pursuant to the Oklahoma Open Records Act at Title 51 OS §24A.3(1)(d).

(b) Except as provided in this subchapter, only prequalified contractors will be permitted to bid on construction and maintenance contracts to be awarded by the Commission on the recommendation of the Department. When projects do not encompass highway construction maintenance, the Department may waive prequalification when it is in the best interest of the State and to increase competition on individual projects of a special nature including, but not limited to:

(1) Right-of-Way Clearance

~~(2) County Road (CR) projects~~

~~(3) County Bridge (CB) projects (excluding span structures)~~

(2~~4~~) Landscaping

(3~~5~~) Wetland creation

(4~~6~~) Repair or maintenance of railroad facilities

(5~~7~~) Environmental cleanup or mitigation

(6~~8~~) Transportation enhancement projects

(c) A prospective bidder may obtain a "sample" copy of the bidding documents for use in preparing bid computations after official advertisement of a project, but must submit an application for prequalification not less than twenty-one days prior to the announced bid opening date to the Office Engineer Division and obtain a Certificate of Qualification in order to submit a bid proposal to the Department. The submitted application for prequalification will be considered by a prequalification committee composed of the Office Engineer, along with representatives from the Comptroller Division, the Construction Division, Director of Operations, and the General Counsel's Office. Contractors prequalified by the committee may be approved for the classes of work specified by the applicant on the prequalification application, dependent on personnel, equipment, capital and experience in highway construction.

(d) A prospective bidder must submit as part of their Prequalification Application, an Audited Financial Statement in which ~~is certified by~~ a Certified Public Accountant has expressed an opinion. The prospective bidder's fiscal year end Audited Financial Statement shall not be dated more than 180~~90~~ days prior to the date of receipt by the Department of the Prequalification Application. ~~If the prospective bidder's latest Audited Financial Statement was issued more than 180 days prior to the date of application for prequalification, the prospective bidder must submit its most recent Audited Financial Statement and its most recent unaudited quarterly financial statement~~. Based upon these statements and other materials submitted or subsequently requested by the Department, the Department may, at its discretion,~~;~~ grant the prospective bidder a conditional prequalification. The Department shall impose such additional requirements on a conditionally prequalified contractor as the Department deems necessary and in the best interests of the public. If a conditional prequalification is granted, it is valid only for the remainder of the prospective bidder's fiscal year in which the conditional prequalification is granted, plus an additional period not to exceed ~~120~~180 days.

(e) No prospective bidder will be qualified unless the prospective bidder's Prequalification Application and the ~~supporting investigation show~~Department's review of that Application determines that the prospective bidder possesses working capital, equipment, experience and personnel sufficient in the judgment of the Department, to indicate that the prospective bidder can satisfactorily perform its contract and meet all obligations incurred therein. The Audited Financial Statement ~~and unaudited quarterly statement~~ must show all liabilities (current, deferred and contingent). The prospective bidder will not be qualified for more than two and one-half times its current working capital as computed by the Department, based on an evaluation of the contractor's Audited Financial Statement. When a conditionally prequalified contractor receives a notice of project completion on a project, that notice may be submitted to the Department for removal of that project from its bidding limit.

(f) If the prospective bidder submits cash value of life insurance as an asset, the applicant will support the submission with a letter from the insurance company, showing that the prospective bidder absolutely controls the cash value and that there are no legal encumbrances, preexisting loans or any other impediment which would prevent or interfere with the access of the prospective bidder to that cash value.

(g) ~~A partnership will submit~~ When a partnership is being considered, an Audited Financial Statement ~~and as appropriate an unaudited quarterly statement of each member individually, and an Audited Financial Statement and quarterly statement~~ of the partnership, which will include all the assets and liabilities of each member,~~.~~ will be required.

(h) Prospective bidders will furnish an itemized list of all Secondary Cash Resource items such as marketable securities, stocks and bonds.

(i) Prospective bidders will sign, under oath, all forms submitted to the Department.

(j) The Department will make such investigation of the information submitted as it deems necessary.

(k) The Department will qualify, or refuse to qualify, any prospective bidder for paving, grade and drain, bridge or other Department construction work in accordance with such prospective bidder's experience and financial condition.

(l) Prospective bidders who are ~~initially prequalified or~~ conditionally prequalified will not be permitted to bid on individual projects that, in aggregate, exceed maximum bidding limits. Proposals may be "taken out" without limitation as to aggregate total. Should ~~an initially prequalified or~~ a conditionally prequalified contractor be low bidder on contracts totaling, in aggregate, more than the amount for which the contractor is ~~prequalified or~~ conditionally prequalified, the Commission reserves the right to:

(1) Reject any or all of the contractor's bids and re-advertise for new bids as required in the best interests of the state; or,

(2) Award contract(s) on which the ~~initially prequalified~~ conditionally prequalified contractor would otherwise be the low bidder to the second lowest bidder; or

(3) Waive the maximum bidding limit and award all or any of such contracts to the ~~initially prequalified or~~ conditionally prequalified contractor if the Department, in the exercise of sound discretion, shall determine that the contractor has the apparent ability to successfully perform the contract(s) and it is ~~the~~ in the best interest of the Department for the award to be made.

(m) Any prospective bidder not satisfied with a rejection of its application for prequalification may appeal to the Department's Executive Director or the Executive Director's designated representative by giving notice of the applicant's objection by certified mail addressed to the Executive Director. The applicant's objection must be mailed within fourteen (14) calendar days after the date such prospective bidder received written notice of the Department's action. The Executive

Director shall review the prequalification file and make an independent determination concerning the applicant's ~~prequalifications~~prequalification.

(n) Upon being ~~initially or~~ conditionally prequalified a minimum of one (1) year from the date of the initial prequalification, and satisfactory final completion of either:

(1) ~~a~~A minimum of three (3) projects ~~or~~and not less than ~~five~~Five ~~million~~Million ~~dollars~~Dollars ($5,000,000) of Department projects requiring prequalification as a prime contractor, OR,

(2) A single project in excess of Ten Million Dollars ($10,000,000.00) as a prime contractor,~~that~~ the contractor will be considered by the prequalification committee. If found fully qualified, the Contractor's Certificate of Qualification will be reissued to allow the contractor to bid on and be awarded projects to the extent of their bonding capacity as a fully prequalified contractor.~~As an additional condition to full prequalification, a conditionally prequalified contractor must furnish an audited financial statement in compliance with subparagraph (c).~~A conditionally prequalified contractor that completes a project as a joint venture with a fully prequalified contractor shall receive credit for its proportional share of the project and contract amount, limited to its bidding capacity.

(o) Prequalification shall expire after a two year term at the completion of ~~two~~the contractor's fiscal years following issue of the contractor's Certificate of Qualification.~~; however, if the Department awards project(s) requiring prequalification to a contractor within the two year period, or no projects in progress the contractor's prequalification shall remain in full force and effect for a period of two years from the date of final completion of the contractor's last completed project requiring prequalification, not to exceed five(5) years total from the date of the original prequalification application. If a contractor is not awarded a project requiring prequalification by the Department within a two year period of the completion date of the contractor's last completed project requiring prequalification, and the contractor has no projects requiring prequalification in progress, the contractor's Certificate of Qualification shall expire. The award of project(s) shall not extend contractor's prequalification beyond five (5) years after the date of the prequalification application. The contractor shall make application for prequalification, using the standard prequalification application, no later than ninety (90) days prior to prequalification expiration. The contractor may make written application for extension of prequalification but such application will be considered only if it is submitted and received prior to the expiration of prequalification. The Department may grant an extension of the expiration of the contractor's Certificate of Qualification for a period of not to exceed ninety (90) days to allow a contractor to obtain and submit an Audited Financial Statement and other documentation required for submission of a prequalification application.. Contractors who are currently prequalified may submit an audited financial statement that is in excess of ninety (90) days old if a current audited financial statement cannot be reasonably obtained. If a current audited financial statement is not submitted with the application and the application is otherwise approved, the contractor will be issued a conditional prequalification at the previously established maximum bidding limit. The contractor must submit a current audited financial statement as quickly as the statement can be obtained. When such statement is submitted, the "conditional" will be removed from the contractor's prequalification. Failure to submit a current audited financial statement within 180 days wil result in expiration of the conditional prequalification. Projects not requiring prequalification, for which prequalification has been waived, or work as a subcontractor shall not be considered work as a prequalified contractor and shall not be considered as qualifying for purposes of maintaining active prequalification.~~ After the expiration date of the contractor's Certificate of Qualification, the contractor shall have a period of 180 days to submit audited financial statements, or a financial review of the contractor's business operations. During this 180 day period the contractor shall remain prequalified under its current Certificate of Qualification. If the contractor does not submit audited financial statements or a financial review of its operations within the 180 day period following the expiration date of the contractor's Certificate of Qualification, the contractor's prequalification status will cease and the contractor will not be eligible to submit bid proposals to the Department at that date. The contractor's audited financial statement or financial review of its operations must demonstrate that the contractor has a positive amount of working capital that is sufficient to satisfactorily perform its contract in the judgment of the Department. The Department will renew the contractor's Certificate of Qualification if the contractor's working capital is sufficient in the opinion of the Department. If the Department's review determines that the contractor has insufficient working capital, the contractor's Certificate of Qualification will not be renewed and will expire at that time.

[OAR Docket #19-441; filed 5-30-19]

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

[OAR Docket #19-496]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 5. Operation
765:37-5-1 [AMENDED]
765:37-5-5 [NEW]
Subchapter 6. Definitions
765:37-6-1 [AMENDED]
Subchapter 7. Installation Standards
765:37-7-1 [AMENDED]
765:37-7-3 [AMENDED]
765:37-7-4 [AMENDED]
765:37-7-5 [AMENDED]

AUTHORITY:
Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 583 B.3.
75 O.S. Section 302 et.seq

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The proposed Rule Amendments are adopted to conform to the Department of Housing and Urban Development's new standards for installation of manufactured homes.
CONTACT PERSON:
John W. Maile, Executive Director, Used Motor Vehicle and Parts Commission, 421 N.W. 13th Street, Suite 330, Oklahoma City, OK 73103, 405-521-3600, John.W.Maile@umvpc.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308 (E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 5. OPERATION

765:37-5-1. Forms required

(a) **Forms.** The following forms shall be required in the installation of a manufactured home by a manufactured home installer:

(1) Installer's invoice
(2) Installation label
(3) Set-up inspection form.

(b) **Approval.** All forms must be approved by the Commission. The content and forms to be used shall be filed twenty (20) days prior to use, and if not rejected in the twenty (20) days from the filing date, the forms will be conditionally approved.

765:37-5-5. Submission of set-up inspection forms

The set-up inspection form for new manufactured home installations shall be submitted within thirty (30) days of the completion of the installation and shall be approved by a certified installation inspector, local authority having jurisdiction (LAHJ) or licensed engineer. The form shall also be submitted to the manufactured home dealer selling the home.

SUBCHAPTER 6. DEFINITIONS

765:37-6-1. Terms used

(a) **Permanent installation.** Installation of a manufactured home shall be deemed a permanent installation ~~when the certificate of title to the home will be surrendered and the home is intended to be determined to be realty, or~~ in any circumstance in which the manufactured home will be occupied.~~for any length of time not a temporary trial basis.~~

~~(b) **Temporary installation.** Storage of a new manufactured home sited at the manufactured home dealer's lot or the home site pending permanent installation shall be deemed to be a temporary installation.~~

(b ~~c~~) **Generic Set.** Installation of a previously occupied (used) manufactured home according to the standards set forth in Subchapter 7 hereinafter shall be deemed a generic set.

(c ~~d~~) **HUD Standards and Rules.** All references to "HUD Standards" or "HUD Rules" shall refer to HUD's Model Manufactured Home Installation Standards (24 CFR Part 3285). All references in this Chapter to HUD Rules shall refer to HUD's Manufactured Home Installation Program (24 CFR Part 3286).

SUBCHAPTER 7. INSTALLATION STANDARDS

765:37-7-1. Acceptable procedure

(a) Any new manufactured home stored at any location or in the possession of any entity (retailer, installer, distributor or manufacturer) for more than thirty (30) days must be temporarily supported in accordance with the manufacturer's installation instructions.

(b) All new manufactured homes to be installed in the State of Oklahoma shall be installed, including site preparation, according to HUD's Manufactured Home Model Installation Standards (24 CFR Part 3285) or DAPIA approved manufacturer installation instructions.

(c) Any previously occupied manufactured home to be installed in the state of Oklahoma may be installed according to the installation standards set forth in the manufacturer's installation manual or according to the installation standards set forth hereinafter (generic set) or an approved plan by a ~~qualified~~ professional ~~licensed~~ engineer or registered architect.

(d) Use of an installer not licensed at the time of the installation by the Oklahoma Used Motor Vehicle and Parts Commission for the installation of any new or previously occupied manufactured home shall be deemed an unacceptable procedure and shall subject any dealer contracting with said unlicensed installer to any liabilities and penalties attributable to such unlicensed activity.

(e) In determining the applicable frost line for permanently installed manufactured homes, the installer shall refer to the manufacturer's installation instructions, or the local authority having jurisdiction (LAHJ).~~use the ANSI 225.1 map. A frost line of three inches (3") is presumed in McCurtain County. A frost line of three to six inches (3-6") is presumed in Bryan, Choctaw, Atoka, Pushmataha, Latimer, LeFlore, Haskell and Sequoyah Counties. A frost line of ten to fifteen inches (10-15") is presumed in Woods, Major, Garfield, Alfalfa and Grant Counties. A frost line of six to ten inches (6-10") is presumed in all the remaining counties of the state. An~~

~~installer may rely on verifiable local standards in determining the frost line in any specific location. When the frost line depth is not available from the local authority having jurisdiction, a registered professional engineer, registered architect or registered geologist must be consulted to determine the required frost line depth.~~

765:37-7-3. Support Systems

(a) **~~Footers~~Footing.**

(1) The manufacturer's installation manual shall be used to determine acceptable footing materials, sizes and placement.

(2) For previously occupied (used) manufactured homes ~~Footing~~ footing pads, when used , shall consist of three 4 X 8 X 16 solid concrete blocks or a solid 4 X 16 X 16 concrete block ~~orsteel~~, ABS ~~or treated lumber and be~~ at least a minimum of 384 square inches in size, tested to a load-bearing capacity of not less than 6,000 pounds~~, ~~.~~and~~ Footing should be installed on a soil with an allowable soil bearing pressure of at least 1,500 P.S.F. unless the site specific information requires the use of lower values based on soil classification and type. If these conditions are encountered, a ~~registered~~ professional engineer, registered architect or licensed geologist shall be consulted to determine the soil bearing pressure and footing sizes required. ~~Other material providing equivalent load-bearing capacity and resistance to decay and which is approved by the manufacturer and its DAPIA may be used.~~ All organic material (i.e., grass, loose top soil, etc.) must be removed from under each foundation support. The foundation for each manufactured home shall be installed on firm undisturbed soil or fill with at least 90 percent soil compaction. Supporting information, i.e., proper soil testing, such as by a ~~pentrometer~~ penetrometer, may be used to change the assumed P.S.F.

(b) **Piers.**

(1) ~~Piers up to 36 inches in height as measured from the top of the footer to the bottom of the frame shall be constructed of single 8"x8"x16 open celled concrete blocks with cells aligned vertically and 16 inch dimension perpendicular to the I-beam with 2"x8"x16" or 4"x8"x16" solid concrete blocks. Such piers may be capped, between the blocks and the I-beam, with 1"x8"x16" or 2"x8"x16" (nominal) wood plates, not to exceed 3 1/4 inches, and wedges driven from both sides of the I-beam, not to exceed 1 inch in thickness. Alternatively, piers up to 36 inches in height may be manufactured steel piers, provided they are rated, listed and labeled for the required load capacity. Adjustable risers may not extend more than 2 inches when finally positioned. Other engineering approved, rated and listed systems may be used. Minimum height of any pier, as measured from the top of the footing to the bottom of the I-beam shall be 12 inches.~~Frame piers less than 36 inches high (measured from the top of the footing to the top of the cap), are permitted to be constructed of single, open, or closed cell concrete blocks 8" X 8" by 16" when the design capacity of the block is not exceeded. The frame piers must be installed so that the long sides are at right angles to the supported I-beam. The concrete blocks must be stacked with their hollow cells aligned vertically and must be positioned at right angles to the footings. Alternatively, piers up to 36 inches in height may be manufactured steel piers, provided they meet HUD standards set forth in CFR 3285.308(b), are rated, listed and labeled for the required load capacity and are installed according to the pier manufacturer's installation instructions.

(2) ~~Piers from 36 inches to 67 inches in height as measured from the top of the footer to the bottom of the frame and all corner piers over three blocks high shall be constructed of doubled, interlocked 8"x8"x16" two celled concrete blocks with cells aligned vertically, topped with two 4"x8"x16" solid concrete blocks. Such piers may be capped between the blocks and the I-beam with not more than two 1"x8"x16" or one 2"x8"x16"(nominal) wood plates, and wedges driven from both sides of the I-beam not to exceed 1 inch in thickness.~~All frame piers between 36 inches and 67 inches high (measured from the top of the footing to the top of the cap) and all corner piers over three blocks high must be constructed out of double, interlocked concrete blocks, when the design capacity is not exceeded.

(3) ~~Piers over 67 inches in height as measured from the top of the footer to the bottom of the frame shall be designed by a professional engineer or registered architect in accordance HUD standards~~. Piers 54 inches high or less (measured from the top of the footing to the top of the cap) which are required at mate-line supports, perimeter piers, exterior door piers on sidewalls, and piers at exterior wall openings are permitted to be constructed of single open-cell or closed-cell concrete blocks, with nominal dimensions of 8" X 8" X 16", when the design capacity of the block is not exceeded. Piers in excess of 54 inches high up to 67 inches high (measured from the top of the footing to the top of the cap) which are required at mate-line supports, perimeter piers, exterior door piers on sidewalls, and piers at exterior wall openings must be constructed out of double, interlocked concrete blocks, when the design capacity of the block is not exceeded. Piers used for perimeter support must be installed with the long dimension parallel to the perimeter rail. Perimeter piers, marriage line supports, or other supports must be located on both sides of side wall exterior doors (such as entry, patio and sliding glass doors) and any other side wall or mating line opening of 48 inches or greater in width and under load-bearing porch posts, factory installed fireplaces, and fireplace stoves. In areas where the open span is greater than 10 feet, intermediate piers and footings must be placed at a maximum of 10 feet on center.

(4) ~~Miscellaneous other pier requirements shall be as follows:~~

~~(A) Mating line or perimeter piers shall be measured from the footer to the bottom of the home, and are allowed to up to 12" higher than the I-beam piers.~~

~~(B) Any concrete footer/pier system that meets or exceeds these standards is acceptable.~~ A minimum

clearance of 12 inches must be maintained between the lowest member of the main frame (I-beam or channel beam) and the grade under all areas of the home.

(c) ~~Spacing.~~**Pier caps.**

(1) Structural loads must be evenly distributed across capped-hollow block piers.

(2) Caps must be solid concrete or masonry and least 4 inches in nominal thickness, and hardwood lumber at least 2 inches in nominal thickness, or be corrosion protected of a minimum one half inch thick steel. All caps must be of the same length and width as the piers on which they rest. When split caps are used on double-stacked blocks, the caps must be installed with the long dimension across the joint in the blocks below. When split caps are used, double filler and double shim sets must be used.

(d) **Gaps.** Any gaps that occur during installation between the bottom of the main chassis beam and foundation support system must be filled by hardwood plates not thicker than 2 inches nominal thickness. 2 inch or 4 inch nominal thickness concrete block must be used to fill in any remaining vertical gaps.

(e) **Shims.** Nominal 4" X 6" X 1" shims may be used to level the home and fill any gaps between the base of the main chassis beam and the top of the pier cap. Shims must be used in pairs, and must be driven in tightly so that they do not occupy more than on inch of vertical height.

(f) **Manufactured pier heights.** Manufactured pier heights must be selected so that the adjustable risers do not extend more than 2 inches when finally positioned.

(g) **Spacing.**

(1) New manufactured homes shall follow the manufacturer's installation instructions for spacing.

(2) Previously occupied (used) manufactured homes.

(~~1~~A) Pier spacing shall be measured from center to center of piers.

(~~2~~B) For single section homes the center of end piers shall not exceed 2 feet from the frame-ends. Piers are to be placed under each longitudinal mainframe member, not to exceed 6 feet on-center. The frame piers must be installed so that the long sides are at right angles or perpendicular to the main frame member. Side wall openings 48 inches or wider, porch transition, sliding glass doors, all exterior side doors on side walls must have perimeter piers, installed with the long dimension parallel to the perimeter rail or be supported by additional outriggers or floor joists, or by a 4 X 4 wood timber supporting a minimum of two joists under both sides of the opening.

(~~3~~C) For multi-section homes the center of end piers shall not exceed 2 feet from the frame-ends. Piers are to be placed under each longitudinal mainframe member at a spacing, not to exceed 6 feet on-center. The frame piers must be installed so that the long sides are at right angles or perpendicular to the main frame member. Side wall openings 48 inches or wider, porch transition, sliding glass doors, all exterior side doors on side walls must have perimeter piers, installed with the long dimension parallel to the perimeter rail or be supported by additional outriggers or floor joists, or by a 4 X 4 wood timber supporting a minimum of two joists, under both sides of the opening. ~~On new homes marriage line piers shall be located at each position marked on the underside of the home or in accordance with the manufacturer's installation instructions shipped with each home by the manufacturer, specifying location and required load capacity of each such pier.~~

765:37-7-4. Anchoring for previously occupied manufactured homes

(a) Ties shall be as evenly spaced as practicable along the length of the home, and the distance from each end of the home and the diagonal tie nearest that end shall not exceed 2 feet. Ties will be spaced no more than 11 feet apart on a side, allowing adjustment for obstructions (any strap spacing may be exceeded by 10%, so long as the average strap spacing does not exceed 11 feet). The number of ties per side will be calculated by the formula: section-length ~~minus 4 feet~~, divided by the spacing of 11 feet (rounded to next whole number), plus 1 tie. [The result for a 16'x80' (overall length) would be 8 diagonal ties per side.] ~~(This method is based on ANSI 225.1 - 1994)~~

(b) Over-the-top vertical ties will not be necessary for home 13.5 feet or wider, with 10 feet or less wall height, with I-beams that are 96 inches or more apart, with no evidence that vertical ties have been cut or removed and with diagonal ties installed extending to the nearest I-beam.

(c) Where a vertical tie and diagonal tie are located at the same place, both ties may be connected to a single anchor, provided that the anchor used is capable of carrying both loadings.

(d) Anchors shall be capable of resisting a minimum total load capacity of 4,725 pounds (2,143 kg) and a working capacity of 3,150 pounds (1,429kg).

(e) All anchoring devices shall be installed in accordance with the anchor manufacturer's instructions, including, but not limited to, the use of approved stabilizer plates or 10" diameter x 18" deep poured concrete cylinders to prevent lateral movement of the anchor through the soil.

(f) Tie down anchors are not required when the home is installed on a FOUNDATION SYSTEM designed by an architect or registered engineer, which is designed to resist all tributary vertical live and dead loads, as well as lateral loads (wind or seismic), for the local conditions.

765:37-7-5. Perimeter skirting for previously occupied manufactured homes

(a) **Skirting.** Skirting, if used shall be of durable materials suitable for exterior exposures. Any lumber used in connection with skirting within 6 inches of the ground shall be pressure treated to prevent decay and termite infestations.

(b) **Ventilation.** Ventilation shall be provided for the crawlspace at a minimum of one square foot of free area for every 150 square feet of the home's floor area. Ventilation may be obtained by:

(1) Ventilation openings shall be placed at or near each corner of the home and shall be located so as to provide cross-ventilation on at least two opposite sides of solid foundations;

(2) Self-ventilating skirting ~~shall~~may be used to satisfy cross ventilation in all other areas.

(c) **Moisture/Vapor retarder.** When a polyethylene moisture-retarder sheet is placed on the ground underneath the home the polyethylene shall be of a thickness of at least six (6) mil. It is the responsibility of the purchaser or homeowner to see that it is installed.

(d) **Vents and drains.** Dryer vents and air conditioning condensation drains must pass through the skirting to the outside, rather than terminating underneath the home.

[OAR Docket #19-496; filed 5-31-19]

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

[OAR Docket #19-477]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. General Course and Method of Operation
800:1-5-2. General course and method of operation [AMENDED]
Subchapter 11. Publications
800:1-11-1. Charges for workshops, publications and other material [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103, 5-401 and HB 1501; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
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N/A
INCORPORATIONS BY REFERENCE:
N/A
GIST/ANALYSIS:
These rule changes will allow the Wildlife Commission more flexibility on setting regular Commission meetings pursuant to HB 1501 passed during the 2017 Legislative Session. This rule change will also update the list of items and fees for sale by the Wildlife Department. Several items in this chapter are no longer available, and one item will be added. The new license database system provides us with the option to sell a collectible hard card version of hunting and fishing licenses. Card orders will be fulfilled by our vendor and will include license privileges for the given year. This rule proposal will add the hard card to the list of merchandise we offer, and establish the fee. This hard card is optional and not required to hunt or fish. All of the listed items are voluntary purchases.
CONTACT PERSON:
Rhonda Hurst, APA Liaison, 1801 N. Lincoln Blvd, Oklahoma City, OK 73105 phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 5. GENERAL COURSE AND METHOD OF OPERATION

800:1-5-2. General course and method of operation

The following is the general course and method of operation for the Oklahoma Department of Wildlife Conservation and the Oklahoma Wildlife Conservation Commission.

(1) **Office(s).** The principal Administrative Office of the Oklahoma Department of Wildlife Conservation shall be located at 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. The Commission has no office separate from the Department.

(2) **Transaction of business.** Members of the public and others desiring to contact or make inquiries and submissions to the Department or the Commission may do so in person at the principal Administrative Office of the Department, during normal and usual business hours for State of Oklahoma agencies, or by mail addressed to: Oklahoma Department of Wildlife Conservation, Post Office Box 53465, Oklahoma City, Oklahoma 73152.

(3) **Access to records.**

(A) Copies of all rules adopted by the Commission, other written statements of policy or interpretations of general applicability, declaratory rulings, orders or other documents as may be required by law, may be inspected, unless otherwise provided for by law, for proper purposes and in a proper manner, at the principal Administrative Office of the Department during its normal business hours. Such records shall not be removed from the Department's office or the Department's custody and control for the purpose of inspection.

(B) Copies of rules adopted by the Commission are also on file and available for public inspection in the Oklahoma State Library, State Capitol Branch, 109 State Capitol Building, Oklahoma City, Oklahoma 73105. Commission rules are available to the public from the Office of the Secretary of State.

(C) Copies of records of the Department and Commission will generally be made available as required by the Oklahoma Open Records Act. The Department and Commission may require persons making

requests to submit such request in writing and describe the records with reasonable specificity. Fees and charges may be collected for copies, certification, searches and other activities relating to records as allowed by law and in accordance with Commission rules establishing such fees and charges.

(4) **Meetings.** Meetings of the Commission are conducted in compliance with the Oklahoma Administrative Procedures Act, the Oklahoma Open Meeting Act and other applicable statutes, as follows:

(A) The Oklahoma Wildlife Conservation Commission shall meet ~~on the first legal Monday in each month~~ in regular session at least nine times per year not to exceed one meeting per month with not more than two consecutive calendar months between meetings and in such special sessions as may be called by the Chairman of the Commission or a majority of the Commission.

(B) Regular sessions will be held at the Commission headquarters at 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma or at any other convenient location which is accessible to the public.

(C) All meetings of the Commission shall be open to the public and other properly interested parties, except as otherwise provided for by law.

(D) Meetings of the Commission shall be presided over by the Chairman of the Commission. In the event that the Chairman is not present at a meeting, the Vice-Chairman shall preside at the meeting. All meetings of the Commission shall be governed by applicable Oklahoma statutes and Robert's Rules of Order, latest available edition, shall serve as the parliamentary authority for meetings of the Commission unless otherwise required by law or otherwise voted. An affirmative vote by a simple majority of the members present at a meeting, at which a quorum exists, shall be necessary to adopt any motion presented before the meeting.

(E) The agenda for regular meetings shall be prepared by the Director with the advice of Commission members and must be approved by the Chair. The proposed agenda will normally be mailed to the Commission members ten days in advance of the ~~first Monday of each month~~ regularly scheduled meeting. The final agenda will be prepared and posted in accordance with the Open Meetings Act. Members of the public who desire to receive a copy of any proposed agenda at the time of its mailing to Commission members ~~each month~~ must file a written request and pay any fees specified in Commission rules. Copies of any revised agenda prepared less than five days prior to the scheduled meeting will usually not be mailed out to persons on the mailing list.

(F) Members of the public may request that a matter be placed on the agenda, but the final determination as to matters placed on the agenda shall be made by the Director and Chair. Individuals desiring to appear before and be heard by the Oklahoma Wildlife Conservation Commission on agenda items must make written requests for same. Such request must be in the office of the Director at least three working days prior to the date of the Commission meeting at which they desire to be heard. Request to appear and be heard shall be made in writing to the Director, Oklahoma Department of Wildlife Conservation, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105, and the request must contain adequate information as to content that an agenda item may be properly described.

(G) Individuals who have not made written request in accordance with the above provisions shall not be heard at the meeting except with the approval of a majority of Commission members present at the meeting, nor shall any items be considered that are not on the agenda except as may be allowed for new business under the Open Meetings Act. The Department shall provide sign-in sheets at each meeting for persons who wish to present written or oral comment on an agenda action item.

(H) Minutes or proceedings of all meetings of the Commission shall be timely prepared and kept by the Director of the Department, under the direction of the Chairman of the Commission.

(I) The regular monthly meeting ~~on the first Monday of each month~~ of the Commission may be rescheduled or canceled if it appears that a quorum will not be present, in accordance with the Open Meeting Act. The Commission may hold such other meetings as it deems necessary. The Chair or five members of the Commission may call a special meeting by delivering a written notice to each Commission member. The Commission may hold special meetings at any location convenient and open to the public in Oklahoma.

(J) The Chair reserves the right to rearrange the agenda items during any open meeting, may set reasonable time limits on oral comment and may accept written submittals on behalf of the Commission. The Commission may, by majority vote during a meeting, continue an agenda item to, or specify a new agenda item for, another meeting.

(5) **Administration.** The general conduct and administration of the affairs and functions of the Commission between meetings thereof, shall be vested in the Director of the Oklahoma Department of Wildlife Conservation. The Director shall have authority to handle all matters as authorized by law or rules and policies adopted by the Commission or as otherwise delegated or directed by the Commission. The Commission receives administrative assistance from the Department and depends on the Department to maintain records and compliance with the Open Meeting Act [25:301], the Open Records Act [51:24A.1] and the Administrative Procedures Act [75:250]. Communications to the Commission may be made through the Director.

SUBCHAPTER 11. PUBLICATIONS

800:1-11-1. Charges for workshops, publications and other material

(a) The following charges~~, with appropriate postage fees where applicable,~~ will be assessed for the following workshops, publications and other materials:

~~(1) Basic charges for Information and Education Division publications are as follows:~~

~~(A) Oklahoma Furbearers: $2.00~~

~~(B) Managing Ponds Fisheries in Oklahoma: $5.00~~

(1~~C~~) Oklahoma Wildlife Management Areas Atlas: 25.00 and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.

~~(D) Cy Curtis Awards book: $25.00 and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.~~

(2) ~~Basic charges for Administration Division materials are as follows:~~

~~(A)~~ Oklahoma Waterfowl Prints: $129.00

(3) ~~Basic charges for Wildlife Diversity publications, workshops and materials are as follows:~~

~~(A) Attracting Birds: $2.00~~License Hard Card: $5.00

(4~~B~~) Guide to Reptiles and Amphibians of Oklahoma: $25.00 and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.

(5~~C~~) Bird Identification Guide: $25.00 and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.

(6~~D~~) Wildlife Posters: $10.00

~~(E) Bat House Builder's Handbook: $12.00~~

(7~~F~~) Bat Viewing Workshops: $20.00

~~(G) Landscaping for Wildlife: A Guide to the Southern Great Plains: $30.00 includes wildscape certification and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.~~

~~(H) Oklahoma ConserVacation Outings: $300/person~~

~~(I) Pocket Guide to Prairie Birds: $2.00~~

~~(J) Butterflies of Kansas, Oklahoma and North Texas: $25.00 and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.~~

~~(4) Basic Charges for Education workshops and materials are as follows:~~

(8~~A~~) Hunter education certification replacement cards: $5.00

~~(5) Basic charges for miscellaneous publications and materials are as follows:~~

(9~~A~~) ~~Habitat Donor Patch, Cap or T-shirt~~Habitat Donor Vinyl Decal or Cap: $20.00

(10~~B~~) Outdoor Oklahoma Cap: $20.00

(11~~C~~) Outdoor Oklahoma Magazine

(~~i~~A) Single issue copies: $3.00

(~~ii~~B) One year subscription: $10.00

(~~iii~~C) Two year subscription: $18.00

(~~iv~~D) Three year subscription: $25.00

~~(D) Waterfowl Identification in the Central Flyway: $2.00~~

(b) These fees do not reflect postal or handling charges.

(c) Publications and materials not listed in (a) of this Section shall be cost plus handling until a fee is established. Fees may be waived for education and promotion purposes.

[OAR Docket #19-477; filed 5-31-19]

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

[OAR Docket #19-478]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Harvest and Possession Limits
800:10-1-4. Size limits on fish [AMENDED]
800:10-1-5. Bag limits on fish [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
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Superseded rules:
Subchapter 1. Harvest and Possession Limits
800:10-1-5. Bag limits on fish [AMENDED]
Gubernatorial approval:
December 19, 2018
Register publication:
36 Ok Reg 226
Docket number:
18-844
INCORPORATIONS BY REFERENCE:
N/A
GIST/ANALYSIS:
These rules will remove harvest and possession limits on private ponds allowing landowners to manage fish populations and will simplify paddlefish angling by removing the requirement for anglers to complete the "Record of Game" section on their paddlefish permit.

CONTACT PERSON:
Barry Bolton, Chief of Fisheries Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd, Oklahoma City, OK 73105. Phone: 405/521-3721 or Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. HARVEST AND POSSESSION LIMITS

800:10-1-4. Size limits on fish

There are no length and/or size limit restrictions on any game or nongame fish taken from waters of this state, except as follows:

(1) All largemouth and smallmouth bass less than fourteen (14) inches in total length must be returned to the water unharmed immediately after being taken from public waters unless regulated by specific municipal ordinance or specified in regulations listed below: Lakes and Reservoirs with no length limit on largemouth and smallmouth bass - Lake Murray, all waters in the Wichita National Wildlife Refuge.

(2) All largemouth and smallmouth bass between thirteen (13) and sixteen (16) inches in total length must be returned unharmed immediately after being taken from lakes Chimney Rock (W.R. Holway), Arbuckle, Okmulgee and Tenkiller Lake (downstream from Horseshoe Bend boat ramp).

(3) All crappie (Pomoxis sp.) less than 10 inches in total length must be returned to the water unharmed immediately after being taken from Lakes Arbuckle, Tenkiller, Hudson, Texoma, Ft. Gibson, including all tributaries and upstream to Markham Ferry Dam and Grand Lake, including all tributaries to state line.

(4) All walleye, sauger, and saugeye (sauger x walleye hybrid) less than 14 inches in total length must be returned to the water unharmed immediately after being taken statewide, except at Great Salt Plains Reservoir and tailwater where the size limit does not apply, the Arkansas River from Keystone Dam downstream to the Oklahoma state line including all major tributaries upstream to impoundment and R.S. Kerr, Webbers Falls, W.D. Mayo reservoirs as legally defined in Title 800 where all walleye, sauger and saugeye less than 16 inches must be returned to the water unharmed immediately, and at Atoka Bluestem, Bluestem, Carl Blackwell, Healdton, Ponca City, Shell, Sooner, and Thunderbird Reservoirs and the respective tailwaters where all walleye, sauger, and saugeye less than 18 inches total length must be returned to the water unharmed immediately.

(5) All largemouth and smallmouth bass between sixteen (16) and twenty-two (22) inches in total length must be returned to the water immediately after being taken from McGee Creek Lake, Dripping Springs Lake and Crowder Lake (Washita County).

(6) All rainbow trout less than twenty (20) inches in total length must be returned to the water immediately after being taken from the lower Mountain Fork River trout stream below Broken Bow dam from the first Highway Bridge below the Spillway downstream to the second Highway Bridge below the Spillway, including the Evening Hole stream channel, and from the State Park Dam downstream to the mouth of Rough Branch Creek and in the lower Illinois River trout stream from the USGS stream gauge downstream to the gravel pit county road. All brown trout less than twenty (20) inches in total length must be returned to the water immediately after being taken from the lower Mountain Fork River from Broken Bow Dam downstream to the U. S. Highway 70 bridge, and from the lower Illinois River trout stream from Tenkiller Dam downstream to the U. S. Highway 64 bridge.

(7) All blue catfish and channel catfish less than twelve (12) inches in total length must be returned to the water unharmed immediately after being taken from Texoma Lake.

(8) All smallmouth bass less than fourteen (14) inches in total length must be returned to the water unharmed immediately after being taken from all rivers and streams including the Illinois River upstream from the Horseshoe Bend boat ramp, and from the Glover River from the confluence with the Little River upstream to the 'Forks of the Glover River'. Possession of smallmouth bass less than fourteen (14) inches in total length on all streams and rivers is prohibited.

(9) All black bass (largemouth, spotted and smallmouth) less than fourteen (14) inches in total length must be returned unharmed immediately after being taken from the Blue River Public Fishing Area.

(10) All striped bass less than twenty (20) inches must be returned unharmed immediately after being taken from Sooner Reservoir.

(11) On Bull Lake (City of Vinita) - Bag limit of six (6) largemouth bass per day, of which only one (1) largemouth bass may be greater than sixteen (16) inches in total length.

800:10-1-5. Bag limits on fish

No person shall, during any one day, take, attempt to take, kill, or harvest from waters of this state more than:

(1) Six (6) largemouth or smallmouth bass or six in aggregate, except in "Close To Home" fishing water and Doc Hollis Lake where all largemouth bass caught must be returned to the water unharmed immediately after being taken (no harvest allowed), at Texoma Reservoir where the limit is five (5), largemouth, smallmouth or spotted bass or five in aggregate, at Lake Konawa, McGee Creek Lake, Dripping Springs Lake and Crowder Lake (Washita County) where the limit is six (6) of which only one (1) may be twenty-two (22) inches or longer and rivers and streams including the Illinois River upstream from the Horseshoe Bend boat ramp, and from Glover River from the confluence with the Little River upstream to the "Forks

of the Glover River" where the limit is six (6) black bass aggregate of which only one may be a smallmouth bass, which must be fourteen (14) inches or longer.

(2) Fifteen (15) channel and/or blue catfish, or fifteen (15) in aggregate, of which only one (1) blue catfish may be 30 inches in length or larger; except at all U.S. Forest Service and State Park lakes (not including Lake Murray) and Department of Wildlife Management Area ponds and all Department of Wildlife Conservation fishing areas, in "Close To Home" fishing waters and all waters within the Wichita Mountains National Wildlife Refuge, where the limit is six (6). Five (5) flathead catfish.

(3) Thirty-seven (37) crappie (Pomoxis sp.) except at Blue River Public Fishing and Hunting Area where the limit is six (6) and at lakes Arbuckle, Tenkiller, Hudson, Ft. Gibson including all tributaries and upstream to Markham Ferry Dam and Grand Lake including all tributaries to state line where the limit is fifteen (15).

(4) Six (6) rainbow trout - possession limit of twelve (12) after first day, except in the lower Mountain Fork River trout stream below Broken Bow dam from the first Highway Bridge below the Spillway downstream to the second Highway Bridge below the Spillway, including the Evening Hole stream channel, and from the State Park Dam downstream to the mouth of Rough Branch Creek, and in the lower Illinois River trout stream from the USGS stream gauge downstream to the gravel pit county road where the limit is one (1) rainbow trout per day twenty (20) inches or longer in total length (no culling); and in the Blue River from its entry onto the Plaster Wildlife Management Unit/Landrum Wilderness downstream approximately $\frac{1}{2}$ mile to a marker cable where all trout caught must be released immediately from November 1 to March 1 (thereafter, statewide trout bag limit applies).

(5) Six (6) brown trout, except in the lower Mountain Fork River trout stream below Broken Bow dam downstream to the U. S. Highway 70 bridge, and in the lower Illinois River trout stream from Tenkiller Dam downstream to US Highway 64 bridge where the limit is one (1) fish per day twenty (20) inches or longer in total length.

(6) Six (6) walleye, sauger and/or saugeye, or six (6) in aggregate.

(7) Five (5) striped bass except as designated in 800:10-1-5(8).

(8) Ten (10) striped bass and/or striped bass hybrids or ten (10) in aggregate of which only two (2) may be twenty (20) inches or longer in Texoma Reservoir.

(9) Twenty (20) striped bass hybrids of which only five (5) may be twenty (20) inches or longer, except as designated in 800:10-1-5(8) and (10).

(10) Five (5) striped bass and/or striped bass hybrids, in aggregate, of which only two (2) may be 20 inches or longer in Arcadia Lake and Skiatook Lake.

(11) Twenty-five (25) white bass in Lake Texoma.

(12) One (1) paddlefish (Polyodon spathula) per day on Sunday, Tuesday, Wednesday, Thursday, and Saturday, statewide. Catch and release of paddlefish only (no harvest) is permitted on Monday and Friday, statewide. Possession of paddlefish in the field is prohibited on Monday and Friday, statewide. The catch and release of paddlefish is permitted by use of rod and reel, trotline and throwlines. Paddlefish must be released immediately unless kept for the daily limit. Paddlefish taken by bow and arrow, gigs, spears or spearguns shall not be released.

(A) Individual annual harvest limit- An individual harvest limit for paddlefish may be set or amended annually by the Wildlife Conservation Commission and will be listed in the Oklahoma Department of Wildlife Conservation Fishing Guide. Special area (or management unit) paddlefish harvest caps, a general statewide paddlefish harvest cap, and the total number of paddlefish permits issued may be set or amended annually by the Wildlife Conservation Commission for use in determining the individual annual harvest limit. Once an individual angler has reached their annual harvest limit, continued catch and release is permitted.

(B) Paddlefish permit- It shall be unlawful for any person, regardless of residency, age or disability, to fish for paddlefish or be in possession of paddlefish parts without having first secured from the Department of Wildlife Conservation, an annual paddlefish permit. ~~Immediately upon taking possession of a paddlefish with the intent of harvesting said fish, the angler must record the date and time of harvest on the paddlefish permit in the harvest record area provided.~~ This permit must be carried on their person while fishing and/or in possession of paddlefish or parts and be produced for inspection upon the demand of any Oklahoma citizen or game warden. This permit shall be valid for paddlefish catch and release fishing in all waters of the state and at any time unless otherwise prohibited.

(C) Harvest Tagging- Paddlefish caught and placed on a stringer or otherwise held in possession must be plainly labeled (tagged) immediately with the angler's paddlefish permit number. Paddlefish taken into possession cannot be released (no culling). Each person must keep their own paddlefish distinctly separate from paddlefish taken by other anglers. Each cleaned paddlefish, or its meat, eggs, or carcass, must be kept separate from all other cleaned paddlefish or its parts. Paddlefish or their parts must remain tagged until the person in possession of thepaddlefish or paddlefish parts has reached their residence. All paddlefish must have all viscera (internal organs) removed from the paddlefish before leaving the state. Persons fishing trotlines or throwlines must release all paddlefish on their lines, except the one (1) paddlefish held in possession for their daily limit, before leaving the trotline or throwline. Anglers must cease snagging for the day when they have taken their daily limit of paddlefish into possession.

(D) Reporting- Harvest of paddlefish must be reported by the harvesting angler to Oklahoma Department of Wildlife within 24 hours of harvest.

Instructions for reporting harvest will be provided in the Oklahoma Department of Wildlife Fishing Guide and on the Oklahoma Department of Wildlife website.

(13) Release of striped bass and/or striped bass hybrids caught and placed on a stringer, in a live well or otherwise held in possession is prohibited statewide (no culling).

(14) One (1) alligator gar (Atractosteus spatula) per day, statewide, except during the period of May 1 through May 31 when angling for alligator gar by all angling methods is prohibited on Lake Texoma between the Highway 99 bridge upstream to the I-35 bridge. The catch and release of alligator gar is permitted year round, except during the closure referenced above, by use of rod and reel, trotline and throwlines. Alligator gar must be released immediately unless kept for the daily limit. Persons fishing trotlines or throwlines must release all alligator gar on their lines except the one alligator gar held in possession for their daily limit, before leaving the trotline or throwline. Alligator gar taken by bow and arrow, gigs, spears or spearguns shall not be released. Alligator gar caught and placed on a stringer or otherwise held in possession cannot be released (no culling). Anglers must cease snagging when they have taken their daily limit of alligator gar into possession.

(15) One (1) of any fish species classified as those of Special Concern Category I or Category II (as identified in 800:25-19-6). Such harvest must be reported to ODWC.

(16) All tiger muskie (Esox masquinongy x Esox lucius) caught must be returned to the water unharmed immediately after being taken (no harvest allowed).

(17) Other fish do not have bag or possession limits. Notwithstanding the foregoing fish bag limits, any bag limits for fish can be superseded and set by Commission resolution as authorized by Section 6-302(B) of Title 29 of the Oklahoma Statutes.

[OAR Docket #19-478; filed 5-31-19]

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

[OAR Docket #19-479]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Migratory Bird Hunting Season
Part 1. Ducks, Mergansers, Coots, Geese, Mourning, White-Winged and Eurasian Collared Doves, Woodcock, Virginia and Sora Rail, Common Moorhen, Purple Gallinule, Snipe and Sandhill Crane
800:25-5-2. Hunting dates, bag and possession limits for migratory birds [AMENDED]
Part 23. Waterfowl Hunting on Sooner Lake
800:25-5-96. Blinds [AMENDED]
Subchapter 7. General Hunting Seasons
Part 5. Upland Game
800:25-7-15. Wild turkey - Fall; dates, limits and open areas [AMENDED]
800:25-7-19. Wild Turkey - general provisions [AMENDED]
Part 12. Antelope
800:25-7-48. Dates, open areas, bag limits and hunting hours and regulations [AMENDED]
Part 13. Deer
800:25-7-50. General provisions for deer [AMENDED]
800:25-7-54. Legal firearms and archery specifications [AMENDED]
Part 14. Elk
800:25-7-57. Dates, open areas, bag limit and hunting hours [AMENDED]
Part 15. Furbearers
800:25-7-60. Dates and legal furbearers [AMENDED]
Part 16. Black Bears
800:25-7-67. Dates, open areas, bag limits, hunting hours, legal means of take, quotas, prohibited activities [AMENDED]
Part 19. Seasons on Areas Owned or Managed by the Oklahoma Department of Wildlife Conservation and the U.S. Fish and Wildlife Service
800:25-7-81.2. Arbuckle Springs WMA [AMENDED]
800:25-7-87.1. Candy Creek WMA [AMENDED]
800:25-7-94.5. Deep Fork WMA [AMENDED]
800:25-7-97. Fobb Bottom WMA [AMENDED]
800:25-7-102.1.1. Grady County WMA [AMENDED]
800:25-7-106. Heyburn WMA [AMENDED]
800:25-7-108. Hickory Creek WMA [AMENDED]
800:25-7-115. Kaw WMA [AMENDED]
800:25-7-116. Keystone WMA [AMENDED]
800:25-7-120. Love Valley WMA [AMENDED]
800:25-7-126.1. Neosho WMA [NEW]
800:25-7-128. Okmulgee PHA [AMENDED]
800:25-7-143. Skiatook WMA [AMENDED]
800:25-7-144. Sparrowhawk WMA [AMENDED]
800:25-7-149. Texoma/Washita Arm WMA [AMENDED]
800:25-7-149.2. Thomas A. Bamberger Sr WMA [NEW]
800:25-7-151. Tishomingo WMU/Cooperative Unit [AMENDED]
Subchapter 19. Oklahoma Endangered Species
800:25-19-6. Species listing [AMENDED]
Subchapter 30. Wildlife Depredation on Agricultural Crops
800:25-30-2. Procedures [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 30, 2018
COMMENT PERIOD:
December 3, 2018 - January 4, 2019
February 1, 2019 - March 8, 2019
PUBLIC HEARING:
Date: January 3, 2019 (cancelled)
Date: March 7, 2019
ADOPTION:
March 25, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 29, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by House Joint Resolution 1022.
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 7. General Hunting Seasons
Part 5. Upland Game
800:25-7-19. Wild turkey - general provisions [AMENDED]
Part 12. Antelope
800:25-7-48. Dates, open areas, bag limits and hunting hours and regulations [AMENDED]
Part 13. Deer
800:25-7-50. General provisions for deer [AMENDED]
Part 14. Elk
800:25-7-57. Dates, open areas, bag limit and hunting hours [AMENDED]
Part 16. Black Bear
800:25-7-67. Dates, open areas, bag limits, hunting hours, legal means of take, quotas, prohibited activities [AMENDED]

Gubernatorial approval:
December 19, 2018
Register publication:
36 Ok Reg 228
Docket number:
18-845
INCORPORATIONS BY REFERENCE:
N/A
GIST/ANALYSIS:

Subchapter 5 - This rule will remove reference to the waterfowl hunting regulations booklet since the waterfowl regulations are now included in the general hunting seasons booklet.

Part 11 - These rules would have eliminated the drawing process for permanent waterfowl hunting blinds on Corps of Engineers and Bureau of Reclamation reservoirs, and change all these reservoirs to temporary blinds only. Due to overwhelming public comment, these proposed rules were tabled by the Commission and will not be implemented this year.

Part 23 - These rules will require hunters to obtain a daily permit for blinds when hunting on Sooner Lake.

Subchapter 7 - Remove the requirement for hunters to complete the "Record of Game" section on their annual license for all big game species. Open several counties and WMA's to fall turkey hunting; make several WMA's shotgun only for safety reasons. Change raccoon season to open year-round. Open all areas east of Highway 69 and South of Interstate 40 to bear hunting; and prohibit the harvest of collared bears. Open Deep Fork WMA deer gun season and close small game seasons during this time for safety reasons. Open waterfowl season on Sparrowhawk WMA. Establish hunting seasons and dates on two new Wildlife Management Areas: Neosho WMA and Thomas A. Bamberger Sr. WMA.

Part 13 - Allow any centerfire rifle, handgun, or shotgun firing a single bullet to be used for hunting deer. Due to public comment, Commission approved this rule proposal but kept the 55 grain bullet weight minimum in effect.

Subchapter 19 - Update/correct names in the list of species of special concern.

Subchapter 30 - Remove rusty blackbird from the list of allowable species of take under the National Depredation Order due to population declines, but still allows for individual permits from USFWS.

CONTACT PERSON:
Alan Peoples, Chief of Wildlife Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd, Oklahoma City, OK 73105. Phone: 405/521-3721 or Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 5. MIGRATORY BIRD HUNTING SEASON

PART 1. DUCKS, MERGANSERS, COOTS, GEESE, MOURNING, WHITE-WINGED AND EURASIAN COLLARED DOVES, WOODCOCK, VIRGINIA AND SORA RAIL, COMMON MOORHEN, PURPLE GALLINULE, SNIPE AND SANDHILL

800:25-5-2. Hunting dates, bag and possession limits for migratory birds

(a) The provision of 50 CFR 20, Subparts A-J governing the hunting, taking, possession and transportation of migratory birds are hereby incorporated by reference.

(b) The annual federal hunting seasons, options for season length, and daily bag and possession limits will be published annually in the Federal Register and are hereby incorporated by reference. The specific issue of the Federal Register will be available at the offices of the Oklahoma Department of Wildlife Conservation at 1801 N. Lincoln Blvd.

(c) The annual hunting season date and bag and possession limits for the state of Oklahoma will be published annually in the Federal Register and are hereby incorporated by reference. The specific issue of the Federal Register will be available at the offices of the Oklahoma Department of Wildlife Conservation at 1801 N. Lincoln Blvd.

(d) The Oklahoma rules governing the hunting, taking, possession, and transportation of migratory birds, including the hunting seasons, hunting areas, possession and bag limits, shall be published annually in a booklet entitled Oklahoma ~~Waterfowl~~ Hunting Regulations. The booklet shall be readily available for distribution to the general public.

PART 23. WATERFOWL HUNTING ON SOONER LAKE

800:25-5-96. Blinds

(a) ~~On Saturday and Sunday, blinds~~Blinds are secured daily, on open hunting days, by permit on Sooner Lake. Permits are issued on a first come, first served basis starting at ~~5 a.m.~~3 a.m. at the waterfowl hunter check station located 2 $\frac{1}{2}$ miles East of Highway 177 on Highway 15.

(b) ~~On Tuesday and Thursday, hunters may proceed directly to hunt area. Hunters~~Blinds must be within 50 yards of numbered stake designating blind site.

(c) Temporary blinds only are allowed and must be removed at end of each day's hunt. A camouflage boat is considered a temporary blind. No living vegetation may be cut for construction of natural-material blinds.

SUBCHAPTER 7. GENERAL HUNTING SEASONS

PART 5. UPLAND GAME

800:25-7-15. Wild turkey - Fall; dates, limits and open areas

The following hunting dates, bag limits and areas open to hunting apply to fall turkey hunting:

(1) **Dates.** The dates for Fall turkey hunting are:

(A) Archery: Concurrent with the deer archery season.

(B) Gun: The last Saturday of the deer primitive season through the Friday preceding deer gun season.

(2) **Season limit.** The season limit shall be one turkey per hunter for the fall season.

(3) **Open areas and bag Limit - archery.** The bag limit is one turkey of either-sex and the season is open statewide.

(4) **Open areas and bag limit - gun.** The fall limit is one turkey. County bag limits may be "tom only" or "either-sex". County bag limits will be determined annually and published in the current Oklahoma Hunting Guide and Regulations. The counties open to gun hunting are:

(A) The following counties are open to any legal firearm hunting: Alfalfa, Beaver, Beckham, Blaine, Caddo, Canadian, Carter, Cimarron, Cleveland, Comanche, Cotton, Creek, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, Major, Marshall, McClain, Murray, Noble, Okfuskee, Oklahoma, Okmulgee, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Roger Mills, Seminole, Stephens, Texas, Tillman, Washita, Woods, and Woodward.

(B) The following counties open to shotgun hunting only: Adair, Cherokee, Craig, Haskell, McIntosh, Muskogee, Nowata, Sequoyah, Wagoner, and Washington.

800:25-7-19. Wild turkey - general provisions

The following general provisions apply to the taking of turkey:

(1) **Tom turkey description.** A tom turkey is any bearded turkey, regardless of sex.

(2) **Hunting hours.** The hunting hours shall be one-half hour before sunrise to sunset.

(3) **Baiting.** Turkeys may not be taken within 100 yards of any bait. "Bait" shall mean the placing, exposing, depositing, distributing or scattering of shelled, shucked or unshucked corn, wheat or other grain or other feed so as to constitute for such birds a lure, attraction or enticement to, on or over any area where hunters are attempting to take them. Nothing in this section shall prohibit the taking of wild turkey over standing crops, grain crops, properly shucked on the field where grown or grain found scattered solely as the result of normal agricultural operations.

(4) **Roost shooting.** Roost shooting is prohibited.

(5) **Decoys and recorded calls.** Hunting turkey with artificial decoys is permitted. Live decoys and recorded calls are prohibited.

(6) **Tagging.** The following provisions apply to the tagging and checking of turkey:

(A) Persons taking a turkey shall securely attach their name, license number, the current date and time of harvest immediately to the carcass.

(B) Evidence of sex (one leg with foot) or beard must remain on the bird until it has been checked. Beards on hens must remain intact until the bird has reached final destination.

(C) A separate tag is required for each bird that is hunted. Hunters who possess Oklahoma Department of Wildlife Conservation lifetime hunting or lifetime combination licenses are exempt from the date and time tagging requirements outlined in 6 (A).

~~(D) Upon harvesting a turkey all annual license/permit holders will be required to complete the "Record of Game" Section on the back of the license form.~~

(7) **Reporting.** All turkeys harvested must be checked in at a hunter check station, or with an authorized Department employee, or must be checked online at www.wildlifedepartment.com no later than 24 hours upon leaving the hunt area. Once checked, the turkey will be issued a carcass tag or an online confirmation number. This tag or confirmation number must remain with the carcass to its final destination or through processing and/or storage at commercial processing or storage facilities.

(8) **Fee.** All persons hunting wild turkeys, unless otherwise exempt, must possess a turkey tag. Fee for turkey tags will be $9.00 plus $1.00 vendor fee.

PART 12. ANTELOPE

800:25-7-48. Dates, open areas, bag limits and hunting hours and regulations

The following dates, open areas, bag limits, hunting hours and regulations apply to archery antelope season:

(1) **Dates.** Hunting dates will be established annually and published in the current Oklahoma Hunting Guide.

(2) **Open Areas.** The archery antelope season is open in Cimarron County and that portion of Texas County west of Highway 136.

(3) **Bag limit.** The archery bag limit is two antelope, which may include no more than one buck. The archery antelope is not bonus and counts against the statewide bag limit for antelope.

(4) **Hunting hours.** The hunting hours are the same as those established for deer archery season.

(5) **Tagging and Checking.** The following applies to the tagging and checking of antelope:

(A) Persons taking an antelope shall securely attach their name and license number immediately to the carcass.

(B) All antelope must be checked as described in the Oklahoma Hunting Guide.

(C) Evidence of sex (head) must not be removed from the carcass until the carcass has been checked. Antelope tags must remain with the carcass through processing and/or storage at commercial processing or storage facilities.

(D) Any antelope or any portion of any antelope transferred to another person must have the hunter's name, address, hunting license number and date harvested attached to the animal. The person's name and address receiving said wildlife must also appear on the written information.

~~(E) Upon harvesting an antelope all annual license/permit holders will be required to complete the "Record of Game" Section on the back of the license form.~~

(6) **Legal Means of Take:** Same as for deer archery season. Hunter fluorescent clothing requirements are the same as those required for the deer archery season.

PART 13. DEER

800:25-7-50. General provisions for deer

The following general hunting provisions apply to the taking of deer:

(1) **Bonus deer.** The bonus deer designation includes all controlled deer hunts on public and private lands. A permit awarded by drawing is required for all bonus deer hunts in addition to a bonus deer tag. Hunters may hunt only in that area specified on their bonus deer permit. The bonus deer tag is valid for only the designated controlled hunt. Deer taken during a bonus hunt do not count against the statewide deer limit.

(2) **Hunting hours.** The hunting hours shall be one-half hour before sunrise to one-half hour after sunset.

(3) **Antlered deer.** An antlered deer is any deer, regardless of sex, with at least three inch antler length above the natural hairline on either side.

(4) **Tagging and checking.** The following provisions apply to the tagging and checking of deer:

(A) Persons taking a deer shall securely attach their name, license number, current date and time of harvest immediately to the carcass.

(B) All deer must be checked in at a hunter check station, or with an authorized Department employee, or online at www.wildlifedepartment.com no later than 24 hours upon leaving the hunt area. Once checked, the deer will be issued a carcass tag or an online confirmation number. This tag or confirmation number must remain with the carcass to its final destination or through processing and/or storage at commercial processing or storage facilities. Carcass may be checked in quartered with the sex organs still naturally attached and head accompanying the carcass.

~~(C) Upon harvesting a deer all annual license/permit holders will be required to complete the "Record of Game" Section on the back of the license form.~~

(5) No more than six (6) deer per individual may be taken statewide by anyone regardless of seasons hunted. This limit may include no more than two (2) antlered deer regardless of seasons hunted.

(6) **Legal Means of Taking:** Telemetric radio tracking devices for archery are legal, however, thermal tracking devices or detecting units are prohibited.

(7) **Shed Antlers.** It shall be lawful for persons to gather, possess, and sell shed antlers of deer.

(A) Shed antlers will be defined as: An antler which has been dropped naturally from a deer as part of the annual life cycle and the antler has a rounded base commonly ~~know~~known as the antler button or burr attached which signifies a natural process.

(B) No person may take shed antlers from private property without the permission of the landowner.

(C) The Buyer must possess a Bill of Sale showing:

(~~1~~i) The Seller/Taker's full name and address.

(~~2~~ii) The number of individual antlers purchased.

(D) The Seller/Taker must keep or provide:

(~~1~~i) Total number of individual antlers sold.

(~~2~~ii) Buyers name and address.

800:25-7-54. Legal firearms and archery specifications

The following are the legal firearms specifications for rifles, muzzleloading firearms, shotguns, handguns and bows:

(1) **Rifles.** Centerfire rifles only and firing ammunition with a soft-nosed bullet are legal if firing at least a 55 grain weight bullet.~~and having an overall cartridge case length of 1 1/4 inches or longer.~~ Hollow point bullets are legal. Fully automatic firearms are prohibited.

(2) **Muzzleloading firearms.** Muzzleloading rifles and shotguns that are legal for the muzzleloading season shall also be legal in all areas open to rifles, except black powder firearms loaded from the breech are also legal. Muzzleloading pistols (singleshot or revolver) with characteristics that are described for 40 caliber rifles are permissible as a secondary firearms, but may be used only for killing a downed animal.

(3) **Shotguns.** ~~Twenty gauge shotguns or larger,~~Any centerfire shotgun firing a single rifled slug.

(4) **Handguns.** Any centerfire handgun firing a single bullet with at least a 55 grain weight. ~~Centerfire handguns chambered for a 24 caliber or larger, 100 grain or heavier, soft-nosed bullet having an overall cartridge case length of 1 1/4 inches or longer, any semi-automatic pistol chambered for any centerfire ammunition with a 100 grain or heavier soft-nosed bullet and having a cartridge case size of .40 caliber or larger, or any pistol chambered for any centerfire rifle ammunition with a soft-nosed bullet firing at least a 55 grain bullet and having an overall cartridge case length of 1 1/4 inches or longer.~~ Minimum barrel length is four inches. Fully automatic firearms are prohibited.

(5) **Bows, arrows, and bolts.** A legal bow is defined as any bow of thirty (30) pounds or more draw weight, any recurve, longbow, or self-bow of forty (40) pounds or more draw weight or any crossbow having a draw weight of 100 pounds or more and being equipped with safety devices. Crossbow bolts must be a minimum of 14 inches in length. Legal arrows and bolts for deer shall be fitted with broadhead hunting type points not less than 7/8 inches wide, including mechanical broadheads meeting these dimensions when fully open. Devices that permit a bow to be held mechanically at full or partial draw are permitted. Laser sights are prohibited. Hand-held releases are permitted.

PART 14. ELK

800:25-7-57. Dates, open areas, bag limit and hunting hours

The following dates, open areas, bag limit and hunting hours apply to elk hunting:

(1) **Dates.** Hunting dates will be established by the Oklahoma Wildlife Conservation Commission and will be published in the Oklahoma Hunting Guide.

(2) **Open areas.** The season is open on private lands statewide. Separate elk management zones may be established and will be published in the Oklahoma Hunting Guide.

(3) **Bag limit.** The bag limit, antler restriction and sex restrictions will be established by the Oklahoma Wildlife Conservation Commission. All such restrictions and bag limits will be published in the Oklahoma Hunting Guide.

(4) **Hunting hours.** The hunting hours are the same as those established for the deer gun season.

(5) **Tagging and checking.** The following provisions apply to the tagging and checking of elk:

(A) Persons taking an elk shall securely attach their name, license number, current date and time of harvest immediately to the carcass.

(B) All elk must be checked in at a hunter check station, or with an authorized Department employee, or online at www.wildlifedepartment.com no later than 24 hours upon leaving the hunt area. Once checked, the elk will be issued a carcass tag or an online confirmation number. This tag or confirmation number must remain with the carcass to its final destination or through processing and/or storage at commercial processing or storage facilities. Carcass may be checked in quartered with sex organs still naturally attached and head accompanying the carcass.

(C) Evidence of sex (head) must not be removed from the carcass until the carcass has been checked. However, carcasses may be checked in quartered with the sex organs naturally attached and head accompanying the carcass. Elk tags must remain with the carcass through processing and/or storage at commercial processing or storage facilities.

~~(D) Upon harvesting an elk all annual license/permit holders will be required to complete the "Record of Game" Section on the back of the license form.~~

PART 15. FURBEARERS

800:25-7-60. Dates and legal furbearers

The following dates apply to the taking of legal furbearers:

(1) **Dates and legal furbearers.** The dates for the taking of furbearers shall be the first day of December to the last day of February [Title 29 O.S., Section 5-405] and those legal furbearers are as follows: Badger, bobcat, gray fox, mink, muskrat, opossum, ~~raccoon,~~ red fox, river otter and weasel.

(2) **Open year-round.** The season for taking raccoon, beaver, striped skunk, nutria and coyote is open year-round. Taking of mountain lion is allowed when the mountain lion is committing or about to commit depredation on any domesticated animal, or when acting in a manner as to constitute an immediate safety hazard. In the event a mountain lion is taken, an ODWC employee must be notified immediately and the intact carcass including the hide must be presented to ODWC within 24 hours for collection of biological information.

PART 16. BLACK BEARS

800:25-7-67. Dates, open areas, bag limits, hunting hours, legal means of take, quotas, prohibited activities

The following dates, open areas, bag limits, hunting hours, legal means of take, quotas, and prohibited activities apply to bear seasons:

(1) **Dates.** The dates for bear archery season shall be October 1 through the third Sunday in October. The dates for bear muzzleloader season shall run concurrently with deer muzzleloader season.

(2) **Open areas.** The counties open to bear hunting are Choctaw, Haskell, Latimer, LeFlore, McCurtain, and Pushmataha; and that portion of McIntosh, Muskogee, and Sequoyah south of Interstate 40; and that portion of Atoka, Bryan, McIntosh, and Pittsburg east of U.S. Highway 69.

(3) **Bag limit.** The bag limit is one bear, regardless of seasons hunted.

(4) **Hunting hours.** The hunting hours shall be one-half hour before sunrise to one-half hour after sunset.

(5) **Legal means of taking.** Bear may be taken with archery equipment or muzzleloading firearms described as legal for deer for the respective season.

(6) **Tagging and checking.** The following provisions apply to the tagging and checking of bears:

(A) Persons taking a bear shall securely attach their name and license number immediately to the carcass.~~and fill out the record of harvest.~~

(B) All bears must be checked as described in the Oklahoma Hunting Guide.

(C) Evidence of sex must not be removed from the carcass until the bear has been checked by ODWC personnel. However, carcass may be checked in quartered with sex organs naturally attached and head accompanying the carcass. Bear carcass tags must remain with the carcass through the processing and storage process.

(7) **Quotas.** Quotas will be set by the Wildlife Conservation Commission as needed and listed in the Oklahoma Hunting Guide. When the quota is met, the hunt for that year is closed. Harvest totals must be checked each day either on-line or by phone to make sure the quota has not been met before hunting bear.

(8) **Prohibited activities.**

(A) No baiting allowed on Wildlife Management Areas.

(B) Shooting females with cubs is prohibited.

(C) No den shooting of bears.

(D) Shooting cubs is prohibited.

(E) Shooting collared bears is prohibited.

PART 19. SEASONS ON AREAS OWNED OR MANAGED BY THE OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION AND THE U.S. FISH AND WILDLIFE SERVICE

800:25-7-81.2. Arbuckle Springs WMA

The following hunting and trapping seasons apply to the Arbuckle Springs WMA:

(1) Quail: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season.

(2) Pheasant: Closed season.

(3) Prairie chicken: Closed season.

(4) Turkey - Fall

(A) Archery: Same as statewide season dates~~, except closed during the first nine days of deer gun season~~. Either-sex.

(B) Gun: Closed season.

(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.

(6) Squirrel: Same as statewide dates, except closed from opening day of deer archery season through the first nine days of deer gun season.

(7) Rabbit: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season.

(8) Crow: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season.

(9) Dove: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season.

(10) Rail and gallinule: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season.

(11) Common snipe: Same as statewide season dates, except closed from opening day of deer archery season through first nine days of deer gun season.

(12) Woodcock: Same as statewide season dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.

(13) Deer - archery: Same as statewide season dates, except closed during controlled hunts.

(14) Deer - primitive firearms: Controlled hunts only.

(15) Deer - gun: Controlled hunts only.

(16) Trapping: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season. Open to water sets, live box traps, and enclosed trigger traps only.

(17) Pursuit with hounds: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season.

(18) Predator/furbearer calling: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season.

(19) Waterfowl: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season.

800:25-7-87.1. Candy Creek WMA

The following hunting and trapping seasons apply to the Candy Creek WMA:

(1) Quail: Same as statewide season dates, except closed during the first nine (9) days of deer gun season.

(2) Pheasant: Closed Season.

(3) Prairie Chicken: Closed Season.

(4) Turkey - Fall

(A) Archery: Same as statewide season dates, either sex.

(B) Gun: Same as statewide season dates; 1 tom limit, shotgun only.

(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.

(6) Squirrel: September 1 - January 15, except closed during the first nine (9) days of deer gun season.

(7) Rabbit: Same as statewide season dates, except closed during the first nine (9) days of deer gun season.

(8) Crow: Same as statewide season dates, except closed during the first nine (9) days of deer gun season.

(9) Dove: Same as statewide season dates.

(10) Rail and Gallinule: Same as statewide season dates.

(11) Common Snipe: Same as statewide season dates, except closed the first nine days of deer gun season.

(12) Woodcock: Same as statewide ~~seasn~~season dates, except closed the first nine days of deer gun season.

(13) Deer-archery: Same as statewide season dates.

(14) Deer-primitive firearms: Controlled hunts only.

(15) Deer-gun: Controlled hunts only.

(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only.

(17) Pursuit with hounds: Same as statewide season dates, except closed March 16 - August 31 and the first nine (9) days of deer gun season.

(18) Predator/furbearer calling: Same as statewide season dates, except closed March 16 - August 31 and the first nine (9) days of deer gun season.

(19) Waterfowl: Same as statewide season dates, except closed during the first nine (9) days of deer gun season.

800:25-7-94.5. Deep Fork WMA

The following hunting and trapping seasons apply to the Deep Fork WMA:

(1) Quail: Same as statewide season dates, except closed during the first nine days of deer gun season.

(2) Pheasant: Closed season.

(3) Prairie chicken: Closed season.

(4) Turkey-Fall:

(A) Archery: Same as statewide season dates, either-sex.

(B) Gun: ~~Closed season.~~Same as statewide season dates, one tom limit, shotgun only.

(5) Turkey-Spring: Same as statewide season dates, 1 tom limit.

(6) Squirrel: Same as statewide season dates, except closed during the first nine days of deer gun season.

(7) Rabbit: Same as statewide season dates, except closed during the first nine days of deer gun season.

(8) Crow: Same as statewide season dates.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide season dates, except closed during the first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during the first nine days of deer gun season.
(13) Deer-archery: Same as statewide season dates.
(14) Deer-primitive firearms: Same as statewide season dates.
(15) Deer-gun: ~~Closed season.~~Same as statewide season dates, except closed during the last seven days of deer gun season.
(16) Trapping: Same as statewide season dates.
(17) Pursuit with hounds: Same as statewide season dates, except closed during the first nine days of deer gun season.
(18) Predator/furbearer calling: same as statewide season dates, except closed during the first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates, except Harold Stuart Marsh closed to waterfowl hunting.

800:25-7-97. Fobb Bottom WMA

The following hunting and trapping season apply to the Fobb Bottom WMA:

(1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey-Fall:
(A) Archery: Same as statewide season dates, either sex.
(B) Gun: ~~Closed season.~~Same as statewide season dates, 1 tom limit, shotgun only.
(5) Turkey-Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed during the first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide season dates, except closed during the first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during the first nine days of deer gun season.
(13) Deer-archery: Same as statewide season dates.
(14) Deer-primitive firearms: Same as statewide season dates, except closed to antlerless hunting after the first day.
(15) Deer-gun: Same as statewide season dates, except closed to antlerless hunting after the first day.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only.
(17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates except closed during first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates.

800:25-7-102.1.1.Grady County WMA

The following hunting and trapping seasons apply to the Grady County WMA:

(1) Quail: Same as statewide season dates, except closed during deer muzzleloader season and first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates except closed during deer muzzleloader season and the first nine days of deer gun season, either-sex.
(B) Gun: Same as statewide season dates, except closed during deer muzzleloader. ~~season and the first nine days of deer gun season,~~ 1 tom limit, shotgun only.
(5) Turkey-spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.
(8) Crow: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.
(9) Dove: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.
(10) Rail and gallinule: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.
(11) Common snipe: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.
(13) Deer-archery: Same as statewide season dates except closed during deer muzzleloader season and the first nine days of deer gun season.
(14) Deer-primitive firearms: Controlled hunts only.
(15) Deer-gun: Controlled hunts only.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only, except closed during deer muzzleloader season and the first nine days of deer gun season.

(17) Pursuit with hounds: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates, except closed during deer muzzleloader season and the first nine days of deer gun season.

800:25-7-106. Heyburn WMA

The following hunting and trapping seasons apply to the Heyburn WMA.
(1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates, either-sex.
(B) Gun: ~~Closed season.~~Same as statewide season dates, 1 tom limit, shotgun only.
(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
(13) Deer - archery: Same as statewide season dates.
(14) Deer - primitive firearms: Same as statewide season dates.
(15) Deer - gun: Same as statewide season dates, except closed the last seven days of deer gun season.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only.
(17) Pursuit with hounds: Same as statewide season dates.
(18) Predator/furbearer calling: Same as statewide season dates.
(19) Waterfowl: Same as statewide season dates.

800:25-7-108. Hickory Creek WMA

The following hunting and trapping seasons apply to the Hickory Creek WMA:
(1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates, either-sex.
(B) Gun: Same as statewide season dates, 1 tom limit, shotgun only.
(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
(13) Deer - archery: Same as statewide season dates.
(14) Deer - primitive firearms: Same as statewide season dates.
(15) Deer - gun: Same as statewide season dates.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only.
(17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed during the first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates.

800:25-7-115. Kaw WMA

The following hunting and trapping seasons apply to the Kaw WMA:
(1) Quail: Same as statewide season dates, except closed during deer primitive and first nine days of deer gun season.
(2) Pheasant: Same as statewide season dates and bag limits, except closed during first nine days of deer gun season.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates, either-sex.
(B) Gun: Same as statewide season dates, 1 tom limit, shotgun only.
(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.

(12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
(13) Deer - archery: Same as statewide season dates.
(14) Deer - primitive firearms: Same as statewide season dates.
(15) Deer - gun: Same as statewide season dates, except closed during last seven days of deer gun season.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only. Those lands north of River Road on the Arkansas River Arm and north of Ferguson Road on the Beaver Creek Arm are also open to statewide trapping methods from January 1 through the last day of February.
(17) Pursuit with hounds: Same as statewide season dates except closed from opening day of archery season through deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates.
(19) Waterfowl: Same as statewide season dates.

800:25-7-116. Keystone WMA

The following hunting and trapping seasons apply to the Keystone WMA: That portion of the Arkansas River arm of the Keystone WMA that was formerly the waterfowl refuge has restricted hunting. The west boundary of this portion is a northern extension of Swan Drive in the City of Cleveland. In this designated area, lands in Osage County and in the Arkansas River are restricted to archery and shotgun with pellets only; lands in Pawnee County are restricted to archery only.

(1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates, either-sex, except closed during deer gun season.
(B) Gun: Same as statewide season dates; ~~one~~1 tom limit, shotgun only.
(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates, except closed during first nine days of deer gun season.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
(13) Deer - archery: Same as statewide season dates.
(14) Deer - primitive firearms: Same as statewide season dates, bag limit of one antlered and one antlerless deer.
(15) Deer - gun: Same as statewide season dates, except open to antlerless hunting on opening day only, bag limit of one antlered and one antlerless deer, and Cottonwood Creek Wetland Development Unit lands are closed.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only.
(17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed during first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates.

800:25-7-120. Love Valley WMA

The following hunting and trapping seasons apply to Love Valley WMA:

(1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates, either-sex.
(B) Gun: Same as statewide season dates, 1 tom limit, shotgun only.
(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
(13) Deer - archery: Same as statewide season.
(14) Deer - primitive firearms: Same as statewide season dates.
(15) Deer - gun: Same as statewide season dates.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only.
(17) Pursuit with hounds: Same as statewide season dates, except closed during the first nine days of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed during the first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates.

800:25-7-126.1. Neosho WMA

The following hunting and trapping seasons apply to the Neosho WMA:

(1) Quail: Same as statewide season dates.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.

(4) Turkey-Fall:
(A) Archery: Same as statewide season dates.
(B) Gun: Closed season.
(5) Turkey-Spring: Same as statewide season dates. 1 tom limit.
(6) Squirrel: Same as statewide season dates.
(7) Rabbit: Same as statewide season dates.
(8) Crow: Same as statewide season dates.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide season dates.
(12) Woodcock: Same as statewide season dates.
(13) Deer-archery: Same as statewide season dates.
(14) Deer-primitive firearms: Controlled hunts only.
(15) Deer-gun: Controlled hunts only.
(16) Trapping: Same as statewide season dates. Open to water sets, live box traps, and enclosed trigger traps only.
(17) Pursuit with hounds: Same as statewide season dates, except closed from opening day of deer archery season through the first nine dates of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed from opening day of deer archery season through the first nine dates of deer gun season.
(19) Waterfowl: Same as statewide season dates.

800:25-7-128. Okmulgee PHA

The following hunting and trapping seasons apply to the Okmulgee PHA:
(1) Quail: Same as statewide dates, except closed during first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates, either-sex.
(B) Gun: ~~Closed season.~~Same as statewide season dates, 1 tom limit, shotgun only.
(5) Turkey - Spring: Same As statewide season, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed from opening day of deer archery season through first nine days of deer gun season.
(7) Rabbit: Same as statewide dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(8) Crow: Open December 9 - March 4.
(9) Dove: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
(10) Rail and gallinule: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
(11) Common snipe: Same as statewide dates except closed from opening day of archery season through first nine days of deer gun season.
(12) Woodcock: Same as statewide dates, except closed from the opening day of deer archery season through the first nine days of deer gun season.
(13) Deer - archery: Same as statewide season dates.
(14) Deer - primitive firearms: Same as statewide season dates, closed to antlerless deer hunting.
(15) Deer - gun: Same as statewide season dates, except closed the last seven days of deer gun season and closed to antlerless deer hunting.
(16) Trapping: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
(17) Pursuit with hounds: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates.

800:25-7-143. Skiatook WMA

The following hunting and trapping seasons apply to the Skiatook WMA:
(1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
(2) Pheasant: Closed season.
(3) Prairie chicken: Closed season.
(4) Turkey-Fall:
(A) Archery: Same as statewide season dates, either-sex, except closed during first nine days of deer gun season.
(B) Gun: Same as statewide season dates, ~~one bird of either sex.~~1 tom limit, shotgun only.
(5) Turkey-Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide dates, except closed during first nine days of deer gun season.
(12) Woodcock: Same as statewide dates, except closed during first nine days of deer gun season.
(13) Deer-archery: Same as statewide season dates.
(14) Deer-primitive firearms: Same as statewide season dates, bag limit of one antlered and one antlerless deer.
(15) Deer-gun: Same as statewide season dates, bag limit of one antlered and one antlerless deer.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only.
(17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed during first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates.

800:25-7-144. Sparrowhawk WMA

The following hunting and trapping seasons apply to the Sparrowhawk WMA:

(1) Quail: Same as statewide dates, except closed during first nine days of deer gun season.

(2) Pheasant: Closed season.

(3) Prairie chicken: Closed season.

(4) Turkey - Fall:

(A) Archery: Same as statewide season dates, either-sex.

(B) Gun: Closed season.

(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.

(6) Squirrel: Same as statewide season dates.

(7) Rabbit: Same as statewide season dates.

(8) Crow: Same as statewide season dates.

(9) Dove: Same as statewide season dates.

(10) Rail and gallinule: Same as statewide season dates.

(11) Common snipe: Same as statewide season dates.

(12) Woodcock: Same as statewide season dates.

(13) Deer - archery: Same as statewide season dates.

(14) Deer - primitive firearms: Same as statewide season dates.

(15) Deer - gun: Same as statewide season dates.

(16) Trapping: Same as statewide season dates.

(17) Pursuit with hounds: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season. In addition, closed during spring turkey season.

(18) Predator/furbearer calling: Same as statewide season dates.

(19) Waterfowl: ~~Closed season.~~Same as statewide season dates.

800:25-7-149. Texoma/Washita Arm WMA

The following hunting and trapping seasons apply to the Texoma/Washita Arm WMA:

(1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.

(2) Pheasant: Closed season.

(3) Prairie chicken: Closed season.

(4) Turkey - Fall:

(A) Archery: Same as statewide season dates, either-sex.

(B) Gun: ~~Closed season.~~Same as statewide season dates, 1 tom limit, shotgun only.

(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.

(6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.

(7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.

(8) Crow: Same as statewide season dates

(9) Dove: Same as statewide season dates.

(10) Rail and gallinule: Same as statewide season dates.

(11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.

(12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.

(13) Deer - archery: Same as statewide season dates.

(14) Deer - primitive firearms: Same as statewide season dates.

(15) Deer - gun: Same as statewide season dates.

(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only.

(17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days deer gun season.

(18) Predator/furbearer calling: Same as statewide season dates, except first nine days of deer gun season.

(19) Waterfowl: Same as statewide season dates.

800:25-7-149.2. Thomas A. Bamberger Sr WMA

The following hunting and trapping seasons apply to the Thomas A. Bamberger Sr WMA:

(1) Quail: Same as statewide season dates, except closed the first nine days of deer gun season.

(2) Pheasant: Closed season.

(3) Prairie chicken: Closed season.

(4) Turkey-Fall:

(A) Archery: Same as statewide season dates, either-sex.

(B) Gun: Closed season.

(5) Turkey-Spring: Same as statewide season dates,1 tom limit.

(6) Squirrel: Same as statewide season dates.

(7) Rabbit: Same as statewide season dates.

(8) Crow: Same as statewide season dates.

(9) Dove: Same as statewide season dates.

(10) Rail and gallinule: Same as statewide season dates.

(11) Common snipe: Same as statewide season dates.

(12) Woodcock: Same as statewide season dates.

(13) Deer-archery: Same as statewide season dates.

(14) Deer-primitive firearms: Same as statewide season dates, open South of Barren Fork Creek.

(15) Deer-gun: Same as statewide season dates, open South of Barren Fork Creek.

(16) Trapping: Same as statewide season dates.

(17) Pursuit with hounds: Same as statewide season dates, except closed from opening day of deer archery season through the first nine days of deer gun season. In addition, closed during spring turkey season.

(18) Predator/furbearer calling: Same as statewide season dates.

(19) Waterfowl: Same as statewide season dates.

800:25-7-151. Tishomingo WMU/Cooperative Unit

The following hunting and trapping seasons apply to the Tishomingo WMU/Cooperative Unit: All shotgun hunting is restricted to federally approved nontoxic shot and the possession of lead shot is prohibited.

(1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.

(2) Pheasant: closed season.

(3) Prairie chicken: Closed season.

(4) Turkey -Fall:

(A) Archery: Same as statewide season dates, either-sex

(B) Gun: ~~Closed season.~~Same as statewide season dates, 1 tom limit, shotgun only.

(5) Turkey - Spring: Same as statewide season dates, one tom limit.

(6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.

(7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.

(8) Crow: Same as statewide season dates.

(9) Dove: Same as statewide season dates.

(10) Rail and gallinule: Same as statewide season dates.

(11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.

(12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.

(13) Deer - archery: Same as statewide season dates.

(14) Deer - primitive firearms: Same as statewide season dates.

(15) Deer - gun: Same as statewide season dates.

(16) Trapping: Closed season.

(17) Pursuit with hounds: Closed season.

(18) Predator/furbearer calling: Same as statewide season dates, except closed during first nine days of deer gun season.

(19) Waterfowl: Same as statewide season dates.

SUBCHAPTER 19. OKLAHOMA ENDANGERED SPECIES

800:25-19-6. Species listing

(a) The following are classified as endangered species:

(1) Oklahoma Cave crayfish *(Cambarus ~~tartants~~tartarus)*.

~~(2) Neosho mucket *(Lampsilis rafinesqueana)*.~~

(~~3~~2) Longnose Darter *(Percina nasuta)*.

(b) The following are classified as threatened species:

~~(1) Arkansas River shiner *(Notropis girardi)*.~~

~~(2)~~ Blackside darter *(Percina maculata)*.

(c) The following are classified as Category I species:

(1) Mountain plover *(Charadrius montanus)*.

(2) Long-billed curlew *(Numenius americanus)*.

(3) Ferruginous hawk *(Buteo regalis)*.

(4) Golden eagle *(Aquila chrysaetos)*.

(5) Prairie falcon *(Falco mexicanus)*.

(6) Rich Mountain Slitmouth snail *(Stenotremapilsbryi)*.

(d) The following are classified as Category II mammal species:

(1) Black-tailed prairie dog *(Cynomys ludovicianus)*.

(2) Desert shrew *(Notiosorex crawfordi)*.

(3) Eastern harvest mouse *(Reithrodontomys humulis)*.

(4) Golden mouse *(~~Ochrotomlys~~Ochrotomys nutalli)*.

(5) Hog-nosed skunk *(Conepatus mesoleucus)*.

~~(6) Keen's myotis *(M. Keenii)*.~~

(~~7~~6) Long-tailed weasel *(Mustela frenata)*.

(~~8~~7) Meadow jumping mouse *(Zapus hudsonius)*.

(~~9~~8) Mexican free-tailed bat *(Tadarida brasiliensis)*.

(~~10~~9) Rafinesque's big-eared bat *(~~Plecotus~~Corynorhinus rafinesquii)*.

(~~11~~10) Rice rat *(Oryzomys palustris)*.

(~~12~~11) Ringtail *(Bassariscus astutus)*.

(~~13~~12) Seminole bat *(Lasiurus seminolus)*.

(~~14~~13) Eastern ~~Small~~small-footed ~~myotis~~bat*(~~M.~~Myotis leibii)*.

(~~15~~14) ~~Southern myotis~~Southeastern bat*(Myotis austroriparius)*.

(~~16~~15) Swift fox *(Vulpes velox)*.

(~~17~~16) Texas ~~Kangaroo~~kangaroo rat *(Dipodomys elator)*.

(~~18~~17) Western big-eared bat *(~~Plecotus townsendii pallescens~~Corynorhinus townsendii)*.

(~~19~~18) Woodchuck *(Marmota monax)*.

(e) The following are classified as Category II bird species:

(1) Bachman's sparrow *(~~Aimophila~~Peucaea aestivalis)*.

(2) Barn owl *(Tyto alba)*.

(3) Bell's vireo *(Vireo bellii)*.

(4) Burrowing owl *(Athene cunicularia)*.

(5) Migrant loggerhead shrike *(Lanius ludovicianus migrans)*.

(6) Snowy plover *(Charadrius ~~alewndrinus~~nivosus)*.

(7) Swainson's hawk *(Buteo swainsoni)*.

(f) The following are classified as Category II reptile species:

(1) Alligator snapping turtle *(Macroclemys temminckii)*.

(2) Desert massasauga *(Sistrurus ~~catenatus~~ tergeminus edwardsii)*.

(3) Lesser ~~Earless~~earless lizard *(Holbrookia maculata)*.

(4) Gulf ~~crayfish~~swampsnake *(~~Regina~~Liodytes rigida sinicola)*.

(5) Louisiana milk snake *(Lampropeltis triangulum amaura)*.

(6) ~~Map~~Northern map turtle *(Graptemys geographica)*.

(7) Northern scarlet snake *(Cemophora coccinea copei)*.

(8) Round-tailed horned lizard *(Phrynosoma modestrum)*.

(9) Texas garter snake *(Thamnophis sirtalis annectens)*.

(10) Texas horned lizard *(Phrynosoma cornutum)*.

(11) Texas long-nosed snake *(Rhinocheilus lecontei tessellatus)*.

(12) Western mud-snake *(Farancia abacura reinwardtii)*.

(g) The following are classified as Category II amphibian species:

(1) Four-toed salamander *(Hemidactylium scutatum)*.

(2) Grotto salamander *(~~Typhlotriton~~Eurycea spelaeus)*.

(3) Mole salamander *(Ambystoma talpoideum)*.

(4) Oklahoma salamander *(Eurycea tynerensis)*.

(5) Ouachita dusky salamander *(Desmognathus brimleyorum).*
(6) Rich Mountain salamander *(Plethodon ouachitae).*
(7) Ringed salamander *(Ambystoma annulatum).*
~~(8) Squirrel treefrog *(Hyla squirella).*~~
(~~9~~8) Three-toed amphiuma *(Amphiuma tridactylum).*
(~~10~~9) ~~Western~~Western bird-voiced treefrog *(Hyla a. avivoca).*
(~~11~~10) Western lesser siren *(Siren intermedia nettingi).*

(h) The following are classified as Category II fish species:
(1) Alabama shad *(Alosa alabamae).*
(2) Alligator gar *(Atractosteus spathula).*
(3) Arkansas River speckled chub *(~~Platygobio [Hybopsis] aestivalis tetranemus~~Macrhybopsis tetranema).*
(4) Arkansas darter *(Etheostoma cragini).*
(5) Black buffalo *(Ictiobus niger).*
(6) Blue Sucker *(Cycleptus elongatus).*
(7) Bluehead shiner *(~~Notropis~~Pteronotropis hubbsi).*
(8) Bluntface shiner *(Cyptinella camura).*
(9) Brown bullhead *(~~Ictalurus~~Ameiurus nebulosus).*
(10) Chain pickeral *(Esox niger).*
(11) Colorless shiner *(Notropis perpallidus).*
(12) Crystal darter *(~~Ammocrypta~~Crystallaria asprella).*
(13) Cypress minnow *(Hybognathus hayi).*
(14) Flathead chub *(Platygobio ~~[Hybopsis~~ gracilis).*
(15) Goldstripe darter *(Etheostoma parvipinne).*
(16) Harlequin darter *(Etheosoma histrio).*
(17) Ironcolor shiner *(Notropis chalybaeus).*
(18) Kiamichi shiner *(Notropis ortenburgeri).*
(19) Mooneye *(Hiodon tergisus).*
(20) Mountain madtom *(Noturus eletherus).*
(21) Pallid shiner *(~~Notropis~~Hybopsis amnis).*
(22) Plains topminnow *(Fundulus sciadicus).*
~~(23) Redbreast sunfish *(Lepomis auritus).*~~
(~~24~~23) Ribbon shiner *(Lythurusfumeus).*
(~~25~~24) River darter *(Percina shumardi).*
(~~26~~25) Shorthead redhorse *(Moxostoma macrolepidotum).*
(~~27~~26) Shovelnose sturgeon *(Scaphirhynchus platorynchus).*
(~~28~~27) Southern brook lamprey *(Ichthyomyzon gagei).*
(~~29~~28) Spotfin shiner *(Cyprinella spiloptera).*
(~~30~~29) Stonecat *(Noturus flavus).*
(~~31~~30) Taillight shiner *(Notropis maculatus).*
~~(32) Wichita Mountains spotted bass *(Micropterus punctulatus wichitae).*~~

(i) The following are classified as Category II invertebrate-species:
(1) Bowman cave amphipod *(Stygobromus bowmani).*
(2) Oklahoma cave amphipod *(Allocrangonyx pellucidus).*
(3) Prairie mole cricket *(Gryllotalpa major).*
(4) Regal fritillary ~~butterfly~~*(Speyeria idalia).*
(5) Rich Mountain slitmouth snail *(Stenotrema pilsbryi).*
~~(6) Scalesshell mussel *(Leptodea leptodon).*~~
~~(7) Spectacle-case mussel *(Quadrula cylindrica).*~~
(~~8~~6) Western fanshell ~~mussel~~ *(Cyprogenia aberti).*

SUBCHAPTER 30. WILDLIFE DEPREDATION ON AGRICULTURAL CROPS

800:25-30-2. Procedures

The following are the procedures for handling wildlife depredation complaints on agricultural crops including fruits, nuts or berries.

(1) All complaints of damage to agricultural crops involving game species will be referred to Wildlife Division in the state headquarters office.

(2) Immediately following receipt of a complaint, the appropriate field level employee will be contacted to investigate the damage. A copy of the completed complaint form will be sent to the regional supervisor.

(3) All requests for assistance in controlling non-game and other wildlife species designated in the current Memorandum of Understanding between the Oklahoma Department of Wildlife Conservation and U.S. Department of Agriculture, Animal Damage Control Division (ADC) will continue to be referred to ADC.

(4) ~~In accordance with Federal Regulations 50 CFR 20.43 Depredation order for blackbirds, cowbirds, grackles, crows and magpies, a Federal permit shall not be required to control yellow-headed, red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a healthy hazard or other nuisance:~~In accordance with Federal regulations 50 CFR 21.43 Depredation order for blackbirds, cowbirds, grackles, crows and magpies, a Federal permit shall not be required to control yellow-headed, red-winged, and Brewer's blackbirds, all cowbirds, all grackles, American, fish, and northwestern crows, and all magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance. Provided:

(A) That none of the birds killed pursuant to this section, nor their plumage, shall be sold or offered for sale, but may be possessed, transported, and otherwise disposed of or utilized.

(B) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(C) That nothing in this section shall be construed to authorize the killing of such birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be expected

unless the person possesses whatever permit as may be required for such activities by the State concerned.

[OAR Docket #19-479; filed 5-31-19]

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

[OAR Docket #19-480]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Use of Department Managed Lands
800:30-1-4. Camping [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 30, 2018
COMMENT PERIOD:
December 3, 2018 - January 4, 2019
February 1, 2019 - March 8, 2019
PUBLIC HEARING:
Date: January 3, 2019 (cancelled)
Date: March 7, 2019
ADOPTION:
March 25, 2019
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 29, 2019
LEGISLATIVE APPROVAL:
Approved May 28, 2019 by House Joint Resolution 1022.
FINAL ADOPTION:
May 28, 2019
EFFECTIVE:
July 25, 2019
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
GIST/ANALYSIS:
This rule will add the recently acquired Thomas A. Bamberger Sr. WMA to the list of areas that do not allow overnight camping.
CONTACT PERSON:
Alan Peoples, Chief of Wildlife Division, 405-521-2739 or Rhonda Hurst, APA Liaison, 1801 N. Lincoln Blvd, Oklahoma City, OK 73105 phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. USE OF DEPARTMENT MANAGED LANDS

800:30-1-4. Camping

(a) Camping is limited to a maximum of 14 days, except at areas open only to hunter camping for special season(s). Camping on these areas is limited to 2 days longer than the period which the camper (hunter) is authorized to hunt.

(b) Quiet shall be maintained in all camping areas between the hours of 11:00 p.m. and 7:00 a.m. Excessive noise during such times which unreasonably disturbs persons is prohibited.

(c) All dogs or other pets must be kept on a leash or otherwise confined while in a camping area.

(d) No overnight camping is permitted at the following areas unless otherwise authorized by the Department:

(1) Altus-Lugert WMA.
(2) Arcadia Conservation Education Area - Any authorized camping must have education or conservation purpose.
(3) Broken Bow WMA.
(4) Canton WMA (waterfowl refuge portion).
(5) Cherokee (GMA portion).
(6) Dewey County WMA.
(7) Drummond Flats WMA.
(8) Eufaula WMA
(9) Fort Gibson WMA.
(10) Gist WMA.
(11) Grady County WMA
(12) Grassy Slough WMA.
(13) Hackberry Flat (waterfowl refuge portion).
(14) Hugo WMA (waterfowl refuge portion).
(15) Major County Lands.
(16) McClellan-Kerr WMA (includes waterfowl refuge portion).
(17) McCurtain County Wilderness.
(18) Okmulgee WMA (GMA portion).
(19) Osage WMA (Western Wall Unit).
(20) Ozark Plateau WMA.
(21) Red Slough WMA.
(22) Sparrow Hawk WMA.
(23) Tenkiller WMA.
(24) Thomas A. Bamberger Sr WMA
(~~24~~25) Van Osdol WMA.
(~~25~~26) Washita County WMA.
(~~26~~27) Whitegrass Flats WMA.
(~~27~~28) Wister WMA (waterfowl refuge portion).

(e) Hunter and fishermen camping is permitted only in designated camping areas at:

(1) Arbuckle Springs WMA
(2) Atoka WMA (includes PHA portion).
(3) Beaver River WMA including McFarland Unit.
(4) Candy Creek WMA
(5) Canton WMA (except waterfowl refuge portion).
(6) Cherokee WMA (PHA portion).
(7) Chickasaw NRA (Arbuckle).
(8) Cimarron Bluff WMA.
(9) Cimarron Hills WMA
(10) Cooper WMA.
(11) Copan WMA.
(12) Cross Timbers WMA
(13) Ellis County WMA.
(14) Fobb Bottom WMA.
(15) Fort Cobb WMA.
(16) Fort Supply WMA.

(17) Hackberry Flat WMA (except waterfowl refuge portion).
(18) Heyburn WMA .
(19) Hickory Creek WMA.
(20) Hugo WMA (except waterfowl refuge portion).
(21) Hulah WMA.
(22) James Collins WMA.
(23) Kaw WMA.
(24) Lexington WMA.
(25) Mountain Park WMA.
(26) Okmulgee WMA (PHA portion, i.e., the area north and east of the Deep Fork River).
(27) Oologah WMA
(28) Optima WMA.
(29) Osage WMA (Rock Creek Unit).
(30) Pushmataha WMA.
(31) Sandy Sanders WMA.
(32) Stringtown WMA
(33) Schultz WMA.
(34) Skiatook WMA.
(35) Texoma-Washita Arm WMA.
(36) Tishomingo WMU.
(37) Waurika WMA.
(38) Yourman WMA.

(f) Hunter camping is permitted only in designated camping areas and only during specified hunting seasons at:

(1) Cookson Hills WMA, only during open hunting seasons on the area.
(2) Ouachita WMA (Homer L. Johnston portion), only during deer and turkey seasons.
(3) John Dahl WMA, only during hunting seasons.
(4) Packsaddle WMA, only during open hunting seasons.
(5) Robbers Cave WMA, only during open deer and turkey seasons.
(6) Spavinaw Hills WMA, only during open hunting seasons on the area.

(g) Hunter and fishermen camping is permitted only within 50 yards of roads designated as open for public use at:

(1) Deep Fork WMA.
(2) Gary Sherrer WMA, only during open hunting seasons on the area.
(3) Keystone WMA.
(4) Love Valley WMA.
(5) Pine Creek WMA.
(6) Wister WMA, (except waterfowl refuge portion).

(h) Camping is permitted in accordance with U.S. Forest Service regulations at:

(1) Ouachita WMA - Le Flore Unit (Ouachita National Forest), except Homer L. Johnston Unit.
(2) Ouachita WMA - McCurtain Unit (Ouachita National Forest).
(3) Black Kettle WMA (Cibola National Forest) - Black Kettle National Grasslands.
(4) Rita Blanca WMA (Cibola National Forest) - Rita Blanca National Grasslands.

(i) Camping is permitted in designated camping areas only at McGee Creek WMA.

[OAR Docket #19-480; filed 5-31-19]